

DATED 14th February

2021

MALVERN HILLS DISTRICT COUNCIL (1)

**MARTIN JOHN GREEN, ROBERT JAMES
GREEN, FREDERICK PETER GOOCH HILL &
THERESA LOUISE DANIEL (2)**

H H (HALLOW 3) LIMITED (3)

and

WORCESTERSHIRE COUNTY COUNCIL (4)

SECTION 106 AGREEMENT

Under Section 106 of the Town and Country Planning Act
1990 (as amended) relating to land on the south side of
Greenhill Lane, Hallow, Worcestershire, WR2 6LG



THIS DEED is made the 14th day of February Two Thousand and Twenty ~~ONE~~ TWO

BETWEEN:

- (1) **MALVERN HILLS DISTRICT COUNCIL** of Council House, Avenue Road, Malvern, Worcestershire WR14 3AF ("the Council") of the first part;
- (2) **MARTIN JOHN GREEN** of 16 Cornmeadow Green, Worcester WR3 7PN, **ROBERT JAMES GREEN** of Manor Farm, Powick, Worcester, WR2 4Q, **FREDERICK JAMES GOOCH HILL** of Adam House, Birmingham Road, Kidderminster, Worcestershire, DY10 4SH and **TERESA LOUISE DANIEL** of 10 Firland Close, Fenhill Heath, Worcester, WR3 7UN ("the Owners") of the second part;
- (3) **HH (HALLOW 3) LIMITED** incorporated and registered in England and Wales with company number 12561316 whose registered office is at Dominion Court, 39 Station Road, Solihull, West Midlands B91 3RT ("the Developer") of the third part
- (4) **WORCESTERSHIRE COUNTY COUNCIL** of County Hall, Spetchley Road, Worcester, Worcestershire WR5 2NP ("the County Council") of the fourth part

RECITALS

1. **DEFINITIONS**

Wherever the context so permits in this Deed the following shall have the following meanings:

"The 1990 Act"	means the Town and Country Planning Act 1990 (as amended)
"Affordable Housing"	means housing of a kind which (having regard to its rent or other consideration) is suitable for occupation by people who are in need of such housing because of their limited means and who are unable to access private rented/owner occupier accommodation on the open market at a cost low enough for them to afford determined with regard to local incomes and local house prices and shall comprise; 16 x Social Rented Units 6 x Shared Ownership Housing Units
"Affordable Housing Dwellings"	means Dwellings and their plots and allocated parking spaces/garages to be constructed upon

	the Land to be provided as Affordable Housing in accordance with the Affordable Housing Plan and the provisions of Schedule 1 to this Deed
"Affordable Housing Plan"	means the plan attached to this Deed and marked "Affordable Housing Plan"
"Affordable Housing Scheme"	<p>means the scheme including the Affordable Housing setting out the number, location, size, tenure(s), specification and timing of the Affordable Housing Dwellings to be constructed on the Land such scheme to be in accordance with the provisions of Schedule 1 of this Deed which shall include unless otherwise agreed in writing by the Council;</p> <p>(i) 16 Social Rent Units made up of;</p> <p>1 Bedroom Maisonettes x2no. 1 Bedroom Bungalow x1no. 2 Bedroom Houses x10no. 2 Bedroom Houses x3no.</p> <p>(ii) 6 Shared Ownership Housing Units made up of;</p> <p>2 Bedroom Houses x4no. 3 Bedroom Houses x2no.</p>
"The Application"	means the full planning application registered by the Council on the 28 th July 2021 under reference 21/01268/FUL for the development of the land edged red on plan reference 10122 PL01 attached to this Deed
"Commencement of Development"	means the carrying out of any act pursuant to the Planning Permission which constitutes a material operation as defined by Sections 56 (4) and 93 of the 1990 Act other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance (other than demolition), archaeological excavations, investigations for the purposes of assessing

	ground conditions, remedial work in respect of contamination or other adverse ground conditions, erection of any temporary means of enclosure and the temporary display of site notices or advertisements and "Commence Development" shall be construed accordingly
"Community Transport Contribution"	means the sum of £9,450.00 to be used towards providing a community transport service to serve the Site for the benefit of mobility impaired residents
"Completed"	<p>means practical completion of the construction of any Dwelling or Dwellings which shall be deemed to have occurred upon the first of the following to occur;</p> <p>(i) the issue of a cover note by the National House Building Council (NHBC) or equivalent issued by any other reputable warranty provider in respect of such Dwelling or Dwellings or in the alternative</p> <p>(ii) when the Council's building control consultancy or an approved inspector has certified that such Dwelling or Dwellings are practically complete or has issued a building control inspection certificate</p> <p>And "Completion" shall be construed accordingly</p>
"The Council"	means Malvern Hills District Council or any successor to its statutory functions
"The County Council"	means Worcestershire County Council or any successor to its statutory functions
"The Development"	means the erection of 33 ⁵⁵ dwellings and associated works pursuant to the Planning Permission
"Dwelling"	means a residential unit permitted to be constructed on the Land pursuant to the Planning Permission and "Dwellings" shall mean more than one Dwelling and which for the avoidance of doubt shall include the Affordable Housing Dwellings

AND
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"Early Years Education Contribution"	means the sum of £72,248.00 to be used towards early years facilities within a 2 mile radius of the Site
"Education Contribution"	means together the Early Years Education Contribution the Primary Contribution the Secondary Contribution and the SEND Contribution
"General Market Dwellings"	means Dwellings other than the Affordable Housing Dwellings constructed on the Land pursuant to the Planning Permission and for sale or potentially for sale on the open market
"Help to Buy Agent"	shall mean BPHA Limited (Registered Society Number 26751R) known as Help to Buy Midlands and London or any organisation from time to time replacing the same
"Homes England CA Model Shared Ownership Protected Area Lease"	shall mean a form of lease prepared by a Registered Provider in a form which has been approved and/or prescribed by the Homes and Communities Agency (now known as Homes England) as being an appropriate lease for the properties in a Protected Area as defined by the Housing (Right to Enfranchise) (Designated Protected Areas) (England) Order 2009 (or any amendment or re-enactment thereof)
"Home to School Transport Contribution"	means the sum of £59,057.00 to be used towards high school home to school transport within the vicinity of the Site
"Housing For You Register"	shall mean the register for allocating the Social Rented Units administered by the Council or any equivalent or similar replacement from time to time in existence
"The Housing Act"	means the Housing Act 1985 or any statutory modification or re-enactment thereof
"Intermediate Housing Units"	means those Affordable Housing Dwellings, including their plots and allocated parking space and/or garage as shall be constructed on the Land pursuant to the provisions of Schedule 1 and the Affordable Housing Scheme which Affordable Housing Dwellings are to be provided as Shared Ownership Housing Units and references to "Intermediate Housing Unit" shall be construed accordingly

"the Land"	means the area of land shown edged red on the Plan
"Management Company"	means a management company the principal objects of which are to maintain and enhance the On Site Public Open Space in accordance with the approved On Site Public Open Space Plan
"Mortgagee"	shall mean any mortgagee or chargee or lender of an occupier of an Affordable Housing Dwelling with a charge secured on the occupier's Completed Dwelling and the expression Mortgagee shall include any receiver or manager or other party appointed pursuant to any statutory or contractual right to exercise the mortgagee/chargee/lender's security arising from the said charge
"Occupation"	means the date at which a Dwelling is first occupied for the purposes permitted by the Planning Permission but excluding occupation of a Dwelling where that Dwelling is being used solely for the purpose of a show home/flat (where no persons are resident) in the course of marketing the Development and not including occupation by personnel engaged in construction fitting out or decoration or occupation in relation to security operations and "Occupied" and "Occupy" will be construed accordingly
"On Site Public Open Space"	means public open space to be provided on the Land to be provided in accordance with the On Site Public Open Space Plans approved by the Council in accordance with Schedule 3 of this Deed
"On Site Public Open Space Plan"	means the means the plan confirming the details, layout, and specification of the On Site Public Open Space including timing and trigger points for the delivery and the proposals for future management and maintenance by the Management Company and such plan to be submitted by the Owners to the Council for approval in accordance with the provisions of Schedule 3 of this Deed
"The Parish"	means the parish of Hallow

"The Parishes"	means the following parishes: Grimley, Wichenford, Kenswick and Broadheath
"Plan"	means the plan attached to this Deed marked Drawing no. RL.01
"The Planning Permission"	means the permission to be granted pursuant to the Application and any approved non material amendment(s) to it
"The Off Site Public Open Space Contribution"	means the sum of £85,550.45 (eighty five thousand five hundred and fifty five Pounds and forty five pence) towards the purchase provision improvement and/or maintenance (excluding maintenance which is simply the normal ongoing maintenance costs of existing facilities not attributable to the Development) of off site public open space including sport and recreation facilities and/or equipment including equipped childrens play, outdoor sports facilities, parks and gardens, semi natural green space, amenity green space, allotments, cemeteries, and civic spaces within the Parish of Hallow (whether for the avoidance of doubt via the Council or otherwise) including fees and disbursements incurred in connection with such purposes including consultants commissioned in the design of any such facilities and or equipment proposed whether or not such facilities or equipment are thereafter installed or carried out payable in accordance with Schedule 2 of this Deed
"Primary Education Contribution"	means the sum of £216,744.00 to be used towards additional education facilities at Hallow C.E. Primary School
"Protected Tenant"	means any tenant or leaseholder who: <ul style="list-style-type: none"> a) has exercised any statutory right to buy in respect of a particular Affordable Housing Dwelling (which expression excludes any tenant or leaseholder who has exercised a voluntary right to buy); or b) is a leaseholder of a Shared Ownership Dwelling and has subsequently

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rev.	date	description
A	06.10.21	Layout plan updated. No change to affordable plots.

