

DATED 14<sup>th</sup> April 2021

THE COUNCIL OF THE BOROUGH OF BROXBOURNE

- and -

PETER SPENCER, STEWART SPENCER, TINA ANN SPENCER  
AND ANN VICTORIA SPENCER

- and -

COUNTRYSIDE PROPERTIES (UK) LIMITED

---

PLANNING OBLIGATION AGREEMENT  
PURSUANT TO  
SECTION 106 OF THE TOWN AND COUNTRY  
PLANNING ACT 1990 (AS AMENDED)

---

Relating to

LAND TO THE SOUTH OF GOFFS LANE, GOFFS OAK, HERTS EN7 5HJ  
PLANNING REF: 07/19/0835F

Head of Legal Services  
Broxbourne Borough Council  
Borough Offices  
Bishops' College  
Churchgate  
Cheshunt  
Hertfordshire  
EN8 9XJ  
Ref: 07/19/0835F

Tel: 01992 785555  
Fax: 01992 350555  
Email: legal@broxbourne.gov.uk

*Legal Ref: 10/3/13/1015*

THIS DEED is made the 14<sup>th</sup> day of April 2021

**BETWEEN:-**

- (1) **THE COUNCIL OF THE BOROUGH OF BROXBOURNE** of Bishops College Churchgate Cheshunt Hertfordshire EN8 9XJ ("the Council");
- (2) **PETER SPENCER** of 577 Goffs Lane, Goffs Oak, Waltham Cross EN7 5HJ, **STEWART SPENCER** of 577 Goffs Lane, Goffs Oak, Waltham Cross EN7 5HJ, **TINA ANN SPENCER** of 26 Bentfield Green, Stansted CM24 8HX and **ANN VICTORIA SPENCER** of 577 Goffs Lane, Goffs Oak, Waltham Cross EN7 5HJ (together "the Owner");

and

- (3) **COUNTRYSIDE PROPERTIES (UK) LIMITED** (Co. Regn. No.614864) of Countryside House, The Drive, Brentwood, Essex CM13 3AT ("the Applicant").

**WHEREAS**

- (1) The Council is the local planning authority for the purposes of the Act for the area within which the Land is situated.
- (2) Peter Spencer and Ann Victoria Spencer are registered at HM Land Registry as proprietors with absolute freehold title of that part of the Land registered under title numbers HD563406 and HD563195. Peter Spencer and Stewart Spencer and Tina Spencer are registered at HM Land Registry as proprietors with absolute freehold title of that part of the Land registered under title numbers HD427558 and HD438023.
- (3) The Applicant has entered into an agreement with the Owner to purchase the Land dated 30 March 2017.
- (4) The Applicant has submitted the Application for full planning permission in respect of the Land for the demolition of existing buildings and erection of 51 dwellings alongside public open space, landscaping, parking, new access, pumping station and other associated infrastructure.

- (5) Having regard to the provisions of the Local Plan and to all other material considerations the Council resolved on 20 May 2020 to grant Planning Permission subject to the prior completion of this Deed.
- (6) The Owner intends pursuant to the Permission to carry out the Development and be bound by the provisions hereof.

**NOW IT IS HEREBY AGREED**

**1 DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Deed unless the context otherwise requires the following expressions shall have the following meanings: -

<b>the Act</b>	the Town and Country Planning Act 1990 (as amended);
<b>Affordable Housing</b>	housing for sale or rent, for those whose needs are not met by the market as defined by the National Planning Practice Guidance (as revised in February 2019 and as may be subsequently updated from time to time);
<b>Affordable Housing Units</b>	means the 40% of the total Residential Units which are to be constructed as Affordable Housing under the terms of this Deed;
<b>Affordable Housing Scheme</b>	a scheme to be submitted to the Council which includes as a minimum: <ul style="list-style-type: none"> <li>(a) The total number of Residential Units proposed within the Development and the sizes of each Residential Unit;</li> <li>(b) The number of Affordable Housing Units within the Development both as a number and a percentage;</li> <li>(c) The location of the Affordable Housing Units within the Development;</li> </ul>

**Affordable Rented  
Housing Units**

(d) The tenure and mix of the Affordable Housing Units (i.e. the number of Shared Ownership Housing Units and Affordable Rented Housing Units (or other Affordable Housing products)) within the Development expressed both as a number and a percentage but which shall achieve an overall mix of 65% Affordable Rented Housing and 35% Shared Ownership Housing across the Development; and  
(e) The timing of the construction and completion of the Affordable Housing Units within the Development relative to the occupation of the Open Market Units; those Affordable Housing Units let to households considered by the Registered Provider and/or the Council to be in housing need and at rents which including service charge do not exceed the lower of the maximum local housing allowance (or whatever similar allowance or housing benefit scheme that may replace it from time to time) for the area or 80 per cent of local market rents;

**the Application**

the application for full planning permission submitted to the Council for the Development and allocated reference number 07/19/0835/F;

**Certificate of Final  
Completion**

a certificate issued by the Owner's architect or engineer (as appropriate) following the end of the Maintenance Period to the effect that the Managed Areas are complete and all defects which have become manifest since the issue of a Certificate of Practical Completion have been made good;

<b>Certificate of Practical Completion</b>	a certificate of practical completion issued by the Owner's architect or engineer (as appropriate) to the effect that the relevant works to lay out the Managed Areas have been completed in all material respects;
<b>Commencement</b>	the date on which a material operation comprised in the Development is taken to have begun within the meaning of section 56 (4)(a) to (d) of the Act <b>PROVIDED ALWAYS</b> that for the purposes of this Deed only and for the purpose of determining whether or not such a material operation has been carried out there shall be disregarded any works of demolition, site inspection, site surveys, testing, sampling, site clearance, soil investigations and trial holes and the expressions "Commence", "Commencement" and "Commenced" shall be construed accordingly;
<b>the Development</b>	the development of the Land being the demolition of existing buildings and erection of 51 dwellings alongside public open space, landscaping, parking, new access, pumping station and other associated infrastructure as set out in the Application;
<b>the Education Contribution</b>	the sum of £890,296 (eight hundred and ninety thousand two hundred and ninety six pounds) Index Linked which is payable in respect of educational facilities for the benefit of residents of Goffs Oak;
<b>Estate Management Scheme</b>	a scheme setting out the detailed arrangements for the management and maintenance in perpetuity of the Managed Areas to the satisfaction of the Council which scheme shall include details of:

- (a) the responsibilities of the Management Company and its management structure;
- (b) in the case of a Management Company copies of its memorandum and articles of association;
- (c) the proposals for the long term funding of the Management Company including the setting and collection of the service charges and any sinking/reserve fund and evidence of the covenants on occupiers of the Development to pay service charge in respect of the Managed Areas to the Management Company;
- (d) full details of the maintenance specification for the Managed Areas and the management programme (including frequency) and standards of maintenance for implementing those specifications to be managed by the Management Company provided that the details submitted may be amended or varied by the written agreement of the Council; and
- (e) full details of the proposed maintenance regime of those parts of the Land which will remain outside of the private curtilage of the Residential Units but which may not fall within the management of the Management Company including but not limited to any pumping station(s) and parking courts and/or spaces and car parks;

<b>Health Contribution</b>	the sum of £31,481 (thirty one thousand four hundred and eighty one pounds) Index Linked which is payable in respect of improvements to health facilities that would benefit the residents of Goffs Oak and West Cheshunt;
<b>Highway Improvements Contribution</b>	the sum of £88,148 (eighty eight thousand one hundred and forty eight pounds) Index Linked which is payable in respect of highway improvements that would benefit the residents of Goffs Oak and West Cheshunt;
<b>Index</b>	means the all items retail index published by HM Government Office for National Statistics provided that during any period where no such index exists, the index which replaces the same or is the nearest equivalent thereto as the parties shall agree or in default thereof is determined by reference to determination by an Independent Expert pursuant to clause 14;
<b>Index Linked</b>	means adjusted in line with movements in the Index between the date of this Deed and the date that the particular payment falls due;
<b>Interest</b>	interest at 3 per cent over the base rate for the time being of The Co-operative Bank from the date payment became due;

<b>the Land</b>	the land against which this Deed may be enforced being all that piece or parcel of land with buildings thereon known as land to the south of Goffs Lane, Goffs Oak, Hertfordshire EN7 5HJ and which is shown for the purposes of identification only edged red on the Plan being the land registered at HM Land Registry under title numbers HD427558, HD563195, HD438023 and HD563406;
<b>Library Contribution</b>	the sum of £8,138 (eight thousand one hundred and thirty eight pounds) Index Linked which is payable in respect of improvements to Goffs Oak Library;
<b>Maintenance Period</b>	a period of 12 months starting from the date of the issue of the Certificate of Practical Completion;



*D. King*  
**AUTHORISED SIGNATORY**



- Privately managed landscaping and public open spaces
- Privately managed highways and footpaths

No dimensions are to be scaled from this drawing  
 All written dimensions to be checked by the contractor  
 and any discrepancies notified immediately to BDC

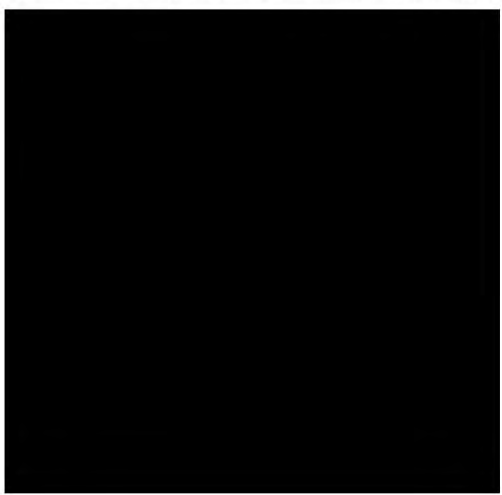
<b>COUNTRYSIDE</b> Plant People Love			
<b>BDC DESIGN</b>			
<b>GOFFS LANE, GOFFS OAK</b>			
<b>ESTATE MANAGED AREAS</b>			
DATE	BY	REVISION	DATE
18.12.2020	GB	GB	Dec' 20
1:500	GB	GB	Dec' 20
COLOUR	SCALE	DATE	BY
COLOUR	SCALE	DATE	BY

© This drawing is copyright of Countryside Properties (UK) Limited and must not be copied or reproduced in whole or in part, nor used in conjunction with any project without Countryside's written consent.

l:\countryside\properties\pic\20.002\goffs lane\bdc\drawing\layouts\106.dwg



**DIRECTOR**



**Managed Areas**

all those areas located on the Land that are intended to remain in the ownership of the Owner or its appointed Management Company and which are intended to be used in common by the owners and occupiers of the Development and as identified as part of the Estate Management Scheme and which are shown on the Managed Area Drawing and being;

- (a) open space;
- (b) all attenuation/detention basins/SUDS so far as they are not adopted and maintained at the public expense;
- (c) LEAP/LAP;
- (d) unadopted highways;
- (e) planting; and
- (f) any other areas outside of private curtilage

but excluding:

- (a) any apartment blocks including the communal areas within or exclusively serving the apartment blocks; and
- (b) any shared accessways which are to be transferred to and maintained by the owners of the Residential Units served by the same;

**“Managed Areas Drawing”**

Drawing number 006 Rev A annexed hereto;

<b>Management Company</b>	a fully constituted residents' management company incorporated and appointed to manage and maintain the Managed Areas in accordance with the Estate Management Scheme in perpetuity and which is a private limited company to be established by the Owner or an existing company (registered at Companies House) and which for the avoidance of doubt can be the Owner;
<b>Nominations Agreement</b>	an agreement made between the Registered Provider and the Council in the form specified and contained in Schedule 4;
<b>Occupy, Occupation &amp; Occupied</b>	means occupation for the purposes of the Planning Permission but not including occupation by personnel engaged in the construction fitting out or decoration or occupation for marketing or display or occupation in relation to security operations;
<b>Open Market Units</b>	means all those Residential Units forming part of the Development which are not Affordable Housing Units;
<b>Plan</b>	the plan annexed appended hereto and labelled "Location Plan";
<b>the Planning Permission</b>	the planning permission subject to conditions granted or to be granted by the Council pursuant to the Application;
<b>the Recreational Sporting and Community Contribution</b>	the sum of £144,815 (one hundred and forty four thousand eight hundred and fifteen pounds) Index Linked payable under the terms of this Deed of which as herein after provided shall be used in respect of the provision of recreational sporting and community facilities for the benefit of residents of Goffs Oak;



