

As At 08/05/23

THIS DEED is dated

2023

BETWEEN

(1) HERTFORDSHIRE COUNTY COUNCIL of County Hall Hertford Hertfordshire SG13 8DE (**"the County Council"**)

and

(2) ST ALBANS CITY AND DISTRICT COUNCIL of Civic Centre St Peters Street, St Albans, Hertfordshire, AL1 3JE (**"the Council"**)

and

(3) THE EXECUTORS OF THE ESTATE OF STANLEY HERBERT DAVIES, GEOFFREY STANLEY DAVIES of ■■■■■■ ■■■■■■ ■■■■■■ ■■■■■■ ■■■■■■ ■■■■■■ and HANNAH LOUISA COURTNEY ■■■■■■ ■■■■■■ ■■■■■■ and SOPHIE LOUISE RIGLEY ■■■■■■ ■■■■■■ ■■■■■■ ■■■■■■ (**"First Owner"**)

and

(4) GEOFFREY STANLEY DAVIES of ■■■■■■ ■■■■■■ ■■■■■■ ■■■■■■ and HANNAH LOUISA COURTNEY of ■■■■■■ ■■■■■■ ■■■■■■ and SOPHIE LOUISE RIGLEY of ■■■■■■ ■■■■■■ ■■■■■■ ■■■■■■ (**"Second Owner"**)

and

(5) ALBAN PETER PEARSON of ■■■■■■ ■■■■■■ ■■■■■■ ■■■■■■ (**"Third Owner"**)

and

(6) ALBAN DEVELOPMENTS LIMITED incorporated and registered in England and Wales with company number 00752953 whose registered office is at Vienna House, 3 Park Avenue South, Harpenden, AL5 2DZ (**"Fourth Owner"**)

and

- (7) CALA MANAGEMENT LIMITED incorporated and registered in Scotland under Scottish Company Number SC013655 whose registered office is at Adam House, 5 Mid New Cultins, Edinburgh, EH11 4DU ("**Cala**")

and

- (8) REDINGTON DEVELOPMENTS (CHISWELL GREEN) LIMITED incorporated and registered in England and Wales with company number 11658888 whose registered office is at Spitalfields House 1st Floor, Stirling Way, Borehamwood, England, WD6 2FX ("**Redington**")

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 Library Authority, the Waste Disposal Authority and the Social Services Authority for Hertfordshire
- (C) The First Owner are the Executors of the estate of Stanley Herbert Davies who is named as the freehold owner of the part of the Site registered with HM Land Registry under title number HD421373
- (D) The Second Owner is the freehold owner of the part of the Site registered with HM Land Registry under title number HD169192
- (E) The Third Owner is the freehold owner of the part of the Site registered with HM Land Registry under title number HD343570
- (F) The Fourth Owner is the freehold owner of the part of the Site registered with HM Land Registry under title numbers HD581748, HD127008, HD289804, HD326047 and HD581747
- (G) Cala has an interest in those parts of the Site registered under title numbers HD127008 HD289804 HD326047 HD343570 HD581747 and HD581748 pursuant to a contract for sale dated 16 February 2021 made between the Fourth Owner (1) the Third Owner (2) and Cala (3) and referred to in the charges registers of the said title numbers
- (H) Redington has an interest in those parts of the Site registered under title numbers HD421373 and HD16919 pursuant to a contract for sale dated 21 December 2018 made between with First Owner (1) the Second Owner (2) and Redington (3)
- (I) The Council has refused the Planning Application and the Owner enters into this Deed to in support of the Appeal

NOW THIS DEED WITNESSETH as follows:

OPERATIVE PART

1. DEFINITIONS AND INTERPRETATION

The following definitions and rules of interpretation apply in this deed:

1.1 Definitions:

the 1990 Act: means the Town and Country Planning Act 1990 (as amended)

the 2015 Act: means the Self Build and Custom Housebuilding Act 2015 (as amended)

Additional First Homes Contribution: means in circumstances where a sale of a First Home other than as a First Home has taken place in accordance with paragraphs 4.8 or 4.9 or 6.1 (iii) of Schedule Two, the lower of the following two amounts:

- (a) 30% of the proceeds of sale; and
- (b) the proceeds of sale less the amount due and outstanding to any Mortgagee of the relevant First Home under relevant security documentation which for this purpose shall include all accrued principal monies, interest and reasonable costs and expenses that are payable by the First Homes Owner to the Mortgagee under the terms of any mortgage but for the avoidance of doubt shall not include other costs or expenses incurred by the First Homes Owner in connection with the sale of the First Home

and which for the avoidance of doubt shall in each case be paid following the deduction of any SDLT payable by the First Homes Owner as a result of the disposal of the First Home other than as a First Home

Affordable Housing: means the Social Rented Housing and/or Intermediate Housing and/or Affordable Rented Housing (including First Homes) which is available to persons who are in Local Housing Need or eligible to purchase a First Home (as applicable)

Affordable Housing Mix means the size of Affordable Housing Units approved by the Council in writing and which shall be determined having regard to the identified housing needs within the Council's administrative area

Affordable Rent: means a unit of Affordable Housing let by a local authority or private registered provider of social housing to households who are eligible for social rented housing in accordance with the definition of affordable rented housing contained in Annex 2 to the NPPF (or any subsequent replacement or modification thereof) but for the avoidance of doubt must be at an affordable rent which is subject to rent controls that require a rent of no more than 80% of the equivalent local market rent (including service charges, where applicable) for one and two bedroom units respectively and "Affordable Rent Units" shall be construed accordingly

Affordable Housing Units: means that part of the Development comprising 40% of the Dwellings which shall be constructed for Affordable Housing in accordance with the Planning Permission, this Deed and the approved Affordable Housing Scheme

AHP: means an organisation that is involved in the delivery and management and ownership of Affordable Housing which is registered or eligible for registration under chapter 3 part 2 of the Housing and Regeneration Act 2008 as shall be approved in writing by the Council which is capable of managing Affordable Housing

Appeal: an appeal to the Secretary of State and which is determined by the Secretary of State or his appointed Planning Inspector in relation to the District Council's refusal of the Planning Application given appeal reference number APP/B1930/W/22/3313110

Appeal B: an appeal to the Secretary of State and which is determined by the Secretary of State or his appointed Planning Inspector in relation to the District Council's refusal of the Planning Application given appeal reference number APP/B1930/W22/3312277 in relation to the Appeal B Site

Appeal B Bus Service Contribution: means a contribution towards bus services in the sum of nine hundred and seventy five thousand pounds (£975,000.000) as set out in the section 106 agreement in relation to Appeal B

Appeal B Site: means the land at St Stephens Green farm Chiswell Green Lane St Albans Hertfordshire which is subject of Appeal B

Approved Housing Scheme: means a scheme to deliver the Affordable Housing Units in accordance with the terms of this Deed

Armed Services Member: means a member of the Royal Navy the Royal Marines the British Army or the Royal Air Force or a former member who was a member within the five (5) years prior to the purchase of the First Home, a divorced or separated spouse or civil partner of a member or a spouse or civil partner of a deceased member or former member whose death was caused wholly or partly by their service

AT: means an Assured Tenancy or an Assured Shorthold Tenancy within the meaning of the Housing Act 1988

BCIS Index: means the Building Cost Information Service All-in Tender Price Index published from time to time or any replacement index as identified by the County Council

Biodiversity Metric: means the metric published by Natural England from time to time to measure and account for biodiversity losses and gains resulting from development or land management change (or in the absence of any metric published by Natural England, such other metric as may be agreed by the Owner and the Council)

Biodiversity Offsetting Contribution: means the sum (exclusive of VAT) to be calculated (if applicable) in accordance with the formula set out at paragraph 2.1 of Schedule 4 of this Deed and agreed by the Council as part of the Biodiversity Offsetting Scheme approved pursuant to this Deed to offset the loss of habitats on the Site and to provide a biodiversity net gain of 10% in relation to the Development (combined with and Biodiversity Onsite Compensation); to be used by the Council or its Nominees (as approved by the Council) as part of the Biodiversity Offsite Compensation Scheme towards the creation of new habitats in accordance with the Biodiversity Offsetting Scheme

Biodiversity Offsetting Scheme means a scheme to be approved by the Council to achieve a 10% biodiversity net gain in relation to the Development using on-site and off-site mitigation measures, comprising:

- (a) _____—Biodiversity Onsite Compensation; and
- (b) _____—in the event that the said 10% cannot be achieved wholly within the Development, Biodiversity Offsite Compensation, _____
- (c) _____—the identity of an appropriate receptor site(s) at which the Biodiversity Offsetting Contribution (if any) is to be expended; and
- (d) _____—details of the provision of contractual terms to secure the offsetting measures in the event that a Biodiversity Offsetting Contribution is to be paid to a Nominee(s)

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Biodiversity Offsite Compensation means biodiversity net gain measures to be implemented off-Site comprising:

- a) a Biodiversity Offsetting Contribution and/or
- b) delivering Biodiversity Units on land within the control of the owners or developers of the Site and within the district of St Albans or within the Northern Thames Basin National Character Area within Hertfordshire

Biodiversity Offsite Compensation Scheme means a scheme detailing Biodiversity Offsite Compensation as may be required as part of the Biodiversity Offsetting Scheme in accordance with the provisions of Schedule 4 of this Deed

Biodiversity Onsite Compensation means biodiversity measures to be implemented within the Site as part of the Development in accordance with the Biodiversity Onsite Compensation Scheme approved by the Council in accordance with this Deed and comprising an increase in the amount of hedgerow planting, new tree planting, flowering lawns, native wildlife grasslands, native scrub mix, traditional orchards, integrated bat features and bird boxes

Biodiversity Onsite Compensation Certificate means a certificate or certificates in writing relating to the Biodiversity Onsite Compensation provided by a suitably qualified and experienced ecologist (the identity of whom has been approved by the Council in writing) that confirms that the Biodiversity Onsite Compensation has been laid out in accordance with the approved Biodiversity Onsite Compensation Scheme

Biodiversity Onsite Compensation Scheme means a scheme to be approved by the Council as part of the Biodiversity Offsetting Scheme detailing the Biodiversity Onsite Compensation and which shall include (but shall not be limited to) the following:

- (a) The Biodiversity Post-Development Site Value;

- (b) The programme for the delivery of the Biodiversity Onsite Compensation; and
- (c) Details of all measures to maintain the Biodiversity Onsite Compensation

Biodiversity Post-Development Site Value means the number of Biodiversity Units that shall be achieved through the Biodiversity Onsite Compensation to be delivered as part of the Biodiversity Onsite Compensation Scheme approved in accordance with this Deed (calculated in accordance with the Biodiversity Metric) such score to be approved by the Council as part of the Biodiversity Onsite Compensation Scheme

Biodiversity Pre-Development Site Value means 54.34 Biodiversity Units, being the biodiversity value of the Site prior to the Development and calculated as part of the Planning Application in accordance the Biodiversity Metric

Biodiversity Units means the measure of biodiversity resource to be quantified and assessed in accordance with the Biodiversity Metric

Bus Service Contribution means the sum of eight hundred and seventy five thousand pounds (£875,000.00) (index linked as hereinafter provided)

Chargee: means any mortgagee or chargee of the Affordable Housing Provider (or any Receiver (including an Administrative Receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a "Receiver") of the whole or any of the Affordable Housing Units or the successors in title to such mortgagee or charge or any receiver or manager (including a Receiver) appointed pursuant to the Law of Property Act 1925

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

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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**”, “**Commences**”, “**Commencement**” and “**Commenced**” shall be construed accordingly

Compliance Certificate: means the certificate issued by the Council confirming that a Dwelling is being disposed of as a First Home to a purchaser meeting the Eligibility Criteria (National) and unless paragraph 4.2 of Schedule Two applies the Eligibility Criteria (Local)

Council's Contributions: means Additional First Homes Contribution, Biodiversity Offsetting Contribution, EEAST Contribution, Leisure and Cultural Centres Contribution and NHS Contribution

Council Monitoring Contribution: means the sum of three hundred and forty pounds (£340) per obligation trigger point (index linked as hereinafter provided) towards the cost monitoring and administering the obligations within this Deed in favour of the District Council

County Council's Contributions: means Bus Service Contribution, Library Contribution, Primary Education Contribution, Secondary Education Contribution, Special Educational Needs and Disabilities Contribution, Sustainable Travel Awareness Support Contribution, Residential Travel Plan Evaluation and Support Contribution, School Travel Plan Evaluation and Support Contribution, Waste Contribution and Youth Contribution

County Council Monitoring Contribution: means the sum of three hundred and forty pounds (£340) per obligation trigger point (index linked as hereinafter provided) towards the cost monitoring and administering the obligations within this Deed in favour of the County Council

CPT Index: means the Confederation of Passenger Transport Index or any

replacement index as identified by the County Council

DEFRA means the HM Government Department for Environment, Food and Rural Affairs (or any successor Government Department from time to time)

Development: means the development of the Site with Outline application (access sought) - Demolition of existing structures and construction of up to 391 dwellings (Use Class C3), provision of land for a new school, open space provision and associated landscaping. Internal roads, parking, footpaths, cycleways, drainage, utilities and service infrastructure and new access arrangements- as set out in the Planning Application

Director: means the County Council's Executive Director of Sustainable Growth or its Executive Director Environment and Transport (as the case may be) for the time being and his/her officers and agents

Discount Market Price: means a sum which is the Market Value discounted by at least 30%

Disposal: means the transfer of the freehold or the grant or assignment of a leasehold interest in an Affordable Housing Unit provided that in relation to First Homes the following shall be excluded:

- (a) a letting or sub-letting in accordance with paragraph 5 of Schedule Two
- (b) a transfer of the freehold interest in a First Home or land on which a First Home is to be provided before that First Home is made available for occupation except where the transfer is to a First Homes Owner
- (c) an Exempt Disposal

and "Dispose", "Disposed" and "Disposing" shall be construed accordingly

Dwelling: means a dwelling (including a house flat or maisonette) to be

constructed pursuant to the Planning Permission

Dwelling Mix: means the illustrative size type tenure and total number of Dwellings set out at Table 6 of Schedule 10 of this Deed which has~~ve~~ been used by the County Council to calculate the amounts of the Primary Education Contribution the Secondary Education Contribution the Special Educational Needs and Disabilities Contribution the Library Contribution and the Youth Contribution

