

DATED **2026**

NORTH HERTFORDSHIRE DISTRICT COUNCIL

and

HERTFORDSHIRE COUNTY COUNCIL

and

MARTIN WILLIAM BADELL

and

GRAHAM IAN HACKNEY

and

MARGARET ROSE HACKNEY

and

CHRISTOPHER PAUL BADELL

and

SIMONE BADELL

and

SEAN RUSSELL MACDONALD

and

CARMEN ALICIA AGUILAR LOPEZ

and

CRAIG JOHN RENNIE and KATHARINE ELIZABETH SCOOT of HRJ Foreman Laws

as Executors of the Estate of IRIS JANET BADELL

and

MCCARTHY & STONE RETIREMENT LIFESTYLES LIMITED

and

BARCLAYS BANK UK PLC

and

LEGAL & GENERAL HOME FINANCE LIMITED

DEED

Under Section 106 of the Town & Country Planning Act 1990
Relating to Land at Birchwood and Silverdale and Three Trees and Willow Close, Old
Charlton Road, Hitchin, Hertfordshire, SG5 2AJ

Commented [SK1]: We are not aware of these parties, nor have we been instructed by them.

THIS DEED is made the _____ day of _____ 2026

BETWEEN:

- 1 **NORTH HERTFORDSHIRE DISTRICT COUNCIL** of Council Offices Gernon Road
Letchworth Garden City Hertfordshire SG6 3JF (the **"Council"**) and
- 2 **HERTFORDSHIRE COUNTY COUNCIL** of Robertson House, Stevenage, Herts,
SG1 2FQ (the **"County Council"**) and
- 3 **MARTIN WILLIAM BADELL** of Birchwood, Old Charlton Road, Hitchin, Herts SG5
2AJ (the **"First Owner"**) and
- 4 **GRAHAM IAN HACKNEY** and **MARGARET ROSE HACKNEY** of Willow Close,
Old Charlton Road, Hitchin SG5 2AJ (the **"Second Owner"**) and
- 5 **CHRISTOPHER PAUL BADELL** and **SIMONE BADELL** of Silverdale, Old
Charlton Road, Hitchin SG5 2AJ (the **"Third Owner"**) and
- 6 ~~**SEAN RUSSELL MACDONALD** and **CARMEN ALICIA AGUILAR LOPEZ** of 90
Cowper Road, Harpenden AL5 5NH (the **"Forth Owner"**) and~~
- 6 **CRAIG JOHN RENNIE** and **KATHARINE ELIZABETH SCOOT** of **HRJ Foreman
Laws as Executors of the Estate of IRIS JANET BADELL** of 25 Bancroft,
Hitchin, Hertfordshire, SG5 1JW Three Trees, Old Charlton Road, Hitchin
Hertfordshire (the **"FourthFifth Owner"**) and
- 7 **MCCARTHY & STONE RETIREMENT LIFESTYLES LIMITED** (Co. Regn. No.
06622231) of 4th Floor, 100 Holdenhurst Road, Bournemouth, Dorset, BH8 8AQ
(the **"Developer"**)
- 8 ~~**BARCLAYS BANK UK PLC** (Co. Regn. No. 9740322) of P.O. Box 187, Leeds
LS11 1AN (the **"First Mortgagee"**) and~~
- 98 **LEGAL & GENERAL HOME FINANCE LIMITED** (Co. Regn. No. 4896447) of P.O.
Box 17225, Solihull B91 9US (the **"Second Mortgagee"**)
- together "The Parties".

Commented [RM2]: Deceased - can we have details of executors

Commented [SK3R2]: Please see as amended. We are awaiting a copy of the grant of probate from the Executors.

Commented [RM4]: For 3rd owner

Commented [RM5]: Mortgagee for second owner

RECITALS

- A The Council ~~and the County Council~~ are ~~is~~ the local planning authorities ~~for the~~ area in which the Land is situate and as such are the local planning authorities

~~entitled to enforce the planning obligations hereinafter recited for the Land for the purposes of the Act.~~

B The Council is a principal council for the purposes of the Local Government Act 1972.

BC ~~The County Council is the Highway Authority the Libraries Authority the Waste Disposal Authority and the Fire and Rescue Authority for Hertfordshire~~

CD The First Owner is the registered freehold proprietor of the Land registered at HM Land Registry under Title Numbers HD370851 free from encumbrances that would prevent the First Owner from entering into this Deed.

DE The Second Owner is the registered freehold proprietor of the Land registered at HM Land Registry under Title Numbers HD425977 free from encumbrances that would prevent the Second Owner from entering into this Deed.

EF The Third Owner is the registered freehold proprietor of the Land registered at HM Land Registry under Title Numbers HD385502 free from encumbrances that would prevent the Third Owner from entering into this Deed.

F ~~The Forth Owner is the registered freehold proprietor of the Land registered at HM Land Registry under Title Numbers HD269810 free from encumbrances that would prevent the Forth Owner from entering into this Deed.~~

G The ~~Fourth~~ Owner is the registered freehold proprietor of the Land registered at HM Land Registry under Title Numbers HD369810 free from encumbrances that would prevent the ~~Fourth~~ Owner from entering into this Deed.

