

DATED 14 SEPTEMBER 2017

(1) STROUD DISTRICT COUNCIL

(2) COLETHROP FARM LIMITED

(3) CREST NICHOLSON OPERATIONS LIMITED

(4) BARCLAYS BANK PLC

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PLANNING OBLIGATION BY  
AGREEMENT  
SECTION 106 OF THE TOWN AND COUNTRY PLANNING  
ACT 1990  
relating to a mixed use development on the Site at Hurts  
Grove, Hardwicke, Gloucestershire

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THIS DEED is made on

14 SEPTEMBER

2017

**BETWEEN:-**

- (1) **STROUD DISTRICT COUNCIL** of the Council Offices Ebley Mill Ebley Wharf Stroud Gloucestershire GL5 4UB (the "**Council**");
- (2) **COLETHROP FARM LIMITED** (Company Number. 3329992) whose registered office is care of Woodward Hale of 38 Dollar Street Cirencester Gloucestershire GL7 2AN (the "**Owner**");
- (3) **CREST NICHOLSON OPERATIONS LIMITED** (Company Number 01168311) whose registered office is Crest House Pycroft Road Chertsey Surrey KT16 9GN (the "**Developer**"); and
- (4) **BARCLAYS BANK PLC** (Company Number. 1026167) whose registered office is 1 Churchill Place London E14 5HP (the "**Mortgagee**").

**WHEREAS:-**

- (A) The Owner is the registered proprietor with freehold titles absolute registered at Land Registry under Title Nos. (i) GR192357 subject to the charge dated 28 January 2014 in favour of the Mortgagee and the leases referred to in Recitals (B) and (C) but otherwise free from encumbrances; and (ii) GR340276 at Land Registry of part of the Site subject to the leases referred to in Recitals (D) and (E).
- (B) The Developer is the registered proprietor with leasehold title absolute under Title No. GR239420.
- (C) The Owner is the registered proprietor with leasehold title absolute under GR234869.
- (D) The Developer is the registered proprietor with leasehold title absolute under Title No GR340584.
- (E) The Owner is the registered proprietor with leasehold title absolute under Title No GR340585.
- (F) The Developer is the registered proprietor with freehold title absolute under Title No GR352076; GR341811 and GR344186
- (G) By an option agreement dated 5 February 1997, the Developer agreed to purchase the Site in phases from Marcus Beresford Heywood upon the terms and conditions therein mentioned. This contract has since been varied on 5 February 1998, 25 April 2005, 31 May 2006 and 18 November 2009. The freehold titles were sold by Marcus Beresford Heywood to the Owner, subject to the provisions of the leasehold titles referred to in Recitals (B), (C), (D) and (E) and to the terms of the option agreement referred to in this Recital.
- (H) The Developer and/or the Owner propose to carry out the Development on the Site.
- (I) The Council is the local planning authority for the purposes of the Act for the area in which the Site is situated.
- (J) The Council resolved on 22 March 2016 to grant the Planning Permission subject to the prior completion of this Deed and the County Agreement.
- (K) On 10 July 2008 planning permission reference S.06.1429/OUT was granted for the development of the Land (as defined below). Two section 106 planning agreements were entered into associated with planning permission reference S.06/1429/OUT both of which bound the Land. An application made pursuant to Section 73 of the Act was granted permission under reference S.09/1692/VAR in relation to which two Deeds of Variation were entered into both dated 19 January 2010. Part of the development that was the subject of the original two permissions and Original Agreements (as defined below and referred to in this Recital) has been commenced. In so implementing the first phase of the wider development certain obligations secured by the

Original Agreements have been discharged both in relation to that first phase and in relation to the Site (as defined below and which forms part of the Land).

- (L) A further section 73 application (defined below as the 2015 Application) has been submitted by the Developer to Stroud District Council. The Parties intend that the Site shall from the date of this Agreement be bound by the terms of this Agreement and released from the remaining provisions of the Original Agreements save as set out below. The first phase of the Land as referred to in Recital K which has been commenced shall continue to be bound by the provisions of those Original Agreements in so far as there remain any provisions that have yet to be discharged in relation to that first phase.
- (M) The Blue Land (as defined in the Original Agreement) is owned in fee simple by St Modwen Developments Ltd (No. 00892832) registered under title number GR283078 allocated for employment land and it is acknowledged that it shall not be developed for housing pursuant to the planning permission and is not subject to any obligation within this Deed.
- (N) The Developer has submitted the 2015 Application applying to the Council for permission to develop the Site in the manner and for uses set out therein and in the plans, specifications and particulars deposited with the Council and forming part of the 2015 Application and the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.
- (O) Each obligation undertaken in this Deed by the Developer and the Owner is a planning obligation for the purposes of Section 106 of the Town and Country Planning Act 1990.

**IT IS AGREED** as follows:-

**1. INTERPRETATION**

1.1 For the purposes of this Deed the following expressions shall have the following meanings:-

- "2015 Application"** means an application for development of the Site made to the Council pursuant to Section 73 of the Act and registered under number S.15/1498/VAR for mixed use, including residential and employment, with associated community facilities and services, including a new primary school, local shopping facilities, community centre, community offices, medical and other practices, public house and open space
- "Act"** means the Town and Country Planning Act 1990 (as amended)
- "Affordable Housing"** means affordable housing that meets the requirements of the National Planning Policy Framework including Social Rented Housing, Affordable Rented Housing and Intermediate Affordable Housing provided to specified eligible Persons in Housing Need and:
1. meeting the needs of eligible Persons in Housing Need including availability at a cost low enough for them to afford determined with regard to local incomes and local house prices; and
  2. providing for the affordable housing to remain at an affordable price for future eligible Persons in Housing Need or for the subsidy to be recycled for alternative affordable housing provision within the District of Stroud

**"Affordable Housing  
Phase 2 Scheme"**

means the scheme to be submitted in accordance with paragraph 1.1 of Part 5 Part B of Schedule 2 which shall include the following in relation to Phase 2:

1. details of the types, size, number, confirmation of tenures and locations of the Affordable Housing Units confirming Clustering arrangements with evidence to demonstrate how the On-Site Affordable Housing Sum shall be utilised in order to support the delivery of such Affordable Housing Units it being recognised that the On-Site Affordable Housing Sum shall be utilised by the Owner/Developer to subsidise the delivery of such Affordable Housing Units such that the Open Market Value of each Affordable Housing Unit shall be partly paid for by a Registered Provider and part by the application of the On-Site Affordable Housing Sum PROVIDED ALWAYS that the Owner/Developer shall not be required to provide Affordable Housing Units in terms of number of units, size, type or tenure that would result in the Cost to the Owner/Developer associated with the delivery of the Affordable Housing Units within Phase 2 that exceeds the On-Site Affordable Housing Sum;
2. copies of 3 (three) independent valuations demonstrating the Open Market Value of the proposed Affordable Housing Units referred to sub-point (1) above;
3. copies of offers or other forms of evidence to demonstrate the level of consideration that a Registered Provider would be prepared to pay for each of the Affordable Housing Units referred to in sub-point (1) above in light of type, size, tenure and location of each such Affordable Housing Unit

**"Affordable Housing Scheme"**

means the scheme to be submitted in accordance with paragraph 1.1 of Part 5 Part C of Schedule 2 which shall include the following:

1. details of the types, size, number, confirmation of tenures and locations of the Affordable Housing Units confirming Clustering arrangements with evidence to demonstrate how the Viability Sum shall be utilised in order to support the delivery of such Affordable Housing Units it being recognised that the Viability Sum shall be utilised by the Owner/Developer to subsidise the delivery of such Affordable Housing Units such that the Open Market Value of each Affordable Housing Unit shall be partly paid for by a Registered Provider and part by the application of the Viability Sum PROVIDED ALWAYS that the Owner/Developer shall not be required to provide Affordable Housing Units in terms of number of units, size, type or tenure that would result in the Cost to the Owner/Developer associated with the delivery of the Affordable Housing Units (across all of the Phases for which Reserved Matters Applications are to be submitted following 750 Dwellings) that exceeds the Viability Sum;
2. copies of 3 (three) independent valuations demonstrating the Open Market Value of the proposed Affordable Housing Units referred to sub-point (1) above;
3. copies of offers or other forms of evidence to demonstrate that level of consideration that a Registered Provider would be prepared to pay for each of the Affordable Housing Units referred to in sub-point (1) above in light of type, size, tenure and location of each such Affordable Housing Unit

**"Affordable Housing Unit"**

means a Dwelling or Dwellings constructed pursuant to the Affordable Housing Scheme or the Affordable Housing Phase 2 Scheme as may be applicable and as the context may require

**"Affordable Rented Housing"**

means Dwellings to be offered and occupied as a tenure which is referred to in the National Planning Policy Framework published in March 2012 ( or as may be amended from time to time) as offering flexible tenancies at a maximum of 80% of gross local market rents reflecting the properties' size and location as verified by a valuation in accordance with the Royal Institution of Chartered Surveyors Valuation and Appraisal Standards (Fifth Edition as updated and amended from time to time) certified by a member of the Royal Institution of Chartered Surveyors and which shall be offered for rent by a Registered Provider

**"Allotment Costs Cap"**

£75,000 (seventy five thousand pounds sterling) Index Linked

**"Allotment Land"**

means an area of 1.2 hectares shown marked "Allotments Land" on Plan 4 or such other area agreed in writing with the Council

<b>"Allotment Land Lease"</b>	means the 125-year lease by the Owner/Developer to the lessee of the Allotment Land which shall be substantially in the form of the Lease annexed and shall include any reasonable reservation of rights of access and services over the Allotment Land for the benefit of any other part of the Site for the purpose of laying managing maintaining replacing renewing cleaning and repairing services including but not limited to as applicable sustainable urban drainage measures, water, gas, sewerage, drainage or electricity
<b>"Allotment Uses"</b>	means as an allotment garden as defined by the Smalls Holdings and Allotments Act 1908, the Allotment Act 1922, the Allotment Act 1925 and the Allotment Act 1950 and any amendments, extensions or replacement Acts which may come into force.
<b>"Allotments Specification"</b>	means the specification for the design and laying out of the allotments on the Allotment Land (which shall include the costs for doing so) as approved by the Council in accordance with Part 4 of Schedule 2 of this Deed
<b>"Alternative Body"</b>	means any of the following: <ol style="list-style-type: none"> <li>1. A fully constituted parish, town or community council;</li> <li>2. A residents group having charitable or not for profit status;</li> <li>3. A Management Company or any other body or organisation reasonably created by or on behalf of the Owner or the Developer or reasonably nominated by the Owner or the Developer; and</li> <li>4. Any other body or organisation reasonably created by or on behalf of the Council or reasonably nominated by the Council</li> </ol>
<b>"Certificate of Practical Completion"</b>	means a certificate issued or deemed to have been issued by the Council confirming that works to which the certificate relates have been completed and the Maintenance Period (as applicable) may commence



**"Clustering"**

means that the Affordable Housing Units shall be constructed in clusters throughout the Development as set out below unless it is agreed that a higher number of Affordable Housing Units may be clustered together than the figures set out below such agreement to be with the Council and/or as agreed otherwise through reserved matters approvals and/or approval of the Affordable Housing Scheme for any Phase:

1. In the case of houses in clusters of no more than 8 houses together unless a higher number of units within such cluster shall otherwise be approved in writing or deemed approved by the Council pursuant to the Deemed Approval Process
2. in the case of apartments or flats in clusters of no more than 12 units together unless a higher number of units within such cluster shall otherwise be approved in writing or deemed approved by the Council pursuant to the Deemed Approval Process
3. in the case of clusters comprising both houses and apartments or flats of no more than 8 houses within the said cluster and 12 apartment units or flat units within the said cluster unless a higher number of units within such cluster shall otherwise be approved in writing or deemed approved by the Council pursuant to the Deemed Approval Process

PROVIDED THAT where the above restrictions on clustering shall not apply where

1. an entire Phase is to comprise 100% Affordable Housing Units; or
2. a Registered Provider constructs or otherwise delivers Affordable Housing Units which in quantum terms exceeds the overall percentage requirements as specified in the definition of Affordable Housing Units above

**"Commencement"**

means the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of:-

- (a) demolition;
- (b) site clearance;
- (c) site investigations, testing or surveys;
- (d) the provision of infrastructure boreholes permitted by the Town and Country Planning General Permitted Development Order 1995 or any amendment or replacement thereof;
- (e) the provision of underground drainage and sewers and the laying and diversion of other services and service medium;
- (f) excavation, deposition, compaction, levelling of materials to new contours and works connected with infilling;
- (g) construction of temporary accesses and/or highway works to facilitate the carrying out of the Development;
- (h) archaeological investigations and digs;
- (i) ecological surveys, investigations or assessments (including, for the avoidance of doubt, investigations or assessments relating to bats);
- (j) decontamination and remediation works;
- (k) site preparation;
- (l) the construction of boundary fencing or hoardings (including the erection of an enclosure for the purpose of site security), erection of temporary facilities for security personnel and the erection of security cameras;
- (m) the erection of buildings below ground level, such as the excavation and construction of underground car parks and the laying of foundations;
- (n) interim landscaping works;
- (o) erection of boards advertising the Development;
- (p) the construction of a temporary site compound and welfare facilities/buildings/enclosures or a temporary marketing suite that does not form a structure or part of a structure that will become a Dwelling after its use as a temporary marketing suite; and
- (q) works and operations to enable any of the foregoing to take place

and "Commence" "Commenced" and "Commence the Development" shall be construed accordingly

**"Community Centre Building"**

means a building constructed to the specification as outlined in Appendix 1 to this Deed and pursuant to Schedule 2 Part 1 of this Deed unless otherwise agreed in writing by the Council and which shall incorporate space for changing facilities and for a multi-functional space including a badminton court to be used solely for community purposes with associated car parking in the area shown marked "Community Centre Building Area" on Plan 4 or such other area agreed in writing with the Council

**"Community Centre Building Costs Cap"**

means £1,500,000 (one million five hundred thousand pounds sterling) Index Linked

**"Commuted Sum(s)"**

means where a lease or transfer (the relevant interest to be granted or transferred to be at the discretion of the Owner/Developer) of the Sports Pitches, Open Spaces, Community Centre Building and/or Allotment Land is granted or transferred (as applicable) to the Council, Parish Council or Alternative Body pursuant to Schedule 2, the sum or sums of money that shall be paid by the Owner/Developer to the Council, Parish Council or Alternative Body to be used for the management and maintenance of the respective area(s) of land that are the subject of any lease to the Council, Parish Council or Alternative Body such sums to be agreed between the Council, Parish Council or Alternative Body and the transferor of the land based on the Management Scheme's management and maintenance requirements or in default of agreement to be determined pursuant to Clause 12 hereof

**"Community Centre Building Lease"**

means the lease by the Owner/Developer to the lessee of the Community Centre Building which shall be substantially in the form of the Lease annexed

**"Community Uses"**

means use for any or all of the following:

- (a) community group meetings, activities and conferences;
- (b) skills training/educational classes;
- (c) social functions;
- (d) cultural/sport/leisure activities;
- (e) religious or charitable organisations; or
- (f) such other uses or activities for the purpose of the general amenity for the local community as may be agreed between the Owner/Developer and the Council.

**"Completed"**

means practically complete save for minor snagging items such that it is reasonably fit for occupation or use the words "**Completion**" and "**Complete**" shall be construed accordingly (and for the avoidance of doubt Completion shall not be achieved unless all the services to and from the Dwelling are connected and operating and are accessible by both vehicles and pedestrians and they are ready for occupation)

**"Costs"**

means the costs of delivering the relevant works which for the avoidance of doubt may include any or all of the following items of expenditure as may be applicable in relation to the works in question:

1. costs arising in connection with any construction contract let in connection with the construction and completion of the relevant works whether incurred directly by the Owner or Developer to include any payments incurred in relation to all statutory processes;
2. costs of inspection of the relevant works in order that they are certified as completed and/or that any Maintenance Period has successfully come to an end with any remedial works having been completed;
3. any reasonable bond or guarantee fees, commitment fees, procurement fees, finance charges and any interest payable on them attributable to the costs of the design and construction of the relevant works;
4. design costs including all professional fees associated with the design;
5. statutory fees;
6. costs associated with requirements of statutory undertakers;
7. commuted sum payments in relation to future management and maintenance of the relevant works where applicable;
8. reasonable legal, administrative, agents and consultancy fees (whether such fees relate to the Owner's or Developer's internal staff or employees or external advisors) as may be associated with the entering into of any construction contract or any other contract for the design construction and completion of the relevant works which for the avoidance of doubt shall include any costs associated with any statutory consents or agreements necessary to facilitate the construction and completion of the relevant works

**"County Agreement"**

means a legal agreement to be entered into between the Owner the Developer and the County Council prior to the grant of the Planning Permission to address the requirements in respect of highways education and libraries

**"County Council"**

means Gloucestershire County Council

**"Deed"**

means this Deed made pursuant to Section 106 of the 1990 Act and all other enabling powers

**"Deemed Approval Process"**

means the process set out in Clause 10 of this Deed

<b>"Development"</b>	means the Development of the Site pursuant to the Planning Permission
<b>"Doctor's Surgery"</b>	means a surgery providing the services normally offered by a General Practitioner, doctors or medical centre and ancillary services usually associated with such a surgery or other such healthcare services as may be agreed with the Council
<b>"Doctor's Surgery Site"</b>	means the Serviced site in the area shown marked "Doctor's Surgery" on Plan 2 or such other area agreed in writing with the Council being 0.2 hectares within the Neighbourhood Centre
<b>"Doctor's Surgery Marketing Period"</b>	means the period starting from the date of Completion of 408 Dwellings and ending on the later of the following : <ul style="list-style-type: none"> <li>a) the Occupation of the last Dwelling within the Site; and</li> <li>b) in the event that before the date of Occupation of the last Dwelling within the Site the Land South of Haresfield Lane receives planning permission for residential development then on the Occupation of the last Dwelling constructed within the Site and the last dwelling constructed pursuant to such planning permission for residential development on Land South of Haresfield Lane; and</li> <li>c) the tenth anniversary of first Occupation of the 408<sup>th</sup> Dwelling</li> </ul>
<b>"Dwelling"</b>	means a dwelling (including a house flat or maisonette) to be constructed pursuant to the Planning Permission
<b>"Expert"</b>	means an independent person of at least 10 years standing in the area of expertise relevant to the dispute to be agreed between the Parties or, failing agreement, to be nominated at the request and option of any of them, at their joint expense, by or on behalf of the President for the time being of the Law Society
<b>"Fallback AH Contribution"</b>	means a sum representing 35% of the Open Market Value of each of the Affordable Housing Unit that should be provided as a result of the Viability Reassessment that said sum is to be in lieu of onsite Affordable Housing provision pursuant to Part D of Schedule 2
<b>"Final Certificate"</b>	means a certificate issued or deemed to have been issued by the Council confirming that the works to which the certificate relates have been maintained to its reasonable satisfaction during the Maintenance Period and any remedial works have been completed
<b>"Foodstore"</b>	means a retail store for the sale of foodstuffs
<b>"Foodstore Site"</b>	means the Serviced site in the area shown marked "Food Store" for illustration purposes only on Plan 2 or such area agreed in writing with the Council as part of any reserved matters application within the Neighbourhood Centre
<b>"Foodstore Marketing Period"</b>	means a period of 36 months starting from the date of Completion of 408 Dwellings
<b>"Garden Village"</b>	means a village designed with the principles of Locally-Led Garden Villages, Towns and Cities Department for Communities and Local Government guidance March 2016 (as amended from time to time or superseded)

