

**DATED**

**2026**

**DGF & MAM THOMPSON FARMS LIMITED (1)**

**AND**

**BONINGALE HOMES LIMITED (2)**

**AND**

**BONINGALE DEVELOPMENTS LIMITED (3)**

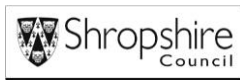
**AND**

**SHROPSHIRE COUNCIL (4)**

**AGREEMENT**

**Pursuant to Section 106 Town & Country Planning Act 1990**

**Proposed Mixed Use Development Patshull Road Albrighton Shropshire**



LEGAL AND DEMOCRATIC SERVICES

Guildhall Frankwell Quay Shrewsbury Shropshire SY3 8HQ  
DX 702024 Shrewsbury 2



FREETHS LLP

The Colmore Building 20 Colmore Circus Queensway  
Birmingham B4 6AT  
DX 13024 Birmingham 1

**Planning Application Reference: 24/02108/OUT**

**THIS AGREEMENT** is made the                      day of                      Two Thousand and Twenty-Six

**BETWEEN:-**

- (1) DGF & MAM THOMPSON FARMS LIMITED (Co Regn. No. 09446701) whose registered office is at Longhouse Office 56 High Street, Albrighton, Wolverhampton, England, WV7 3JH (the “First Landowner”);**
- (2) BONINGALE HOMES LIMITED (Co Regn. No. 08312616) whose registered office is at Longhouse Office, 56 High Street, Albrighton Wolverhampton, England, WV7 3JH (the “Second Landowner”) (the First Landowner and the Second Landowner together referred to as the “Landowner”);**
- (3) BONINGALE DEVELOPMENTS LIMITED (Co Regn No. 16123876) whose registered office is at Longhouse Office, 56 High Street, Albrighton Wolverhampton, England, WV7 3JH (“the Developer”) and**
- (4) SHROPSHIRE COUNCIL of Guildhall, Frankwell Quay, Shrewsbury, Shropshire, SY3 8HQ (the “Council”);**

**INTRODUCTION**

- (a) The Council is the local planning authority for the purposes of the Act for the area within which the Site is situated and accordingly is the person who is entitled to enforce the obligations contained in this Agreement.**
- (b) The First Landowner is the freehold owner of that part of the Site registered at HM Land Registry under title numbers SL193062 and SL94448. The Second Landowner is the freehold owner of that part of the Site registered at HM Land Registry under title number SL234907. The Development is to be delivered by the Developer.**
- (c) The Application was validated by the Council on 8<sup>th</sup> July 2024 and pursuant to the Application the Developer applied for planning permission for the Development.**
- (d) The Council refused the Planning Application pursuant to a Decision Notice dated 16<sup>th</sup> December 2025 and the Developer has lodged an appeal against the Council's refusal (“the Appeal”).**
- (e) The Landowner and Developer have agreed to enter into this Agreement with the intention that the obligations contained in this Agreement may be enforced by the Council against them and their respective successors in title and any mortgagee (but only insofar as any mortgagee is a Mortgagee in Possession) and its successors in title should the Appeal be**

successful and Planning Permission granted by an Inspector duly appointed to determine the Appeal.

**NOW THIS AGREEMENT WITNESSES AS FOLLOWS:**

**1. DEFINITIONS**

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

|                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|---------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>“Access Road”</b>                  | an access road with carriageway and footway forming part of the Development from the adopted highway to the boundary of the Secondary School Land or the Healthcare Provision Land as applicable at a point agreed by the Council constructed to at least wearing course standard (unless the Access Road is still being used for construction of the Development in which case the standard shall be base course until those construction works are completed) with the right for those using or occupying the Secondary School Land or the Healthcare Provision Land as applicable to use it in common with others with the like right until such time as it may be adopted by the Council as public highway; |
| <b>“Act”</b>                          | means the Town and Country Planning Act 1990 (as amended).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>”Active Travel Contribution”</b>   | means the sum of £ TBC (Index Linked) to be paid by the Landowner to the Council for any additional active travel measures not already being provided by the Landowner required as a consequence of the Development.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>“Affordable Housing Dwellings”</b> | means Dwellings that will be made available for Occupation by eligible persons for either rental or low cost home ownership at less than market value in accordance with the NPPF or any successor document and this Agreement.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

**“Affordable Housing Scheme”**

means a scheme for the delivery of Affordable Housing Dwellings, on a Phase which shall include:

- (a) the total number of Affordable Housing Dwellings in that Phase which shall be not less than 35% (rounded up to nearest whole Dwelling) of the total number of Dwellings to be constructed in the relevant Phase;
- (b) the tenure, size and type of the Affordable Housing Dwellings (which shall be in accordance with the Tenure Mix) to be provided in the relevant Phase;
- (c) a programme for the delivery of the Affordable Housing Dwellings in the relevant Phase;
- (d) a plan showing the location of the Affordable Housing Dwellings and the plot numbers;
- (e) provisions for the transfer of the Affordable Housing Dwellings to a Registered Provider;

**“Affordable Rent Dwellings”**

means the Affordable Housing Dwellings to be constructed pursuant to the Planning Permission and transferred to a Registered Provider for allocation as rented housing as prescribed in the Second Schedule to this Agreement.

Lettings shall be made to persons under a form of tenancy permitted by Homes England and at a rent (inclusive of applicable service charges) equal to or less than 80% of the open market rental value (or the maximum

amount of local housing allowance payable for the Dwelling if this is lower).

Any annual rent increase for the Dwelling must not result in the rent of that Dwelling exceeding the current level of Shropshire Local Housing Allowance or 80% of the Market Rent whichever is the lower.

**“Alternative Scheme”**

means a scheme for the use of the Local Centre Land which may provide for:

- (a) uses within Class E
- (b) local community uses (Class F2 or equivalent);
- (c) workspace(s) and/or work pods and/or flexible commercial uses such as parcel hub, postal or ancillary uses; and
- (d) such other uses to provide amenity to the Development.

**“Anticipated Completion Date”**

the later of the date which the Council or Nominee (as applicable) reasonably predicts that the development of the Secondary School Land for Education Purposes or the Healthcare Provision Land for Healthcare Purposes (as applicable) will be complete and available for Occupation and the date which is six (6) months after the Council or Nominee (as applicable) serves the Anticipated Completion Notice on the Landowner;

**“Anticipated Completion Notice”**

written notice by the Council or Nominee (as applicable) to the Landowner of the date on which the Council or Nominee (as applicable) reasonably predicts that the development of the Secondary School Land for Education Purposes or the Healthcare Provision Land for Healthcare Purposes (as applicable) will be complete and available for Occupation;

|                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>“Application”</b>                               | means a planning application made to the Council by the Developer on 8 <sup>th</sup> July 2024 for planning permission for “Outline application to include access for a mixed-use development comprising up to 800 no dwellings, a care home of up to 80 units, a secondary school and local centre with associated access, infrastructure, landscaping and drainage” and allocated the reference 24/02108/OUT by the Council. |
| <b>“Biodiversity Gain Land”</b>                    | means the part of the Site upon which biodiversity gain will be delivered for the Development as identified in the Biodiversity Gain Plan and HMMP to fulfil the requirements under Schedule 7A of the Act;                                                                                                                                                                                                                    |
| <b>“Biodiversity Gain Monitoring Contribution”</b> | means the sum of £41,227 Index Linked payable by the Landowner to the Council to cover the Council's costs of monitoring and enforcing compliance with the BNG obligations contained in this Agreement and the Statutory BNG Requirement;                                                                                                                                                                                      |
| <b>“Biodiversity Gain Plan”</b>                    | means a written plan setting out how the Development will achieve at least the Statutory BNG Requirement and the obligations set out in Schedule 3 of this Agreement which may be through the provision of Biodiversity Gain Land and/or the purchase of Biodiversity Gain Units;                                                                                                                                              |
| <b>“Biodiversity Gain Site Register”</b>           | means the register of biodiversity gain sites maintained by Natural England pursuant to the Biodiversity Gain Site Register Regulations 2024;                                                                                                                                                                                                                                                                                  |
| <b>“Biodiversity Gain Units”</b>                   | means units of biodiversity gain on Off-Site Biodiversity Gain Land which are allocated to the Development on the Biodiversity Gain Site Register;                                                                                                                                                                                                                                                                             |

|                                       |                                                                                                                                                                                                                                                                                               |
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| <b>“Biodiversity Metric”</b>          | means the statutory biodiversity accounting tool published by DEFRA or Natural England from time to time that can be used to measure the biodiversity value or relative biodiversity value of habitat or habitat enhancement for the purposes of biodiversity net gain;                       |
| <b>“Biodiversity Net Gain or BNG”</b> | means an increase in Biodiversity Units resulting from implementing the Habitat Management and Monitoring Plan (as measured using the Biodiversity Metric) that can be allocated to the development to fulfil its requirement to create or enhance biodiversity under Schedule 7A of the Act. |
| <b>“BNG Commencement Date”</b>        | means the date upon which the Habitat Creation and Enhancement Works have commenced.                                                                                                                                                                                                          |
| <b>“BNG Expiry Date”</b>              | means the date which is the 30 <sup>th</sup> anniversary of the BNG Start Date;                                                                                                                                                                                                               |
| <b>“BNG Start Date”</b>               | means the later of the date that the Certificate of Completion is issued or the date from which the Biodiversity Gain Units are approved by the Council and allocated to the Development;                                                                                                     |
| <b>“Breach Notice”</b>                | means a notice which may be served by the Council on the Landowner under paragraph 10 of the Third Schedule to this Deed.                                                                                                                                                                     |
| <b>“Bus Service Contribution”</b>     | means the sum of £880,000 in respect of the Dwellings and £25,000 (Twenty-five Thousand Pounds) per Retail Unit on the Development both Index Linked payable by the Landowner to the Council                                                                                                  |
| <b>“Bus Strategy”</b>                 | means a strategy for the provision or subsidy of bus services and/or the enhancement or subsidy of existing bus services and                                                                                                                                                                  |

associated passenger transport measures to serve the need of Occupiers of the Development, including:

- (a) proposed routes, timetables, stopping locations and operating frequencies within the development and connections to Albrighton Railway Station and local employment centres including Wolverhampton and Telford, ;
- (b) arrangements for monitoring and review;
- (c) details of any onsite and/or offsite bus stops, bus shelters, real-time passenger information displays and local interchange infrastructure reasonably required to serve the Development; and
- (d) the proposed timing and phasing of those measures,

but excluding the Interim Shuttle Bus Service

**“Care Home”**

means the care facility under Use Class C2 of the Use Classes (England) Order 1987 (as amended) constructed pursuant to the Planning Permission

**“Care Home Element”**

means the sum of £59,771 (Fifty-Nine Thousand Pounds Seven Hundred and Seventy One Pounds) Index Linked being the portion of the Healthcare Contribution attributable to the Care Home

**“Care Home Land”**

means the land to be identified by the Landowner for the provision of a residential institution under Use Class C2 of the Use Classes (England) Order 1987 (as amended) including but not limited to a care home or other specialist care accommodation pursuant to the Planning Permission.

|                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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| <b>“Care Home Land Marketing Period”</b>     | means a period of at least 24 calendar months commencing not earlier than Occupation of the first Dwelling.                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>“Care Home Land Marketing Strategy”</b>   | <p>means a scheme for the marketing of the Care Home Land to include:</p> <ul style="list-style-type: none"> <li>(a) location, layout, size, scale, design and specification parameters;</li> <li>(b) access, servicing and parking arrangements;</li> <li>(c) marketing strategy and target occupier details</li> </ul>                                                                                                                                                                          |
| <b>“Certificate of Completion”</b>           | means a written certificate of completion issued by the Council confirming that the Habitat Creation and Enhancement Works have been completed to the reasonable satisfaction of the Council;                                                                                                                                                                                                                                                                                                     |
| <b>“Certificate of Practical Completion”</b> | means a certificate issued by the Council pursuant to [ ] confirming that the Public Open Space has been laid out and completed in accordance with the Reserved Matters Approval and the Public Open Space Specification.                                                                                                                                                                                                                                                                         |
| <b>“Choice Based Lettings System”</b>        | means the Council's system for advertising Affordable Housing Dwellings as being available for occupation.                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>“Commencement of Development”</b>         | means the date upon which the Development shall be implemented by the carrying out on the Site pursuant to the Planning Permission of a material operation specified in Section 56 of the Act <b>PROVIDED THAT</b> any works of or associated with demolition, site clearance, remediation works, environmental or archaeological investigations, site and soil surveys, erection of contractors work compound, erection of site office, erection of fencing to site boundaries and laying out of |

access roads and services shall for the purposes of this Agreement be deemed not to be material operations and "Commencement Date" shall be construed accordingly.

**"Completion Notice"**

means written notice from the Landowner to the Council that the Landowner considers that the Habitat Creation and Enhancement Works and the Public Open Space Works (respectively and as applicable) have been completed;

**"Construction Access"**

a vehicular access route from the adopted highway to the Secondary School Land or Healthcare Provision Land as applicable that is of a quality to the reasonable satisfaction of the Council and suitable for use as a haul road and sufficient for construction vehicles and vehicles for the delivery of materials for the development of the Secondary School Land for Education Purposes or the Healthcare Provision Land for Healthcare Purposes as applicable;

**"Deed"**

means this Agreement.

**"DEFRA"**

means the public body known as the Department for Environment, Food & Rural Affairs or any successor body which acts as the Government's advisor for the natural environment, food or rural affairs in England.