H ~~The First Mortgagee is the registered proprietor of the charge dated 17 July 2015 referred to in entry number 3 of the charges register of Title number HD385502 and has agreed to enter into this Deed to give its consent to the terms of this deed.~~

IH The ~~Second~~ Mortgagee is the registered proprietor of the charge dated 29 July 2014 and 22 June 2018 referred to in entry numbers 3 and 6 respectively of the charges register of Title number HD425977 and has agreed to enter into this deed to give its consent to the terms of this Deed.

JI The Parties hereto have agreed to enter into this Deed to make provision for regulating the Development and securing the matters hereinafter referred to

Commented [SK6]: We do not know who these parties are? We were not instructed by them. The land is 90 Cowper Road, Harpenden, AL5 5NH.

Commented [RM7]: Recital tbc once we have clarification on executors

Commented [SK8]: My client has paid off their mortgage and we are liaising with Barclays Bank to have their legal charge removed by way of an eDS1.

Commented [SK9]: We are liaising with our client regarding obtaining mortgagee's consent in relation to the Agreement.

which are required in order to enable the Development to proceed pursuant to the grant of Planning Permission.

OPERATIVE PROVISIONS:

1. DEFINITIONS

- 1.1 In this Deed the following expressions shall have the following meanings unless inconsistent with the text:

"Act"

means the Town and Country Planning Act 1990 as amended;

"Application"

means the application for full planning permission for the Development submitted to the Council by the Owner with the application plans and other materials and allocated reference number 25/01014/FP

"BCIS Index"

means the Building Cost Information Service All-in Tender Price Index published ~~from time to time~~ monthly

"Commencement"

means the carrying out by any person (which for the avoidance of doubt may or may not be a party to this Deed or their agents or representatives) of a material operation comprised in the Development within the meaning of Section 56 of the Act save that for the purposes of this Deed only "material operation" shall not include:

- a. site clearance;
- b. demolition of existing buildings;
- c. archaeological investigation;
- d. the assessment of contamination;
- e. remedial action in respect of any contamination;
- f. diversion and laying of services;
- g. the erection of fencing or other means of enclosure for site security;
- h. the display of advertisements;
- i. any off-site highways works

and the term Commence and Commences shall be construed accordingly;

"Contributions"

means any financial contribution payable by the Owner pursuant to this Deed to the Council or the County Council and the term "Contribution" shall be construed accordingly

"County Council Monitoring ContributionFee"

means the sum of £420.00 (four hundred and twenty pounds) (iIndex--Link as hereinafter provided) in consideration of the County Council's monitoring of compliance with this Deed;

[TBC]

"Development"

means the erection of three storey building comprising 35no. retirement living apartments with associated communal areas, landscaping and parking following demolition of existing buildings authorised by the Planning Permission;

"Development Mix"

Means the following table:

Commented [RM10]: Tbc by county - These will be based on the number of triggers within each legal agreement with each distinct trigger point attracting a charge of **£420** (adjusted for inflation against RPI January 2024).

HOUSES		
Number of Bedrooms	A) Open Market & Shared Ownership*	B) Affordable Rent**
1	0	0
2	-2	0
3	-2	0
4+	0	0
Total	-4	0

FLATS		
Number of Bedrooms	A) Open Market & Shared Ownership*	B) Affordable Rent**
1	17	0
2	18	0
3	0	0
4+	0	0
Total	35	0

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

** Tenure characteristics similar to open market dwellings and dwellings provided for sale that offers a route to ownership for those who could not achieve home ownership through the market (or other tenures which display these types of characteristics)*

*** Tenure characteristics of 100% rented, reflecting needs assessed dwellings for which the rent is set below local market rents (or other tenures which display these types of characteristics)*

"Dwelling"

means an individual residential unit permitted as part of the Development and "Dwellings" shall be construed accordingly;

"Fire and Rescue Service Contribution"

means the sum of £15,022,780.00 (fifteen two thousand seven hundred and twenty-two eighty pounds) (Index Linked as hereinafter provided) to be used towards the expansion of fire-Baldock fire station at-Baldock and/or provision serving the Development;

Commented [RM11]: TBC by county

"Index Linked"

means that for those Contributions listed in the table at Annex 1 to be index linked by reference to the index specified in Annex 1 against such Contribution as published by the relevant organisation from time to time from a base figure as specified in Annex 1 against such Contribution to the finalised figure applicable to the quarter in which the Contribution is paid in accordance with clause 11;

"Interest"

means interest at four percentage points above the base lending rate of Lloyds Bank from time to time;

"Land"

means the land at Birchwood and Silverdale and Three Trees and Willow Close, Old Charlton Road, Hitchin, Hertfordshire, SG5 2AJ which for identification purposes only is shown edged red on the Plan;

"Library Contribution"

means the sum of £4,841,005,450 (five-four thousand four-eight hundred and fifty-forty-one pounds) (Index Linked as hereinafter provided) which shall be applied towards increasing the capacity of Hitchin Library and/or provision serving the Development;

Commented [BK12]: The County Council does not define indexation but deals with indexation at clause 11.