<b>"General Practitioner"</b>	means a qualified medical practitioner who treats all common medical conditions and refers patients to hospitals and other medical services for urgent and specialist treatment
<b>"Global Management Scheme"</b>	means a written scheme prepared by the Owner/Developer identifying: <ol style="list-style-type: none"> <li>1. the proposed standards of maintenance and repair to be achieved and maintained for each of the Community Centre Building, Allotment Land, Open Spaces and Sports Pitches that may be transferred to the Management Company;</li> <li>2. the estimated costs associated with those standards of maintenance and repair for each of the Community Centre Building, Allotment Land, Open Spaces and Sports Pitches; and,</li> <li>3. the Initial Management Cost per Dwelling</li> </ol>
<b>"Healthcare Providers"</b>	means any body or organisation providing services commissioned by the NHS England or as agreed between the Owner and the Developer and the Council
<b>"Interest Bearing Account"</b>	means an interest bearing account with a major clearing bank which attracts a rate of interest and which is on terms which would be acceptable to a reasonably prudent local authority
<b>"Index"</b>	means All Items Index of Retail Prices (Item Reference CHMK) issued by the Office for National Statistics provided that during any period where no such index exists, the index that replaces the same
<b>"Index Linked"</b>	means adjusted in line with movements in the Index between the date of this Deed and the date that the particular payment falls due
<b>"Initial Management Cost"</b>	means the estimated cost per Dwelling to be paid by way of estate rent charge for the purpose of maintenance and repair of the Community Centre Building, Allotment Land, Open Spaces and Sports Pitches as identified in the Global Management Scheme and which shall be the baseline cost against which any increase in estate rent charge following the first year following approval of the Global Management Scheme shall be measured pursuant to paragraph 4 of Part 8
<b>"Interest"</b>	means interest at 4% (four per cent) above the base-lending rate of the National Westminster Bank Plc from time to time
<b>"Intermediate Affordable Housing"</b>	means the Affordable Housing Units constructed on the Site that is housing provided at a cost above social rent but below their value as Open Market Dwellings for sale or for rent which meet the criteria set out in the National Planning Policy Framework (as amended from time to time) including shared equity (shared equity loans) Shared Ownership Housing Units or other low cost homes for sale and intermediate rent and also other approved affordable home ownership products as may be agreed with the Council or the Registered Provider
<b>"Land"</b>	means the land shown hatched and edged blue on Plan 5

"Land South of Haresfield Lane"

means the land shown edged red on Plan 3

"Lease"

means a lease for a term of 125 years in substantially the form set out in the form of lease annexed to this Deed at Appendix 2 with such reasonable amendments as shall be agreed by the parties to it acting reasonably

"Maintenance Period"

means the period of 12 months from the date of the relevant Certificate of Practical Completion

"Management Company"

means a management company (either that is already in existence or that is to be created) approved or deemed to have been approved pursuant to the Deemed Approval Process by the Council for the purposes of managing and maintaining any land, features or facilities as referred to in this Deed PROVIDED THAT full details of the memorandum and articles of association shall be provided to the Council

"Grant Monies"

Means any amount of funding received pursuant to an application for a grant which is then offered to the Owner/Developer to meet the costs of infrastructure and planning obligations relating to the Development and Site (whether such infrastructure and planning obligations arise from planning obligations and/or planning conditions and/or the Development itself) which are eligible for such funding

"Viability Reassessment Template"

Means the template in the form attached at Appendix 3 to be used by the Valuer for the Viability Reassessment PROVIDED THAT the On-Site Affordable Housing Sum shall be treated as a development cost for the purpose of the Viability Reassessment AND PROVIDED FURTHER THAT the template may be varied to reflect the planning permission granted but to take account of prevailing building regulations and Affordable Housing Sum rules as proposed by the Owner/Developer and any such variations shall first be approved by the respective party proposing the variation and the Deemed Approval Process shall apply to such approvals AND PROVIDED ALWAYS THAT for the purpose of the Viability Reassessment the total cost of infrastructure and planning obligations on the Development (whether such infrastructure and planning obligations arise from planning obligations and/or planning conditions and/or the Development itself) shall be spread proportionately across all the developable areas within the Development AND all Grant Monies shall be taken into account for the purposes of the Viability Reassessment and treated as a "Receipt" to the Viability Reassessment Template

**"Management Scheme"**

means a written management scheme prepared by the Owner/Developer for the future operation, equipping and maintenance of the Community Centre Building, Allotment Land, Open Spaces and Sports Pitches such strategy to include the provision of financial contributions for the laying out, equipping and maintenance of the Community Centre Building, Allotment Land, Open Spaces and Sports Pitches which shall include the following:-

1. frequency of maintenance;
2. measures to replace any trees shrubs or turf which may die or become diseased following implementation of the Management Scheme;
3. standard of maintenance and repair to be achieved and maintained including (but not limited to) any structure, interior, car park and curtilage;
4. where a Management Company is to manage and maintain the Community Centre Building, Allotment Land, Open Spaces and/or the Sports Pitches ( as applicable) how the costs of the maintenance shall be funded and shall generally accord with the principles set out in Appendix 5 and which may be amended from time to time as may be proposed in writing by the Owner/Developer and agreed in writing by the Council (the Deemed Approval Process shall apply to such amendments) AND for the avoidance of doubt this shall include a mechanism for recovery of maintenance costs of the land to be managed by the Management Company from each of the future owners of the Dwellings AND for the further avoidance of doubt shall not require the Owner/Developer to pay more than the amount provided for in paragraph 1.9 of Part 6 Schedule 2 to the Management Company for the maintenance of the Community Centre Building, Allotment Land, Open Spaces and the Sports Pitches;
5. where a Management Company is to manage and maintain the Community Centre Building, Allotment Land, Open Spaces and/or the Sports Pitches ( as applicable) details of the mechanism for ongoing maintenance in the event the Management Company either ceases to exist or goes into administration or otherwise fails to manage and maintain the Community Centre Building, Allotment Land, Open Space and Sports Pitches (as applicable) to the standards set out in the Management Scheme); and,
6. For the Community Centre Building ONLY access, opening hours and proposed Community Uses available for the community.

**"Masterplan"**

means the master plan submitted with the 2015 Application and approved by the Council and which is appended to this Agreement labelled "Figure 2.1 Outline Masterplan"



**"Marketing Strategy"**

means in the context in which the term is used one of the following as applicable:

(a) a strategy to be submitted to the Council by the Owner and / or the Developer and to be approved by the Council under the Deemed Approval Process containing information regarding:

- i. how it intends to promote the provision of a Doctor's Surgery to NHS England and/or Healthcare Providers; and,
- ii. the interest in the Doctor's Surgery Site available for purchase such interest to be that which would be generally acceptable to NHS England and/or Healthcare Providers and at least a lease of no less than 125 years; or

(b) a strategy to be submitted to the Council by the Owner and or the Developer and to be approved by the Council under the Deemed Approval Process containing information regarding:

- i. how it intends to promote the Foodstore Site to providers that would own operate or manage the Foodstore Site; and,
- ii. the interest in the Foodstore Site available for purchase such interest to be that which would be generally acceptable to providers that would own the Foodstore Site and at least a lease of no less than 125 years.

PROVIDED THAT in relation to strategies referred to in both (a) and (b) above the Council shall not be permitted to reject any strategy for the sole reason of the Developer/Owner has proposed a leasehold interest (of no less than 125 years) be disposed of.

**"Neighbourhood Centre"**

means the neighbourhood centre to be located as part of the Development as shown on the Masterplan referred to in conditions imposed on the Planning Permission

**"NHS England"**

means NHS England for the time being for the area which the Site is situated (or its successor body from time to time).

**"Nomination Agreement"**

means a binding agreement with the Council for the nomination of Persons in Housing Need to the Affordable Housing Units

**"Open Market Dwelling"**

means a Dwelling that is not an Affordable Housing Unit

**"Open Spaces"**

means the public open spaces play areas and play trail to be provided on the Site substantially in accordance with the Design and Access Statement Addendum May 2015

**"Open Spaces Lease"**

means the lease by the Owner/Developer to the lessee of the Open Spaces which shall be substantially in the form of the Lease annexed at Appendix 2 to this Deed

<b>"Open Spaces Specification"</b>	means the specification for the laying out of the Open Spaces or any part thereof submitted in relation to each Phase pursuant to Part 6 of Schedule 2 of this Deed such specification to include details of how the Open Spaces are to be laid out and equipped to broadly reflect the standard of 'Planning and Design for Outdoor Sport and Play' published by Fields In Trust (and applicable as at the date of the relevant specification for a phase being submitted) or such other standard as the Owner/Developer may propose and the Council may approve acting reasonably and the Deemed Approval Process shall apply to such approval
<b>"Open Spaces Uses"</b>	means play trails outdoor recreational play areas and green amenity open space and for no other purposes
<b>"Occupation" and "Occupied"</b>	means occupation for the 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>"On-Site Affordable Housing Sum"</b>	means £677,625 Index Linked
<b>"Open Market Value"</b>	means the market value of all or any of the Affordable Housing Units (" <b>market value</b> " being as defined Red Book) having regard to all relevant circumstances and based on the assumption that: <ol style="list-style-type: none"> <li>1. the Affordable Housing Units are provided for private open market sale on a private residential estate with vacant possession; and</li> <li>2. that no restrictions relating to Affordable Housing apply thereto</li> </ol>
<b>"Original Agreements"</b>	means the following planning agreements relating to development authorised by planning permission reference S.06.1429/OUT <ol style="list-style-type: none"> <li>(a) Section 106 Agreement dated 4 February 2008 and made between (1) the Council (2) the Owner (3) Crest Nicholson Regeneration Limited and (4) Marcus Beresford Heywood</li> <li>(b) Deed of Variation dated 19 January 2010 in relation to Council contributions and made between (1) the Council (2) the Owner and (3) the Developer</li> </ol>
<b>"Parish Council"</b>	means either Hardwicke Parish Council or Haresfield Parish Council
<b>"Parties"</b>	means the parties to this Deed and " <b>Party</b> " shall be construed accordingly
<b>"Person in Housing Need"</b>	means a person whose housing needs are not met by the market and is unable to compete in the local housing market as a result of the relationship between his or her income level and the rents or prices of such housing and " <b>Persons in Housing Need</b> " shall be construed accordingly
<b>"Phase"</b>	means each separate phase or section of the Development as approved by the Council in the Phasing Plan

<b>"Phasing Plan"</b>	means the plan to be approved by the Council in writing pursuant to the Planning Permission
<b>"Plan 1"</b>	means the plan attached hereto and marked "Plan 1" (reference 13143/1080/C)
<b>"Plan 2"</b>	means the plan attached hereto and marked "Plan 2" (reference 13143/1083/B)
<b>"Plan 3"</b>	means the plan attached hereto and marked "Plan 3" (reference 13143/1084/A)
<b>"Plan 4"</b>	means the plan attached hereto and marked "Plan 4" (reference 13143/1082/B)
<b>"Plan 5"</b>	means the plan attached hereto and marked "Plan 5"
<b>"Planning Permission"</b>	means the planning permission granted for the Development pursuant to the 2015 Application or any relevant planning permission referred to in clause 3.3 of this Deed
<b>"Phase 2"</b>	means the part of the Development shown coloured red on the Phase 2 Plan appended to this Deed unless otherwise agreed in writing
<b>"Phase 2 Plan"</b>	means the plan attached hereto and marked "Affordable Housing" (reference 13143/4001.5B)
<b>"Registered Provider"</b>	means a registered provider of social housing as defined in Housing and Regeneration Act 2008 who is registered with the Homes and Communities Agency and has not been removed from the register or other body nominated by the Council and registered with the Homes and Communities Agency, or such other body approved and nominated by the Council or such other body nominated by the Developer and approved by the Council
<b>"Reserved Matters"</b>	means has the same meaning as in the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) and as may be described as being reserved pursuant to the Planning Permission
<b>"Reserved Matters Applications"</b>	means an application for approval of Reserved Matters pursuant to the Planning Permission
<b>"Services"</b>	means the supply of water electricity and if appropriate gas radio television telephone and other audio visual and data signals and the disposal of foul and surface water and "Serviced" shall be constructed accordingly
<b>"Shared Ownership Housing Units"</b>	means those Affordable Housing Units to be let by way of Shared Ownership Lease to a Shared Ownership Occupier
<b>"Shared Ownership Lease"</b>	means a long shared ownership lease (as defined in Section 622 of the Housing Act 1985) with a Registered Provider in accordance with the Homes and Communities Agency model lease as at the date of any such lease

<b>"Shared Ownership Occupier"</b>	means a Person in Housing Need who is part renting and part purchasing an Affordable Housing Unit at the time of his first Occupation under a Shared Ownership Lease
<b>"Site"</b>	means the land against which this Deed may be enforced as shown edged red on Plan 1 and as described in Schedule 1
<b>"Social Rented Housing"</b>	means the Affordable Housing Units constructed on the Site that shall be rented housing owned and managed by local authorities or a Registered Provider for which guideline target rents are determined through the national rent regime. It may also include rented housing owned or managed by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Housing Corporation as a condition of grant
<b>"Sports Pitches "</b>	means the sports pitches to be provided on the Site substantially in accordance with the Design and Access Statement Addendum May 2015
<b>"Sports Pitches Lease"</b>	means the lease by the Owner/Developer to the lessee of the Sports Pitches which shall be substantially in the form of the Lease annexed at Appendix 2 to this Deed
<b>"Sports Pitches Costs Cap"</b>	means £1,117,121 (one million one hundred and seventeen thousand one hundred and twenty one pounds sterling) Index Linked such amount to cover the Costs arising in connection with any construction, surfacing, fencing, equipment, litter bins, and costs associated with design, surveying, setting out and installation of any Sports Pitches
<b>"Sports Pitches Specification"</b>	means the specification for the Sports Pitches as described on the plan appended to this Deed with drawing reference number 4339_SK002 which shows the details for the laying out and equipping of the two senior football pitches, two junior football pitches, four mini football pitches, one all weather training pitch and three porous macadam tennis courts AND FOR THE AVOIDANCE OF DOUBT no further items other than those listed above shall be required to be included in the Sports Pitches Specification unless otherwise agreed in writing
<b>"Sports Pitches Uses"</b>	means pitches for use as outdoor sports pitches or sports grounds as an outdoor playing area for various sports
<b>"Substantiated Offer"</b>	means an offer to acquire a freehold or leasehold interest which reflects the market value for the land in accordance with the RICS Appraisal and Valuation Standards
<b>"Summary Viability Report"</b>	means the summary report to be produced by the Valuer in relation to the Viability Reassessment which shall follow the format of the template summary report attached as Appendix 4

- "Valuer"** means Tony Williams of the District Valuation Office or such other district valuer or appropriately qualified individual specialising in financial audits of comparable status and experience as may be proposed in writing by either the Owner and/or the Developer to the Council for approval or as may be proposed in writing by the Council to the Owner and the Developer for approval and the provisions of the Deemed Approval Process shall apply to such approval
- "Viability Reassessment"** means a viability assessment in relation to the provision of Affordable Housing within the Development in accordance with the Viability Reassessment Template *(excluding the first 750 Dwellings)*
- ~~**"Viability Reassessment Template"** means the template in the form attached at Appendix 3 to be used by the Valuer for the Viability Reassessment PROVIDED THAT the On Site Affordable Housing Sum shall be treated as a development cost for the purpose of the Viability Reassessment AND PROVIDED FURTHER THAT the template may be varied to reflect the Planning Permission granted but to take account of prevailing building regulations and Affordable Housing tenure mixes as proposed by the Owner/Developer and any such variations shall first be approved by the respective party proposing the variation and the Deemed Approval Process shall apply to such approvals~~
- "Viability Sum"** means the sum that is in the Summary Viability Report produced by the Valuer which represents what the Development can viably and reasonable sustain to contribute to Affordable Housing purposes as provided for in Part A of Part 5 of Schedule 2
- "Woodland Carbon Code Scheme"** means the voluntary standard for woodland creation projects in the United Kingdom by the Forestry Commission designed to give assurance and clarity about the carbon savings of these sustainably managed woodlands (as amended from time to time or superseded)
- "Working Day"** means a day other than a Saturday or Sunday or public holiday or between 25 December and 1 January of the following year inclusive in England and **"Working Days"** shall be construed accordingly

## 2. CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed 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 Deed.
- 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 Whenever 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 All headings in this Deed are for ease of reference only and are not part of this Deed nor are they intended to be used as a guide to its interpretation.

- 2.6 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, permission and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.7 References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Council the successors to its statutory functions.
- 2.8 Each of the Parties hereto shall act in good faith and shall co-operate with each of the other Parties hereto as relevant to facilitate the discharge and performance of all obligations contained herein.
- 2.9 Save where provided at clause 2.10 below, 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.
- 2.10 The expression "Owner/Developer" used in this Deed refers to the Owner and/or Developer as applicable which shall be determined as the obligations and/or clause and/or circumstances in which the expression is used may require and shall depend on which party has the necessary legal interest in the Site ( or part thereof) to which the obligation or clause relates and where either party does not have such a legal interest the Council shall not enforce the provisions of this Deed against such party.

### 3. LEGAL BASIS

- 3.1 This Deed is made pursuant to Section 106 of the Act, Sections 111 120 and 139 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers insofar as the same may be relevant to the enforcement of the obligations contained in this Deed.
- 3.2 The covenants, restrictions and requirements imposed upon the Owner and/or the Developer under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Developer and/or the Owner.
- 3.3 If the Council agrees pursuant to an application under section 73 of the Act to any variation or release of any condition contained in the Planning Permission or if any such condition is varied or released following an appeal under section 78 of the Act the covenants or provisions of this Deed shall be deemed to bind the varied permission and to apply in equal terms to the new planning permission.
- 3.4 The Owner the Developer and the Council agree that from the date of this Deed the Site shall be released from the provisions of the Original Agreements and those obligations set out in this Deed shall apply to the Site PROVIDED THAT those Original Agreements shall otherwise continue in full force and effect in relation to the balance of the Land not forming part of the Site.

### 4. CONDITIONALITY

- 4.1 This Deed is conditional upon:-
- 4.1.1 the grant of the Planning Permission; and
- 4.1.2 the Commencement of Development

SAVE FOR the provisions of this Clause 4, Clause 7.3.1 (Registration as Local Land Charge) Clause 16 (Jurisdiction) and Clause 17 (Delivery) which shall come into effect immediately upon completion of this Deed.

5. **THE OWNER'S COVENANTS**

The Owner and the Developer covenant with the Council to comply with the obligations as set out in Schedule 2.

6. **THE COUNCIL'S COVENANTS**

6.1 The Council covenants with the Owner and the Developer as set out in Part 9.

7. **MISCELLANEOUS**

7.1 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to this Deed or their successors in title.

7.2 This Deed shall be registerable as a local land charge by the Council.

7.3 The Parties hereby consent to the registration of this Deed as a Local Land Charge and the Council shall accordingly:-

7.3.1 effect the registration of this Deed as a Local Land Charge in the Register of Local Land Charges immediately following the date of this Deed; and

7.3.2 where this Deed comes to an end whether following the performance and satisfaction of all the obligations contained in this Deed or whether in accordance with Clause 7.5 the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.

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

7.5 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Permission shall be quashed, revoked or otherwise withdrawn or expires (without consent of the Owner/Developer) prior to the Commencement of Development.