<b>Registered Provider</b>	a registered social landlord within the meaning of Part I of the Housing Act 1996 (or any statutory modification re-enactment thereof) and registered with Homes England as regulator of Social Housing pursuant to section 1 of that Act and the Housing and Regeneration Act 2008;
<b>Residential Unit</b>	means the residential units constructed pursuant to the Planning Permission including the Affordable Housing Units and the Open Market Units;
<b>Shared Ownership Housing Units”</b>	the Affordable Housing Units to be provided by a Registered Provider by way of a Shared Ownership Lease granted to eligible households whose needs are not met by the market, where the percentage equity share to be marketed is initially between 25% and 75% and the percentage rent payable on the retained equity is not more than 2.75% per annum of the value of the unsold equity and who will make the unsold equity available for sale to the occupant at market value if requested by the occupant;
<b>Shared Ownership Lease</b>	a lease to be granted for each Shared Ownership Housing Unit for a term of not less than 125 years which shall accord with the requirements of and be consistent with any model shared ownership lease of Homes England (or any statutory successor) relevant at the time of the marketing of the relevant unit;

<b>Sustainable Transport Contribution</b>	means the sum of £88,148 (eighty eight thousand one hundred and forty eight pounds) Index Linked as hereinafter provided which is payable in respect of sustainable transport measures set out within the Broxbourne Transport Strategy and the Broxbourne Walking Cycling Strategy for the benefit of residents of Goffs Oak and/or West Cheshunt;
<b>Youth Services Contribution</b>	the sum of £1,904 (one thousand nine hundred and four pounds) Index Linked which is payable in respect of facilities or services that would benefit the residents of Goffs Oak and/or West Cheshunt.

## **1.2 Interpretation**

In this Deed:

- 1.2.1 Unless otherwise stated, reference to a clause sub-clause schedule paragraph or sub-paragraph is reference to a clause sub-clause schedule paragraph or sub-paragraph in this Deed;
- 1.2.2 Words of the masculine gender shall incorporate the feminine and neuter genders and words of the singular shall include the plural and vice versa and words denoting actual persons including companies, corporations and firms and all such words shall be construed interchangeable in that manner;
- 1.2.3 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise;
- 1.2.4 References to any enactment include references to that enactment as for the time being amended applied consolidated re-enacted by or having effect by virtue of any subsequent enactment and for this purpose 'enactment' means any Act whether public general or local and includes any byelaw order rule regulation procedure scheme or other instrument having effect by virtue of an enactment;



- 1.2.5 The terms "the Council" and "the Owner" shall include their successors in title and assigns;
- 1.2.6 Headings are for ease of reference only and shall not be taken into account in the construction or interpretation of any provision to which they refer.

## **2 STATUTORY POWERS AND COVENANTS**

- 2.1 This Deed is made pursuant to Section 106 of the Act and all other enabling powers and enactments which may be relevant for the purpose of giving validity hereto or facilitating the enforcement of the obligations herein contained with the intent to bind the Owner's interest in the Land;
- 2.2 Save where otherwise expressly stated the Applicant shall have no liability for the planning obligations herein until such time as it acquires a legal interest in the Land in which case it will be bound by the planning obligations herein as a successor in title to the Owner and for the avoidance "legal interest" for the purposes of this clause shall mean a freehold interest or leasehold interest of more than 7 years);
- 2.3 Covenants in this Deed falling within the provisions of section 106 of the Act shall be deemed to be expressed to be planning obligations to which the said section shall apply;
- 2.4 Nothing contained or implied by this Deed shall prejudice or affect the rights powers duties and obligations of the Council in the exercise of its functions as a Local Authority and its rights powers duties and obligations under all public and private statutes bylaws and regulations may be as fully and effectually exercised as if the Council were not a party to this Deed.

## **3 CONDITIONALITY**

This Deed is conditional upon:

- 3.1 the grant of the Planning Permission; and
- 3.2 Commencement of the Development save for the provisions of Clause 4.1 (legal costs) and Clause 13 (jurisdiction) which shall come into effect immediately upon completion of this Deed.

## **4 THE OWNER'S COVENANTS**

- 4.1 The Owner covenants with the Council to the intent that this Deed shall be enforceable without limit of time against the Owner and any person corporate or otherwise claiming title through or under the Owner to the Land or any part or parts thereof as if that person had also been an original covenanting party in respect of the interest or estate for the time being held by that person as follows:
- 4.2 to notify the Council in writing ten (10) working days prior to (i) the Commencement of the Development with the date on which the Development is anticipated to be Commenced and (ii) Occupation of the Development with the date on which the Development is anticipated to be Occupied; and
- 4.3 to comply with the covenants set out in Schedules 1 and 2 of this Deed.

## **5 THE DEVELOPER'S COVENANTS**

- 5.1 The Developer covenants with the Council to pay to the Council on completion of this Deed the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed.

## **6 DECLARATIONS AND ENFORCEABILITY**

- 6.1 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires before the Development is Commenced;
- 6.2 The Council will upon the written request of the Owner confirm in writing whether or not the obligations set out herein have been performed or otherwise discharged
- 6.3 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Land but without prejudice to liability for any subsisting breach arising prior to parting with such interest;
- 6.4 The obligations in this Deed shall not be binding upon or enforceable against: (i) owners, occupiers or tenants or their mortgagees of any Residential Units in private Occupation save for paragraph 1.7 of Schedule 1 only which shall be binding on the Occupiers of the



Affordable Housing Units) and (ii) any statutory undertakers/utilities providers who acquire an interest in the Land for purposes solely related to their rights, powers, duties and functions as statutory undertakers/utilities providers.

