

**WEBSITE COPY OF STANDARD S106
– FOR INFORMATION ONLY.**

DATED

2011

THE COUNCIL OF THE BOROUGH OF REDDITCH (1)

and

WORCESTERSHIRE COUNTY COUNCIL (2)

and

Party 3(3)

and

Party 4 (4)

and

PLANNING OBLIGATION BY AGREEMENT

Made pursuant to Section 106 of the Town and
Country Planning Act 1990, Section 111 of the
Local Government Act 1972

Relating to

Land Site Details
Redditch
Worcestershire

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THIS AGREEMENT is dated 2011 and made between:-

1. **THE COUNCIL OF THE BOROUGH OF REDDITCH** of Town Hall Walter Stranz Square Redditch Worcestershire B98 8AH (the “Borough Council”)
2. **WORCESTERSHIRE COUNTY COUNCIL** of County Hall Spetchley Road Worcester WR5 2NP (the “County Council”)
3. **Party 1** (together the “Developer”)
4. **Party 2** (together the “Owners”)

NOW THIS AGREEMENT WITNESSES AS FOLLOWS:

1. **INTERPRETATION**

1.1 In this Agreement unless the context otherwise requires

“Affordable Housing”	means housing of a kind which (having regard to its rent or other consideration) is suitable for occupation by people who are in need of such housing because of their limited means and who are unable to access private rented/owner occupier accommodation on the open market at a cost low enough for them to afford determined with regard to local incomes and local house prices
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<p>“Affordable Housing Unit(s)”</p>	<p>means that part of the Development comprising no less than X (X) Dwellings which shall be a mix of Affordable Rent Units and Shared Ownership Units to be provided in accordance with Part 4 of the First Schedule of this Agreement</p>
<p>"Affordable Rented Units"</p>	<p>means the X Affordable Rent Units to be offered and occupied via the Registered Provider pursuant to a Tenancy at a rent level not exceeding eighty percent (80%) of the equivalent open market rent for equivalent properties in Redditch Borough and in compliance with the definitions of Affordable Rent within the Localism Act 2011 and PPS 3 (2011) Such properties should be made available to people who are registered on the Choice Based Lettings Register</p>
<p>“Agreement”</p>	<p>means this planning obligation by Agreement and any modification thereof agreed by the Borough Council in accordance with the powers contained in Section 106 of the 1990 Act</p>
<p>“Allocations Policy”</p>	<p>means the latest version of the Housing Allocations Policy of the Borough Council from time to time</p>
<p>“Application”</p>	<p>means the application for planning permission submitted by the Developer to the Borough Council on X/X/ 2011 under reference number XX/XXXXOUT for a development of the Site comprising of X Dwellings</p>

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"Blue Land"	the land shown coloured blue on the Land Ownership Plan
"Chargee"	means any mortgagee or chargee of the Registered Provider or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925
"Choice Based Lettings Register"	means the "Redditch Home Choice" housing register maintained by the Borough Council of persons who have registered for and require affordable housing in the Borough of Redditch
"Commencement of Development"	means the carrying out of the first material operation (as defined in Section 56 of the 1990 Act) on the Site in connection with the Development other than operations consisting of site clearance surveying pegging out, tree protection testing and sampling (including soil testing) demolition work archaeological investigations, investigations for the purpose of assessing the ground conditions remedial work in respect of any contamination or other adverse ground conditions erection of any temporary means of enclosure the temporary display of site notices or advertisements laying and diversion of services and service media and works to or in respect of statutory utilities equipment construction of temporary accesses erecting contractors' compounds and

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	cognate expressions shall be construed accordingly
“Completion Certificate”	means a written certificate confirming that the Open Space or part thereof has been completed to the reasonable satisfaction of the Borough Council
“Development”	means the development of the Site for the purposes described in the Application to be carried out pursuant to the Permission
“Dwelling”	means a house or flat comprising a single residential unit erected pursuant to the Permission as part of the Development and comprising both Market Housing Units and Affordable Housing Units and "Dwellings" shall be construed accordingly
"Green Land"	the land shown coloured green on the Land Ownership Plan
“Implementation Notice”	means notice in writing in the form set out in the Second Schedule
“Index Linked”	means index linked in accordance with the movement (if any) in the All Items Retail Prices Index assessed from the date of this Agreement to the date of payment of the TRO Contribution in accordance with this Agreement together with interest in the event of late payment at the rate of 2% above the base lending rate of HSBC Bank Plc from time to time from the date when payment was due to the actual date of payment
"Land Ownership Plan"	the plan attached to this Agreement at the Seventh Schedule and marked ‘Land Ownership Plan’