7.6 Where the Deed ceases to have effect pursuant to clause 7.5 above any monies paid under this Deed to the Council that are unspent at the date the Deed comes to an end shall be returned to the Party that made the payment within 30 Working Days of the Deed coming to an end together with Interest actually accrued on the monies from (and including) the date of payment to (and including) the date of repayment PROVIDED THAT this Clause shall not require the Council to pay back monies paid under this Deed which are committed (which shall mean unconditionally contractually committed or committed in adopted planning policy) or the Commuted Sum.

7.7 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest (save for its freehold interest in the Allotment Land, the Community Centre Building, the Open Spaces or the Sports Pitches) in the Site or in the part of the Site in respect of which such breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest. The reservation of any rights or the inclusion of any covenants or restrictions over the Site in any transfer of the Site and the freehold interest in the Primary School Site, the allotments, the Community Centre Building the Open Spaces or the Sports Pitches will not constitute an interest for the purposes of this Clause.

7.8 This Deed shall not be enforceable against owner occupiers or tenants of Dwellings nor against those deriving title from them and the terms of this Deed should not bind an individual residential occupier of a Dwelling.

7.9 This Deed shall not be enforceable against any statutory undertaker or other person who acquires any part of the Site or any interest in it for the purposes of the supply of electricity, gas, water, drainage telecommunication services or public transport services.

7.10 Nothing in this Deed 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 (whether or not on appeal) after the date of this Deed.

7.11 Upon the satisfaction of any obligation under this Deed the Council shall forthwith upon the receipt of a written demand for such provide the Owner and the Developer with written confirmation of the satisfaction of that obligation.

## 8. **WAIVER**

It is hereby agreed by the Parties hereto that failure by the Council at any time to enforce the provisions of this Deed or to require performance strictly or otherwise by the Owners of any of the conditions, covenants, agreements, or obligations of this Deed or any failure or delay by the Council to exercise any act right or remedy shall not:

- (a) be construed as a waiver of or as creating an estoppel in connection with any such condition covenant agreement or obligation; nor
- (b) affect the validity of this Deed or any part thereof or the right of the Council to enforce any provision;

and any variation of this Deed agreed between the Owners and the Council shall not vitiate the remainder of the Deed which shall remain in full force and effect subject to such agreed amendments.

## 9. **CHANGE IN OWNERSHIP**

The Owner and the Developer agree with the Council to give the Council immediate written notice of any change in ownership of any of their interests in the Site save for any transfer to the Developer and/or in respect of a Dwelling and/or where such transfer or lease is made as a result of any obligation contained in this Deed and which occurs before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan.

## 10. **DEEMED APPROVAL PROCESS**

10.1 Where it is provided in this Deed that a matter is to be agreed by any of the Parties or approved by, consented to or an expression of satisfaction given by the Council then the following provisions of this Clause shall apply.

10.2 References in this Clause to "Document" shall be construed as referring to any documents, details of an entity or organisation or other matters or details which have been submitted to any of the Parties including the Council for approval provided that such submission has been sent by recorded delivery post to the relevant Party as appropriate in accordance with the relevant provisions in Clause 18.

10.3 If following submission of a Document to any of the Parties the Party receiving submission of a Document does not respond in writing within 30 Working Days of deemed receipt of the Document pursuant to Clause 18 then it shall be deemed that no revisions are required to such Document and the Document shall be deemed to have been approved by the other Parties.

10.4 If the Council notifies the Owner/Developer (as applicable according to which has submitted the Document to the Council) of any of the following which it reasonably requires:-

10.4.1 any amendments or comments to a Document; or

10.4.2 any change to the identity of any entity or organisation which is proposed for approval



and the Owner/Developer (as applicable) agrees that the amendments are reasonable then the Owner/Developer (as applicable) shall incorporate:-

- 10.4.3 the amendments into the Document; or
  - 10.4.4 change the identity of the entity or organisation to that proposed by Council and the Document as amended shall subject to Clause 10.5 below be deemed to have been approved by the Council without further action or approval.
- 10.5 The Owner/ Developer (as applicable according to which has submitted the Document to the Council) shall confirm to the Council in writing that the amendments have been incorporated and agreed and provide the Council with such number of copies of the Document as the Council shall reasonably require save that no further information or copies of Documents shall be required to be sent in addition to the written confirmation to the Council in relation to approval of an entity or organisation.
- 10.6 If either the Owner or the Developer (as applicable according to which has submitted the Document to the Council) does not agree to any or to only some of the amendments notified to it by the Council pursuant to Clause 10.4 then the relevant party shall notify the Council of this and provide written reasons why the amendments or comments have not been agreed and if the parties to the dispute cannot within 30 Working Days thereafter agree the terms of the relevant Document then the provisions of Clause 12 of this Deed shall apply and:-
- 10.6.1 if the Expert's decision is that the amendments are reasonable and should be incorporated or the identity of an entity or organisation should be changed to that proposed by the Council then the Document shall be deemed to be approved with those amendments being incorporated;
  - 10.6.2 if the Expert's decision is that the amendments are unreasonable and should not be incorporated then the Document shall be deemed to be approved without those amendments being incorporated and in the case of the entity or organisation it shall be the entity or organisation as proposed by the Owner/Developer (as applicable) that shall be deemed to be approved; or
  - 10.6.3 if the Expert's decision is that the document be rejected or that the entity or organisation should not be deemed to be approved then there shall be no Deemed Approval Process for the purposes of this Clause.
- 10.7 Where the Council within 30 Working Days of deemed receipt of the Document pursuant to Clause 10.4 notifies the Owner and/or Developer in writing that they reject the Document and provide written reasons for the rejection and if the Owner/ Developer (as applicable) and the Council cannot without 30 Working Days thereafter agree the terms of the relevant Document then the provisions of Clause 12 of this Deed shall apply and:-
- 10.7.1 if the Expert's decision is that the rejection is unreasonable then the expert shall review whether any amendments to the Document would be reasonable and then either:
    - (a) If the Expert's decision is that amendments would be reasonable then the Document shall be deemed to be approved with those amendments being incorporated and in the case of the entity or organisation it shall be the entity or organisation as proposed by the Owner/Developer (as applicable) that shall be deemed to be approved; or
    - (b) if the Expert's decision is that no amendments are reasonable and should not be incorporated then the Document shall be deemed to be approved without any amendments being incorporated and in the case of the entity or organisation it shall be the entity or organisation as proposed by the Owner/Developer (as applicable) that shall be deemed to be approved;

10.7.2 if the Expert's decision is that the document be rejected or that the entity or organisation can be rejected then there shall be no Deemed Approval Process for the purpose of this Clause.

10.8 The provisions of Clause 10.4 to 10.7 shall apply equally where the Council submit Documents under this Deed to any of the other Parties for agreement or approval and for the avoidance of doubt for the purposes of this Clause only all references in Clause 10.4 to 10.7 to "Owner/Developer " shall be replaced by "the Council" and references to "the Council" shall be replaced by " Owner /Developer".

## 11. ENFORCEMENT PROTOCOL

Before taking action to enforce any of the terms of this Deed the Council shall give written notice to the Owner and Developer stating the nature of the breach, the steps required to remedy the breach and shall agree a timescale with the Owner/Developer for remedying the breach.

## 12. DISPUTE RESOLUTION

12.1 If a dispute between the Parties persists beyond 10 Working Days and relates to any matter contained in this Deed (including any dispute relating to a matter to be agreed or approved under the Deemed Approval Process in Clause 10 of this Deed, but excluding any matter of law), the dispute may be referred to the Expert by any Party. The Expert shall act as an expert and not as an arbitrator. His decision shall be final and binding on the Parties.

12.2 Each Party shall bear its own costs and the Expert's costs shall be paid as determined by him.

12.3 The Expert shall be appointed subject to an express requirement that he must reach his decision and communicate it to the Parties within the minimum practical timescale allowing for the nature and complexity of the dispute, and in any event not more than 25 Working Days from the date of his appointment to act. His decision shall be given in writing with reasons and in the absence of manifest error shall be binding on the Parties.

12.4 The Expert shall be required to give notice to each of the Parties, inviting each of them to submit to him within 10 Working Days written submissions and supporting material and shall afford to the Parties an opportunity to make counter submissions within a further 5 Working Days in respect of any such submission and material.

## 13. INDEXATION

Any sum referred to in Schedule 2 shall be increased or decreased by an amount equivalent to the increase in the Index from the date hereof until the date on which such sum is payable.

## 14. INTEREST

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

## 15. VAT

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable save in relation to any contributions made pursuant to this Deed in relation to which VAT will not be recoverable.

## 16. JURISDICTION

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

**17. DELIVERY**

Subject to Clause 4 the provisions of this Deed (other than this Clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

**18. NOTICES**

18.1 Any notice or other written communication to be served upon a Party or given by one Party to any other under the terms of this Deed shall be deemed to have been validly served or given if delivered by hand or sent by first class post or sent by recorded delivery post to the Party upon whom it is to be served or to whom it is to be given and shall conclusively be deemed to have been received on:-

18.1.1 if delivered by hand, the next Working Day after the day of delivery;

18.1.2 if sent by post, the day 2 Working Days after the date of posting; or

18.1.3 if sent by recorded delivery, at the time delivery was signed for.

18.2 If a notice, demand or any other communication is served after 4.00pm on a Working Day, or on a day that is not a Working Day, it is to be treated as having been served on the next Working Day.

18.3 The address for any notice or other written communication shall be within the United Kingdom.

18.4 For the avoidance of doubt, where proceedings have been issued in the Courts of England the provisions of the Civil Procedure Rules must be complied with in respect of the service of documents in connection with those proceedings.

18.5 A notice or communication shall be served or given:-

18.5.1 on the Owner at Mount Farm, Haresfield, Stonehouse, Glos. GL10 3EQ (FAO Mark Heywood) or such other address as shall be notified in writing to the Council from time to time;

18.5.2 on the Developer at its registered office from time to time or such other address as shall be notified in writing to the Council from time to time; and

18.5.3 on the Council at the address set out above or such other address as shall be notified in writing to the Owner/Developer from time to time, marked for the attention of the Planning Manager or equivalent at the time.

18.6 Any notice or other written communication to be given by the Council shall be deemed valid and effectual if on its face it is signed on behalf of the Council by an officer or duly authorised signatory.

**19. INDEMNITIES**

19.1 The Developer hereby indemnifies the Owner against any costs, liabilities, losses, charges, damages, actions, demands and proceedings, associated with any of the obligations under this Deed and conditions contained in the Permission that are triggered by the Developer developing any part of the Site SAVE THAT this indemnity shall not extend to cover those obligations and conditions that are in the absolute control of the Owner..

19.2 The Developer hereby indemnifies the Owner against any costs, liabilities, losses, charges, damages, actions, demands and proceedings associated with any of the obligations under this Deed and conditions contained in the Permission which are in absolute control of the Owner and which are effective prior to Commencement.

19.3

20. **THE MORTGAGEE**

20.1 The Mortgagee acknowledges and declares that:-

20.1.1 this Deed has been entered into by the Owner with its consent;

20.1.2 the part of the Site that is subject to the Mortgagee's interest shall be bound by the obligations contained in this Deed; and

20.1.3 the security of the mortgagee over the part of the Site that is subject to the Mortgagee's interest shall take effect subject to this Deed.

20.2 Any mortgagee shall be liable only for any breach of the provisions of this Deed during such period as he is a mortgagee in possession of the Site and shall not be liable for any breach of the provisions of this Deed after he has parted with or released his interest in the Site.

21. **WARRANTY**

21.1 The Owner hereby warrants to the Council that it has not leased mortgaged charged or otherwise created any interest in the Site material to the provisions of this Deed other than already stated above at the date of this Deed.

21.2 The Developer hereby warrants to the Council that it has not leased mortgaged charged or otherwise created any interest in titles GR352076, GR341811 and GR344186 material to the provisions of this Deed other than already stated above at the date of this Deed.

## SCHEDULE 1

### DETAILS OF THE OWNER'S AND THE DEVELOPER'S TITLE AND DESCRIPTION OF THE SITE

All that land at Hunts Grove, Hardwicke Gloucestershire as is shown edged in red on Plan 1 registered at the Land Registry under freehold title numbers GR192357; GR340276; GR352076; GR341811; GR344186 and leasehold title numbers GR234869; GR239420; GR340584; and GR340585

## SCHEDULE 2-THE OWNER'S COVENANTS WITH THE COUNCIL

### PART 1- PROVISION OF THE COMMUNITY CENTRE BUILDING

1. The Owner/Developer covenant with the Council:
  - 1.1 The Owner/Developer shall include as part of the submission for the reserved matters for the Phase in which is situated the Community Centre Building the location of that Community Centre Building and the Community Centre Building shall be constructed in that location.
  - 1.2 Not to commence construction of the Community Centre Building until the Owner/Developer has:
    - 1.2.1 submitted to the Council a detailed Community Centre Building specification that (a) accords with the outline specification set out in Appendix 1 to this Deed and Sport England's Design Guidance Note for Village and Community Centre Buildings and (b) the total of the Costs of the Community Centre Building does not exceed the Community Centre Buildings Costs Cap shall be submitted by the Owner and the Developer to the Council for approval and shall be approved by the Council in accordance with the Deemed Approval Process PROVIDED THAT the Council shall not be entitled to reject any such specification on the basis that the Council would require a different specification that would result in Costs that would exceed the Community Centre Building Cost Cap AND FURTHER PROVIDED THAT the Owner/Developer shall provide a breakdown of the Costs to be incurred to provide the Community Centre Building in accordance with the submitted Community Centre Building Specification and submit evidence with the Community Centre Building Specification to demonstrate that:
      - (a) they have used reasonable endeavours to maximise the facilities to be provided as part of the Community Centre Building Specification within the Community Centre Building Cost Cap; and
      - (b) the Costs included within the Community Centre Building Specification are representative of industry norms at the time that the Community Centre Building Specification is submitted to the Council.
  - 1.3 Not to cause or permit Occupation of more than 658 Dwellings until the Owner/Developer has:
    - 1.3.1 constructed and fitted out the Community Centre Building in accordance with the specification approved pursuant to paragraph 1.2 above; and,
    - 1.3.2 submitted that part of the Management Scheme which relates to the Community Centre Building for approval by the Council through the Deemed Approval Process PROVIDED THAT the Owner/Developer shall be permitted to seek to amend the approved Management Scheme at any time following the initial approval or deemed approval of the Management Scheme **SAVE THAT** in seeking to do so the Owner shall submit such amendments to the Council in writing and the Deemed Approval Process shall apply in relation to the approval or deemed approval of those amendments.
  - 1.4 The Owner/Developer shall use reasonable endeavours to procure the issue of a building control completion certificate in respect of the Community Centre Building.
  - 1.5 The Owner/Developer shall notify the Council in writing within 1 (one) month of Completion of the Community Centre Building.
  - 1.6 Not to use the Community Centre Building for any use other than Community Uses and to manage and maintain the Community Centre Building in accordance with the Management Scheme.
  - 1.7 Following Completion of the Community Centre Building the Owner/Developer shall within 2 months grant a lease of the Community Centre Building to the Management Company in the form of the Community Centre Lease and such Management Company will insure and maintain or procure the insurance and maintenance of the Community Centre Building throughout the term.

- 1.8 Nothing in this Schedule shall prevent the Owner and/or Developer and/or Management Company at a point in the future transferring or assigning their interest in the Community Centre Building to the Parish Council and/or Alternative Body and/or the Council to maintain and manage the Community Centre Building where in the future either the Parish Council and/or Alternative Body and/or the Council has expressed a desire to manage and maintain the Community Centre Building SUBJECT TO payment of the Commuted Sum where the transfer or assignment of their interest is to the Council or Parish Council or Alternative Body.

## **PART 2 - PROVISION OF THE DOCTOR'S SURGERY**

1. The Owner/Developer covenant with the Council:
- 1.1 The Owner/Developer shall include a Doctor's Surgery as part of the submission for the reserved matters for the Phase in which the Doctors' Surgery Site is to be situated.
- 1.2 The Owner/Developer shall set aside (and use reasonable endeavours to keep clean and tidy, free from rubbish) within the Neighbourhood Centre the Doctor's Surgery Site and market it for general practitioner purposes for the Doctors' Surgery Marketing Period pursuant to the Marketing Strategy.
- 1.3 The Owner/Developer shall during the Doctors' Surgery Marketing Period retain the Doctors Surgery Site for the purposes only of a Doctors Surgery and shall be bound to accept any Substantiated Offers for the purchase of such interest as set out in the Marketing Strategy of the Doctors' Surgery Site for its development and use as a Doctor's Surgery or other D1 uses IT BEING AGREED THAT if the Owner/Developer receives a Substantiated Offer for an alternative non-healthcare related scheme the Owner/Developer shall be entitled to accept such Substantiated Offer provided it has first obtained written approval from the Council of such alternative scheme for the avoidance of doubt said written approval is separate from and in addition to any planning consent or permission that maybe required for said alternative non Doctor's Surgery related scheme.
- 1.4 The Owner and the Developer and the Council acknowledge and agree that if on the expiry of the Doctors' Surgery Marketing Period the disposal or contract for the disposal of the freehold interest or grant of a leasehold interest in the Doctor's Surgery Site has not occurred or relevant contracts been exchanged then the Owner and the Developer shall no longer be required to retain the Doctors' Surgery Site for the purposes of a Doctor's Surgery and the Owner and Developer shall be released from the covenants and the Owner/Developer covenant to use the land for such purposes as are appropriate to the Neighbourhood Centre as are agreed by the Council.

### PART 3 - PROVISION OF THE FOODSTORE

1. The Owner/Developer covenant with the Council:
  - 1.1 The Owner/ Developer shall include a Foodstore as part of the submission for the reserved matter phase for the Phase in which the Foodstore Site is to be situated.
  - 1.2 The Owner/ Developer shall set aside (and use reasonable endeavours to keep clean and tidy, free from rubbish) within the Neighbourhood Centre the Foodstore Site and market it for the purposes of a Foodstore pursuant to the Marketing Strategy.
  - 1.3 The Owner/Developer shall during the Foodstore Marketing Period retain the Foodstore Site for the purposes only of a Foodstore and shall be bound to accept any Substantiated Offers for the purchase of such interest as set out in the Marketing Strategy of the Foodstore Site for its development and use as a Foodstore or other A1 uses IT BEING AGREED THAT if the Owner/ Developer receives a Substantiated Offer for an alternative scheme to a Foodstore the Owner/Developer shall be entitled to accept such Substantiated Offer provided it has first obtained written approval from the Council of such alternative scheme for the avoidance of doubt said written approval is separate from and in addition to any planning consent or permission that maybe required for said alternative non Foodstore related scheme.
  - 1.4 The Owner and the Developer and the Council acknowledge and agree that if on the expiry of the Foodstore Marketing Period the disposal or contract for the disposal of the freehold interest or grant of a leasehold interest in the Foodstore Site has not occurred or relevant contracts exchanged then the Owner and the Developer shall no longer be required to retain the Foodstore Site for the purposes of a Foodstore and the Owner/Developer covenant to use the land for such purposes as are appropriate to the Neighbourhood Centre as are agreed by the Council.