"Monitoring Fee"

means the sum of £750.00 (seven hundred and fifty pounds) (Index Linked) in consideration of the Council's monitoring of compliance with this Deed;

"Owner"

Means the First Owner, the Second Owner, the Third Owner and, the Fourth Owner and the Fifth Owner;

"Plan"

means the plan attached to this Deed and labelled "Site Location Plan";

"Planning Permission"

means the planning permission to be granted pursuant to the Application;

"RPI"

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

"SPONS Index"

Commented [RM13]: Tbc if relevant by county

means the index linked by reference to the price adjustment formula for construction contracts in the monthly bulletin of indices published by the Building Cost Information Service (BCIS) as collated into a single index known as the Price Adjustment Formulae Indices (Civil Engineering) Series 2 which shall apply to the Sustainable Transport Contribution;

"Sustainable Transport Contribution"

means the sum of £95,511.00 305,691 (three hundred and ninety five thousand six five hundred and ninety one eleven pounds) (Index Linked as hereinafter provided) which shall be applied towards North Herts Local Cycling and Walking Infrastructural Plan

Commented [RM14]: Tbc by county

"Travel Plan Evaluation and Support Contribution"

means the sum of £6,000.00 six thousand pounds (index-linked as hereinafter provided) as hereinafter provided to be paid to the County Council for evaluating administering and monitoring the objectives of the Travel Plan

Commented [HR15]: My client has advised that they do not believe this was agreed. Please could you take instructions?

"Waste Service Recycling Centre Contribution"

means a contribution of £3,469 3 three thousand nine four hundred and sixty six pounds (Index Linked as hereinafter provided) to be used towards increasing capacity at Letchworth Recycling Centre or a new recycling centre in Baldock its re provision and/or provision serving the Development;

"Waste Service Transfer Station Contribution"

means a contribution of £4,847.00 5,456 five four thousand four eight hundred and fifty six forty seven pounds (Index Linked as hereinafter provided) to be used towards increasing capacity through the new provision at Northern Transfer Station and/or provision serving the Development;

"Working Day"

means any day other than a Saturday or a Sunday or a Statutory or Public Holiday and "Working Days" shall be construed accordingly;

2. INTERPRETATION

- 2.1 Words of the masculine gender shall incorporate the feminine gender and words of the singular shall include the plural and vice versa.
- 2.2 A reference to any party means a party to this Deed and in the case of the Owner shall include its successors in title and assigns and any persons deriving

title through or under them and in the cases of the Council shall include successors to their respective functions.

- 2.3 Where a party includes more than one person any obligations of that party shall be joint and several.
- 2.4 Any reference to any statute or any section of a statute includes any statutory re-enactment or modification of that statute for the time being in force and shall include all instruments orders plans regulations permissions and directions for the time being made issued or given under that statute or deriving validity from it;
- 2.5 Any reference to clauses, plans, paragraphs, annexes and schedules unless the context otherwise requires are references to clauses paragraphs and schedules to this Deed and any reference to a sub clause is a reference to a sub clause of the clause in which the reference appears
- 2.6 Clause headings shall not form part of or affect construction or interpretation of this Deed.
- 2.7 Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 2.8 Where a party is required to give consent or approval by any specific provision of this Deed such consent or approval shall not be unreasonably withheld or delayed; and
- 2.9 Any covenant by the Owner not to do any act or thing includes a covenant not to willingly and knowingly permit, allow or suffer the doing of that act or thing and words denoting an obligation on the Owner to do any act matter or thing include an obligation to procure that it be done.
- 2.10 References to the Land include any part of it.

3. **STATUTORY PROVISIONS AND COVENANTS**

- 3.1 This Deed and the covenants within it are made pursuant to section 106 of the Act. To the extent that they fall within the terms of section 106 of the Act the obligations contained in this Deed are planning obligations for the purposes of

section 106 of the Act and are enforceable by the Council and the County Council against the Owner and each of their successors in title and assigns to each and every part of the Land and any person deriving title to each and every part of the Land through or under the Owner.

3.2 To the extent that any of the obligations in this Deed are not planning obligations within the meaning of the Act they are entered into pursuant to the powers contained in section 111 of the Local Government Act 1972 section 1 of the Localism Act 2011 and all other enabling powers.

3.3 The Owner enters into the obligations for itself and its successors in title with the Council and the County Council to the intent that the obligations in this Deed shall be enforceable not only against the Owner but also against the successors in title of the Owner and any person claiming through or under the Owner an interest or estate in the Land or any part thereof PROVIDED THAT

i. the provisions contained in this Deed shall not be binding against any individual owner or occupier or any mortgagee of any individual owner or occupier of a Dwelling comprised within the Development;

ii. the obligations and restrictions in this Deed shall not be enforceable against a statutory undertaker after the transfer of the statutory apparatus and any land upon or in which the statutory apparatus is situated by the Owner to that statutory undertaker or in respect of any easements relating to cables, pipes or other service media running under the Land nor enforceable against any highway authority which may be responsible for any public highway maintainable at the public expense.

3.4 The Developer acknowledges and agrees:

- i. that this Agreement-Deed has been entered into by the Owners at their request and with their consent;
- ii. that the Land shall be bound by the obligations contained in this AgreementDeed;
- iii. that on acquiring an interest in the Land it shall be bound by the Owners' covenants restrictions stipulations and obligations contained within this AgreementDeed as a successor in title to the Owner; and

Commented [BK16]: Accepted on this occasion as all contributions are payable prior to commencement

- ii. ~~to pay to the Council on completion of this Agreement their respective reasonable legal costs and disbursements of and incidental to the negotiation preparation and execution of this Agreement.~~

Commented [RM17]: See 12.1

4. **CONDITIONALITY**

4.1 This Deed is conditional upon:

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

SAVE FOR the provisions or clauses herein which are expressly stated to come into effect prior to Commencement of Development or are required to come into effect immediately upon completion of this Deed.