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“Maintenance Period”	means the period of 12 months
“Management Scheme”	means a written scheme prepared by the Owners and the Developer in respect of the future maintenance of the Open Space which shall include the following: a) frequency of maintenance; b) standard of maintenance and repair to be achieved and maintained; c) how the costs of the maintenance shall be funded
"Market Housing Units"	means that part of the Development which is general market housing for sale on the open market and which is not Affordable Housing
“Nomination Rights”	means the rights which the Borough Council have over the allocation of the Affordable Rented Units as described in the Fourth Schedule
“Occupancy Criteria”	means the Borough Council’s criteria for the occupancy of the Shared Ownership Units as described in the Fifth Schedule
“Occupation”	means when the Dwellings are occupied for the purposes of the Permission and for the avoidance of doubt cognate expressions "Occupy" and "Occupied" shall be construed accordingly
“Open Market Dwelling”	means a Dwelling that is not an Affordable Housing Unit

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“Open Space”	means [] hectares of [informal] open space to be provided as part of the Development in accordance with paragraphs 2 and 3 of the Third Schedule
“Open Space Transfer”	means a transfer of the freehold interest in the Open Space to the Borough Council such transfer to be in a form agreed with the Borough Council
“Permission”	means the planning permission to be granted pursuant to the Application in the form of the draft set out in the First Schedule together with any material modifications made thereto with the consent of the parties to this Agreement which do not require further planning permission
“Priority Banding”	means the Priority and Band Order of housing applications on the Choice Based Lettings Register as determined by and according to the Allocations Policy
"Red Land"	the land shown coloured red on the Land Ownership Plan
“Registered Provider”	means a Registered Provider of Social Housing within the meaning of the Housing and Regeneration Act 2008 or other entity providing Affordable Housing under equivalent rental or lease arrangements to Registered Social Landlords approved or accredited by the Homes and Communities Agency and whose terms of approval or accreditation have been evidenced to the reasonable satisfaction of the Borough Council in writing

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<p>“Regulator”</p>	<p>means the body known as the Office for Tenants and Social Landlords (also known as the Tenant Services Authority) or any successor organisation or body which regulates Registered Providers</p>
<p>“Shared Ownership Unit”</p>	<p>means Affordable Housing Units to be offered and occupied via the Registered Provider pursuant to a lease in a form approved by the Regulator and enabling the leaseholder to purchase an initial percentage of an Affordable Housing Unit and the ability to purchase additional shares in future, until the whole freehold interest in the property is acquired.</p>
<p>“Site”</p>	<p>means the land comprised in the Application being situated at xxxxx Redditch Worcestershire and for the purpose of identification only delineated and edged red on the Site Plan</p>
<p>"Site Plan"</p>	<p>the plan attached to this Agreement at the Seventh Schedule and marked ‘Site Plan’</p>
<p>“TRO Contribution”</p>	<p>means the sum of Three Thousand Pounds (£3,000) Index Linked to be applied towards the County Council’s costs of promoting and implementing a traffic regulation order for to be constructed within the Development</p>
<p>"Working Days"</p>	<p>means any day falling between Monday and Friday (both days inclusive) upon which the clearing banks in the City of London are open for normal business which is not Good Friday or a statutory bank holiday</p>

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"Yellow Land"	the land shown coloured yellow on the Land Ownership Plan
"the 1990 Act"	means the Town and Country Planning Act 1990 (as amended)

- 1.2 Where the context so requires:
- 1.2.1 The singular includes the plural
 - 1.2.2 References to any party shall include the successors in title of that party
 - 1.2.3 Where a party includes more than one person any obligations of that party shall be joint and several only where expressly stated to be so
 - 1.2.4 References to clauses and schedules are references to clauses and schedules in this Agreement
 - 1.2.5 Save as otherwise provided in this Agreement any approval in writing or consent to be given by the Borough Council or the County Council under this Agreement shall not be unreasonably withheld or delayed
 - 1.2.6 Any reference to an Act of Parliament shall include any statutory modification extension or re-enactment of that Act for the time being in force
 - 1.2.7 Words importing gender shall include the masculine, feminine and neuter genders
 - 1.2.8 Words importing persons shall include firms, companies and corporations and vice versa
 - 1.2.9 "including" means "including, without limitation"