### PART 4 - ALLOTMENTS

1. The Owner/Developer covenant with the Council:
  - 1.1 Not to cause or permit Occupation of more than 308 Dwellings until the Owner/Developer has:
    - 1.1.1 submitted the Allotments Specification which shall set out combined Costs of providing the allotments (within all Phases) that do not exceed the Allotments Cost Cap to the Council for approval in accordance with the Deemed Approval Process PROVIDED THAT the Council shall not be entitled to reject any Allotments Specification on the basis that the Council would require a different specification that would result in Costs that would exceed the Allotments Cost Cap
    - 1.1.2 provided a breakdown of the Costs to be incurred to provide the allotments in accordance with the submitted Allotments Specification and submit evidence with the Allotments Specification to demonstrate that:
      - (a) they have used reasonable endeavours to maximise the facilities to be provided as part of the Allotments Specification within the Allotments Cost Cap; and
      - (b) the Costs included within the Allotments Specification are representative of industry norms at the time that the Allotments Specification is submitted to the Council.
  - 1.2 Not to cause or permit Occupation of more than 408 Dwellings until the Owner/Developer have:
    - 1.2.1 provided and laid out the allotments in accordance with the approved Allotments Specification; and,



- 1.2.2 submitted that part of the Management Scheme which relates to the Allotment Land for approval by the Council through the Deemed Approval Process PROVIDED THAT the Owner/Developer shall be permitted to seek to amend the approved Management Scheme at any time following the initial approval or deemed approval of the Management Scheme **SAVE THAT** in seeking to do so the Owner shall submit such amendments to the Council in writing and the Deemed Approval Process shall apply in relation to the approval or deemed approval of those amendments.
- 1.3 Not to use the allotments for any use other than Allotment Uses and to manage and maintain the Allotment Land in accordance with the Management Scheme.
- 1.4 Following the provision and laying out of the allotments on the Allotment Land the Owner/Developer shall grant a lease of the Allotment Land to the Management Company in the form of the Allotment Land Lease.
- 1.5 Nothing in this Schedule shall prevent the Owner and/or Developer and/or Management Company at a point in the future transferring or assigning their interest in the Allotment Land to the Parish Council and/or Alternative Body and/or the Council to maintain and manage the Allotment Land where in the future either the Parish Council and/or Alternative Body and/or the Council has expressed a desire to manage and maintain the Allotment Land SUBJECT TO payment of the Commuted Sum where the transfer or assignment of their interest is to the Council or Parish Council or Alternative Body.

## **PART 5 - AFFORDABLE HOUSING**

### **PART A - VIABILITY REASSESSMENT**

1. The Owner/Developer covenant as follows:
- 1.1 Not to Complete or permit to be Completed more than 750 Dwellings until:
- 1.1.1 the Owner/Developer, provided that the Council the Owner/Developer shall have first agreed the identity of the Valuer, have instructed the Valuer jointly on behalf of the Developer, Owner and the Council to produce a Viability Reassessment and Summary Viability Report and said instruction shall include provision for a meeting pursuant to paragraph 1.2 of this Part of this Schedule; and
- 1.1.2 the Owner/Developer have provided the Valuer with all relevant information required for the Valuer to undertake the Viability Reassessment such information shall be provided to the Valuer within 10 Working Days of the date of the initial instruction referred to at paragraph 1.1.1 above PROVIDED THAT
- (a) the Owner/Developer shall not be required to provide the Council directly with such financial and other relevant data nor viability model information it being agreed that the Parties shall rely upon the Valuer to determine the Viability Reassessment; and
- (b) if the Valuer determines additional information is necessary to their understanding of any of the figures to be used in the Viability Reassessment or in order to generate information figures or data forming part of the Viability Reassessment then the Developer and/or Owner and/or the Council (as applicable depending on which party has access or control or such relevant information) shall promptly submit such additional information to the Valuer; and

1.1.3 the Valuer has produced in writing a Summary Viability Report to the Council the Owner and the Developer and the Council has approved in writing the Summary Viability Report or is deemed pursuant to the Deemed Approval Process to have approved the Summary Viability Report.

1.2 Following the issue of the Summary Viability Report by the Valuer the Council may request a meeting with the Valuer to scrutinise the content and output of the Summary Viability Report and background data PROVIDED THAT any such meeting may also be attended by the Owner/Developer PROVIDED FURTHER THAT any such meeting shall only proceed if using reasonable endeavours the time, date and venue of said meeting is agreed with the Owner and Developer in writing with all parties acting in good faith and a minimum of 2 weeks' notice to be provided of the time, date and venue of said meeting.

1.3 If the Summary Viability Report identifies that there is positive viability such that a Viability Sum has been identified then the provisions of Part C of this Part 5 shall apply PROVIDED THAT the percentage of Dwellings to be provided as Affordable Housing Units within that part of the Development that remains to be developed following the Completion of the 750 Dwelling on the Site shall not exceed 30% regardless of the quantum of the Viability Sum.

1.4 The Parties agree that no Affordable Housing Units shall be required to be provided as part of the first 750 Dwellings to be constructed on the Site save as provided for in Part B of this Part 5 in recognition of the results of the viability assessment undertaken and agreed before the date of this Deed.

1.5 The Owner/Developer shall pay all reasonable costs of the appointment of the Valuer.

1-6 *The Owner/Developer shall provide the Council with all information reasonably required by the Council to undertake an application for any Grant Monies and such information shall be provided to the Council within 10 working days of the Council's request*

**PART B - PHASE 2**

1. The Developer/Owner covenant as follows:

1.1 Prior to submission of Reserved Matters applications in relation to Phase 2 the Owner/Developer shall submit to the Council the Affordable Housing Phase 2 Scheme for approval AND the Owner/Developer shall not submit Reserved Matters applications for Phase 2 until such time as the Council shall have approved the Affordable Housing Phase 2 Scheme such approval to be subject to the Deemed Approval Process.

1.2 The Owner/Developer shall not cause or permit the Occupation of more than 600 Dwellings constructed on the Site until the Affordable Housing Units referred to in the Affordable Housing Phase 2 Scheme have been completed and are ready for Occupation.

1.3 The provisions of Part D of this Schedule shall apply in relation to the Affordable Housing Units referred to in the Affordable Housing Phase 2 Scheme and any reference to "Affordable Housing Scheme" shall be replaced with "Affordable Housing Phase 2 Scheme" and any reference to "Fallback AH Contribution" shall be replaced with "On-Site Affordable Housing Sum".

1.4 If by 6 years after the date of this Deed the Owner/Developer has not submitted Reserved Matters applications in relation to Phase 2 the Owner/Developer shall pay the Council the On-Site Affordable Housing Sum and shall thereafter be released from the requirement to provide any Affordable Housing Units as part of Phase 2 and from the restriction set out in paragraph 1.2 of this Part above.

**PART C - ON-SITE AFFORDABLE HOUSING PROVISION**

This Part C of this Schedule shall only apply where the provisions of paragraph 1.3 of Part A of this Part 5 apply and it has been shown that a Viability Sum exists, in which case, for Reserved Matters Applications submitted after the Completion of 750 Dwellings, the following covenants on the part of the Owner/Developer shall apply and each Phase in relation to which Reserved Matters Applications are submitted shall include Affordable Housing Units unless (a) the Council agrees that any such Phase does not need to include Affordable Housing Units and/or (b) until such time as the Viability Sum shall have been fully utilised:

1. The Owner/Developer covenant with the Council:
  - 1.1 Concurrently with the submission of Reserved Matters Applications for any Phase within in which Dwellings are to be located to formally submit in writing to the Council the Affordable Housing Scheme for that Phase for the Council's approval or deemed approval pursuant to the Deemed Approval Process.
  - 1.2 Not to Commence Development of any Phase which includes Dwellings until the Affordable Housing Scheme for that Phase has been approved or deemed approval has been obtained pursuant to the Deemed Approval Process.
  - 1.3 For the purpose only of complying with their obligations in respect of the marketing of any Affordable Housing Units in accordance with the terms of Part 5 of this Schedule, the Owner/Developer shall be permitted to seek to amend any approved Affordable Housing Scheme at any time following the initial approval or deemed approval of the relevant Affordable Housing Scheme SAVE THAT in seeking to do so the Owner/Developer shall submit such amendments to the Council in writing and the Deemed Approval Process shall apply in relation to the approval or deemed approval of those amendments.
  - 1.4 The provisions of Part D of this Schedule shall apply in relation to the Affordable Housing Units referred to in the Affordable Housing Scheme.
  - 1.5 To provide or procure that the Affordable Housing Units shall be provided in accordance with the approved Affordable Housing Scheme(s).

#### PART D – MANAGEMENT AND TRANSFER OF AFFORDABLE HOUSING UNITS

1. The following provisions of this Part D shall apply in relation to each Phase in which it is intended that Affordable Housing Units will be located:
  - 1.1 No later than 3 (three) months from Commencement of Development within the relevant Phase ("**the Longstop Date**") to have marketed to 3 (three) Registered Providers an invitation to submit receive formal offers for the acquisition of such interest in the land as would be generally acceptable to Registered Providers at the time of marketing either:
    - 1.1.1 in the land on which the Affordable Housing Units will be constructed alone; or
    - 1.1.2 in the land on which the Affordable Housing Units within the relevant Phase will be constructed together with the foundations and brick courses above the damp proof membrane sufficient to achieve "golden brick" on the basis that the Owner/Developer will Complete the construction of the Affordable Housing Units on behalf of the Registered Provider and
    - 1.1.3 on the basis of a reasonable commercial consideration (in the context of a market restricted to purchasers that are Registered Providers) and that the Registered Provider shall bear its own legal costs in relation to any contracts and transfers associated with the Affordable Housing Units and the land on which they will be constructed

PROVIDED THAT nothing shall prevent the Owner/Developer from undertaking the marketing referred to in this paragraph 1.1 at any time prior to the Longstop Date referred to above and PROVIDED THAT such invitation shall remain open to offers for a period of two months from the date of receipt of such invitation by the last of the Registered Providers to receive the same

1.2 If no formal offers are received on the basis of the provisions set out in paragraphs 1.1.1 to 1.1.3 inclusive of this Part within the open invitation period of two months referred to in paragraph 1.1 hereof then where the reason for the absence of offers is reasonably identified as being the tenure mix referred to in the relevant approved Affordable Housing Scheme:

1.2.1 the Owner/Developer shall submit to the Council as soon as reasonably practicable an amended Affordable Housing Scheme containing appropriate variations to the tenure mix and in doing so the Owner/Developer shall provide the Council with written reasons for the variation from the original tenure mix for approval or deemed approval pursuant to the Deemed Approval Process. The Council shall be entitled to require adjustments to the revised tenure mix proposed under this paragraph 1.2.1 if it can provide written evidence from Registered Providers that that such adjustment's are reasonable and not likely to deter Registered Providers from making formal offers to acquire the relevant Affordable Housing Units

1.2.2 If the Council approves or is deemed to have approved the amended Affordable Housing Scheme then the Owner/Developer shall re-market the Affordable Housing Units in the manner and on the basis described in paragraph 1.1 of this Part above save that the re-marketing will be based on the amended Affordable Housing Scheme and the provisions of paragraph 1.1 of this Part shall apply to the re-marketing process. In the event that the Council rejects the amended Affordable Housing Scheme then paragraph 1.6 of this Part shall apply SUBJECT TO any reference of any matter arising out of the provisions of paragraphs 1.1 or 1.2 hereof to dispute resolution pursuant to clause 12 of this Agreement

1.3 In circumstances where the Owner/Developer receives a formal offer or offers for the acquisition of the Affordable Housing Units pursuant to paragraphs 1.1 or 1.2 hereof the Owner/Developer will use all reasonable endeavours to expeditiously enter into a binding contract or contracts with the relevant Registered Provider(s) for the disposal of those Affordable Housing Units to it or them as the case may be

1.4 If having complied in all respects with its obligations pursuant to paragraphs 1.1, 1.2 and 1.3 hereof the Owner/Developer has been unable to procure the conclusion of a contract or contracts for the disposal of the Affordable Housing Units to a Registered Proprietor within the period of either:

1.4.1 two months from the date of receipt by the relevant Registered Provider of confirmation in writing from the Owner/Developer that the terms of its offer are acceptable to the Owner/Developer subject to the exchange of formal contracts or

1.4.2 in the absence of any such offer the date of expiry of the period whereby invitations are required to remain open pursuant to clause 1.2.2

The Owner/Developer shall be entitled to withdraw any outstanding offer or acceptance and/or withdraw from contractual negotiations (as applicable) with the Registered Provider(s) in relation to the Affordable Housing Units to be located within that Phase and shall be released from the provisions of paragraphs 1.1 to 1.3 the provisions of clause 1.6 shall come into effect

1.5 Where evidence is provided to the Council by the Owner/Developer that the original tenure mix or approved revised tenure mix was not the reason why offers have not been received or contracts are not exchanged in relation to paragraphs 1.1.1 and 1.1.3 above then the Owner/Developer shall be entitled to withdraw any outstanding offer or acceptance and/or withdraw from contractual negotiations (as applicable) with the Registered Provider(s) in relation to the Affordable Housing Units to be located within that Phase and shall be released from the provisions of paragraphs 1.1 to 1.3 and the provisions of paragraph 1.6 shall come into effect

- 1.6 Upon the coming into effect of this paragraph the Owner/Developer shall as soon as reasonably practicable submit to the Council an invitation in writing to either:
- 1.6.1 purchase the completed Affordable Housing Units within the Phase in accordance with the Affordable Housing Scheme on the same basis as that referred to in paragraph 1.1.3 hereof PROVIDED THAT the Council shall not be permitted to require the Owner/Developer to accept a consideration for such Affordable Housing Units that would result in the Cost to the Owner/Developer associated with the delivery of the Affordable Housing Units (across all of the Phases for which Reserved Matters Applications are to be submitted following 750 Dwellings) that would exceed the Viability Sum; or
  - 1.6.2 Identify a Registered Provider (which the Owner/Developer shall not already have made offers to pursuant to the provisions of paragraphs 1.1 to 1.4 above) which is prepared to purchase the Affordable Housing Units referred to in sub paragraph 1.6.1 on the terms of the invitation given to the Council

AND the Council shall have a period of 30 Working Days in which to either make such offer referred to in paragraph 1.6.1 or procure that its nominated Registered Provider does so AND PROVIDED THAT if neither the Council nor its nominated Registered Provider submits an offer in writing to acquire the Affordable Housing Units to the Owner/Developer within the said period then it shall be deemed that the Owner/Developer shall be entitled to withdraw the offer and shall be released from the provisions of paragraph 1.6 and that the provisions of paragraph 1.7 shall apply

- 1.7 In circumstances where the Owner/Developer receives a formal offer or offers for the acquisition of the Affordable Housing Units pursuant to paragraph 1.6 hereof the Owner/Developer will use all reasonable endeavours to expeditiously enter into a binding contract or contracts with the Council or nominated Registered Provider(s) for the disposal of those Affordable Housing Units to it or them as the case may be
- 1.8 If having complied in all respects with its obligations pursuant to paragraphs 1.6 and 1.7 hereof the Owner/Developer has been unable to procure the conclusion of a contract or contracts for the disposal of the Affordable Housing Units to the Council or its nominated Registered Proprietor either:
- 1.8.1 within the period of two months from the date of receipt by the Council or its nominated Registered Provider of confirmation in writing from the Owner/Developer that the terms of its offer are acceptable to the Owner/Developer subject to the exchange of formal contracts or
  - 1.8.2 in the absence of any such offer, by the date of expiry of the period whereby invitations are required to remain open pursuant to clause 1.6

the Owner/Developer shall be entitled to withdraw any outstanding invitation and/or withdraw from contractual negotiations (as applicable) with the Council or nominated Registered Provider(s) in relation to the Affordable Housing Units to be located within that Phase and shall be released from the provisions of paragraphs 1.1 to 1.7 and the provisions of paragraph 1.9 shall come into effect

- 1.9 In the circumstances described in paragraph 1.8 the Owner/Developer shall give notice in writing to the Council that the provisions of paragraph 1.8 apply and shall (a) state in that notice the grounds upon which that paragraph applies (b) provide evidence to demonstrate to the Council's reasonable satisfaction that the Owner/Developer has complied with its obligations under paragraph 1.6 hereof and (c) request that the Council approve the payment of the Fallback AH Contribution in lieu of the provision of the relevant Affordable Housing Units (d) provide a calculation of the Fallback AH Contribution and all reasonable and appropriate evidence of Open Market Values to support the said amount and the Deemed Approval Process shall apply to the request for the Council to approve the payment of the Fallback AH Contribution; and
- 1.10 In the event the Council has approved or is deemed to have approved the payment of a Fallback AH Contribution in lieu of the provision of Affordable Housing then the Owner/Developer shall

thereafter pay that Fallback AH Contribution to the Council prior to Occupation of 75% of the Open Market Dwellings within the relevant Phase:

- 1.11 On payment of the Fallback AH Contribution in relation to any Affordable Housing Unit that would otherwise have been provided within that Phase the Owner/Developer shall be taken as having discharged its requirement to provide Affordable Housing Units within that Phase by the payment of the Fallback AH Contribution AND the Owner/Developer shall be released from the provisions of this Schedule and shall be entitled to dispose of the Affordable Housing Units on the open market.
- 1.12 The Owner/Developer will within 30 Working Days of exchange of contracts with any Registered Provider provide written evidence to the Council that it has exchanged contracts with a Registered Provider in relation to the disposal of the interest in either the land on which the Affordable Housing Units in that Phase will be constructed or the land together with the foundations and brick courses above the damp proof membrane sufficient to achieve "golden brick".
- 1.13 Not to cause or permit the Occupation of more than 75% of Open Market Dwellings within a Phase until contracts to transfer or lease the interest in the land have been exchanged with a Registered Provider or with the Council for the relevant Affordable Housing Units as provided for in this paragraph 5 above or the Fallback AH Contribution has been paid to the Council.
2. The Owner/Developer shall provide pedestrian and vehicular access foul and surface water sewers and water gas electricity and telecommunication service systems for the Affordable Housing Units constructed and laid as part of the Development to a standard that each may be adopted and maintained at the public's or a statutory undertaker's expense to an appropriate point (whereupon it may be private) linking in each case to the remainder of the roads and/or sewers and/or pipes and/or cables and/or other apparatus built laid or constructed on the remainder of the Site
3. Not to cause or permit the Occupation of any Affordable Housing Unit until the Nomination Agreement(s) has/have been entered into
4. Not to dispose of any Affordable Housing Units other than in accordance with the provisions above AND
  - 4.1 by way of a sale and transfer to the Registered Provider for the purposes of providing accommodation for Tenants or occupiers of Shared Ownership Housing Units; or
  - 4.2 where the disposal is by a Registered Provider in accordance with its Approved allocation policy; and
  - 4.3 Any transfer of the land on which the Affordable Housing Units will be constructed shall be:
    - (a) with vacant possession;
    - (b) free from encumbrance other than existing at the time of the disposition (save for any financial charge or the transfer of statutory apparatus by the Owner/Developer to any statutory undertaker);
    - (c) subject to grant by the Owner/Developer to the Registered Provider of all rights of access and passage of services and other rights reasonably necessary for the beneficial enjoyment of the Affordable Housing Units; and
    - (d) subject to a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the purpose of the construction, operation, use, maintenance and management of the Development.