Thomas Pollock
 Head of Commercial Law
 (Legal & Governance)

Bevi
Robert
in form

RTM



PHASE 2 POSITION USING ION POINT FROM TACT PLAN - TBC

KEY
AFFORDABLE HOUSING PLAN

- 1 Bed Affordable Bungalow
- 2 Bed Affordable units
- 2x1 Bed Affordable units
- 3 Bed Affordable units
- Proposed Shared Ownership Plots
- Proposed Affordable Rent Plots

Roberts Limbrick ARCHITECTS

project
 RESIDENTIAL SITE AT HALLOW PHASE 3

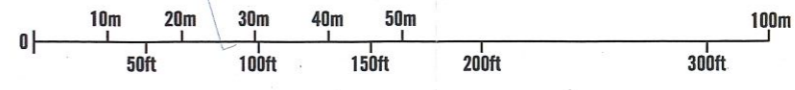
client
 HAYFIELD HOMES

drawing
 PROPOSED AFFORDABLE HOUSING PLAN

status
PLANNING

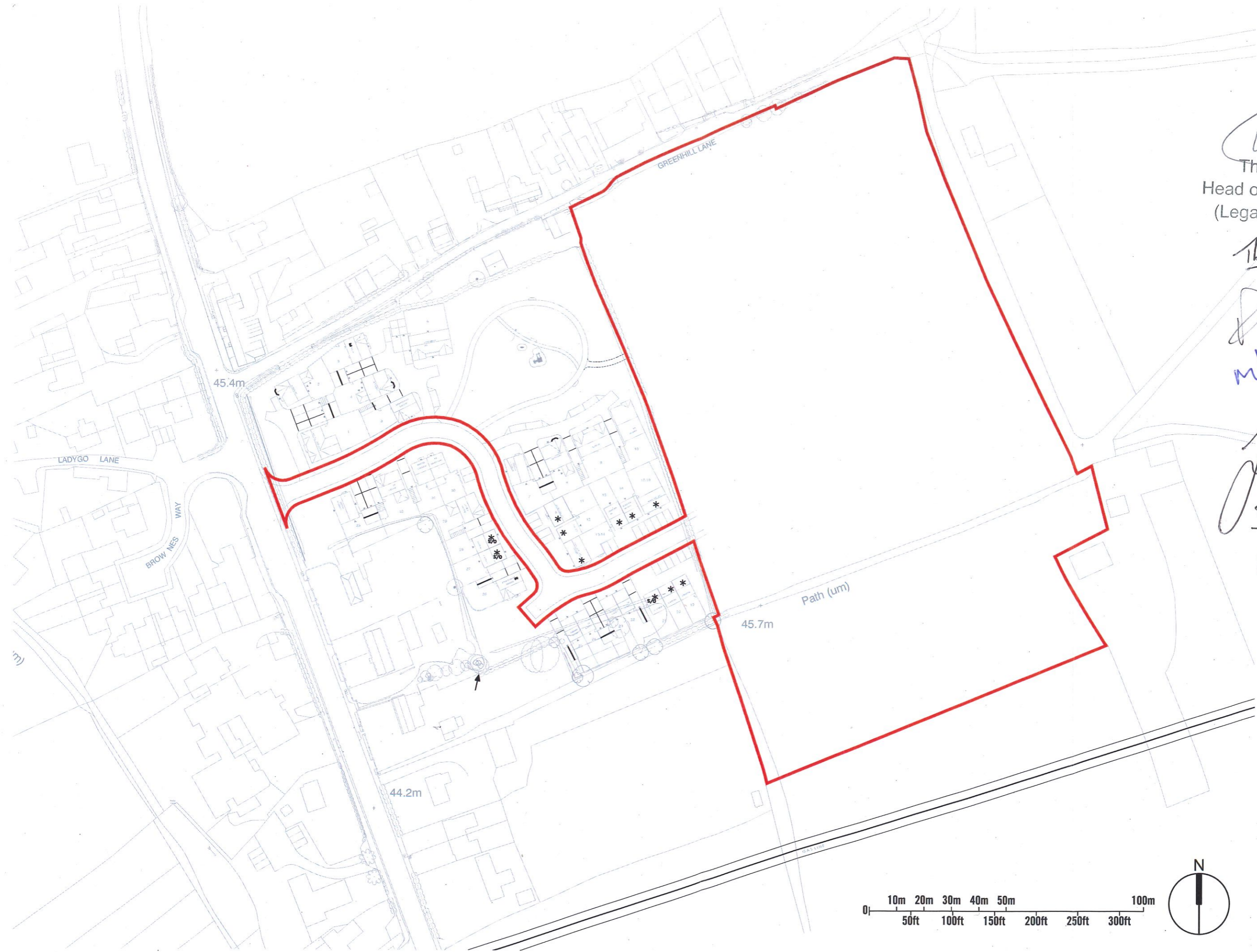
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scale	1/500 @ A1
date	author
project	rev.
30/06/21	RJ
10122 PL06	A



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Thomas Pollock
Head of Commercial Law
(Legal & Governance)

David

John

John

John

RT

Roberts Limbrick
ARCHITECTS

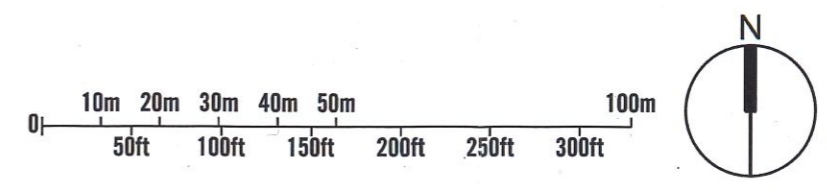
project
RESIDENTIAL SITE AT HALLOW
PHASE 3
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client
HAYFIELD HOMES
drawing
SITE LOCATION PLAN
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status
PLANNING

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Registered Office: England No. 0665029
scale 1/1250 @ A3
date 30/06/21 author RJ

project	drg no.	rev.
10122	PL01	-





 Property

[Signature]
 Thomas Pollock
 Head of Commercial Law
 (Legal & Governance)

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HAYFIELD		Drawing No. RL01	
		Revision. *	
HALLOW 3		Scale. 1:1250 @A3	
Drawing: Red Line Plan		Date. 10.12.21	Drawn. OP

	<p>purchased from the freeholder all the remaining equitable shares in that Shared Ownership Housing Unit so that the said tenant or leaseholder owns the entire Shared Ownership Housing Unit" subject to the provisions of Schedule 1 of this Deed</p>
<p>"Qualifying Resident"</p>	<p>shall mean in the case of the Social Rented Units a person who is in need of Affordable Housing and who is on the Housing For You Register and:</p> <p>(a) Has lived in the Parish by choice for a certain time (for six months out of the last twelve months or for three years out of the last five years); or</p> <p>(b) Has close family living in the Parish, who have been permanently resident for at least the previous five years (close family is specifically mother, father, brother, sister, adult son or adult daughter); or</p> <p>(c) Has permanent paid employment in the Parish; or</p> <p>(d) Has a local connection to the Parish as a result of special circumstances (subject to the approval by the Head of Housing Services)</p> <p>To the extent that no persons qualify pursuant to (a) – (d) above then a person who is on the Housing For You Register and is in need of Affordable Housing and:</p> <p>(e) Has lived in any of the Parishes by choice for a certain time (for six months out of the last twelve months or for three years out of the last five years); or</p> <p>(f) Has close family living in any of the Parishes, who have been permanently resident for at least the previous five years (close family is specifically mother, father, brother, sister, adult son or adult daughter); or</p> <p>(g) Has permanent paid employment in any of the Parishes; or</p>