**"Development"**

means the mixed-use development comprising up to 800 no dwellings, a care home of up to 80 units, a secondary school and local centre with associated access, infrastructure, landscaping and drainage in accordance with the Planning Permission.

**"Discounted Rent Dwelling"**

means an Affordable Housing Dwelling to be constructed pursuant to the Planning Permission and transferred to a Registered

Provider by the Landowner for allocation in perpetuity as rented housing as prescribed in the Second Schedule to this Agreement.

Lettings shall be made to persons under an assured shorthold tenancy and at a rent (inclusive of applicable service charges) that shall be no greater than 80% of the Market Rent for the Dwelling or the maximum amount of local housing allowance payable for the Dwelling (whichever is the lower).

The maximum annual rent increase for the Dwelling will be the amount permitted by the Rent Standard but not exceeding the current level of Shropshire Local Housing Allowance or 80% of the Market Rent whichever is the lower.

**“Discounted Sale Dwelling”**

means an Affordable Housing Dwelling made available for freehold sale at the Formula Price and made available for Occupation as the Occupiers' only or principal home and in accordance with the terms prescribed in the Second Schedule to this Agreement.

**“Dwelling”**

means a residential unit that may be built on the Site as part of the Development and reference to “Dwellings” shall be construed accordingly.

**“Education Mitigation”**

means the:

- (a) The safeguarding and reservation of the Secondary School Land in accordance with [ ] of the Second Schedule; and
- (b) payment of the SEND Education Transport Contribution

in each case as required by the Planning Permission or the decision letter determining the Appeal.

**“Education Purposes”**

means the provision of education by operation of a Secondary School and/or any other educational setting and/or any community sports or recreational uses which may for the avoidance of doubt be provided independently or by way of a community use agreement with an educational setting;

**“Fencing”**

means a permanent fence suitable for the proposed Education Purposes, of a height and a specification agreed in writing by the Council enclosing the whole of the Secondary School Land or located as otherwise agreed in writing by the Council with appropriate accesses;

**“Fields in Trust Standards”**

means Standards for the quality of green space published by Fields in Trust

**“Financial Contributions”**

means the Bus Service Contribution, the SEND Education Transport Contribution, the Healthcare Contribution, the Sports Provision Contribution and the Sustainable Transport Contribution

**Commented [RM1]:** All financial contributions to be captured here

**"Final Certificate"**

means a certificate to be issued by the Council which shall be conclusive evidence that the Public Open Space has been constructed and maintained for the duration of the Maintenance Period in accordance with the Public Open Space Specification and Reserved Matters Approval to the reasonable satisfaction of the Council;

|                                                         |                                                                                                                                                                                                                                                                                                                                                                                          |
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| <b>"Formula Price"</b>                                  | means the sum which is sixty per cent (60%) of the Open Market Value of a Discounted Sale Dwelling.                                                                                                                                                                                                                                                                                      |
| <b>"Habitat Creation Enhancement Works"</b>             | means the habitat creation and enhancement works set out in the Habitat Management and Monitoring Plan (excluding any management or monitoring activities specified in the Habitat Management and Monitoring Plan) including any works required for skylark mitigation measures to be provided on the Skylark Mitigation Land.                                                           |
| <b>"Habitat Management and Monitoring Plan or HMMP"</b> | means the document(s) to be submitted at the same time as Biodiversity Gain Plan which shall include but is not limited to written narrative and spatial mapping details for Biodiversity Net Gain on the BNG Land and including any modification to it approved by the Council.                                                                                                         |
| <b>"Healthcare Contribution"</b>                        | means the sum of £777,027.00 (Seven Hundred and Seventy Seven Thousand and Twenty Seven Pounds Index Linked which is made up of the Housing Element and the Care Home Element.                                                                                                                                                                                                           |
| <b>"Healthcare Land Details"</b>                        | means details (including plans, drawings and other technical detail) for: <ul style="list-style-type: none"> <li>(a) the levels and gradient profile of the Healthcare Provision Land;</li> <li>(b) the levels and locations and capacity of the Healthcare Service Infrastructure;</li> <li>(c) the points of entry into the Healthcare Provision Land from the Access Road;</li> </ul> |
| <b>"Healthcare Land Transfer"</b>                       | a transfer by the Landowner of the unencumbered freehold interest in the Healthcare Provision Land at a consideration                                                                                                                                                                                                                                                                    |

of not more than one pound (£1) in accordance with the Healthcare Land Transfer Terms;

**“Healthcare Land Service Infrastructure”** means connection points for the Required Services to adoptable standard in or adjacent to the Access Road and immediately adjacent to the Healthcare Provision Land;

**“Healthcare Land Transfer Date”** means the date on which the Healthcare Land Transfer is completed;

**“Healthcare Land Transfer Terms”** the terms of the transfer of the Healthcare Provision Land from the Landowner to the Council or the Nominee which must include:

(a) the grant of all rights over adjoining land as are reasonably required for the development, management and maintenance of the Healthcare Provision Land for Healthcare Purposes including but not limited to rights of access over and rights to connect to services and use of service media within adjoining land;

(b) the grant of rights to use the Access Road and the Healthcare Land Service Infrastructure pending their adoption by the highway authority relevant statutory undertaker or service provider;

(c) all necessary licences permissions and consents required by the Council or the Nominee to carry out and complete the development and use the Healthcare Provision Land for Healthcare Purposes;

and must not include:

(d) any covenants restrictions or reservations that would prevent the use of the Healthcare Provision Land for Healthcare Purposes;

(e) any covenants restrictions or reservations that would adversely affect the construction servicing or occupation of any part of the Healthcare Provision Land;

and may include:

(f) a covenant that the Healthcare Provision Land shall not be used otherwise than for Healthcare Purposes;

(g) the Return Covenant.

**“Healthcare Provision Land”**

means the land indicatively shown on Plan [X] or (such other location as may be reasonably agreed between the Council and the Landowner) identified by the Landowner for the provision of a GP surgery or other primary or secondary healthcare provision to service the healthcare needs of the residents pursuant to the Planning Permission.

**“Healthcare Provision Land Transfer Request”**

means a request from the Council or the Nominee in writing for the transfer of the Healthcare Provision Land served on the Landowner within the Safeguarded Period;

**“Healthcare Purpose”**

the provision of primary and secondary healthcare services;

**“Homes England”**

means Homes England or any other body undertaking the previous functions of the Housing Corporation under the Housing and Regeneration Act 2008.

**“Homes England Model Lease”**

means a form of lease prepared by a Registered Provider in a form which has been

|                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|                                                | approved and/or prescribed by Homes England.                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>“Housing Allocations Policy and Scheme”</b> | means the Council's adopted policy and procedure for allocating Affordable Housing Dwellings to eligible persons from its housing waiting list.                                                                                                                                                                                                                                                                                                                                         |
| <b>“Housing Element”</b>                       | means the sum of £717,256.00 (Seven Hundred and Seventeen Thousand Two Hundred and Fifty Six Pounds Index Linked being the portion of the Healthcare Contribution attributable to the Dwellings                                                                                                                                                                                                                                                                                         |
| <b>“Interest”</b>                              | means interest at 4 per cent above the base lending rate of Barclays Bank plc from time to time.                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>“Index Linked”</b>                          | <p>means all payments expressed in this Deed are to be increased from the date of this Deed to the date of payment by reference to the Index applying the following formula:</p> <p><math>D = A \times B/C</math> where:</p> <p>A = the sum stated to be payable in this Deed;</p> <p>B = the last Index figure published prior to the payment date;</p> <p>C = the last Index figure published prior to the date of this Agreement; and</p> <p>D = the sum payable to the Council.</p> |
| <b>“Interim Shuttle Bus Service”</b>           | means an interim shuttle bus service provided by or on behalf of the Landowner connecting the Development with Albrighton High Street and Albrighton Railway Station, operating with a minimum frequency of one service every 20 minutes between 0700 and 1900 hours on Mondays to Saturdays excluding Bank and public holidays.                                                                                                                                                        |

|                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>“Landowner”</b>           | means the First Landowner and Second Landowner.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>“Local Centre”</b>        | means a mixed use local centre comprising uses within Use Class E of the Use Classes Order 1987 (as amended), including retail, food store/ supermarket, health facilities and day nursery uses and may also include local community uses under Use Class F2 and EV car club and EV facilities as approved pursuant to the Planning Permission.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>“Local Centre Land”</b>   | means the land indicatively shown on Plan [ ] identified by the Landowner for the provision of the Local Centre pursuant to the Local Centre Scheme and the Planning Permission.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>“Local Centre Scheme”</b> | <p>means a scheme for the design, marketing, and delivery of the Local Centre to include:</p> <ul style="list-style-type: none"> <li>(a) the location, layout, size, scale, design and specification of the Local Centre;</li> <li>(b) the location, gross internal floor area and specification of the Local Shop;</li> <li>(c) the gross internal floor area of the remaining components of the Local Centre;</li> <li>(d) access, servicing and parking arrangements;</li> <li>(e) materials and integration with the design of the Development;</li> <li>(f) a timetable for the construction and delivery (including Occupation) of the Local Shop in accordance with Part 8 of the Second Schedule; and</li> <li>(g) a separate timetable and strategy for the marketing and delivery of the remaining components of the Local Centre, including target occupier details.</li> </ul> |

**“Local Lettings Plan”**

means a written agreement made between the Council and the Registered Provider that is permitted in accordance with the Housing Allocations Policy and Scheme and used to help promote a sustainable mix and balance of residents at the development.

**“Local Shop”**

means a convenience retail store within Use Class E(a) of the Town and Country Planning (Use Classes) Order 1987, forming part of the Local Centre and having a gross internal floor area not exceeding 1,500 square metres.

**“Maintenance Period”**

means a period of at least 12 months from the issue of the Certificate of Practical Completion;

**“Maintenance Scheme”**

a scheme for the maintenance of the Public Open Space to for a period of at least 30 years from issue of the Final Certificate to include details of:

- (f) the frequency of maintenance;
- (g) measures to replace any trees shrubs or turf which may die or become diseased;
- (h) standards of maintenance and repair to be achieved;
- (i) how the costs of maintenance are to be funded

**“Management Company”**

means a management company to be approved in writing by the Council for the purposes of managing and maintaining the Public Open Space whether this shall be by way of appointment of a management company to manage and maintain the Public Open Space or by way of a transfer of the Public Open Space to a management

company and in the event the management company is to be constituted by the Landowner then its memorandum and articles of association shall be created so that any profits are retained and applied to the maintenance of the Public Open Space and provided further that where a management company is proposed which is already in existence then details of its memorandum and articles of association shall show that any profits are retained and applied to the maintenance of the Public Open Space.

**“Manco POS”**

means Public Open Space which is to be transferred to a Management Company or which is to be retained by the Owners and managed and maintained by a Management Company;

**“Marketing Period”**

means a period of at least 24 calendar months of which at least 12 calendar months must be after the Occupation of the first Dwelling applying to all components of the Local Centre other than the Healthcare Provision Land which period may for the avoidance of doubt be terminated early if Occupiers are secured;

**“Market Rent”**

means the estimated amount for which the Dwelling should lease (let) on the date of valuation between a willing lessor and a 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.

**“Monitoring Report”**

means the monitoring reports to be issued to the Council as specified in the Habitat Management and Monitoring Plan.

|                                          |                                                                                                                                                                                                                                                                          |
|------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>“Monitoring Report Date”</b>          | means the dates set out in the Habitat Management and Monitoring Plan for the issue of Monitoring Reports to the Council;                                                                                                                                                |
| <b>“Mortgagee in Possession”</b>         | means a mortgagee of a Dwelling or the Site who has entered into possession of a Dwelling or the Site or who has appointed a receiver or administrative receiver under the security or has otherwise exercised its power of sale.                                        |
| <b>“Natural England”</b>                 | means the public body known as Natural England or any successor body which acts as the Government’s advisor for the natural environment in England.                                                                                                                      |
| <b>“Nominee”</b>                         | a person, company or body nominated by the Council to take a transfer of the Healthcare Provision Land with such nomination notified to the Landowner in writing;                                                                                                        |
| <b>“Occupy/Occupation” and Occupied”</b> | means occupation for the residential purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations. |
| <b>“Off-Site Biodiversity Gain Land”</b> | means land which is separate from and does not form part of the Site the subject of the Application, but which is used to deliver off-site BNG as shown edged blue on the Plan and including the Skylark Mitigation Land;                                                |
| <b>"Offsite Highways Improvements"</b>   | means:<br><br>(a) the off-site improvements in accordance with conditions of the Planning Permission and indicatively identified on Drawing SH5034-4PD-010 Revision B;                                                                                                   |

(b) the off-site improvements in accordance with conditions of the Planning Permission and indicatively identified on Drawing SH5034-4PD-009;

(c) the access works in accordance with conditions of the Planning Permission and indicatively identified on Drawing SH5034-4PD-001 and associated drawings SH5034-4PD-002 to SH5034-4PD-007; and

(d) any Traffic Regulation Orders or ancillary highways works reasonably required to implement those improvements.

**“Open Market Value”**

means the price which the Dwelling would be expected to fetch on the open market by a willing vendor to a willing purchaser unfettered by the terms of this Agreement with that value being the average of no less than two written valuations obtained from two chartered surveyors or valuers accredited by the Royal Institution of Chartered Surveyors;

or

in the case of Shared Ownership Dwellings the price which the Dwelling would fetch on the open market by a willing vendor to a willing purchaser with that value being determined between the occupier and the Registered Provider in accordance with the provisions of the lease for such a Dwelling.