## PART 6 - OPEN SPACES

1. The Owner/Developer covenant with the Council:
  - 1.1 Not to Commence Development of each Phase in which any of the Open Spaces are located until the Open Spaces Specification for those Open Spaces within the relevant Phase has been submitted to and approved or has received deemed approval pursuant to the Deemed Approval Process by the Council PROVIDED THAT where any part of the Open Space is not located within a Phase containing Dwellings then this paragraph shall be taken to require submission of the relevant specification prior to Commencement of the Phase containing Dwellings which abuts the relevant part of the Open Space FURTHER PROVIDED THAT in approving the Open Spaces Specification the Council shall act reasonably and shall not seek to require unreasonably high standards of specification that would otherwise have the potential to negatively impact on viability of the Development when the Viability Reassessment is undertaken.
  - 1.2 To provide and lay out the Open Spaces in each Phase in accordance with the relevant Open Spaces Specification for the relevant Phase approved by the Council.
  - 1.3 Not to cause or permit Occupation of more than 1,358 Dwellings until :
    - 1.3.1 all Open Spaces have been provided and laid out; and
    - 1.3.2 submitted that part of the Management Scheme which relates to the Open Spaces for approval by the Council through the Deemed Approval Process PROVIDED THAT the Owner/Developer shall be permitted to seek to amend the approved Management Scheme at any time following the initial approval or deemed approval of the Management Scheme **SAVE THAT** in seeking to do so the Owner/Developer shall submit such amendments to the Council in writing and the Deemed Approval Process shall apply in relation to the approval or deemed approval of those amendments
  - 1.4 Following provision and laying out of the Open Spaces, to serve notice on the Council inviting it to inspect the Open Spaces and issue a Certificate of Practical Completion confirming that the Open Spaces have been completed to its reasonable satisfaction:
    - 1.4.1 if the Council chooses to inspect the Open Spaces and identifies necessary remedial works, the Owner and the Developer shall complete such remedial works to the reasonable satisfaction of the Council as soon as reasonably practicable;
    - 1.4.2 upon completion of any remedial works, the Owner and the Developer shall serve notice on the Council inviting it to inspect the remedial works identified pursuant to paragraph 1.4 of this Part and issue a Certificate of Practical Completion confirming that the Open Space have been completed to their reasonable satisfaction
    - 1.4.3 PROVIDED THAT if the Council fails to inspect the Open Spaces within 30 Working Days of receipt of the notice of invitation from the Owner/Developer or fails to issue a Certificate of Practical Completion within 30 Working Days of the inspection where no remedial 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 this paragraph shall be repeated until such time as the Council issues a Certificate of Practical Completion or a Certificate of Practical Completion shall been deemed to have been issued in relation to the Open Spaces.
  - 1.5 Following issue or deemed issue of a Certificate of Practical Completion in respect of the Open Spaces (or part thereof) to maintain the Open Spaces during the Maintenance Period in accordance with the Management Scheme.
  - 1.6 On expiration of the Maintenance Period:

- 1.6.1 to serve notice on the Council inviting them to inspect the Open Spaces (or the relevant part thereof) and issue a Final Certificate confirming that such works have been maintained to its reasonable satisfaction;
  - 1.6.2 if the Council chooses to inspect the Open Space (or the relevant part thereof) and identifies necessary remedial works, to complete such remedial works to the reasonable satisfaction of the Council as soon as reasonably practicable;
  - 1.6.3 upon completion of any remedial works, to serve notice on the Council inviting them to inspect the remedial works identified by them pursuant to the above paragraph and issue a Final Certificate confirming that the Open Spaces (or the relevant part thereof) have been maintained to the reasonable satisfaction of the Council
  - 1.6.4 PROVIDED THAT if the Council fails to inspect the Open Spaces (or the relevant part thereof) within 30 Working Days of invitation from the Owner or the Developer 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 the paragraph shall be repeated until such time as the Council issue a Final Certificate or a Final Certificate shall be deemed to have been issued in relation to the Open Space (or the relevant part thereof).
- 1.7 Following the issue of the Final Certificate, the Owner/Developer shall grant a lease of the Open Spaces to the Management Company in the form of the Open Spaces Lease.
  - 1.8 Nothing in this Schedule shall prevent the Owner and/or Developer and/or Management Company at a point in the future transferring or assigning their interest in the Open Space to the Parish Council and/or Alternative Body and/or the Council to maintain and manage the Open Spaces where in the future either the Parish Council and/or Alternative Body and/or the Council has expressed a desire to manage and maintain the Open Spaces SUBJECT TO payment of the Commuted Sum where the transfer or assignment of their interest is to the Council or Parish Council or Alternative Body.
  - 1.9 The Owner and Developer covenant with the Council that the Open Spaces and Sports Pitches and Allotments and Community Centre shall be maintained in accordance with the Management Scheme which shall include £1,900,000 funding to support the Open Spaces and Sports Pitches and Allotments and Community Centre Building.
  - 1.10 The Owner and the Developer covenant with the Council not to use the Open Spaces for any use other than Open Spaces Uses.



## PART 7 - SPORTS PITCHES

1. The Owner/Developer covenant with the Council:
  - 1.1 Not to cause or permit Occupation of more than 658 Dwellings until the Owner and Developer have:
    - 1.1.1 submitted the Sports Pitches Specification which shall not set out combined Costs of providing the Sports Pitches that exceed the Sports Pitches Costs Cap to the Council for approval and the same has been approved by the Council in accordance with the Deemed Approval Process PROVIDED THAT the Council shall not be entitled to reject the Sports Pitches Specification on the basis that the Council would require a different specification that would result in Costs that would exceed the Sports Pitches Costs Cap
    - 1.1.2 provided a breakdown of the Costs to be incurred to provide the Sports Pitches in accordance with the submitted Sports Pitches Specification and submit evidence with the Sports Pitches Specification to demonstrate that:
      - (a) they have used reasonable endeavours to maximise the facilities to be provided as part of the Sports Pitches Specification within the Sports Pitches Cost Cap; and
      - (b) the Costs included within the Sports Pitches Specification are representative of industry norms at the time that the Sports Pitches Specification is submitted to the Council
    - 1.1.3 laid out the Sports Pitches in accordance with the approved Sports Pitches Specification; and
    - 1.1.4 submitted that part of the Management Scheme which relates to the Sports Pitches for approval by the Council through the Deemed Approval Process PROVIDED THAT the Owner/Developer shall be permitted to seek to amend the approved Management Scheme at any time following the initial approval or deemed approval of the Management Scheme **SAVE THAT** in seeking to do so the Owner shall submit such amendments to the Council in writing and the Deemed Approval Process shall apply in relation to the approval or deemed approval of those amendments.
  - 1.2 To, following laying out of the Sports Pitches, serve notice on the Council inviting it to inspect the Sports Pitches and issue a Certificate of Practical Completion confirming that the Sports Pitches have been completed to its reasonable satisfaction:
    - 1.2.1 if the Council chooses to inspect the Sports Pitches and identifies necessary remedial works, the Owner and the Developer shall complete such remedial works to the reasonable satisfaction of the Council as soon as reasonably practicable;
    - 1.2.2 upon completion of any remedial works, the Owner and the Developer shall serve notice on the Council inviting it to inspect the remedial works identified pursuant to paragraph 1.2 of this Schedule and issue a Certificate of Practical Completion confirming that the Sports Pitches have been completed to their reasonable satisfaction
    - 1.2.3 PROVIDED THAT if the Council fails to inspect the Sports Pitches within 30 Working Days of receipt of the notice of invitation from the Owner/Developer or fails to issue a Certificate of Practical Completion within 30 Working Days of the inspection where no remedial 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 this paragraph shall be repeated until such time as the Council issues a Certificate of Practical Completion or a Certificate of Practical Completion shall be deemed to have been issued in relation to the Sports Pitches.

- 1.3 Following issue or deemed issue of a Certificate of Practical Completion in respect of the Sports Pitches (or part thereof) to maintain the Sports Pitches during the Maintenance Period in accordance with the Management Scheme.
- 1.4 On expiration of the Maintenance Period:
- 1.4.1 to serve notice on the Council inviting them to inspect the Sports Pitches (or the relevant part thereof) and issue a Final Certificate confirming that such works have been maintained to its reasonable satisfaction;
  - 1.4.2 if the Council chooses to inspect the Sports Pitches (or the relevant part thereof) and identifies necessary remedial works, to carry out such remedial works to the reasonable satisfaction of the Council as soon as reasonably practicable;
  - 1.4.3 once any remedial works have been carried out, to serve notice on the Council inviting them to inspect the remedial works identified by them pursuant to the above paragraph and issue a Final Certificate confirming that the Sports Pitches (or the relevant part thereof) have been maintained to the reasonable satisfaction of the Council
  - 1.4.4 PROVIDED THAT if the Council fails to inspect the Open Sports Pitches (or the relevant part thereof) within 30 Working Days of invitation from the Owner or the Developer 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 the paragraph shall be repeated until such time as the Council issue a Final Certificate or a Final Certificate shall be deemed to have been issued in relation to the Sports Pitches (or the relevant part thereof).
- 1.5 Following issue of the Final Certificate the Owner/Developer shall grant a lease of the Sports Pitches to the Management Company in the form of the Sports Pitches Lease whose fixed term shall end 125 years from the date of this Deed.
- 1.6 Nothing in this Schedule shall prevent the Owner and/or Developer and/or Management Company at a point in the future transferring to the Parish Council and/or Alternative Body and/or the Council to maintain and manage the Sports Pitches where in the future either the Parish Council and/or Alternative Body and/or the Council has expressed a desire to manage and maintain the Sports Pitches SUBJECT TO payment of the Commuted Sum where the transfer is to the Council or Parish Council or Alternative Body.
- 1.7 The Owner and Developer covenant with the Council that the Sports Pitches shall be maintained in accordance with the Management Scheme and not to use the Sports Pitches for any use other than Sports Pitches Uses.

## PART 8 - GLOBAL MANAGEMENT SCHEME

1. Not cause or permit Occupation of any Dwelling until the Owner/Developer has submitted the Global Management Scheme for approval by the Council through the Deemed Approval Process which shall include a copy of written correspondence from a Registered Provider confirming that the Initial Management Cost is considered to be affordable for Affordable Housing Units.
2. The Owner/Developer shall ensure that the Global Management Scheme shall be used to inform the Management Scheme for each of the Community Centre Building, Allotment Land, Open Spaces and Sports Pitches and the Owner/Developer covenants the Community Centre Building, Allotment Land, Open Spaces and Sports Pitches shall be maintained in accordance the Global Management Scheme and the Management Scheme.
3. The Owner/Developer shall be permitted to seek to amend the approved Global Management Scheme at any time following the initial approval or deemed approval of the Global Management Scheme **SAVE THAT** in seeking to do so the Owner/Developer shall submit such amendments to the Council in writing and the Deemed Approval Process shall apply in relation to the approval or deemed approval of those amendments.
4. The Owner/Developer covenant with the Council not to increase per annum the quantum of estate rent charge that any Dwelling shall bear by more than a figure represented by the Index plus 1% above :
  - 4.1 in the first year following approval of the Global Management Scheme : the Initial Management Cost (as set in the approved Global Management Scheme)
  - 4.2 in subsequent years: the estate rent charge cost applicable for such Dwelling for the preceding year

unless such increase shall first be approved in writing by the Council and the Deemed Approval Process shall apply in relation to the approval of such increase **AND FOR THE AVOIDANCE OF DOUBT** the Owner/Developer shall be entitled to increase the estate rent charge per annum by a figure that is less than the Index plus 1% without requiring written approval of the Council pursuant to this paragraph **SAVE THAT** in the event of any changes to the Global Management Scheme or Management Schemes that would result in an increase that would exceed a figure represented by the Index plus 1% pursuant to paragraphs 4.1 or 4.2 above it shall be deemed that such an increase shall be approved by the Council for the purposes of this clause where the Global Management Scheme and/or Management Schemes have been approved pursuant to the provisions of this Part

## PART 9-THE COUNCIL'S COVENANTS

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

1. **DISCHARGE OF OBLIGATIONS**

At the written request of the Owner/Developer the Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed.

2. **GRANT OF PLANNING PERMISSION**

To grant the Permission within 3 Working days of the date of this Deed.

3. **MONIES RECEIVED**

To hold all monies received from either or both the Owner or the Developer in an Interest Bearing Account pending use.

4. **VIABILITY REASSESSMENT**

To use all reasonable endeavours to co-operate with the Valuer to assist the process outlined in Part 5 of Schedule 2 above and promptly comply with any requests for additional information made by the Valuer

## APPENDIX 1- COMMUNITY CENTRE BUILDING SPECIFICATION

Main Hall	Single court size hall (17.4m x 9.1m) capable of accommodating a range of different sports and providing large community meeting space and performance space
Storage for main hall	Of sufficient size (approx. 40sqm) to accommodate storage for required indoor sports equipment and furniture for main hall
Entrance Foyer	To provide informal seating/ café area and display/exhibition space (area at approximately 55sqm)
Kitchen	Approximately 19sqm
Changing rooms for indoor facilities	To include toilets and shower facility
Changing facilities for sport pitches	Provision of separate team sized changing room for outdoor sport pitches users. (approximately 120sqm)
Office	Approximately 13sqm
Meeting / Club Room	(at least 8m x 4m): multi-purpose room for meetings, clubs, crèche, playgroups etc, plus equipment store
Boiler, plant room and cleaner store	Approximately 18sqm
Car Parking	1 space per 10 sqm of building which 5% should be provided as disabled car parking spaces where there will 20 car spaces or more in total or 1 disabled space where there will be less 20 car spaces.
Cycle Parking	1 cycle space per 66 sqm of building

**APPENDIX 2- LEASE**

DATED

20[ ]

(1) COLETHROP FARM LIMITED

(2) CREST NICHOLSON OPERATIONS LIMITED

and

(3) [Management company]

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**LEASE**

of

**Community Centre Building/Allotment Land/Open Space/  
Play Areas, Play trail and Sports Pitches**

at

**Hunts Grove, Quedgeley,**

**Gloucester**

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**Prescribed Clauses**

**LR1. Date of lease**

[DATE]

**LR2. Title number(s)**

**LR2.1 Landlord's title number(s)**

[GR192357, GR340276, GR239420, GR234869, GR340584, GR340585, GR352076, GR341811, GR344186]].

**LR2.2 Other title numbers**

[[TITLE NUMBER(S)] OR None].

**LR3. Parties to this lease**

**Landlord**

**COLETHROP FARM LIMITED**

whose registered office is c/o Woodward Hale, 38 Dollar Street, Cirencester, Glos GL7 2AN  
(Company registration number 3329992) and

**CREST NICHOLSON OPERATIONS LIMITED**

whose registered office is at Crest House , Pycroft Road, Chertsey, Surrey KT16 9GN

(company registration number 01168311)

**Tenant**

[[COMPANY] NAME]

[[REGISTERED OFFICE] ADDRESS]

[COMPANY REGISTERED NUMBER [IF TENANT IS A COMPANY]]

**Other parties**

[NAME]

[ADDRESS]

**LR4. Property**

**In the case of a conflict between this clause and the remainder of this lease then, for the purposes of registration, this clause shall prevail.**

See the definition of "Property" in clause 1.1 of and 1.9 to this lease.

**LR5. Prescribed statements etc.**

**LR5.1 Statements prescribed under rules 179 (dispositions in favour of a charity), 180 (dispositions by a charity) or 196 (leases under the Leasehold Reform, Housing and Urban Development Act 1993) of the Land Registration Rules 2003.**

None.

**LR5.2 This lease is made under, or by reference to, provisions of:**

None.

**LR6. Term for which the Property is leased**

The term as specified in this lease at clause 1.1 in the definition of "Contractual Term".

**LR7. Premium**

One peppercorn (if demanded)

**LR8. Prohibitions or restrictions on disposing of this lease**

This lease contains a provision that prohibits or restricts dispositions.

**LR9. Rights of acquisition etc.**

**LR9.1 Tenant's contractual rights to renew this lease, to acquire the reversion or another lease of the Property, or to acquire an interest in other land**

None.

**LR9.2 Tenant's covenant to (or offer to) surrender this lease**

None.

**LR9.3 Landlord's contractual rights to acquire this lease**

Only as specified in Schedule 2, paragraph 18.5

**LR10. Restrictive covenants given in this lease by the Landlord in respect of land other than the Property**

None.

**LR11. Easements**

**LR11.1 Easements granted by this lease for the benefit of the Property**

[None OR The easements granted in clause 3.2 to this lease].

**LR11.2 Easements granted or reserved by this lease over the Property for the benefit of other property**

[The easements reserved in clause 4 to this lease].

**LR12. Estate rentcharge burdening the Property**

None

**LR13. Application for standard form of restriction**

None].

**LR14. Declaration of trust where there is more than one person comprising the Tenant**

None

THIS LEASE is made the [ ] day of [ ] 20[ ]

**PARTIES**

- (1) **COLETHROP FARM LIMITED** incorporated and registered in England and Wales with company number 3329992 whose registered office is c/o Woodward Hale, 38 Dollar Street, Cirencester, Gloucestershire GL7 2AN and
- (2) **CREST NICHOLSON OPERATIONS LIMITED** incorporated and registered in England and Wales with company number 01168311 whose registered office is at Crest House, Pycroft Road, Chertsey, Surrey KT16 9GN (the first and second parties to this Lease being together called "the Landlord") and
- (3) **[[FULL COMPANY NAME]** incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] ("the Tenant").

IT IS AGREED as follows:

**1 INTERPRETATION**

The following definitions and rules of interpretation apply in this lease.

**1.1 Definitions:**

<b>Alternative Body</b>	any of the following: <ul style="list-style-type: none"><li>1. a fully constituted parish, town or community council</li><li>2. a residents group having charitable or not for profit status</li><li>3. any other body or organisation reasonably created by or on behalf of the Landlord or reasonably nominated by them</li><li>4. any other body or organisation reasonably created by or on behalf of the Council or reasonably nominated by the Council</li></ul>
<b>Base Rate</b>	the base rate from time to time of Barclays Bank PLC
<b>Community Uses</b>	use for any or all of the following: <ul style="list-style-type: none"><li>1. community group meetings, activities and conferences</li></ul>

	<ol style="list-style-type: none"> <li>2. skills training/educational classes</li> <li>3. social functions</li> <li>4. cultural/sport/leisure activities</li> <li>5. religious or charitable organisations</li> <li>6. such other uses or activities for the purpose of the general amenity for the local community as may be agreed with the Landlord and the Council</li> </ol>
<b>Contractual Term</b>	a term of years beginning on, and including the date of this lease and ending on, and including [DATE 125 years hence]
<b>Council</b>	Stroud District Council of the Council Offices Ebley Mill Ebley Wharf Stroud Gloucestershire GL5 4UB or its statutory successor
<b>First Occupation</b>	means the date on which the Property is first occupied or used by the Tenant for the purposes permitted by this lease under Schedule 2 paragraph 18 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>Default Interest Rate</b>	4% above the Base Rate or, if that base rate is no longer used or published, a comparable commercial rate reasonably determined by the Landlord
<b>Insurance</b>	insurance with a reputable insurer subject to such excesses exclusions and limitations as may apply in covering the Property against the Insured Risks for its full reinstatement cost
<b>Insured Risk</b>	risks of loss or damage by fire, aircraft, articles dropped from aircraft, explosion, earthquake, riot, civil commotion, storm, lightning, flood, escape of water, impact and malicious damage and public liability in a sum of not less than Five Million Pounds (£5 million) for each and every claim
<b>Landlord's Neighbouring</b>	each and every part of the adjoining and neighbouring property in which the Landlord has an interest known as Hunts

<b>Property</b>	Grove, Quedgeley, Gloucestershire (excluding the Property) registered at HM Land Registry with the title numbers listed in LR2.1 above and shown on the Masterplan
<b>Management Scheme</b>	means the written management scheme provided in accordance with the S106 Agreement
<b>Masterplan</b>	[drawing number <input type="checkbox"/> ] annexed hereto entitled "Outline Masterplan" and marked "Plan 2" [NB Community Building]
<b>Plan 1 and Plan 2</b>	the plans attached to this lease so marked;
<b>Permitted Use</b>	use as and for the purposes set out in paragraph 18.1 of Schedule 2
<b>Property</b>	the land [and building[s]] [NB Community Building] described in Schedule 1
<b>Rent</b>	a peppercorn per annum if demanded
<b>Rent Payment Date</b>	1 January in each year
<b>Reservations</b>	all of the rights excepted, reserved and granted to the Landlord by this lease
<b>Rights</b>	the rights granted by the Landlord to the Tenant in clause 3
<b>S106 Agreement</b>	the agreement dated [INSERT DATE] made under section 106 of the Town and Country Planning Act 1990 and all other powers enabling and made between the Council, Colethrop Farm Limited, Crest Nicholson Operations Limited and Barclays Bank PLC
<b>Service Media</b>	all media for the supply or removal of electricity, gas, water, sewage, telecommunications, television, data and all other services and utilities and all equipment ancillary to those media
<b>Third Party Rights</b>	all rights, covenants and restrictions affecting the Property including the matters referred to at the date of this lease in the property registers and charges registers of the title numbers listed in LR2.1 above

VAT	value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement and any similar additional tax.
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- 1.2 A reference to this “lease”, except a reference to the date of this lease or to the grant of this lease, is a reference to this deed and any deed, licence or other instrument supplemental to it.
- 1.3 A reference to the “Landlord” includes a reference to the person entitled to the interests reversionary to this lease and where any consent is required by this lease to be given by the Landlord such consent will be required to be given by both parties comprising the Landlord unless both of them have previously notified the Tenant in writing to the contrary. A reference to the “Tenant” includes a reference to the Tenant’s personal representatives, successors in title and assigns.
- 1.4 A **working day** is any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.
- 1.5 Any obligation in this lease on the Tenant not to do something includes an obligation not to allow that thing to be done and an obligation to use best endeavours to prevent that thing being done by another person.
- 1.6 The expression “**landlord covenant**” and “**tenant covenant**” each has the meaning given to it by the Landlord and Tenant (Covenants) Act 1995.
- 1.7 A reference to the “**term**” is to the Contractual Term and statutory continuation of this lease.
- 1.8 A reference to the **end of the term** is to the end of the term however it ends.
- 1.9 Unless the context otherwise requires, references to the “**Property**” are to the whole and any part of it.
- 1.10 Unless the context otherwise requires, any words following the terms “**including**”, “**include**”, “**in particular**”, “**for example**”, or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition preceding those terms.
- 1.11 A “**person**” includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.12 A reference to “**writing**” or “**written**” excludes fax and e-mail.
- 1.13 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

- 1.14 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.15 A reference to laws in general is a reference to all local, national and directly applicable supranational laws as amended, extended or re-enacted from time to time and shall include all subordinate laws made from time to time under them and all orders, notices, codes of practice and guidance made under them.
- 1.16 Unless otherwise specified, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision and all orders, notices, codes of practice and guidance made under it.
- 1.17 The Schedules form part of this lease and shall have effect as if set out in full in the body of this lease. Any reference to this lease includes the Schedules.
- 1.18 Clause, Schedule and paragraph headings shall not affect the interpretation of this lease.
- 1.19 References to clauses and Schedules are to the clauses and Schedules of this lease and references to paragraphs are to paragraphs of the relevant Schedule.