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WHEREAS

2. RECITALS

- 2.1 The Borough Council is the Local Planning Authority for the purposes of this Agreement for the area within which the Site is situated and by whom the obligations contained in this Agreement are enforceable
- 2.2 The County Council is the County Planning Authority for the County of Worcestershire and is a Local Planning Authority for the purposes of section 106 of the 1990 Act for the area in which the Site is situated and by whom the obligations in this Agreement are enforceable
- 2.3 The Borough Council is the registered proprietor of the Blue Land at the Land Registry and is registered with freehold title absolute under title numbers xxxxxxxx
- 2.7 The Developer has by the Application applied to the Borough Council for permission to develop the Site in the manner and for the uses set out in the Application and in the plans specifications and particulars deposited with the Borough Council and forming part of the Application
- 2.8 The Borough Council has decided to grant Planning Permission for the Development in accordance with the Application subject to the making of this Agreement without which planning permission for the Development would not have been granted
- 2.9 The Borough Council is of the opinion that in the event of the Site being developed in accordance with the Permission the Affordable Housing Units and the Open Space should be provided for as hereinafter mentioned

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2.10 The County Council agree to enter into this Agreement as Local Planning Authority by whom the planning obligations applied to the Development and created hereby are enforceable in accordance with this Agreement

2.11 The Borough Council and PARTIES agree to enter into this Agreement as landowners to bind that part of the Site in their respective ownerships which benefit from the Permission

3. LEGAL EFFECT

3.1 This Agreement is made pursuant to Section 106 of the 1990 Act and Sections 111 120 and 139 of the Local Government Act 1972 and Section 2 of the Local Government Act 2000 to the intent that it shall bind the Owners the Developer and their successor in title to each and every part of the Site and their assigns

3.2 This Agreement shall not come into effect unless and until the Permission has been granted

3.3 The covenants contained in clause 4 and the Third Schedule shall be of no effect unless and until the Commencement of Development

3.4 If the Permission expires within the meaning of the 1990 Act Section 91 or 92 or 93 or is revoked or otherwise withdrawn this Agreement shall cease to have effect

3.5 Nothing in this Agreement shall be construed as prohibiting or limiting any right to develop any part of the Site in accordance with a planning permission granted by the Borough Council or by the Secretary of State on appeal or reference to him after the date of this Agreement other than in respect of the Application

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- 3.6 The obligations in clause 4.1 and the Third Schedule are planning obligations for the purposes of Section 106 of the 1990 Act and shall be enforceable by the Borough Council
- 3.7 The obligations in clause 4.2 and the Sixth Schedule are planning obligations for the purposes of Section 106 of the 1990 Act and shall be enforceable by the County Council
- 3.8 This Agreement is a local land charge and shall be registered as such by the Borough Council upon its completion
- 3.9 For the avoidance of doubt none of the provisions of the Contracts (Rights of Third Parties) Act 1999 shall apply to this Agreement
- 3.10 No person shall be liable for any breach of this Agreement after they shall have parted with their entire interest in the Site or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest

4. COVENANTS

- 4.1 The Owners and the Developer (as the case may be)) covenant with the Borough Council to comply with the covenants set out in the Third Schedule
- 4.2 The Owners and the Developer jointly and severally covenant with the County Council to comply with the covenants set out in the Sixth Schedule

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4.3 The Borough Council covenants with the Owners and the Developer as follows:

4.3.1 To execute and complete the transfer of the Open Space made pursuant to paragraph 5.3(c) of the Third Schedule within one month of receipt of the same

4.3.2 That it will issue the Planning Permission within 5 Working Days of the completion of this Agreement

4.4 The County Council covenants with the Owners and the Developer as follows:

4.4.1 To use the TRO Contribution towards the County Council's costs in promoting and implementing a traffic regulation order for to be constructed within the Development

4.4.2 That if any part of the TRO Contribution has not been expended by the County Council within a period of 5 years commencing on the date of payment to the County Council then the unexpended balance of such contribution together with any interest earned on the same shall be refunded to the party who paid that contribution

5. **SUPPLEMENTARY PROVISIONS**

The Developer jointly and severally agrees to pay on the date hereof the Borough Council's and the County Council's reasonable and proper legal fees incurred in connection with this Agreement in the following sums of £plus VAT and £respectively

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6. ARBITRATION

Without prejudice to the rights of the [Borough Council and the County Council to enforce any relevant provision of this Agreement under Section 106(5) of the 1990 Act any dispute or difference arising between the parties with regard to their respective rights and obligations as to any matter or thing in any way arising out of or connected with this Agreement shall except as otherwise expressly provided be referred to the decision of a single arbitrator to be agreed by the parties or failing agreement between them to be nominated by the President for the time being of the Royal Institution of Chartered Surveyors on the application of either party and the costs of the arbitration shall be in the award of the arbitrator whose decision shall be final and binding on the parties hereto with the further provision that if the arbitrator shall die or decline to act the President for the time being of the Royal Institution of Chartered Surveyors or the person acting on his behalf may on the application of either party by writing discharge the arbitrator and appoint another in his place and any such reference to the President of the Royal Institution of Chartered Surveyors shall be deemed to be a submission to arbitration within the meaning of the Arbitration Acts 1950 to 1996 or any statutory modification or re-enactment for the time being in force