**7 WAIVER**

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

**8 INDEXATION**

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

**9 INTEREST**

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

**10 CHANGE IN OWNERSHIP**

The Owner agrees with the Council to give the Council written notice of not less than 10 days of any change in ownership of any of its interests in the Land occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Land or unit of occupation purchased by reference to a plan (save for disposals of individual Residential Units or to any Statutory Undertaker).

**11 NOTICES**

Any notice under this Deed shall be in writing and shall be sufficient if sent as follows:

- 11.1 to the Council if addressed to the Head of Planning and Development or such other proper officer as defined within the Local Government Act 1972 as amended for the time being at the address at the head of this Deed;
- 11.2 to the Owner if sent to its address at the head of this Deed or its registered office for the time being;
- 11.3 to the Applicant if sent to its address at the head of this Deed or its registered office for the time being;
- 11.4 and in any case by registered or recorded delivery post or if left at the premises or such other address as may have been notified by one party to the other for this purpose.

## **12 THIRD PARTIES**

The provisions of the Contracts (Rights of Third Parties) Act 1999 are excluded from the terms of this Deed and unless specifically provided no person other than the parties hereto or their successors in title shall have any benefit or any right to enforce any terms of this Deed.

## **13 LOCAL LAND CHARGE**

This Deed shall be registered as a local land charge by the Council as soon as practicable.

## **14 JURISDICTION**

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

## **14 DISPUTE RESOLUTION**

Any dispute or difference 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 Deed 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 for the Royal Institute of Chartered Surveyors as the case may be and any such reference shall be deemed to be a submission arbitration within the meaning of the Arbitration Act 1996.

**SCHEDULE 1**  
**AFFORDABLE HOUSING**

- 1.1 Not to Commence Development unless and until the Affordable Housing Scheme has been approved in writing by the Council;
- 1.2 The Owner shall provide and procure that the Affordable Housing Units shall be delivered in accordance with the approved Affordable Housing Scheme unless otherwise agreed in writing by the Council (such agreement not to be unreasonably delayed or withheld);
- 1.3 The Affordable Housing Units shall be constructed in accordance with the Planning Permission and the appropriate Building Regulations standards applied to the construction of the Development;
- 1.4 Not to Occupy or allow the Occupation of more than 70% of the Open Market Units until all Affordable Housing Units have been:
  - 1.4.1 constructed and completed and made ready and available for residential Occupation; and
  - 1.4.2 transferred to a Registered Provider at such sum that accords with relevant Homes England/Housing Corporation funding requirements current at the date of construction of the Affordable Housing Units such transfer to be free from private rights of way and other encumbrances save for those specifically referred to in paragraph 1.6 of this Schedule and for the purposes of this Schedule only the expression "transfer" or "transferred" shall mean a transfer of the freehold or leasehold of the Affordable Housing Units or an agreement for sale agreed with the Registered Provider that has been unconditionally released for completion by the Owner;
- 1.5 If requested to do so by the Council, the owner of the land on which the Affordable Housing Units are to be constructed or have been constructed will enter into a Nominations Agreement;
- 1.6 The transfer referred to in paragraph 1.4 shall in each case grant:

- a. full and free rights of access both pedestrian and vehicular from the public highway to the Affordable Housing Units; and
  - b. full and free rights to the passage of water soil electricity gas and other services through the pipes drains channels wires cables and the conduits which shall be in the adjoining land up to and abutting the boundary of each Affordable Housing Unit all such services to be connected to the mains;
- 1.7 The Owner shall ensure and procure that the Affordable Housing Units shall only be used for Affordable Housing in accordance with the Approved Affordable Housing Scheme(s);
- 1.8 The covenants and restrictions in this Schedule 1 shall not be binding or enforceable against:-
- 1.8.1 any person or persons who shall at any time acquire the freehold interest in any Affordable Housing Unit or any person occupying an Affordable Rented Housing Unit (or other form of rented Affordable Housing Unit) who exercises a statutory right to acquire such Affordable Housing Unit or against any person occupying a Shared Ownership Housing Unit that either acquires the freehold in that Shared Ownership Housing Unit or otherwise exercises a contractual or statutory right to staircase to acquire a 100% interest in such Affordable Housing Unit or any successors in title or mortgagees to any of the aforementioned parties;
  - 1.8.2 a mortgagee or chargee of any Registered Provider of the Affordable Housing Units or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to realise its security or any administrator (howsoever appointed) including a housing administrator (each a "Receiver") of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:

- (a) such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Units to another registered provider of social housing or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant mortgage charge or security documentation including all accrued principal monies, interest and costs and expenses; and
- (b) if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Housing Units free from the provisions of Paragraph 1.7 of this Schedule 1 to this Deed which provisions shall determine absolutely.

**SCHEDULE 2**  
**CONTRIBUTIONS AND OTHER OBLIGATIONS**

**1. HIGHWAY IMPROVEMENTS CONTRIBUTION**

- 1.1 Prior to the Occupation of the 1st Residential Unit the Owner shall pay 33% of the Highways Improvements Contribution to the Council;
- 1.2 The Owner shall not Occupy any Residential Unit until such time as the payment in paragraph 1.1 above has been made to the Council;
- 1.3 Prior to the Occupation of the 20<sup>th</sup> Residential Unit the Owner shall pay a further 33% of the Highway Improvements Contribution to the Council;
- 1.4 The Owner shall not Occupy more than 19 Residential Units until such time as the payment in paragraph 1.3 above has been made to the Council;
- 1.5 Prior to the Occupation of the 40<sup>th</sup> Residential Unit the Owner shall pay a further 34% of the Highways Improvements Contribution to the Council;
- 1.6 The Owner shall not Occupy more than 39 Residential Units until such time as the payment in paragraph 1.5 above has been made to the Council.

**2. LIBRARY CONTRIBUTION**

- 2.1 Prior to the Occupation of the 1<sup>st</sup> Residential Unit the Owner shall pay the Library Contribution to the Council;
- 2.2 The Owner shall not Occupy any Residential Unit until such time as the payment in paragraph 2.1 above has been made to the Council.