5. **PLANNING OBLIGATIONS**

5.1 The Owner covenants with the Council and the County Council to observe the restrictions and to perform the obligations and activities specified in Schedule One to this Deed.

~~5.2 The Owner covenants with the Council and the County Council to give notice to the Council at least 5 Working Days prior written notice of the Commencement Date.~~

~~5.35.2~~ The County Council covenants with the Owner to perform the obligations or activities specified in Schedule Two to this Deed.

6. **EXERCISE OF THE POWERS OF THE COUNCIL**

6.1 Nothing in this Deed whether express or implied shall prejudice or affect the rights discretion powers duties and obligations of the Council or the County Council under any statute, bye-law, statutory instrument, order or regulation in the exercise of its functions as local planning authority, principal council, education authority, highway authority, social services authority, waste disposal authority, fire and rescue authority and library authority.

7. **WAIVER**

- 7.1 No waiver whether expressed or implied by the Council or the County Council of any breach or default by the Owner in performing or observing any of the covenants in this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council or the County Council from enforcing or from acting upon any subsequent breach or default of any of the covenants.

8. **CONSENTS**

- 8.1 The Owner warrants and confirms that it is the freehold owner of the Land with full power to enter into this Deed and that no other party has an interest in the Land save as disclosed in writing to the Council and the Director of Law and Governance of the County Council prior to completion of the Deed.

9. **SUCCESSORS IN TITLE**

- 9.1 No Person shall be liable for breach of any covenants or obligations in this Deed occurring after the date on which they have parted with their entire interest in the Land PROVIDED THAT they will remain liable for any breach occurring before that date. Neither the reservation of rights nor the inclusion of any covenants or restrictions over the Land in any transfer of the Land will constitute an interest for the purposes of this clause.
- 9.2 Any future charge over the Land shall take effect subject to this Deed PROVIDED THAT the mortgagee shall otherwise have no liability under this Deed unless it takes possession of the Land in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

10. **PLANNING PERMISSION**

This Deed shall cease to have effect if the Planning Permission is quashed, revoked, expires, is modified by any statutory procedure without the consent of the Owner or is otherwise withdrawn and the Council will cancel all entries made in the Register of Local Land Charges in respect of this Deed.

11. **EXPENDITURE, INTEREST AND INDEXATION**

11.1 The Library Contribution the Waste Service Recycling Centre Contribution and the Waste Service Transfer Station Contribution shall each be index linked by reference to the BCIS Index figure of Q1 2024 to the finalised figure applicable to the quarter in which the contribution is paid

11.2 The Fire and Rescue Service Contribution shall be index linked by reference to the BCIS Index figure of 2Q2025 to the finalised figure applicable to the quarter in which the contribution is paid

11.11.3 ~~Where any sum in Schedule One as set out in Annex 1 is required to be index linked by reference to the BCIS Index figure as set out in Annex 1 to the finalised figure applicable to the quarter in which the contribution is paid and that sum payable shall be increased in accordance with any increase in the BCIS Index by the application of the formula:~~

A = B x (C ÷ D) where:-

A is the total amount to be paid;

B is the principal sum stated in this Deed;

C is the BCIS Index for the date upon which the interim payment described below is actually paid; and,

D is the BCIS figure ~~applicable to the quarter as set out in Annex 1~~ set out in clause 117.1 or 117.2 as the case may be

where C÷D = is equal to or greater than 1

Commented [RM18]: What clause is this Benedict?

Commented [RM19RM18]: Assume you mean 11.1 and 11.2

11.4 The Sustainable Transport Contribution shall be index-linked to movements in the SPON'S Index from March 2024 to the date on which the Sustainable Transport Contribution is paid

11.5 The County Council Monitoring Contribution shall be index-linked by reference to the RPI Index figure of January 2024 to the finalised figure applicable to the month in which the County Council Monitoring Contribution is paid

11.6 The Travel Plan Evaluation and Support Contribution and [Sustainable Travel Voucher] shall be index-linked by reference to the RPI Index figure of March

Commented [HR20]: My client has advised that this has not been agreed

2014 to the finalised figure applicable to the month in which the Travel Plan Evaluation and Support Contribution is paid

11.211.7 Where any sum in Schedule One as set out in Annex 1 is expressed to be Index Linked by reference to **RPI Index** that sum shall be increased by application of the formula:

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

A is the total amount to be paid;

B is the principal sum stated in this Deed;

C is the Office of National Statistics Index of Monthly Retail Prices Information figure for the date upon which the interim payment described below is actually paid;

D is the Office of National Statistics Index of Monthly Retail Prices Information figure applicable to the quarter as set out in Annex 1; and,

where $C \div D$ = is equal to or greater than 1

11.311.8 It is further agreed by the Parties that if prior to the receipt of the Contributions payable to the Council or the County Council the Council or the County Council incurs any expenditure in providing additional facilities the need for which arises from or in anticipation of the Development in relation to the purpose for which such Contribution is paid then the Council or the County Council may immediately following receipt of such Contributions apply such expenditure incurred.