7. NOTICES

Any notice or consent hereunder:

- 7.1 Shall be in writing
- 7.2 May be given by the Borough Council acting by its Chief Executive or Solicitor or Head of Planning and Regeneration, the County Council, the Owners, the Developer or their respective Solicitors
- 7.3 May be served by hand

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- 7.4 May be served by recorded delivery in which event the notice if properly addressed shall be deemed to be received by the recipient on the third working day after dispatch
- 7.5 If both the sender and the recipient are members of the British Document Exchange may be served through the DX system in which event if properly addressed and delivered to the outgoing box at the senders exchange before 4.00 p.m. on a normal working day shall be deemed to be served on the next working day if delivered on a day other than a normal working day shall be deemed to be served two Working Days thereafter

8. MISCELLANEOUS

8.1 This Agreement shall not be enforceable against:-

8.1.1 owner-occupiers or tenants of Dwellings within the Site nor against those deriving title from them nor any mortgagee or chargee of any such persons or against persons deriving title from any such mortgagee or charge or

8.1.2 any statutory undertaker or telecommunications provider or binding upon any plant equipment or apparatus of any such person within the Site or

8.1.3 any owner-occupiers or tenants of any individual commercial units within the Site nor against those deriving title from them nor any mortgagee or chargee of any such persons or against person deriving title from any such mortgagee or chargee

9. THE BOROUGH COUNCIL AND THE COUNTY COUNCIL'S DISCRETION

Without prejudice to the obligations of the Borough Council and the County Council as local planning authorities in this Agreement nothing

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herein contained shall prejudice or affect their respective rights powers duties and obligations in the exercise of their functions as local authorities and all such rights powers duties and obligations under all public or private statute bye-laws orders regulations and otherwise may be as fully and effectually exercised in relation to the Development and any other subject matter of this Agreement as if this Agreement had not been executed by the Borough Council or the County Council as local planning authorities

10. DISCHARGE OF OBLIGATIONS

The Borough Council and the County Council shall upon the written request of the Owners at any time after all of the covenants and obligations contained in this Agreement have been fully discharged or performed issue written confirmation to that effect and the Borough Council shall effect cancellation of all entries in the Register of Local Land Charges maintained by the Borough Council in respect of this Agreement and if relevant apply to the Chief Land Registrar or cancellation of all relevant entries in the Land Registry

11. MORTGAGEES

11.1 The Mortgagee now consents to the [] entering into this Agreement and acknowledges from the date of this Agreement the [] Land shall be bound by the obligations specified in this Agreement and should the Mortgagee become a mortgagee in possession of the [] Land that the Mortgagee agrees to be bound by the provisions in this Agreement that are binding on the [] Land (as appropriate) as if the Mortgagee were a person deriving title from the [] Provided That for the avoidance of doubt the Mortgagee shall not otherwise have liability under this Agreement unless the Mortgagee has taken possession of the [] Land (as appropriate) and if the Mortgagee does take possession of the [] Land then the Mortgagee shall immediately thereafter serve a notice in writing upon the []

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advising the [] that the Mortgagee has taken possession of the [] Land

- 11.2 The Mortgagee shall not be liable for any breach of obligation in this Agreement unless the same is either committed by the Mortgagee or committed during such period as the Mortgagee is in possession of the [] Land (as appropriate) or the part on which the breach occurs as mortgagee in possession

12. INDEMNITIES

- 12.1 PARTY hereby indemnify the Borough Council with effect from the date of completion of the purchase by PARTY (or by any third party at the direction of PARTY) of the Blue Land [**NB. Phase 1 ought to be identified**] against all costs claims liabilities demands and expense arising out of or in relation to this Agreement
- 12.2 PARTY hereby indemnify the PARTY and the Borough Council with effect from the date of completion of the purchase by PARTY (or by any third party at the direction of PARTY) of the Yellow Land in the case of the PARTY and the Blue Land in the case of the Borough Council against all costs claims liabilities demands and expense arising out of or in relation to this Agreement
- 12.3 PARTY hereby indemnify PARTY with effect from the date of completion of the purchase by PARTY (or by any third party at the direction of PARTY) of the Red Land against all costs claims liabilities demands and expense arising out of or in relation to this Agreement
- 12.4 PARTY hereby indemnify the Borough Council with effect from the date of completion of the purchase by Bellway (or by any third party at the direction of PARTY) of the Blue Land [**NB. Phase 2 ought to be identified**] against all costs claims liabilities demands and expense arising out of or in relation to this Agreement
- 12.5 PARTY hereby indemnify PARTY with effect from the date of completion of the purchase by Bellway (or by any third party at the