## **2 GRANT**

- 2.1 The Landlord lets the Property with title guarantee to the Tenant for the Contractual Term.
- 2.2 The grant is made together with the Rights set out in clause 3, excepting and reserving to the Landlord, the Reservations set out in clause 4, and subject to the Third Party Rights.
- 2.3 The grant is made in consideration of the Tenant covenanting to pay the Landlord the following sums as rent:
- 2.3.1 the Rent;
- 2.3.2 all interest payable under this lease; and
- 2.3.3 all other sums due under this lease.

## **3 THE RIGHTS**

- 3.1 Neither the grant of this lease nor anything in it confers any right over neighbouring property nor is to be taken to show that the Tenant may have any right over neighbouring property, and section 62 of the Law of Property Act 1925 does not apply to this lease.



3.2 [The Landlord grants the Tenant the following right[s] for all purposes connected with the Tenant's use of the Property:

3.2.1 [ANY SPECIFIC RIGHT(S) NEEDED.]

#### 4 THE RESERVATIONS

4.1 The following rights are excepted and reserved from this lease to the Landlord for the benefit of the Landlord's Neighbouring Property and to the extent possible for the benefit of any neighbouring or adjoining property in which the Landlord acquires an interest during the Contractual Term:

4.1.1 rights of light, air, support and protection to the extent those rights are capable of being enjoyed at any time during the term;

4.1.2 the right to use and to connect into Service Media at the Property which are in existence at the date of this lease or which are installed or constructed during the Contractual Term;

4.1.3 at any time during the term, the full and free right to develop the Landlord's Neighbouring Property and any neighbouring or adjoining property in which the Landlord acquires an interest during the term as the Landlord may think fit;

4.1.4 the right to erect scaffolding at the Property and attach it to any building or structure on the Property in connection with any of the Reservations;

4.1.5 the right to build on or into any boundary wall of the Property in connection with any of the Reservations; and

4.1.6 the right to re-route any Service Media on the Landlord's Neighbouring Property and serving the Property or re-route any means of access to or egress from the Property across the Landlord's Neighbouring Property;]

notwithstanding that the exercise of any of the Reservations or the works carried out pursuant to them result in a reduction in the flow of light or air to the Property or loss of amenity for the Property provided that they do not materially affect the use and enjoyment of the Property.

4.2 The Landlord reserves the right to enter the Property, having given reasonable notice to the Tenant (except in the case of an emergency when no notice is required), with its workers, contractors, agents or professional advisers:

4.2.1 to repair, maintain or replace any Service Media or structure at the Landlord's Neighbouring Property relating to any of the Reservations;

4.2.2 to inspect its condition and state of repair following which the Landlord may give the Tenant a notice of any breach of any of the Tenant covenants of this lease relating to the condition or repair of the Property;

4.2.3 to carry out any works needed to remedy the breach set out in any notice served under clause 4.2.2 if the works have not been carried out by the Tenant to the reasonable satisfaction of the Landlord within the time period specified in the notice; and

4.2.4 for any other purpose mentioned in or connected with:

(a) this lease;

(b) the Reservations; and

(c) the Landlord's interest in the Property and the Landlord's Neighbouring Property

4.3 The Reservations may be exercised by the Landlord and by anyone else who is or becomes entitled to exercise them, and by anyone authorised by the Landlord.

4.4 No party exercising any of the Reservations, nor its workers, contractors, agents and professional advisors, shall be liable to the Tenant or to any undertenant or other occupier of or person at the Property for any loss, damage, injury, nuisance or inconvenience arising by reason of its exercising any of those Reservations except for:

4.4.1 physical damage to the Property, which they shall make good to the [reasonable] satisfaction of the Tenant; or

4.4.2 any loss, damage, injury, nuisance or inconvenience in relation to which the law prevents the Landlord from excluding liability.

## 5 TENANT COVENANTS

The Tenant covenants with the Landlord to observe and perform the covenants in Schedule 2 of this lease.

## 6 LANDLORD COVENANT

The Landlord covenants with the Tenant to observe and perform the covenant in Schedule 3 of this lease.

## 7 RE-ENTRY

7.1 The Landlord or either of the parties comprising the Landlord may re-enter the Property (or any part of the Property in the name of the whole) at any time after any of the following occurs:

7.1.1 any Rent or any other rent due under this lease is wholly or partly unpaid 21 days after becoming payable;

7.1.2 any breach of any condition of, or tenant covenant in, this lease.

- 7.2 If the Landlord or either of the parties comprising the Landlord re-enters the Property (or any part of the Property in the name of the whole) pursuant to this clause, this lease shall immediately end, but without prejudice to any right or remedy of the Landlord in respect of any breach of covenant by the Tenant and the Property shall revert to the Colethrop Farm Limited absolutely (or such assignee of the right to receive the Property on reverter as shall previously have been notified in writing to the Tenant).

## 8 JOINT AND SEVERAL LIABILITY

Where the Landlord or the Tenant is more than one person, those persons shall in each case be jointly and severally liable for their respective obligations and liabilities arising under this lease. The Landlord may take action against, or release or compromise the liability of, or grant any time or other indulgence to, any one of the persons comprising the Tenant, without affecting the liability of any other of them.

## 9 ENTIRE AGREEMENT

- 9.1 This lease and any documents annexed to it constitute the entire agreement between the parties and supersede all previous discussions, correspondence, negotiations, arrangements, understandings and agreements between them relating to their subject matter.
- 9.2 Each party acknowledges that in entering into this lease and any documents annexed to it it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this lease.

## 10 NOTICES

- 10.1 A notice given under or in connection with this lease shall be:
- 10.1.1 in writing and for the purposes of this clause a fax or an e-mail is not in writing;
  - 10.1.2 given to the Landlord by sending it by prepaid first-class post or other next working day delivery service to the registered offices of the Landlord or the Tenant
  - 10.1.3 given to the Tenant by:
    - (a) leaving it at the Property; or
    - (b) sending it by prepaid first-class post or other next working day delivery service at the Property.
- 10.2 If a notice is given in accordance with clause 10.1, it shall be deemed to have been received:
- 10.2.1 if delivered by hand, at the time the notice is left at the proper address; or

10.2.2 if sent by prepaid first-class post or other next working day delivery service, on the second working day after posting.

10.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

10.4 Section 196 of the Law of Property Act 1925 shall otherwise apply to notices given under this lease.

#### 11 **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

A person who is not a party to this lease shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this lease. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

#### 12 **VAT**

Any obligation to pay money refers to a sum exclusive of VAT and the amount of any VAT payable in addition (whether by the Landlord or by the Tenant) shall be paid by the Tenant.

#### 13 **GOVERNING LAW**

This lease and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

#### 14 **JURISDICTION**

Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this lease or its subject matter or formation (including non-contractual disputes or claims).

**SCHEDULE 1  
THE PROPERTY**

The land [and building[s]] known as

[Community Centre Building at Hunts Grove, Quedgeley, Gloucestershire]

Or

[Allotment Land at Hunts Grove, Quedgeley, Gloucestershire]

Or

[Play Areas, Play Trail and Sports Pitches at Hunts Grove, Quedgeley, Gloucestershire]

Or

[Open space area at Hunts Grove, Quedgeley, Gloucestershire]

**SCHEDULE 2  
TENANT COVENANTS**

**1 RENT**

To pay the Rent to the Landlord in advance on or before the Rent Payment Date

**2 INTEREST ON LATE PAYMENT**

To pay interest to the Landlord at the Default Interest Rate (both before and after any judgment) on any Rent or other payment due under this lease and not paid within 14 days following the date it is due. Such interest shall accrue on a daily basis for the period beginning on the due date and ending on the date of payment.

**3 RATES AND TAXES**

3.1 To pay all present and future rates, taxes and other impositions and outgoings payable in respect of the Property, its use and any works carried out there, except:

3.1.1 any taxes payable by the Landlord in connection with any dealing with or disposition of the reversion to this lease; and

3.1.2 any taxes, other than VAT, payable by the Landlord by reason of the receipt of any of the rents due under this lease.

3.2 Subject to the same qualifications mentioned in paragraph 3.1.1 and paragraph 3.1.2, to pay a fair and reasonable proportion determined by the Landlord of any such rates, taxes or other impositions and outgoings that are payable in respect of the Property together with other land.

**4 UTILITIES**

4.1 To pay all costs in connection with the supply and removal of electricity, gas, water, sewage, telecommunications, data and other services and utilities to or from the Property.

4.2 To comply with all laws and with any recommendations of the relevant suppliers relating to the use of those services and utilities and the Service Media at or serving the Property.

**5 COMMON ITEMS**

5.1 To pay the Landlord on demand a fair proportion of all costs payable for the maintenance, repair, lighting, cleaning and renewal of all Service Media, structures and

other items used or capable of being used by the Property in common with other property.

- 5.2 To comply with all reasonable regulations the Landlord may make from time to time in connection with the use of any of those Service Media, structures or other items.

## 6 COSTS

- 6.1 To pay to the Landlord on demand the costs and expenses (including any solicitors', surveyors' or other professionals' fees, costs and expenses and any VAT on them) reasonably and properly incurred by the Landlord (both during and after the end of the term) in connection with or in contemplation of any of the following:

- 6.1.1 the enforcement of the tenant covenants of this lease;
- 6.1.2 preparing and serving any notice in connection with this lease under section 146 or 147 of the Law of Property Act 1925 or taking any proceedings under either of those sections, notwithstanding that forfeiture is avoided otherwise than by relief granted by the court;
- 6.1.3 preparing and serving any notice under clause 4.2.2.

## 7 ASSIGNMENT AND CHARGING

- 7.1 Not to assign or charge part only of this lease.
- 7.2 Not to underlet the Property or any part or parts of it
- 7.3 Not to assign the Property as a whole save to an Alternative Body previously approved in writing by the Landlord such approval not to be unreasonably withheld

## 8 REGISTRATION AND NOTIFICATION OF DEALINGS AND OCCUPATION

- 8.1 In this clause a "Transaction" is any assignment of, or charging of, the whole of this lease.
- 8.2 No later than one month after a Transaction the Tenant shall:
- 8.2.1 give the Landlord's solicitors notice of the Transaction; and
- 8.2.2 deliver two certified copies of any document effecting the Transaction to the Landlord's solicitors; and
- 8.2.3 pay the Landlord's solicitors a reasonable registration fee of not less than £50 (plus VAT)].
- 8.3 If the Landlord so requests, the Tenant shall promptly supply the Landlord with full details of the occupiers of the Property and the terms on which they occupy it.

9      **REPAIR AND INSURANCE**

- 9.1      To keep the Property in good repair and condition throughout the term and, when necessary, renew and rebuild the Property.
- 9.2      To ensure that any Service Media within and exclusively serving the Property are kept in good working order.
- 9.3      [NB – In respect of the Community Building] To keep the Property in good decorative condition and to paint or treat as appropriate the exterior of the structure at the Property as often as appropriate
- 9.4      To keep any external landscaped areas in a clean and tidy condition
- 9.5      To ensure that any Service Media within and exclusively serving the Property are kept in good working order.
- 9.6      To effect and maintain Insurance
- 9.7      To produce to the Landlord upon reasonable request (such request to be no more than once a year) details of the policies of Insurance and evidence that they are in force.
- 9.8      Subject to obtaining the necessary consents to make good any damage caused by an Insured Risk to apply the insurance monies received in making good any damage to the Property as soon as reasonably practicable

10     **SEWERS AND DRAINS**

Not to allow to pass into the Service Media serving the Property any noxious or deleterious effluent or other substance which may obstruct or damage them or any other neighbouring property.

11     **COMPLIANCE WITH LAWS AND NOTICES**

11.1    The Tenant shall comply with all laws relating to:

- 11.1.1    the Property and the occupation and use of the Property by the Tenant;
- 11.1.2    the use or operation of all Service Media and machinery and equipment at or serving the Property whether or not used or operated, and shall, where necessary, replace or convert such Service Media within or exclusively serving the Property so that it is capable of lawful use or operation;
- 11.1.3    any works carried out at the Property; and
- 11.1.4    all materials kept at or disposed from the Property.



- 11.2 Without prejudice to any obligation on the Tenant to obtain any consent or approval under this lease, the Tenant shall carry out all works that are required under any law to be carried out at the Property whether by the owner or the occupier.
- 11.3 Within five working days after receipt of any notice or other communication affecting the Property (and whether or not served pursuant to any law) the Tenant shall:
- 11.3.1 send a copy of the relevant document to the Landlord; and
  - 11.3.2 take all steps necessary to comply with the notice or other communication and take any other action in connection with it as the Landlord may require.
- 11.4 The Tenant shall comply with its obligations under the CDM Regulations, including all requirements in relation to the provision and maintenance of a health and safety file. The Tenant shall maintain the health and safety file for the Property in accordance with the CDM Regulations and shall give it to the Landlord at the end of the term.
- 11.5 The Tenant shall supply all information to the Landlord that the Landlord reasonably requires from time to time to comply with the Landlord's obligations under the CDM Regulations.
- 11.6 As soon as the Tenant becomes aware of any defect in the Property, it shall give the Landlord notice of it. The Tenant shall indemnify the Landlord against any liability under the Defective Premises Act 1972 in relation to the Property by reason of any failure of the Tenant to comply with any of the tenant covenants in this lease.
- 11.7 To give the Landlord full particulars of any notice order or proposal affecting any neighbouring property as soon as the Tenant is aware of it.

## 12 ENCROACHMENTS, OBSTRUCTIONS AND ACQUISITION OF RIGHTS

- 12.1 If a third party makes or attempts to make any encroachment over the Property or takes any action by which a right may be acquired over the Property, the Tenant shall:
- 12.1.1 immediately inform the Landlord and if the Landlord reasonably so requests, shall give the Landlord notice of that encroachment or action, or such other confirmation as the Landlord reasonably requires; and
  - 12.1.2 do such acts and things as the Landlord reasonably requires to prevent or license the continuation of that encroachment or action.
- 12.2 The Tenant shall not obstruct the flow of light or air to the Property nor obstruct any means of access to the Property.

12.3 The Tenant shall not make any acknowledgement that the flow of light or air to the Property or that the means of access to the Property is enjoyed with the consent of any third party.

12.4 If any person takes or threatens to take any action to obstruct the flow of light or air to the Property or obstruct the means of access to the Property, the Tenant shall:

12.4.1 immediately inform the Landlord and if the Landlord reasonably so requests, shall give the Landlord notice of that action or obstruction, or such other confirmation as the Landlord reasonably requires; and

12.4.2 do such acts and things that the Landlord reasonably requires to prevent or secure the removal of the obstruction.

### 13 NOTIFY DEFECTS

To give notice to the Landlord of any defect in, or want of repair or damage to, the Property for which the Landlord may be responsible under this lease or any law, as soon as the Tenant becomes aware of it.

### 14 THIRD PARTY RIGHTS

14.1 To comply with all obligations on the Landlord relating to the Third Party Rights insofar as they relate to the Property and not do anything (even if otherwise permitted by this lease) that may interfere with any Third Party Right.

14.2 To allow the Landlord and any other person authorised by the terms of any Third Party Right to enter the Property in accordance with its terms.

### 15 REMEDY BREACHES

15.1 If the Landlord has given the Tenant notice under clause 4.2.2, of any breach of any of the Tenant covenants in this lease relating to the repair or condition of the Property, to carry out all works needed to remedy that breach as quickly as possible, and in any event within the time period specified in the notice (or immediately if works are required as a matter of emergency) to the reasonable satisfaction of the Landlord.

15.2 To pay to the Landlord on demand the costs [properly] incurred by the Landlord in carrying out any works pursuant to clause 4.2.3 (including any solicitors', surveyors' or other professionals' costs and expenses, and any VAT on them, assessed on a full indemnity basis).

### 16 INDEMNITY

16.1 To indemnify the Landlord against all liabilities, expenses, costs, (including but not limited to any solicitors', surveyors' or other professionals' costs and expenses, and any

VAT on them, assessed on a full indemnity basis), claims, damages and losses (including but not limited to any diminution in the value of the Landlord's interest in the Property and loss of amenity of the Property) suffered or incurred by the Landlord arising out of or in connection with:

16.1.1 any breach of any of the Tenant covenants of this lease; or

16.1.2 any act or omission of the Tenant, or their workers, contractors or agents or any other person at the Property with the express or implied authority of any of them.

## 17 RETURNING THE PROPERTY TO THE LANDLORD

At the end of the term to return the Property to Colethrop Farm Limited in good and substantial repair, condition and decoration and in accordance with the Tenant covenants of this lease.