	<p>(h) Has a local connection to the Parishes as a result of special circumstances (subject to the approval by the Head of Housing Services)</p> <p>To the extent that no persons qualify pursuant (e) to (h) above then a person who is on the Housing For You Register and is in need of Affordable Housing and:</p> <p>(i) Has lived in the District of Malvern Hills by choice for a certain time (for six months out of the last twelve months or for three years out of the last five years); or</p> <p>(j) Has close family living in the District of Malvern Hills, who have been permanently resident for at least the previous five years (close family is specifically mother, father, brother, sister, adult son or adult daughter); or</p> <p>(k) Has permanent paid employment in the District of Malvern Hills; or</p> <p>(l) Has a local connection to the District of Malvern Hills as a result of special circumstances (subject to the approval by the Head of Housing Services)</p> <p>To the extent that no persons qualify pursuant to (i) to (l) above then any person who is ordinarily resident in the United Kingdom who is approved in writing by the Council as being in need of Affordable Housing (such approval not to be unreasonably withheld or delayed)</p> <p>shall mean in the case of Shared Ownership Housing Units a person who is in need of Affordable Housing, is registered with and approved by the Help to Buy Agent and:</p> <p>(a) Has lived in the Parish by choice for a certain time (for six months out of the last twelve months or for three years out of the last five years); or</p> <p>(b) Has close family living in the Parish, who have been permanently resident for at least the previous five years (close family is specifically</p>
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	<p>mother, father, brother, sister, adult son or adult daughter); or</p> <p>(c) Has permanent paid employment in the Parish; or</p> <p>(d) Has a local connection to the Parish as a result of special circumstances (subject to the approval by the Head of Housing Services)</p> <p>To the extent that no persons qualify pursuant to (a) – (d) above then a person who is in need of Affordable Housing and is registered with and approved by the Help to Buy Agent and:</p> <p>(e) Has lived in any of the Parishes by choice for a certain time (for six months out of the last twelve months or for three years out of the last five years); or</p> <p>(f) Has close family living in any of the Parishes, who have been permanently resident for at least the previous five years (close family is specifically mother, father, brother, sister, adult son or adult daughter); or</p> <p>(g) Has permanent paid employment in any of the Parishes; or</p> <p>(h) Has a local connection to the Parishes as a result of special circumstances (subject to the approval by the Head of Housing Services)</p> <p>To the extent that no persons qualify pursuant to (e) to (h) above then a person who is in need of Affordable Housing and is registered with and approved by the Help to Buy Agent and:</p> <p>(i) Has lived in the District of Malvern Hills by choice for a certain time (for six months out of the last twelve months or for three years out of the last five years); or</p> <p>(j) Has close family living in the District of Malvern Hills, who have been permanently resident for at least the previous five years (close family is specifically mother, father, brother, sister, adult son or adult daughter); or</p>
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	<p>(k) Has permanent paid employment in the District of Malvern Hills; or</p> <p>(l) Has a local connection to the District of Malvern Hills as a result of special circumstances (subject to the approval by the Head of Housing Services)</p> <p>To the extent that no persons qualify pursuant to (i) to (l) above then any person who is ordinarily resident in the United Kingdom who is registered with and approved by the Help to Buy Agent as being in need of Affordable Housing PROVIDED THAT if contracts have not been exchanged to sell/lease the Shared Ownership Housing Unit to any persons listed above at open market value taking into account the existence of this Deed (or completion effected where there is to be no exchange of contracts) through no fault of the seller for not less than three months of the Shared Ownership Housing Unit being marketed for sale, but not before one month has expired following Completion of the Shared Ownership Housing Unit, then Qualifying Resident shall mean any person who is registered with and approved by the Help to Buy Agent as being in need of Affordable Housing</p>
<p>“Registered Provider”</p>	<p>means a provider of social housing as defined by Part 2 of the Housing and Regeneration Act 2008 or other entity providing Affordable Housing under equivalent arrangements who is approved or accredited by the Homes England or similar successor body</p>
<p>“Retail Prices Index”</p>	<p>means the Retail Prices Index for “All Items” published by the Office for National Statistics or in the event that the Office for National Statistics shall cease to compile or publish the said Retail Prices Index such other index as the parties hereto shall agree or in default of agreement such Index as shall be determined for the purposes of this Deed as being an Index which gives an accurate indication of the rate of inflation</p>

	of prices in the United Kingdom from month to month
"Secondary Education Contribution"	means the sum of £199,704.00 to be used towards additional education facilities at The Chantry Secondary School
"SEND Education Contribution"	means the sum of £72,248.00 to be used towards additional SEND education facilities to serve the area of the Site
"Shared Ownership Housing Unit"	means those Affordable Housing Dwellings including their plots and allocated parking space and/or garage as shall be constructed on the Land pursuant to the provisions of Schedule 1 and the Affordable Housing Scheme where a proportion of the equity is sold on a long lease to the purchaser and the remainder of the equity is initially retained by the Registered Provider subject to rent being charged on the retained equity on terms that are set out in the HCA Model Shared Ownership Lease and subject to the provisions of Schedule 1 of this Deed
"Social Rented Units"	means the Affordable Housing Dwellings constructed pursuant to Schedule 1 where the rents are calculated in accordance with the formula for setting social rent levels in the Policy Statement on Rents for Social Housing issued by the Ministry of Housing Communities and Local Government February 2019 Chapter 2 and Appendices A and B the document entitled "Limit on Annual Rent Increases 2020 -2021" issued by The Regulator of Social Housing April 2020 and the document entitled Rent Standard April 2020 issued by the Regulator of Social Housing or any amendment to or replacement of these from time to time
"Travel Contribution"	means together the Travel Plan Contribution the Home to School Contribution and the Community Transport Contribution
"Travel Plan Contribution"	means the sum of £12,100.00 to be used towards providing Travel Welcome Packs to residents on the Land and towards undertaking Personalised Travel Planning and providing incentives to participating residents

"TRO Contribution"	means the sum of £9,000 to be used towards two Traffic Regulation Orders in order to investigate waiting restriction/speed limits on the highway network
"Working Day"	means any day from Monday to Friday (inclusive) which is not Christmas Day Good Friday or a statutory bank holiday or a day falling within the period 24 December to the immediately following 2nd January (inclusive)

2. CONSTRUCTION

- 2.1 Words of masculine gender shall incorporate the feminine gender and words of the singular shall include the plural and vice-versa and words denoting persons shall include bodies companies incorporated associations and partnerships and vice versa
- 2.2 Reference to any statute or statutory provisions includes a reference to:-
- 2.2.1 that statute or statutory provision as from time to time amended extended re-enacted consolidated or replaced; and
- 2.2.2 all statutory instruments or orders made pursuant to it whether before or after the date of this Deed
- 2.3 The term "the Owners" shall include their assigns and successors in title to their legal interest in the Land or any part or parts thereof at the date hereof and to the rights and obligations created by this Deed
- 2.4 A covenant not to do something includes a covenant not to permit or suffer that thing to be done
- 2.5 Any covenants obligations or other commitments given by more than one party to this Deed shall be joint and several and where any party consists of two or more persons obligations expressed to be made by or with that party are deemed to be made by or with such persons jointly and severally
- 2.6 The headings in this Deed are for ease of reference only and cannot be taken into account in its interpretation
- 2.7 Where the agreement, consent, approval or expression of satisfaction (or anything of a like nature) from the Council is required by the Owners or any other party then such agreement, consent, approval or expression of satisfaction shall not be unreasonably or arbitrarily withheld or delayed
- 2.8 Where there is reference to an officer of the Council or County Council in this Deed such reference shall include the officer referred to and any future officer (howsoever named) that

carries on the same or similar function to the officer referred to AND any officer to whom such officers have delegated responsibility

3. HISTORY

- 3.1 The Council is the appropriate Local Planning Authority for the purpose of the 1990 Act in respect of the area which includes the Land
- 3.2 The Council is also the housing authority for the purposes of the Housing Act and as housing authority is required by Section 8 of the Housing Act to consider housing conditions in its district and the needs of the district with respect to the provision of further housing accommodation
- 3.3 The County Council is the Strategic Planning Authority for the County of Worcestershire and is a Local Planning Authority for the purposes of section 106 of the 1990 Act and is the Highway Authority as defined in the Highway Act 1980 for the area in which the Land is situated and by whom the obligations in the Agreement in respect of highway matters are enforceable
- 3.4 The County Council in its capacity as highway authority has identified the need for works to the adopted highway as part of the Development and conditions are to be imposed on the Planning Permission in respect of these works
- 3.5 The Owners are the freehold owner of that part of the Land registered with title absolute at the Land Registry under title nos. WR108432 and WR115790.
- 3.6 The Council the Owners the Developer and the County Council are entering into this Deed to make provision for regulating the Development in manner hereinafter appearing
- 3.7 The Developer and Mactaggart & Mickel Homes Ltd have submitted the Application to the Council
- 3.8 The Developer has the benefit of a conditional contract dated 27th May 2021 in respect of the Land
- 3.9 The Owners and the Developer have agreed to enter into this Deed with the intention that the obligations contained in this Deed may be enforced by the District Council and the County Council against the Owners and the Developer but subject to the proviso in clause 16 in respect of the Developer