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direction of PARTY) of the Red Land against all costs claims liabilities demands and expense arising out of or in relation to this Agreement

12.6 PARTY hereby indemnify the PARTY with effect from the date of completion of the purchase by Bellway (or by any third party at the direction of PARTY) of the Green Land against all costs claims liabilities demands and expense arising out of or in relation to this Agreement

IN WITNESS whereof the parties have sealed this Planning Obligation by agreement as a Deed on the date first above written

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FIRST SCHEDULE

The Permission

The Permission for the Development in draft form attached hereto

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THIRD SCHEDULE

Covenants to the Borough Council from the Owners and the Developer

Implementation Notice

[The Owners and] the Developer jointly and severally covenant with the Borough Council as follows:-

1 To serve the Implementation Notice on the Head of Planning and Regeneration of the Borough Council or their successor at least 7 days before the Commencement of Development

Open Space

The Owners and the Developer covenant with the Borough Council as follows:-

2 Prior to Commencement of Development to:

2.1 obtain the Borough Council's written approval to a detailed scheme for the provision of the Open Space as part of the Development such scheme to include:

- (a) a plan showing the location of the Open Space; and
- (b) a specification of works for the laying out of the Open Space; and
- (c) a programme for the laying out and completion of the Open Space

2.2 submit to the Borough Council written notice:

- (a) confirming that the Owners elects to retain and maintain the Open Space ("Option A"); or
- (b) confirming that Open Space is to be transferred to the Borough Council for future maintenance ("Option B")

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- 3 Prior to Occupation of the Open Market Dwelling, to lay out and complete the Open Space in accordance with the Approved Scheme, the completion of which shall be evidenced by the service of a Completion Certificate by the Borough Council following an inspection of the Open Space PROVIDED THAT if the Owners, the Developer and the Borough Council agree that the Borough Council shall lay out and complete the Open Space or any part thereof then:
 - 3.1 the Owners, the Developer and the Borough Council shall agree in writing the extent of the works under the Approved Scheme to be carried out by the Borough Council (“the Agreed Works”) and the cost thereof (“the Agreed Costs”);
 - 3.2 the Owners and the Developer shall pay to the Borough Council a sum equal to the Agreed Costs; and
 - 3.3 upon payment of the Agreed Costs, the Owners and the Developer shall be released from the obligation to lay out and complete the Agreed Works
- 4 In the event that Option A applies, to:
 - 4.1 submit a Management Scheme for the Open Space to the Borough Council for approval; and
 - 4.2 put into effect the approved Management Scheme (or such amended scheme as the Borough Council may approve in writing from time to time) for the purposes of thereafter maintaining the Open Space; and
 - 4.3 unless the Borough Council agrees otherwise in writing, allow access to the Open Space (free of charge but on a permissive basis only) to members of the public between the hours of dawn and dusk each day for the purpose of air recreation and play
- 5 In the event that Option B applies:

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- 5.1 with effect from the date of substantial completion of the Approved Scheme to maintain the Open Space to the reasonable satisfaction of the Borough Council for the Maintenance Period;
- 5.2 during the Maintenance Period to allow access to the Open Space (free of charge but on a permissive basis only) to members of the public between the hours of dawn and dusk each day for the purpose of air recreation and play (unless the Borough Council agrees otherwise in writing);
- 5.3 at the end of the Maintenance Period:
 - (a) to invite the Borough Council to inspect the Open Space for the purposes of ascertaining that such land has been maintained to an acceptable condition during the Maintenance Period;
 - (b) to complete to the reasonable satisfaction of the Borough Council any remedial works identified by the Borough Council during its inspection of the Open Space (acting reasonably);
 - (c) to execute and deliver to the Borough Council the Open Space Transfer;

Affordable Housing

The Owners and the Developer covenant with the Borough Council as follows:-

- 6.1 The Affordable Housing to be provided by this Agreement shall consist of XX no. dwellings comprising XX no. [two, three and four bedroom

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Affordable Rent Units and XX no. [two, and three bedroom Shared Ownership Units

6.2 to observe the restrictions and perform the obligations specified in sub-paragraphs 6.3 to 6.9 inclusive below

6.3

- (a) to construct and provide the Affordable Housing Units
 - (i) in accordance with the Application as approved; and
 - (ii) in accordance with the Borough Council’s agreed housing quality standards as defined in the Supplementary Planning Document (2007) or to permit in writing the ability of the Developer to use its own social housing dwelling types if these standards are met or exceeded and
 - (iii) in accordance with the requirements of the Department of Communities and Local Government’s “Code for Sustainable Homes” energy efficiency and sustainability standards, with the completed Affordable Housing Units requiring to achieve Code Level 4 or Higher; and
 - (iv) in adherence with the principles of “Secured by Design” and the Borough Council’s “Designing Out Crime” Supplementary Planning; and
 - (v) that in respect of the Affordable Rent Units such to comply with Joseph Rowntree Foundation “Lifetime Homes” Standards as applicable at the date of commencement of construction
- (b) to allocate the Affordable Housing Units in accordance with the

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Nomination Rights and Occupancy Criteria set out in the Fourth and Fifth Schedules hereto;

- 6.4 To ensure at all times to retain the provision of the Affordable Rent Units in accordance with the Nomination Rights set out in the Fourth Schedule (or any successor policy of the Borough Council from time to time)
- 6.5 Not to transfer mortgage or otherwise dispose of the Affordable Housing Units and any land occupied therewith or any part of it save by way of sale of the freehold of the whole with the Affordable Housing Units erected thereon to a Registered Provider approved by the Borough Council the Homes and Communities Agency and the Regulator
- 6.6 Not to Occupy or permit the Occupation of any Market Housing Units until []% of the Affordable Housing Units have been constructed in accordance with the Permission and made ready for residential occupation and written occupation of such has been received by the Borough Council

NB. The % is to be discussed

- 6.7 Not to permit any Affordable Rented Units to be Occupied otherwise than by a tenant of a Registered Provider
- 6.8 Not to permit any Affordable Rented Units to be Occupied otherwise than in accordance with the Nomination Rights
- 6.9 Not to permit any Shared Ownership Unit to be Occupied other than in accordance with the provisions of the Fifth Schedule
- 6.10 The covenants and restrictions contained in paragraphs 6.3(b), 6.4, 6.5, 6.6, 6.7, 6.8 and 6.9 of this Third Schedule and the Fourth and Fifth Schedules shall not bind
- (a) Mortgagees, chargees, receivers or successors in title to such mortgagees, chargees or receivers of the Registered Provider,

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- (b) Any Affordable Housing Unit acquired from parties referred to in paragraph 6.10(a) above
- (c) any Affordable Rented Unit acquired under the statutory Right to Acquire or any other similar statutory or non-statutory scheme and any mortgagee chargee or receiver of such a unit
- (d) any Shared Ownership Unit in which an equity share has been purchased where the tenant has stair cased to a level that permits sale of that unit on the open market and any mortgagee chargee or receiver of such unit or purchaser from such mortgagee chargee or receiver

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FOURTH SCHEDULE

Nomination Rights

PART A

Summary of the process for making allocation decisions on initial occupation of the Affordable Rent Units at the Site

(For the avoidance of doubt, the Borough Council shall have Nomination Rights in respect of the initial let of all Affordable Rent Units on the Development)

1. The Registered Provider will undertake to meet with the Borough Council's Housing Options Manager (or successor) prior to the Commencement of Development, to agree to participate along with Borough Council in the "Redditch Home Choice" Choice Based Lettings Register which is operated by the Borough Council in partnership with local Registered Providers to facilitate the advertisement and allocation of all vacant affordable homes within the Borough of Redditch.
2. At this time, the Housing Options Manager shall provide a copy of the Housing Allocations Policy to the Registered Provider and provide the Registered Provider with contact details for appropriate officers who would be handling the allocation of the properties from the Borough Council's perspective and the Registered Provider will undertake to provide the same information to the Borough Council.
3. At least 6 weeks prior to all of the Affordable Rent Units being available for first occupation, the Registered Provider shall place an advert for each of the Affordable Rent Units on the Development on to the Borough Council's Choice Based Lettings Register to invite expressions of interest in the properties from housing applicants. At the close of the bidding cycle in which the properties are placed, the Borough Council will produce a short list of persons who have placed a bid on the Choice Based Lettings Register which the Registered Provider is able access via

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the internet. If insufficient or no interest in the properties has been received, then the Registered Provider undertakes to re-advertise the properties via the Borough Council's Choice Based Lettings Register website within further bidding cycles as considered necessary.

4. The short list of persons who have made a bid on the property via the Choice Based Lettings Register shall be downloaded from the website by the Registered Provider in descending Priority Banding and will include information on how the Priority was made up, a copy of the application form and any supporting information received.
5. The short list shall include the full details of all successful applicants for the property, headed by that of the applicant who has made the successful bid for the property on the Choice Based Lettings Register and who therefore represents the Borough Council's Nominee for a Tenancy of the Affordable Rent Unit.
6. The Registered Provider will then assess the short list of applications and the application of the Borough Council's Nominee in accordance with the Allocations Policy and the Registered Provider's policy on the allocation of property by size and type. If the Registered Provider is satisfied that the Nominee's application meets all of the required policy criteria then, subject to satisfactory references, they shall, in writing, within five days, offer to the Nominee a Tenancy and shall also send a copy of this offer letter to the Borough Council's Housing Options Team.
7. Offers of accommodation shall be made according to placement in the shortlist derived from the Choice Based Lettings Register, with preference being given to the household in the highest Banding, with the greatest number of points and where applicants have the same number of points, those with the longest time waiting on the Choice Based Lettings Register.
8. The offer letter sent by the Registered Provider to the Nominee shall contain information on the vacant Affordable Rent Unit and will notify

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the Nominee of the total rent payable. Such an offer shall remain active for acceptance by the Nominee for five Working Days. The Registered Provider shall also remove the property from being advertised on the Choice Based Lettings Register and notify the Borough Council's Housing Options Team to this effect in writing.

9. If the Nominee to whom the offer of a vacant Affordable Rent Unit under paragraphs 2 to 8 above was made shall accept the same within the period during which the same offer of accommodation was open for acceptance, the Registered Provider shall grant to such Nominee a Tenancy in accordance with the offer of accommodation made and accepted.
10. If the Borough's Borough Council's Nominee aforesaid shall fail to accept the offer of a Tenancy of a vacant Affordable Rent Unit and to sign a tenancy agreement within the time referred to in paragraph 8 hereof, the Registered Provider shall notify the Borough Council's Housing Options Team in writing within five days. The Registered Provider shall then make an offer of the vacant Affordable Rent Unit to the next eligible Nominee (in order of preference as detailed in paragraph 7 hereof) from the short list of applicants supplied by the Borough Council from the Choice Based Lettings Register for a Tenancy of the vacant Affordable Rent Unit, in accordance with the allocation procedure detailed at Paragraphs 2 to 8 above.
11. If the Borough Council's second Nominee aforesaid shall fail to accept the offer of a Tenancy of the Affordable Rent Unit within the time prescribed therefore or having accepted such offer shall fail to sign a tenancy agreement within the time prescribed therefore the Registered Provider shall immediately contact the Borough Council's Housing Options Team to provide an up to date short list of eligible applicants from the Choice Based Lettings Housing Register and the allocations procedure from Paragraphs 2 to 8 above shall re-commence until the offer of a Tenancy is made to a Nominee.

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PART B

Summary of the process for making allocation and decisions on subsequent occupation of the Affordable Rent Units at the Site

(For the avoidance of doubt, the Borough Council shall have Nomination Rights in respect of seventy five percent (75%) of future Nominations to the Affordable Rent Units in perpetuity).

1. When the Registered Provider receives a notice to vacate from a tenant of their Affordable Rent Units, they shall notify the Borough Council in writing within a five day timescale. This notification shall include details of the anticipated date when each Affordable Rent Unit is likely to be available for rent and on each occasion thereafter when a vacancy occurs in respect of which the Borough Council has Nomination Rights.
2. The Registered Provider shall place an advert for each of the Affordable Rent Units on the Development on to the Choice Based Lettings Register to invite expressions of interest in the properties from housing applicants. At the close of the bidding cycle in which the properties are placed, the Borough Council will produce a short list of persons who have placed a bid on the Choice Based Lettings Register which the Registered Provider is able to access via the internet. If insufficient or no interest in the properties has been received, then the Registered Provider undertakes to re-advertise the properties via the Borough Council's Choice Based Lettings Register website within further bidding cycles as considered necessary.
3. The short list of persons who have made a bid on the property via the Choice Based Lettings Register shall be provided from the Borough Council to the Registered Provider with preference being given to the household in the highest Banding, with the greatest number of points and where applicants have the same number of points, those with the longest time waiting on the Choice Based Lettings Register and will include

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information on how the Priority was made up, a copy of the application form and any supporting information received.