**3. RECREATIONAL, SPORTING AND COMMUNITY CONTRIBUTION**

- 3.1 Prior to the Occupation of the 1st Residential Unit the Owner shall pay 33% of the Recreational, Sporting and Community Contribution to the Council;
- 3.2 The Owner shall not Occupy any Residential Unit until such time as the payment in paragraph 3.1 above has been made to the Council;

3.3 Prior to the Occupation of the 20<sup>th</sup> Residential Unit the Owner shall pay a further 33% of the Recreational, Sporting and Community Contribution to the Council;

3.4 The Owner shall not Occupy more than 19 Residential Units until such time as the payment in paragraph 3.3 above has been made to the Council;

3.5 Prior to the Occupation of the 40<sup>th</sup> Residential Unit the Owner shall pay a further 34% of the Recreational, Sporting and Community Contribution to the Council;

3.6 The Owner shall not Occupy more than 39 Residential Units until such time as the payment in paragraph 3.5 above has been made to the Council.

**4. EDUCATION CONTRIBUTION**

4.1 Prior to the Occupation of the 1<sup>st</sup> Residential Unit the Owner shall pay to the Council 33% of the Education Contribution;

4.2 The Owner shall not Occupy any Residential Units until such time as the payment in paragraph 4.1 above has been paid to the Council;

4.3 Prior to the Occupation of the 20<sup>th</sup> Residential Unit the Owner shall pay to the Council a further 33% of the Education Contribution;

4.4 The Owner shall not Occupy more than 19 Residential Units until such time as the payment in paragraph 4.2 above has been paid to the Council;

4.5 Prior to the Occupation of the 40<sup>th</sup> Residential Unit the Owner shall pay to the Council a further 34% of the Education Contribution.

4.6 The Owner shall not Occupy more than 39 Residential Units until such time as the payment in paragraph 4.5 above has been paid to the Council.

**5. SUSTAINABLE TRANSPORT CONTRIBUTION**

5.1 Prior to the Occupation of the 1<sup>st</sup> Residential Unit the Owner shall pay 33% of the Sustainable Transport Contribution to the Council;

- 5.2 The Owner shall not Occupy any Residential Unit until such time as the payment in paragraph 5.1 above has been made to the Council;
- 5.3 Prior to the Occupation of the 20<sup>th</sup> Residential Unit the Owner shall pay a further 33% of the Sustainable Transport Contribution to the Council;
- 5.4 The Owner shall not Occupy more than 19 Residential Units until such time as the payment in paragraph 5.3 above has been made to the Council;
- 5.5 Prior to the Occupation of the 40<sup>th</sup> Residential Unit the Owner shall pay a further 34% of the Sustainable Transport Contribution to the Council;
- 5.6 The Owner shall not Occupy more than 39 Residential Units until such time as the payment in paragraph 5.5 above has been made to the Council.

**6. YOUTH SERVICE CONTRIBUTION**

- 6.1 Prior to the Occupation of the 1<sup>st</sup> Residential Unit the Owner shall pay the Youth Service Contribution to the Council;
- 6.2 The Owner shall not Occupy any Residential Unit until such time as the payment in paragraph 6.1 above has been made to the Council.

**7. HEALTH CONTRIBUTION**

- 7.1 Prior to the Occupation of the 1<sup>st</sup> Residential Unit the Owner shall pay the Health Contribution to the Council;
- 7.2 The Owner shall not Occupy any Residential Unit until such time as the payment in paragraph 7.1 above has been made to the Council.

**8. ESTATE MANAGEMENT SCHEME**

- 8.1 Not to Occupy or allow Occupation of any Residential Unit comprised in the Development unless and until the Estate Management Scheme has been approved in writing by the Council and the Management Company is operational;



- 8.2 To complete the laying out of the Managed Areas in accordance with Managed Area Drawing and the details approved pursuant to condition <sup>Land 5</sup> [x] of the Planning Permission prior to the Occupation of more than 90% of the Residential Units;
- 8.3 Following the completion of the laying out of the Managed Areas:
- 8.3.1 to serve upon the Council a Certificate of Practical Completion confirming that the Managed Areas have been completed in accordance with the Managed Area Drawing and the details approved pursuant to condition <sup>Land 5</sup> [x] of the Planning Permission; and
- 8.3.2 to maintain the Managed Areas in accordance with the approved Estate Management Scheme to the reasonable satisfaction of the Council throughout the Maintenance Period;
- 8.4 On the expiration of the Maintenance Period to serve upon the Council a Certificate of Final Completion in respect of the Managed Areas;
- 8.5 Following the issue of the Certificate of Final Completion for the Managed Areas to transfer the land comprising the Managed Areas to the Management Company;
- 8.6 To manage or procure the maintenance of the Managed Areas in accordance with the approved Estate Management Scheme in perpetuity.

## SCHEDULE 3

### COUNCIL'S COVENANTS

The Council covenants with the Owner as follows:

1. **CONTRIBUTIONS**

- 1.1 To use each of contributions paid under the terms of this Deed ("Contributions") for the relevant defined purposes only;
- 1.2 If any Contribution (or any part thereof) remains unspent or uncommitted by way of legally binding contract towards its defined purpose within 10 years from the date of the payment of the relevant Contribution (or where relevant the final instalment thereof) to repay the unspent sum to the payer along with any interest accrued thereon.

2. **PLANNING PERMISSION**

The Council will issue the Planning Permission as soon as reasonably practicable following completion of this Deed.