## 18 USE

18.1 Not to use or permit or suffer the Property to be used otherwise than as and for

[in the case of the Community Building a community building for Community Uses serving residents of the wider community and to manage the Property to facilitate and maintain the Permitted Use and any alternative use is subject to the approval of the Landlord which shall be refused where the proposed change of use would bring the Property into competition with the user market of the neighbourhood centre shown on the Masterplan]

[in the case of the Allotment Land as and for garden allotments or publicly accessible open space and for no other purposes]

[in the case of the Play Areas, Play Trail and Sports Pitches as and for outdoor recreational play areas or sports pitches and for no other purposes]

[in the case of the Open Space Areas as and for open space and for no other purposes]

AND in any event not to cause permit or suffer the Property to be used otherwise than for charitable or not for profit Community Uses

Not to do anything at the Property which may be or become a nuisance or annoyance, or cause loss, damage or injury, to the Landlord or the occupiers of any neighbouring property [in the case of the Community Building and or the neighbourhood centre shown on the Masterplan]

18.2 Not to use the Property for any noisy, offensive, illegal or immoral purpose.

18.3 Not to overload any structural part of the Property nor any Service Media, machinery or equipment at or serving the Property.

18.4 The Tenant shall answer in writing, as soon as reasonably practicable, any reasonable written questions that the Landlord raises in respect of the use or uses to which the Property, or any part of it, is put.

18.5 If the Property or any part or parts of it cease to be used for the Permitted Use for a continuous period of 24 months or more after First Occupation this Lease shall thereupon automatically terminate and the Property shall revert to and be delivered up with vacant possession and in the condition required by this Lease to Colethrop Farm Limited or any assignee from it of the right of reverter of the Property previously notified in writing to the Tenant

#### 19. FENCING

[In the case of the Allotments] To maintain at all times during the term secure chain link fencing around the perimeter of the Property with adequate and secure gated access to the Property

#### 20. MANAGEMENT

To manage and maintain the Property throughout the term strictly in accordance with the Management Scheme

#### 21. ALTERATIONS

[In the case of the Sports Pitches Lease: Not at any time to erect or cause to be erected any buildings without the approval of the Landlord which shall not be unreasonably withheld where the proposed use is consistent with the requirements of paragraph 18 of this Schedule provided that the Landlord's approval shall not be required for minor structures (which includes sports equipment and sheds for equipment storage in relation to the sports pitches)]

[In the case of the Play Areas, Play Trail and Open Spaces and Allotment Land: Not at any time to erect or cause to be erected any buildings other than minor structures sheds and equipment consistent with the Permitted Use]

### SCHEDULE 3 LANDLORD COVENANT

#### 1 QUIET ENJOYMENT

The Landlord covenants with the Tenant, that, so long as the Tenant pays the rents reserved by and complies with its obligations in this lease, the Tenant shall have quiet enjoyment of the Property without any interruption by the Landlord or any person claiming under the Landlord except as otherwise permitted by this lease.

EXECUTED as a DEED by Colethrop Farm Limited acting by two directors or a director and a company secretary:

.....*Director*

.....*Director/Secretary*

EXECUTED as a DEED by Crest Nicholson Operations Limited acting by two directors or a director and a company secretary:

.....*Director*

.....*Director/Secretary*

**OR**

**SIGNED as a DEED by  
[                    ] as  
attorney for CREST NICHOLSON  
OPERATIONS LIMITED in the  
presence of :-**

Attorney

Witness

Signed.....

Name.....

Address.....

SIGNED as a DEED by )  
 \*\*[name of tenant] )  
 acting by \*\*[name of director], )  
 a director, in the presence of: )

Witness's signature: .....

Witness's name: .....

Occupation.....

Address: .....

.....

.....Director

.....Director/Secretary]



**APPENDIX 3- VIABILITY REASSESSMENT TEMPLATE**



**APPENDIX 4 – SUMMARY VIABILITY REPORT**

Policy Implementation Manager –Planning,  
Housing & Regeneration  
Stroud District Council  
Ebley Mill  
Westward Road,  
Stroud  
GL5 4UB

[Oxford Valuation Office  
4400 Nash Court  
Oxford Business Park South  
Oxford  
Oxfordshire OX4 2RU]

Our Reference : [ ]  
Your Reference : [ ]

Please ask for : [Tony Williams]  
Tel : [03000 506355]  
Fax : [03000 506365]  
Mobile : [07867 502904]  
E Mail : [tony.williams@voa.gsi.gov.uk]

Date : [ ]

Dear [ ]

**Land at Colethrop Farm, Bath Road, Hardwicke Glos. (Hunts Grove)**

**Viability Assessment and Review:**

[Insert details regarding instructions]. I have now completed my own research and assessment and would report as follows:

**Background:**

In 2008 an application ref S.06/1429/OUT for 1,750 dwellings, a neighbourhood centre, primary school, parking, floorspace within classes A1 to A5, C2, C3, D1, D2 and B1, 5.75 hectares of employment development within use classes B1, B2 and B8, recreational open space, sports/play facilities, allotments, pumping station, new accesses into Waterwells Business Park, remodelling of Land for Junction 12 of M5 improvements, noise bund and fencing along M5, diversion of footpath EH9, demolition of Colethrop Farm and on/off site infrastructure was granted following a call in enquiry.

The scheme was granted with 30% affordable housing and a full section 106 package which we understand amounted to £21,627,821 plus works.

[Insert details of current position and any further relevant background].

The employment land is under the control of [ ] and although it remains allocated for employment does not form part of this review.

**The Scheme:**

The proposed scheme is for [insert details of the scheme] in accordance with the following phases:

**Private Units:**

Phases	Number of units	Total Size Sq ft	Total Size Sq m
Phase [X] – [insert party]	[ ]	[ ]	[ ]
Phase [X] – [insert party]	[ ]	[ ]	[ ]
Phase [X] – [insert party]	[ ]	[ ]	[ ]
Phase [X] – [insert party]	[ ]	[ ]	[ ]
Phase [X] – [insert party]	[ ]	[ ]	[ ]
Phase [X] – [insert party]	[ ]	[ ]	[ ]
<b>Total Overall</b>	[ ]	[ ]	[ ]
<b>[Insert Developer] Total</b>	[ ]	[ ]	[ ]
<b>3<sup>rd</sup> Parties Total</b>	[ ]	[ ]	[ ]

In addition there is a local centre for which a land value has been adopted.

#### Viability Assessment:

This report deals with each major input into the viability assessment of the scheme. This review has been undertaken following our own research into both current sales values and current costs. We have used figures put forward by *[insert Developer's name]* if we believe them to be reasonable.

I have used a bespoke excel based toolkit with cash flow to assess a policy compliant scheme which is attached as Appendix 1.

We would summarise our assessment of the Proposed Scheme as follows:

#### 1) Development Value -

##### a) Private Residential:

Both *[insert Developer's name]* and we have undertaken detailed research as to sales values achieved in the area over the last [ ] years and asking prices for current new build schemes.

We have taken account of schemes at *[insert details of relevant schemes and main developer]*.

Overall we have adopted a sales value of £[ ] per sq ft (£[ ] per sq m).

*[Insert other relevant details such as Developer's GDV and the valuer's adopted GDV plus justification for this].*

##### b) Affordable Housing:

You have advised that the consented level of affordable housing is 30% and this will be sought with a tenure mix of: *[insert details of tenure mix provided by Council/Developer]*.

We have reviewed the Affordable housing values in the region and taking account of our own experience, we have assumed that an RSL would offer on average [ ]% of market value for the [insert tenure details] units and [ ]% for the [insert tenure details] units taking into account the current changes on rental reductions and suggest that a blended rate of [ ]% of market value is reasonable.

[Insert details of Developer's modelling is available/relevant or different].

**c) Local Centre:**

We have adopted a site value of £[ ] for the local centre.

[Insert details if Developer's assessment is different].

**d) Gross Development Value**

The total GDV that we have adopted for [ ] units and land sales for the remaining [ ] units is £[ ]. [Insert Developer's GDV details if different].

In addition we have adopted a total GDV for the [ ] units of £[ ].

**2) Development Costs –**

**a) Build Cost:**

[Insert Developer's name] have adopted an all-in base build cost of £[ ] per sq ft (£[ ] per sq m) with a total cost of approx. £[ ] for the [ ] units to be built by [insert Developer's name].

We have adopted £[ ] per sq m based [insert details of basis]. [Insert details of any other costs added]. Overall our residential build cost is £[ ] which we believe is reasonable and based on standard criteria.

**b) Infrastructure/Abnormal Costs:**

[Insert brief summary of where the costs details below have been derived from and add any further information into the table as appropriate]. The costs adopted are as follows:

Infrastructure/Abnormal Item	Cost £
<b>Works Contracts -Civils</b>	
Distributor Rds. Incl Drainage and fees	[ ]
Cycle ways/Footpaths	[ ]
Noise Attenuation Bunds	[ ]
SUDS	[ ]
S106 off site highway improvement works	[ ]
Strategic Earthworks	[ ]
<b>Works Contracts – Landscaping</b>	
Major Open Space Works	[ ]
Green Lanes/Linear open spaces	[ ]
Wildlife and ecology	[ ]
Archaeological Works	[ ]
Play Areas	[ ]

Recreation Facilities	[ ]
<b>Services</b>	
Off Site Statutory utilities	[ ]
On Site Strategic Services	[ ]
Off Site Drainage Works	[ ]
<b>Community Facilities</b>	[ ]
<b>Total</b>	[ ]

[Insert details if Developer's assessment is different].

**c) Build Contingency:**

We have adopted [ ]% on both the build costs and infrastructure which, given the nature of the site, we feel is reasonable in this instance.

[Insert details if Developer's assessment is different].

**d) Professional Fees:**

We have adopted [ ]% which we feel is reasonable for this site and totals £[ ]

[Insert details if Developer's assessment is different].

**e) Section 106 Costs:**

[Insert description of s106 position to date in terms of contributions and say that the current position is as follows]:

Item	Consented Scheme	[Insert details of phasing as relevant]	Remainder
Planning SDC	£[ ]	£[ ]	£[ ]
Highways etc. GCC	£[ ]	£[ ]	£[ ]
Education GDC	£[ ]	£[ ]	£[ ]
Works	£[ ]	£[ ]	£[ ]
<b>Total</b>	£[ ]	£[ ]	£[ ]

Currently a total of £[ ] is included as contributions in the appraisal with the remainder as works.

**f) Sale and Marketing fees:**

We have adopted [ ]% of GDV for marketing, [ ]% of GDV for agent fees and [ ]% of GDV for legals, a total of [ ]% as reasonable and agreed on other similar developments.

In addition we have also included [ ]% fees for the sale of the retail/local centre site and [ ]% for the land sales.

[Insert details if Developer's assessment is different].

**g) Finance costs:**

We have adopted a finance rate of [ ]% which will reflect arrangement and other fees.

*[Insert details if Developer's assessment is different].*

**h) Developers Profit:**

In the current market we are of the opinion that a total profit of [ ]% to [ ]% of GDV for the market units and [ ]% on the affordable units is reasonable and the market norm.

*[Insert details if Developer's assessment is different].*

**i) Development Programme:**

The following programme has been adopted by DVS:

- [ ]

*[Confirm if the programme has been confirmed by the Developer]*

**j) Land Value:**

In most viability assessments the residual land value of the scheme is compared to the market value of the site, as the benchmark land value, to assess viability.

*[Insert details of site area and land use of the site].*

In our experience for sites of this nature and taking into account its location we are of the view that £[ ] to £[ ] per acre gross is an appropriate land value which equates to approx. [ ] times agricultural value and is proven to be a competitive return for an allocated site.

For this scheme the land value would equate to a minimum of approx. £[ ] plus stamp duty and fees.

In addition we have allowed for £[ ] for promotional costs and historic fees in the appraisal as reasonable.

**Overall assessment and Recommendations:**

*[Insert final assessment and recommendations with justification].*

I trust this report deals with the issues as required but please do not hesitate to contact me if you have any queries and I would welcome the opportunity of discussing this with you in greater detail.

Yours sincerely

[Tony Williams BSc MRICS  
Head of Viability (Technical)  
DVS]

## APPENDIX 5 – MANAGEMENT SCHEME PRINCIPLES

### RESIDENTS' MANAGEMENT COMPANY SCHEME

#### HUNTS GROVE

Land at Colethrop Farm, Hardwicke

#### 1.0 EXECUTIVE SUMMARY

The Developer is developing a mixed-use community of approximately 1750 homes at the Site, based upon the Developer's Garden Village principles. These principles include a focus on lifestyle and legacy that will require long-term, high-quality management of community assets. The Site will be designed to provide all the components of a vibrant and cohesive community, including generous facilities for leisure, sport and play. In accordance with the Garden Village principles, it is proposed that the green spaces across the development should not be adopted by the Council, but will be managed as assets for the community, providing a long-term basis for encouraging communal activity and community spirit.

This document presents outline proposals for the Owner/ Developer and a Management Company to establish and manage the proposed green spaces and community infrastructure, using a proven model that enables residents and other stakeholders (Affordable Housing, school, retail & commercial) to lease and run these assets. The Owner/Developer sees this as a basis for agreement about how this approach could provide tangible, enduring benefits for the Council, any potential purchasers, and future stakeholders.

#### 1.1 PRINCIPLE OF THE MANAGEMENT COMPANY

This proposal is based upon establishing a Management Company, which will eventually lease and manage the Community Centre Building, Sports Pitches, Allotment Land and Open Spaces through the Management Scheme. The Owner/Developer believes this is the best way to create an environment which will deliver a legacy that follows the Developer's Garden Village principles. The establishment of the Management Scheme will be based upon the following key principles:

The Developer to establish a Management Company to manage the Management Scheme, using a proven model that enables residents and other stakeholders (Affordable Housing, school, retail & commercial, and the Owner which retains the freehold) or an Alternative Body to manage and run these assets on a long leasehold basis.

- The Management Company will lease all of the Management Scheme from the Owner under separate leases.
- The leases will be for a term of 125 years.
- The Management Company will have as its members the Developer, all residents and other identified stakeholders (Affordable Housing, school, retail & commercial, the Owner and if agreed an Alternative Body)
- A managing agent will be appointed by the Developer to carry out the management and administration on behalf of the Management Company.
- The Developer will pay a total sum of £1.9M into the Management Company towards the future maintenance of the Management Scheme.
- This sum of £1.9M will be drawn down in tranches linked to the % of the Community Centre Building, Sports Pitches, Allotment Land and Open Spaces completed. The sum of monies drawn down will be deposited in a protected service charge client account/ escrow account. The completion of the Community

Centre Building, Sports Pitches, Allotment Land and Open Spaces together with the money draw down will be monitored and 'signed off' by an independent Chartered Surveyor.

- The client / escrow account will be administered by the managing agent and will comply with the RICS Code of Practice service charge, Residential Management Code and the ARMA, ICAEW, ACCA & RICS joint guidance on accounting for service charges, and the service charge arrangements will be CML compliant.
- Service charges will payable by members of the Management Company (residents, Affordable Housing, school, retail and commercial), in an annual sum which is sufficient to allow the Management Company to maintain the Management Scheme. The requirement to pay the annual sum will be secured via a rent charge, and property owners will be obliged to pay by direct debit.
- The Developer will initially hold an 'A' membership that gives sole voting rights, to ensure the Management Company runs smoothly until the Site has been completed. The owners of the existing 342 homes situated within Phase 1 of the Land will be the first members of the Management Company and new owners will become members as the build out proceeds. Existing property owners living in the community of 342 homes built as part of Phase 1 will be allotted a 'B' share, and as each new property is sold these owners will also receive a 'B' share. Other identified stakeholders (Affordable Housing, school, retail & commercial, and CFL) will also receive a 'B' share representing their interest in them. The Developer will control the company until it is ready to hand over ownership to the Management Company. At this point, the Developer will resign its 'A' membership and the Management Company will be entirely owned by the 'B' shareholder property owners and other stakeholders on the estate.
- The Developer will lay out the Community Centre Building, Sports Pitches, Allotment Land and Open Spaces pending the grant of the leases to the Management Company and will hand over each completed asset or phase to the Management Company as early as possible, so that members can make a direct connection between the service charge they pay and the service that they receive. However, handover will be dependent upon the assets being fit for purpose and ready to be maintained, and on the Developer no longer requiring access.
- The members of the Management Company (residents, Affordable Housing, school, retail & commercial) will be encouraged to form a steering committee to act as the focal point for communications with the managing agent, to ensure that the estate is maintained to the agreed standard and to help shape the legacy.
- The managing agent will implement a debt management system to invoice and collect a service charge from existing properties in Phase 1 for the forthcoming year, and from properties completed and sold in succeeding years
- The Management Company will have the requisite powers (secured by rent charges) in the transfers of individual properties on the estate to ensure that members continue to pay the service charges required to allow the Management Company properly to maintain the Management Scheme. In the unlikely event that there is a breakdown in the Management Company arrangements and if the Developer is still Member A or those B shareholders who are not members will then have the ability to take the necessary steps to restore working arrangements. For the avoidance of doubt the Council will not have step in rights if there is a breakdown in Management Company operations or arrangements.
- Any change in the use of any of the Community Centre Building, Sports Pitches, Allotment Land and Open Spaces will be restricted to Community Uses and any profits so generated will be required to be provided to the Management Company. The long leases of the Community Centre Building, Sports Pitches, Allotment Land and Open Spaces from the Owner will only be capable of assignment by the Management Company to an Alternative Body with the prior approval of the Owner (not to be unreasonably withheld) to make sure that the Community Centre Building, Sports Pitches, Allotment Land and Open Spaces continues to be available to and managed for the benefit of members of the Management Company.
- Key points about this model that we would like you to consider are highlighted in this Summary.



## 1.2 OWNERSHIP AND MANAGEMENT OF THE MANAGEMENT COMPANY

The Developer will initially hold an 'A' membership that gives sole voting rights, to ensure the Management Company runs smoothly for as long as the Developer requires an interest in the Management Company. Existing property owners living in the community of 342 homes built as part of Phase 1 will be allotted a 'B' share, and as each new property is sold these owners will also receive a 'B' share. These shares represent each property owner's interest in the Management Company. The Developer will control the company until it is ready to hand over voting rights. At this point, it will resign its 'A' membership and the Management Company will be entirely owned by the 'B' shareholder property owners on the estate.

Meanwhile, the managing agent will undertake the management and administration of the Management Company on the Developer's behalf. The managing agent will implement a debt management system to invoice and collect a service charge from existing properties in Phase 1 for the forthcoming year. The level of income that could be generated for the Management Company from these existing homes within the first year will be in the order of £60K. New plot purchasers will be required to pay a full year's service charge (pro-rata) upon each property completion, helping to build funds quickly.

The Owner/Developer believes that early stakeholder involvement is key to success, and through the managing agent it will work proactively to engage with new members from the existing community, to explain the principles and benefits of the Management Scheme, the proposed service charge budget and the services that will be provided, and the obligations that each member entered into when purchasing their home. This proactive approach will be underpinned by introducing a 'caretaker' early in the process, to help maintain the green spaces within the existing development.

New plot purchasers will receive home marketing and sales packs, and the Management Company will help to link the place-making, home building and selling process right through to a seamless handover of completed estate assets into the Management Company.

Members will be encouraged to form a steering committee to act as the focal point for communications with Developer and the managing agent, to ensure that the estate is maintained to the agreed standard and to help shape the legacy.

The Developer will hand over each completed asset or phase of the Community Centre Building, Sports Pitches, Allotment Land and Open Spaces to the Management Company as early as possible, so that members can make a direct connection between the service charge they pay and the service that they receive.