4. The short list shall include the full details of all successful applicants for the property, headed by that of the applicant who has made the successful bid for the property on the Choice Based Lettings Register and who therefore represents the Borough Council's Nominee for a Tenancy of the Affordable Rent Unit.
5. The Registered Provider will then assess the application of the Borough Council's Nominee in accordance with the Allocations Policy and the Registered Provider's policy on the allocation of property by size and type. If the Registered Provider is satisfied that the application of the Nominee meets all of the required policy criteria and subject to satisfactory references, they shall, in writing, within five days, offer to the Nominee a Tenancy and shall also send a copy of this offer letter to the Borough Council's Housing Options Team.
6. The offer letter sent by the Registered Provider to the Nominee shall contain information on the vacant Affordable Rent Unit and will notify the Nominee of the total rent payable. Such an offer shall remain active for acceptance by the Nominee for five Working Days. The Registered Provider shall also remove the property from being advertised on the Choice Based Lettings Register and notify the Borough Council's Housing Options Team to this effect in writing.
7. If the Nominee to whom the offer of a vacant Affordable Rent Unit under paragraphs 5 and 6 above was made shall accept the same within the period during which the same offer of accommodation was open for acceptance, the Registered Provider shall grant to such Nominee a Tenancy in accordance with the offer of accommodation made and accepted.

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if appropriate for what reasons the Nominee failed to fulfil the charitable objects and any other reason for the rejection. In this event, the Registered Provider shall immediately contact the Housing Options Team of the Borough Council to provide an up to date short list of eligible applicants from the Choice Based Lettings Register and the allocations procedure from Paragraphs 2 to 8 above shall re-commence until the offer of a Tenancy is made to a Nominee.

11. Save as otherwise herein expressly provided any disputes or differences arising between the parties hereto as to their respective rights duties or obligations or as to any other matter or thing arising out of or connected with the subject matter of any of these Nomination Rights shall be referred to the determination of a single independent assessor, acting as an expert and not as an arbitrator, to be agreed upon by the parties or failing agreement of the parties a person nominated by the President for the time being of the Chartered Institute of Housing. The decision of the said assessor shall be final and binding on the parties hereto.

12. Notices to be served hereunder shall be validly served if sent by first class post to the Director of Planning, Regeneration and Housing Services (or their successor) to such addresses as shall be notified to the Registered Provider by the Borough Council in the case of the Borough Council or to such addressee as shall be notified to the Borough Council by the Registered Provider from time to time and shall be deemed to have been received two Working Days after posting

FIFTH SCHEDULE

Occupancy Criteria

Occupancy Criteria on Initial Occupation of the Shared Ownership Units

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- 1 Prior to all of the Shared Ownership Units being available for first occupation the Registered Provider shall implement the following procedures to invite applications from housing applicants:
 - 1.1 The Registered Provider shall be entitled to utilise the services of an Estate/Letting Agent to advertise the Shared Ownership Units; and
 - 1.2 The Registered Provider shall be entitled to advertise the Shared Ownership Units for rent or sale in any local newspaper or other media they consider appropriate.
- 2 The Registered Provider will undertake to keep a waiting list of applicants who apply directly to them who are interested in purchasing a Shared Ownership Unit and will ensure that those applicants are registered on the Choice Based Lettings Register as soon as is reasonably practicable.
- 3 The Registered Provider will assess the suitability of the applicants and undertakes to assess the financial means of such applicants to check that they qualify for shared ownership housing.
- 4 When the applicants have been successful in their applications, the Registered Provider undertakes to forward to the Borough Council for its information only a list of the names and addresses of the applicants to whom they propose to offer a Shared Ownership Unit, detailing the qualifications of the applicants as to their suitability to be offered a Shared Ownership Unit for sale. Upon the acceptance by the applicants of the offer for the allocation of a Shared Ownership Unit the Registered Provider will produce to the Borough Council a list of the tenants or lessees and the respective rentals charged.
- 5 The Registered Provider will as soon as reasonably possible write to the applicants offering the Shared Ownership Unit for sale by way of a shared equity lease at a percentage of the value of the Shared Ownership Unit and at a rental based upon the value of the interest acquired by the applicant.

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SIXTH SCHEDULE

Covenants to the County Council from the Owners and the Developer

The Owners and the Developer jointly and severally covenant with the County Council as follows:

- 1 To pay to the County Council the TRO Contribution upon Occupation of the X Dwelling
- 2 Without prejudice to paragraph 1 of this Schedule following Occupation of the X Dwelling not to continue with the Development until the TRO Contribution has been paid to the County Council in full
- 3 To give notice in writing to the Head of Legal and Democratic Services at the County Council at least 5 Working Days prior to Occupation of the X Dwelling

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SEVENTH SCHEDULE

Site Plan and Land Ownership Plan

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EXECUTED as a DEED by
affixing THE COMMON SEAL of
**THE COUNCIL OF THE
BOROUGH OF REDDITCH** in
the presence of :-

Solicitor and
Legal Services Manager

EXECUTED as a DEED by
affixing THE COMMON SEAL of
**WORCESTERSHIRE
COUNTY COUNCIL** in
the presence of :-

Head of Legal and
Democratic Services