4. PLANNING OBLIGATIONS

The covenants contained in Schedules 1- 4 (inclusive) to this Deed are planning obligations for the purposes of Section 106 of the 1990 Act

NOW THIS DEED WITNESSETH as follows:

5. BINDING EFFECT OF THE AGREEMENT

- 5.1 This Deed is made pursuant to Section 106 of the 1990 Act Section 111 of the Local Government Act 1972 Sections 8 and 9 of the Housing Act and all other enabling powers and it and the covenants contained in it are enforceable by the Council and the County Council pursuant to such Acts
- 5.2 The Owners in respect of the Land hereby covenant and undertake in respect of each and every part of the land to observe and perform the covenants which are contained in Schedules 1-4 (inclusive) to this Deed with the intent that the same shall bind the Land and be enforceable without limit of time not only against the Owners but also against each and any of their successors in title and any person claiming any legal or equitable estate or interest in the Land or any part or parts of it as if that successor and person had also been an original covenanting party

6. EFFECTIVE DATE

The provisions and obligations of this Deed shall come into effect upon the Commencement of Development save for the provisions of clauses 7, 9, 10.1, 10.2, 10.3, 11, 12, 13, 14, 15 & 16 which shall take effect from the date of this Deed.

7. WARRANTIES

The Owners hereby warrant to the Council and the County Council that in respect of the Land:

7.1 they remain at the date of this Deed seised in fee simple of the Land and registered with title absolute at the Land Registry under title nos. WR108432 and WR115790 free from any encumbrances;

7.2 they have obtained all necessary permissions and consents required from any covenantees or any other persons to them entering into this Deed and that they enter into this Deed with full capacity and ability to observe and perform the obligations hereunder; and

7.3 there have been no dealings with the Land between the 21st November 2021 and the date hereof

8. DECLARATIONS

IT IS HEREBY AGREED AND DECLARED

- 8.1 The planning obligations on the part of the Owners shall be in addition to and not in derogation of the Planning Permission

- 8.2 Nothing in this Deed shall be construed as restricting the exercise by the Council and the County Council of any powers exercisable by it under the 1990 Act or any other Act regulation or byelaws
- 8.3 This Deed shall remain in full force and effect notwithstanding the terms and conditions of any planning permission which may be or has been at any time issued by the Council or any other appropriate person or authority pursuant to the provisions of the 1990 Act
- 8.4 Subject only to clause 16 and to the provisions of Sections 106A and 106B of the 1990 Act the terms and conditions of this Deed can only be varied by a supplemental deed
- 8.5 No waiver whether express or implied by the Council and/or the County Council of any breach or default by the Owners in performing or observing any of the covenants of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council and/or the County Council from enforcing any of the said covenants or from acting upon any subsequent breach or default in respect thereof by the Owners
- 8.6 The Owners waive any rights to claim compensation arising from any limitation or restriction on the planning use of the Land under the terms of this Deed
- 8.7 If the Planning Permission at any time is quashed or revoked or is otherwise withdrawn by any statutory procedure or expires before Commencement of the Development this Deed shall cease to have effect
- 8.8 The parties to this Deed do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it
- 8.9 If any individual clause or paragraph in this Deed is subsequently held to be unenforceable by a court the parties agree that the offending clause or paragraph shall cease to be binding and will be severed from this Deed PROVIDED THAT the severing of such a clause or paragraph shall not affect the continuing enforceability of the remainder of this Deed
- 8.10 The validity construction and performance of this Deed shall be governed by English law and each party agrees to submit to the exclusive jurisdiction of the English courts as regards any claim or matter arising under this Deed
- 8.11 Notwithstanding anything to the contrary contained or referred to elsewhere in this Deed nothing in this Deed shall be binding on nor enforceable against;
- 8.11.1 A Protected Tenant (including their Mortgagee) nor against anyone deriving title from any of them and
- 8.11.2 A mortgagee of a Registered Provider which has first complied with the requirements of Clause 13.2 of this Deed and
- 8.11.3 A Registered Provider complying with any statutory or contractual rights of a Protected Tenant to acquire the freehold in any Affordable Housing Dwellings

8.11.4 The successors in title to all of the foregoing including any Mortgagee lender or chargee to any such successors in title

And for the avoidance of doubt this Clause 8.11 shall not apply to anyone exercising a voluntary right to buy an Affordable Housing Dwelling and such Affordable Housing Dwellings shall continue to be bound by this Deed

8.12 Notwithstanding anything to the contrary contained or referred to elsewhere in this Deed the provisions of this Deed shall not be enforceable against the owner occupiers tenants or mortgagees of the General Market Dwellings constructed pursuant to the Planning Permission and purchased and occupied as private dwellings nor their successors in title so as to require them to construct or procure the construction and completion of the Affordable Housing Dwellings

8.13 Save in respect of clauses 8.11 and 8.12 a future chargee mortgagee lender or receiver of the Land shall be bound by the terms of this Deed as if such chargee mortgagee lender or receiver's interest in the Land had been acquired and registered as a land charge prior to the creation of a chargee mortgagee lender or receiver's interest over the Land which shall take effect subject to the terms of terms of this Deed provided that such chargee mortgagee lender or receiver shall otherwise have no liability under the provisions of this Deed unless and until it takes possession of the Land or any part ^{or} parts thereof in which case it shall too be bound by such obligations contained in this Deed as if chargee mortgagee lender or receiver were a person deriving title from the Owners

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8.14 The provisions of Schedules 2-3 (inclusive) of this Deed shall not be binding on any occupier tenant or lessee of an Affordable Housing Dwelling or any Mortgagee or successor in title of the foregoing

8.15 No person shall be liable for a breach of this Deed:

8.15.1 after he shall have parted with all interest in the Land or that part in respect of which such breach occurred but without prejudice to liability for any subsisting breach which occurred prior to parting with such interest; and

8.15.2 to the extent that such breach relates to any part of the Land in which the person has no interest

8.16 Statutory undertakers or other utility suppliers with an interest in the Land only by virtue of the location of their structures or other apparatus on the Land (including electricity substations, poles stays gas governor stations and/or pumping stations) are specifically excluded from liability under this Deed

8.17 The Council covenants with the Owners as set out in Schedule 5

8.18 The County Council covenants with the Owners as set out in Schedule 6

9. NOTICE OF DEED

- 9.1 The Council will on completion of this Deed register it in the local land charges register pursuant to the provisions of the Local Land Charges Act 1975

10. COSTS OF PREPARATION OF AGREEMENT AND MONITORING FEES

- 10.1 The Developer covenants to pay the Council's reasonable and proper legal costs in relation to this Deed on the date hereof
- 10.2 The Developer covenants to pay the Council its monitoring and administrative fees prior to the date hereof in relation to this Deed in the sum of £1,400 (one thousand four hundred pounds)
- 10.3 The Developer covenants to pay the County Council's reasonable and proper legal costs in relation to this Deed on the date hereof
- 10.4 The Developer covenants to pay the County Council's monitoring fee in respect of monitoring highways obligations in the sum of £1,005 on Commencement of Development
- 10.5 The Developer covenants to pay the County Council's monitoring fee in respect of monitoring education obligations in the sum of £490 on Commencement of Development

11. DISPUTES

- 11.1 In the event of there being any dispute between the parties hereto in respect of any of the terms of this Deed such dispute shall be determined in accordance with this clause and either party to the dispute may at any time require by notice in writing to the other party to the dispute an independent expert to be appointed to resolve the dispute
- 11.2 The expert (who shall be an appropriately qualified person to resolve the dispute in question) may be agreed upon by the parties to the dispute and in default of such agreement within one month of a requirement being made pursuant to this clause shall be appointed by the President for the time being of the Royal Institution of Chartered Surveyors on the application of either party to the dispute made at any time after the said period of one month
- 11.3 Notice in writing of his appointment shall be given by the expert to the parties to the dispute and he shall invite each to submit within a specified period (which will not exceed four weeks) any written representations each wishes to make to him
- 11.4 The expert shall act as an expert and not as an arbitrator and he shall consider any written representation submitted to him within the said period and shall not be in any way limited or fettered thereby and shall determine the dispute in accordance with his own judgment
- 11.5 The expert shall give notice in writing of his decision to the parties to the dispute within 2 months of his appointment or within such extended period as the parties may together allow

