

**STANDARD TRIPARTITE AGREEMENT**

**(this format will be adjusted as appropriate if the agreement involves the City  
and/or County Council only)**

**DATED \_\_\_\_\_ 20**

**(NAME OF APPLICANT/DEVELOPER/OWNER)**

- and -

**THE OXFORD CITY COUNCIL**

- and -

**THE OXFORDSHIRE COUNTY COUNCIL**

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**A G R E E M E N T**

under Section 106 of the Town and Country Planning Act 1990  
relating to (INSERT NAME OF SITE) and  
planning application no. (INSERT REF)

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Draft : \_\_\_\_\_

Date : \_\_\_\_\_

File Ref : \_\_\_\_\_

This 'skeleton' agreement is in indicative model form for routine planning obligations. It is not intended to be definitive. Variations may be necessary to address site specific issues or to take account of further developments in law or practice.

THIS AGREEMENT by way of Deed is made on

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**B E T W E E N:**

- 1 **(Insert applicant name and address)** ("the Applicant")
- 2 **THE OXFORD CITY COUNCIL** of The Town Hall Blue Boar Street Oxford OX1 4EY ("the City Council") and
- 2 **THE OXFORDSHIRE COUNTY COUNCIL** of County Hall New Road Oxford OX1 1ND ("the County Council")
- 3 **(insert details of developer/owner/mortgagee as appropriate)**

## 1. INTRODUCTION

- 1.1 The City Council is the local planning authority for the City of Oxford for the purposes of the Town and Country Planning Act 1990
- 1.2 The County Council is the county planning authority for the area which includes the Land for the purposes of the Town and Country Planning Act 1990 and is the highway authority for the purposes of the Highways Act 1980 and the traffic authority for the purposes of the Road Traffic Regulation Act 1984 for certain highways for that area and it also has powers and duties in respect of the provision of education fire and library facilities (it may be appropriate for this to be adjusted further)
- 1.3 This Agreement relates to land at (insert address)
- 1.4 The Applicant is the [freehold owner] of the Land  
(Insert definition of other parties as appropriate)
- 1.5 By the Application the Applicant has applied to the City Council for planning permission
- 1.6 The City Council has resolved to grant the Planning Permission subject to completion of this Agreement
- 1.7 The Applicant is willing  
(insert list of contributions/on-site measures to be covered by the agreement)

## 2. DEFINITIONS AND INTERPRETATION

The following words and definitions shall have the following meanings in this Agreement:

- 2.1 'Act' means the Town and Country Planning Act 1990 and any statutory amendment modification or re-enactment of the same for the time being in force
- 2.2 'Application' means the application (insert details of application)
- 2.3 'Commencement of the Development' means the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Agreement and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and 'Commence Development' shall be construed accordingly
- 2.4 'the Development' means the development proposed for the Land under the Application
- 2.1 Insert definitions of the sums payable and the amount of the contribution eg *'the Footpath Contribution' means the sum of £20,000 (Twenty Thousand Pounds) Index Linked*

(For outline permissions a formula will be inserted to allow for a proportionate increase in the sums payable if the indicative number of residential units/floorspace is increased at the reserved matters application stage)

Insert definitions of any appropriate on-site measures eg

'Children's Play Area' means the area for the provision of a children's play area shown "x" on plan no "y"

2.6 'Index-Linked' means

2.6.1 in relation to (insert any relevant transport related contribution) Contribution adjusted according to any fluctuations occurring between June 2006 and the date of payment to the County Council in a composite index comprised of the following (civil engineering formula – 1990 series) indices of the Monthly Bulletin of Indices - Prices Adjustment Formulae for Construction Contracts published on behalf of the Department of Trade and Industry weighted in the proportions below set out against each such index namely:-

Index 1 Labour and supervision	25%
Index 2 Plant and road vehicles	25%
Index 3 Aggregates	30%
Index 9 Coated macadam and bituminous products	20%

or if at any time for any reason it becomes impracticable to compile the said composite index then an index compiled in such other manner as may be agreed in writing by the Applicant and the County Council

2.6.2 (insert if appropriate) in relation to the Affordable Housing Sum to adjust the contribution according to the Halifax Price Index for the South East from twelve months from the date of the Agreement and the date of payment