Education Land: means a minimum 1.89 hectares of Serviced Land shown for identification purposes only edged blue on the Education Land Plan which land is to be provided as a Serviced Land with vacant possession full title guarantee free from encumbrances and free from contamination that would prevent its use for its intended use as a School

Education Land Plan: means the land edged blue on drawing A – 0301- D5 P1 attached to this Deed at Schedule 14 marked “Plan 2”

Education Land Transfer: means a freehold deed of transfer of the Education Land to the County Council for the Education Land Value which transfer is to be made between the Owner (or such owners of the Education Land at the relevant time) (1) and the County Council (2) substantially in the form attached at Schedule 11 to this Deed with minor amendments as may be agreed in writing by the County Council

Education Land Notice: a written notice which may be served by the County Council on the Owner confirming that it requires the Education Land to be transferred to it

Education Land Value: means sum of ninety eight thousand eight hundred and fifty one pounds £98,851.50 (index linked as herein after provided]

EEAST: means the East of England Ambulance Service Trust of Whiting Way Melbourn Cambridgeshire SG8 6EN

EEAST Contribution: means the sum of up to ninety-five thousand and thirteen pounds (£95,013) (index linked as herein after provided) calculated as a contribution towards additional health services arising from the development proposal and to be calculated in accordance with the formula in Schedule 12 of this Deed

Eligibility Criteria (Local): means criteria (if any) published by the Council at the date of the relevant disposal of a First Home which are met in respect of a disposal of a First Home if:

(a) the purchaser's annual gross income (or in the case of a joint purchase, the joint purchasers' joint annual gross income) does not exceed the Income Cap (Local) (if any); and

(b) — any or all of criteria (i) (ii) and (iii) below are met:

(i) the purchaser meets the Local Connection Criteria (or in the case of a joint purchase at least one of the joint purchasers meets the Local Connection Criteria); and/or

(ii) the purchaser is (or in the case of a joint purchase at least one of the joint purchasers is) an Armed Services Member and/or

(iii) the purchaser is (or in the case of a joint purchase at least one of the joint purchasers is) a Key Worker

Eligibility Criteria (National): means criteria which are met in respect of a purchase of a First Home if:

(a) the purchaser is a First Time Buyer (or in the case of a joint purchase each joint purchaser is a First Time Buyer); and

(b) the purchaser's annual gross income (or in the case of a joint purchase, the joint purchasers' joint annual gross income) does not exceed the Income Cap (National).

Eligible Household(s): means a person or persons who are in Local Housing Need and who are nominated by the Council from its Housing Needs Registers in accordance with the Housing Allocations Policy

Environment Bank: means the independent business established in 2006 specialising in biodiversity accounting, use of metrics, offset brokerage and establishing habitat banks who work with public and private sector clients to delivery net gain solutions for biodiversity in the planning system.

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Exempt Disposal: means the Disposal of a First Home in one of the following circumstances:

- (a) a Disposal to a spouse or civil partner upon the death of the First Homes Owner
- (b) a Disposal to a named beneficiary under the terms of a will or under the rules of intestacy following the death of the First Homes Owner
- (c) Disposal to a former spouse or former civil partner of a First Homes Owner in accordance with the terms of a court order, divorce settlement or other legal agreement or order upon divorce, annulment or dissolution of the marriage or civil partnership or the making of a nullity, separation or presumption of death order
- (d) Disposal to a trustee in bankruptcy prior to sale of the relevant Dwelling (and for the avoidance of doubt paragraph 6 (a)(i)-(iii) of Schedule Two shall apply to such sale)

Provided that in each case other than (d) the person to whom the disposal is made complies with the terms of paragraph 5 of Schedule 2

First Home(s): means a Dwelling which may be disposed of as a freehold or as a leasehold property to a First Time Buyer at the Discount Market Price and which on its First Disposal does not exceed the Price Cap

First Homes Owner: means the person or persons having the freehold or leasehold interest (as applicable) in a First Home other than:

- (a) the Owner; or
- (b) another developer or other entity to which the freehold interest or leasehold interest in a First Home or in the land on which a First Home is to be provided has been transferred before that First Home is made available and is disposed of for Occupation as a First Home; or
- (c) the freehold a tenant or sub-tenant of a permitted letting under paragraph 5 of Schedule 2

First Time Buyer: means a first time buyer as defined by paragraph 6 of Schedule 6ZA to the Finance Act 2003

Head of Housing: means the Council's Head of Housing for the time being and his agents

Homes England: means the successor body to the Homes and Communities Agency created pursuant to the Housing and Regeneration Act 2008 exercising the functions in relation to the funding of affordable housing and being the regulator of social housing providers in England and includes any successor body exercising similar functions

Household: means any person or persons who are living together as a single household

Housing Allocations Policy: means the housing allocation policy choice based lettings of St Albans City & District Council dated December 2021 or any housing allocations policy or scheme as shall supersede the aforementioned policy after the date of this Deed.

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Housing Needs Register: means the registers maintained by the Council (as applicable) or its nominee for Eligible Households.

Income Cap (Local): means a local income cap as may be published from time to time by the Council and is in force at the time of the relevant disposal of the

First Home it being acknowledged that at the date of this agreement the Council has not set an Income Cap (Local)

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Income Cap (National): means in the case of any other First Home outside any London Borough Council, eighty thousand pounds (£80,000) or such other sum as may be published for this purpose from time to time by the Secretary of State and is in force at the time of the relevant disposal of the First Home

Intermediate Housing: means homes for sale or rent provided at a cost above Social Rented Housing but below market levels which for the avoidance of doubt may include Shared Ownership Units, dwellings to be sold to qualifying persons at a discounted sale price, or such other similar form of intermediate affordable housing as may be agreed by the Owner and the Council

Interest: means interest at four percent (4%) above the base lending rate of HSBC Bank Plc from time to time

Key Worker: such categories of employment as may be designated and published by the Council from time to time as the "First Homes Key Worker Criteria" and is in operation at the time of the relevant Disposal of the First Home and for the avoidance of doubt any such replacement criteria in operation at the time of the relevant Disposal of the First Home shall be the "Key Worker" criteria which shall apply to that disposal it being acknowledged that at the date of this agreement the Council has not designated any categories of employment as Key Worker

Leisure and Cultural Centres Contribution: means the sum of up to two hundred and ninety-eight thousand, three hundred and fifty-five thousand pounds (£298,355) (index linked as hereinafter provided) as a contribution towards Greenwood Park Community Centre and Pavilion improvements to be calculated in accordance with the formula in Schedule 12 of this Deed

Library Contribution: means

- (i) the sum of one hundred and twenty eight thousand three hundred and sixty eight pounds (£128,368) (index linked as hereinafter provided) or

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- (ii) if the actual dwelling mix comprised in the Development differs from the Dwelling Mix a sum calculated in accordance with ~~the~~ Table 5 set out in Schedule 10 of this Deed by reference to the type size tenure and number of Dwellings and by reference to the rows prefaced "Library Facilities" (such sum to be index linked as hereinafter provided)

Local Connection: shall have the meaning given to it by the Housing Allocations Policy and in the case of First Homes means such local connection criteria as may be designated and published by the Council from time to time as its "First Homes Local Connection Criteria" and which is in operation at the time of the relevant disposal of the First Home and for the avoidance of doubt any such criteria or replacement criteria in operation at the time of the relevant disposal of the First Home shall be the "Local Connection Criteria"- which shall apply to that disposal it being acknowledged that at the date of this agreement the Council has not designated any criteria as Local Connection Criteria and "Local Connection Criteria" shall be construed accordingly

Local Housing Need: means (i) households who are in need of residential accommodation suitable for their needs as their sole or principal home otherwise unable to obtain such suitable accommodation within the administrative areas of the Council by reason of lack of financial resources and whom it is reasonable to live in the locality or persons for the time being registered on the Council's maintained housing register and/or other housing register maintained for the purpose of identifying Local Housing Need in accordance with the policy of the Council and (ii) in the event that there shall be no such person ready willing and able to occupy an Affordable Housing Unit at the material time then a Household who is assessed by a AHP or the Council to be in genuine and urgent housing need

Market Dwelling: means a Dwelling that is not an Affordable Housing Unit or designated to be constructed on the Self-Build and Custom Housebuilding Plots and the expression "Market Dwellings" and "Market Housing" shall be construed accordingly

Market Rent: means the estimated amount for which the relevant Dwelling should be let on the date of valuation between a willing lessor and willing lessee on appropriate lease terms in an arm's length transaction after proper marketing wherein the parties had acted knowledgeably, prudently and without compulsion

Market Value: means the open market value as assessed by a Valuer of a Dwelling as confirmed to the Council by the Owner or the First Homes Owner (as applicable) and assessed in accordance with the RICS Valuation Standards (January 2014 or any such replacement guidance issued by RICS) and for the avoidance of doubt shall not take into account the 30% discount in the valuation

Mortgagee: means any financial institution or other entity regulated by the Prudential Regulation Authority and the Financial Conduct Authority to provide facilities to a person to enable that person to acquire a First Home including all such regulated entities which provide Shari'ah compliant finance for the purpose of acquiring a First Home

National Space Standards: means the Technical Housing Standards Nationally Described Space Standards published by the Department for Communities and Local Government and current at the date of this Deed (or such document as shall succeed or replace it)

Natural England: means the executive non-departmental public body sponsored by DEFRA (including any successor organisation)

NHS: means NHS Herts Valley Clinical Commission Group of the Forum Marlowes Hemel Hempstead HP1 1DN

NHS Contribution: means the sum of five hundred and four thousand, nine hundred and twenty pounds and seventy-one pence (£504,920.71) or the sum of one thousand two hundred and ninety pounds (£1,290.00) per dwelling (both index linked as hereinafter provided) whichever amount is higher as a contribution towards extending the Midway Surgery, Chiswell Green to accommodate patient population increase resulting from the Development

Nominee: means the Environment Bank or other body approved by the Council who is capable of delivering the Biodiversity Offsetting Scheme

Occupy: means 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 and the expressions “**Occupation**” and “**Occupied**” shall be construed accordingly

Open Space: means informal public open space and amenity areas to be provided within the site pursuant to any Reserved Matters including any grass and/or play area(s) and/or landscaped and/or hardstanding and/or parking areas and/or estate roads excluding such areas that are or are to be publicly maintainable highway or within the curtilage of Dwellings

Open Space Certificate: means a certificate or certificates in writing relating to the Open Space Land issued by a Chartered Landscape Architect and in relation to the equipped play area(s) issued by an inspector registered on the Register of Play Inspectors International that confirms that the Open Space Land have been laid out in accordance with the approved Open Space Scheme

Open Space Land: means the land identified as Open Space in the Open Space Scheme which shall be no less than 2.92Ha

Open Space Management Company: means a private limited company established or appointed for inter alia the purpose of managing the Open Space Land in accordance with the approved Open Space Management Scheme

Open Space Management Scheme: means a written scheme prepared by the Owner to be submitted to the Council for approval for the ongoing long-term management and maintenance of the Open Space (as may be amended from time to time with the written approval of Council) including for the avoidance of doubt details of the Management Company and its obligations and funding

Open Space Programme: means a programme for the provision of Open Space at the Development

Open Space Scheme: means a written scheme prepared by the Owner to be submitted to the Council for approval for the provision of Open Space to include details of the Open Space Works

Open Space Works: means the specification and works required for the provision of the Open Space in accordance with the Open Space Scheme

Owner: means the First Owner, the Second Owner, the Third Owner and the Fourth Owner together

Phase means Phase A or Phase B as the context of Deed requires

Phase A: means that area marked "Phase A" on the Phasing Plan

Phase B: means that area marked "Phase B" on the Phasing Plan

Phasing Plan: means drawing A - 0302-D5-P1annexed to this Deed at Schedule 14 and marked "Phasing Plan"

Plan 1: means the drawing A - 0300 – D5- P1showing the location of the Planning Application Site annexed to this Deed at Schedule 14 and marked "Plan 1"

Planning Application: means the application for outline planning permission on the Site received 6 April 2022 bearing the Council's reference number 5/2022/0927

Planning Inspector: means an inspector appointed by the Secretary of State to determine the Appeal

Planning Permission: means the planning permission to be granted for the Development pursuant to the Appeal and any Reserved Matters approvals resulting from the planning permission to be granted for the Development pursuant to the Appeal

Price Cap: means upon a First Disposal only, the amount for which the First Home is sold being the lower of the Discount Market Price and Two Hundred and Fifty Thousand Pounds (£250,000) or such other amount as may be published from time to time by the Secretary of State

Primary Education Contribution: means EITHER:

- (a) Where the County Council has served the Education Land Notice (hereinafter referred to as "**Primary Education Contribution A**")
 - (i) the sum of four million and thirty one thousand two hundred and eighty four pounds (£4,031,284. 00) (index linked as hereinafter provided) or
 - (ii) if the actual dwelling mix comprised in the Development differs from the Dwelling Mix a sum calculated in accordance with Table 2 as set out in Schedule 10 of this Deed by reference to the type size tenure and number of Dwellings (such sum to be index linked as hereinafter provided)

OR

- (b) where the County Council has not served the Education Land Notice within the ten (10) year period referred to in paragraph 2.1 of Schedule 8 (hereinafter referred to as "**Primary Education Contribution B**")
 - (i) the sum of three million four hundred and sixty three thousand one hundred and twelve pounds (£3,463,112.00) (index linked as hereinafter provided) or
 - (ii) if the actual dwelling mix comprised in the Development differs from the Dwelling Mix a sum calculated in accordance with Table 1 set out in Schedule 10 of this Deed by reference to the type size tenure and number of Dwellings (such sum to be index linked as hereinafter provided)

PUBSEC Index: means the Tender Price Index of Public Sector Non-Housing Smoothed All-In Index and specifically the series called "Extension of Public Sector Tender Price Index of Public Sector Building Non-Housing" published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation or equivalent replacement index

Qualifying Person: means a person or household in need of Affordable Housing identified in accordance with the provisions below:

- (i) in the case of an Affordable Rented Unit a person accepted on to the St Albans Housing Register (from time to time) in accordance with the Housing Allocations Policy;
- (ii) in the case of a Shared Ownership Unit, a person who meets the eligibility criteria for shared ownership housing set by the Government from time to time and who is approved by the relevant Help to Buy Agency appointed by the Homes England for the area in which the Shared Ownership Unit is located and
- (iii) in the case of First Homes, a person who meets the criteria specified in paragraph 4.1 of Schedule Two