- 11.6 The decision of the expert shall be final on all matters referred to him save in the case of manifest error
- 11.7 If for any reason the expert shall fail to make a decision and give notice thereof within the time and in the manner herein before provided either party to the dispute may apply to the President of the Royal Institution of Chartered Surveyors for a substitute to be appointed in his place which procedure may be repeated as many times as necessary
- 11.8 Each party to the dispute shall bear its own costs save that the fees of the expert and of the Royal Institution of Chartered Surveyors shall be in the expert's determination
- 11.9 Nothing in this clause shall be construed as ousting the jurisdiction of the courts to enforce the provisions of this Deed

12. NOTICES

- 12.1 Any notice consent or approval required to be given under this Deed shall be in writing and shall be delivered personally or sent by pre-paid first class post or recorded delivery post
- 12.2 The address for service of any such notice consent or approval as aforesaid shall in the case of service upon the Council and the County Council be at the address aforesaid or such other address for service as shall have been previously notified by the Council and/or the County Council to the Owners and in the case of service upon the Owners will be at their last known address (if an individual) or then current registered office (if a company)
- 12.3 A notice consent or approval under this Deed shall be deemed to have been served as follows:
 - 12.3.1 If personally delivered at the time of delivery; and
 - 12.3.2 If posted at the expiration of 48 hours after the envelope containing the same was delivered into the custody of the postal authority within the United Kingdom

And in proving such service it shall be sufficient to prove that personal delivery was made or that the envelope containing such notice consent or approval was properly addressed and delivered into the custody of the postal authority in a prepaid first class or recorded delivery envelope (as appropriate) as the case may be

13. MORTGAGEE PROTECTION

- 13.1 For the avoidance of doubt, this clause 13 applies only to the mortgagee or chargee or receiver of a Registered Provider.
- 13.2 The affordable housing provisions in this Deed 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 its Affordable

Housing Dwellings or any persons or bodies deriving title through such mortgagee or chargee or receiver PROVIDED THAT:

- 13.2.1 such mortgagee or chargee or Receiver shall first give written notice to the Legal Services Manager at the Council of its intention to dispose of the Affordable Housing Dwellings and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of its Affordable Housing Dwelling(s) to another Registered Provider or to the Council 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
- 13.2.2 if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of its Affordable Housing Dwelling(s) free from the affordable housing provisions in this Deed, which provisions shall determine absolutely.

14. TERMINATION OF THIS DEED

14.1 This Deed will come to an end if:

- 14.1.1 The Planning Permission is quashed, revoked or otherwise withdrawn or modified at any time so as to render this Deed or any part of it irrelevant, impractical or unviable;
- 14.1.2 The Planning Permission expires before the Commencement of Development

15. DEVELOPER'S CONSENT

15.1 The Developer hereby consents to the completion of this Deed and declares that its interest in the Land shall be bound by the terms of this Deed as if it had been executed and registered as a local land charge prior to the creation of the Developer's interest in the Land and that the Developer's interest over the Land shall take effect subject to this Deed PROVIDED THAT the Developer shall otherwise have no liability under this Deed unless it takes possession of the Land or any part ^{or} parts thereof in which case it too will be bound by the obligations as if it were a person deriving title from the Owners

16. SECTION 73 VARIATION

- 16.1 In the event that any new planning permission(s) are granted by the Council pursuant to Section 73 of the 1990 Act and unless otherwise agreed between the parties, with effect from the date that the new planning permission is granted pursuant to Section 73 of the 1990 Act:
- 16.1.1 The obligations in this Deed shall (in addition to continuing to bind the Land in respect of the Planning Permission) relate to and bind all subsequent planning permission(s) in respect of the Land granted pursuant to Section 73 of the 1990 Act and the Land

itself without the automatic need to enter into any subsequent deed of variation or new agreement pursuant to Section 106 of the 1990 Act;

- 16.1.2 The definitions of Application, Development and Planning Permission in this Deed shall be construed to include references to any applications under Section 73 of the 1990 Act, the planning permissions granted thereunder and the development permitted by such subsequent planning permission(s); and
- 16.1.3 This Deed shall be endorsed with the following words in respect of any future Section 73 application:

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

ALWAYS PROVIDED THAT nothing in this clause shall fetter the discretion of the Council in determining any application under Section 73 of the 1990 Act or the appropriate nature and/or quantum of Section 106 obligations insofar as they are materially different to those contained in this Deed and required pursuant to a determination under Section 73 of the 1990 Act whether by way of a new deed or supplemental deed pursuant to Section 106 of the 1990 Act.

SCHEDULE 1

Affordable Housing

The Owners covenant with the Council as follows:

1. Prior to the Commencement of Development to submit the Affordable Housing Scheme to the Housing Services Manager of the Council for approval and for the avoidance of doubt the Commencement of Development shall not take place until such time as the Affordable Housing Scheme has been approved in writing by the Housing Services Manager of the Council (such approval not to be unreasonably withheld or delayed)
2. To construct and lay out the Affordable Housing Dwellings in accordance with the approved Affordable Housing Scheme and the provisions of this Schedule 1
3. The Owners will or will procure the construction and completion of 50% of the Affordable Housing Dwellings together with all necessary services connections and infrastructure ready for occupation prior to Occupation of fifty per cent (50%) of the General Market Dwellings
4. The Owners will or will procure the construction and completion of all the Affordable Housing Dwellings together with all necessary services connections and infrastructure ready for occupation prior to Occupation of eighty per cent (80%) of the General Market Dwellings
5. Completion of the Affordable Housing Dwellings shall be deemed to be either when the NHBC Buildmark Certificate (or similar equivalent) shall have been issued in respect of all of the Affordable Housing Dwellings or when the local authority building control consultancy or approved inspector certifies them all complete if earlier
6. Not to sublet or otherwise part with possession of the whole or any part of the Affordable Housing Dwellings unless in accordance with the provisions of this Deed and to ensure that all of the Affordable Housing Dwellings are sold and/or leased and/or occupied in accordance with this Deed and the Affordable Housing Scheme
7. Not to allow fifty percent (50%) or more of the General Market Dwellings to be Occupied until there has been a freehold transfer or grant of a long headlease of 50% of the Affordable Housing Dwellings to a Registered Provider subject to the terms of this Deed together with rights being granted over all access roads and footpaths services and conducting media serving the Affordable Housing Dwellings and appropriate written evidence thereof is provided to the reasonable satisfaction of the Legal Services Manager at the Council
8. Not to allow eighty percent (80%) or more of the General Market Dwellings to be Occupied until there has been a freehold transfer or grant of a long headlease of the Affordable Housing Dwellings to a Registered Provider subject to the terms of this Deed together with rights being granted over all access roads and footpaths services and conducting media serving the

Affordable Housing Dwellings and appropriate written evidence thereof is provided to the reasonable satisfaction of the Legal Services Manager at the Council

9. Not to allow the Affordable Housing Dwellings to be occupied otherwise than by a person who at the date of his first Occupation is a Qualifying Resident (together with members of his immediate family) who occupies the Affordable Housing Dwelling as his sole residence
10. Not initially to dispose of any of the Affordable Housing Dwellings otherwise than by way of a mortgage or charge or to a Registered Provider (or in the case of Discounted Market Sale Units to a purchaser) by way of a freehold transfer or, in the case of any Affordable Housing that does not comprise Discounted Market Sale Units, the grant of a long headleasehold interest for the purposes of providing Affordable Housing Dwellings
11. To give notice in writing to the Legal Services Manager at the Council of:
 - (a) completion of the freehold sale or grant of a long headleasehold interest in the Affordable Housing Dwellings; and
 - (b) the expected date of first Occupation of fifty percent (50%) of the General Market Dwellings at least 3 weeks prior to such expected date
 - (c) the expected date of first Occupation of eighty percent (80%) of the General Market Dwellings at least 3 weeks prior to such expected date
12. If the Development is one which will involve the creation or employment of a management company there shall be a management company for all of the common parts which serve all the Dwellings but provided always for the sake of clarity nothing in this Deed shall operate so as to prevent or prohibit the Affordable Housing Dwellings from being exclusively owned and managed by the Registered Provider (which has acquired such Dwellings) and provided further that details of such management arrangements shall be submitted to the Head of Legal Services at the Council prior to the transfer of any Affordable Housing Dwellings to a Registered Provider and agreed in writing by the Head of Legal Services at the Council (such agreement not to be unreasonably withheld or delayed) at least 2 months prior to Occupation of any Affordable Housing Dwelling
13. Not to charge an occupier of any of the Affordable Housing Dwellings a service charge unless details of all items covered under the service charge have been submitted to the Head of Housing Services at the Council at least two months prior to Occupation of any Affordable Housing Dwelling and have been approved in writing by the Head of Housing Services at the Council
14. If the Registered Provider at any time while having a legal interest in the Affordable Housing Dwellings ceases to be accredited or approved by the Homes England or its equivalent successor body:

- 14.1 To give notice immediately in writing to the Head of Legal Services at the Council of the cessation of accreditation or approval; and
- 14.2 To transfer all legal interest in its Affordable Housing Dwellings to another Registered Provider subject to the provisions of this Deed
- 14.3 A Registered Provider that has ceased to be accredited or approved by the Homes and Communities Agency (now Homes England) may dispose of its freehold or long headleasehold interest in the Affordable Housing Dwellings subject to any subsisting leases and the terms of the Deed but otherwise free from the terms of paragraph 14.2 above and thereupon the provisions of paragraph 14.2 above shall become null and void but only in respect of that particular transfer of that or those Affordable Housing Dwellings PROVIDED THAT
- 14.3.1 The Registered Provider notifies the Head of Legal Services at the Council in writing that it is seeking a purchaser of its freehold or long headleasehold interest in the Affordable Housing Dwellings AND
- 14.3.2 The Registered Provider thereafter uses reasonable endeavours to sell and transfer its freehold interest or long headleasehold interest in the Affordable Housing Dwellings to a new Registered Provider subject to the terms of this Deed including the terms of this paragraph 14 at a price equal to its market value taking into account the existence of the Deed AND
- 14.3.3 At least four months have elapsed since the said Head of Legal Services at the Council received the written notice referred to at paragraph 14.3.1 above and a contract for the disposal of the freehold or long headleasehold in the relevant Affordable Housing Dwellings has not been exchanged with a new Registered Provider (or completion effected where there is to be no exchange of contracts) despite the current Registered Provider's reasonable efforts such efforts being evidenced in writing to the satisfaction of the Head of Legal Services at the Council
- Clause 15A* 15A Not to increase the rent or service charge of the Affordable Housing Dwellings above the levels prevalent at the time that the Registered Provider ceased to be approved or accredited without the prior written consent of the Council
- Clause 15B* 15B In the event that a tenant or other occupier of a Social Rented Unit exercises the right to buy under applicable legislation to procure that any Registered Provider shall unless the legislation otherwise requires use or procure the use of the net proceeds of sale as defined in section 24(3) of the Housing Act 1996 (and any amendment, re-enactment or successor provision) to fund the provision of further Affordable Housing and to make such provision within the District of Malvern Hills
16. Not to permit the purchase of the freehold of any Affordable Housing Dwellings pursuant to any statutory or voluntary right to buy or acquire or other similar or equivalent initiative or right

available from time to time or by the purchase of 100% of the equity in a Shared Ownership Housing Unit and to retain all of the Affordable Housing Dwellings as Affordable Housing in perpetuity subject to the terms of this Schedule 1

17. Shared Ownership Housing Unit Buy Back

17.1 This paragraph 17 applies to a Registered Provider, landlord and the lessee of any Shared Ownership Housing Unit in the event that a waiver has not been granted by the HCA in respect of the land being released from being within a Designated Protected Area.

17.2 The Registered Provider, landlord and lessee (from time to time) of any given Shared Ownership Housing Unit shall throughout the duration of that lease observe and perform their respective obligations stipulations rights and covenants contained in the HCA Model Protected Area Lease

17.3 Where a lessee of any Shared Ownership Housing Unit wishes to acquire more than 80% of the freehold equity to this Dwelling and wishes to sell the equity in this Dwelling then;

17.3.1 the Registered Provider or landlord (as the case may be) shall notify the Council's Housing Services Manager in writing of the lessee's intention to sell its equity in the Shared Ownership Housing Unit; and

17.3.2 without prejudice to paragraph 17.2 of this Schedule shall comply fully with the mandatory buy back provisions, obligations and procedures contained in the HCA Model Protected Area Lease

SCHEDULE 2

Council Contributions

The Owners covenant with the Council as follows:

1. Prior to the first Occupation of the first Dwelling to pay to the Council the Off Site Public Open Space Contribution (which Contribution shall be increased in line with the percentage increase in the Retail Prices Index from the date of this Deed until the date of payment)
2. To give notice in writing to the Legal Services Manager at the Council of the expected date of first Occupation of the first Dwelling at least 10 Working Days prior to the expected date of first Occupation of the first Dwelling
3. If the Off Site Public Open Space Contribution is not paid as set out in paragraph 1 above interest upon the Off Site Public Open Space Contribution shall become payable to the Council in addition to the said Contribution from the date when the Off Site Public Open Space Contribution became due until the date of payment to the Council at the rate of 4% above the base lending rate of HSBC Bank PLC
4. Without prejudice to paragraph 1 to this Schedule not to allow or permit the Occupation of any of the Dwellings forming part of the Development until the Off Site Public Open Space Contribution together with any increase in the Retail Prices Index pursuant to paragraph 1 and any interest pursuant to paragraph 3 of this Schedule has been paid in full to the Council



SCHEDULE 3

On Site Open Space

The Owners covenant with the Council as follows:

1. Prior to Commencement of Development to submit to the Council for approval the On Site Public Open Space Plan and for the avoidance of doubt Commencement of Development shall not take place until such time as the On Site Public Open Space Plan has been approved in writing by the Council
2. In accordance with the delivery programme approved pursuant to paragraph 1 to layout the On-Site Public Open Space in accordance with the approved On Site Public Open Space Plan referred to in paragraph 1 of this Schedule and any conditions attached to the Planning Permission and all current health and safety requirements in force to the reasonable satisfaction of the Joint Head of Economy and Environment or successor at the Council
3. To remedy any defects in the On Site Public Open Space and replace any planting that is diseased or dying or items that are broken or damaged from the date that the same is provided until the date the On Site Public Open Space is transferred to a Management Company pursuant to the provisions of this Schedule
4. To ensure the On Site Public Open Space together with ability to access and egress to and from it is available at all times for use by the general public at large in perpetuity and to the reasonable satisfaction of the Joint Head of Economy and Environment or successor at the Council
5. Until such time as the On Site Public Open Space is transferred to a Management Company in accordance with the requirements of this Schedule to ensure that the On Site Public Open Space is maintained in accordance with the On Site Public Open Space Plan and in accordance with all current health and safety requirements in force from time to time to the reasonable satisfaction of the Joint Head of Economy and Environment or equivalent or successor at the Council
6. Not to transfer any part of the On Site Public Open Space to the Management Company until such time as the Joint Head of Economy and Environment or equivalent or successor at the Council has approved in writing the On Site Public Open Space has been laid out and maintained and managed in accordance with the provisions of this Schedule
7. Not to occupy or permit the Occupation of more than 28 twenty eight Dwellings until the On Site Public Open Space has been transferred to the Management Company free from encumbrances and together with all necessary rights of access and easements to enable the general public to access and egress it freely and with or without vehicles and machinery for

maintenance purposes and the On Site Public Open Space shall be transferred upon the following terms:

- (a) consideration of £1 (one pound) in the case of a transfer to the Management Company;
- (b) such transfer to contain a restrictive covenant expressed to be for the benefit of the freehold of the remainder of the Land and each and every part thereof to the effect that the On Site Public Open Space shall not be used for purposes other than public recreation
- (c) to contain a covenant to ensure in perpetuity the management and maintenance of the On Site Public Open Space in accordance with the approved On Site Public Open Space Plan (or any successor or replacement plan the Council may approve)
- (d) all easements and rights necessary to access and egress at all times to and from the On Site Public Open Space for use by the general public at large in perpetuity

SCHEDULE 4

County Contributions

The Owners covenant with the County Council as follows:

1. On first Occupation of any Dwelling to pay the County Council 50% of the Education Contribution (which Contribution shall be increased in line with the percentage increase in the Retail Prices Index from the date of this Deed until the date of payment) and the Education Contribution shall be used by the County Council towards the purposes set out in this Deed
2. On 25th Occupation of any Dwelling to pay the County Council the remaining 50% of the Education Contribution (which Contribution shall be increased in line with the percentage increase in the Retail Prices Index from the date of this Deed until the date of payment) and the Education Contribution shall be used by the County Council towards the purposes set out in this Deed
3. To give notice in writing to the Head of Legal and Democratic Services at the County Council at the address herein of the expected date for first Occupation of the first Dwelling at least 10 Working Days prior to the expected date of first Occupation of any Dwelling
4. To give notice in writing to the Head of Legal and Democratic Services at the County Council at the address herein of the expected date for first Occupation of the first Dwelling at least 10 Working Days prior to the expected date of 25th Occupation
5. If the Education Contribution is not paid to the County Council as set out in paragraphs 1 and 2 above then interest upon the said Contribution shall become payable to the County Council in addition to the said Contribution from the date when the Education Contribution became due until the date of payment to the County Council at the rate of 4% above the base lending rate of Barclays Bank PLC
6. Without prejudice to paragraph 1 to this Schedule not to cause or allow or permit Occupation of any Dwellings on the Land until 50% of the Education Contribution together with an amount equivalent to any increase in the Retail Prices Index pursuant to paragraph 1 above and any interest pursuant to paragraph 3 above has been paid in full to the County Council
7. On first Occupation of any Dwelling to pay the County Council the Travel Contribution (which Contribution shall be increased in line with the percentage increase in the Retail Prices Index from the date of this Deed until the date of payment) and the Travel Contribution shall be used by the County Council towards the purposes set out in this Deed
8. If the Travel Contribution is not paid to the County Council as set out in paragraph 7 above then interest upon the said Contribution shall become payable to the County Council in addition to the said Contribution from the date when the Travel Contribution became due until the date of

payment to the County Council at the rate of 4% above the base lending rate of Barclays Bank PLC