11.411.9 If any payment due to the Council under this Deed by the Owner is paid late, Interest shall be added to such payment on a daily basis from the due date to the date of payment.

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

~~11.6~~~~11.11~~ Where any sum to be paid by the Owner to the County Council under the terms of this Deed is required to be ~~Indexed Linked~~ then an interim payment shall initially be made based on the latest available figure (or figures as the case may be) at the date of payment and any payment or payments by way of adjustment shall be made within ten (10) Working Days of written demand by the County Council ~~or to~~ the payer of the interim payment (as the case may be) once the relevant indices have been finalised

12. COSTS & MONITORING FEE

12.1 The Owner ~~Developer~~ shall pay the Council's and the County Council's reasonable legal costs plus disbursements incurred in connection with the preparation negotiation and completion of this Deed prior to completion of this Deed.

~~12.2~~ The Owner shall pay to the Council the Monitoring Fee on or before Commencement of the Development.

Commented [RM21]: Appreciate this may be the arrangement with the owners in the background but we require this provision to be on the Owner.
County do you have any comments ?

~~12.2~~~~12.3~~ The Monitoring Fee shall be index linked by reference to the RPI index figure of 1Q2021 (the first quarter of 2021) to the finalised figure applicable to the month in which the Monitoring Fee is paid.

~~12.3~~ The Owner shall pay to the County Council the Monitoring Fee before Commencement of the Development

Commented [BK22]: Moved to Schedule

13. REGISTRATION OF THIS DEED

This Deed shall be registered as a local land charge following completion of this Deed by the Council as local planning authority.

14. THIRD PARTIES

Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 nothing in this Deed confers or purports to confer any right to enforce any of its terms and provisions on any person who is not a Party or a successor in title to a Party.

15. NOTICE

15.1 The Owner ~~covenants to give with~~ ~~shall give~~ the Council and the County Council no less than 5 Working Days' written notice of

i. ~~the Commencement of the Development~~ such notice to be given in writing using the proforma set out in Schedule 3 hereto;

~~i.~~ 15.2 The Owner covenants to give the Council and the County Council no less than 5 Working Days' written notice of

i. the Occupation of the Development such notice to be given in writing using the proforma set out in Schedule 3 hereto;

ii. the completion of the Development such notice to be given in writing using the proforma set out in Schedule 3 hereto; and

~~ii.~~ ;

~~iii.~~ -the Occupation of the 1st Dwelling;

~~iv.~~ iii. any change of any interests in the Land occurring before all of the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of Land purchased by reference to a plan PROVIDED ALWAYS that this shall not apply to disposals of individual Dwellings nor to disposals to statutory undertakers.

16. SERVICE OF NOTICES AND DOCUMENTS

16.1 Any notice required or authorised to be given by any Party shall be in writing and shall contain the Application reference number 25/01014/FP and reference to the date of this Deed and shall be sufficiently given if delivered personally or sent by recorded delivery service to the following officials/persons at the respective addresses hereinafter specified:-

i. The Council - Development and Conservation Manager North Hertfordshire District Council, Council Offices Gernon Road Letchworth Garden City Hertfordshire SG6 3JF

ii. The Owner - at the address stated in this Deed

- iii. The County Council - Director of Law and Governance Hertfordshire County Council, 1st Floor Robertson House, Six Hills Way, Stevenage, SG1 2FQ (ref 0293328436)

17. DETERMINATION OF DISPUTES

17.1 In the event of there being a dispute arising out of this Deed or the subject matter thereof the following provisions shall apply:

- i. The Parties shall use their reasonable endeavours to resolve the dispute by agreement;
- ii. If agreement cannot be reached the matter in dispute shall be referred, to and settled by some independent and fit person holding appropriate professional qualifications to be appointed (in the absence of agreement) by the President (or equivalent person) for the time being of the professional body chiefly relevant in England to such qualifications and such person shall act as an expert on the application of either party after giving notice in writing to the other party to this Deed;
- iii. The person to be appointed pursuant to clause 17.2 shall be a person having not less than ten years or more post qualification experience of projects comprising works of the scale and nature of the Development;
- iv. Reference to the expert shall be on terms that determination shall take place within 28 Working Days of the expert accepting his instructions;
- v. The expert shall have the power to award costs of the determination in favour of either party to the dispute at the expense of the other party and failing such determination such costs shall be borne by the Parties in equal shares;
- vi. The expert shall be limited in his findings to the matter in dispute referred to him and shall provide written reasons for his decision;
- vii. The findings of the expert shall (other than in the case of a manifest material error or fraud) be final and binding on the Parties to the dispute;

viii.17.2 For the avoidance of doubt references to 'Party' or 'Parties' in clause 17.1 ~~1~~
exclude the County Council and the County Council shall not be required to
submit to or be bound by the provisions of Clauses 17.1 ~~1-17.1.7~~.