Qualifying Self Build and Custom Housebuilding Developer: means an individual or association of individuals (including bodies corporate that exercise functions on behalf of associations of individuals who satisfy all of the following criteria:

- a. Aged 18 or older
- b. A British citizen, a national of an EEA State other than the United Kingdom or a national of Switzerland; and
- c. Seeking (either alone or with others) to acquire a serviced plot of land in the Council's area to commission or build a house to occupy as that individual's sole or main residence

Reserved Matter(s): means an application for reserved matter submitted pursuant to the Planning Permission (as may be amended)

Residential Travel Plan: means the travel plan to be submitted by the Owner pursuant to paragraph 2.1 of Schedule 1 setting out a scheme to encourage regulate and promote sustainable travel measures for owners occupiers and visitors of the residential element of the Development

Residential Travel Plan Evaluation and Support Contribution: means the sum of six thousand pounds (£6,000) (index linked as hereinafter provided)

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 Retail Price Index being a price index calculated and published by the UK's Office of National Statistics which measures the change in the prices charged for goods and services bought for consumption in the UK

School: a school and/or other education facility providing primary and/or nursery and/or Special Education Needs and Disabilities education places serving the Development

SDLT: means Stamp Duty Land Tax as defined by the Finance Act 2003 or any tax replacing it of like effect

Secondary Education Contribution: means

- i) the sum of three million, seven hundred and ninety six thousand, four hundred and twenty five pounds (£3,796,425.00) (index linked as hereinafter provided); or
- ii) if the actual dwelling mix comprised in the Development differs from the Dwelling Mix a sum calculated in accordance with Table 3 set out in Schedule 10 of this Deed by reference to the type size tenure and number of Dwellings (such sum to be index linked as hereinafter provided)

Secretary of State: means the Minister for Levelling Up, Housing and Communities or any other minister authorised for the time being entitled to exercise the powers given under section 77, 78 and 79 of the 1990 Act

Section 278 Agreement: means a valid agreement executed as a deed pursuant, inter alia, to Section 278 of Highways Act 1980 and to be entered into with the County Council to carry out the Works and the Traffic Calming Measures

Self-Build and Custom Housebuilding: means a Dwelling which meets the definition in the 2015 Act and constructed on a Self-Build and Custom Housebuilding Plot

Self-Build and Custom Housebuilding Plots: means those parts of the Site to be provided pursuant to the provisions of Schedule 5 of this Deed to enable construction of 3% (or such other percentage or number as is agreed in writing between the Owner and the Council) of the Dwellings as Self-Build and/or Custom Housebuilding and “Self-Build and Custom Housebuilding Plot” shall be construed accordingly

Self-Build and Custom Housebuilding Register: means the Council’s custom build registers maintained pursuant to section 1 of the 2015 Act

Self-Build and Custom Housebuilding Scheme: means a scheme to be prepared by the Owner for the provision of Self-Build and/or Custom Housebuilding on the Self-Build and Custom Plots to include:

- (i) The indicative location of the individual Self-Build and/or Custom Housebuilding Plots which shall, subject to paragraph 1.5 of Schedule 5 of this Deed, secure that at least 3% of the Dwellings approved by this planning permission shall be Self-Build and/or Custom Housebuilding Plots, unless otherwise agreed with the Council);
- (ii) Details of the servicing arrangements for the Self-Build and/or Custom Housebuilding and how they shall be provided in a Serviced Condition;
- (iii) Details of how the Self-Build and/or Custom Housebuilding Plots shall be marketed and made available to those on the Self-Build and/or Custom Housebuilding Register and which FOR THE AVOIDANCE OF DOUBT shall include the length of that marketing period and provisions which allow the Self-Build and/or Custom Housebuilding Plots to be sold as open Market Dwellings in the event that the Self-Build and/or Custom Housebuilding Plots are not disposed of those on the Self-Build and/or Custom Housebuilding Register following 24 months of marketing (or such other marketing period as may be agreed between the Owner and the Council)

Serviced Condition: means in relation to the land to be used for Affordable House or Self-Build and/or Custom Housebuilding (as the case may be) the remediation of the land to a standard fit for its end use and the provision of roads, sewers, gas, electricity and telecommunications to the boundary of the

Site in accordance with a scheme that the Owner shall submit to the Council for approval

Serviced Land: means in respect of the Education Land such land is to be provided in accordance with the terms conditions standards and specification set out in Schedule 13 to this Deed ~~as may be amended from time to time in writing with the Council~~

Commented [DC2]: This should be re-instated

Shared Ownership Lease: means a lease in the form of the Homes England's model shared ownership lease and on terms that permit part purchase of the open market value of the equity in a unit (up to 100%) together with rent payable for the open market rack rental value of the un-purchased percentage of the equity in the unit up to a value which does not exceed the rent set by the Homes England from time to time (or such other rent or form of lease approved in writing by the Council)

Shared Ownership Unit: means a unit of Affordable Housing to be made available by an AHP under a Shared Ownership Lease

Site: means the freehold property situate at Land South of Chiswell Green Lane, Chiswell Green, St Albans Hertfordshire registered at the Land Registry with Title Absolute under the Title Numbers HD421373, HD169192, HD343570 HD581748, HD127008, HD289804, HD326047 and HD581747 all of which land is shown for identification purposes only edged red on the Plan 1

Social Rented Unit: means a unit of Affordable Housing which is owned by local authorities or private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime (such unit may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the Council) and in all cases in accordance with the definition of social rented housing contained in Annex 2 to the NPPF or any subsequent replacement or modification thereof

Special Education Needs and Disabilities means: children that have a learning difficulty and/or a disability that means they need special health and education support.

Special Education Needs and Disabilities Contribution: means:

- (i) the sum of four hundred and thirty six thousand two hundred and forty eight pounds (£436,248.00) (index linked as hereinafter provided) or
- (ii) if the actual dwelling mix comprised in the Development differs from the Dwelling Mix a sum calculated in accordance with ~~the~~ Table 4 set out in Schedule 10 of this Deed by reference to the type and number of Dwellings (such sum to be index linked as hereinafter provided)

SPONS Index: means the index linked by reference to the price adjustment formula for construction contracts in the monthly bulletin of indices published by Her Majesty's Stationary Office as collated into a single index known as the SPONS Construction Civil Engineering Cost Index;

Sub-phase: means a sub-phase or sub-phases of Phase A or Phase B as may be agreed in writing by the Council

Sustainable Travel Improvement Works: means works of improvements to sustainable travel shown in principle only on the following drawings annexed to this Deed_(subject as mentioned in clause 10 hereof):

- i) Chiswell Green Lane - drawing 8210856-1012 Rev I5, or Appeal B is allowed, in accordance with the terms of this Deed, as replaced by the drawing 8230258-1001 Rev I2 and drawing 8230258-1002 Rev I4 referred to in that definition;
- ii) Watford Road / Chiswell Green Lane public realm improvements drawing 8210856-1013 Rev I4, or Appeal B is allowed, as replaced by drawing 8230258 1007 Rev I3 showing the signalised junction
- iii) Hertfordshire County Council's Watford Road Cycle Improvements drawing 8210856-1028 Rev I1 (Sheet 1 of 6), or Appeal B is allowed in as replaced with drawing 8230258-1008 Rev I1

Commented [DC3]: These references need to remain, as these are the as referenced in the planning conditions as agreed between the county, LPA and the Appellant, the drawings differ/works differ in the event both appeals are allowed.

The Planning condition deals with approval and the first occupation restriction in relation to all the works in this list (save for the Traffic Calming measures, which because of the conditionality, are dealt with in the s106 agreement)

The list of works is included in the s106 agreement for the purposes of calculation the Sustainable Travel Contribution only (as referred to in the Formula at Schedule 12

- iv) Hertfordshire County Council's Watford Road Cycle Improvements drawing 8210856-1029 Rev I1 - (Sheet 2 of 6)
- v) Hertfordshire County Council's Watford Road Cycle Improvements drawing 8210856-1030 Rev I1 - (Sheet 3 of 6)
- vi) Hertfordshire County Council's Watford Road Cycle Improvements drawing 8210856-1031 Rev I1 - (Sheet 4 of 6)
- vii) Hertfordshire County Council's Watford Road Cycle Improvements drawing 8210856-1032 Rev I1 - (Sheet 5 of 6)
- viii) Hertfordshire County Council's Watford Road Cycle Improvements drawing 8210856-1033 Rev I1 - (Sheet 6 of 6)
- ix) Traffic Calming on Stanley Avenue

together with such ancillary works as may be required by the Director to facilitate improvements to sustainable travel to 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 street furniture and drainage and any necessary alterations to statutory undertakers' equipment

Sustainable Travel Vouchers: means a voucher incentive tangible or web hosted for the value two hundred and ten pounds (£210) per Dwelling unit forming part of the Development to be given to the residents of each Dwelling to incentivise the uptake of public transport cycling or walking as appropriate to the Development

Sustainable Travel Awareness Support Contribution: means the sum of fifteen thousand one hundred and seventy three pounds (£15,173) (index linked as hereinafter provided)

Sustainable Travel Contribution means the sum to be calculated (if any) in accordance with the formula set out in Schedule 12 of this Deed

Residential Travel Plan Annual Review: means an annual data collection study reviewing and monitoring the provisions of the Residential Travel Plan (as more fully set out therein)

Residential Travel Plan Co-ordinator: means a person appointed by the Owner and approved by the County Council who shall be responsible for managing on behalf of the Owner the implementation monitoring progression reporting and review of the Residential Travel Plan and the day to day management of the steps identified in the Residential Travel Plan in order to achieve its objectives and targets

School Travel Plan Evaluation and Support Contribution: means the sum of seven thousand five hundred pounds (£7,500) (index linked as hereinafter provided)

Traffic Calming Monitoring Strategy: means a monitoring strategy / methodology statement to be agreed with the County Council to review the increase in traffic using the local residential roads of Stanley Avenue, Watford Road, Cuckmans Drive and Stanmount Road as a result of the implementation of the Watford Signalisation Works

Traffic Calming on Stanley Avenue means:

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- (a) — a vehicular footway crossover at Watford Road serving the shops junction with Stanmount Road.
- (b) — raised junction plateaux at
 - i) Stanley Avenue junction with Cuckman's Drive; and
 - ii) Stanley Avenue junction with Stanmount Road.

or other such traffic calming works deemed necessary by the County Council in accordance with the results of the Traffic Calming Monitoring Strategy

Travel Plan Guidance: means the County Council's document titled "Travel Plan Guidance" -or such version current as at the date of submission of the Residential Travel Plan

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 Residential 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.

Valuer: means a Member or Fellow of the Royal Institution of Chartered Surveyors being a Registered Valuer appointed by the First Homes Owner and acting in an independent capacity

Waste Contribution: means the sum of twenty three thousand and fourteen pounds (£23,014.00) (index linked as hereinafter provided)

Works: means the following works the highway junction works shown in principle only on the drawings numbered below and annexed to this Deed:

- i) Northern Access Junctions - drawing 8210856-1001-I9
- ii) Southern Access Junction –drawing 8210856-1002-I6
- iii) Forge End and Long Fallow Pedestrian Accesses –drawing 8210856-1021-I5

together with such ancillary works as may be required by the Director 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 street furniture and drainage and any necessary alterations to statutory undertakers' equipment

Watford Road Signalisation means the signalisation of the Watford Road / Chiswell Green Lane / Tippendell Lane Junction shown in principle on drawing 8230258 1007 I3 annexed to this Deed or any other such drawings that maybe agreed in writing from time to time with the County Council

Working Day: any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England

Youth Contribution: means:

- i) the sum of one hundred and ten thousand, three hundred and eighty seven pounds (£110,387.00) (index linked as hereinafter provided);or
- ii) if the actual dwelling mix comprised in the Development differs from the Dwelling Mix a sum calculated in accordance with Table 5 set out in Schedule 10 of this Deed by reference to the type size tenure and number of Dwellings and by reference to the rows prefaced "Youth Services" (such sum to be index linked as hereinafter provided)

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- 1.2 Clause headings shall not affect the interpretation of this deed.
- 1.3 Words of the masculine gender shall incorporate the feminine and neuter genders and words of the singular shall include the plural and vice versa.
- 1.4 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.
- 1.5 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.
- 1.6 Reference to the Site includes any part of it.
- 1.7 Where two or more people form a party to this Deed the obligations they covenant to undertake may be enforced against them all jointly or against each of them individually SAVE where expressly stated otherwise in this Deed
- 1.8 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.

1.9 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.

2. 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.

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 First Owner and the Second Owner and the Third Owner and the Fourth Owner enter into the obligations in this Deed for themselves and their successors in title with the Council and the County Council to the intent that the obligations hereunder shall be enforceable not only against the First Owner and the Second Owner and the Third Owner and the Fourth Owner but also against the successors in title of the First Owner and/or the Second Owner and/or the Third Owner and/or the Fourth Owner and any person claiming through or under the First Owner and/or the Second Owner and/or the Third Owners and/or the Fourth Owner an interest or estate in the Site or any part thereof.

3. CONDITIONALITY

This Deed is conditional upon:-

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

save for the provisions of Clauses 4.1(b) (Notice of Commencement 4.1(m) (Costs), 9.11 (Change of Ownership) and 14 (Appeal: Materiality) which shall come into effect immediately upon completion of this Deed

4. OWNERS COVENANTS

4.1 Subject to Clause 14 below, the Owner covenants with the Council and the County Council:-

- (a) to observe and perform the covenants restrictions stipulations and obligations contained in Schedules 1 to 6 hereto
- (b) 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 9 hereto
- (c) to give the County Council and the Council no less than five (5) Working Days' notice of the Occupation of the Development and separately completion of the Development such notice to be in writing using the proforma set out in Schedule 7 hereto
- (d) to give the County Council and the Council notice of Occupation of twenty-five per cent (25%) of the total number of Dwellings comprised in the Development such notice to be in writing using the proforma set out in Schedule 9 hereto
- (e) to give the County Council and the Council notice of Occupation of fifty per cent (50%) of the total number of Dwellings comprised in the Development such notice to be in writing using the proforma set out in Schedule 9 hereto
- (f) to give the County Council and the Council notice of Occupation of the seventy fifth (75th) Dwelling to be Occupied such notice to be in writing using the proforma set out in Schedule 9 hereto
- (g) to give the County Council and the Council notice of Occupation of the one hundred and fiftieth (150th) Dwelling to be Occupied such notice to be in writing using the proforma set out in Schedule 9 hereto

- (h) to give the County Council and the Council notice of Occupation of the two hundred and twenty fifth (225th) Dwelling to be Occupied such notice to be in writing using the proforma set out in Schedule 9 hereto
- (i) to give the County Council and the Council notice of Occupation of the two hundred and fiftieth (250th) Dwelling to be Occupied such notice to be in writing using the proforma set out in Schedule 9 hereto
- (j) to give the County Council and the Council notice of Occupation of the three hundredth (300th) Dwelling to be Occupied such notice to be in writing using the proforma set out in Schedule 9 hereto
- (k) to give the County Council and the Council notice of the total number of Dwellings comprised in the Development and total number of Dwellings already Occupied upon service by the County Council of the Education Land Notice such notice to be in writing using the proforma set out in Schedule 9 hereto
- (l) to give the County Council and the Council notice of the Occupation of the last Dwelling to be Occupied such notice to be given prior to the Commencement Date in writing using the proforma set out in Schedule 9 hereto
- (m) 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.

5. COUNTY COUNCIL COVENANTS

- 5.1 The County Council hereby covenants with the Owner as set out in Schedule 8 of this Deed .

6. COUNCIL COVENANTS

- 6.1 The Council hereby covenants with the Owner as set out in Schedule 7 of this Deed.

7. EXPENDITURE IN ADVANCE OF RECEIPT OF CONTRIBUTIONS

It is further agreed between the parties that if prior to the receipt of any the Council Contributions or County Council Contributions the Council or County Council (as the case may be) incurs any expenditure in relation to matters of the type or description or service to be funded from such contribution the need for which arises from or in anticipation of the Development then the Council or County Council as the case may be may immediately following receipt of relevant contribution deduct from that contribution such expenditure incurred.

8. INDEXATION

8.1 The NHS Contribution and the Leisure & Cultural Centres Contribution shall be index linked by reference to the PUBSEC Index figure of 175 to the figure applicable to the quarter in which the contribution is paid.

8.2 Where any sum is required to be index linked by reference to the PUBSEC Index that sum payable shall be increased or decreased in accordance with any change in the Department of Trade and Industry Tender Price Index of Public Sector Non-Housing (PUBSEC) Smoothed All-in Index by the application of the formula $A = B \times (C \div D)$ where:-

A is the total amount to be paid;

B is the principal sum stated in this Deed;

C is the PUBSEC Smoothed All-in Index for the date upon which the interim payment described below is actually paid and;

D is the figure of 175

8.3 The Library Contribution, the Primary Education Contribution, the Secondary Education Contribution, the Special Educational Needs and Disabilities Contribution and the Youth Service Contribution shall each be index linked by reference to any increase from the BCIS Index figure applicable to the first

quarter of 2022 to the figure applicable to the quarter in which the relevant contribution is paid.

- 8.4 The Waste Contribution shall be index linked by reference to any increase from the BCIS Index figure applicable to the third quarter of 2022 to the figure applicable to the quarter in which the relevant contribution is paid.
- 8.5 The Monitoring Contribution shall be index linked by reference to the RPI figure applicable to July 2021 to the finalised figure applicable to the month in which the Monitoring Contribution is paid.
- 8.6 The Bus Service Contribution shall be index linked by reference to any increase from the CPT Index figure applicable to the December 2022 to the finalised CPT Index figure applicable to the date on which the Bus Service Contribution is paid.
- 8.7 The Residential Travel Plan Evaluation and Support Contribution, the School Travel Plan Evaluation and Support Contribution and the Sustainable Travel Awareness Support Contribution shall each be index linked by reference to any increase from the RPI figure applicable to May 2014 to the finalised RPI figure applicable to the date on which each contribution is paid
- 8.8 The Sustainable Travel Condition shall be index linked by reference to any increase in the SPONS Index from January 2019 to the date on which the Sustainable Travel Contribution is paid
- 8.9 Where any sum is required to be index linked by reference to the BCIS Index the sum payable shall be increased in accordance with any increase in the BCIS Index by the application of the formula:

$A = B \times (C \div D)$ where:-

A is the total amount to be paid;

B is the principal sum stated in this Deed;

C is the BCIS Index figure for the date upon which the interim payment described in clause 8.1~~9~~ below is actually paid and;

D is the BCIS figure stated in clause 8.3 and clause 8.4 as the case may be

8.10 Where any sum is required to be index linked by reference to the RPI that sum payable shall be increased in accordance with any increase in the RPI by the application of the formula $A = B \times (C \div D)$ where:-

A is the total amount to be paid;

B is the principal sum stated in this Deed;

C is the RPI figure for the date upon which the interim payment described in clause 8.1~~9~~ below is actually paid and;

D is the RPI figure stated in clause 8.5 and 8.7 respectively

8.11 Where any sum to be paid to the Council or the County Council under the terms of this Deed is required to be index linked then an interim payment shall initially be made based on the latest available forecast 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 Council or County Council or the payer of the interim payment (as the case may be) once the relevant indices have been finalised.

8.12 Education Land Value shall be index linked to any increase from the BCIS Index figure applicable to the first quarter of 2022 to the BCIS Index figure applicable to the quarter in which the Education Land Value is paid

9. MISCELLANEOUS

9.1 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 Cala and Redington

9.2 Subject to Clause 14 below ,this Deed shall be registered as a local land charge by the Council pursuant to the Planning Inspector allowing the Appeal

9.3 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.

9.4 Any notice to the parties hereto under this Deed shall be deemed to be sufficiently served if delivered personally 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:
At the addresses mentioned at the beginning of this Deed	Strategic Director, Community & Place Delivery, St Albans City and District Council, The Council Offices, Civic Centre, St Peter's Street, St Albans, Hertfordshire, AL1 3JE (ref: 5/2022/0927)	Director of Law and Governance, Hertfordshire County Council, County Hall, Pegs Lane, Hertford (ref: 20162)
In respect of Cala:	In respect of Redington:	
At the addresses mentioned at the beginning of this Deed	At the addresses mentioned at the beginning of this Deed	

9.5 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.

- 9.6 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.
- 9.7 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.
- 9.8 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 before the expiration of the period specified in the Planning Permission.
- 9.9 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.
- 9.10 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.

- 9.11 The Owner shall give the Council and the County Council prior written notice of any change of interests in the Site occurring before all of the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site purchased by reference to a plan.
- 9.12 Once the obligations in this Deed have been complied with then such obligations will not be enforceable against individual Dwellings nor against those deriving title from them nor their mortgagees or chargees and where there are restrictions on the Occupation of the Dwellings such restrictions on Occupation shall bind the owners occupiers or tenants of the Dwellings who shall not Occupy any Dwelling in breach of such restrictions
- 9.13 The obligations in this Deed in relation to Affordable Housing will not be enforceable against the individual owners lessees or occupiers of any Open Market Units or any mortgagee or chargee of any Open Market Units including any successors in title and FOR THE AVOIDANCE OF DOUBT all other obligations covenants and restrictions in this Deed shall not be enforceable against owners lessees or occupiers of Open Market Units or any mortgagee or chargee of any Open Market Units including any successors in title to the extent that the said obligations covenants and restrictions shall first have been complied with by the Owner
- 9.14 The obligations in this Deed (to the extent that they shall have been complied with by the Owner) will not be enforceable against the individual owners lessees or occupiers of any Affordable Housing Units or any mortgagee or chargee of any Affordable Housing Dwellings or any purchasers therefrom or any successors in title save that the Affordable Housing obligations in paragraphs 3, 4 and 5 of Schedule 2 shall remain binding unless and until they cease to have effect pursuant to paragraph 6 of Schedule
- 9.15 The obligations in this Deed will not be enforceable against any Statutory Undertaker with any existing interest in any part of the Site or acquires an interest in any part of the Site for the purpose of the supply of electricity gas water or sewerage drainage or public telecommunication services

- 9.16 Any future mortgagee or chargee 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.
- 9.17 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 9.18 Any money payable to the County Council under this Deed shall be paid in full without deduction or set-off (unless expressly permitted in accordance with the terms of this Deed) 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.

10. WORKS ~~AND SUSTAINABLE TRAVEL IMPROVEMENT WORKS~~ AND TRAFFIC CALMING ON STANLEY AVENUE

If the Department for Transport Technical Design Standards or Advice is amended after the date of this Deed the Director shall be at liberty to review the Works ~~the Sustainable Travel Improvement Works~~ and the Traffic Calming On Stanley Avenue and require any amendments he deems necessary to ensure that the said works comply with the revised standards and advice SAVE THAT in circumstances where detailed contract drawings have been approved in writing by the Director and the Works and the Sustainable Travel Improvement Works are commenced within three months of the date of the written approval then the Director shall not seek any amendments to the Works and/or the Sustainable Travel Improvement Works.

11. CALA'S and REDINGTON'S CONSENT

- 11.1 Cala hereby consents to the Owner entering this Deed and agrees that its interest in the Site shall take effect subject to this Deed

11.2 Redington hereby consents to the Owner entering this Deed and agrees that its interest in the Site shall take effect subject to this Deed

12. VALUE ADDED TAX

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

13. DISPUTES

13.1 In the event of any dispute or difference arising between the Council and the First Owner and/or the Second Owner and/or the Third Owner and/or the Third Owner or all or any of their successors in title (in this clause 13 referred to as **“the parties”** and **‘party’** construed accordingly) in respect of any matter contained in this Deed which cannot be resolved between them such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the President for the time being of the relevant professional body chiefly relevant in England to such matters as may be in dispute

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13.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 13.1 or as to the appropriateness of the professional body then such question may be referred by either party to the President for the time being of the Law Society for him to appoint a solicitor of at least 10 years standing to determine the dispute.

13.3 Any expert howsoever appointed shall act as an expert and not an arbitrator and his decision shall be final and binding on the parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares. His appointment shall be subject to the express requirement that a decision is reached and communicated to the relevant parties within the minimum practicable timescale and within a definite timetable laid down by him allowing for the nature and complexity of the dispute

- 13.4 The expert shall allow representations to be made to him or her by the parties in accordance with the timetable referred to in 13.3 above
- 13.5 In the event that such expert shall die or become insolvent or of unsound mind or shall otherwise become incapable of acting or if either of the parties to the dispute shall serve on him written notice that in their opinion he has unreasonably delayed making his determination he shall ipso facto be discharged and be entitled only to his reasonable expenses prior to such discharge and another person shall be appointed in his place as such expert to determine the dispute in accordance with this clause 13
- 13.6 For the avoidance of doubt references to 'party' and 'parties' in this clause 13 do not include the County Council and the County Council shall not be required to take part in nor submit to nor be bound by the provisions of this clause 13

14. APPEAL: MATERIALITY

If the Secretary of State or his Planning Inspector for the purposes of the determination of the Appeal shall in his decision letter for the Appeal clearly and expressly indicate that one or more of the planning obligations secured by this Deed are incompatible with any one or more of the criteria for planning obligations set out at Regulation 122(2) of the CIL Regulations, and/or that any such obligation is not a material planning consideration in respect of the determination of the Appeal and/or that he attaches no weight to the relevant obligation(s) for the purposes of his determination then the relevant obligation so expressly specified in the decision letter shall, from the date of the decision letter cease to have effect and the Owner shall be under no obligation to comply with it (but this shall not affect the validity or enforceability of the other obligations under this Deed) and for the avoidance of doubt where the Secretary of State or his Planning Inspector is silent upon any obligations then the obligations shall apply and be enforceable by the Council or the County Council in accordance with the terms of this Deed.

15 JURISDICTION

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

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

Schedule 1: The Owner's Covenants stipulations and Obligations

1. EEAST CONTRIBUTION

The Owner covenants with the Council as follows:

- 1.1 To pay the 56.58% of the EEAST Contribution to the Council prior to the Commencement of Phase A of the Development (or as otherwise agreed in writing with the Council)
- 1.2 Not to Commence or permit Commencement of Phase A of the Development until 56.58 % of the EEAST Contribution has been paid in accordance with paragraph 1.1 of this Schedule.
- 1.3 To pay the 43.42 % the EEAST Contribution to the Council prior to the Commencement of Phase B of the Development (or as otherwise agreed in writing with the Council).
- 1.4 Not to Commence or permit Commencement of Phase B of the Development until 43.42 % of the EEAST Contribution has been paid in accordance with paragraph 1.3 of this Schedule.

2. TRAVEL PLAN

2.1 The Owner covenants with the County Council as follows:

2.21.1 Prior to Occupation of any part of the Residential Development :

- (i) To submit a draft Residential Travel Plan for written approval to the County and obtain such approval and for the avoidance of doubt the Residential Travel Plan shall be based on and accord with the Travel Plan Guidance and shall further contain as many of the provisions of the Travel Plan Guidance as in the opinion of the County Council are appropriate to the nature of the Residential Development;

- (ii) To nominate a Residential Travel Plan Coordinator for the written approval of the County Council and obtain such approval and such nomination shall include contact details full particulars and curriculum vitae of the proposed Residential Travel Plan Coordinator and the nature of their relationship to the Owner; and
 - (iii) To appoint and retain the Residential Travel Plan Coordinator at its own expense which retention shall endure for the duration of the Residential Travel Plan
- 2.2 Not to Occupy nor cause nor permit Occupation of any part of the Residential Development until the Residential Travel Plan in respect of the part or parts to be Occupied has been submitted to and approved in writing by the County Council and until the Travel Plan Coordinator has been appointed by the Owner.
- 2.3 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
- 2.4 Not to Occupy nor cause or permit Occupation of any Dwelling until the draft Resident Travel Pack and Sustainable Travel Voucher have been approved in writing by the County Council
- 2.5 To provide an approved Resident Travel Pack to each Dwelling forming part of the Residential Development upon initial Occupation of each Dwelling
- 2.6 To provide a Sustainable Travel Voucher to each Dwelling forming part of the Residential Development upon the initial Occupation of each Dwelling
- 2.6 That if it or its successors in title Occupy the Residential Development pursuant to the Residential Development it or they will implement the Residential Travel Plan approved pursuant to paragraph 2.1.1 of this Schedule 1 relating to the Site or that part of the Site so Occupied and shall use reasonable endeavours to achieve the targets set therein.

2.7 That it will in relation to the Residential Development include in any transfer, tenant's lease or occupiers licence of any part or parts of the Residential Development a covenant that the purchaser tenant or occupier will implement and comply with the Travel Plan as approved pursuant to paragraph 2.1.1 of this Schedule 1 for such relevant part or parts of the Site

2.8 Within twenty (20) Working Days of the transfer or 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

2.8.1 the name and address of the purchaser and/or tenant;

2.8.2 a description of the premises demised;

2.8.3 the length of the term; and

2.8.4 a sufficient extract of the transfer lease or licence setting out the terms of the covenant in relation to the Residential Travel Plan

2.9 The Owner shall at all times during Occupation of the Development:

2.9.1 comply with the terms of the Residential Travel Plan including but not limited to implementing any actions by the specified dates in the Travel Plan;

2.9.2 promote and publicise the agreed Residential Travel Plan to owners occupiers and visitors to the Development;

2.9.3 implement the Residential Travel Plan by the dates or within the time limits set out in the Action Plan section of the Travel Plan;

2.9.4 carry out the Residential Travel Plan Annual Review annually from the date of first Occupation of the Development on the corresponding calendar month for a period of five years following Occupation of the last Dwelling to be Occupied 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

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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;

2.9.5 comply with any variations or amendments to the Residential 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 sub-paragraph 2.10.4 above and notified in writing to the Owner within three (3) calendar months from the date of receipt of such report.

2.10 **Travel Plan Remedial Notice**

- (a) 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 Residential Travel Plan Remedial Measures Notice in accordance with the timescales set out within it;
- (b) 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 (or other such timescales as may be agreed in writing by the Council) 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

3. **HIGHWAY CONTRIBUTIONS**

The Owner covenants with the County Council as follows:

3.1 **Bus Services Contribution :**

3.1.1 To pay the Bus Services Contribution to the County Council as a contribution to be applied by the County Council towards the provision of bus services serving the Development including (but not limited to) enhancement of the existing bus routes serving the Development which Bus Service Contribution shall be paid in accordance with the following instalments:

- (i) the first instalment being the sum of one hundred and seventy five thousand pounds (£175,000.00) shall be paid to the County Council prior to Occupation of the Development
- (ii) the second instalment being the sum of one hundred and seventy five thousand pounds (£175,000.00) shall be paid to the County Council prior to Occupation of the seventy fifth (75th) Dwelling to be Occupied or the first anniversary of the first instalment referred to in paragraph 3.1.1(i) above whichever is the earlier
- (iii) the third instalment being the sum of one hundred and seventy five thousand pounds (£175,000.00) shall be paid to the County Council prior to Occupation of the one hundred and fiftieth (150th) Dwelling to be Occupied or the second anniversary of the first instalment referred to in paragraph 3.1.1(i) above whichever is the earlier
- (iv) the fourth instalment being the sum of one hundred and seventy five thousand pounds (£175,000.00) shall be paid to the County Council prior to Occupation of the two hundred and twenty fifth (225th) Dwelling to be Occupied or the third anniversary of the first instalment referred to in paragraph 3.1.1(i) above whichever is the earlier
- (iv) the fifth instalment being the sum of one hundred and seventy five thousand pounds (£175,000.00) shall be paid to the County Council prior to Occupation of the three hundredth (300th) Dwelling to be Occupied or the fourth anniversary of the first instalment referred to in paragraph 3.1.1(i) above whichever is the earlier

3.1.2 The Owner shall not:

- (i) Occupy nor cause nor permit Occupation of any part of the Development until the first instalment of the Bus Service Contribution referred to in paragraph 3.1.1(i) above has been paid to the County Council
- (ii) Occupy nor cause nor permit Occupation of more than seventy four (74) Dwellings until the second instalment of the Bus Service Contribution referred to in paragraph 3.1.1(ii) above has been paid to the County Council
- (iv) Occupy nor cause nor permit Occupation of more than one hundred and forty nine (149) Dwellings until the third instalment of the Bus Service Contribution referred to in paragraph 3.1.1(iii) above has been paid to the County Council
- (v) Occupy nor cause nor permit Occupation of more than two hundred and twenty four (224) Dwellings until the fourth instalment of the Bus Service Contribution referred to in paragraph 3.1.1(iv) above has been paid to the County Council
- (vi) Occupy nor cause nor permit Occupation of more than two hundred and ninety nine (299) Dwellings until the fifth instalment of the Bus Service Contribution referred to in paragraph 3.1.1(v) above has been paid to the County Council

3.2 Residential Travel Plan Evaluation and Support Contribution

- 3.2.1 To pay the Residential Travel Plan Evaluation and Support Contribution to the County Council prior to Occupation of Development as a contribution to be applied by the County Council towards the costs of evaluating administering and monitoring the objectives of the Travel Plan
- 3.2.2 Not to Occupy nor cause nor permit Occupation of Development until the Travel Plan Evaluation and Support Contribution has been paid to the County Council

3.3 School Travel Plan Evaluation and Support Contribution

To pay the School Travel Plan Evaluation and Support Contribution to the County Council prior to completion of the School Transfer in accordance with the provisions Schedule 6 of this Deed and to be applied by the County Council towards the costs of evaluating administering and monitoring the objectives of any school travel plan submitted for purposes of education provision for the Development

3.4 Sustainable Travel Awareness Support Contribution

To pay the Sustainable Travel Awareness Support Contribution to the County Council prior to Occupation of the Development

3.5 Sustainable Travel Contribution

To pay the Sustainable Travel Contribution (if any) to the County Council within 20 Working Days of Completion of the Sustainable Travel Improvements Work

4. LEISURE AND CULTURAL SERVICES CONTRIBUTION

The Owner covenants with the Council as follows:

- 4.1 To pay the 56.58% of the Leisure and Cultural Centres Contribution to the Council prior to the Commencement of Phase A of the Development .
- 4.2 Not to Commence or permit Commencement of Phase A of the Development until 56.58% of the Leisure and Cultural Centres Contribution has been paid in accordance with paragraph 4.1 of this Schedule.
- 4.3 To pay the 43.42 % of the Leisure and Cultural Centres Contribution to the Council prior to the Commencement of Phase B of the Development .
- 4.4 Not to Commence or permit Commencement of Phase B of the Development until 43.42% of the Leisure and Cultural Centres Contribution has been paid in accordance with paragraph 4.3 of this Schedule.

5 LIBRARY CONTRIBUTION

The Owner covenants with the County Council as follows:

- 5.1 To pay the Library Contribution to the County Council prior to the Commencement Date as a contribution to be applied by the County Council towards increasing the capacity of community spaces in St Albans Central Library and/or its future re-provision
- 5.2 Not to Commence nor cause nor permit Commencement of the Development until the Library Contribution has been paid in accordance with paragraph 5.1 of this Schedule

6 NHS CONTRIBUTION

The Owner covenants with the Council as follows:

- 6.1 To pay 56.58% of the NHS Contribution to the Council prior to Commencement of Phase A of the Development .
- 6.2 Not to Commence or permit Commencement of Phase A of the Development until 56.58% of the NHS Contribution has been paid in accordance with paragraph 6.1 of this Schedule
- 6.3 To pay 43.22% of the NHS Contribution to the Council prior to Commencement of Phase B of the Development
- 6.4 Not to Commence or permit Commencement of Phase B of the Development until 43.22% the NHS Contribution has been paid in accordance with paragraph 6.3 of this Schedule.

7 SECONDARY EDUCATION CONTRIBUTION

The Owner covenants with the County Council as follows:

- 7.1 To pay the Secondary Education Contribution to the County Council as a contribution to be applied by the County Council towards the expansion of

Marlborough Science Academy and/or Samuel Ryder Academy and/or any secondary school in the area serving the development and/or towards provision of secondary education facilities and/or services serving the Development which Secondary Education Contribution shall be paid by the Owner in the following instalments:

- 7.1.1 a sum equal to twenty five per cent (25%) of the Secondary Education Contribution shall be paid prior to the Commencement Date
- 7.1.2 a sum equal to twenty five per cent (25%) of the Secondary Education Contribution shall be paid prior to Occupation of twenty five per cent (25%) of the total number of Dwellings comprised in the Development
- 7.1.3 a sum equal to fifty per cent (50%) of the Secondary Education Contribution shall be paid prior to Occupation of fifty percent (50%) of the total number of Dwellings comprised in the Development
- 7.2 Not to Commence nor cause nor permit Commencement of the Development until the first twenty five per cent (25%) of the Secondary Education Contribution referred to in paragraph 7.1.1 of this Schedule has been paid in accordance with the said paragraph
- 7.3 Not to Occupy nor cause nor permit Occupation of more than twenty four per cent (24%) of the total number of Dwellings comprised in the Development until the second twenty five per cent (25%) of the Secondary Education Contribution referred to in paragraph 7.1.2 of this Schedule has been paid to the County Council
- 7.4 Not to Occupy nor cause nor permit Occupation of more than forty nine per cent (49%) of the total number of Dwellings comprised in the Development until the remaining fifty per cent (50%) of the Secondary Education Contribution referred to in paragraph 7.1.3 of this Schedule has been paid in accordance with the said paragraph

8 SPECIAL EDUCATIONAL NEEDS AND DISABILITIES CONTRIBUTION

The Owner covenants with the County Council as follows:

- 8.1 To pay the Special Educational Needs and Disabilities Contribution to the County Council prior to the Commencement Date as a contribution to be applied by the County Council towards the delivery of Special Education Needs and Disabilities school places serving the Development
- 8.2 Not to Commence nor cause nor permit Commencement of the Development until the Special Educational Needs and Disabilities Contribution has been paid in accordance with paragraph 8.1 of this Schedule

9 YOUTH CONTRIBUTION

The Owner covenants with the County Council as follows:

- 9.1 To pay the Youth Contribution to the County Council prior to the to Commencement Date as a contribution to be applied by the County Council towards re-provision of the St Albans Young People's Centre in a new facility
- 9.2 Not to Commence nor cause nor permit Commencement of the Development until the Youth Contribution has been paid to the County Council in accordance with paragraph 9.1 of this Schedule

10. WASTE CONTRIBUTION

The Owner covenants with the County Council as follows:

- 10.1 To pay the Waste Contribution to the County Council prior to the Commencement Date as a contribution to be applied by the County Council towards increasing the capacity of Waterdale Transfer Station and/or provision of waste facilities and/or services serving the Development

10.2 Not to Commence nor cause nor permit Commencement of the Development until the Waste Contribution has been paid to the County Council in accordance with paragraph 10.1 of this Schedule

11. MONITORING CONTRIBUTION

The Owner covenants with the County Council and the Council as follows:

11.1 To pay the County Council Monitoring Contribution to the County Council prior to the Commencement Date as a contribution to be applied by the County Council towards the costs of monitoring and administering the obligations given to the County Council in this Deed

11.2 To pay the Council Monitoring Contribution to the Council in respect of the prior to the Commencement Date as a contribution to be applied by the Council towards the costs of monitoring and administering the obligations given to the Council in this Deed

11.3 Not to Commence nor cause nor permit Commencement of the Development until the County Council Monitoring Contribution and the Council Monitoring Contribution have been paid to the County Council and the Council respectively in accordance with paragraph 11.1 and 11.2 of this Schedule

12. WORKS AND SUSTAINABLE TRAVEL IMPROVEMENT WORKS

The Owner covenants with the County Council as follows:

12.1 To submit detailed contract drawings and specifications in respect of the Works and the Sustainable Travel Improvement Works to the County Council for its written approval prior to Occupation of the Development

12.2 Not to Occupy nor cause nor permit Occupation of any part of the Development until such time as:

12.2.1 detailed contract drawings and specifications in respect of the Works and the Sustainable Travel Improvement Works (referred to in paragraph 12.1 above) have been submitted to and approved in writing by the County Council and

12.2.2 the Works and the Sustainable Travel Improvement 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 Director in respect of the Works and the Sustainable Travel Improvement Works in accordance with a Section 278 Agreement

13. TRAFFIC CALMING MEASURES

Subject to Appeal B being allowed by the Secretary of State, the Owner covenants with the County Council as follows:

13.1 Where the owner and/or developer of Appeal B Site has not already submitted a Traffic Calming Monitoring Strategy pursuant to the s106 agreement in respect of Appeal B then the Owner shall:

13.1.1 submit the Traffic Calming Monitoring Strategy to the County Council for its written approval prior to Occupation of the Development

13.1.2 to comply with and to undertake the monitoring in accordance with the Traffic Calming Monitoring Strategy as approved in writing by the County Council pursuant to paragraph 13.1.1 above prior to Occupation of the Development

13.2 SAVE where the owners/developers of Appeal Site B have already carried out the actions set out 13.2.1 and 13.2.2 of this paragraph 13.2, where the results of the Traffic Calming Monitoring Strategy demonstrate that Traffic Calming Measures on Stanley Avenue are necessary as a result of the increase in traffic using Stanley Avenue, Watford Road, Cuckmans Drive and Stanmount Road directly associated with the Watford Road Signalisation then not to Occupy more than the number of Dwellings as may be stipulated in writing to the Owner by the County Council in the event shown in the results of the Traffic Calming Monitoring Strategy as trigger~~ing~~ the requirement

Commented [DC4]: The monitoring cannot commence until the after Occupation and after completion of the Signalisation works - as the purpose of the monitoring is to assess the impact on the surrounding roads after occupation and the completion of the signalisation works - the approved strategy will set out timing etc.

Commented [DC5]: The appropriate restriction on occupation will established once the monitoring has been completed

for the Traffic Calming Measures on Stanley Avenue until:

13.2.1 detailed contract drawings and specifications in respect of the Traffic Calming Works on Stanley Avenue have been submitted to and approved in writing by the County Council; and

13.2.2 the Traffic Calming Works on Stanley Avenue have been completed to the satisfaction of the County Council as evidenced by issue of a certificate of completion by the Director in respect of the said Traffic Calming Works on Stanley Avenue in accordance with a Section 278 Agreement

Schedule 2: Affordable Housing

The Owner covenants with the Council as follows:

1. Construction

- 1.1 Upon Commencement of the Development to construct the Affordable Housing Units to the design and specification and to meet the standards contained in the Homes England Design and Quality Standards (or such other successor body's standards) in accordance with the provisions of this Schedule 2
- 1.2 To keep the Council informed of all key stages in the construction of the Affordable Housing and in particular shall forthwith provide the Council with written confirmation of the practical completion of the Affordable Housing.

2. PROVISION

- 2.1 ___ To provide 40% Affordable Housing Units across the Development with 19% as Affordable Rent, 25% as First Homes, 30% as Social Rented Units and 26% as Intermediate/Shared Ownership Units in accordance with the Affordable Housing Mix unless otherwise agreed in writing with the Council
- 2.2 ___ To submit an Affordable Housing Mix for Phase A prior to Commencement of Phase A and to provide the Affordable Housing within Phase A in accordance with the Affordable Housing Mix for Phase A as approved by the Council
- 2.3 To submit an Affordable Housing Mix for Phase B prior to Commencement of Phase B and to provide the Affordable Housing within Phase B in accordance with the Affordable Housing Mix for Phase B as approved by the Council

3 OCCUPATION

- 3.1 Subject to paragraph 4.8 and 4.9 below and paragraph 6 below no more than 50% of the Open Market Units in each Sub-phase comprised in Phase A shall be Occupied (or as otherwise agreed in writing with the Council) until:
- 3.1.1 all of the Affordable Housing Units in the relevant Sub-phase of Phase A have been constructed in accordance with the Planning Permission and made ready for residential occupation and written notification of such has been received by the Council (or as otherwise agreed in writing with the Council); and
 - 3.1.2 those Affordable Housing Units in the relevant Sub-phase of Phase A have been transferred to an AHP or a First Homes Owner (as the case may be).
- 3.2 Subject to paragraph 4.8 and 4.9 below and paragraph 6 below no more than 50% of the Open Market Units in each Sub-phase comprised in Phase B shall be Occupied (or as otherwise agreed in writing with the Council) until:
- 3.2.1 all of the Affordable Housing Units in the relevant Sub-phase of Phase B have been constructed in accordance with the Planning Permission and made ready for residential occupation and written notification of such has been received by the Council; and
 - 3.2.2 those Affordable Housing Units in the relevant Sub-phase of Phase B have been transferred to an AHP or a First Homes Owner (as the case may be).
- 3.3 Subject to paragraph 6 below the Owner shall not Occupy or permit each Shared Ownership Unit to be Occupied unless and until in respect of that Shared Ownership Unit the AHP referred to in paragraph 3.1.2 and 3.2.2 above has entered into a Shared Ownership Lease to a Qualifying Person with a Local Connection.

3.4 Subject to paragraph 6 below:

3.4.1 the Affordable Rent Units shall not be Occupied otherwise than using AT (or other approved tenancy agreement as agreed in writing by the Council)

3.4.2 the Owner agrees with the Council to use reasonable endeavours to ensure that within 12 weeks of practical completion of any Affordable Rent Unit or within 12 weeks of any Affordable Rent Unit becoming vacant (whatever the reason for the vacancy) ATs (or other approved tenancies) are concluded with either existing tenants of or that have been approved by the AHP or persons nominated by the Head of Housing

3.4.3 if there are more applicants than Affordable Rent Units available, the available Affordable Rent Units will be allocated in accordance with the Housing Allocation Policy.

4 FIRST HOMES

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

4.1.1 the Eligibility Criteria (National); and

4.1.2 the Eligibility Criteria (Local)

4.2 If after a First Home has been actively marketed for 3 months (such period to expire no earlier than three (3) months prior to Practical Completion) it has not been possible to find a willing purchaser who meets the Eligibility Criteria (Local), paragraph 4.1.2 of this Schedule shall cease to apply.

4.3 Subject to paragraphs 4.6 to 4.10 of this Schedule, no First Home shall be Disposed of (whether on a first or any subsequent sale) unless not less than 50% of the purchase price is funded by a first mortgage or other home purchase plan with a Mortgagee

4.4 No First Home shall be Disposed of (whether on a first or any subsequent sale) unless and until the Council has been provided with evidence that:

4.4.1 the intended purchaser meets the Eligibility Criteria (National) and unless paragraph 4.2 applies meets the Eligibility Criteria (Local)

4.4.2 the Dwelling is being Disposed of as a First Home at the Discount Market Price and

4.4.3 the transfer of the First Home includes:

- a) a definition of the "Council" which shall be the Council
- b) a definition of "First Homes Provisions" in the following terms:

"means the provisions set out in clause 4.1 to 4.9, 4.12, 5 and 6 of the S106 Agreement a copy of which is attached hereto as the Annexure."

- c) a definition of "S106 Agreement" means this Deed
- d) a provision that the First Home is sold subject to and with the benefit of the First Homes Provisions and the Transferee acknowledges that it may not transfer or otherwise Dispose of the First Homes or any part of it other than in accordance with the First Homes Provisions
- e) a copy of the First Homes Provisions in an Annexure

and the Council has issued the Compliance Certificate and the Council hereby covenants that it shall issue the Compliance Certificate within twenty eight (28) days of being provided with evidence sufficient to satisfy it that the requirements of paragraphs 4.3 and 4.4 of this Schedule have been met

4.5 On the First Disposal of each and every First Home to apply to the Chief Land Registrar pursuant to Rule 91 of and Schedule 4 to the Land Registration Rules 2003 for the entry on the register of the title of that First Home of the following restriction:

"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by [Local Authority] of

[address] or their conveyancer that the provisions of clause XX (the First Homes provision) of the Transfer dated [Date] referred to in the Charges Register have been complied with or that they do not apply to the disposition”

and the Council will promptly provide the relevant certificate as part of the Compliance Certificate

4.6 The owner of a First Home (which for the purposes of this clause shall include the Owner and any First Homes Owner) may apply to the Council to Dispose of it other than as a First Home on the grounds that either:

4.6.1 the Dwelling has been actively marketed as a First Home for six (6) months in accordance with paragraphs 4.1 and 4.2 of this Schedule (and in the case of a First Disposal the six (6) months shall be calculated from a date no earlier than six (6) months prior to Practical Completion) and reasonable endeavours have been made to Dispose of the Dwelling as a First Home but it has not been possible to Dispose of that Dwelling as a First Home in accordance with paragraphs 4.3 and 4.4 of this Schedule; or

4.6.2 requiring the First Homes Owner to undertake active marketing for the period specified in paragraph 4.6.1 of this Schedule before being able to Dispose of the Dwelling other than as a First Home would be likely to cause the First Homes Owner undue hardship

4.7 Upon receipt of an application served in accordance with paragraph 4.6 of this Schedule the Council shall have the right (but shall not be required) to direct that the relevant Dwelling is disposed of to it at the Discount Market Price

4.8 If the Council is satisfied that either of the grounds in paragraph 4.6 of this Schedule have been made out it shall confirm in writing within

twenty eight (28) days of receipt of the written request made in accordance with paragraph 4.6 of this Schedule that the relevant Dwelling may be Disposed of:

4.8.1 to the Council at the Discount Market Price; or

4.8.2 if the Council confirms that it does not wish to acquire the relevant Dwelling, other than as a First Home

and on the issue of that written confirmation pursuant to paragraph 4.8.1 or 4.8.2 above the obligations in this Deed which apply to First Homes shall cease to bind and shall no longer affect that Dwelling apart from where confirmation is given pursuant to paragraph 4.8.2, in which case paragraph 4.10 of this Schedule which shall cease to apply on receipt of payment by the Council where the relevant Dwelling is disposed of other than as a First Home

4.9 If the Council does not wish to acquire the relevant Dwelling itself and is not satisfied that either of the grounds in paragraph 4.6 of this Schedule above have been made out then it shall within twenty eight (28) days of receipt of the written request made in accordance with paragraph 4.6 of this Schedule serve notice on the owner setting out the further steps it requires the owner to take to secure the Disposal of a Dwelling as a First Home and the timescale (which shall be no longer than six (6) months). If at the end of that period the owner has been unable to Dispose of the Dwelling as a First Home he may serve notice on the Council in accordance with paragraph 4.6 of this Schedule following which the Council must within 28 days issue confirmation in writing that the Dwelling may be Disposed of other than as a First Home and on the issue of that written confirmation the obligations in this Deed which apply to First Homes shall cease to bind and shall no longer affect that Dwelling apart from paragraph 4.10 of this Schedule which shall cease to apply on receipt of payment by the Council where the relevant Dwelling is disposed of other than as a First Home

4.10 Where a First Home is Disposed of other than:

4.10.1 as a First Home in accordance with paragraphs 4.8 and 4.9 of this Schedule above the Owner of the First Home shall pay to the Council forthwith upon receipt of the proceeds of sale the Additional First Homes Contribution

4.11 Upon receipt of the Additional First Homes Contribution the Council shall:

4.11.1 within 5 working days of such receipt, provide a completed application to enable the removal of the restriction on the title set out in paragraph 4.5 of this Schedule where such restriction has previously been registered against the relevant title; and

4.11.2 apply all monies received towards the provision of Affordable Housing

4.12 Any person who purchases a First Home free of the restrictions in this Schedule pursuant to the provisions in paragraphs 4.8, 4.9 and 4.10 of this Schedule shall not be liable to pay the Additional First Homes Contribution to the Council.

5 FIRST HOMES USE

Each First Home shall be used only as the main residence of the First Homes Owner and shall not be let, sub-let or otherwise Disposed of other than in accordance with the terms of this Deed PROVIDED THAT letting or sub-letting shall be permitted in accordance with paragraphs 5.1 to 5.4 below.

5.1 A First Homes Owner may let or sub-let their First Home for a fixed term of no more than two (2) years, provided that the First Homes Owner notifies the Council in writing before the First Home is Occupied by the prospective tenant or sub-tenant. A First Homes Owner may let or sub-let their First Home pursuant to this paragraph more than once during that First Homes Owner's period of ownership,

but the aggregate of such lettings or sub-lettings during a First Homes Owner's period of ownership may not exceed two (2) years.

- 5.2 A First Homes Owner may let or sub-let their First Home for any period provided that the First Homes Owner notifies the Council and the Council consents in writing to the proposed letting or sub-letting. The Council covenants not to unreasonably withhold or delay giving such consent and not to withhold such consent in any of circumstances specified in paragraphs 5.2.1 to 5.2.6 below:
- 5.2.1 the First Homes Owner is required to live in accommodation other than their First Home for the duration of the letting or sub-letting for the purposes of employment;
 - 5.2.2 the First Homes Owner is an active Armed Services Member and is to be deployed elsewhere for the for the duration of the letting or sub-letting;
 - 5.2.3 the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to escape a risk of harm;
 - 5.2.4 the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of relationship breakdown;
 - 5.2.5 the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of redundancy; and
 - 5.2.6 the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to provide care or assistance to any person.
- 5.3 A letting or sub-letting permitted pursuant to paragraph 5.1 or 5.2 of this Schedule must be by way of a written lease or sub-lease (as the case may be) of the whole of the First Home on terms which expressly prohibit any further sub-letting.

5.4 Nothing in this paragraph 5 prevents a First Homes Owner from renting a room within their First Home or from renting their First Home as temporary sleeping accommodation provided that the First Home remains at all times the First Home Owner's main residence

6 EXCLUSIONS AND MORTGAGEE PROVISION

6.1 The Affordable Housing shall not be used for any purpose other than for Affordable Housing PROVIDED ALWAYS THAT this provision:

(a) shall not bind any Chargee of an AHP provided further that:

(i) the Chargee has given three months prior written notice to the Council of any intention to exercise any power of sale in respect of any of the Affordable Housing to provide the Council the opportunity to complete a transfer within such period of Affordable Housing in question to another AHP in order to ensure that they continue to be used for the purpose of Affordable Housing;

(ii) if the Council is unable to complete such a transfer of the Affordable Housing within the said period of three months in accordance with clause 4.1(a) above, then the Chargee shall be entitled to dispose of the Affordable Housing on the open market free from the Affordable Housing provisions which shall determine absolutely; and

(iii) a Mortgagee of any individual First Home who wishes to exercise its power of sale PROVIDED THAT such Mortgagee shall first give written notice to the Council of its intention to Dispose of the relevant First Home and once notice of intention to Dispose of the relevant First Home has been given by the Mortgagee to the Council the Mortgagee shall be free to sell that First Home at its full Market Value PROVIDED THAT following the Disposal of the relevant First Home the Mortgagee shall following the deduction of the amount due and outstanding under the relevant security documentation

including all accrued principal monies, interest and reasonable costs and expenses pay to the Council the Additional First Homes Contribution and FOR THE AVOIDANCE OF DOUBT following receipt of notification of the Disposal of the relevant First Home the Council shall forthwith issue a completed application to the purchaser of that Dwelling to enable the removal of the restriction on the title set out in paragraph 4.5 of this Schedule and apply all such monies received towards the provision of Affordable Housing; and

- (b) shall cease to apply to any part of the Affordable Housing:
 - (i) where the AHP is or shall be required to dispose of such part pursuant to a right to buy under Part V of the Housing Act 1985 or Section 16 of the Housing Act 1996 (the 1996 Act) or any similar or substitute right applicable or is or shall be required to sell to a tenant with the benefit of a voluntary purchase grant provided under Sections 40 and 41 of the Housing Act 1996 Act (or any similar provision in any subsequent legislation)
 - (ii) where a Shared Ownership leaseholder has acquired 100% of the shares in the Shared Ownership Unit
 - (iii) where any purchaser exercising their statutory or voluntary right to buy, preserved right to buy or right to acquire
- (c) cease to apply to any successor in title of any persons detailed in sub-paragraphs 6(a) (ii) to (iii) and 6(b) (i) to (iii) above or their mortgagees or chargees

Schedule 3: Open Space and Public Rights of Way

The Owner hereby covenants with Council:

1. Prior to Commencement of Development, the Owner shall submit to the Council for approval (such approval not to be unreasonably withheld or delayed):
 - 1.1 The Open Space Scheme which shall consist of at least 2.92ha of the site of which at least at least 0.82ha of formal play space will be provided for children of all ages and at least 295sqm of play space for toddlers in perpetuity;
 - 1.2 The Open Space Programme; and
 - 1.3 The Open Space Management Scheme
2. The Owner shall not Commence Development (unless otherwise agreed in writing with the Council) until it has submitted to and obtained the Council's written approval (such approval not to be unreasonably withheld or delayed) of:
 - 2.1 The Open Space Scheme;
 - 2.2 The Open Space Programme; and
 - 2.3 The Open Space Management Scheme
3. The Owner shall implement and fully comply with the approved Open Space Scheme, and the approved Open Space Programme
4. The Owner shall not Occupy or permit Occupation of more than 80% of Phase A or Phase B of the Development(as applicable) until the Open Space in Phase A or Phase B (as applicable) has been provided in accordance with the approved Open Space Scheme and the Council have received the appropriate Open Space Certificates unless otherwise agreed in writing with the Council
5. The Owner further covenants with the Council to maintain the Open Space Land in accordance with the approved Open Space Management Scheme until the date upon which the transfer described in paragraph 6 has been completed and until the relevant transfer has been completed if any tree or shrub or other planting seeding or turfing dies or becomes diseased or for any reason fails to become established

during that period to reinstate or replace it as necessary with a tree or shrub or other plant or turfing of same size and species

6. The Owner further covenants with the Council that not before the expiration of nine (9) months from the date of issue of the Open Space Certificate it shall transfer the Open Space Land to the Open Space Management Company
7. The Owner further covenants with the Council to include in the transfers of the Open Space Land as appropriate to the Open Space Management Company;
 - 7.1 a covenant by the Open Space Management Company only to permit Open Space Land to be utilised as grassed areas and/or play areas and/or parking areas and/or roads and/or open areas for recreation in accordance with this Deed
 - 7.2 a covenant by the Open Space Management Company to maintain the Open Space Land in perpetuity in accordance with the approved Open Space Management Scheme and to allow public access to the Open Space 24 hours a day for 365 days a year save for any permitted closure and it being agreed between the Parties that there is no intention to create any public rights of way over the Open Space Land in addition to those parts of the Open Space Land which already benefit from public rights of way at the date of this Deed;
 - 7.3 a covenant by the Open Space Management Company not to transfer the Open Space Land into the individual ownership of the owners of the Dwellings; and
 - 7.4 an obligation on the Open Space Management Company that should the Council so require the Open Space Management Company to enter into a direct covenant with the Council to perform the obligations set out in paragraphs 7.1 to 7.3 of this Schedule
8. The Owner shall furnish to the Council a copy of the completed transfer of the Open Space Land and shall inform the Council in writing of the contract details of the Open Space Management Company

9. The Owner shall;

9.1 include in each transfer or lease of a Dwelling an obligation to contribute an annual amount to the Open Space Management Company which together with fair contributions from other purchasers or lessees of the Dwellings shall be sufficient to enable the Open Space Management Company to discharge its obligations under this Deed in relation to the Open Space Land; and

9.2 procure that the buyer or lessee of each Dwelling upon any subsequent sale or letting of such Dwelling they will procure that the incoming buyer or lessee shall enter into direct covenants with the Open Space Management Company in the form of paragraph 9.1 and 9.2 of this Schedule

Schedule 4: Biodiversity Off Setting Contribution

The Owner covenants with the Council as follows:

- 1.1 To submit the Biodiversity Offsetting Scheme, the Biodiversity Onsite Compensation Scheme and, if applicable, the Biodiversity Offsite Compensation Scheme to the Council for approval at the date of submission of the first Reserved Matters Application
- 1.2 Not to Commence Development until the Biodiversity Offsetting Scheme; the Biodiversity Onsite Compensation Scheme and, if applicable, the Biodiversity Offsite Compensation Scheme have been approved in writing by the Council
- 1.3 To pay the Council's reasonable and proper costs incurred in evaluating and approving the Biodiversity Offsetting Scheme; the Biodiversity Onsite Compensation Scheme and, if applicable, the Biodiversity Offsite Compensation Scheme within 10 Working Days of receipt by the Owner of a written invoice in respect thereof from the Council
- 1.4 To fully implement the approved Biodiversity Offsetting Scheme prior to Occupation of the Development and thereafter to comply with the approved Biodiversity Offsetting Scheme (or any variations to such agreed in writing between the Owner and the Council from time to time)
- 1.5 Prior to Occupation of Phase A to pay 56.58% of the Biodiversity Offsetting Contribution (if any) to the Council ~~(or Nominee)~~ (as may be approved by the Council) as part of a Biodiversity Offsite Compensation Scheme
- 1.6 Not to Occupy or permit Occupation or use of Phase A of the Development unless and until the Biodiversity Offsetting Contribution (if any) has been paid in accordance with paragraph 1.5 above
- 1.7 Prior to Occupation of Phase B to pay 43.42% of the Biodiversity Offsetting Contribution (if any) to the Council ~~(or Nominee)~~ (as may be approved by the Council) as part of a Biodiversity Offsite Compensation Scheme

- 1.8 Not to Occupy or permit Occupation or use of Phase B of the Development unless and until the Biodiversity Offsetting Contribution (if any) has been paid in accordance with paragraph 1.7 above
- 1.9 To fully implement the approved Biodiversity Onsite Compensation Scheme and the Biodiversity Offsite Compensation Scheme (if any) in accordance with the programme(s) set out therein PROVIDED THAT the approved Biodiversity Onsite Compensation Scheme and the Biodiversity Offsite Compensation Scheme (if any) shall be fully implemented prior to Occupation of more than 75% of the Dwellings and thereafter to comply with the approved Biodiversity Onsite Compensation Scheme (or any variations to such agreed in writing between the Owner and the Council from time to time)
- 1.10 To submit the Biodiversity Onsite Compensation Certificate to the Council prior to Occupation of more than 75% of the Dwellings
- 1.11 Not to Occupy or permit Occupation or use of more than 75% of the Dwellings unless and until the approved Biodiversity Onsite Compensation Scheme has been implemented in full and the Council have received the Biodiversity Onsite Compensation Certificate

2. Biodiversity Offsetting Contribution Formula

- 2.1 The Biodiversity Offsetting Contribution shall be calculated applying the following formula –
- $$\mathbf{A = (B - C) \times D}$$
- Where:
- A** – The amount of the Biodiversity Offsetting Contribution
- B** - 54.34 (being the Biodiversity Pre-Development Site Value)
- C**–The Biodiversity Post-Development Site Value
- D** – £12,000 Index Linked in accordance with any applicable guidance from DEFRA and/or Natural England (or any other successor organisation responsible for monitoring and publishing guidance on biodiversity losses and gains resulting from development or land management change) at the date of the Biodiversity Offsetting Scheme as agreed by the Owner and the Council or where the Biodiversity Offsetting Contribution is to be paid to a Nominee pursuant to the approved Biodiversity Offsetting Scheme, such financial sum agreed between the Owner and the Nominee

Schedule 5: Self-Build and Custom Housebuilding Plots

The Owner hereby covenants with Council:

- 1.1 Not to Commence the Development in Phase A or Phase B (as applicable) or permit Commencement until the Self-Build and Custom Housebuilding Scheme for the relevant Phase has been submitted to and approved by the Council
- 1.2 Unless otherwise agreed with the Council in writing not to permit more than 50% of the Market Dwellings in the relevant Phase to be Occupied until the Self-Build and Custom Housebuilding Plots are made available in accordance with the approved Self-Build and Custom Housebuilding Scheme and have been provided in a Serviced Condition
- 1.3 Unless otherwise agreed with the Council in writing (as part of the Self-Build and Custom Housebuilding Scheme or otherwise) the Self-Build and Custom Housebuilding Plots shall only be provided and transferred for the provision of Self-Build and Custom Housebuilding to either:
 - (a) Those on the Self-Build and Custom Housebuilding Register;
 - (b) A Qualifying Self-Build and Custom Housebuilder Developer; or
 - (c) Such other person or persons approved in writing by the Council (such approval not to unreasonably delayed or withheld)) prior to any disposal of the Self-Build and Custom Housebuilding Plot in question
- 1.4 To give notice to the Council of the date of commencement of the date of marketing of each individual Self-Build and Custom Housebuilding Plot not later than 14 Working Days after that date
- 1.5 If after two (years) from the date of the commencement of marketing of the Self-Build and Custom Housebuilding Plots in the relevant Phase contracts for the sale of any of the Self-Build and Custom Housebuilding Plots have not been exchanged then:

- (a) the restrictions and obligations in this Schedule shall be released in relation to the relevant Self-Build and Custom Housebuilding Plot(s) and shall no longer apply to those Self Build and Custom Housebuilding Plot(s); and
- (b) a dwelling may be built on the relevant Self- Build and Custom Housebuilding Plot(s), which may be sold on the open market free from the provision of this Schedule;"

PROVIDED THAT:

- (i) the Owner has provided reasonable evidence demonstrating that the Self-Build and Custom Housebuilding Plots have been marketed for a minimum period of two years from the date of the commencement of marketing of the Self-Build and Custom Housebuilding Plots in accordance with the approved Self-Build and Custom Housebuilding Scheme and that no or no sufficient demand at a realistic open market value can be demonstrated; and
- (ii) the Council has agreed in writing that they are satisfied that the Self-Build and Custom Housebuilding Plots have been marketed for a minimum period of two years in accordance with the approved Self-Build and Custom Housebuilding Scheme from the date of the commencement of marketing of the Self-Build and Custom Housebuilding Plots in accordance with the approved Self-Build and Custom Housebuilding Scheme (such approval not be unreasonably withheld or delayed).

Schedule 6: Transfer of the Education Land

- 1 The Owner covenants with the County Council as follows:
 - 1.1 that if the County Council serves the Education Land Notice
 - 1.1.1 the Owner shall within 12 (twelve) months of the said Education Notice transfer to the County Council the unencumbered freehold of the Education Land with title absolute pursuant to and on the terms set out in the -School Transfer;
 - 1.1.2 that it shall not Occupy nor cause nor permit Occupation of more than 250 (two hundred and fifty) Dwellings until the Education Land has been transferred to the County Council SAVE THAT if the Education Land Notice is served at a time when more than 249 (two hundred and forty nine) Dwellings have been Occupied the Owner shall not Occupy nor cause nor permit Occupation of more than 50 (fifty) additional Dwellings from the date of service of the Education Land Notice until the date the Education Land is transferred to the County Council
 - 1.1.3 that they shall prepare lay out and provide to the County Council the Education Land as a Serviced Land within 9 (nine) calendar months of the Education Land Notice and in any event prior to transfer of the Education Land to the County Council
 - 1.1.4 that they shall not Occupy nor cause nor permit Occupation of more than 300 (three hundred) Dwellings until they shall have prepared laid out and provided the Education Land as a Serviced Land to the County Council SAVE THAT if the restriction on Occupation of 50 (fifty) additional Dwellings referred to in Paragraph 1.1.2 of this Schedule 1 shall be applicable THEN the Owner shall not Occupy nor cause nor permit Occupation of more than additional 20 (twenty) Dwellings from the date the Education Land Notice is served until it shall have prepared laid out and provided the Education Land as a Serviced Land to the County

Council

1.1.5 that they shall pay the County Council's costs associated with transfer of the Education Land

1.1.6 that they shall not Occupy nor cause nor permit Occupation of the last Dwelling to be Occupied until the County Council's costs associated with transfer of the Education Land has been paid to the County Council

1.1.7 that they shall not use nor develop the Education Land nor cause nor permit the Education Land to be used ~~(without the consent of the County Council)~~ or developed during the 10 year period referred to in paragraph 2.1 of Schedule 8 of this Deed and for any period following service of the Education Land Notice

Commented [DC6]: Taking instructions

1.2 that if the County Council serves the Education Land Notice , that they shall allow the County Council full access to the Education Land at any time and at no cost to the County Council in order to carry out surveys and/or investigations and/or studies with or without equipment or apparatus on each occasion following service by the County Council of 14 days' notice of its intention to access the Education Land

1.3 that they shall not Occupy nor cause nor permit Occupation of any Dwellings after the date of access requested by the County Council in the notice referred to in paragraph 1.2 above unless the Owner has provided access in accordance with the said notice

2 The Owner covenants that it shall pay the Primary Education Contribution A to the County Council as a contribution to be spent by the County Council at its sole discretion towards the delivery of a new Primary School or expansion of Killigrew Primary and/or provision of primary education services and/or facilities serving the Development which Primary Education Contribution A shall be paid in accordance with the following instalments:

Commented [DC7]: School is a defined term

- 2.1 the first instalment being a sum equivalent to twenty five per cent (25%) of the Primary Education Contribution A shall be paid prior to the Commencement Date;
 - 2.2 the second instalment being a sum equivalent to twenty five per cent (25%) of the Primary Education Contribution A shall be paid prior to Occupation of twenty five per cent (25%) of the total number of Dwellings comprised in the Development;
 - 2.3 the third instalment being the remainder of the Primary Education Contribution A shall be paid prior to Occupation of fifty per cent (50%) of the total number of Dwellings comprised in the Development
- 3 WHERE the County Council does not serve the Education Land Notice then the Primary Education Contribution shall be deemed to equate to the Primary Education Contribution B and be payable by the Owner to the County Council in accordance with the instalments set out in Paragraphs 2.1 to 2.3 of this Schedule 6 as a contribution to be spent by the County Council at its sole discretion towards the expansion of Killigrew Primary and/or provision of primary education services and/or facilities serving the Development
 - 4 The Owner Covenants that it shall not Commence nor cause nor permit Commencement of the Development until they shall have paid the first instalment of the Primary Education Contribution A referred to in paragraph 2.1 of this Schedule 6 has been paid to the County Council
 - 5 The Owner Covenants that it shall not Occupy nor cause nor permit Occupation of more than twenty four percent (24%) of the total number of Dwellings comprised in the Development until the second instalment of the Primary Education Contribution referred to in paragraph 2.2 of this Schedule 6 has been paid to the County Council
 - 6 The Owner Covenants that it shall not Occupy nor cause nor permit Occupation of more than forty nine percent (49%) of the total number of Dwellings comprised in the Development until the third instalment of the Primary Education

Contribution referred to in paragraph 2.4.3 of this Schedule 6 has been paid to the County Council

- 7 The Owner covenants with the County Council that where the County Council does not serve the Education Land Notice the restrictions on Commencement of Development referred to in Paragraph 4 of this Schedule 6 and Occupation of the relevant number of Dwellings referred to in Paragraphs 5 and 6 of this Schedule 6 shall apply with effect that the Owner shall not Commence nor Occupy nor cause nor permit Commencement or Occupation [of more than the relevant number of units referred to in Paragraph 5 and 6](#) as the case may be until the relevant instalments of the Primary Education Contribution B has been paid to the County Council
- 9 That on the date of the transfer of the Education Land to the County Council, the Owner shall place on risk a restrictive covenant indemnity insurance policy in the name of the County Council which shall have been approved by the County Council (acting reasonably) in respect of the unknown restrictive covenants affecting the Education Land and the Owner shall meet the entire cost of that policy

Schedule 7 – The Council's Covenants

The Council covenants with the Owners as follows:

1. The Council shall use the Council Contributions or instalments thereof received from the Owner un under the terms of this Deed for the purposes for which they have been paid
2. That the Council will pay to the Owner a sum, equal to the amount of any payment made by the Owner to the Council under this Deed which has not been expended in accordance with the provisions of this Deed within five (5) years of the date of receipt by the Council of such payment together with Interest on such unexpended sum from the date of receipt to the date of payment.

Schedule 8 – County Council Covenants

1. The County Council covenants with the Owner as follows:
 - 1.1 that it shall use the County Council Contributions or instalments thereof received from the Owner under the terms of this Deed for the purposes for which they have been paid.
 - 1.2 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 committed to be spent in accordance with the provisions of this Deed within ten (10) years of the date of receipt by the Council of notice of Occupation of the last Dwelling to be Occupied (pursuant to clause 4.1(1g) of this Deed) such payment together with any accrued interest on such unexpended unallocated or uncommitted sum from the date of receipt to the date of repayment
2. The County Council covenants with the Owner as follows:
 - 2.1 If the County Council chooses to serve the Education Land Notice then it will do so no later than ten (10) years of the date of receipt by the County Council of notice of Commencement of the Development pursuant to clause 4.1(b) of this Deed
 - 2.2 THAT if the County Council does not serve the Primary Education Land Notice in accordance with Paragraph 2.1 of this Schedule 8 AND if the Owner has paid the full Primary Education Contribution A to the County Council the County Council shall in those circumstances only, refund to the person who paid the said contribution an amount equivalent to the difference between Primary Education Contribution A and Primary Education Contribution B together with interest accrued thereon following receipt of a written request from the person who paid the said contribution PROVIDED ALWAYS that such request is not made before the expiry of the ten (10) year period referred to in paragraph 2.1 above

2.3 That in the event

- Appeal B succeeds and
- any deed of planning obligations entered into by the relevant parties in respect of Appeal B contains the Appeal B Bus Service Contribution and
- the County Council irrevocably receives from the Owner of Appeal B Site at least the sum of five hundred and eighty five thousand pounds (£585,000) or sixty per cent (60%) of the Appeal B Bus Service Contribution (whichever is greater) and
- the Owner has paid the full index linked Bus Services Contribution to the County Council in accordance with terms of this Deed, then

the County Council shall in those circumstances only, refund to the person who paid the Bus Service Contribution the sum of four hundred and thirty seven thousand pounds (£437,000) or fifty per cent (50%) of the Bus Service Contribution together with interest accrued thereon following receipt of a written request from the person who paid the said contribution PROVIDED ALWAYS that such request is not made and the County Council shall not be required to refund the said amount prior to the County Council having received the amount of the Appeal B Bus Service Contribution referred to in this Paragraph 2.3 of Schedule 8

Schedule 9– Proforma

PURSUANT TO SECTION 106 AGREEMENT/UNILATERAL UNDERTAKING

DATED

MADE BETWEEN

PLANNING PERMISSION REFERENCE

HCC DU REFERENCE

SITE ADDRESS

SITE OWNER DETAILS

Name

Contact name

Address

Telephone nos

Main

Mobile

E-mail

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	Interim Indexation	Final Indexation	Total	Payable to
Example Education (primary)	X £	Y £	Z £	X + Y £	Herts 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 Director of Law and Governance
Hertfordshire County Council
County Hall
Pegs Lane
Hertford
Hertfordshire
SG13 8DE (Ref: 20162)

- b) To Strategic Director, Community & Place Delivery
St Albans City and District Council
Civic Centre
St Peter's Street
St Albans
Hertfordshire
AL1 3JE (Ref: 5/2022/0927)

Schedule 10 – HCC planning obligations contributions table

Table 1 – Expansion Primary (& Nursery)

EXPANSION Primary (& Nursery)							
HOUSES				FLATS			
1	2	3	4+	1	2	3	4+
Open Market, Shared Ownership or Other							
£2,503.97	£4,943.50	£7,954.82	£9,747.42	£2,632.20	£5,943.89	£5,602.80	£6,458.90
Affordable Rent or Social Rent							
£804.41	£11,152.47	£15,534.87	£18,472.20	£2,496.31	£15,983.46	£15,059.13	£16,685.88

Table 2 – New school Primary (& Nursery)

NEW SCHOOL Primary (& Nursery)							
HOUSES				FLATS			
1	2	3	4+	1	2	3	4+
Open Market, Shared Ownership or Other							
£2,961.44	£5,846.68	£9,408.16	£11,528.27	£3,113.11	£7,029.84	£6,626.43	£7,638.95
Affordable Rent or Social Rent							
£951.37	£13,190.02	£18,373.09	£21,847.07	£2,952.38	£18,903.64	£17,810.44	£19,734.39

Table 3 – Secondary (& Post-16)

Secondary (& Post-16)							
HOUSES				FLATS			
1	2	3	4+	1	2	3	4+
Open Market, Shared Ownership or Other							
£2,813.95	£5,387.98	£8,693.73	£10,592.76	£2,932.67	£6,399.56	£5,911.05	£7,139.68
Affordable Rent or Social Rent							
£957.27	£12,507.61	£17,006.22	£18,990.93	£2,754.59	£17,890.92	£16,116.76	£17,910.55

Table 4 - SEND

SEND Primary	
Houses	654
Flats	194
SEND Secondary	
Houses	752
Flats	66

Table 5 – Library and Youth

	Open Market, Shared Ownership or Other							
	Houses				Flats			
	1	2	3	4+	1	2	3	4+
Bedrooms								
Library Facilities	£140.87	£172.95	£229.28	£283.78	£126.41	£166.85	£220.74	£300.67
Youth Services	£51.82	£80.90	£259.30	£488.44	£23.14	£70.05	£212.75	£317.14
	Affordable Rent or Social Rent							
	Houses				Flats			
	1	2	3	4+	1	2	3	4+
Bedrooms								
Library Facilities	£117.54	£204.00	£268.43	£362.19	£110.49	£197.55	£257.15	£273.67
Youth Services	£27.80	£249.21	£585.88	£1,015.16	£28.58	£167.44	£498.54	£592.32

*Tables use an assumed relationship between bedrooms and habitable rooms.
 Figures are subject to indexation*

TABLE 6

DWELLING MIX

HOUSES		
Number of bedrooms	A) Open Market & Intermediate	B) Affordable Rent
1	0	0
2	10	8
3	167	9
4+	94	4
Total	271	21

FLATS		
Number of bedrooms	A) Open Market & Intermediate	B) Affordable Rent
1	33	13
2	10	43
3	0	0
4+	0	0
Total	43	56

Schedule 11 – Form of School Transfer

Schedule 12 - Formulas for Calculation of the Financial Contributions

(1) Sustainable Travel Contribution Formula

$$A = (£6,826 \times B) - (C + D + E + F+G+H)$$

Where:

- A = Sustainable Transport Contribution (Index Linked)
- B = the final number of dwellings
- C = Sustainable Travel Improvement Works
- D = The Bus Services Contribution
- E = Residential Travel Plan Evaluation and Support Contribution
- F= School Travel Plan Evaluation and Support Contribution
- G = Sustainable Travel Vouchers

(2) East of England Ambulance Service NHS Trust (EEAST) Contribution

$$A = B \times 0.15 \times £675$$

Where:

- A = EEAST Contribution (Index Linked)
- B = Additional population growth arising from the Development calculated assuming 2.4 persons per dwelling
- 0.15 = Rate (calculated using per head of population in Hertfordshire and West Essex 1996 of 1.4m and emergency activity volume in 2018/19 (203,066))
- £675 = Ambulance cost (calculated using EEAST data)

(3) **Leisure and Cultural Centres Contribution**

$$(A \times B) / 1000 = C \times \text{Occupancy} = D$$

A = 82.58 m² per 1000 population (Local Standard of Provision)

B = £3,908 per square metre (Cost)

C = £322.72 (Contribution Per Person)

D = Total Contribution

- Occupancy – The Council will base its calculations for the net increase in on-site population on the following occupancy rates:
 - 1 bed – 1.5 people
 - 2 bed – 1.7 people
 - 3 bed – 2.3 people
 - 4 bed – 3 people
 - 5+ bed – 4 people

SCHEDULE 13: SERVICED LAND

Education Land Specification

1 Site Levels

- 1.1 Uniformly shaped parcel of land. Grassed playing field/pitches should comprise a natural grass area that is suitable for playing team sport and meets the requirements of Sport England's Natural Turf for Sport. Team games space area should be provided to the following Sports England standards: the playing surface should be no steeper than 1:80 to 1:100 to the length and 1:40 to 1:50 across the width.

2 Surveys & Investigations

- 2.1 The Owner shall provide results of site investigations for the Education 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.
- 2.2 Insurances through collateral warranties will provide the County Council with redress from the provider in the event of error or inaccuracy.

3 Land Contamination

- 3.1 The land must demonstrably fall outside of the criteria set down in Section 78A of Part 2A of the Environmental Protection Act 1990 and satisfy the requirements of paragraph 121 of the National Planning Policy Framework, both at the time of the Transfer and the foreseeable future.

4 Services Generally

- 4.1 All installations to serve the Education Land shall have been completed to the Education Land site boundary.

5 Electricity

- 5.1 Low voltage connection to an electricity sub-station with sufficient available capacity to meet the needs of a School will be provided. Connection to the

sub-station by the County Council will be via ducting provided by the First Owner to avoid the need for excavation of highways.

6 Water

- 6.1 Supply to terminate at the Education Land site boundary at a position to be agreed with the County Council. Size of main and water pressure to meet the requirements of a School with appropriate stop valves/terminations/meters in the appropriate boxes/pits/inspection chambers.

7 Drainage

- 7.1 The Education Land is currently green field and as such there may be a requirement by the approving authorities to restrict surface water flows from the Education Land to greenfield runoff rates or similar. In circumstances where flows can be increased without preventing the future adoption of downstream network, 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.

8 Gas

- 8.1 Supply to terminate at the Education Land site boundary at a position to be agreed with the County Council.
- 8.2 Natural gas main size and pressure to meet the minimum requirements of an operational School with appropriate stop valves/terminations/meters in appropriate boxes/pits/inspection chambers.

9 Telecoms

- 9.1 Ducting available to allow connection to the Openreach network without the need for excavation within the highway.

10 Noise

- 10.1 The noise level at the school site boundary as a consequence of the construction activities of any Development construction works will be within British Standard requirements. The noise level within the outdoor play areas,

arising from external sources from the completed Development (after the construction phase is finished) will be influenced by the final orientation of the School relative to the predominant noise sources. If this level is exceeded, screening may need to be introduced by the County Council as part of the construction of the School.

11 Flooding

11.1 The Site will have Zone 1 status under flood risk assessment.

12 Ecological/biodiversity Assessment

12.1 The land shall not contain any protected species. If survey data has identified any protected species appropriate migration measures to be wholly completed by the Owner in accordance with the Conditions.

13 Natural Nuisances

13.1 The land shall be demonstrably free from native and non-native noxious, invasive or hazardous plants to the full and final satisfaction of the County Council.

14 Air Quality

14.1 The site shall consistently exhibit demonstrably low levels of fumes and other air borne pollutants likely to adversely impact upon the health and wellbeing of all users of the Education Land.

15 Access

A suitable access road to be constructed to the site boundary, capable of bearing heavy construction machinery

Schedule 14 – Plans and Drawings

EXECUTED and DELIVERED as a **DEED** on the date of this document

EXECUTED under the Common Seal of
ST ALBANS CITY AND DISTRICT COUNCIL
in the presence of:

Duly Authorised Officer

EXECUTED under the Common Seal of
HERTFORDSHIRE COUNTY COUNCIL
in the presence of:

Chief Legal Officer/ Assistant Chief Legal Officer

EXECUTED as a DEED by
HANNAH LOUISE COURTNEY
(as Executor)

in the presence of:
Witness Signature:
Witness Name:
Witness Address:

EXECUTED as a DEED by
SOPHIE LOUISE RIGLEY
(as Executor)

in the presence of:
Witness Signature:
Witness Name:
Witness Address:

EXECUTED as a DEED by
GEOFFREY STANLEY DAVIES
(as Executor)

in the presence of:
Witness Signature:
Witness Name:
Witness Address:

EXECUTED as a DEED by
STANLEY HERBERT DAVIES

in the presence of:
Witness Signature:

[Witness Name:](#)

[Witness Address:](#)

EXECUTED as a **DEED** by
HANNAH LOUISE COURTNEY

[\(as Second Owner\)](#)

in the presence of:

Witness Signature:

Witness Name:

Witness Address:

EXECUTED as a **DEED** by
SOPHIE LOUISE RIGLEY

[\(as Second Owner\)](#)

in the presence of:

Witness Signature:

Witness Name:

Witness Address:

EXECUTED as a **DEED** by
GEOFFREY STANLEY DAVIES

[\(as Second Owner\)](#)

in the presence of:

Witness Signature:

Witness Name:

Witness Address:

EXECUTED as a **DEED** by
ALBAN PETER PEARSON

in the presence of:

Witness Signature:

Witness Name:

Witness Address:

EXECUTED as a **DEED** by
ALBAN DEVELOPMENTS LIMITED

Acting by two Directors/a Director
and its Secretary

Director

Director/Secretary

EXECUTED as a **DEED** by)
CALA MANAGEMENT LIMITED)
acting by)
)
and by)
As Attorney of CALA Management)
Limited)

Attorney:

Attorney:

Both in the presence of:

Witness Signature:

Witness Name:

Witness Address:

EXECUTED as a **DEED** by
REDINGTON CAPITAL LIMITED
Acting by two Directors/a Director
and its Secretary

Director
Director/Secretary

Date _____ 2023

ST ALBANS CITY and DISTRICT COUNCIL

- and -

-

HERTFORDSHIRE COUNTY COUNCIL

-

- and -

-

[THE EXECUTORS OF THE ESTATE OF
STANLEY HERBERT DAVIES](#)

-

-and-

HANNAH LOUISE COURTNEY

-and-

SOPHIE LOUISE RIGLEY

-

- and -

GEOFFREY STANLEY DAVIES

-

- and -

ALBAN PETER PEARSON

-

- and -

ALBAN DEVELOPMENTS LIMITED

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

Land South of Chiswell Green Lane, Chiswell
Green, St Albans

Legal Services
St Albans City and District Council
Civic Centre St Peter's Street St Albans
Hertfordshire AL1 3JE REF:
5/2022/0927