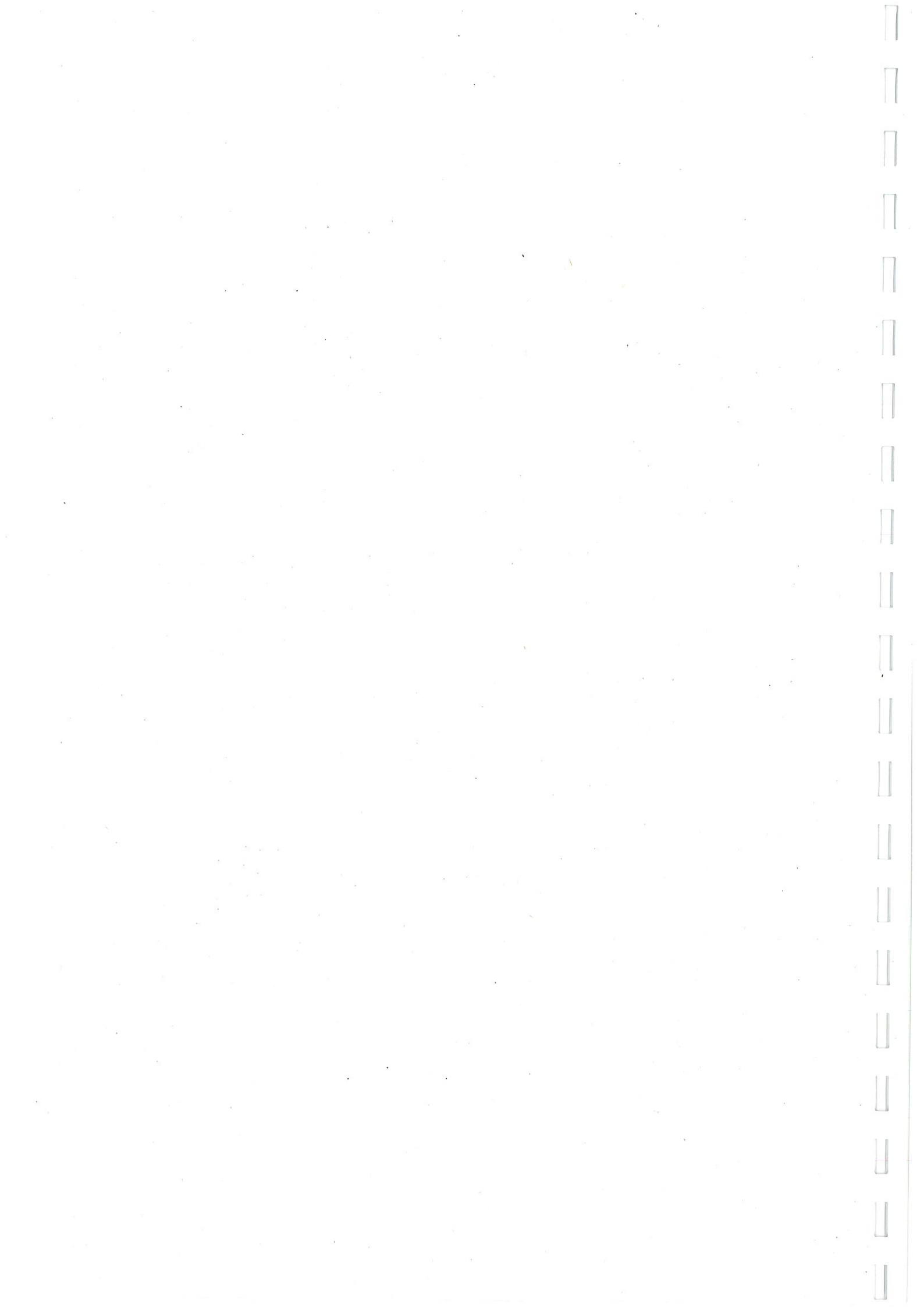
9. Without prejudice to paragraph 7 to this Schedule not to cause or allow or permit Occupation of any Dwellings on the Land until the Travel Contribution together with an amount equivalent to any increase in the Retail Prices Index pursuant to paragraph 7 above and any interest pursuant to paragraph 8 above has been paid in full to the County Council
10. On Commencement of Development to pay the County Council the TRO Contribution (which Contribution shall be increased in line with the percentage increase in the Retail Prices Index from the date of this Deed until the date of payment) and the TRO Contribution shall be used by the County Council towards the purposes set out in this Deed
11. To give notice in writing to the Head of Legal and Democratic Services at the County Council at the address herein of the expected date for Commencement of Development at least 10 Working Days prior to the expected date of first Occupation of any Dwelling
12. If the TRO Contribution is not paid to the County Council as set out in paragraph 10 above then interest upon the said Contribution shall become payable to the County Council in addition to the said Contribution from the date when the TRO Contribution became due until the date of payment to the County Council at the rate of 4% above the base lending rate of Barclays Bank PLC
13. Without prejudice to paragraph 10 to this Schedule not to cause or allow or permit Occupation of any Dwellings on the Land until the TRO Contribution together with an amount equivalent to any increase in the Retail Prices Index pursuant to paragraph 10 above and any interest pursuant to paragraph 12 above has been paid in full to the County Council

SCHEDULE 5

Council's Covenants

Repayment of Contributions

1. The Council hereby covenants with the Owners to use all of the Contributions received by it from the Owners under the terms of this Deed for the purposes specified in this Deed for which they are to be paid or for such other purposes for the benefit of the Development as the Owners and the Council (both acting reasonably) shall agree in writing provided that such purposes comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended substituted extended or replaced from time to time)
2. The Council covenants with the Owners that it will pay to the person that paid the Contribution such amount of any Contribution made by the Owners to the Council under this Deed which has not been expended or committed in accordance with the provisions of this Deed within ten years of the date of receipt by the Council with the exception of any contribution (or element thereof) or commuted sum collected towards the maintenance of off site public open space
3. The Council shall provide to the Owners such evidence as the Owners shall reasonably request in writing in order to confirm the expenditure or commitment of the Contribution(s) paid by the Owners to the Council under this Deed