2.6.3 in relation to the (insert the definition of any other financial contribution payable) Contribution adjusted according to any fluctuations occurring between Second Quarter 2006 and the Quarter period during which the contribution becomes payable in the BCIS All-In Tender Price Index published in the Quarterly Review of Building Prices by the Royal Institution of Chartered Surveyors

2.7 'Land' means the land shown 'x' on the Plan and described in recital 1.3 above

2.8 'Planning Permission' means the planning permission for the Development to be granted pursuant to this Agreement in the form of the draft annexed to this Agreement

2.9 The masculine shall include other genders and vice versa and the singular the plural and vice versa

2.10 The headings in this document are inserted for convenience only and shall not affect the construction or interpretation of this Agreement

2.11 Where a party includes more than one person any obligation on that party shall be joint and several

2.12 [Where more than one party enters into any obligation or liability those parties are jointly and severally liable]

## IT IS AGREED:

### 3. APPLICATION OF THE ACT

This Agreement is made under Section 106 of the Act

### 4. PLANNING OBLIGATIONS

4.1 The covenants by the Applicant as the freehold owner of the Land in this Agreement constitute a planning obligation for the purposes of Section 106 of

the Act which shall be enforceable by the City Council and the County Council against the Applicant, and any person deriving title from the Applicant (or adjust if applicant is not owner)

- 4.2 No person shall be liable for a breach of a covenant contained in this Agreement after having parted with all interest in the Land but shall remain liable for any breach antecedent to having parted with such interest
- 4.3 The terms of this Agreement shall  
(insert mortgagee in possession clauses if appropriate. The mortgagee in possession clause included in the drafting is appropriate to affordable housing provisions and not necessarily to all obligations. Where there is a mortgagee the mortgagee should acknowledge that the Land is bound by the obligations in the deed and if requested provision can be included that the mortgagee (that is the mortgagee personally) will not be liable for any breach of the covenants contained in the Agreement unless this occurred when he was a mortgagee in possession)
  - 4.3.1 not bind any mortgagee in possession of the RSL or any receiver or manager (including an Administrative Receiver) appointed pursuant to the Law of Property Act 1925 or otherwise by a party who has provided loan facilities to the RSL
  - 4.3.2 cease to apply to any of the Affordable Housing Units should such Units be transferred or leased by any mortgagee of the RSL or any receiver or manager (including Administrative Receiver) appointed pursuant to the Law of Property Act 1925 or otherwise by a party who has provided loan facilities to the RSL
  - 4.3.3 cease to apply any of the Affordable Housing Units where the RSL is required to dispose of it pursuant to a right to buy under Part V of the Housing Act 1985 or S16 of the Housing Act 1996 or any similar or substitute right applicable or shall be required to sell to a tenant with the benefit of a voluntary purchase grant provided under S20 and S21 of the Housing Act 1996 (or any similar provision in any subsequent legislation)
  - 4.3.4 not bind on any individual owner of a share in or the whole of (pursuant to any rights of staircasing) the equity of any Affordable Housing Unit or any individual owner of an individual Affordable Housing Unit

## **5. APPLICANT'S COVENANTS**

The Applicant covenants with the City Council to observe and perform the covenants contained in Schedule One to this Agreement and covenants with the County Council to observe and perform the covenants contained in Schedule Two to this Agreement

## **6. INTEREST**

That if any sum due to the City Council or the County Council as appropriate under this agreement is not paid on or before the due date interest shall be due and payable to the City Council or the County Council at the rate of 4% per annum above the base lending rate of Lloyds TSB Bank Plc for the period from the due date until payment is made to the City Council or the County Council

## 7. LOCAL LAND CHARGE

- 7.1 This Agreement shall be registered as a local land charge on the Land
- 7.2 Following the performance and satisfaction of all the obligations contained in this Agreement the City Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement

## 8. THE CITY COUNCIL'S COVENANTS

- The City Council covenants with the Applicant
- 8.1 within 'x' days from the date of this Agreement to grant the planning permission for the Development in the form of the draft planning permission annexed as Schedule 'x'
- (insert clauses defining the contributions payable and the purpose they will be used for – SEE City Council covenants insert)