Commented [RM23]: County to confirm accept

18. MISCELLANEOUS

- 18.1 Without prejudice to the Council's and County Council's statutory rights the Owner hereby grants to the Council and/or County Council or any person duly authorised or instructed by it an irrevocable licence at all reasonable times to enter any part of the Land to inspect any of the works to be carried out for the purposes of the Development and any materials to be used in carrying out those works for any purpose directly or indirectly connected with or contemplated by this Deed provided that the Council or the County Council comply with any reasonable on site health and safety requirements of the Owner during any such inspection.
- 18.2 At the written request of the Owner SUBJECT TO being not more than six times in any calendar year at any time after any planning obligation or all of the planning obligations have been fully and satisfactorily discharged/performed, the Council may issue the Owner with written confirmation of the discharge of the relevant planning obligations and/or the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.
- 18.3 Nothing in this Deed shall be construed as affecting prohibiting or limiting any rights to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted whether before or after the date of this Deed by the Council or the Secretary of State or any other competent authority
- 18.4 Where any approval, agreement, consent, confirmation or expression of satisfaction is required under the terms of this Deed the request for it shall be made in writing and where a request is made the approval, agreement, consent, confirmation or expression of satisfaction shall not be unreasonably withheld or delayed.
- 18.5 Nothing in this Deed shall be construed as imposing a contractual obligation upon the Council as to the issue of the Planning Permission or as restricting the exercise by the Council or the County Council of any powers exercisable by them respectively under the 1990 Act or under any other Act or authority.

- 18.6 All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly paid.
- 18.7 If at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this Deed then to the extent that VAT has not been previously charged in respect of that supply the party making the supply shall have the right to issue a VAT invoice to the party to whom the supply was made and the VAT shall be paid accordingly.
- 18.8 No compensation shall be payable by the Council or the County Council as a result of the obligations contained in this Deed.

19. **PLANNING CONSENTS GRANTED PURSUANT TO SECTION 73 OF THE ACT**

19.1 In the event that any new planning permission(s) are granted by the Council pursuant to Section 73 of the Act (as amended) and unless otherwise agreed between the Council and the County Council, with effect from the date that the new planning permission is granted pursuant to Section 73 of the Act (as amended) relating to the Planning Permission:

- i. The obligations in this Deed shall (in addition to continuing to bind the Land in respect of the Planning Permission) relate to and bind all subsequent planning permission(s) in respect of the Land granted pursuant to Section 73 of the Act and the Land itself without the automatic need to enter into any subsequent deed of variation or new agreement pursuant to Section 106 of the Act.
- ii. The definitions of Application, Development and Planning Permission in this Deed shall be construed to include references to any applications under Section 73 of the Act, the planning permission(s) granted thereunder and the development permitted by such subsequent planning permission(s); and
- iii. This Deed shall be endorsed with the following words in respect of any future Section 73 application:

"The obligations in this Deed relate to and bind the Land in respect of which a new planning permission referenced [] has been granted pursuant to Section 73 of the Town and Country Planning Act 1990 (as amended)"

PROVIDED THAT nothing in this clause 19 shall fetter the discretion of the Council in determining any application(s) under Section 73 of the Act or of the Council or the County Council the appropriate nature and/or quantum of Section 106 obligations in so far as they are materially different to those contained in this Deed and required pursuant to a determination under Section 73 of the Act whether by way of a new deed or supplemental deed pursuant to Section 106A of the Act and provided further that to the extent that any of the obligations in this Deed have already been discharged at the date that any new planning permission is granted under Section 73 of the Act they shall remain discharged for the purposes of that new planning permission.

20. **SEVERANCE**

- 20.1 Any provision of this Deed which is or may be unlawful void or unenforceable shall to the extent of such unlawfulness invalidity or unenforceability be deemed severable and shall not affect any other provision of this Deed.

21. **JURISDICTION**

- 21.1 This Deed is to be governed by and interpreted in accordance with the laws of England.
- 21.2 The Courts of England are to have jurisdiction in relation to any disputes between the Parties arising out of or related to this Deed. This clause operates for the benefit of all of the Parties and the Council and the County Council who retain the right to sue and enforce any judgment against the Owner in the courts of any competent jurisdiction.

22. **EXECUTION**

- 22.1 The Parties have executed this Deed as a deed and it is delivered on the date set out above.

23. **Mortgagee's consent**

23.1—The First Mortgagee and the Second Mortgagee consent to the completion of this Deed and declares that its interest in the Land shall be bound by the terms of this Deed as if it had been executed and registered as a land charge before the creation of the First Mortgagee's and Second Mortgagee's interest in the Land.

23.2—The ~~First Mortgagee and the Second Mortgagee~~ (or any future lender whose interest in the Land is bound by the terms of this Deed) ~~shall not be personally liable for any breach of the obligations in this Deed unless committed or continuing at a time when the First Mortgagee and/or the Second Mortgagee is in possession of all or any part of the Land.~~ hereby consents to the Owner entering into this Deed and agrees that the security of the ~~c~~Charge over the ~~SiteLand~~ shall take effect subject to this Deed PROVIDED THAT the Mortgagee shall otherwise have no liability under this Deed unless it takes possession of the ~~SiteLand~~ in which case it too will be bound by the obligations as if it were a person deriving title from the Owner

23.323.1 **DELIVERY**

23.423.2—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.