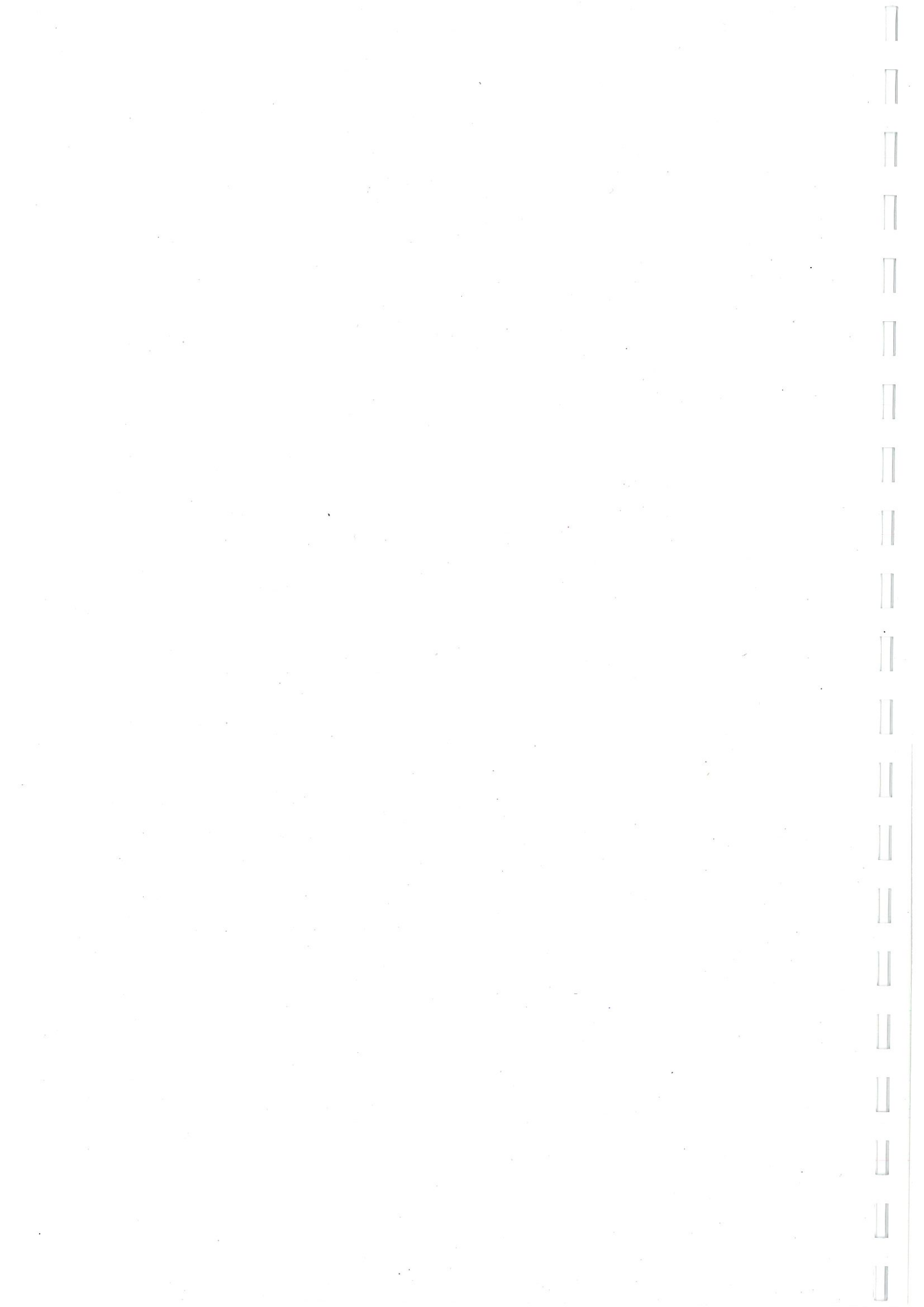


SCHEDULE 6

County Council's Covenants

Repayment of Contributions

1. The County Council hereby covenants with the Owners to use all Contributions received by it from the Owners under the terms of this Deed for the purposes specified in this Deed for which they are to be paid or for such other purposes for the benefit of the Development as the Owners and the County Council (both acting reasonably) shall agree in writing provided that such purposes comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended substituted extended or replaced from time to time)
2. The County Council covenants with the Owners that it will pay to the person that paid the Contribution such amount of any Contribution made by the Owners to the County Council under this Deed which has not been expended or committed in accordance with the provisions of this Deed within ten years of the date of receipt by the County Council
3. The County Council shall provide to the Owners such evidence as the Owners shall reasonably request in writing to confirm the expenditure or commitment of the Contribution(s) paid by the Owners to the County Council under this Deed



Appendix A

Allocation of Affordable Housing Dwellings

AWLA WP
MB



In witness whereof the Council the Owners and the County Council have duly executed this Deed

THE COMMON SEAL OF **MALVERN HILLS**
DISTRICT COUNCIL was hereto affixed
in the presence of:

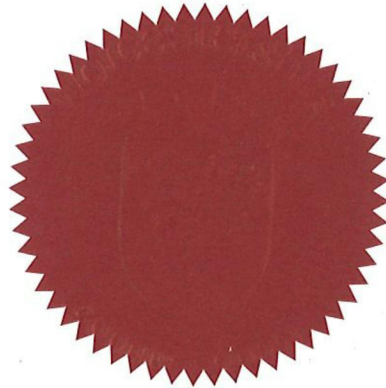
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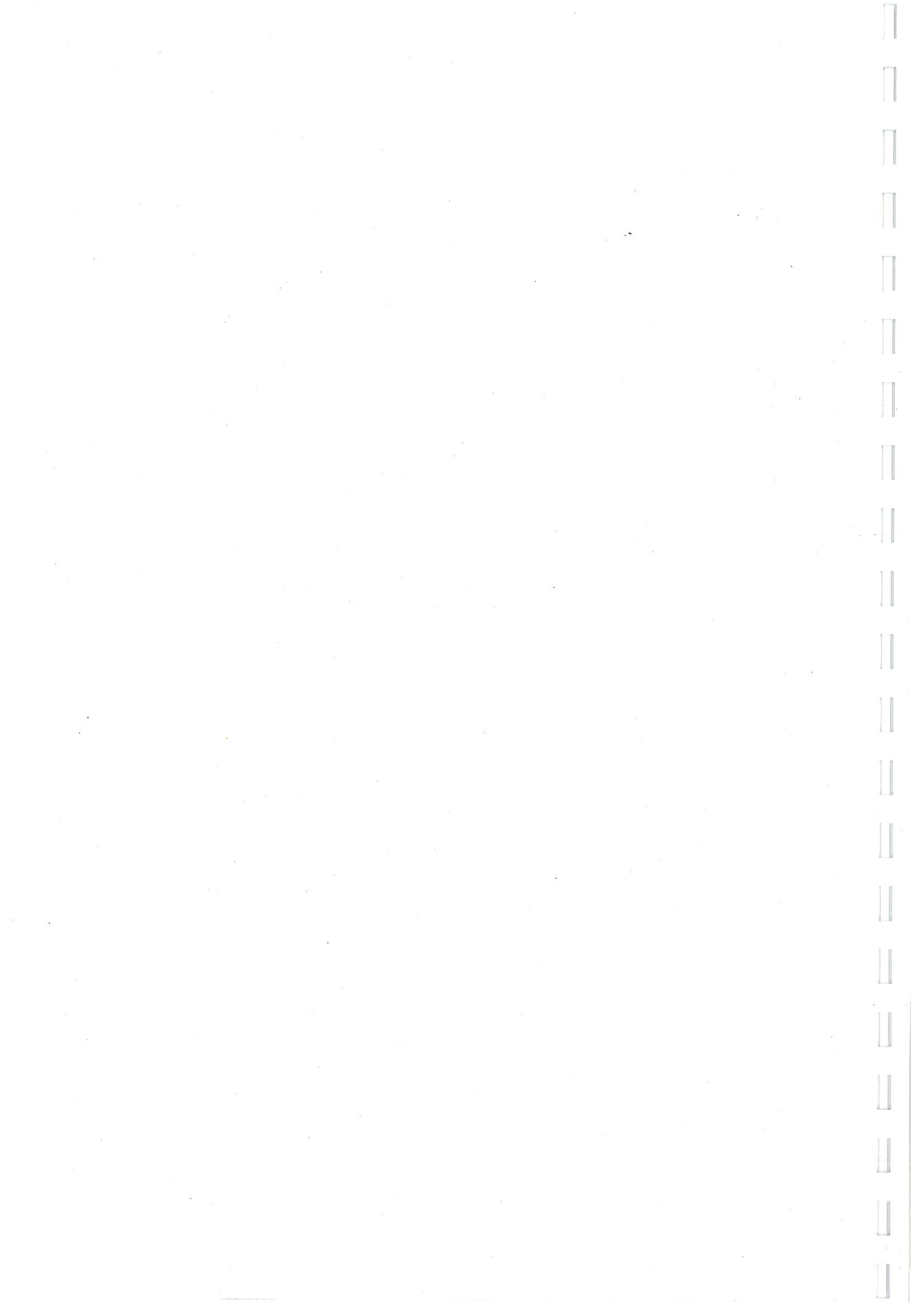
THE COMMON SEAL of **WORCESTERSHIRE**)
COUNTY COUNCIL was hereunto)
affixed in the presence of :-)



Authorised signatory



Thomas Pollock
Head of Commercial Law
(Legal & Governance)



Signed as a deed by)
~~JAMES STEPHEN CHRISTOPHER QUINN~~)
~~IAIN MORRISON~~ as attorney for)
~~MARTIN JOHN GREEN~~ under a power of)
~~attorney dated 14th November 2019~~)



in the presence of)

EMMA THATCHER

Name of Witness



Signature of Witness

Occupation of Witness

SOLICITOR

Address of Witness

9-10 THE TYTHING
WORCESTER

Signed as a deed by)
~~JAMES STEPHEN CHRISTOPHER QUINN~~)
~~IAIN MORRISON~~ as attorney for)
~~ROBERT JAMES GREEN~~ under a power of)
~~attorney dated 14th November 2019~~)



in the presence of)

EMMA THATCHER

Name of Witness



Signature of Witness

Occupation of Witness

AJ ABOVE


Address of Witness



EXECUTED AS A DEED by
FREDERICK PETER GOOCH HILL
in the presence of

)
)
)



Name of Witness
Signature of Witness
Occupation of Witness
Address of Witness

EMMA HUGGINS

AS ABOVE

EXECUTED AS A DEED by
THERESA LOUISE DANIEL
in the presence of

)
)
)


Name of Witness
Signature of Witness
Occupation of Witness
Address of Witness

EMMA THORP

AS ABOVE

EXECUTED AS A DEED by
H H (Hallow 3) Limited
Acting by

)
)
)
Director
Director/Sec