However, handover will be dependent upon the asset or phase being fit for purpose and ready to be maintained, and on the Developer no longer requiring access. The Management Company model has been designed so that the cash flows from the service charge income will be sufficient to fund the administration and maintenance costs of each of the Community Centre Building, Sports Pitches, Allotment Land and Open Spaces, with the agreed draw down sums, as it is handed over, without recourse to external funding.

## 1.3 REALISING THE GARDEN VILLAGE PRINCIPLE THROUGH THE MANAGEMENT COMPANY

The idea of the Garden Village is a holistically planned new community where the design, landscaping, open space and public realm are vital elements of the whole development. Inspired by the original garden cities at Letchworth and Welwyn, and the ideals established by Ebenezer Howard in the early 1900s, the Garden Village is as relevant today as it was a century ago. At its heart are well maintained, high-quality open spaces and a strong community spirit.

The Management Company model supports these principles in practice. Its assets will comprise public open spaces, playing fields, all weather pitches, NEAPs, LEAPs and pocket parks, strategic noise buffer, allotments, watercourses, attenuation ponds, wildlife pond, SUDs and nature conservancy areas. The Developer believes that managing these assets through an Management Company, whose members include all current and future homeowners, school, retail and other commercial businesses who own property, provides the best opportunity to deliver a legacy of which to be proud.

The responsibilities of the Management Company will be:

- Regular maintenance of the communal amenity areas and infrastructure
- Public Liability insurance cover
- Buildings insurance for flats and maisonettes
- Maintenance and repair of play areas
- Provision of funds for communal amenity areas and infrastructure
- Preparation and submission of annual accounts to Companies House.

As a limited company, the Management Company must comply with the Companies Act 2006 and other legal and regulatory guidelines, maintaining accounts in respect of income and expenditure, audited each year. A company secretary will ensure that the formalities of the company structure are correctly performed; this will include filing documents at Companies House, maintaining share registers and calling annual meetings.

The Management Company will set an annual budget, issue service charge invoices and collect monies. It will fulfil its obligations to provide services by appointing contractors and ensuring they are properly equipped and comply with health & safety regulations. Maintenance of the communal amenity areas and infrastructure will be administered against agreed key performance indicators, specifications and levels of service included within the contract between the Management Company and the managing agent.

The Key Performance Indicators are as follows.

Area	KPI	Measure	How Measured
Financial Management	Unaddressed service charge debt (i.e. those who haven't paid or who haven't made arrangements to pay)	< 5%	Measure at year financial end, % of annual service charge
Compliance	Statutory returns filed by due dates	All	No penalties from Companies House etc.
Health & Safety	Pay outs on claims against CIC's public liability insurance	None	12 month rolling total
Customer Satisfaction (Estate Services)	Estate Management Plan in place	Compliant	Annual assessment
Customer Satisfaction (Estate Services)	Complaints about agent's provision of estate services	None	12 month rolling Total
Complaints (Estate Works)	Justified complaints about provision of estate works	< 3	12 month rolling Total

#### 1.4 MAKING THE MOST OF GREEN SPACES: COMMUNITY WELL BEING

The Site will provide generous green spaces which will define the character and quality of the development, as well as the lifestyle of residents and the legacy for future generations. If they are well maintained and presented, they will add value to the homes on the development, creating a sought after mixed-use community where property at all price levels is transacted easily and quickly.

The Developer and the managing agent are passionate about helping communities to manage green spaces and natural habitat, and have demonstrated on other developments that they can be utilised as a way of engaging and connecting with a new community. From excellent presentation of the green spaces to enabling local food growing co-operatives or taking part in community walking activities, residents are in control and able to make their own decisions about the service that they want.

As one example, The Developer and the managing agent see allotments as a key building block in creating a sense of community. The managing agent has significant experience here, for example in working to develop membership-based food co-operatives. The aim is to build an edible landscape where the community can grow its own fruit and vegetables, focusing on exotic crops or those that are cheaper to grow than to buy, and reducing food miles by growing locally. Members can decide what items of healthy, organic fruit and vegetables they would like to grow, and between them determine who will grow what for that year. Membership benefits include free seeds and compost, access to a gardeners' resource library, and social events. An on-site gardener to train and mentor members in organic horticulture, nutrition and how to grow food in a sustainable and environmentally friendly manner.

The ultimate goal is to develop a core team of residents to take on the management of the food cooperative, reducing managing agent's involvement over time. The managing agent also helps the group to identify and secure additional funding for such activities. The managing agent will investigate further initiatives: from community shops selling on-site produce to bee-keeping (based on a wild flower meadow), or even an on-site aquaponics 'farm' producing anything from fruit and vegetables to fish, chickens and eggs.

The Developer and the managing agent will work to achieve a sense of community and well-being and to deliver education initiatives, encouraging residents to get involved in events and activities. The Developer and the managing agent believe that partnerships like this can be very successful in widening awareness of wildlife and its green spaces and getting people of all ages and backgrounds involved.

### **1.5 CREATING AND MAINTAINING THE ASSETS: SCOPE OF SERVICE**

The services comprise services in advance of land and plot sales and support to the Management Company post-completion, including community activities and estate works.

The approach to estate works will combine routine, proactive, reactive and emergency maintenance to ensure that the public realm, any other green spaces, play areas and other communal assets are kept in great shape at all times. This will be done in the most environmentally effective way - for example, incorporating grass cuttings into onsite compost, or chipping coppiced wood for mulch. The managing agent would be working towards a 'closed loop' system where wastes and resources are used totally by residents on the development.

Beyond this day-to-day maintenance, the managing agent will work with the community to meet the longer-term requirements and aspirations for managing the landscape and local ecology. This will include maintaining the biodiversity value of retained trees and hedgerows, and planting new street trees that benefit the ecosystem, in locations that create green corridor connectivity.

The managing agent would look at registering newly created woodlands to the Woodland Carbon Code Scheme. This enables external companies to offset some of their carbon emissions through the trees that are planted.

Registration to the Woodland Carbon Code Scheme means that the woods are responsibly and sustainably managed to national standards and that carbon purchasers contribute to the management of woodlands. The financial assets provided through the Woodland Carbon Code Scheme will be used towards site management and/or given in benefits to the Management Company to 'pump prime' community activities.

For the proposed Community Centre Building the service charge model assumes that the operating costs will be cost neutral. Currently provision has been made within the annual service charge budget of £5K for reserves, £2.5K for insurance and £1K for utility provisions. Whilst the managing agent will oversee and administer the community building's obligations related to insurance and Health and Safety, the objective is to develop a core team of residents and members including the wider community prepared to volunteer and take on the running of the building on a day to day basis.

The Management Company model and the services which are provided offer total flexibility to incorporate any potential communal asset within the defined development boundary - from electric power points to community centres. In the longer term, there is great potential to incorporate other infrastructure into the Management Company, or to accommodate differing communal and infrastructure asset responsibilities across the development. There is a real opportunity to build a socially cohesive development where green spaces, renewable energy and buildings are used to increase community awareness, engagement and social interaction.

#### **1.6 GIVING VALUE FOR MONEY: COSTS AND MANAGEMENT CHARGES**

The Management Company funds its responsibilities by levying and collecting an annual service charge from its members (shareholders). The service charge includes:

- The costs of running the Management Company (the Management Company overhead)
- The annual maintenance costs of the Community Centre Building, Sports Pitches, Allotment Land and Open Spaces
- Provision of reserve funds to cover the future repair and replacement of communal infrastructure in the Community Centre Building, Sports Pitches, Allotment Land and Open Spaces.

The proposed Management Company service charge is £195 per property per annum, inclusive of VAT at 20%.

The service charge is estimated on the basis of the whole estate, i.e. on the assumption that all properties (342 homes in Phase 1 plus new build of 1,408 homes) are contributing, and all the Community Centre Building, Sports Pitches, Allotment Land and Open Spaces have been transferred to the Management Company. This currently excludes any school, commercial, or retail areas but these can be included.

Prior to this time, any under spend in service charge compared to the budget can be credited back to the members if desired. Likewise, any over-expenditure can be surcharged. However, while the Developer remains the initial Management Company director, it will instruct that any over or under expenditure is debited from or credited to the Management Company reserve fund account.

The managing agent's management fees are included in the draft service charge budget. These comprise a fixed element reflecting the Management Company management, and a variable per-property charge that reduces with the increasing number of property completions. The managing agent does not add any "mark-up" to the cost of works and services provided by third party suppliers or contractors.

The residents' company model is regularly reviewed by the 'Council of Mortgage Lenders'. This 'model' is designed to ensure the long term stability and financial viability of the Management Company, and plays a large part in ensuring that the Council of Mortgage Lenders continue to regard properties at such developments as 'mortgageable'

The service charge is secured by an estate rentcharge on each property. This secures the payment of a service charge by each member.

The level of charge is based upon the projected build forecast of between 8 and 10 unit completions per month.

The Management Company financial model has been designed to ensure that the cash flows from the service charge income will be sufficient to fund the administration and maintenance costs of each asset or phase of the Community Centre Building, Sports Pitches, Allotment Land and Open Spaces without recourse to external funding.

The Developer will provide a sum of £ 1.9M to be held in a service charge client account in the name of the Management Company.

The provision of this contribution by the Developer is instead of including a charge of £75 per property within the service charge as a contribution to the reserve fund.

The service charges within the client account are held in trust for the members of the Management Company.

The service charge budget will be reviewed each year. As it is initially calculated on the basis of the whole estate of 1750 homes, there is no reason to suggest that it would deviate much from RPI, unless there were significant changes in the law such as the rate of VAT.

To ensure the flow of funds needed to shape and manage this community, it is essential to bill customers correctly and to collect monies on time. The managing agent will invest significantly in information technology, based on cube property and facilities management software that will enable them to manage the assets efficiently and transparently on behalf of the members and other stakeholders. They will also utilise their

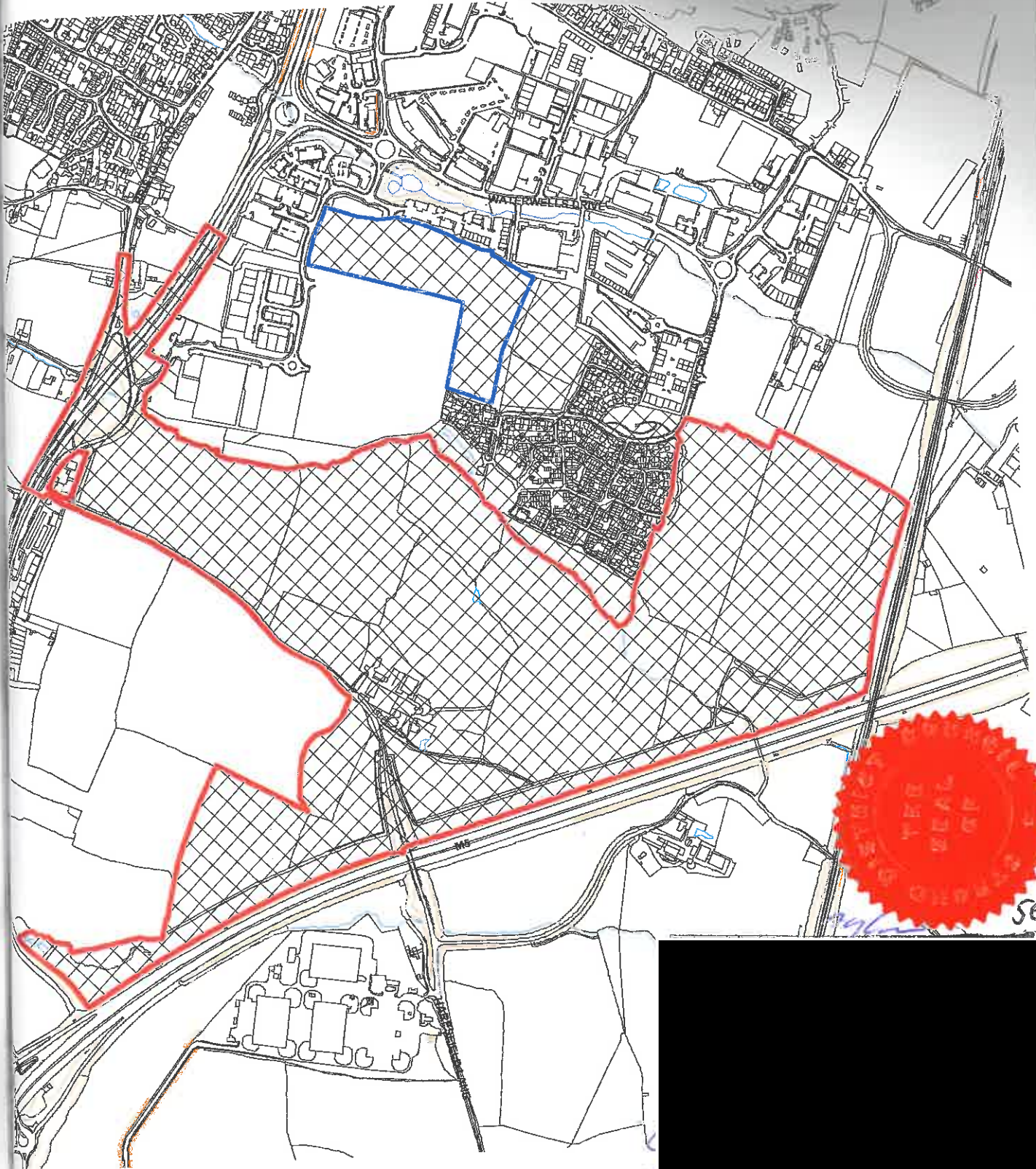
IT structure as the 'iPad hub' of the community, through a social network site which will become a platform for providing additional services.

Members will be able to log on to see how they manage their money, from the service charge they pay to the actual cost of the services provided. They will also have access to a whole range of data and information, from company accounts to health and safety reports.

The service charge budget includes the provision of a full-time 'caretaker team' comprising 2 full time equivalent (FTE) operatives with all plant and materials. This not only helps to keep the development in good order, but also provides the eyes and ears of the community, working proactively to identify and rectify infrastructure, environmental and social issues as they arise. The Management Company also acts as a forum to engage the community in future design and planning, and to manage expectations as the plan evolves over the life of the development.

#### 1.7 IN SUMMARY

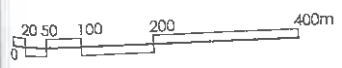
- The Community Centre Building, Sports Pitches, Allotment Land and Open Spaces will be managed in a way which creates opportunities for healthy living and personal wellbeing, now and throughout the lifetime of the community. The Management Company model, supported by proactive management and modern technology, will create community engagement and pride in the development.
- The proposed service charge for the development will be £195 per home per annum and the early income generated from the existing 342 homes included within Phase 1 means that the service charge cash flow model is positive from day one. This will equate to approximately £350,000 per annum upon build out.
- It also means that the community is able to procure a caretaker based on the site full time, early in the development to help improve and maintain the existing estate in great order.
- The Developer will place a total sum of £1.9M into a Service Charge client / escrow account, which will be administered on behalf of the Management Company by the managing agent. This sum will be drawn down in tranches and monitored independently linked to the satisfactory completion of the Community Centre Building, Sports Pitches, Allotment Land and Open Spaces.
- The Developer wants to push the service boundaries – to develop a flexible, transparent 'whole life' private asset model which helps create, engage and galvanise a future community where people aspire to live, work and visit.



Key

-  The Land
-  The Site to be bound by the S106
-  St Modwen Land

- C Redline updated
- B Redline updated
- A Blue line added Amendments



Job No/Drawing No	13143/1080/C	Job Title	Hunts Grove, Gloucester
Scale	1:10000	Drawn	JL/MD
Date	11/15	Drawing Title	S106 Plan: Site Location
@ A4		Plan 1	

All Dimensions to be checked on site

pad Design Ltd - The Tobacco Factory - Raleigh Road - Bristol BS3 1TF - Tel. 0117 9530059 - www.pad-design.com



EXECUTED as a Deed (but not delivered until dated) by affixing the Common Seal of **STROUD DISTRICT COUNCIL** in the presence of:-



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)  
)



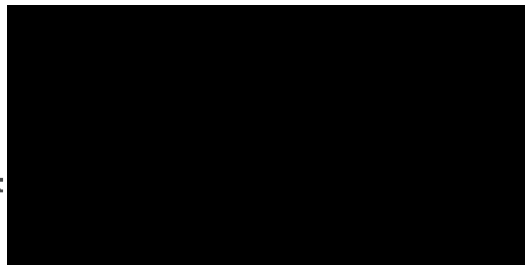
5641

Director

Director/Secretary

SIGNED as a Deed (but not delivered until dated) by **COLETHROP FARM LIMITED** acting by two Directors or a Director and the Secretary:-

)  
)  
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)  
)



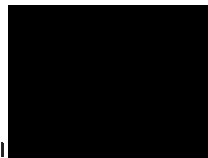
Director

Director/Secretary

SIGNED as a Deed (but not delivered until dated) by **CREST NICHOLSON OPERATIONS LIMITED** acting by ~~two Directors~~ or a Director and the Secretary:-



)  
)  
)  
)  
)



Director

Director/Secretary



Address: Crest Nicholson  
Pycroft Road  
Chertsey  
Surrey  
KT16 9GN

Occupation: ADMINISTRATOR

By this POWER OF ATTORNEY made by deed on 27 September 2016, we, Barclays Bank PLC, a company incorporated in United Kingdom and registered in England (registered number 1026167), whose registered office is situate at 1 Churchill Place, London, E14 5HP (the "Company") APPOINTS:

Phillip Brown  
HEAD OF COLLATERAL  
Credit Product Operations  
One Snowhill  
Queensway  
Birmingham  
B4 6GN

I certify that this is a true  
and complete copy of the  
original

FOR BARCLAYS BANK PLC  
Name Michelle Girros  
Job Title Team Leader  
Date 1st March 2017

as our true and lawful attorney (the "Attorney") for and in our name and on our behalf (but without prejudice to or in any way limiting the actual or ostensible authority of the said attorney) to do and execute the following acts and deeds:

1. to sign and execute all forms of written documents, other than acceptances and endorsements of bills of exchange; and/or
2. to accept and endorse bills of exchange jointly with some other person duly authorised by the Company for that purpose; and/or
3. to sign, execute and deliver all deeds including, without limitation, guarantees, bonds, deeds of easements and indemnities, deeds regulating the priority of mortgages, releases, discharges, transfers of mortgages, re-conveyances and reassignments of real or personal property, mortgaged, charged or assigned by way of security to the Company; and/or
4. to make any declaration, statement, affidavit or proof of any debt due or claimed to be due to the Company in any proceedings taken or hereafter to be taken by or against any person, firm or company under any act for the time being in force in relation to the bankruptcy, insolvency or liquidation of debtors, firms or companies of whatever nature,

relating to work done in the ordinary course of business of Credit Product Operations.

This Deed shall remain in force for twelve consecutive calendar months from the date of this Deed.

This Deed shall be governed and construed in accordance with the laws of England and Wales, to the jurisdiction of whose courts the Company submits by executing this Deed and the Attorney submits by purporting to act under its terms.

This Deed has been, and has been witnessed as, duly executed and delivered on the day and year first written above.

The Common Seal of  
Barclays Bank PLC  
was affixed in the Execution of this Deed  
in the presence of:






.....  
Assistant Secretary  
Authorised Sealing Officer



EXECUTED as a Deed (but not delivered until dated) by **BARCLAYS BANK PLC** acting by an **ATTORNEY** in the presence of:-

)  
)  
)  
)

Signed as a deed by	
PHILLIP BROWN.....	
As Attorney for and on behalf of Barclays Bank PLC in the presence of:	
	
NAME	SIGNATURE

Signature of witness:

Name of witness:

Address:

Occupation: