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**Dated**

**2022**

- (1) Uttlesford District Council
- (2) Essex County Council
- (3) Thomas Eric Baker and Sally Rose Hall
- (4) Rosconn Strategic Land Limited

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**Section 106 Agreement relating to land south of Radwinter Road, Saffron Walden, Essex**

**(Planning Application Reference UTT/21/2509/OP)**

**(Planning Appeal Reference APP/C1570/W/22/3296426)**

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An **AGREEMENT** made the \_\_\_\_\_ day of \_\_\_\_\_ two thousand and twenty-two between

- (1) **UTTLESFORD DISTRICT COUNCIL** of Council Offices, London Road, Saffron Walden, Essex CB11 4ER (“UDC”)
- (2) **ESSEX COUNTY COUNCIL** of County Hall, Market Road, Chelmsford CM1 1QH (“ECC”)
- (3) **THOMAS ERIC BAKER** of 5 Shotley Lodge, Shotley Bridge, Consett, County Durham DH8 0TZ and **SALLY ROSE HALL** of 26 Sand Lane, Northill, Biggleswade, Bedfordshire SG18 9AD as executors of Jean Baker deceased (“the Owners”)
- (4) **ROSCONN STRATEGIC LAND LIMITED** (company registration number 09786772) whose registered office is at Lumaneri House, Blythe Gate, Blythe Valley Park, Solihull B90 8AH (“the Promoter”)

#### 1. Definitions

- 1.1. “the 1972 Act” shall mean the Local Government Act 1972
- 1.2. “the 1990 Act” shall mean the Town and Country Planning Act 1990
- 1.3. “the 1999 Act” shall mean the Contracts (Rights of Third Parties) Act 1999
- 1.4. “the 2011 Act” shall mean the Localism Act 2011
- 1.5. “AB Affordable Housing Units” shall mean the Affordable Rented Units and the Shared Ownership Units
- 1.5. “Affordable Housing” shall mean subsidised housing within the definition of affordable housing contained in Annex 2 of the NPPF that will be available to persons who cannot afford to buy or rent housing generally available on the open market and First Homes
- 1.6. “Affordable Housing Land” shall mean the land on which the AB Affordable Housing Units will be constructed in accordance with the Permission
- 1.7. “Affordable Housing Units” shall mean the units of accommodation to be constructed on the Land for persons unable to compete for housing on the open market
- 1.8. “Affordable Rented Units” shall mean rented housing provided by an Approved Body that has the same characteristics as social rented housing except that it is outside the national rent regime but is subject to other rent controls that require it to be offered to those in identified housing need at a rent of up to 80% of local market rents inclusive of service charges where applicable
- 1.9. “Allocations Policy” shall mean the UDC Allocations Policy dated June 2021 or any subsequent approved Allocations Policy replacing the policy of June 2021
- 1.10. “Appeal” shall mean the appeal lodged with the Planning Inspectorate against the refusal of the Planning Application (given reference number APP/C1570/W/22/3296426) and to be determined by the Secretary of State or an Inspector appointed by the Secretary of State for the purpose

- 1.11. "Approved Body" shall mean any registered provider registered with Homes England or successor organisation, any body organisation or company which is a registered charity with the Charity Commissioners for England and Wales and approved by Homes England or any other body organisation or company approved by UDC and which has objects demonstrably similar to or compatible with or promoting those of a registered social landlord
- 1.12. "Car Club Contribution" shall mean the sum being the aggregate of the following sums: (i) £300 (three hundred pounds sterling) per Dwelling being the cost of annual membership of the car club for 5 years; (ii) the sum of £80 per Dwelling being 10 hours driving credit at the car club; and (iii) the sum of £43,333 towards the operational costs of providing one electric vehicle for the car club for 5 years to which sum the Car Club Indexation shall be added such contribution to be used towards costs of a future town wide car club in Saffron Walden as specified above
- 1.13. "Car Club Indexation" shall mean the amount that the Owners shall pay with and in addition to each part of the Car Club Contribution paid that shall in each case equal a sum calculated by taking the percentage change shown in the Consumer Prices Index (CPI) between the Index Point pertaining to July 2022 and the date of the most recent Index Point published in relation to the date the payment is due to be made to UDC (in the event this index ceases to apply then such other index as UDC deems appropriate)
- 1.14. "CIL Regulations" shall mean the Community Infrastructure Levy Regulations 2010 (as amended)
- 1.15. "Community Infrastructure Levy" shall mean the Community Infrastructure Levy introduced by the Planning Act 2008 and the CIL Regulations or any successor levy or charge which triggers payments towards Infrastructure
- 1.16. "the Councils" shall mean Uttlesford District Council and Essex County Council
- 1.17. "Custom Build Developer" shall mean an individual or association of individuals (including bodies corporate that exercise functions on behalf of individuals) aged 18 or over seeking (either alone or with others) to acquire a serviced plot of land in the UDC's district to commission construction of or build a house to occupy as that individual's sole or main residence
- 1.18. "Custom Build Housebuilding" shall mean custom housebuilding as defined in s 1 (A1) and s1(A2) of the Self-build and Custom Housebuilding Act 2015 (as amended)
- 1.19. "Custom Build Phase" shall mean that part or parts of the Land which is identified by the Owners as being the land on which the Custom Build Plots are to be located
- 1.20. "Custom Build Plots" shall mean those plots within the Development which (i) shall comprise 5% of the number of Open Market Housing Units within the Development and (ii) are intended for the siting of dwellings to be built by individuals associations or a Custom Build Developer where the individuals or purchasers (as applicable) have primary input into the plans and specifications for their dwellings
- 1.21. "Custom Build Register" shall mean UDC's custom build register maintained pursuant to s1 of the Self-build and Custom Housebuilding Act 2015 (as amended)

- 1.22. "Custom Build Scheme" shall mean the scheme prepared by the Owners for the approval of UDC and which sets out the proposals for Custom Build Housebuilding on the Custom Build Plots to include:
- (i) the indicative location of the Custom Build Plots;
  - (ii) details of the servicing arrangements for the Custom Build Plots;
  - (iii) details of how the Custom Build Plots shall be marketed for Custom Build Housebuilding which for the avoidance of doubt shall include the length of that marketing period and provisions which allow the Custom Build Plots to be sold as unrestricted Dwellings in the event that the Custom Build Plots are not disposed of for Custom Build Housebuilding within 12 months of commencing marketing (or such shorter period as may be agreed by UDC in writing)
- 1.23. "the Development" shall mean the development authorised by the Permission
- 1.24. "Decision Letter" shall mean the decision letter issued by the Inspector or the Secretary of State confirming whether or not the Appeal is allowed
- 1.25. "Dwelling" shall mean any residential dwelling (including a house, flat, or maisonette) constructed pursuant to the Permission
- 1.22. "ECC Monitoring Fee" means the sum of £550 (five hundred and fifty pounds sterling) per obligation imposed upon the Owners under this Deed, and for the avoidance of doubt this is a total amount of £3,850 (three thousand eight hundred and fifty pounds sterling), towards ECC's reasonable and proper administrative costs of monitoring the Owners' compliance with this Deed;
- 1.23 "Eligible Person" shall mean:-
- (i) in relation to Affordable Rented Units a person or persons considered by the Approved Body to be in need of an Affordable Housing Unit who is unable to compete in the normal open market for property in the District of Uttlesford ("the District") and who (or one of whom):
    - has lived continuously in the District for the last 3 years and/or
    - either lives outside the District or has lived in the District for less than 3 years but has immediate family members who have lived in the District for the last 5 years and in respect of whom he is receiving or giving substantial ongoing support that cannot be provided from outside the District and/or
    - lives outside the District but has been permanently employed in the District for a minimum of 3 years and works at least 24 hours a week and/or
    - any other person as agreed with UDC
- and
- (ii) in relation to Shared Ownership Units a person who must have a gross household income of less than £80,000 and be otherwise unable to purchase a suitable property for their housing needs on the open market

- 1.23 "Expert" shall mean such expert as may from time to time be appointed for the purpose of resolving a relevant dispute being a barrister or solicitor or chartered surveyor or other person appropriately qualified to resolve the dispute (having not less than 10 years' relevant experience) agreed by the parties to the dispute but in default of agreement appointed at the request of one of the parties by or on behalf of the President from time to time of the Bar Council or the Law Society or the Royal Institute of Chartered Surveyors
- 1.24. "First Homes" shall mean the Affordable Housing Units which:
- (a) are discounted by a minimum of 30% against the market value;
  - (b) are sold to a person or persons meeting the First Homes Eligibility Criteria;
  - (c) on their first sale, have a restriction registered on the title at the Land Registry to ensure this discount (as a percentage of current market value) and certain other restrictions are passed on at each subsequent title transfer; and
  - (d) after the discount has been applied, the first sale is at a price no higher than £250,000,
- and "First Home" shall be construed accordingly
- 1.25 "First Homes Eligibility Criteria" shall mean the national standard criteria for persons eligible to purchase a First Home which includes:
- (a) a purchaser (or, if a joint purchase, all the purchasers) of a First Home should be a first-time buyer as defined in paragraph 6 of schedule 6ZA of the Finance Act 2003 for the purposes of Stamp Duty Relief for first-time buyers;
  - (b) purchasers of First Homes, whether individuals, couples or group purchasers, should have a combined annual household income not exceeding £80,000 in the tax year immediately preceding the year of purchase;
  - (c) a purchaser of a First Home should have a mortgage or home purchase plan (if required to comply with Islamic law) to fund a minimum of 50% of the discounted purchase price; and
  - (d) a purchaser who meets the other criteria listed in the First Homes eligibility checklist attached to this agreement at Appendix 1,
- or such other applicable national standard criteria published from time to time
- 1.24. "Flat" shall mean a Dwelling that occupies a single floor and/or does not benefit from private open space for the exclusive use of the residents of the Dwelling and no other persons
- 1.25. "Health Contribution" shall mean the sum calculated by reference to the formula:  
Health Contribution = (£513.86 x number of Dwellings) plus Health Indexation to mitigate the capital cost to the NHS for the Healthcare Purposes
- 1.26. "Healthcare Purposes" shall mean the provision of improvements to increase the capacity of primary care service provision at the Gold Street Surgery, gold street, Saffron Walden
- 1.27. "Health Indexation" shall mean the amount that the Owners shall pay with and in addition to each part of the Health Contribution paid that shall in each case equal a sum calculated by taking the percentage change shown in the BCIS Public Sector

Index between the Index Point pertaining to July 2022 and the date of the most recent Index Point published in relation to the date the payment is due to be made to UDC (in the event this index ceases to apply then such other index as UDC deems appropriate)

- 1.28. "HomeBuy Agent 3" shall mean the zone agent (or a successor organisation) keeping a register of persons seeking shared ownership dwellings for Essex
- 1.29. "Homes England" shall mean the body set up by section 1 of the Housing and Regeneration Act 2008 or any successor organisation
- 1.30. "House" shall mean a Dwelling that does not meet the definition of a Flat
- 1.31. "Implementation" shall mean the implementation of the Permission by the carrying out of any material operation (as defined by s. 56 of the 1990 Act) pursuant to the Permission but disregarding for the purposes of this agreement and for no other purpose the following operations:
  - demolition, site clearance and site preparation
  - site survey
  - ecological survey
  - archaeological survey
  - remediation
  - diversion, de-commissioning or laying of services
  - construction of temporary access and service roads
  - erection of fences or hoardingsand the terms "Implement" and "Implemented" shall be construed accordingly
- 1.32. "Implementation Date" shall mean the date specified by the Owners to the Councils in a written notice served upon the Councils as the date upon which the Development authorised by the Permission is to be Implemented or if no such notice is served the date of Implementation
- 1.33. "Index" shall mean the Index of Retail Prices compiled and published by Her Majesty's Government from time to time
- 1.34. "Index Linked" shall mean that the sum shall be changed by an amount equal to the change in the Index
- 1.35. "Index Point" shall mean a point shown on the relevant index indicating a relative cost at a point in time
- 1.36. "Inspector" shall mean the planning inspector appointed by the Planning Inspectorate/ Secretary of State in determination of the Appeal
- 1.37. "the Land" shall mean the land south of Radwinter Road, Saffron Walden and which is shown edged in red on Plan 1
- 1.38. "LEAP" shall mean a local equipped area of play constructed and equipped in accordance with regulations and guidance of Fields in Trust (current at the date of the Permission) to be provided as part of the Public Open Space and in accordance with the Public Open Space Plan
- 1.39. "Maintenance Contribution" shall mean the sum of £1,400 per Dwelling Index Linked in respect of the ongoing management and maintenance of the Public Open Space on the Land by the Parish Council

- 1.40. "Management Company" shall mean a company body or other entity responsible for the long-term management and maintenance of Public Open Space and/or other facilities and may include a residents' association established for this purpose
- 1.41. "Nominated Person" shall mean a person or persons nominated by UDC from their housing register or the HomeBuy Agent 3 to be offered an Affordable Housing Unit by an Approved Body
- 1.42. "NPPF" shall mean the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government and dated July 2021 or any replacement statement guidance note or circular which may amend, supplement or supersede it
- 1.43. "Occupation" shall mean occupation of a building constructed as part of the Development of the Land pursuant to the Permission and shall not include daytime occupation by workmen involved in the construction of the buildings the use of finished buildings for sales purposes for use as temporary offices or for the storage of plant and material and "Occupy" "Occupancy" and "Occupied" shall be construed accordingly
- 1.44. "Open Market Housing Units" shall mean the Dwellings to be constructed in accordance with the Permission which are not Affordable Housing Units
- 1.45. "the Parish Council" shall mean Swards End Parish Council
- 1.46. "the Permission" shall mean the planning permission granted by the Secretary of State pursuant to the Appeal in respect of the Planning Application
- 1.47. "Phase" shall mean a phase of the Development as identified in the Phasing Plan
- 1.48. "Phasing Plan" shall mean the phasing plan agreed pursuant to a condition attached to the Permission or in the absence of such a condition such phasing plan as is proposed by the Owners and approved by UDC
- 1.49. "Plan 1" shall mean the plan labelled as Plan 1 and being the drawing numbered DE436\_030 and titled "S106 Location Plan" annexed at Schedule 1
- 1.50. "Plan 2" shall mean the plan labelled as Plan 2 and being the drawing numbered DE\_436-023 Rev B and titled "Green Infrastructure" annexed at Schedule 2
- 1.51. "Plan 3" shall mean the plan labelled as Plan 3 and being drawing number 20-1142-SK17 Rev A annexed at Schedule 2
- 1.52. "Plan 4" shall mean the plan labelled as Plan 4 and being drawing number 20-1142-SK16 annexed at Schedule 2
- 1.53. "the Planning Application" shall mean the planning application made by the Promoter under reference number UTT/21/2509/OP
- 1.54. "Public Open Space" shall mean all landscaped areas and the Sustainable Drainage System including the two LEAPs on the Land not comprising private gardens adopted roads being in the general location as shown coloured green on Plan 2 including for the avoidance of doubt those areas which are shown both coloured green and also hatched black on Plan 2 with the precise location boundaries and extent of such areas to be determined by the relevant reserved matters approval and provided in accordance with the Public Open Space Plan



- 1.55. "Public Open Space Management Plan" shall mean a management plan prepared by the Owners to be approved in writing by UDC for the ongoing management and maintenance of the Public Open Space, including for the avoidance of doubt provisions for the rectification of any defects in any area of the Public Open Space until the completion of the relevant transfer of the Public Open Space to the Management Company or Parish Council as applicable
- 1.56. "Public Open Space Plan" shall mean the plan and specification to be submitted by the Owners to UDC showing the layout and design of the Public Open Space, including details of any LEAP, any equipment landscaping, paths and access arrangements, street furniture and fencing and the Sustainable Drainage System forming part of the Public Open Space
- 1.57. "Public Open Space Transfer Notice" shall mean a written notice provided by the Owners to the Parish Council offering to transfer the Public Open Space to the Parish Council
- 1.58. "Public Open Space Transfer Notice Period" shall mean a period of 3 months from the service of the Public Open Space Transfer Notice by the Owners unless otherwise agreed between the Owners and UDC
- 1.59. "Relevant Documents" shall mean the Public Open Space Plan and the Public Open Space Management Plan
- 1.60. "Secretary of State" shall mean the Secretary of State for Levelling Up, Housing and Communities or such other Minister of Her Majesty's Government for the time being having or discharging the functions of the Secretary of State for the purposes of the 1990 Act
- 1.61. "Shared Ownership Leaseholder" shall mean the person or persons to whom an Affordable Housing Unit sold as a Shared Ownership Unit shall be allocated in accordance with this agreement
- 1.62. "Shared Ownership Units" shall mean Affordable Housing Units which will be offered for shared ownership by the Approved Body to persons in need of affordable housing in accordance with Schedule 3 Part 1
- 1.63. "Sustainable Drainage System" shall mean all the works and constructions which comprise the surface water drainage system for the Development and the Land
- 1.64. "UDC Housing Strategy" shall mean the document that is published on the UDC website that sets out the main housing related issues faced by UDC and how UDC plan to deliver key priorities and objectives in response to those issues
- 1.65. "UDC's Monitoring Fee" shall mean the sum of £22,776.00 or such lesser amount as the Inspector expressly states in the Decision Letter being a reasonable estimate of UDC planning officer time in monitoring compliance with this agreement by the Owners to include (where appropriate) but not be limited to time spent in connection with:
- recording of payments
  - proof of expenditure
  - reporting
  - financial monitoring

- meetings
- all correspondence
- site visits
- data entry

1.66. "Unit" shall mean a house or self-contained flat or bungalow or any other Dwelling constructed as part of the Development and "Units" shall be construed accordingly

1.67. "Utilities" shall mean gas, water, electricity, telephone, foul drainage and surface water drainage and ducting for wires, cables, lasers, optical fibres electronic data or impulse transmission communication or reception systems, broadband and all other media as may in UDCs reasonable view be appropriate with rights to use and if necessary in the reasonable opinion of UDC accompanied by such legal rights as UDC considers necessary for the discharge of surface water

1.68. "Working Days" shall mean any day from Monday to Friday inclusive which is not Christmas Day Good Friday a statutory bank holiday or a day between Christmas Day and New Year's Day

## 2. Recitals

2.1. UDC and ECC are the local planning authority within the meaning of the 1990 Act for the District in which the Land is situated

2.2. ECC is also the local planning authority the local authority for statutory age and pre-statutory age education and childcare and the local highway authority for the County within which the Land is situated

2.3. The Owners are the proprietors of the freehold interest in the Land registered at HM Land Registry under Title Number AA30130

2.4. The Promoter and Owners have made the Planning Application to UDC and the Promoter has entered into a planning promotion agreement with the Owners dated 26<sup>th</sup> May 2021 in relation to the Land

2.5. UDC has refused the Planning Application and the Promoter and Owners have submitted the Appeal

2.6. The Councils, the Owners, and the Promoter have agreed to enter into this agreement pursuant to the operative powers described in clause 3 for the purpose of regulating the Development and use of the Land in the event that the Permission is granted pursuant to determination of the Appeal

## 3. Enabling Powers and Obligations

3.1. This agreement is entered into pursuant to section 106 of the 1990 Act, section 111 of the 1972 Act, section 1 of the 2011 Act and all other enabling powers

3.2. Such of the covenants contained herein as are capable of being planning obligations within the meaning of section 106 of the 1990 Act are declared to be planning obligations and as such are enforceable by UDC and ECC as hereinafter provided

## 4. Obligations undertaken by the Owners

4.1 With the intent that the Land shall be subject to the obligations and restrictions contained in this agreement for the purpose of restricting or regulating the

Development and use of the Land so that the provisions of this agreement shall be enforceable against the Owners and their successors in title the Owners hereby jointly and severally covenant with UDC and ECC to observe and comply with the obligations contained in Schedules 3 and 4 PROVIDED THAT the provisions of Schedules 3 and 4 shall only apply and shall be enforceable by UDC or ECC in such circumstances that the appointed Inspector or the Secretary of State states clearly in the decision letter granting the Permission that such obligations are necessary and meets the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010

- 4.2 The liability of the Owners under this agreement shall cease once they have parted with their respective interests in the Land or any relevant part thereof (in which event the obligations of the Owners under this agreement shall cease only in relation to that part or those parts of the Land which is or are transferred by them and for the avoidance of doubt once the Owners have transferred all parts of the Land owned by the Owners, the obligations on the Owners shall cease) but not so as to release any party from liability for any breaches hereof arising prior to the transfer and for the purposes of this agreement any easement covenant or similar right shall not constitute an interest in the Land
5. Obligations undertaken by UDC and ECC
    - 6.1 UDC covenants to observe and comply with the obligations on its part contained in Schedule 3 and Schedule 5
    - 6.2 ECC covenants to observe and comply with the obligations on its part contained in Schedule 4 and Schedule 6
    - 6.3 At the written request of the Owners UDC and ECC shall provide written confirmation of the discharge of the obligations given to them respectively in this agreement when satisfied that such obligations have been performed
7. Notice of Implementation
    - 7.1 The Owners will give the Councils not less than 28 days' notice of their intention to Implement the Permission specifying the intended Implementation Date
    - 7.2 Forthwith upon Implementation the Owners will give the Councils notice of Implementation
8. Provisos and Interpretation
    - 8.1 No provision of this agreement shall be interpreted so as to take effect contrary to law or the rights powers duties and obligations of the Councils in the exercise of any of their statutory functions or otherwise
    - 8.2 If any provision of this agreement shall be held to be unlawful or unenforceable in whole or in part under any enactment or rule of law, such provision shall to that extent be deemed not to form part of this agreement and the enforceability of the remainder of this agreement shall not be affected

- 8.3 Where there is more than one person named as a party and where more than one party undertakes an obligation all their obligations may (unless there is an express provision in this agreement to the contrary) be enforced against them jointly and severally
- 8.4 No waiver (whether express or implied) by the Councils of any breach or default in performing or observing any of the obligations, covenants or terms and conditions of this agreement shall constitute a continuing waiver and no such waiver shall prevent the Councils from enforcing any of the said obligations, covenants or terms and conditions or from acting upon any subsequent breach or default
- 8.5 Any provision contained in this agreement requiring the consent or approval of any party hereto shall be deemed to incorporate a proviso that such consent or approval shall not be unreasonably withheld or delayed
- 8.6 The headings in this agreement do not affect its interpretation
- 8.7 Unless the context otherwise requires references to sub-clauses, clauses and schedules are to sub-clauses, clauses and schedules of this agreement
- 8.8 Unless the context otherwise so requires
- 8.8.1 references to Councils, the Owners and the Promoter include their respective permitted successors and assigns and in the cases of Councils shall include the successors to their statutory functions
- 8.8.2 references to statutory provisions include those statutory provisions as amended or re-enacted and
- 8.8.3 references to any gender include all genders

## 9 Agreements and Declarations

- 9.1 The obligations contained in Schedules 3 and 4 and Clause 10 shall take effect only upon the Implementation Date and in the event that the Appeal is dismissed or the Permission is not implemented and expires, the obligations contained in Schedules 3 and 4 and Clause 10 shall absolutely cease and determine without further obligation upon the Owners or their successors in title
- 9.2 The obligations contained in Schedules 3 and 4 and Clause 10 shall absolutely cease and determine without further obligation upon the Owners or their successors in title if the Permission is revoked, quashed, is modified without the consent of the Owners, expires or if a separate planning permission is subsequently granted and implemented which is incompatible with the Permission
- 9.3 Save as specifically provided in Schedules 3 and 4 nothing in this agreement shall prohibit or limit the right to develop any part of the Land in accordance with any planning permission (other than the Permission as defined herein)
- 9.4 The obligations under this agreement shall not be enforceable against
- 9.4.1 persons who purchase or take leases of the Dwellings, the successors in title mortgagees or chargees or receivers of such persons; or
- 9.4.2 a Shared Ownership Leaseholder who has staircased to or otherwise acquired 100% ownership or a tenant of an Affordable Housing Unit who

exercises the right to acquire or other statutory right or in each case their successors in title; or

9.4.3 in respect of any Affordable Housing Unit, a mortgagee or chargee or receiver who has first complied with its duty pursuant to paragraph 9.8. Part 1 of Schedule 3

9.5 This agreement constitutes a Local Land Charge and shall be registered as such provided that UDC will upon the happening of any of the eventualities referred to in clauses 10.1. and 10.2. of this agreement or upon the determination of this agreement howsoever determined procure the removal of any entry made on the Local Land Charges Register in respect of or related to this agreement

#### 10. Monitoring Fee

10.1 The Owners shall pay the UDC's Monitoring Fee to UDC in accordance with the following instalments:

10.1.1 one third of UDC's Monitoring Fee prior to or on Implementation;

10.1.2 one third of UDC's Monitoring Fee prior to or on the second anniversary of the date of Implementation; and

10.1.3 one third of UDC's Monitoring Fee prior to or on the fourth anniversary of the date of Implementation PROVIDED THAT if the construction of the Development has been completed by such date then there shall be no requirement for the Owners to pay the third instalment of UDC's Monitoring Fee

10.2 Upon Implementation the Owners shall pay the ECC Monitoring Fee to ECC

#### 11. Exclusion of the 1999 Act

For the purposes of the 1999 Act it is agreed that nothing in this agreement shall confer on any third party any right to enforce or any benefit of any term of this agreement

#### 12. Notices

13.1. Any notices required to be served on or any document to be supplied or submitted to any of the parties hereto shall be sent or delivered to the address stated in this agreement as the address for the receiving party or such other address as shall from time to time be notified by a party to this agreement as an address at which service of notices shall be accepted or (in the case of a limited company) at its registered office

13.2. Any notices to be served or documents to be supplied or submitted or applications for approval under the terms of this agreement to be made which are addressed to UDC shall be addressed to the Assistant Director Planning of UDC

13.3 Any notice or other written communication to be served or given by one party upon ECC under the terms of this agreement shall be deemed to have been validly served or given if received by electronic mail AND delivered by recorded delivery post to ECC

in writing provided that the notice or other written communication is sent to the email address stated and marked for the attention of the s106 Officer Planning Service Place and Public Health County Hall Chelmsford CM1 1QH AND to development.enquiry@essex.gov.uk

13. Entire Agreement

This agreement the Schedules and the documents annexed hereto or otherwise referred to herein contain the whole agreement between the parties relating to the subject matter hereof and supersede all prior agreements arrangements and understandings between the parties relating to that subject matter

14. Costs

Upon or before the execution of this agreement the Promoter will pay the reasonable legal costs incurred of both UDC and ECC in connection with the negotiation and preparation thereof

15. Promoter

The Promoter acknowledges and declares that this agreement has been entered by the Owners with its consent and that subject as herein provided the Land shall be bound by the obligations contained in this agreement and that any interest the Promoter has in the Land shall be subject to this agreement PROVIDED THAT the Promoter shall otherwise have no liability under this agreement unless it takes possession of the Land or acquires an interest in the Land being more than an option or conditional contract or the benefit of a planning promotion agreement in which case it too will be bound by the obligations as a person deriving title from the Owners

16. Dispute Resolution

In the event of any dispute or difference between the Owners and UDC and/or ECC arising out of this agreement, such dispute or difference shall be referred to the Expert and it is further agreed that:

- 16.1 the determination of the Expert shall be final and binding on the parties save in the case of manifest error or fraud
- 16.2 the parties shall be entitled to make representations and counter-representations in accordance with such timetable as the Expert shall direct
- 16.3 the Expert's costs shall be borne in such proportions as he/she may direct, failing which the Owners and UDC and/or ECC shall each bear their own costs of the reference and determination and the Expert's costs shall be shared equally
- 16.4 the Expert shall be appointed subject to an express requirement that he/she reaches a decision and communicates it to the parties within the minimum practicable timescales allowing for the nature and complexity of the dispute and in any event not more than twenty-one (21) Working Days from the date of appointment to act and

16.5 the Expert may be replaced by a fresh appointee in the event he/she becomes at any time unable or unwilling for any reason to proceed to discharge his/her function and such fresh appointee shall be appointed in the same manner as the Expert

17. Jurisdiction

This agreement is to be governed by and interpreted in accordance with the law of England and Wales and the courts of England and Wales are to have jurisdiction in relation to any disputes between the parties arising out of or related to this agreement

18. CIL Regulations

18.1 If in determining the Appeal the Secretary of State or the Inspector expressly states in the Decision Letter that any planning obligation contained in this agreement:

18.1.1 is not a material planning consideration; or

18.1.2 can be given no weight in determining the Appeal; or

18.1.3 does not constitute a reason for granting the Permission in accordance with Regulation 122 of the CIL Regulations

then such planning obligation shall not be enforceable pursuant to this agreement and shall cease to have effect within this agreement save as set out in the Decision Letter

19. Section 73 Variation

If UDC agrees in writing following an application under section 73 of the 1990 Act to vary or release any condition contained in the Permission or if a condition is varied or released following an appeal under section 78 of the 1990 Act, the covenants or provisions of this agreement shall be deemed to bind the varied permission and to apply in equal terms to the new planning permission unless UDC in determining the application for the new planning permission indicate that consequential amendments are required to this agreement to reflect the impact of the section 73 application, in which case a separate deed under section 106 of the 1990 Act will be required to secure relevant planning obligations relating to the new planning permission

**IN WITNESS WHEREOF** the parties hereto have executed this agreement as a deed the day  
and year before written

**THE COMMON SEAL OF  
UTTLESFORD DISTRICT COUNCIL**  
was hereunto affixed in the presence of  
Authorised Signatory

**THE COMMON SEAL OF  
ESSEX COUNTY COUNCIL**  
was hereunto affixed in the presence of  
Attesting Officer

**EXECUTED** as a **DEED** by  
**THOMAS ERIC BAKER**  
(as executor of Jean Baker deceased)  
in the presence of:

Witness:      (Signature)      \_\_\_\_\_  
  
                         (Name)      \_\_\_\_\_  
  
                         (Address)      \_\_\_\_\_  
                         \_\_\_\_\_  
                         \_\_\_\_\_  
  
                         (Occupation)      \_\_\_\_\_



**EXECUTED** as a **DEED** by

**SALLY ROSE HALL**

(as executor of Jean Baker deceased)

in the presence of:

Witness: (Signature) \_\_\_\_\_

(Name) \_\_\_\_\_

(Address) \_\_\_\_\_

\_\_\_\_\_

(Occupation) \_\_\_\_\_

**EXECUTED** as a **DEED** by

**ROSCONN STRATEGIC LAND LIMITED**

acting by a director in the presence of:

Witness: (Signature) \_\_\_\_\_

(Name) \_\_\_\_\_

(Address) \_\_\_\_\_

\_\_\_\_\_

(Occupation) \_\_\_\_\_

**SCHEDULE 1**

**PLAN 1**

**SCHEDULE 2**  
**PLAN 2 and PLAN 3 and PLAN 4**

**SCHEDULE 3**  
**Obligations entered into with UDC**

**Part 1**  
**Affordable Housing**

1. The Affordable Housing Units shall comprise up to 40% of the total of all Dwellings constructed in accordance with the Permission unless otherwise agreed in writing with UDC PROVIDED THAT any fraction of a Unit produced by calculating the percentage shall be rounded up if 0.5% or over and shall be rounded down if under 0.5%
2. 5% of the Affordable Housing Units shall be constructed in accordance with the requirements of building regulations M4(3) (wheelchair user dwellings) unless otherwise agreed in writing with UDC PROVIDED THAT any fraction of a Unit produced by calculating the percentage shall be rounded up if 0.5% or over and shall be rounded down if under 0.5%
3. The AB Affordable Housing Units will be positioned on the Affordable Housing Land unless otherwise agreed in writing with UDC
4. The tenure mix of Affordable Housing Units will be 70% Affordable Rented Units 25% First Homes and 5% Shared Ownership Units unless otherwise agreed in writing with UDC
5. The type and mix of the Affordable Housing Units in a Phase containing Affordable Housing Units is to be submitted to UDC one month prior to submission of the reserved matters application for that Phase of the Development
6. Unless otherwise agreed in writing between the Owners and UDC not to Occupy more than fifty per cent (50%) of the Open Market Housing Units in each Phase which includes AB Affordable Housing Units until the Owners have

EITHER

transferred the Affordable Housing Land in that Phase to an Approved Body as a freehold estate

OR

Completed a binding agreement with an Approved Body (documentary proof of which to be supplied to UDC if requested) for the completion of the AB Affordable Housing Units and the transfer of the AB Affordable Housing Units and the Affordable Housing Land within that Phase FOR THE AVOIDANCE OF DOUBT the Owners may complete a binding agreement with an Approved Body for the completion and transfer of the AB Affordable Housing Units and Affordable Housing Land within the entire Development or for several Phases prior to the Implementation of the first Phase if they wish

7. The tenure of each AB Affordable Housing Unit in a Phase is to be agreed in writing between the Approved Body and UDC in accordance with UDC Housing Strategy in force at that time and the terms of this agreement and before the first Occupation of any AB Affordable Housing Unit in that Phase
8. Unless otherwise agreed between the Owners and UDC not to Occupy more than 75% of the Open Market Housing Units to be constructed in a Phase in accordance with the Permission until the Affordable Housing Units in that Phase shall be substantially completed

and ready for Occupation and transferred to an Approved Body as a freehold estate (if not already transferred in accordance with paragraph 6 above) PROVIDED THAT in the case of First Homes there shall be no requirement for such Affordable Housing Units to be transferred to an Approved Body

9. After the substantial completion of the AB Affordable Housing Units no Affordable Housing Unit shall be Occupied unless in respect of the AB Affordable Housing Units concerned there is compliance with the following paragraphs 9.1. to 9.6.

- 9.1. Upon completion of the AB Affordable Housing Units and thereafter, the Approved Body will allocate each AB Affordable Housing Unit to a Nominated Person provided by UDC or the HomeBuy Agent 3 in accordance with the following provisions:

- 9.1.1. Not later than twenty (20) Working Days from the date of completion of each Affordable Housing Unit or a notice from a tenant of an Affordable Rented Unit that s/he wishes to relinquish his tenancy or a Shared Ownership Leaseholder wishes to sell his interest of an Affordable Housing Unit, the Approved Body will give notice thereof to UDC as regards the Affordable Rented Unit and to the HomeBuy Agent 3 as regards the Shared Ownership Unit

- 9.1.2. Within twenty (20) Working Days or such other time as is agreed between the Approved Body and UDC of receiving the notice from the Approved Body under the provisions of paragraph 9.1.1. of this Part as regards an Affordable Rented Unit, UDC will give details of the Nominated Person for each Affordable Rented Unit to the Approved Body

- 9.1.3. Upon receiving details of the Nominated Person under the provisions of paragraph 9.1.2. of this Part from UDC, the Approved Body will within twenty (20) Working Days or such other time as is agreed between the Approved Body and UDC offer to grant the tenancy of the Affordable Rented Unit to the Nominated Person

- 9.1.4. Comply with the requirements of the HomeBuy Agent as to the transfer and lease of the Shared Ownership Unit to the Nominated Person

- 9.2. If UDC fails to give details of a Nominated Person under the provisions of paragraph 9.1.2. of this Part or the HomeBuy Agent 3 fails to give details of a Nominated Person, the Approved Body shall have the right to grant an Affordable Rented Unit tenancy or a transfer and lease of a Shared Ownership Unit to any Eligible Person who is considered by the Approved Body to be in need of an Affordable Housing Unit

- 9.3. Where UDC fails to give details of a Nominated Person under the provisions of paragraph 9.1.2. of this Part or the HomeBuy Agent 3 fails to give details of a Nominated Person and the Approved Body does not have notice or details of an Eligible Person whom it can nominate or house pursuant to paragraph 9.2. of this Part, the Approved Body may grant a tenancy of an Affordable Rented Unit or a transfer and lease of a Shared Ownership Unit to any person whom it considers to be in need of an Affordable Housing Unit and who complies with its lettings policy

- 9.4. In respect of any of the Affordable Rented Units becoming vacant after the initial allocation following the completion of the AB Affordable Housing Units, UDC shall in accordance with paragraph 9.1. of this Part be given the sole opportunity by the Approved

Body to nominate the Nominated Persons up to a maximum of 75% (seventy-five per cent) of such vacant Affordable Rented Units

9.5. The terms of the tenancy deeds for the Affordable Rented Units and the terms of the transfers and leases of the Shared Ownership Units shall be in accordance with the regulations and guidance of the Homes England

9.6. The Approved Body will not

9.6.1. Subject to paragraph 9.6.2. of this Part, transfer the freehold or leasehold interest in the Affordable Housing Land or any Affordable Housing Unit (save for a transfer of the freehold interest or long leasehold interest of an Affordable Housing Unit to a Shared Ownership Leaseholder who has acquired 100% of the freehold interest or long leasehold interest or an occupier of an Affordable Rented Unit who has exercised the right to acquire or other statutory right) to any person firm or company other than an Approved Body and the transfer to the Approved Body shall include a covenant that the Approved Body comply with the terms of this agreement

9.6.2. Sell let or dispose of any Affordable Housing Unit or allow or permit or suffer any Affordable Housing Unit to be sold let or disposed of other than in accordance with paragraphs 9.1. to 9.8. of this Part

9.7. The Approved Body will give UDC one (1) month's written notice of the intended transfer of the freehold or leasehold interest in the Affordable Housing Land or of any Affordable Housing Unit to another Approved Body for the avoidance of doubt this does not include the transfer of the freehold or leasehold interest in an Affordable Housing Unit to a Shared Ownership Leaseholder or an occupier of an Affordable Rented Unit who has exercised the right to acquire or other statutory right

9.8. The affordable housing provisions set out in this Part shall not be binding on a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a "**Receiver**")) of the whole or any part of the AB Affordable Housing Units and/or the Affordable Housing Land or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:

9.8.1 Such mortgagee or chargee or Receiver shall first give written notice to UDC (together with official copies of the relevant Land Registry Entries) of its intention to dispose of the AB Affordable Housing Units and/or the Affordable Housing Land specified in the notice and thereafter shall give an opportunity

9.8.2 to another Approved Body (the name and address of which shall be given to UDC) for a period of one (1) month from the date of the written notice to purchase the specified AB Affordable Housing Units and/or the Affordable Housing Land and thereafter

9.8.3 to UDC for a further period of two (2) months to purchase the specified AB Affordable Housing Units and/or the Affordable Housing Land

in either case for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses and

9.8.4 if such disposal has not completed on the expiration of both periods referred to above (and for the avoidance of doubt totalling a three-month period from the date of the written notice), the mortgagee or chargee or Receiver shall be entitled to dispose of the specified AB Affordable Housing Units and/or the Affordable Housing Land free from the affordable housing provisions set out in this Part, which provisions shall determine absolutely

9.8.5 During the three-month period from the date of the written notice, the mortgagee or chargee or Receiver shall use reasonable endeavours to reply to enquiries raised by UDC or by an Approved Body in relation to the specified AB Affordable Housing Units and/or the Affordable Housing Land as expeditiously as possible so as to ensure the completion of any disposal within the said three-month period.

9.9. If the AB Affordable Housing Units are vested or transferred to another provider pursuant to a proposal made by Homes England pursuant to Section 152 of the Housing and Regeneration Act 2008 then the provisions of this agreement shall continue (notwithstanding paragraph 9.8 above) in respect of such other provider

9.10 Should Homes England be abolished and its functions not be replaced by any other statutory body UDC shall fulfil the functions of the HomeBuy Agent 3

9.11 The First Homes shall be marketed for sale and shall only be sold (whether on a first or any subsequent sale) as First Homes to a person or person(s) meeting the First Homes Eligibility Criteria PROVIDED THAT if after a First Home has been actively marketed for 3 months it has not been possible to find a willing purchaser who meets the First Homes Eligibility Criteria then the requirement in this paragraph shall cease to apply

9.12 The obligations in this agreement relating to First Homes shall not apply to any mortgagee or any receiver (including an administrative receiver appointed by such mortgagee or any other person appointed under any security documentation to enable such mortgagee to realise its security or any administrator (howsoever appointed (each a receiver)) of any individual First Home or any persons or bodies deriving title through such mortgagee or receiver

9.13 The obligations in this agreement relating to First Homes shall not apply to:

(i) a disposal to a spouse or civil partner upon the death of the owner of a First Home; or

(ii) a disposal to a named beneficiary under the terms of a will or under the rules of intestacy following the death of the owner of a First Home; or

- (iii) a disposal to a former spouse or former civil partner of an owner of a First Home in accordance with the terms of a court order, divorce settlement or other legal agreement or order upon divorce, annulment or dissolution of the marriage or civil partnership or the making of a nullity, separation or presumption of death order; or
- (iv) a disposal to a trustee in bankruptcy prior to sale of the relevant First Home.

## **Part 2**

### **Public Open Space**

- 1 The Owners hereby covenant with UDC to submit the Relevant Documents to UDC prior to Implementation of the Development
- 2 Unless otherwise agreed in writing with the Council, the Owners shall not Implement the Development unless and until the Relevant Documents have been approved in writing by UDC
- 3 UDC covenants with the Owners to use reasonable endeavours to provide approval in writing of the Relevant Documents within thirty (30) Working Days of receipt in full of the Relevant Documents by UDC and the Relevant Documents shall be deemed to be approved by UDC after 30 Working Days following their submission to UDC in the event that UDC does not notify the Owners with reasons prior to the expiry of such 30 Working Day period why the Relevant Documents are not approved
- 4 The Owners hereby covenant with UDC not to permit the first Occupation of more than 70% of the Dwellings unless and until all of the Public Open Space has been provided in accordance with the approved Public Open Space Plan and the Public Open Space Specification
- 5 The Owners further covenant with UDC to maintain the Public Open Space in accordance with the approved Public Open Space Management Plan until the date upon which the Public Open Space is transferred to the Parish Council or the Management Company
- 6 The Owners shall be at liberty to serve the Public Open Space Transfer Notice on the Parish Council.
- 7 In the event that the Parish Council accepts the offer of the Public Open Space within the Public Open Space Transfer Notice Period the Owners shall as soon as reasonably practicable use reasonable endeavours to secure a binding legal



agreement with the Parish council for the future transfer and maintenance of the Public Open Space

8 In the event that the Owners have been unable despite using reasonable endeavours to secure a binding agreement pursuant to paragraph 7 above the Owners shall establish a Management Company prior to the Occupation of any of the Dwellings.

9 The Owners shall not Occupy or permit the Occupation of any Dwellings until:

9.1 they have entered into a binding legal agreement pursuant to paragraph 7 above; or

9.2 the Management Company has been established to the reasonable satisfaction of UDC pursuant to paragraph 8 above

10 In the event that a binding legal agreement has been entered into with the Parish Council for them to accept a transfer of the Public Open Space the Owners shall:

10.1 thereafter transfer the Public Open Space to the Parish Council (such transfer to include a covenant by the Parish Council only to permit the Public Open Space to be utilised by the public as open areas for recreation in accordance with this agreement (save that in respect of the Safeguarded Land its future use as highway shall be permitted); and

10.2 simultaneously with completion of the transfer of the Public Open Space to pay the Maintenance Contribution to the Parish Council

11 In the event that the Owners have established a Management Company in accordance with paragraph 8 above the Owners further covenant with UDC to include in the transfer of the Public Open Space as appropriate to the Management Company

11.1 a covenant by the Management Company only to permit the Public Open Space to be utilised by the public as open areas for recreation in accordance with this agreement (save that in respect of the Safeguarded Land its future use as highway shall be permitted) and

11.2 a covenant by the Management Company to maintain the Public Open Space in perpetuity in accordance with the Public Open Space Management Plan or as otherwise amended by agreement with UDC

12 The Owners shall provide a copy of the completed transfer to UDC of the Public Open Space and shall inform UDC in writing of the contact details and address of any Management Company (if applicable)

**Part 3**  
**Health Contribution**

1. The Owners shall pay the Health Contribution to UDC on or before the date of Implementation for use by the NHS Hertfordshire and West Essex Integrated Care Board for the Healthcare Purposes
2. The Owners shall not permit or allow the Implementation of the Development until the Health Contribution has been paid to UDC

**Part 4**  
**Custom-build Housing**

The Owners hereby covenant with UDC as follows:

1. Not to Implement or allow Implementation on the Custom Build Phase until the Custom Build Scheme has been submitted to and approved in writing by UDC
2. Unless otherwise agreed in writing with UDC not to permit more than 80% of the Open Market Housing Units to be Occupied until the Custom Build Plots are made available in accordance with the approved Custom Build Scheme
3. Unless otherwise agreed in writing with UDC (as part of the Custom Build Scheme or otherwise) the Custom Build Plots shall only be provided and transferred for the provision of Custom Build Housebuilding to either:
  - 3.1 those on UDC's Custom Build Register; or
  - 3.2 a Custom Build Developer; or
  - 3.3 such other person or persons approved in writing by UDC prior to any disposal of the Custom Build Plot in question

PROVIDED THAT the obligations in this Part 4 of Schedule 3 of this agreement shall cease if following a marketing period of 12 months (or such shorter period as may be agreed with UDC) the Custom Build Plots are not disposed of after being marketed in accordance with the Custom Build Scheme and the unsold Custom Build Plots may be developed as Open Market Housing Units

**Part 5**  
**Car Club Contribution**

1. The Owners shall pay the Car Club Contribution to UDC prior to the first Occupation of any Dwellings and shall not cause or permit first Occupation of any Dwellings unless and until the Owners have paid the Car Club Contribution to UDC



**SCHEDULE 4**  
**Obligations entered into with EEC**

**Part 1**

**Education Contribution**

1 The Owners covenant with ECC so as to bind its interest in the Land as set out in this Part 1 of Schedule 4.

1.1 In this Part 1 of Schedule 4 unless the context requires otherwise the following words and expressions shall have the following meaning

**Completion Notice** means the notice served by the Owners on ECC pursuant to paragraph 4 of this Part of Schedule 4

**County Contribution** means the Education Contribution and the Library Contribution and the Bus Services Contribution

**Early Years and Childcare Contribution** means the Early Years and Childcare Pupil Product multiplied by the cost generator of seventeen thousand two hundred and sixty eight pounds (£17,268)

**Early Years and Childcare Pupil Product** means the sum of the Qualifying Flats multiplied by 0.045 plus the Qualifying Houses multiplied by 0.09

**Early Years and Childcare Purposes** means the design (including feasibility work) and or delivery and or provision of facilities for the education and/or care of children between the ages of 0 to 5 (both inclusive) including those with special educational needs within a 3 mile radius of the Development and including the reimbursement of capital funding for such provision made by the ECC in anticipation of the Early Years and Childcare Contribution

**Education Contribution** means the sum of the Early Years and Childcare Contribution and the Primary Education Contribution to which sums the Relevant Education Indexation shall be added

**Education Index** means the Department for Business Innovation and Skills Tender Price Index of Public Sector Building Non-housing (PUBSEC Index) or in the event that the PUBSEC Index is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by ECC

**Education Purposes** means Early Years and Childcare Purposes and Primary Education Purposes

**“General Index”** means the Consumer Prices Index (CPI) or in the event that CPI is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by ECC;

**“General Index Point”** means a point on the most recently published edition of the General Index at the time of use

**Notice of Implementation** means the written notice served pursuant to paragraph 3 of this Part of Schedule 4

**Payment Notice** means the written notice advising of a proposed payment served pursuant to paragraph 5 of this Part of Schedule 4

**Primary Education Contribution** means the Primary Pupil Product multiplied by the cost generator of seventeen thousand two hundred and sixty eight pounds (£17,268)

**Primary Education Purposes** means the design (including feasibility work) and or delivery and or provision of facilities for the education and/or care of children between the ages of 4 to 11 (both inclusive) including those with special educational needs at Saffron Walden area (Uttlesford Group 2) as set out in the Essex School Organisation’s 10 Year Plan and/or education facilities in the vicinity deemed by the County as serving the development including any successor institution or institutions and including the reimbursement of capital funding for such provision made by the ECC in anticipation of the Primary Education Contribution

**Primary Pupil Product** means the sum of the Qualifying Flats multiplied by 0.15 plus the Qualifying Houses multiplied by 0.3

**Qualifying Flats** means the total number of Dwellings that meet the definition of a Flat and that shall have two or more rooms that may by design be used as bedrooms

**Qualifying Houses** means the total number of Dwellings that meet the definition of a House and that shall have two or more rooms that may by design be used as bedrooms

**Relevant Education Indexation** means the amount that the Owners shall pay with and in addition to each part of the Education Contribution paid that shall in each case equal a sum calculated by taking the amount of the Education Contribution being paid and multiplying this amount by the percentage change shown in the Education Index between the Index Point pertaining to January 2020 and the Index Point pertaining to the date the payment is due to be made to ECC

**Relevant General Indexation** means the amounts that the Owners shall pay with and in addition to each part of the sum set out in paragraphs 9.2 below that shall in each case equal a sum calculated by taking the amount being paid and multiplying this amount by the percentage change in the General Index between the General Index point pertaining to January 2020 and the date payment is made to ECC;

**Sterling Overnight Index Average (SONIA) Rate** means an assessment of the rate of interest ECC can expect to earn on investments through the British sterling market, the rate used being the average interest rate at which banks are willing to borrow sterling overnight from other financial institutions and other institutional investors and SONIA Rate shall be construed accordingly **Triggers** means the dates when the Education Contribution or part thereof is due to be paid to ECC

**Unit Mix** means the number of Qualifying Flats and the number of Qualifying Houses and the number of Dwellings that by definition shall not be counted as Qualifying Houses or Qualifying Flats

2. The Owners shall pay to ECC:
  - 2.1 fifty per cent (50%) of the Education Contribution prior to Implementation of the Development and shall not cause Implementation of the Development unless and until ECC has received fifty per cent (50%) of the Education Contribution;
  - 2.2 the remaining fifty per cent (50%) of the Education Contribution prior to Occupation of the first Dwelling and shall not cause Occupation of the first Dwelling unless and until ECC has received fifty per cent (50%) of the Education Contribution and thus 100% of the Education Contribution has thereby been paid to ECC
3. Unless otherwise agreed, the Owners shall serve on ECC the Notice of Implementation not less than three (3) months prior to Implementation stating the expected Implementation Date, an estimate of the Triggers and the number of Dwellings and the Unit Mix to be provided as part of the Development. In the event that the number of Dwellings and/or the Unit Mix constructed or to be constructed as part of the Development should at any time differ from the number notified to ECC then the Owners shall serve on ECC a further notice(s) stating the revised number of Dwellings and/or Unit Mix within fifteen (15) Working Days of the revised number being decided
4. The Owners shall serve on ECC the Payment Notice between sixty (60) and thirty (30) Working Days prior to the Triggers stating the date that such payment becomes due and any further information stipulated in this Schedule 4 to this agreement
5. The Owners shall serve on ECC the Completion Notice within 30 Working Days of all Dwellings being Occupied for the first time stating the date that the last Dwelling was Occupied for the first time and any further information stipulated in the Schedules to this Agreement and for the avoidance of doubt any dispute regarding any notice to be served under this agreement may be resolved through the mechanisms set out in Clause 16 of this agreement
6. The Owners shall serve on ECC notice of Occupation of the first Dwelling within one (1) month thereof and on a six (6) monthly basis thereafter indicating the Unit Mix of Occupied Dwellings the Unit Mix of Dwellings that are completed but not Occupied the Unit Mix of

Dwellings that are under construction and the Unit Mix of Dwellings where construction has yet to start at the time the notice is served

7. The Payment Notice shall state the Unit Mix on which the payment is to be based
8. The Completion Notice shall state the final Unit Mix
9. It is hereby agreed and declared:
  - 9.1 In the event that the Education Contribution or part thereof is paid later than the dates set out in paragraphs 2.1 and 2.2 then the amount of the Education Contribution or part thereof payable by the Owners shall in addition include an amount equal to any percentage increase in costs shown by the relevant Index between the Index Point prevailing at the date payment is due and the date payment is received by the ECC multiplied by the Education Contribution or part thereof due or if greater an amount pertaining to interest on the Education Contribution or part thereof due calculated at the SONIA Rate from the date payment is due until the date payment of the amount due is received by ECC
  - 9.2 In addition to the requirement of 9.1 above in the event that the Education Contribution due to be paid by the Owners to ECC pursuant to this Deed should not be received by the ECC by the date that the sum is due then the Owners hereby covenant to pay to ECC within ten (10) Working Days of receiving a written request all reasonable costs that ECC has incurred as a result of or in pursuance of such late payment including the sum of fifty pounds sterling (£50) plus Relevant General Indexation for each and every letter sent to the Owners pursuant to the debt
  - 9.3 In the event that the Unit Mix constructed on the Development differs from the Unit Mix on which the Education Contribution or part thereof paid was based the Owners hereby covenant to pay to ECC as soon as the revised Unit Mix becomes apparent any additional amount pertaining to the difference between the amount of the Education Contribution paid and the amount of the Education Contribution that would have been payable using the revised Unit Mix and any such additional amount shall from the date payment is received by the ECC form part of the Education Contribution
  - 9.4 In the event that the Education Contribution is overpaid by the Owners then ECC shall be under no obligation to return any such overpaid sum in whole or in part if in good faith ECC has spent the Education Contribution or has entered into a legally binding contract or obligation to spend the Education Contribution otherwise ECC shall upon the Occupation of the final Dwelling on the Land or at such earlier time as ECC may determine return any such overpaid sum or sums in whole or in part to the Owners (in excess of those sums calculated as due for payment under this agreement) together with interest calculated at the

SONIA Rate within twenty (20) Working Days of ECC being informed by the Owners of such overpayment

## **Part 2**

### **Library Contribution**

1. The Owners covenant with ECC so as to bind its interest in the Land as set out in this Part 2 of Schedule 4.
- 1.1 In this Part 2 of Schedule 4 unless the context requires otherwise the following words and expressions shall have the following meaning

**Library Contribution** means the sum of seventy-seven pounds and eighty pence (£77.80) per Dwelling to which sum the Relevant Library Indexation shall be added

**Library Contribution Purposes** means the use of the Library Contribution towards the upgrade/extension/expansion of existing library facilities and services at local libraries to meet the demand generated by the Development

**Library Index** means the General Index as defined in Schedule 4 Part 1 above.

**Relevant Library Indexation** means the amount that the Owners shall pay with and in addition to the Library Contribution paid that shall in each case equal a sum calculated by taking the amount of the Library Contribution being paid and multiplying this amount by the percentage change shown in the Library Index between the Index Point pertaining to January 2020 and the Index Point pertaining to the date the payment is due to be made to ECC

2. The Owners shall pay the Library Contribution to ECC prior to Implementation of the Development and not cause or allow Implementation until the Library Contribution has been received by ECC.
3. In the event that the Library Contribution is paid later than the dates set out in paragraphs 2 then the amount of the Library Contribution payable by the Owners shall in addition include an amount equal to any percentage increase in costs shown by the relevant Index between the Index Point prevailing at the date payment is due and the date payment is received by the ECC multiplied by the Library Contribution due or if greater an amount pertaining to interest on the Library Contribution or part thereof due calculated at the SONIA Rate from the date payment is due until the date payment of the amount due is received by ECC



4. In addition to the requirement of 3 above in the event that the Library Contribution due to be paid by the Owners to ECC pursuant to this agreement should not be received by the ECC by the date that the sum is due then the Owners hereby covenant to pay to ECC within ten (10) Working Days of receiving a written request all reasonable costs that ECC has incurred as a result of or in pursuance of such late payment including the sum of fifty pounds sterling (£50) plus Relevant General Indexation for each and every letter sent to the Owners pursuant to the debt.
5. In the event that the Library Contribution is overpaid by the Owners then ECC shall be under no obligation to return any such overpaid sum in whole or in part if in good faith ECC has spent the Library Contribution or has entered into a legally binding contract or obligation to spend the Library Contribution otherwise ECC shall upon the Occupation of the final Dwelling on the Land or at such earlier time as ECC may determine return any such overpaid sum or sums in whole or in part to the Owners (in excess of those sums calculated as due for payment under this agreement) together with interest calculated at the SONIA Rate Seven Day LIBID rate within twenty (20) Working Days of ECC being informed by the Owners of such overpayment

### **Part 3**

#### **Highways and Transport**

1. The Owners covenant with ECC so as to bind its interest in the Land as set out in this Part 3 of Schedule 4.
- 1.1 In this Part 3 of Schedule 4 unless the context requires otherwise the following words and expressions shall have the following meaning

**Adjacent Development** means the development to the west of the Land which is proposed to be developed by Redrow Homes Limited and has the benefit of outline planning permission under the UDC's planning application reference UTT/17/2832/OP and is currently subject to a reserved matters application under the UDC's reference UTT/21/3565/DFO

**Bus Services Contribution** means the sum of two thousand six hundred pounds (£2,600) per Dwelling to which sum the Relevant Sustainable Transport Indexation shall be added such contribution to be used towards provision of bus services in Saffron Walden so as to provide a bus service serving the Development via a minimum of an hourly service to key services and facilities as part of an emerging transport plan for Saffron Walden

**Highway Works** means the Radwinter Road/Tesco Access Works and/or the Pedestrian/Cycle Link Extension or each of them respectively as the context so admits and

including in relation to such works any necessary alterations to and reinstatements of existing highways and statutory undertakers equipment to the provision of or alteration to street lighting road signs drainage structures traffic signals related accommodation and any other works normally associated with the construction of a highway or required as a result of ECC's inspections

**Highway Works Agreement** means an agreement entered into pursuant to all powers enabling the parties to regulate the carrying out of the relevant element of the Highway Works (in particular Sections 38 and/or 72 and/or 278 of the 1980 Act and/or Section 33 of the 1982 Act) and may include but not be limited to the following matters

- (a) securing of a bond to ensure that third party funds are available to complete the relevant Highway Works to the satisfaction of ECC
- (b) payment of ECC's works inspection fees maintenance fees special orders fees supervision fees and any other such fees as ECC shall require
- (c) payment of ECC's legal administrative and other fees and disbursements associated with the drafting negotiating and completion of the Highway Works Agreement
- (d) preparation and advance approval of works drawings and traffic management measures
- (e) certification and maintenance of the relevant Highway Works
- (f) regulating of the issue of the works licence to enable the relevant Highway Works to be carried out
- (g) the securing of a bond relating to both Land Compensation Act 1973 matters and Noise Insulation Regulations 1975 as amended by the Noise Insulation (Amendment) Regulations 1988 (SI 1988/2000) and any other indemnity and bonds for liability issues as ECC shall require
- (h) the dedication of land as public highway
- (i) the standards and procedures for carrying out the relevant Highway Works
- (j) traffic regulation orders and statutory processes

**On-Site Pedestrian/Cycle Way** means the proposed shared footway/cycleway of 3m width to be provided as part of the Development within the Land pursuant to a planning condition attached to the Permission

**Pedestrian/Cycle Link Extension** means the proposed shared footway/cycleway of 3m width which is proposed to connect the On-Site Pedestrian/Cycle Way to the boundary of the Adjacent Development (ie. across the gap from the western boundary of the Land to the eastern boundary of the Adjacent Development) in the location shown indicatively on Plan 4 being the part of the link shown coloured pink which is outwith the Land

**Radwinter Road/Tesco Access Works** means provision of a scheme to improve the crossing arrangements at the Tesco access from Radwinter Road to provide an uncontrolled

refuge crossing, linking to the footway on either side as far as possible on the desire line of pedestrians such works to be located wholly within the adopted public highway

**Relevant Sustainable Transport Indexation** means the amounts that the Owners shall pay with and/or agree in addition to each part of the Bus Services Contribution and Travel Plan Monitoring Fee that shall in each case equal a sum calculated by taking the amount being paid and multiplying this amount by the percentage change shown in the General Index between the Index Point pertaining to April 2022 and the date payment is made to the ECC

**Sustainable Travel Voucher** means a voucher of a value of £100 for sustainable travel which may include tickets passes/ vouchers/ credits or other means of accessing transport (such as vouchers for use towards purchasing a bicycle/electric bicycle) or journey planning information as agreed with the ECC including the following as a minimum six scratchcard bus tickets per household or a season ticket voucher and/or incentives for rail travel with the local rail operator

**Travel Plan Monitoring Fee** the non-refundable sum of one thousand five hundred and ninety six pounds (£1,596) per annum for five years plus Relevant Sustainable Travel Indexation payable towards the monitoring by ECC of the implementation of the residential travel plan as approved by the Permission to ensure that (a) monitoring is conducted in line with Residential Travel Plan monitoring protocols and (b) the Residential Travel Plan remains an "active" document with the overarching aim to secure a modal shift from the private car and increase the number of people using sustainable modes of travel

2. The Owners shall pay the Bus Services Contribution to ECC in three instalments as follows:
  - 2.1 the first instalment of 34% of the Bus Services Contribution prior to the Occupation of any Dwellings and shall not cause or allow Occupation of any Dwellings until 34% the Bus Services Contribution has been paid to ECC;
  - 2.2 the second instalment of 33% of the Bus Services Contribution on or before the anniversary date that the payment pursuant to paragraph 2.1 falls due; and
  - 2.3 the final instalment of 33% of the Bus Services Contribution on or before the anniversary date that the payment pursuant to paragraph 2.2 falls due.
  
3. In the event that the Bus Services Contribution is paid later than the dates set out in paragraph 2 above then the amount of the Bus Services Contribution payable by the Owners shall in addition include an amount equal to any percentage increase in costs shown by the relevant Index between the Index Point prevailing at the date payment is due and the date payment is received by the ECC multiplied by the Bus Services Contribution due or if greater an amount pertaining to interest on the Bus Services Contribution or part thereof due calculated at the SONIA Rate from the date payment is due until the date payment of the amount due is received by ECC

4. The Owners shall pay the first annual payment of the Travel Plan Monitoring Fee to ECC prior to the Occupation of the 1<sup>st</sup> Dwelling and not to allow Occupation of any Dwelling until the first annual payment of the Travel Plan Monitoring Fee has been paid to ECC.
5. The Owners shall pay to ECC the subsequent annual payments of the Travel Plan Monitoring Fee on each of the first second third and fourth anniversaries of the date of the first annual payment of the Travel Plan Monitoring Fee (so that in total there shall be five annual payments of the Travel Plan Monitoring Fee) and in the case of late payments of the Travel Plan Monitoring Fee interest shall be payable by the Owners from the date payment is due to the date payment is made on which late sums interest shall accrue under the SONIA Rate.
6. To provide the first prospective residential occupier of each Dwelling with a Sustainable Travel Voucher prior to Occupation of that Dwelling and not to cause or permit the first Occupation of each Dwelling unless and until the Owners have provided the prospective occupier with a Sustainable Travel Voucher PROVIDED THAT for the avoidance of doubt only one Sustainable Voucher shall be required for each Dwelling
7. Subject to paragraph 9 the Owners shall enter into a Highway Works Agreement with ECC for the Radwinter Road/Tesco Access Works prior to Implementation of the Planning Permission; and
8. Subject to paragraph 9 not to Occupy or permit Occupation of any Dwelling unless and until the Radwinter Road/Tesco Access Works have been properly completed in accordance with the Highway Works Agreement and the relevant certificate confirming such completion has been issued under the provisions of the Highway Works Agreement.
9. It is agreed and acknowledged by the Owners and ECC that in the event that a suitable scheme for the Radwinter Road/Tesco Access Works to the satisfaction of ECC cannot be delivered within the adopted public highway then there shall be no obligation on the Owners in respect of the Radwinter Road/Tesco Access Works and paragraphs 7 and 8 above shall cease to have effect.
10. From the Implementation of the Development the Owners shall use all reasonable but commercially prudent endeavours to (i) secure the rights and necessary consents (including any planning permission required) to provide and construct the Pedestrian/Cycle Link Extension and (ii) enter into a Highways Works Agreement in relation to the Pedestrian/Cycle Link Extension PROVIDED THAT if having used such all reasonable but commercially prudent endeavours the Owners have been unable to secure such rights and necessary consents and enter into such Highway Works

Agreement within 12 (twelve) months of the Implementation of Development then this obligation shall no longer be enforceable by ECC and shall be of no further effect.

11. From the date that the Owners have secured the rights and necessary consents to provide and construct the Pedestrian/Cycle Link Extension and entered into a Highways Agreement as referred to in paragraph 10 above the Owners shall provide and construct the Pedestrian/Cycle Link Extension so that it is completed and open for use at the same time as the opening of the On-Site Pedestrian/Cycle Way (unless otherwise agreed in writing with ECC).
12. The Owners shall provide ECC with written proof and or communication where possible to show the necessary steps taken to meet their all reasonable but commercially prudent endeavours pursuant to paragraph 10 above.

#### **Part 4**

#### **Safeguarded Land**

1. The Owners covenant with ECC so as to bind its interest in the Land as set out in this Part 4 of Schedule 4.
  - 1.1 In this Part 4 of Schedule 4 unless the context requires otherwise the following words and expressions shall have the following meaning

**Safeguarded Land** means the land shown coloured light blue on Plan 3 and referred to as "Access Corridor" in the key to Plan 3

**Safeguarding Period** means the period from the date of Implementation up to and including 1 January 2040

2. The Owners covenant with ECC to safeguard the Safeguarded Land for the Safeguarding Period so as not to prevent or materially hinder or limit the construction of the future relief road on the Safeguarded Land and not to prejudice the future use of the Safeguarded Land for the purpose of an upgrade for a future relief road PROVIDED THAT for the avoidance of any doubt the requirement to safeguard the land under the terms of this agreement does not include any requirement on the Owners to grant rights of access or licence for construction of the future relief road or otherwise to ECC or any other party AND PROVIDED FURTHER THAT there shall be no obligation on the Owners to construct any such roadway on the Safeguarded Land under this agreement and for the avoidance of doubt the Owners shall be permitted to (i) pass over the Safeguarded Land with or without vehicles for the purpose of undertaking the Development; (ii) layout the Safeguarded Land as Public

Open Space in accordance with the requirements of this agreement and the Permission; (iii) install under the Safeguarded Land such services as may be required for the purposes of the Development insofar as it does not prevent or materially hinder or limit or interfere with the construction of the relief road or limit the use of the relief road once constructed; (iv) carry out any works required for carrying out the Development and any works required to comply with this agreement or the Permission; and (v) to maintain the Safeguarded Land in a clean and tidy condition.

## **SCHEDULE 5**

### **Obligations undertaken by UDC**

1. If UDC refuse a request for a letter of satisfactory completion under any of the provisions in Schedule 3 the reasons for that refusal shall be in writing and set out the works necessary to enable a letter of satisfactory completion to be issued
2. UDC hereby covenants with the Owners to commit all sums received in respect of the Car Club Contribution within 5 years of receiving it and to repay any monies which have not been committed and/or spent for the specified uses after 5 years to the party that paid the relevant contribution together with accrued interest from the date of receipt until and including the date of repayment
3. Not to pay any part of the Health Contribution to the NHS Hertfordshire and West Essex Integrated Care Board ("the Board") until the Board has undertaken in writing to spend the monies only for the Healthcare Purposes and if some or all of the monies are not used or committed for those purposes within ten years of payment of those monies, to repay those unexpended or uncommitted monies to UDC along with any interest accrued thereon prior to the expiry of 42 days from the end of the ten-year period referred to
4. UDC shall repay any monies returned to it by the Board to the party who made the original payment to UDC within 30 days of receipt of such monies from the Board
5. UDC hereby covenants with the Owners to use all sums received within the administrative area in which it operates and for the purposes specified in this agreement
6. UDC shall provide the Owners with such evidence as the Owners shall reasonably require in order to confirm the expenditure of sums paid under this agreement
7. At the written request of the Owners UDC shall provide written confirmation of the discharge of the obligations contained in this agreement when satisfied that such obligations have been performed

**SCHEDULE 6**  
**Obligations Undertaken by ECC**

- 1.1 ECC hereby covenants to place each of the County Contribution and part thereof received under the terms of this agreement when received from the Owners in to an interest bearing account and utilise the appropriate amount for the appropriate purpose as specified in this agreement
- 1.2 In the event that each County Contribution is overpaid by the Owners then the ECC shall be under no obligation to return any such overpaid sum in whole or in part if in good faith the ECC has spent the contribution or has entered into a legally binding contract or obligation to spend the contribution otherwise ECC shall upon notification of such overpayment or at such earlier time as ECC may determine return any such overpaid sum or sums in whole or in part to the Owners (in excess of those sums calculated as due for payment under this agreement) together with interest calculated at the SONIA Rate within twenty (20) Working Days of ECC being informed by the Owners of such overpayment
- 1.3 If requested in writing by the Owners no sooner than the tenth (10th) anniversary of the date that each relevant County Contribution was paid to ECC in full, then ECC shall return to the party that made the payment of the relevant contribution any part of the relevant contribution that remains unexpended when such notice is received (together with interest accrued that relates to that unexpended part) PROVIDED ALWAYS THAT if ECC is legally obliged to make a payment in respect of the relevant purpose for that contribution then the unexpended part of the contribution shall not be repaid until such payment is made and the unexpended part of the contribution to be repaid shall not include such payment



**APPENDIX 1**

**First Homes eligibility checklist**

<b>Applicant(s) name(s)</b>		
<b>Current address</b>		
<b>Date application received</b>		

<b>National Criteria</b>	<b>Yes</b>	<b>No</b>
First-time buyer? <i>(both applicants must be a first-time buyer)</i>		
Household income of £80,000 or less?		
Mortgage/home purchase plan covering at least 50% of the discounted purchase value?		
Will the First Home be their main residence?		
<b>Local Criteria</b> <i>(only applies for the first 3 months that a First Home is on the market)</i>		
	<b>Yes</b>	<b>No</b>
Applicant(s) lives and/or works within the Uttlesford district? <i>(no minimum number of working hours required &amp; eligible if only one of the applicants meets this criteria)</i>		
Close family connection to the Uttlesford district? <i>(parents, grandparents, children, siblings) (for joint applications only one applicant needs to meet this criteria)</i>		
Due to commence employment within the Uttlesford district? <i>(for joint applications only one applicant needs to meet this criteria)</i>		

**NOTE: Members of the Armed Forces, veterans of up to 5 years and their spouses/civil partners are exempt from any local connection**