**SCHEDULE 4**

**NOMINATIONS AGREEMENT**

**Dated**

**201@**

**BETWEEN**

**@ HOUSING ASSOCIATION LIMITED**

**and**

**THE COUNCIL OF THE BOROUGH OF BROXBOURNE**

**NOMINATION DEED**

**PURSUANT TO THE HOUSING ACTS 1985 AND 1996 AND THE HOUSING AND REGENERATION ACT 2008 AND THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

**Re: @ Hertfordshire**

The Council of the Borough  
of Broxbourne  
Borough Offices  
Bishops' College  
Churchgate  
Cheshunt  
Hertfordshire  
EN8 9XQ

Ref:

***[NOTE: Ensure that the Nomination Form is attached at the end of the Second Schedule]***

THIS DEED is made the                      day of

201@

**BETWEEN:-**

- (1) @ HOUSING ASSOCIATION LIMITED of @ (“the Registered Provider”) and
- (2) THE COUNCIL OF THE BOROUGH OF BROXBOURNE of Borough Offices  
Bishops’ College Churchgate Cheshunt Hertfordshire EN8 9XQ (“the Council”)

**OPERATIVE PROVISIONS**

**1. DEFINITIONS AND INTERPRETATION**

In this Deed the following words shall have the following meanings: -

1.1 *“Assured Tenancy”*

means a periodic tenancy of a type which is defined in accordance with the provisions of the Housing Act 1996 (as at the date of this Deed) not being an assured shorthold tenancy as therein also defined and being a tenancy which gives the tenant security of tenure and which is for a rent at a rate from time to time recommended by Central Government as being appropriate for the Dwelling

1.2 *“Common Housing Register”*

means a register naming all persons who fit the Criteria and desire allocation to social housing available in the borough over which the Council presides being a register that all or most Registered Providers in the borough agree for the time being to adhere to in relation to the allocation of persons who fit the Criteria to their individual available housing stock

1.3 *“Criteria”*

the criteria referred to in [Clauses 1.6 and 1.7 of this Deed] [the Section 106 Agreement]  
[the Transfer]

1.4 *“Dwelling”*

any one of the Dwellings

1.5 *“Dwellings”*

[the @ no. @ bedroomed houses and @ no. @ bedroomed flats constructed on the Property]  
[\*The rented units specified in the First Schedule hereto and such further rented units  
within the Borough of Broxbourne as may be agreed between the Council and the  
Registered Provider] [and shown edged blue on the plan appended hereto]

[1.6 **“Housing Need”**

means a person in housing need if **EITHER** they are homeless or the dwelling which they occupy is overcrowded or unfit for human habitation **AND** their financial circumstances are such that they cannot house themselves in accommodation available on the open market which is not overcrowded or unfit for human habitation within the area of the Borough of Broxbourne whether because of advance rental payment requirements or otherwise and “homeless” “overcrowded” and “unfit for human habitation” shall be interpreted in accordance with the Housing Acts 1985 and 1996 or any statutory modification or re-enactment thereof] **OR** in the opinion of the Council given in writing that they are otherwise in housing need

[1.7 **“Local Connection”**

a person has a local connection if they or their spouse or the person with whom they live as a spouse are ordinarily resident within the area of the Borough of Broxbourne and have been for six months in the 12 months or 3 years in the 5 years immediately prior to their occupation of the Dwelling or have a parent or child or sibling such sibling being over 18 years of age so resident or have permanent employment in the said area **AND** are on the Council’s housing register maintained in compliance with its approved allocations scheme or in the opinion of the Council given in writing otherwise have a local connection]

1.8 **“Nomination Notice”**

a written notice given by the Council to the Registered Provider

1.9 ***“Nomination Rights”***

the right to nominate tenants to all first lettings of the Dwellings and to 75% of all subsequent lettings for the period of 70 years from the date on which the Council is served with the first Vacancy Notice referred to in clause 1.1 of the SLA (“the Notice Date”) for the Council to nominate tenants to the Dwellings

1.10 ***“Nominee”***

a person named in a nomination notice

1.11 ***[“Property”***

the land situate at and known as @ Hertfordshire all of which land is shown edged red on the plan attached [hereto] [to the Transfer] [to the Section 106 Agreement]]

1.12 ***“Registered Provider”***

means a registered social landlord within the meaning of Part I of the Housing Act 1996 (or any statutory modification re-enactment thereof) and registered with the Homes and Communities Agency as regulator of Social Housing pursuant to Section 1 of that Act and the Housing and Regeneration Act 2008

1.13 ***[“Section 106 Agreement”***

the agreement made between the Council (1) @ (2) @ (3) and @ Housing Association Limited (4) and dated @]

1.14 ***“SLA”***

the Service Level Agreement in the form specified and contained in the [Second] Schedule hereto or such other Service Level Agreement as may from time to time be agreed by the parties

1.15 ***[“Transfer”***

the transfer of the Property of even date herewith and made between [the parties hereto]]

1.16 *“Vacancy Notice”*

a written notice given by the Registered Provider to the Council in a form to be provided by the Council to the Registered Provider

1.17 *“Working Day”*

Monday to Friday inclusive each week excluding any statutory bank or public holidays

1.18 The parties hereto expressed as “the Council” and “the Registered Provider” shall include their respective successors in title

1.19 Words of the masculine gender shall incorporate the feminine gender and words of the singular shall include the plural and vice versa

1.20 The reference herein to any statute or section of a statute includes any statutory re-enactment or modification thereof

1.21 Any reference to a clause or a schedule is unless the context otherwise requires a reference to a clause or a schedule of this Deed and any reference to a sub clause is a reference to a sub clause of the clause in which the reference appears

**2. WHEREAS: -**

2.1 The Council is a Housing Authority for the purposes of the Housing Act 1985

2.2 The Registered Provider is a social landlord and has agreed to enter into this Deed to grant to the Council Nomination Rights over the Dwellings

**3. NOW THIS DEED WITNESSETH as follows: -**

3.1 The Registered Provider hereby grants to the Council the Nomination Rights over the Dwellings

3.2 The Registered Provider covenants with the Council pursuant to Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 that the it and its successors in title shall observe and perform the covenants and restrictions referred to in this Deed