SCHEDULE ONE

Commented [RM24]: COUNTY TO INPUT

OWNER'S COVENANTS TO THE COUNTY COUNCIL

County Council Monitoring Contribution

1.1 To pay the County Council Monitoring Contribution to the County Council prior to the Commencement Date.

1.2 Not to Commence nor cause nor permit ~~Commencement~~OccupationCommencement of the Development until the County Council Monitoring Contribution has been paid to the County Council in accordance with paragraph 1.1 of this Schedule

Fire and Rescue Service Contribution

2.1 To pay the Fire and Rescue Service Contribution to the County Council prior to the Commencement Dateon first Occupation of the Development,ior to the Commencement Date

2.2 Not to ~~Commence~~OccupyCommence the Development until the Fire and Rescue Service Contribution has been paid in accordance with paragraph 2.1 of this Schedule
[—]

Library Contribution

3.1 To pay the Library Contribution to the County Council prior to the Commencement Dateon first Occupation of the Development,rior to the Commencement Date

3.2 Not to ~~Commence~~OccupyCommence the Development until the Library Contribution has been paid in accordance with paragraph 3.1 of this Schedule

Sustainable Transport Contribution

4.1 To pay the Sustainable Transport Contribution to the County Council prior to the Commencement Dateon first Occupation of the Development,ior to the Commencement Date

4.2 Not to ~~Commence~~OccupyCommence the Development until the Sustainable Transport Contribution has been paid in accordancex with paragraph 4.1 of this Schedule

Travel Plan Evaluation and Support Contribution

1.1 To pay the Travel Plan Evaluation and Support Contribution to the County Council prior to the Commencement Dateon first Occupation of the Development.prior to the Commencement Date

1.2 Not to CommenceOccupyCommence the Development until the Travel Plan Evaluation and Support Contribution has been paid in accordance with paragraph 5.1 of this Schedule

Waste Service Recycling Centre Contribution

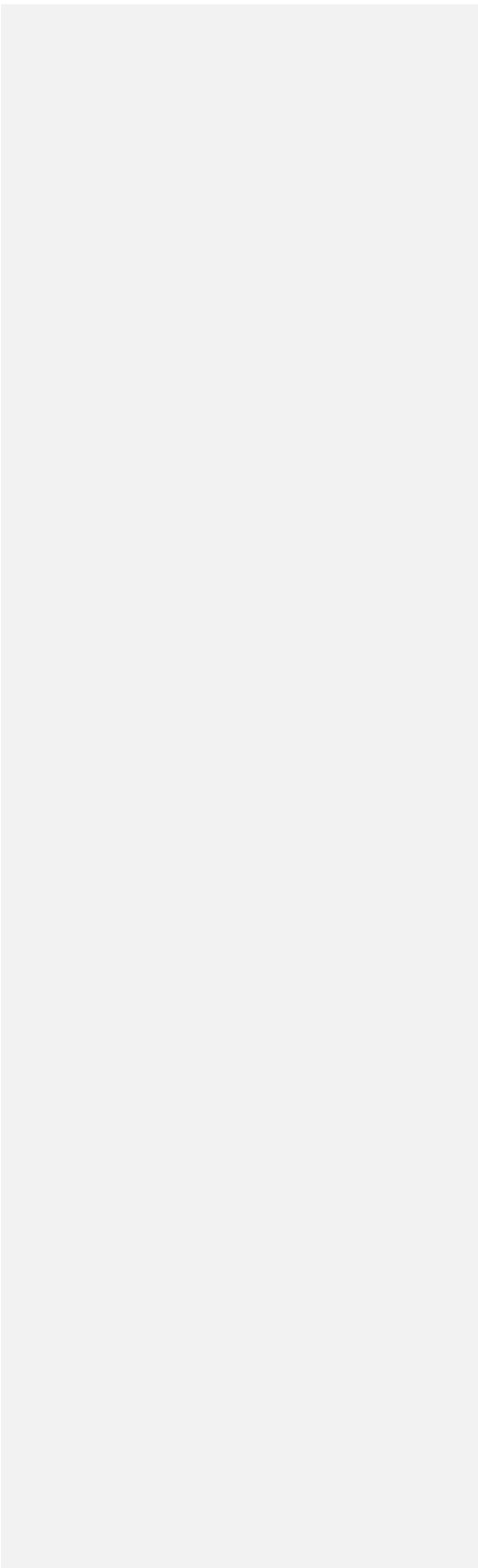
1.1 To pay the Waste Service Recycling Centre Contribution to the County Council prior to the Commencement Dateon first Occupation of the Development.prior to the Commencement Date

1.2 Not to CommenceOccupyCommence the Development until the Waste Service Recycling Centre Contribution has been paid in accordance with paragraph 6.1 of this Schedule

Waste Service Transfer Station Contribution

1.1 To pay the Waste Service Transfer Station Contribution to the County Council prior to the Commencement Dateon first Occupation of the Development.prior to the Commencement Date

1.2 Not to CommenceOccupyCommence the Development until the Waste Service Transfer Station Contribution has been paid in accordance with paragraph 7.1 of this Schedule



SCHEDULE TWO

COUNTY COUNCIL'S COVENANTS

Commented [RM25]: COUNTY TO INPUT

- 1 The County Council hereby covenants with the Owner to use all sums received from the Owner under the terms of this Deed for the purpose(s) specified in this Deed for which they are paid
- 2 The County Council covenants with the Owner following receipt of a written request (limited to three occasions per year) from the Owner, to provide written confirmation of the discharge of the obligations contained in this Agreement when satisfied that such obligations have been performed and upon receipt by the County Council of its reasonable costs of doing so;
- 3 The County Council further covenants with the Owner that it will pay to the Owner a sum, equal to the amount of any payment made by the Owner to the County Council under this Deed which has not been expended allocated or approved in accordance with the provisions of this Deed within ten (10) years of the date of receipt by the County Council of notice of completion of the Development pursuant to clause 15.2(ii) together with any interest accrued PROVIDED THAT such written request shall only be made within one (1) year commencing from the date of expiry of the aforementioned ten (10) year period and in the event of no written request being made within such period any unexpended sum together with accrued interest shall be release free of any liability and obligations to the County Council PROVIDED THAT the County Council shall apply any unexpended sum only to a suitable provision serving the development and in full compliance with Regulation 122 of the CIL Regulations 2010;

[]

SCHEDULE THREE

NOTICE PROFORMA

PROFORMA

EVENT NOTIFICATION AND PAYMENT

PURSUANT TO SECTION 106 AGREEMENT

DATED

MADE BETWEEN

PLANNING PERMISSION REFERENCE.....

HCC LEGAL REFERENCE 29332.....

SITE ADDRESS

.....

.....

.....

SITE OWNER DETAILS

Name

Contact name

Address

.....

.....

Telephone nos.

Main

Mobile

Email

EVENTS BEING NOTIFIED

Commencement Date – date :.....

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

Completion of Development – date:

COMPLIANCE WITH OBLIGATION(S)

Schedule Paragraph

Details of obligation and compliance

PAYMENT OF S106 CONTRIBUTIONS

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

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

a) The Director of Law and Governance
Hertfordshire County Council,
Robertson House,
Six Hills Way,
Stevenage,
SG1 2FQ

(ref 029332)

b) To [...] District/Borough Council
Check address in deed.

Annex 1

Contribution	Amount	Index to be applied	Date of Application
Monitoring Fee	£750.00	<u>RPI</u>	<u>1Q2021</u>
County Monitoring Fee	<u>£420.00</u>	<u>RPI</u>	<u>January 2024</u>
Library Service	<u>£4,841.00</u> 5,450	<u>-BCIS</u>	<u>1Q2024</u>
Waste Service Recycling Centre	<u>£3,466.00</u> 906	<u>BCIS</u>	<u>1Q2024</u>
Waste Service Transfer Station	<u>£4,847.5</u> 456	<u>BCIS</u>	<u>1Q2024</u>
Fire and Rescue Service	<u>£2,780.15</u> 022	<u>BCIS</u>	<u>2Q2025</u>
Sustainable Transport	£305,691		

Commented [BK26]: Dealt with in Clause 11

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

EXECUTED under the Common Seal of

NORTH HERTFORDSHIRE

DISTRICT COUNCIL

in the presence of:

Duly Authorised Officer

EXECUTED as a **DEED** by

MARTIN WILLIAM BADELL In the presence of:

Witness

Witness Name

Witness Address

EXECUTED as a **DEED** by

GRAHAM IAN HACKNEY

In the presence of:

Witness

Witness Name

Witness Address

EXECUTED as a **DEED** by
MARGARET ROSE HACKNEY

In the presence of:

Witness

Witness Name

Witness Address

EXECUTED as a **DEED** by
CHRISTOPHER PAUL BADELL

In the presence of:

Witness

Witness Name

Witness Address

EXECUTED as a **DEED** by
SIMONE BADELL

In the presence of:

Witness

Witness Name

Witness Address

EXECUTED as a **DEED** by

SEAN RUSSELL MACDONALD

In the presence of:

Witness

Witness Name

Witness Address

EXECUTED as a DEED by

CARMEN ALICIA AGUILAR LOPEZ KATHERINE ELIZABETH SCOOT

as executor of the Estate of IRIS JANET BADELL, deceased

In the presence of:

Witness

Witness Name

Witness Address

EXECUTED as a DEED by

IRIS JANET BADELL CRAIG JOHN RENNIE

as executor of the Estate of IRIS JANET BADELL, deceased

In the presence of:

Witness

Witness Name

Witness Address

Commented [RM27]: Confirm this execution clause is correct for executors

EXECUTED as a **DEED** by
MCCARTHY & STONE RETIREMENT LIFESTYLES LIMITED

acting by _____ a director

in the presence of:

Director

Signature of Witness

Name of Witness:

Address of Witness:

Occupation of Witness:

EXECUTED as a **DEED** by
BARCLAYS BANK UK PLC

Acting by two Directors/a Director
and its Secretary

Director

Director/Secretary

Commented [RM28]: Barclays to confirm appropriate clause

EXECUTED as a **DEED** by
LEGAL & GENERAL HOME FINANCE LIMITED

Acting by two Directors/a Director
and its Secretary

Commented [RM29]: LEGAL AND GENERAL TO
CONFIRM CLAUSE

Director

Director/Secretary

Commented [RM30]: Barclays to confirm appropriate clause

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

Chief Legal Officer/ Assistant Chief Legal Officer