**“Open Market Dwelling”**

means a Dwelling to be constructed on the Site pursuant to the Planning Permission which is not an Affordable Housing Dwelling.

**“Parish Council”**

means Albrighton and Donnington Parish Council.

**“PC POS”**

Public Open Space in respect of which the Parish Council has accepted a POS Transfer

Offer and which is to be transferred to the Parish Council;

**“Permanent Bus Service”**

means a public bus service serving the Development and connecting it with Albrighton Railway Station, Cosford, Shifnal, Telford and Wolverhampton, operating with a minimum hourly frequency on Monday to Friday and Saturday or as otherwise required by the Bus Strategy .

**“Plan”**

means the plan attached to this Agreement marked “Plan 1”.

Commented [RM2]: Need to collate plans to be attached

**“Planning Inspector”**

means the inspector appointed by the Secretary of State to preside over the Appeal.

**“Planning Permission”**

means a form of planning permission that may be granted by the Planning Inspector in pursuance of the Appeal in the event that the Appeal is upheld.

**“Phase”**

means a Reserved Matters Area or part of the Development otherwise identified as a distinct phase in a phasing plan to be approved by the Council acting reasonably and such consent not to be unreasonably withheld or delayed, and **"Phases"** shall be construed accordingly with the expression First Phase to mean the first Phase of the Development to be Commenced accordingly.

**“POS Commuted Sum”**

means a commuted sum for maintenance of the Public Open Space (if the Public Open Space is to be transferred to the Parish Council) and the quantum of such commuted sum shall be agreed between the Landowner and the Parish Council prior to the POS Transfer Date the quantum of which shall be based on the costs of implementing the

Maintenance Scheme for a period of at least twenty years.

**“POS Transfer Date”**

Means the date on which the Public Open Space (or a part thereof) is transferred to the Parish Council or the Management Company or if the Public Open Space is being retained by the Landowner the date on which its management and maintenance becomes the responsibility of a Management Company.

**“POS Transfer Offer”**

means a written offer made by the Landowner to the Parish Council to transfer the Public Open Space to the Parish Council subject to the Terms which shall remain open to the Parish Council for acceptance for a period of at least 30 Working Days from the date of receipt by the Parish Council and which shall be capable of acceptance by the Parish Council in whole or in part.

**“Practical Completion”**

means in relation to the Local Centre the completion of the Local Centre such that it is capable of Occupation and means, in relation to the Local Shop, completion of the Local Shop so that it is capable of Occupation and has all services necessary for its lawful use connected and available including for the avoidance of doubt a vehicular way with rights of public access from the adopted highway.

**“Public Open Space”**

means the area(s) identified in Reserved Matters Applications to be provided within the Site for recreation and as amenity space purposes which are to be permanently retained and maintained as an open amenity area accessible to and usable by the public to serve the Development in accordance with the Second Schedule which shall be calculated at 30m<sup>2</sup> per bedroom as set out in policy MD2 of Shropshire Council's Site

Allocations and Management of Development  
DPD adopted 17 December 2015 or such  
other planning policy or supplementary  
planning guidance that may be adopted to  
replace the same and shall include play areas  
(equipped and informal) in line with the Fields  
in Trust Guidance.

**“Public Open Space Commuted Sum”**

means a commuted sum for maintenance of  
the Public Open Space (if the Public Open  
Space is to be transferred to the Parish  
Council) and the quantum of such commuted  
sum shall be agreed between the Landowner  
and the Parish Council prior to the date of  
transfer the quantum of which shall be based  
on the details set out in the Maintenance  
Scheme for a period of twenty years and such  
commuted sum shall be payable by the  
Landowner to the Parish Council upon the  
transfer of the Public Open Space to it.

**“Public Open Space Specification”**

means the specification approved in writing  
by the Council to include but not to be limited  
to:

1. the design specification and landscaping,  
including any boundary treatments including  
fencing for the Public Open Space;
2. the exact location and dimensions of the  
Public Open Space; to include a GIS map as  
a shapefile ESRI format to include the  
following suffixes: .shp; .shc; .dbf;
3. details of the provisions for the  
management of the Public Open Space  
whether by the transfer of the Public Open  
Space to a Management Company or where  
the Public Open Space is to be retained by  
the Landowner details of the Management  
Company appointed to manage and maintain

the Public Open Space including details of any payments made by the Landowner to the Management Company to fund the maintenance of the Public Open Space.

4. details of the provisions for the management of the Public Open Space in the event of a transfer of the Public Open Space to the Parish Council.

**“Public Open Space Works”**

means the works to lay out plant construct and maintain the Public Open Space carried out and approved pursuant to [ ] Second Schedule to this Agreement and in accordance with the Public Open Space Specification as agreed in writing with the Council.

**“Purposes”**

means:

in respect of the Healthcare Contribution the provision of primary and/or secondary healthcare services and facilities in the vicinity of the Development

in respect of the Sports Provision Contribution the enhancement or provision of new sports facilities in accordance with the Playing Pitch and Outdoor Sports Strategy for Shropshire in response to the increased need for such facilities generated by the Development

in respect of the Bus Service Contribution securing the delivery of the Bus Service Strategy by the Council for the improvement or provision of bus services as required by the Development.

in respect of the SEND Education Transport Contribution towards the provision of SEND education transport.

in respect of the Sustainable Transport Contribution the provision of sustainable transport measures in the vicinity of the Development

in respect of the Active Travel Contribution the provision of active travel measures in the vicinity of the Development

**“Qualifying Purchaser”**

means a person who is resident within or employed within or has family connections within the administrative area of the Council who intends to purchase a Discounted Sale Dwelling and:

1. lacks his/her own housing or lives in housing which is agreed by the Council in its absolute discretion to be inadequate or unsuitable to meet his/her existing or future requirements whether because of its tenure size type design amenity location condition security or costs; and
2. is unlikely to be able to meet his/her housing needs at the Development without access to an Affordable Housing Dwelling.

**“Qualifying Tenant”**

means a person who is resident within or employed within or has family connections within the administrative area of the Council who intends to rent a Discounted Sale Dwelling from the current occupier and:

1. lacks his/her own housing or lives in housing which is agreed by the Council in its absolute discretion to be inadequate or unsuitable to meet his/her existing or future requirements whether because of its tenure size type design amenity location condition security or costs; and

2. is unlikely to be able to meet his/her housing needs at the Development without access to an Affordable Housing Dwelling.

**“Registered Provider”**

means a housing association or registered provider or other body registered with the Regulator of Social Housing (which shall include any successor in title) as a provider of affordable housing in accordance with the provisions of the Housing and Regeneration Act 2008 or any other body whose articles allow them to be a provider of affordable housing.

**“Rent Standard”**

means the regulatory standard made from time to time by the Minister of Housing, Communities and Local Government setting out rents to be charged by the Registered Provider.

**“Rent to Buy Dwellings”**

means the Affordable Housing Dwellings to be constructed pursuant to the Planning Permission and transferred to a Registered Provider for allocation as rented housing as prescribed in [paragraph ] of the Second Schedule to this agreement;

**“Required Services”**

means water supply, foul sewerage, surface water drainage (which may be to a sustainable urban drainage system or to a drain), electricity supply, and telecommunications services;

**“Retail Unit”**

means a unit within use classes E or F(2) built pursuant to the Permission;

**“Return Covenant”**

a covenant by the Transferee to be protected by a restriction on title that if the Secondary School Land or the Healthcare Provision Land as applicable is not developed for the purposes for which it was transferred under

this Agreement within a period of 10 years from the date of the School Land Transfer or the Healthcare Provision Land Transfer as applicable then the Secondary School Land or the Healthcare Provision Land as applicable shall be transferred back to the person who transferred the Secondary School Land to the Transferee for the consideration of one pound (£1) in a state as unencumbered as it was on transfer originally;

**"Reserved Matters Application"**

means an application for approval of one or more matters reserved for later approval by the Planning Permission in accordance with the Development Management Procedure Order 2015;

**"Reserved Matters Approval"**

means approval of a Reserved Matters Application;

**"Reserved Matters Area"**

means the part of the Site covered by a Reserved Matters Application or Reserved Matters Approval as appropriate;

**"Safeguard"**

means to retain and keep available for the purposes set out in this Agreement and free from any building works or development which would impede or render more difficult its future use for those purposes;

**"Safeguarded Period"**

means the period commencing on the completion of this Agreement and ending on the later of:

(a) the tenth anniversary of the date of the Planning Permission; and

(b) the second anniversary of the approval of the final Reserved Matters Application relating to the Development,

**PROVIDED ALWAYS** that where a School Land Transfer Request and/ or a Healthcare

Land Provision Transfer Request has been served within that period, the Safeguarded Period shall continue in respect of the relevant land until completion or withdrawal of that request (whichever shall be earlier);

**“Sale Marketing Plan”**

means written evidence provided by the owner of a Discounted Sale Dwelling to the Council demonstrating to the Council's reasonable satisfaction that it will actively be offered for sale to Qualifying Purchasers at the Formula Price.

**“School Land Details”**

means details (including plans, drawings and other technical detail) for:

- (d) the levels and gradient profile of the Secondary School Land;
- (e) the levels and locations and capacity of the School Service Infrastructure;
- (f) the points of entry into the Secondary School Land from the Access Road;
- (g) the full specification and location of the Fencing.

**“School Land Transfer”**

a transfer by the Landowner of the unencumbered freehold interest in the Secondary School Land at a consideration of not more than one pound (£1) in accordance with the School Transfer Terms;

**“School Land Transfer Request”**

means a request from the Council in writing for the transfer of the Secondary School Land served on the Landowner within the Safeguarded Period;

**“School Service Infrastructure”**

means connection points for the Required Services to adoptable standard in or adjacent

to the Access Road and immediately adjacent to the Secondary School Land;

**“School Transfer Date”**

means the date on which the School Land Transfer is completed;

**“School Transfer Terms”**

the terms of the transfer of the Secondary School Land from the Landowner to the Council which must include:

- (a) the grant of all rights over adjoining land as are reasonably required for the development, management and maintenance of the Secondary School Land for Education Purposes including but not limited to rights of access over and rights to connect to services and use of service media within adjoining land;
- (b) the grant of rights to use the Access Road and the School Service Infrastructure pending their adoption by the highway authority relevant statutory undertaker or service provider;
- (c) all necessary licences permissions and consents required by the Council to carry out and complete the development and use the Secondary School Land for Education Purposes;

and must not include:

- (d) any covenants restrictions or reservations that would prevent the use of the Secondary School Land for Education Purposes;
- (e) any covenants restrictions or reservations that would adversely affect the construction servicing or

occupation of any part of the  
Secondary School Land;

and may include:

(f) a covenant that the Secondary School  
Land shall not be used otherwise than  
for Education Purposes;

(g) the Return Covenant.

**“Search Pack”**

such conveyancing searches and information  
as the Council’s solicitor or the Nominee’s  
solicitor (as applicable) reasonably requests,  
including but not limited to up to date Land  
Registry office copies, a Local Authority  
Search, a Water and Drainage Search, and  
an Environmental Search.

**“Secondary Purchaser”**

means any person who is not a Qualifying  
Purchaser.

**“Secondary School”**

an educational setting for children aged  
between 11 and 18 years;

**“Secondary School Land”**

means the land to be identified by the  
Landowner for the provision of the Secondary  
School pursuant to the Planning Permission.

**“Section 73 Permission”**

means a planning permission granted  
pursuant to section 73 or section 73B (once in  
force) of the Act permitting the Development  
subject to conditions which differ from the  
conditions imposed by the Planning  
Permission including for the avoidance of  
doubt a Section 73 Permission permitting the  
Development subject to conditions which  
differ from the conditions of a previous  
Section 73 Permission.

**“SEND Education Transport  
Contribution”**

means the sum of £184,800.00 (One Hundred  
and Eighty Four Thousand Eight Hundred  
Pounds only) Index Linked payable by the  
Landowner to the Council .

|                                         |                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>“Shared Ownership Dwellings”</b>     | means the Affordable Housing Dwellings to be constructed pursuant to the Planning Permission and transferred to a Registered Provider for allocation to persons as a form of low cost home ownership on a part buy/part rent basis in accordance with the Homes England Model Lease.                                                                                                                           |
| <b>“Shropshire Housing Partnership”</b> | means any Registered Provider or constituted community land trust or other housing provider or registered charity working with the Council to provide Affordable Housing Dwellings.                                                                                                                                                                                                                            |
| <b>“Site”</b>                           | means the land described in the First Schedule.                                                                                                                                                                                                                                                                                                                                                                |
| <b>“Skylark Mitigation Land”</b>        | means the land to be secured for the habitat mitigation required for skylarks in accordance with the updated Preliminary Ecological Appraisal dated August 2026 prepared by Beamsley Ecology Limited as shown edged yellow on the Plan.                                                                                                                                                                        |
| <b>“Social Rent Dwellings”</b>          | means the Affordable Housing Dwellings to be constructed pursuant to the Planning Permission and transferred to a Registered Provider for allocation to persons as rented housing as prescribed in paragraph [9 of the Second Schedule] to this Agreement. Lettings shall be made under an assured tenancy at a rent (exclusive of applicable service charges) that does not exceed the prevailing Target Rent |
| <b>“Sports Provision Contribution”</b>  | means the sum of 1,795,653.00 (One million, Seven Hundred and Ninety-Five Thousand Six Hundred and Fifty-three pounds) Index Linked payable by the Landowner to the Council                                                                                                                                                                                                                                    |

**Commented [RM3]:** Reference to be corrected at end - [ ] added as a marker

|                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>“Statutory BNG Requirement”</b>             | means the mandatory requirement for developments to deliver at least a 10 per cent increase in biodiversity value;                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>“SuDS Management Plan”</b>                  | means a plan for the long-term management, maintenance and operation of the SuDS, which shall include: <ul style="list-style-type: none"> <li>(a) details of the SuDS to be provided;</li> <li>(b) arrangements for the inspection, maintenance, repair and replacement of the SuDS;</li> <li>(c) the identity of the body or organisation responsible for the ongoing management of the SuDS;</li> <li>(d) arrangements for securing funding for the long-term management and maintenance of the SuDS</li> </ul> |
| <b>“Suitable Offer”</b>                        | means a written offer made by a Qualifying Purchaser or the Council or a member of the Shropshire Housing Partnership or a Secondary Purchaser to purchase a Discounted Sale Dwelling from the occupier at the Formula Price and in accordance with the terms prescribed in the Second Schedule to this Agreement.                                                                                                                                                                                                |
| <b>“Supplementary Planning Document”</b>       | means Shropshire Council's Local Development Framework Supplementary Planning Document on the Type and Affordability of Housing (Adopted September 2012) or any subsequent modification or replacement thereof.                                                                                                                                                                                                                                                                                                   |
| <b>“Sustainable Drainage System” or “SuDS”</b> | means the sustainable drainage infrastructure to be approved pursuant to the SuDS Management Plan.                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>“Sustainable Transport Contribution”</b>    | means a sum (Index Linked) to be reasonably agreed following approval of the Bus Strategy payable by the Landowner to the Council:                                                                                                                                                                                                                                                                                                                                                                                |

- a. to cover all costs incurred by the Council in respect of the sustainable transport improvements including £1500 per bus stop reasonably required, £10,000 per bus shelter reasonably required, £7000 per asset for Real Time Passenger Information Display and monitoring reasonably required on bus routes serving the Development ("the Infrastructure Element")
- b. and £120,000 for local interchange infrastructure ("the Interchange Element").

**"Target Rent"**

means the rent applicable to a Social Rented Dwelling calculated in accordance with the Rent Standard and any applicable national rent regime or guidance applicable to social rented housing from time to time.

**"Tenant"**

the Tenant of a Rent to Buy Dwelling.

**"Tenure Mix"**

means 70% Social Rented Dwellings and 30% Rent to Buy Dwellings or Shared Ownership Dwellings unless otherwise agreed in writing by the Council.

**"Terms"**

means the terms the transfer of the freehold interest in the Public Open Space to the Parish Council or the Management Company which shall include:

- a) the Public Open Space is transferred free from encumbrances other than those existing as at the date hereof including the provisions of this Agreement and with full title guarantee;
- b) the transfer is to be at nil consideration;

- c) the transfer must not include any terms which would restrict public access;
- d) for the benefit of the Public Open Space the grant of any rights of access over any adjoining land which rights are reasonably required for the management and maintenance of the Public Open Space for its purpose as public open space and for water attenuation and surface water drainage purposes;
- e) a covenant that the Public Open Space shall not be used for any purpose other than for public open space; and
- f) a covenant to put into effect and comply with the Maintenance Scheme in full for the purposes of thereafter maintaining the Public Open Space for the lifetime of the Development.

**“Transferrable Condition”**

means free from or remediated or mitigated for:

- (a) contamination (other than naturally occurring),
- (b) adverse ground conditions preventing a normal foundation solution;
- (c) development constraints relating to archaeology;
- (d) development constraints relating to the presence of protected species;
- (e) development constraints relating to drainage or flooding;
- (f) tree preservation orders;

(g) restrictive covenants restricting use for Education Purposes or Healthcare Purposes as applicable.

|                                              |                                                                                                                                                                                                                                                                                                                                            |
|----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>“Travel Plan Monitoring Contribution”</b> | means the sum of £60,000 for the school, £10,000 per retail unit on the Development and £20,000 per residential Phase of the Development Index Linked and payable by the Landowner to the Council for implementation and monitoring of the travel plan submitted by the Landowner and approved in connection with the Planning Permission. |
| <b>“Transfer Request”</b>                    | means a School Land Transfer Request, a Healthcare Provision Land Transfer Request                                                                                                                                                                                                                                                         |
| <b>“Working Days”</b>                        | means Monday to Friday inclusive excluding Bank or public holidays.                                                                                                                                                                                                                                                                        |

## 2. CONSTRUCTION OF THIS AGREEMENT

- 2.1. Where in this Agreement reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Agreement.
- 2.2. Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3. Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 2.4. Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.
- 2.5. Any reference to an Act of Parliament shall include 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.

- 2.6. References to any party to this Agreement 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 the successors to its statutory functions.
- 2.7. The clause headings in this Agreement do not affect its interpretation.
- 2.8. References to the Site include any part of it.
- 2.9. "including" means "including, without limitation".
- 2.10. Any covenant by the Landowner not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing.
- 2.11. If any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of this Agreement is to be unaffected.
- 2.12. The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

### 3. LEGAL BASIS

- 3.1. This Agreement is made pursuant to Section 106 of the Act section 111 Local Government Act 1972 and section 1 of the Localism Act 2011.
- 3.2. The covenants, restrictions and requirements imposed upon the Landowner under this Agreement create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council against the Landowner.

### 4. CONDITIONALITY

- 4.1. This Agreement is conditional upon the Commencement of Development save for the provisions of **Clauses 7.1, 7.2, 7.3, 13 and 14 and paragraphs 1.1, 1.2, 3.1, 3.3, 4.1, 5.1, and 6.1** of the Second Schedule which shall come into effect immediately upon completion of this Agreement.
- 4.2. If in determining the Appeal the Secretary of State or the Planning Inspector expressly states in their decision letter determining the Appeal that any planning obligation contained in this Deed:
  - 4.2.1. is not a material planning consideration; or
  - 4.2.2. can be given no weight in determining the Appeal; or
  - 4.2.3. does not constitute a reason for granting Planning Permission in accordance with Regulation 122 of the CIL Regulations, then subject to

**Commented [A4]:** To check these once the draft is agreed.

clause 4.3 of this Deed such planning obligation shall not be enforceable pursuant to this Deed and shall cease to have effect within this Deed save as set out in the relevant decision letter of the Secretary of State or the Planning Inspector.

- 4.3. If in determining the Appeal the Secretary of State or the Planning Inspector expressly states in their decision letter determining the Appeal that any planning obligation contained in this Deed should be secured by the imposition of a planning condition instead of the relevant planning obligation and if the Planning Permission is granted subject to such planning condition then subject to clause 4.2 of this Deed such planning obligation shall not be enforceable pursuant to this Deed and shall cease to have effect within this Deed save as set out in the relevant decision letter.

## **5. THE LANDOWNER'S COVENANTS**

- 5.1. The Landowner covenants with the Council as set out in the Second Schedule.

## **6. THE COUNCIL'S COVENANTS**

- 6.1. The Council covenants with the Landowner as set out in the Third Schedule.

## **7. MISCELLANEOUS**

- 7.1. The Landowner shall pay to the Council on completion of this Agreement:
- 7.1.1. the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Agreement in the sum of £[ ] ([ ]Pounds); and
- 7.1.2. the s106 registration fee in the sum of £1,000.
- 7.2. The Landowner shall pay to the Council prior to the Commencement of Development the s106 monitoring fee in the sum of £85,000.
- 7.3. No provisions of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 7.4. This Agreement shall be registered as a local land charge by the Council.
- 7.5. Where the agreement, approval, consent or expression of satisfaction is required by the Landowner from the Council under the terms of this Agreement such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld

Commented [RM5]: TBC

or delayed and any such agreement, consent approval or expression of satisfaction shall be given on behalf of the Council by the Assistant Director for Economy and Place or the Housing and Enabling Manager (or their nominated representatives) and any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.

- 7.6. Following the performance and satisfaction of all the obligations contained in this Agreement the Council shall upon written request effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.
- 7.7. Insofar as any clause or clauses of this Agreement are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement.
- 7.8. This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission (and all Section 73 Permissions if any) shall be quashed, revoked or otherwise withdrawn or without the consent of the Landowner it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 7.9. No person shall be liable for any breach of any of the planning obligations or other provisions of this Agreement after it has parted with its entire interest in the Site or the part of the Site to which the breach relates but without prejudice to liability for any subsisting breach arising prior to parting with such interest. Neither the reservation of any rights or the inclusion of any covenants or restrictions over the Site in any transfer of the Site will constitute the retention of an interest for the purposes of this paragraph.
- 7.10. The obligations contained in this Agreement shall not be binding upon or enforceable against owner-occupiers or tenants of the Open Market Dwellings nor their mortgagees nor against those deriving title from them.
- 7.11. The obligations contained in this Agreement shall not be binding upon or enforceable against any statutory undertaker or any person who acquires part of the Site or any interest in it for the purposes of the supply of electricity gas water drainage telecommunications or public transport services as part of their statutory functions.
- 7.12. The obligations in the Agreement shall not be binding upon or enforceable against any tenant of an Affordable Housing Dwelling who has exercised any statutory right to buy or right to acquire nor against any mortgagee of such person nor against anyone deriving title from such person or mortgagee.

- 7.13. Subject always to Clause 16 of this Agreement nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted after the date of this Agreement whether or not pursuant to an appeal.

## 8. MORTGAGEE EXEMPTION CLAUSES

- 8.1. Part 2 of the Second Schedule] of this agreement shall not be binding on a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee) or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a "Receiver") of the whole or any part of the Affordable Rent Dwellings or the Social Rent Dwellings or any persons or bodies deriving title through such mortgagee or chargee or Receiver **PROVIDED THAT:**

8.1.1. such mortgagee or chargee or Receiver shall first have given written notice to the Council of its intention to dispose of the Affordable Rent Dwellings or Social Rent Dwellings or Discounted Rent Dwellings and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Rent Dwellings to another registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies interest and costs and expenses; and

8.1.2. if such disposal has not been completed within the three month period the mortgagee chargee or Receiver shall be entitled to dispose of the Affordable Rent Dwellings or Social Rent Dwellings free from the provisions of provisions of Part 2 of the Second Schedule of this agreement which provisions shall determine absolutely in respect of the said Affordable Rent Dwellings or Social Rent Dwellings.

- 8.2. In the event that a mortgagee or a chargee of a Shared Ownership Dwelling takes possession of the said Shared Ownership Dwelling from the Tenant the following provisions shall apply:

8.2.1. the mortgagee or chargee shall give notice in writing to the Chief Executive of the Registered Provider and shall offer to transfer the leasehold interest in the Shared Ownership Dwelling to the Registered Provider at the price of the consideration of the equity share paid by the

Tenant or the sum outstanding under any mortgage or charge on the Dwelling whichever is the greater ("the Offer");

- 8.2.2. the Registered Provider shall within twenty (20) working days of receipt of the Offer notify the mortgagee or chargee of its decision either to accept the Offer or to decline it and if the Registered Provider decides to accept the Offer it shall complete the transfer of the leasehold interest in the Shared Ownership Dwelling within thirty working days of the Offer acceptance and shall following completion of the transfer advertise and reallocate the Shared Ownership Dwelling in accordance with this Agreement to a new Tenant;
  - 8.2.3. in the event that the Registered Provider shall decline the Offer the mortgagee or chargee shall give notice in writing to the Planning and Corporate Policy Manager of the Council and make the Offer to the Council;
  - 8.2.4. the Council shall within twenty (20) working days of receipt of the Offer notify the mortgagee or chargee of its intention to either accept or decline the Offer and if the Council decides to accept the Offer it shall complete the transfer of the leasehold interest in the Shared Ownership Dwelling within thirty working days of the Offer acceptance;
  - 8.2.5. in the event that the Council declines the Offer the mortgagee or chargee shall be free to market and dispose of the leasehold interest in the Shared Ownership Dwelling subject to the provisions in this Agreement as it relates to the Shared Ownership Dwelling.
- 8.3. In the event that the mortgagee or chargee shall dispose of the leasehold interest in the Shared Ownership Dwelling in accordance with the provisions of clause 8.2.5 it shall apply the proceeds of sale in the following order:
- 8.3.1. to itself to satisfy the amount owing under its mortgage or charge;
  - 8.3.2. to the Registered Provider in respect of any sums properly due under the lease;
  - 8.3.3. to apply any further sums in accordance with the mortgagee or chargee's statutory obligations.
- 8.4. In the event that a mortgagee or a chargee of a Discounted Sale Dwelling takes possession of the said Discounted Sale Dwelling the following provisions shall apply:
- 8.4.1. The Mortgagee in Possession shall be free to sell the Discounted Sale Dwelling to any purchaser PROVIDED THAT the sale price shall be no

more than the Formula Price or the sum necessary to recoup all of the mortgage debt and costs (whichever shall be the higher) unless the sale is pursuant to sub-clause 8.4.2 of this Agreement

- 8.4.2. If after a period of eight weeks from taking possession of the Discounted Sale Dwelling (with notice in writing having been sent by recorded signed for post to the Council by the Mortgagee in Possession on the commencement of that period or as soon as possible thereafter) the Discounted Sale Dwelling has not been sold or is not subject to a formal exchange of contracts pursuant to a sale in accordance with sub-clause 8.4.1 of this Agreement the Mortgagee in Possession shall be entitled to sell the Dwelling to any purchaser at Open Market Value and free from the restrictions contained in this Agreement.
- 8.4.3. Where the Mortgagee in Possession sells the Discounted Sale Dwelling pursuant to sub-clause 8.4.2 of this Agreement it shall (after recouping all of the mortgage debt and costs) pay to the Council all of the difference between the sale price and the Formula Price (subject to the sale price exceeding the Formula Price) which sum the Council shall use to facilitate the provision of additional Affordable Housing Dwellings.
- 8.4.4. Following completion of a sale by the Mortgagee in Possession pursuant to sub-clause 8.4.3 of this Agreement the Council shall within two weeks remove the provisions of this Agreement as they relate to the Dwelling from the local land charges register and also consent to removal of the land registry title Restriction.

## **9. WAIVER**

No waiver (whether express or implied) by the Council or Landowner of any breach or default in performing or observing any of the covenants terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council or Landowner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

## **10. CHANGE IN OWNERSHIP**

The Landowner agrees with the Council to give to the Council as soon as practicably possible written notice of any change in ownership of any of its interests in the Site (excluding the sale of individual Dwellings) occurring before all the obligations under this Agreement 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 by reference to a plan.

#### **11. INTEREST**

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

#### **12. VAT**

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

#### **13. JURISDICTION**

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

#### **14. DELIVERY**

The provisions of this Agreement (other than this clause which shall be of immediate effect) shall be of no effect until this Agreement has been signed by all parties and dated.

#### **15. DISPUTE RESOLUTION**

In the event of any dispute or difference arising out of this Agreement between the parties (other than a dispute or difference relating to a matter of law or concerning the meaning or construction of this Agreement) such dispute or difference shall be referred to a person to be agreed between the parties who is a member of the Royal Institution of Chartered Surveyors or in the absence of agreement on the application of any party to be appointed by the President of the Royal Institution of Chartered Surveyors such person to act as sole expert in the determination of the dispute or difference and whose decision shall be final and binding upon the parties.

#### **16. SECTION 73 VARIATION**

In the event that the Council shall at any time hereafter grant a Section 73 Permission or shall approve an application by the Landowner for a non material amendment relating to the Planning Permission ( and for no other purposes whatsoever) references in this Agreement

to the Application and the Development and the Planning Permission shall be deemed to include any such subsequent planning applications and planning permissions granted as aforesaid and the Agreement shall henceforth take effect and be read and constructed accordingly.

**Executed** as a **Deed** on the date specified at the commencement of this **Agreement**

## **SCHEDULE 1**

### **Details of the Landowner's Title, and description of the Site**

ALL THAT freehold land Patshull Road Albrighton Shropshire as the same is registered with absolute title at HM Land Registry under title numbers SL193062 and SL94448 shown edged red for identification purposes only on the Plan.

## **SCHEDULE 2**

### **The Landowner's covenants with the Council**

#### **Part A – Notifications**

The Landowner covenants with the Council

#### **1. NOTIFICATIONS**

- 1.1. To notify the Council within 5 Working Days of the Commencement of Development of each Phase;
- 1.2. From the first Occupation of the Development until the Occupation of the 800<sup>th</sup> Dwelling to provide to the Council a written statement prior to the 10<sup>th</sup> day of each calendar month detailing the total number of Occupations (broken down into Retail Units and Dwellings and by Phase) that had occurred on the 1<sup>st</sup> day of that calendar month.

## **Part B – Affordable Housing**

The Landowner covenants with the Council:

### **1. AFFORDABLE HOUSING SCHEME AND PROVISION**

- 1.1. That with each Reserved Matters Application for a Phase that includes Dwellings it shall submit to the Council for approval the Affordable Housing Scheme for that Phase.
- 1.2. Not to Commence any Phase until the Council has approved the Affordable Housing Scheme for that Phase.
- 1.3. To provide not less than 35% of the total number of Dwellings constructed in each Phase as Affordable Housing Dwellings.
- 1.4. To provide Affordable Housing Dwellings in each Phase that includes Dwellings in accordance with the Tenure Mix and the approved Affordable Housing Scheme.
- 1.5. To transfer all Affordable Housing Dwellings in each Phase to a Registered Provider in accordance with this Part 2 of Schedule 2 prior to the Occupation of more than 50% of the Open Market Dwellings to be constructed in that Phase.
- 1.6. Not to Occupy or to allow or permit the Occupation of more than 50% of the Open Market Dwellings in each Phase until the Affordable Housing Dwellings for that Phase have been transferred to a Registered Provider in accordance with this Part 2 of Schedule 2 and are ready for Occupation.
- 1.7. Not to permit the Occupation of the:
  - 1.7.1. Social Rent Dwellings prior to their transfer to a Registered Provider and other than strictly in accordance with paragraph 2 of this Part 2 of Schedule 2;
  - 1.7.2. Shared Ownership Dwellings prior to their transfer to a Registered Provider and other than strictly in accordance with paragraph 3 of this Part 2 of Schedule 2;
  - 1.7.3. Rent to Buy Dwellings prior to their transfer to a Registered Provider and other than strictly in accordance with paragraph 4 of this Part 2 of Schedule 2;
  - 1.7.4. Affordable Rent Dwellings (if the provision of any is agreed by the Council by way of an amendment of the Tenure Mix) prior to their transfer to a

Registered Provider and other than strictly in accordance with paragraph 5 of this Part 2 of Schedule 2;

- 1.7.5. Discounted Sale Dwellings (if the provision of any is agreed by the Council by way of an amendment of the Tenure Mix) other than strictly in accordance with paragraph 6 of this Part 2 of Schedule 2.

## 2. SOCIAL RENT DWELLINGS

- 2.1. The Social Rent Dwellings shall be transferred to a Registered Provider and shall at all times be allocated and managed in accordance with:
  - 2.1.1. the Council's adopted Housing Allocations Policy and Scheme and advertised as available for Occupation through its preferred Choice Based Lettings System (such policy and scheme and system may be amended and adopted from time to time by the Council upon prior notification to the Registered Provider); and
  - 2.1.2. such published policies and procedures as may be adopted from time to time by the Registered Provider;
  - 2.1.3. the requirements of any Local Lettings Plan agreed in writing with the Council from time to time.
- 2.2. The Social Rent Dwellings shall be let under an assured tenancy at a rent equal to or less than the Target Rent (exclusive of applicable service charges).

## 3. SHARED OWNERSHIP DWELLINGS

- 3.1. The Shared Ownership Dwellings shall be transferred to a Registered Provider and shall be allocated and managed as follows:
  - 3.1.1. allocated in accordance with the Council's adopted Housing Allocations Policy and Scheme and advertised as available for Occupation:
    - 3.1.1.1. through its preferred Choice Based Lettings System (such policy and scheme and system may be amended and adopted from time to time by the Council upon prior notification to the Registered Provider); and
    - 3.1.1.2. on the basis of a purchase price of at least 10% of the Open Market Value with a rent payable to the Registered Provider of no more than 2.75% of the retained equity at the Open Market Value;

- 3.1.2. let in accordance with the terms of the Homes England Model Lease and for the avoidance of doubt where the provisions of this paragraph 11 at any time conflict with the Homes England Shared Model Lease then the terms of the Homes England Model Lease will prevail.

3.2. The Tenant of a Shared Ownership Dwelling shall:

- 3.2.1. have the right to increase his ownership share in the Shared Ownership Dwelling by purchasing additional equity over time at a price reflecting the Open Market Value of the share being acquired at the date of acquisition up to a maximum of 80% of equity ownership;
- 3.2.2. not dispose of his interest in the Shared Ownership Dwelling other than in accordance with the terms of the Homes England Model Lease.

4. RENT TO BUY DWELLINGS

4.1. The Rent to Buy Dwellings shall be transferred to a Registered Provider and shall be:

- 4.1.1. advertised as available for Occupation through the Council's preferred Choice Based Lettings System (such policy and scheme and system may be amended and adopted from time to time by the Council upon prior notification to the Registered Provider); and
- 4.1.2. let in accordance with the provisions of the Local Lettings Plan agreed in writing by the Council in operation at that particular time provided always that if there is at any time a conflict between the provisions of this paragraph 13 and the Homes England Model Lease then the terms of the Homes England Model Lease will prevail.

4.2. The Tenants of the Rent to Buy Dwellings shall be:

- 4.2.1. working households who aspire to purchase their own home in the future at the time of letting but are unable to save for a deposit;
- 4.2.2. first time buyers having not previously owned their own home (except where an applicant is looking to return to home ownership following a relationship breakdown).

4.3. The Rent to Buy Dwellings shall be let under a tenancy and at a rent (inclusive of applicable service charges) that shall be no greater than 80% of the Market Rent for the Dwelling for a minimum of five years ("the Rental Period").

4.4. At the end of the Rental Period referred to at paragraph 4.3 above:

- 4.4.1. the Buy to Rent Dwelling may continue to be let to the Tenant in accordance with paragraphs 4.1 and 4.2 above; or
- 4.4.2. the Rent to Buy Dwelling may be sold at Open Market Value with the Tenant given the right of first refusal.
- 4.5. The Tenant may elect to convert the Rent to Buy Dwelling to a Shared Ownership Dwelling by purchasing a share in the Rent to Buy Dwelling at any time.

## 5. AFFORDABLE RENT DWELLINGS

- 5.1. The Affordable Rent Dwellings shall be transferred to a Registered Provider and shall at all times be allocated and managed in accordance with:
  - 5.1.1. the Council's adopted Housing Allocations Policy and Scheme and advertised as available for Occupation through its preferred Choice Based Lettings System (such policy and scheme and system may be amended and adopted from time to time by the Council upon prior notification to the Registered Provider); and
  - 5.1.2. such published policies and procedures as may be adopted from time to time by the Registered Provider;
  - 5.1.3. the requirements of any Local Lettings Plan agreed in writing with the Council from time to time.
- 5.2. The Affordable Rent Dwellings shall be let under the a form of tenancy permitted by Homes England and at a rent (inclusive of applicable service charges) equal to or less than 80% of the open market rental value (or maximum amount of local housing allowance payable for the Dwelling if this is lower) and any annual rent increase must not result in the rent of that Dwelling exceeding the lower of the then current level of the local housing allowance or 80% of the open market rental value.

## 6. DISCOUNTED SALE DWELLINGS

- 6.1. To provide a Sale Marketing Plan demonstrating that the Discounted Sale Dwellings will be offered for sale to Qualifying Purchasers at no more than the Formula Price for Occupation under this form of low cost home ownership and to dispose of them strictly in accordance with the provisions set out in this paragraph 6 SAVE THAT in the case of the initial sale of a Discounted Sale Dwelling references to the owner in this paragraph 6 shall be taken to also mean the Landowner.

- 6.2. Not to let (or offer for letting) a Discounted Sale Dwelling other than to a Qualifying Tenant under a shorthold tenancy and at the same level of rent as would be applicable to a Discounted Rent Dwelling
- 6.3. Not to sell or offer or market for sale a Discount Sale Dwelling:
- 6.3.1. prior to the provision to the Council of a Sale Marketing Plan evidencing the Formula Price and stating the actions to be taken to advertise the Dwelling for sale to Qualifying Purchasers and such a document shall serve as formal written notice to the Council of the owner's intention to sell the Dwelling
  - 6.3.2. other than in accordance with a Sale Marketing Plan approved by the Council at the Formula Price and to a Qualifying Purchaser (or to the Council or to a body nominated by the Council from the Shropshire Housing Partnership) pursuant to sub-paragraph 1.9.6 of this Schedule or otherwise to a Secondary Purchaser pursuant to sub-paragraph 1.9.9 of this Schedule
  - 6.3.3. otherwise than on the following terms:
    - 6.3.3.1. the purchaser shall make a Suitable Offer to the owner which shall be no more than the Formula Price
    - 6.3.3.2. the purchaser shall covenant with the Council to observe and perform the obligations set out in this paragraph 6;
    - 6.3.3.3. the Dwelling shall be sold with vacant possession;
    - 6.3.3.4. the sale shall be subject to the formal exchange of contracts within four weeks of the Suitable Offer being made with a completion date being no more than four weeks thereafter (or such other date for completion as may be agreed as binding between the parties); and
    - 6.3.3.5. the contract for sale shall be subject to the edition of the Standard Conditions of Sale current at the date of the Suitable Offer
- 6.4. For a period of twelve weeks from the Council's approval of the Sale Marketing Plan only Qualifying Purchasers (or the Council or a body nominated by the Council from the Shropshire Housing Partnership) shall be permitted to make a Suitable Offer and enter into terms with the owner to purchase the Discounted Sale Dwelling in accordance with this paragraph 6

6.5. In the event that the Discounted Sale Dwelling is purchased by the Council or by a nominated member of the Shropshire Housing Partnership such a purchaser may at its absolute discretion sell the Dwelling in accordance with the provisions of this Schedule or retain it for use as either a Discounted Rent Dwelling or a Shared Ownership Dwelling

6.6. If after a period of twelve weeks from the Council's approval of the Sale Marketing Plan the Discounted Sale Dwelling has not been sold or is not subject to a formal exchange of contracts pursuant to a sale in accordance the owner shall be entitled to sell the Dwelling to a Secondary Purchaser in accordance with paragraph 6.3 and for the avoidance of doubt a Secondary Purchaser shall only be permitted to make a Suitable Offer and enter into terms with the owner to purchase the Discounted Sale Dwelling following the expiry of the twelve week period.

6.7. No freehold interest in any Discounted Sale Dwelling shall be transferred other than subject to a covenant that:

"No disposition or sale to a third party shall take place at a price exceeding the Formula Price as defined in the agreement made under section 106 of the Town and Country Planning Act 1990 dated [

] and made between [ ] (1)

and Shropshire Council (2) and no disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, is to be registered without a certificate signed by Shropshire Council of Guildhall Frankwell Quay Shrewsbury Shropshire SY3 8HQ that the provisions of 6 of Part 2 Schedule 2 of the said agreement have been complied with or that they do not apply to the disposition"

6.8. Each purchaser of a Discounted Sale Dwelling shall within seven days of completion of the purchase apply to register this Agreement in the Charges Register of the Land Registry Title relating to that Discounted Sale Dwelling and to register the following Restriction in the Proprietorship Register of the title:-

"No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, is to be registered without a certificate signed by Shropshire Council of Guildhall Frankwell Quay Shrewsbury Shropshire SY3 8HQ that the provisions of paragraph 6 of part 2 of Schedule 2 of the agreement made under section 106 of the Town and Country Planning Act 1990 dated [ ] and made between [ ] (1) and Shropshire Council (2) have been complied with or that they do not apply to the disposition" (the "Restriction");

and provide to the Council as soon as is reasonably possible a copy of the Land Registry Title following completion of the registration referred to in this paragraph 6.8.

## **Part C – Public Open Space**

The Landowner covenants with the Council:

### **1. OPEN SPACE PROVISION**

- 1.1. Not to Commence Development on each Phase until:
  - 1.1.1. it has secured Reserved Matters Approval for the Public Open Space in respect of that Phase;
  - 1.1.2. the Public Open Space Specification has been approved in writing by the Council;
  - 1.1.3. the Maintenance Scheme has been submitted to the Council for approval;
  - 1.1.4. a POS Transfer Offer in respect of all Public Open Space has been made to the Parish Council; and
  - 1.1.5. a copy of the POS Transfer Offer has been provided to the Council.
- 1.2. Not to cause allow or permit Occupation of any Dwellings in a Phase until the Council has approved the Maintenance Scheme in writing.
- 1.3. Prior to the Occupation of more than 50% of the Dwellings in each Phase (unless otherwise agreed in writing by the Council):
  - 1.3.1. to lay out and complete the Public Open Space for that Phase in accordance with the details approved in the relevant Reserved Matters Approval and the Public Open Space Specification;
  - 1.3.2. to notify the Council of the practical completion of the Public Open Space and invite the Council to inspect the Public Open Space and certify it as practically complete by issue of the Certificate of Practical Completion;
  - 1.3.3. to secure the issue of the Certificate of Practical Completion from the Council in respect of all Public Open Space on that Phase.
- 1.4. If the Council inspects the Public Open Space pursuant to clause 1.3.2 above or paragraph 1.4.2 below and identifies that the Public Open Space is not practically complete and/or has not been laid out in accordance with the Reserved Matters Approval and the Public Open Space Specification:
  - 1.4.1. to complete any necessary additional works identified by the Council;
  - 1.4.2. upon completion of any additional works to serve notice on the Council inviting it to re-inspect the Public Open Space and certify that it is practically complete by issue of the Certificate of Practical Completion

PROVIDED THAT if the Council fails to inspect the Public Open Space within 30 Working Days of receipt of a notice of invitation from the Landowner pursuant to paragraphs 1.3.2 or 1.4.2 or fails to issue a Certificate of Practical Completion within 30 Working Days of the inspection where no additional works have been identified then the Certificate of Practical Completion shall be deemed to have been issued at the end of those specified periods PROVIDED FURTHER THAT the inspection procedure identified in paragraph 1.4.2 shall be repeated until such time as the Council issues or is deemed to have issued a Certificate of Practical Completion in relation to the Public Open Space.

- 1.5. Not to cause allow or permit Occupation of more than 50% of the Dwellings in each Phase (unless otherwise agreed in writing by the Council) until:
  - 1.5.1. all Public Open Space for that Phase has been laid out and completed in accordance with the Reserved Matters Approval and the Public Open Space Specification;
  - 1.5.2. all SuDS associated with and/or serving the Public Open Space in that Phase has been laid out and commissioned;
  - 1.5.3. the Council has issued the Certificate of Practical Completion in respect of all Public Open Space in that Phase.
- 1.6. From the date of service of any notice pursuant to paragraph 1.3.2 to allow free unrestricted use and access to the general public for the purposes of recreation at all times of the day and night to the Public Open Space that is the subject of the notice.
- 1.7. To maintain the Public Open Space in accordance with the Reserved Matters Approval and the Public Open Space Specification and the Maintenance Scheme for the Maintenance Period.
- 1.8. At least 12 weeks prior to the proposed POS Transfer Date for the Public Open Space in any Phase and in all events not sooner than 12 calendar months after issue of the relevant Certificate of Practical Completion:
  - 1.8.1. to serve notice on the Council inviting it to inspect the Public Open Space and issue a Final Certificate confirming that the Public Open Space has been completed and maintained to its reasonable satisfaction; and
  - 1.8.2. if the Council inspects the Public Open Space and identifies necessary remedial works, to complete such remedial works to the reasonable satisfaction of the Council; and
  - 1.8.3. upon completion of any remedial works serve notice on the Council inviting it to inspect the remedial works identified by it pursuant to

paragraph 1.8.2 and issue a Final Certificate confirming that such works have been completed to its reasonable satisfaction

PROVIDED THAT if the Council fails to inspect the Public Open Space within 30 Working Days of receipt of a notice of invitation from the Landowner pursuant to paragraphs 1.8.1 or 1.8.3 or fails to issue a Final Certificate within 30 Working Days of the inspection where no remedial works have been identified then the Final Certificate shall be deemed to have been issued at the end of those specified periods PROVIDED FURTHER THAT the inspection procedure identified in paragraphs 1.8.1 or 1.8.3 shall be repeated until such time as the Council issues or is deemed to have issued a Final Certificate.

- 1.9. Prior to the Occupation of more than 75% of the Dwellings in each Phase (unless otherwise agreed in writing by the Council) to secure issue of the Final Certificate from the Council in respect of all Public Open Space in that Phase.
- 1.10. Not to cause allow or permit Occupation of more than 75% of the Dwellings in each Phase (unless otherwise agreed in writing by the Council) prior to the issue of the Final Certificate in respect of all Public Open Space in that Phase.
- 1.11. To maintain the Public Open Space in accordance with the Maintenance Scheme for the lifetime of the Development.

## 2. PUBLIC OPEN SPACE TRANSFER

- 2.1. In each Phase that includes Manco POS, prior to the Occupation of any Dwellings in that Phase:
  - 2.1.1. to submit to the Council for approval:
    - 2.1.1.1. the proposed (or in the case of a Management Company which is already in existence the existing) memorandum and articles of association of the Management Company;
    - 2.1.1.2. full details of the funding for the Management Company to allow it to maintain the Public Open Space in accordance with the Maintenance Schedule and
  - 2.1.2. to notify the Council whether the Landowner intend to:
    - 2.1.2.1. transfer the Manco POS to the Management Company; or
    - 2.1.2.2. retain the Manco POS and appoint the Management Company to manage and maintain the Manco POS on behalf of the Landowner.

- 2.2. For each Phase that includes Manco POS, not to cause allow or permit Occupation of any Dwellings in that Phase prior to:
  - 2.2.1. submitting to the Council for approval the proposed (or in the case of a Management Company which is already in existence the existing) memorandum and articles of association of the Management Company;
  - 2.2.2. notifying the Council whether the Landowner intend to:
    - 2.2.2.1. transfer the Manco POS to the Management Company in accordance with the Terms; or
    - 2.2.2.2. retain the Manco POS and appoint the Management Company to manage and maintain the Manco POS on behalf of the Landowner.
- 2.3. Prior to the Occupation of 75% of the Dwellings in each Phase (unless otherwise agreed in writing by the Council):
  - 2.3.1. to transfer the PC POS to the Parish Council in accordance with the POS Transfer Offer PROVIDED ALWAYS THAT the Public Open Space may not be transferred to the Parish Council prior to issue of the Final Certificate;
  - 2.3.2. to pay the POS Commuted Sum in respect of the PC POS to the Parish Council, PROVIDED ALWAYS THAT the Parish Council may refuse to accept the transfer of the PC POS prior to payment of the POS Commuted Sum; and
  - 2.3.3. either (as notified to the Council pursuant to paragraph 2.2.2 above):
    - 2.3.3.1. transfer the Manco POS to the Management Company in accordance with the Terms; or
    - 2.3.3.2. appoint the Management Company to manage and maintain the Manco POS on behalf of the Landowner.
- 2.4. Not to cause allow or permit Occupation of more than 75% of the Dwellings in each Phase (unless otherwise agreed in writing by the Council) unless:
  - 2.4.1. all of the Public Open Space in that Phase has been:
    - 2.4.1.1. transferred to the Parish Council pursuant to paragraph 2.3.1 above; or
    - 2.4.1.2. transferred to the Management Company pursuant to paragraph 2.2.2.1 above; or

2.4.1.3. the Management Company has been appointed to manage and maintain it pursuant to paragraph 2.2.2.2 above;

2.4.1.4. the POS Commuted Sum (if any) has been paid to the Parish Council.

2.5. In respect of each Phase that includes Manco POS to include in the transfer of each Dwelling a covenant by the transferee to pay a service charge to the Management Company towards the maintenance of the Public Open Space in accordance with the Maintenance Schedule and a covenant by the Landowner and/or the Management Company as applicable to maintain the Public Open Space in accordance with the Maintenance Schedule and to allow free and unrestricted access to the Public Open Space for the purposes of recreation.

2.6. Not to carry out any development (within the meaning of Section 55 of the Act) on Public Open Space save as is appropriate to such an area (which shall first be agreed in writing with the Council) and to use the Public Open Space only as amenity space in accordance with the Planning Permission and any Reserved Matters Approval(s).

### 3. SUSTAINABLE URBAN DRAINAGE

3.1. Not to Commence Development on each Phase until:

3.1.1. it has secured Reserved Matters Approval for the SuDS in respect of that Phase;

3.1.2. the SuDS Management Plan has been submitted to the Council for approval.

3.2. Not to cause allow or permit Occupation of any Phase until the Council has approved the SuDS Management Plan in writing.

3.3. Not to cause allow or permit Occupation of any Dwelling or Retail Unit until the SuDS serving that Dwelling or Retail Unit has been fully constructed and commissioned.

3.4. To manage and maintain the SuDS in accordance with the approved SuDS Management Plan (subject only to changes approved in writing by the Council) for the lifetime of the Development.

## **Part D – BNG**

The Landowner covenants with the Council:

### **1. HABITAT MANAGEMENT AND MONITORING PLAN**

- 1.1. Prior to the Commencement of Development to submit to the Council for approval the Biodiversity Gain Plan and the Habitat Management and Monitoring Plan;
- 1.2. Not to Commence Development until the Biodiversity Gain Plan and the Habitat Management and Monitoring Plan have been approved by the Council in writing.
- 1.3. Not to make any changes to the Habitat Management and Monitoring Plan without the written approval of the Council.

### **2. ONSITE BNG**

- 2.1. To begin the Habitat Creation and Enhancement Works no later than 12 months following the Commencement of Development.
- 2.2. To notify the Council in writing of the BNG Commencement Date within 10 Working Days of it occurring.
- 2.3. To complete the Habitat Creation and Enhancement Works in accordance with the Habitat Management and Monitoring Plan including for the avoidance of doubt the timescales set out therein.
- 2.4. To issue the Completion Notice to the Council within 10 Working Days of the completion of the Habitat Creation and Enhancement Works.
- 2.5. To promptly rectify any defects in the Habitat Creation and Enhancement Works identified by the Council under paragraph [2.1.3.2] of the Third Schedule and issue a subsequent Completion Notice and thereafter to continue to rectify any defects and issue Completion Notices until the Council issues a Certificate of Completion.
- 2.6. Following issue of the Certificate of Completion to maintain the Biodiversity Gain Land in accordance with the Habitat Management and Monitoring Plan until the BNG Expiry Date.
- 2.7. To provide a Monitoring Report to the Council within 20 (twenty) Working Days of each Monitoring Report Date.
- 2.8. Not to dispose of its interest or create a new proprietary interest in the Biodiversity Gain Land without notifying the Council.

3. AMENDMENT OF THE HABITAT MANAGEMENT AND MONITORING PLAN

- 3.1. To notify and obtain written approval from the Council of any requested amendment to the Habitat Management and Monitoring Plan, such notice to include:
- 3.2. the proposed amended Habitat Management and Monitoring Plan;
- 3.3. a statement of reasons for such amendment(s); and
- 3.4. confirmation (with reasons and relevant expert opinion) that the amendment would not prejudice the continued delivery of biodiversity gain in accordance with the Biodiversity Gain Plan.

4. BIODIVERSITY GAIN MONITORING CONTRIBUTION

- 4.1. To pay the Biodiversity Gain Monitoring Contribution to the Council prior to the BNG Commencement Date.

5. ACCESS FOR INSPECTION

- 5.1. From the BNG Commencement Date, to allow the Council, its agents and contractors (with or without workmen and equipment) to:
  - 5.1.1. enter onto the Biodiversity Gain Land at all reasonable times (on provision of reasonable notice by the Council) to monitor compliance with:
    - 5.1.1.1. the Habitat Management and Monitoring Plan;
    - 5.1.1.2. any Breach Notice;
    - 5.1.1.3. any other obligations in this Agreement relating to the Biodiversity Gain Land; and
  - 5.1.2. pass and re-pass across any land in the Landowner's control as necessary to gain access to for the purposes of accessing the Biodiversity Gain Land for the purpose of such monitoring.

6. STEP IN RIGHTS

- 6.1. Where a Breach Notice is served to:
  - 6.1.1. use reasonable endeavours to agree the following with the Council within 20 Working Days of receipt of the Breach Notice (or such other period as may be agreed with the Council).

- 6.1.1.1. the steps required to remedy the breach identified in the Breach Notice; and
    - 6.1.1.2. if applicable, any remedial works required to the Biodiversity Gain Land; and
  - 6.1.2. diligently proceed to remedy the breach and/or undertaken any remedial works within the time period specified in the Breach Notice (or such other period as may be agreed with the Council).
- 6.2. In the event of any breach of paragraph [6.1] above, to allow the Council, its agents, and contractors with or without workmen and equipment to enter the Biodiversity Gain Land (and any other land in the Landowner's control required for access to the Biodiversity Gain Land) at all reasonable times for the purpose of carrying out works reasonably necessary to remedy the breach identified in the Breach Notice including undertaking any remedial works identified pursuant to paragraph [6.11.2] above ("the Default Works").
- 6.3. To pay the Council a sum equivalent to its reasonable and properly incurred costs in respect of carrying out the Default Works within 20 Working Days of receipt of a notice requesting payment (such notice to include a breakdown of such costs).

## 7. OFF SITE BNG

- 7.1. Prior to the Commencement of Development to provide the Council with written evidence of the registration of the Biodiversity Gain Units and on the Biodiversity Gain Site Register and their allocation to the Development for a period of at least 30 years.
- 7.2. Not to Commence Development prior to providing the Council with written evidence of the registration of the Biodiversity Gain Units on the Biodiversity Gain Site Register and their allocation to the Development for a period of at least 30 years
- 7.3. Not to make any amendment to the registration of the Biodiversity Gain Units on the Biodiversity Gain Register including in respect of their allocation to the Development without the prior written consent of the Council.

## 8. PHASING

- 8.1. The obligations in this Part 4 of Schedule 2 may be discharged by Phase with the exception of the obligation in paragraph 4 to pay the BNG Land Monitoring Contribution which is payable in one instalment on Commencement of the first Phase.

## **Part E – Highways, active travel and public transport**

The Landowner covenants with the Council:

### **1. SUSTAINABLE TRANSPORT AND HIGHWAYS IMPROVEMENTS**

- 1.1. To submit to the Council for approval a scheme for the delivery of the Offsite Highways Improvements prior to Occupation of any part of the Development.
- 1.2. Not to Occupy or permit or allow the Occupation of any part of the Development until the scheme for the delivery of the Sustainable Transport and Highways Improvements has been approved in writing by the Council.
- 1.3. The scheme submitted pursuant to paragraph 1.1 shall include:
  - 1.3.1. details of the Offsite Highways Improvements;
  - 1.3.2. the proposed timing and phasing for delivery of those works;
  - 1.3.3. details of any works to be delivered pursuant to an agreement under section 278 of the Highways Act 1980;
  - 1.3.4. details of any Traffic Regulation Orders or other traffic regulation measures required to deliver the Offsite Highways Improvements; and
  - 1.3.5. arrangements for funding the reasonable and properly incurred costs by the Council in promoting, consulting upon, making and implementing any such Traffic Regulation Orders or other traffic regulation measures.
- 1.4. To enter into such agreement or agreements under section 278 of the Highways Act 1980 as are reasonably required to secure the delivery of the Offsite Highways Improvements at no cost to the Council.

### **2. SUSTAINABLE TRANSPORT CONTRIBUTION**

- 2.1. To pay the Sustainable Transport Contribution Infrastructure Element to the Council within 20 Working Days of written demand, provided that any such demand shall be accompanied by reasonable evidence of the costs incurred or to be incurred.
- 2.2. To pay the Sustainable Transport Contribution Interchange Element to the Council prior to the Occupation of the first Dwelling.

### **3. OCCUPATION RESTRICTIONS**

- 3.1. To deliver the Offsite Highways Improvements prior to the Occupation of more than 250 Dwellings.
- 3.2. To pay the Sustainable Transport Contribution prior to the Occupation of more than 250 Dwellings.
- 3.3. Not to Occupy or allow or permit Occupation of more than 250 Dwellings prior to:
  - 3.3.1. the delivery of the Offsite Highways Improvements in accordance with the scheme approved by the Council pursuant to paragraph 1.2; and
  - 3.3.2. payment of the Sustainable Transport Contribution.
  - 3.3.3. unless otherwise agreed in writing by the Council, any Traffic Regulations Orders required by the Council in the interests of good traffic management as a result of the Development to restrict through vehicular traffic along Patshull Road, Newhouse Lane and Cross Road having been made and implemented.

#### 4. BUS STRATEGY AND SERVICES

- 4.1. Prior to Occupation of any part of the Development, the Landowner shall submit the Bus Strategy to the Council for approval.
- 4.2. The Landowner shall not Occupy or permit the Occupation of any part of the Development until the Bus Strategy has been approved in writing by the Council.
- 4.3. For the avoidance of doubt:
  - 4.3.1. the Bus Strategy shall relate only to the matters and measures specified in the definition of Bus Strategy;
  - 4.3.2. approval of the Bus Strategy shall not be a condition precedent to the commencement or continued operation of the Interim Shuttle Bus Service.

#### 5. INTERIM SHUTTLE BUS SERVICE

- 5.1. The Landowner shall procure that the Interim Shuttle Bus Service commences no later than Occupation of the first Dwelling.
- 5.2. The Landowner shall procure the continued operation of the Interim Shuttle Bus Service until 250 Dwellings or the Bus Service Strategy has been implemented providing such public bus services as in the reasonable opinion of the Landowners renders the Interim Shuttle Bus Service not to be required

- 5.3. For the avoidance of doubt the Interim Bus Service shall be provided at no cost to the Council and the provision of the Interim Bus Service shall not impact on or occasion any reduction of the Bus Service Contribution.

## **Part F – Financial Contributions**

### **PART 7: FINANCIAL CONTRIBUTIONS**

The Landowner covenants with the Council:

#### **1. HEALTHCARE CONTRIBUTION**

- 1.1. To pay the Healthcare Contribution to the Council in the following instalments:
  - 1.1.1. forty percent (40%) of the Housing Element prior to Occupation of any Dwelling;
  - 1.1.2. a further thirty percent (30%) of the Housing Element prior to the Occupation of more than 400 Dwellings.
  - 1.1.3. a further thirty percent (30%) of the Housing Element prior to the Occupation of more than 600 Dwellings
  - 1.1.4. the Care Home Element prior to Occupation of the Care Home
- 1.2. Not to cause allow or permit Occupation of:
  - 1.2.1. any Dwelling unless forty percent (40%) of the Housing Element has been paid to the Council;
  - 1.2.2. more than 400 Dwellings unless seventy percent (70%) of the Housing Element has been paid to the Council;
  - 1.2.3. more than 600 Dwellings unless and until the Housing Element has been paid in full to the Council;
  - 1.2.4. the Care Home unless and until the Care Home Element has been paid in full to the Council.

#### **2. SEND EDUCATION TRANSPORT CONTRIBUTION**

- 2.1. To pay the SEND Education Transport Contribution to the Council in the following instalments:
  - 2.1.1. forty percent (40%) prior to Occupation of any Dwelling;
  - 2.1.2. a further thirty percent (30%) prior to the Occupation of more than 400 Dwellings.
  - 2.1.3. a further thirty percent (30%) prior to the Occupation of more than 600 Dwellings
- 2.2. Not to cause allow or permit Occupation of:

- 2.2.1. any Dwelling unless forty percent (40%) of the SEND Education Transport Contribution has been paid to the Council;
- 2.2.2. more than 400 Dwellings unless seventy percent (70%) of the SEND Education Transport Contribution has been paid to the Council;
- 2.2.3. more than 600 Dwellings unless and until the SEND Education Transport Contribution has been paid in full to the Council;

### 3. SPORTS PROVISION CONTRIBUTION

- 3.1. To pay the Sports Provision Contribution to the Council in the following instalments:
  - 3.1.1. forty percent (40%) prior to Occupation of any Dwelling;
  - 3.1.2. a further thirty percent (30%) prior to the Occupation of more than 400 Dwellings; and
  - 3.1.3. a further thirty percent (30%) prior to the Occupation of more than 600 Dwellings
- 3.2. Not to cause, allow or permit Occupation of:
  - 3.2.1. any Dwelling unless unless forty percent (40%) of the Sports Provision Contribution has been paid to the Council;
  - 3.2.2. more than 400 Dwellings unless seventy percent (70%) of the Sports Provision Contribution has been paid to the Council; and
  - 3.2.3. more than 600 Dwellings unless the Sports Provision Contribution has been paid in full to the Council.

### 4. BUS SERVICE CONTRIBUTION

- 4.1. To pay the Bus Service Contribution relating to the Dwellings to the Council in the following instalments:
  - 4.1.1. forty percent (40%) prior to Occupation of any Dwelling;
  - 4.1.2. a further thirty percent (30%) prior to the earlier of Occupation of more than 400 Dwellings or the 3rd anniversary of the Occupation of the first Dwelling; and
  - 4.1.3. a further thirty percent (30%) prior to the earlier of Occupation of more than 600 Dwellings or the 5th anniversary of the Occupation of the first Dwelling

- 4.2. Not to cause, allow or permit Occupation of:
- 4.2.1. any Dwelling unless forty percent (40%) of the Bus Service Contribution relating to the Dwellings has been paid to the Council;
  - 4.2.2. more than 400 Dwellings unless seventy percent (70%) of the Bus Service Contribution relating to the Dwellings has been paid to the Council; and
  - 4.2.3. more than 600 Dwellings unless the Bus Service Contribution relating to the Dwellings has been paid in full to the Council.
- 4.3. To pay the Bus Service Contribution relating to the Retail Units to the Council prior to the Occupation of each Retail Unit.
- 4.4. Not to Occupy cause allow or permit Occupation of any retail unit unless the Bus Service Contribution relating that Retail Unit has been paid to the Council.

## 5. TRAVEL PLAN MONITORING CONTRIBUTION

- 5.1. To pay the Travel Plan Monitoring Contribution to the Council in the following instalments:
- 5.1.1. forty percent (40%) prior to Occupation of any Dwelling;
  - 5.1.2. a further thirty percent (30%) prior to the Occupation of more than 400 Dwellings or if earlier the second anniversary of the Occupation of the first Dwelling; and
  - 5.1.3. a further thirty percent (30%) prior to the Occupation of more than 600 Dwellings or if earlier the third anniversary of the Occupation of the first Dwelling
- 5.2. Not to cause, allow or permit Occupation of:
- 5.2.1. any Dwelling unless forty percent (40%) of the Travel Plan Monitoring Contribution has been paid to the Council;
  - 5.2.2. more than 400 Dwellings unless seventy percent (70%) of the Travel Plan Monitoring Contribution has been paid to the Council; and
  - 5.2.3. more than 600 Dwellings unless the Travel Plan Monitoring Contribution has been paid in full to the Council.

## 6. ACTIVE TRAVEL CONTRIBUTION

- 6.1. To pay the Active Travel Contribution to the Council in the following instalments:

6.1.1. forty percent (40%) prior to Occupation of any Dwelling;

6.1.2. a further thirty percent (30%) prior to the Occupation of more than 400 Dwellings.

6.1.3. a further thirty percent (30%) prior to the Occupation of more than 600 Dwellings

6.2. Not to cause allow or permit Occupation of:

6.2.1. any Dwelling unless forty percent (40%) of the Active Travel Contribution has been paid to the Council;

6.2.2. more than 400 Dwellings unless seventy percent (70%) of the Active Travel Contribution has been paid to the Council;

6.2.3. more than 600 Dwellings unless and until the Active Travel Contribution has been paid in full to the Council;

## **Part G – Local Centre**

The Landowner covenants with the Council:

### **1. LOCAL CENTRE SCHEME**

- 1.1. To submit a Local Centre Scheme to the Council for approval prior to the Commencement of Development.
- 1.2. Not to Commence Development until the Local Centre Scheme has been approved in writing by the Council.

### **2. SAFEGUARDING**

- 2.1 To Safeguard the Local Centre Land for the delivery of the Local Centre in accordance with the approved Local Centre Scheme or an Alternative Scheme.
- 2.1. Not to use, develop or permit the use or development of the Local Centre Land other than:
  - 2.1.1. for the Local Centre in accordance with the approved Local Centre Scheme; or
  - 2.1.2. in accordance with an Alternative Scheme pursuant to paragraph 5.

### **3. LOCAL SHOP DELIVERY**

- 3.1. To construct the Local Shop to Practical Completion and make it available for Occupation no later than Occupation of the final Dwelling within the First Phase.
- 3.2. Not to cause, allow or permit Occupation of the final Dwelling within the First Phase unless:
  - 3.2.1. the Local Shop has achieved Practical Completion; and
  - 3.2.2. the Local Shop has been made available for Occupation on reasonable commercial terms.

### **4. MARKETING AND USE AND DELIVERY OF REMAINING LOCAL CENTRE**

- 4.1. To use all reasonable and commercially prudent endeavours to market the Local Centre Land (excluding the Healthcare Provision Land) to appropriate operators on

reasonable commercial terms and in accordance with the approved Local Centre Scheme for the Marketing Period.

- 4.2. To provide the Council with reports on marketing activity every six months during the Marketing Period.
- 4.3. For the avoidance of doubt the obligations in this paragraph 4 do not defer, qualify or otherwise affect the obligations relating to the delivery of the Local Shop under paragraph 3.

## 5. ALTERNATIVE SCHEME

- 5.1. The Landowner may provide an Alternative Scheme in place of the Local Centre only if:
  - 5.1.1. the Marketing Period has expired;
  - 5.1.2. the Landowner has complied in full with paragraph 4 above and evidenced such compliance to the Council; and
  - 5.1.3. the Local Centre has not been sold or let to an operator or operators and no substantive negotiations are ongoing for such sale or letting with an operator or operators.

## **Part H – Safeguarding of Education Land**

The Landowner covenants with the Council:

### **1. SAFEGUARDING**

- 1.1. To Safeguard the Secondary School Land for the Education Purpose for the Safeguarded Period or until otherwise agreed in writing by the Council.
- 1.2. Not to make any disposition of the Secondary School Land during the Safeguarded Period without the written consent of the Council such consent not to be unreasonably withheld or delayed provided that this paragraph shall not prevent a disposition subject to and with the benefit of the obligations contained in this Agreement.
- 1.3. To apply within one (1) month of the completion of this Agreement to the Land Registry to register a restriction in the following terms against the freehold title of the Secondary School Land:

*No disposition of the part of the registered estate shown edged red on the attached plan 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 written consent signed by Shropshire Council or its conveyancer.*

### **2. ACCESS AND SERVICES**

- 2.1. From Commencement of Development and until the end of the Safeguarded Period on the provision of at least five (5) Working Days written notice to allow the Council access to the Secondary School Land at all reasonable hours for the purpose of surveying and investigating the condition of the Secondary School Land.
- 2.2. To submit the School Land Details to the Council for approval within 3 calendar months of receipt of a School Land Transfer Request.
- 2.3. At least 30 Working Days prior to the School Transfer Date to:
  - 2.3.1. provide the Access Road or the Construction Access;
  - 2.3.2. provide the School Service Infrastructure;
  - 2.3.3. install the Fencing to the Council's reasonable satisfaction;
  - 2.3.4. provide the Search Pack to the Council's conveyancer;

2.3.5. provide written evidence to the Council's conveyancer's reasonable satisfaction that the Secondary School Land is in Transferrable Condition;

2.4. To allow the Council (including all officers, employees, contractors and agents, with or without plant, machinery and materials) full and unrestricted access over the Construction Access to the Secondary School Land at all reasonable times until the Access Road is provided.

2.5. To provide the Access Road at least two (2) calendar months prior to the Anticipated Completion Date.

### 3. TRANSFER OF THE SECONDARY SCHOOL LAND

3.1. To use all reasonable endeavours to complete the School Land Transfer transferring the Secondary School Land to the Council within 6 calendar months of receipt of a School Land Transfer Request.

3.2. The School Land Transfer shall be:

3.2.1. in accordance with the School Transfer Terms;

3.2.2. for a consideration of not more than £1 (one pound) and free from any ransom or overage;

3.2.3. of the freehold interest in the Secondary School Land free from all encumbrances that would affect its use for Education Purposes and any mortgage, charge, or lien.

3.3. If the Council and the Landowner are unable to agree the terms of the School Land Transfer then either party may apply for the terms to be determined in accordance with clause [15] of this Agreement provided always that it shall be reasonable for the Council to refuse to complete the School Land Transfer unless and until:

3.3.1. the Construction Access or the Access Road has been provided;

3.3.2. the School Service Infrastructure has been provided;

3.3.3. the Fencing has been installed to the Council's reasonable satisfaction;

3.3.4. the Landowners have evidenced to the reasonable satisfaction of the Council's conveyancer that the Secondary School Land is in Transferrable Condition.

3.4. Where paragraph 3.3 of this [ 8 ] of this Schedule applies the Council and the Landowner agree that completion of the School Land Transfer shall take place no later than the date which is 30 Working Days from the date upon which the terms of the School Transfer are determined in accordance with the provisions of clause [14]

provided always that the Council shall not be obliged to complete the School Land Transfer until:

- 3.4.1. the Construction Access or the Access Road has been provided;
  - 3.4.2. the School Service Infrastructure has been provided;
  - 3.4.3. the Fencing has been installed to the Council's reasonable satisfaction;
  - 3.4.4. the Owners have evidenced to the reasonable satisfaction of the Council's conveyancer that the Secondary School Land is in Transferrable Condition.
- 3.5. The Landowner shall pay to the Council all of the Council's reasonable legal costs and disbursements in connection with and incidental to the transfer of the Secondary School Land on or before completion of the School Land Transfer.

## **Part I – Healthcare Provision Land**

The Landowner covenants with the Council:

### **1. SAFEGUARDING**

- 1.1. To Safeguard the Healthcare Provision Land for Healthcare Purposes for the Safeguarded Period or until otherwise agreed in writing by the Council.
- 1.2. Not to make any disposition of the Healthcare Provision Land during the Safeguarded Period without the written consent of the Council.
- 1.3. To apply within one (1) month of the completion of this Agreement to the Land Registry to register a restriction in the following terms against the freehold title of the Healthcare Provision Land:

*No disposition of the part of the registered estate shown edged red on the attached plan 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 written consent signed by Shropshire Council or its conveyancer.*

### **2. ACCESS AND SERVICES**

- 2.1. From Commencement of Development and until the end of the Safeguarded Period on the provision of at least five (5) Working Days written notice to allow the Council or the Nominee access to the Healthcare Provision Land at all reasonable hours for the purpose of surveying and investigating the condition of the Healthcare Provision Land.
- 2.2. To submit the Healthcare Land Details to the Council and the Nominee for approval within 3 calendar months of receipt of a Healthcare Provision Land Transfer Request.
- 2.3. At least 30 Working Days prior to the Healthcare Land Transfer Date to:
  - 2.3.1. provide the Access Road or the Construction Access;
  - 2.3.2. provide the Healthcare Land Service Infrastructure;
  - 2.3.3. provide the Search Pack to the Council's or the Nominee's (as applicable) conveyancer;

- 2.3.4. provide written evidence to the Council's or the Nominee's (as applicable) conveyancer's reasonable satisfaction that the Healthcare Provision Land is in Transferrable Condition;
- 2.4. To allow the Council or the Nominee (as applicable) (including all officers, employees, contractors and agents, with or without plant, machinery and materials) full and unrestricted access over the Construction Access to the Healthcare Provision Land at all reasonable times until the Access Road is provided.
- 2.5. To provide the Access Road at least two (2) calendar months prior to the Anticipated Completion Date.

### 3. TRANSFER OF THE HEALTHCARE PROVISION LAND

- 3.1. To use all reasonable endeavours to complete the Healthcare Provision Land Transfer transferring the Healthcare Provision Land to the Council or the Nominee (as applicable) within 6 calendar months of receipt of a Healthcare Provision Land Transfer Request.
- 3.2. The Healthcare Provision Land Transfer shall be:
  - 3.2.1. in accordance with the Healthcare Provision Land Transfer Terms;
  - 3.2.2. for a consideration of not more than £1 (one pound) and free from any ransom or overage;
  - 3.2.3. of the freehold interest in the Healthcare Provision Land free from all encumbrances that would affect its use for Healthcare Purposes and any mortgage, charge, or lien.
- 3.3. If the Council or Nominee (as applicable) and the Landowner are unable to agree the terms of the Healthcare Provision Land Transfer then either party may apply for the terms to be determined in accordance with clause 5 of this Agreement provided always that it shall be reasonable for the Council or the Nominee (as applicable) to refuse to complete the Healthcare Provision Land Transfer unless and until:
  - 3.3.1. the Construction Access or the Access Road has been provided;
  - 3.3.2. the Healthcare Land Service Infrastructure has been provided;
  - 3.3.3. the Landowners have evidenced to the reasonable satisfaction of the Council's or the Nominee's (as applicable) conveyancer that the Healthcare Provision Land is in Transferrable Condition.
- 3.4. Where paragraph 3.3 of this Part 8 of this Schedule applies the Council and the Landowner agree that completion of the Healthcare Provision Land Transfer shall

take place no later than the date which is 30 Working Days from the date upon which the terms of the Healthcare Provision Land Transfer are determined in accordance with the provisions of clause [14] provided always that the Council or the Nominee (as applicable) shall not be obliged to complete the Healthcare Land Transfer until:

- 3.4.1. the Construction Access or the Access Road has been provided;
- 3.4.2. the Healthcare Infrastructure has been provided;
- 3.4.3. the Landowner has evidenced to the reasonable satisfaction of the Council's conveyancer that the Healthcare Provision Land is in Transferrable Condition.

## **Part J – Care Home Provision Land**

The Landowner covenants with the Council:

### **1. SAFEGUARDING**

- 1.1. To Safeguard the Care Home Land for the purpose of a residential institution within Class C2 of a scale and nature consistent with the Development and in accordance with the Planning Permission for the Safeguarded Period or until otherwise agreed in writing by the Council.
- 1.2. Not to make any disposition of the Care Home Land during the Safeguarded Period without the written consent of the Council.
- 1.3. To submit the Care Home Land Marketing Strategy to the Council prior to Occupation of any Dwelling.
- 1.4. Not to Occupy or allow or Permit Occupation of any Dwelling prior to approval of the Care Home Land Marketing Strategy by the Council.

### **2. MARKETING AND USE**

- 2.1. To use all reasonable and commercially prudent endeavours to market the Care Home Land to operators of residential institutions within Class C2 (including but not limited to care home operators) on reasonable commercial terms and in accordance with the approved Care Home Land Marketing Strategy for the Care Home Marketing Period.
- 2.2. To provide the Council with reports on marketing activity every three months during the Care Home Marketing Period.

### **3. ALTERNATIVE USE**

- 3.1. The Council shall not be required to consider any request to vary the Safeguarded Period and allow any alternative use of the Care Home Land pursuant to paragraph 1.1 above unless and until:
  - 3.1.1. the Care Home Marketing Period has expired; and
  - 3.1.2. the Landowner has complied in full with paragraph 2 above and evidenced such compliance to the Council.

### **SCHEDULE 3**

#### **The Council's Covenants**

The Council covenants with the Landowner as follows:

#### **1. BNG APPROVALS**

- 1.1. Within 30 Working Days of receipt of a Biodiversity Gain Plan and/or a Habitat Management and Monitoring Plan (including any amended Habitat Management and Monitoring Plan) for approval, to provide to the Landowner in writing either confirmation that the plan is approved or reasons why the plan is not approved.
- 1.2. Within 30 Working Days from the date of receipt of a Completion Notice to inspect the Habitat Creation and Enhancement Works and following such inspection to promptly:
  - 1.2.1. if the Habitat Creation and Enhancement Works have been completed to the reasonable satisfaction of the Council issue a Certificate of Completion; or
  - 1.2.2. if the Habitat Creation and Enhancement Works have not been completed to the reasonable satisfaction of the Council provide to the Landowner in writing details of identified defects and omissions in the Habitat Creation and Enhancement Works.

#### **2. BUS SERVICE STRATEGY APPROVALS AND IMPLEMENTATION**

- 2.1. Within 30 Working Days of receipt of the Bus Service Strategy (or any amendment to it) for approval, the Council shall provide to the Landowner written confirmation that the Bus Service Strategy is approved or details of the reasons why it is not approved.
- 2.2. If the Council fails to provide such confirmation or reasons within 30 Working Days, the Bus Service Strategy shall be deemed approved.
- 2.3. The Council shall implement and continue to monitor the Bus Service Strategy in accordance with the requirements set out in and in accordance with the timetable(s) specified in the Bus Service Strategy.

#### **3. MONITORING**

- 3.1. To monitor the implementation and operation of the Habitat Management and Monitoring Plan by way of periodic physical visits to the Biodiversity Gain Land and/or remotely surveying the Biodiversity Gain Land:

- 3.1.1. in years 1, 3 and 5 from the anniversary of the BNG Commencement Date; and then
- 3.1.2. every five years thereafter until the BNG Expiry Date; or
- 3.1.3. at more frequent intervals as reasonably required following review of the Monitoring Reports or following the issue of any Breach Notice.

#### 4. BREACH NOTICE AND STEP IN RIGHTS

- 4.1. At its discretion, if it considers that the Landowner is not complying with its obligations relating to the Biodiversity Gain Land under this Agreement and/or the Habitat Management and Monitoring Plan to issue a Breach Notice to the Landowner.
- 4.2. At its discretion, if the Owner has failed to comply with the requirements of any Breach Notice, enter onto the Biodiversity Gain Land and undertake any remedial works specified in the Breach Notice and recover the costs thereof from the Landowner.

#### 5. DISCHARGE OF OBLIGATIONS

- 5.1. At the written request of the Landowner the Council shall provide written confirmation of the discharge of the obligations contained in this Agreement when satisfied that such obligations have been performed.

#### 6. REPAYMENT OF CONTRIBUTIONS

- 6.1. The Council covenants with the Landowner that if after the period of 10 years from the date of receipt of the Financial Contributions (or where paid in instalments the date of receipt of the final instalment), such Financial Contribution or any part of thereof, remains unspent or unallocated it shall on written request repay such unspent or unallocated sum to the party that initially made the payment to the Council.

#### 7. USE OF CONTRIBUTIONS

- 7.1. The Council covenants with the Landowner that it will use the Financial Contributions only for the Purposes and for no other purpose whatsoever.