3.3 The Council and the Registered Provider hereby agree that each will act in accordance with the SLA



- 3.4 The Council and the Registered Provider further hereby agree that **PROVIDED THAT** the Registered Provider participates in the Common Housing Register scheme the Council will not exercise the Nomination Rights
- 3.5 The Registered Provider agrees that the Dwellings shall only be let on an Assured Tenancy basis **SAVE** where the Council and the Registered Provider agree in writing that the Registered Provider may issue starter tenancies where it has a starter tenancy scheme notified to the Homes and Communities Agency that would apply to the Dwellings
- 3.6 The Registered Provider shall where no nomination in respect of a Dwelling is forthcoming from the Council in accordance with the Nomination Rights **AND** with the consent in writing of the Council (such consent not to be unreasonably withheld) be free to let the Dwelling and/or Dwellings to a person of its choice who complies with the Criteria
- 3.7 The Registered Provider shall in respect of all first lettings of the Dwellings referred to in the definition of Nomination Rights use its reasonable endeavours to ensure that each letting shall be to a person nominated by the Council and thereafter during the said period of seventy years and in each period commencing on 1 April in each year the Registered Provider shall do likewise but in respect of 75% of the said lettings only
- 3.8 The Registered Provider shall not be obliged to let a Dwelling to anyone unless satisfied that that person falls within the category of persons permitted to occupy the Dwelling in accordance with the Criteria
- 3.9 The Registered Provider shall be entitled to sell the Dwelling(s) where the Tenant thereof exercises either its preserved right to buy in accordance with Section 171A of Part V of the Housing Act 1985 or the right to acquire in accordance with Section 180 of the Housing and Regeneration Act 2008 (as the case may be) or any similar statutory entitlement whether in whole or part shares **PROVIDED THAT** the Registered Provider shall (subject to applicable regulatory requirements) use its best endeavours to forthwith apply the proceeds

of any sale of the whole or part share of (as the case may be) of the Dwelling(s) in acquiring alternative housing accommodation within the Borough of Broxbourne and shall:-

- 3.9.1 notify the Council of a sale of the whole or part share of the Dwelling(s) within 14 days of completion thereof;
- 3.9.2 notify the Council of the address of such alternative housing accommodation within 14 days of the said acquisition of the share; and
- 3.9.3 enter into a nomination deed on the same terms as this Deed in respect of such alternative housing for the residue of the term of this Deed
- 3.10 The Registered Provider may not assign this Deed or its obligations hereunder without the written consent of the Council which shall not be withheld or delayed upon the Registered Provider procuring the entering into by any assignee of a nomination deed in respect of the Dwellings in a form substantially in the same form as this Deed and provided that written notice of assignment has been given to the Council within twenty one days of such assignment the Registered Provider shall have no further liability to the Council hereunder with effect from the date of such assignment
- 3.11 The provisions of this Deed shall become binding upon the parties hereto upon the execution hereof and it is hereby agreed that a person who is not a party to this Deed may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999
- 3.12 Any notice required to be served hereunder shall be sufficiently served on the parties if sent by fax email or pre-paid first class post to the address of the parties indicated above or other address notified by one party to the other and any notice shall have been deemed to have been served two working days after posting
- 3.13 In the case of dispute or difference on any matter under this Deed or as to the construction of this Deed any such dispute or difference shall be referred to a single arbitrator to be agreed between the parties or in default of agreement to be nominated by the President for the time being of the Chartered Institute of Housing in accordance with and subject to the

provisions of the Arbitration Acts 1996 or any statutory re-enactment or modification for the time being in force

- 3.14 The provisions of this Deed shall not bind any mortgagee chargee receiver or manager including an administrative receiver of [either the Registered Provider or\*] the owner of any of the Dwellings acquired pursuant to Section 180 of the Housing and Regeneration Act 2008 or any statutory modification or re-enactment thereof

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

**[THE FIRST SCHEDULE**

**hereinbefore referred to]**

*(rented units)*

*\* Note: if these words are included then the Registered Provider's successor on a power of sale will not be subject to the Council's nomination rights expressed in this Deed which will then be lost. Historically, RP's were very insistent that borrowing was/is extremely difficult for them if a lender is subject to the provisions of this Deed when endeavouring to dispose upon a power of sale.*

**THE [SECOND] SCHEDULE** (hereinbefore referred to)

**SERVICE LEVEL AGREEMENT FOR NOMINATIONS BETWEEN  
BOROUGH OF BROXBOURNE (LA) AND REGISTERED PROVIDER (RP)**

This Agreement sets out the standards expected for the prompt letting by the RP of properties to which the LA has nomination rights, outlining the expectations placed upon both the RP and LA.

The Council operates a Common Housing Register (CHR) and Housing Allocations Policy (HAP), and it is a condition of compliance with this agreement and/or schedule that the individual RP signs up to the CHR and HAP or successor policies.

Under the CHR the RP is required to provide 100% of all voids in Broxbourne Borough to the LA to be let through the CHR. The LA will then ensure that 25% of all lettings are ring fenced for RP preferred partner tenants.

In the event that the Council ceases to operate a CHR the Council would require 100% of nominations to the first letting, and 75% of all subsequent nominations.

**1. NOMINATIONS**

- 1.1 The RP will request the nomination(s) as soon as it is notified of an impending vacant property(s). For new build schemes this will be no more than six weeks and no less than four weeks in advance of the estimated handover date.
- 1.2 Nominations will be requested on a completed standard form (attached) with the estimated lettings date included where known. Requests to be made by fax/e-mail.
- 1.3 Under the Choice Based Lettings (CBL) system, the Local Authority will aim to provide 100% of nominations within 18 working days from the receipt of the request. If the RP can provide the data by the appropriate day of the CBL cycle, the LA will provide nominations within 10 working days. Where a property is allocated through a direct offer, the LA will aim to provide 100% of nominations within 7 working days from the receipt of the request. If there is not a suitable nomination, the LA will advise within 3 working days of the CBL shortlist closing.
- 1.4 Once a vacancy notice in the RPs' standard form is received, if all parties agree the LA may provide a number of reserve nominations.

**2. ACCEPTANCES AND REFUSALS**

- 2.1 If the RP considers that the nomination is unsuitable, they will notify the LA within 2 working days, stating the exact reason(s). Examples of this may be:
  - If a nominee's housing status has changed since their application to the LA.
  - It is found that fraudulent or otherwise inaccurate information has been given to obtain housing.

Where the RP proposes to reject a nomination it is expected that the RP will discuss their reasons with the Council prior to sending formal notification. When nominations are

requested by RPs, all relevant information should be stated. Any approaches for refusal not stated in the original nominations form will not normally be accepted.

Where the Council does not accept the reasons for rejection as being consistent with the CHR, the RP will be formally notified.

- 2.2 If the nominee does not respond to contact from the RP the LA will be notified within 7 working days from the date the RP contacted the nominee.
- 2.3 If the nomination is unsuitable or if the nominee has not responded to contact from the RP, the LA will provide a new nomination within 2 working days from the date they are notified by the RP.
- 2.4 The prospective tenant should view the actual property or a similar show property prior to formally accepting it. If the nominee fails to give confirmation, within 2 working days of viewing the property, that they wish to accept it, a further nomination shall be sought.
- 2.5 In the case of homeless applicants, if the nominee appeals to the LA that the offer is unsuitable then the LA will provide a further nomination within 3 working days. However, in exceptional circumstances, e.g. if the property offered is particularly suited to the nominee and a further property of its kind is not likely to be available after the appeal, the LA may request that the RP keep the property available on the understanding that the void costs will be met by the LA (plus associated costs, for example- vandalism).
- 2.6 In all cases, if the offer is refused, the RP will provide the reasons given by the nominee for the refusal
- 2.7 LA and RP will discuss an action plan if there have been three or more refusals of the same unit. This will occur within 2 working days of the third refusal.
- 2.8 The RP will notify the LA of successful nomination(s) within 5 working days of the nominee signing the tenancy agreement.
- 2.9 In the event that the RP does not offer a Tenancy Agreement within one month of serving a vacancy notice, as a result of a delay in a dwelling becoming available, the RP shall confirm via fax or e-mail that the LA wishes its original nomination to proceed.

### **3. PROVISION FOR TENANTS**

- 3.1 The LA will accept RP tenants who reside within the borough onto their transfer list as part of the CHR. The applicant's housing need will be assessed in line with the LA's transfer scheme policy following completion of a transfer application form by the tenant. For the purpose of the CHR, tenants of all participating RP's are prioritized according to the published points scheme.
- 3.2 If the RP has a tenant whom they wish to move on management grounds (this includes incidents of harassment) the LA will assess the situation in line with its own policies in dealing with management moves as set out in the CHP and HAP. Management moves (whether agreed by the Council or not) will be considered as a transfer, and not a council nomination, and shall be re-worked to form part of the 25% of lettings ring fenced for RP tenants under the CHR.

**4. MISCELLANEOUS**

- 4.1 For new lets the RP will offer a joint visit with the LA Housing Needs Section and Affordable Housing Development Section to the site before requesting the nomination.
- 4.2.1 The RP is responsible for identifying all properties which are suitable for wheelchair access or otherwise adapted for the use of disabled tenants.
- 4.2.2 Where an RP does not seek a nomination from the Council for a void property, but lets it by some other route outside of the CHR it will inform the Council, giving its reasons. Where this occurs, the letting shall be reworked to form part of the 25% of lettings ring fenced for RP tenants under the CHR.
- 4.3.1 The RP will provide monthly lettings returns of the previous months lettings of all lettings in the borough. In circumstances where the level of annual lettings is less than 15 the LA will accept lettings returns on a quarterly basis of all letting agreements.
- 4.3.2 The Council will provide quarterly reports on lettings data indicating the breakdown of lettings to RP tenants, and others, and by property size and type.
- 4.3.3 Information held by the Council and RPs about applicants will be shared in accordance with an agreed protocol.

**EXECUTED** as a Deed by affixing the Common Seal of  
**@ HOUSING ASSOCIATION LIMITED**  
in the presence of:

Board Member .....

Print Name .....

Secretary .....

Print Name .....

**EXECUTED** as a Deed  
by affixing the Common Seal of  
**THE COUNCIL OF THE  
BOROUGH OF BROXBOURNE**  
in presence of:

Authorised Signatory .....

Print Name .....

**IN WITNESS** whereof the parties hereto have executed and delivered this document as a deed the day and year first before written

576

**EXECUTED under the** )  
**COMMON SEAL of the** )  
**BOROUGH OF BROXBOURNE** )  
[Redacted] )



[Redacted Signature]

**SIGNED AS A DEED**  
**By PETER SPENCER**

[Redacted Signature]

in the presence of:- )

Witness Signature: [Redacted]

Witness Name: *KATLEIGH BILL*

Witness Address: *169, MUSLEY HILL, WARE, HERTS, SG12 7NR*

Witness Occupation: *TEACHER*

**SIGNED AS A DEED**  
**By STEWART SPENCER**

[Redacted Signature]

in the presence of:- )

Witness Signature: [Redacted]

Witness Name: *A*

Witness Address: *169, MUSLEY HILL, WARE, HERTS, SG12 7NR*

Witness Occupation: *TEACHER*



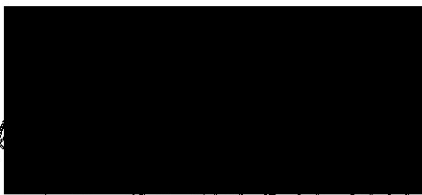
**SIGNED AS A DEED**

**By TINA ANN SPENCER**

in the presence of:-



Witness Signature:



Witness Name:

Witness Address: 169, MUSLEY HILL, WARE, HERTS, SG12 7NR

Witness Occupation: TEACHER

**SIGNED AS A DEED**

**By ANN VICTORIA SPENCER**

in the presence of:-



Witness Signature:



Witness Name:

Witness Address: 169, MUSLEY HILL, WARE, HERTS, SG12 7NR

Witness Occupation: TEACHER.

**EXECUTED AS A DEED**

**By COUNTRYSIDE PROPERTIES**

**(UK) LIMITED**

Acting by two directors

Or by one director <sup>in the presence of</sup> and the company

<sup>a witness</sup>  
Secretary



Director



Witness Signature:

Witness Name:

Witness Address:

Director/Secretary

Witness Occupation:

BILLIJO CHAPMAN  
58 DINORBEN AVE  
FLEET, GU27 5SH

FITNESS INSTRUCTOR