## 9. THE COUNTY COUNCIL'S COVENANTS

- 9.1 The County Council covenants with the Applicant
- (insert clauses defining the contributions payable and the purpose they will be used for – SEE County Council covenants insert)

## 10. REPAYMENT OF CONTRIBUTIONS (CITY/COUNTY COUNCIL COVENANTS)

- 10.1 The City Council/County Council covenants with the Applicant that it will pay to the Applicant such amount of any payment made by the Applicant to the Council under this Agreement which has not been expended in accordance with the provisions of the Agreement within 10 years of the date of receipt by the City Council/County Council of such payment together with interest at the base lending rate of Lloyds TSB Bank Plc from time to time for the period from the date of payment to the date of refund.
- 10.2 The City Council/County Council shall provide to the Applicant such evidence as the Applicant shall reasonably require in order to confirm the expenditure of the sums paid by the Applicant under this Agreement.

## 11. THIRD PARTIES

The Contracts (Rights of Third Parties) Act 1999 shall not apply to any of the provisions of this Agreement

## 12. CONDITIONALITY

This Agreement is conditional upon:

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

save for the provisions of (Clauses legal costs clause jurisdiction and delivery clauses and any other relevant provisions) which shall come into effect immediately upon completion of the Agreement

## 13. DISCHARGE OF OBLIGATIONS

At the written request of the Applicant the City Council/County Council shall provide written confirmation of the discharge of the obligations contained in this

agreement when satisfied that such obligations have been performed

**14. NO WAIVER**

No alteration in the terms of this Agreement nor any forbearance or forgiveness on the part of the City Council or the County Council in or in the extent or nature of any matter or thing concerning this Agreement shall in any way release the Applicant from any liability under this Agreement

**15. NO FETTER**

Nothing in this agreement shall prejudice or affect the rights powers duties and obligations of the City Council or the County Council in the exercise of their respective functions in any capacity

**16. VAT**

All consideration given in accordance with the terms of this Agreement shall be exclusive of any value added tax properly payable

**17. JURISDICTION**

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

**18. DELIVERY**

The provisions of the Agreement (other than this clause which shall be of immediate effect) shall be of no effect until this Agreement has been dated.

**IN WITNESS** whereof the parties have executed this Agreement as a deed on the day and year first before written

**SCHEDULE ONE**  
**APPLICANT'S COVENANTS WITH THE CITY COUNCIL**

**1. THE CITY COUNCIL'S COSTS**

- 1.1 To pay to the City Council on completion of this Agreement the City Council's legal and planning costs of this Agreement
- 1.2 To pay the City Council within 21 days of completion of this Agreement the sum of (x) as a contribution towards the cost of administering and managing the Agreement (including the payments further to this agreement)

**2. NOTIFY THE CITY COUNCIL OF COMMENCEMENT OF DEVELOPMENT**

To notify the City Council within 14 days of Commencement of the Development that commencement has taken place

**3. NOTIFY THE CITY COUNCIL OF PAYMENT**

Promptly on payment of each of the County Contributions to the County Council to so notify the City Council in writing

**4. NOTIFY THE CITY COUNCIL OF DISPOSAL OF LAND**

To give the City Council written notice of any disposal of the Applicant's interest

in the Land (other than disposals of individual dwellings) and of the name and address of the new owner and the date of disposal within 14 days of such disposal

**5. INSERT DEFINITION OF ANY FINANCIAL CONTRIBUTION**

Not to cause or permit Commencement of the Development (or any other trigger for payment) until it has paid the (insert definition of any financial) Contribution to the City Council.

**6. INSERT ANY APPROPRIATE CITY COUNCIL ON-SITE MEASURES**

**SCHEDULE TWO**  
**APPLICANT'S COVENANTS WITH THE COUNTY COUNCIL**

**1. THE COUNTY COUNCIL'S COSTS**

1.1 To pay to the County Council on completion of this Agreement the County Council's legal costs of this Agreement

1.2 To pay the County Council within 21 days of completion of this Agreement the sum of (x) as a contribution towards the cost of administering and managing the Agreement (including the payments further to this agreement)

**2. NOTIFY THE COUNTY COUNCIL OF COMMENCEMENT OF DEVELOPMENT**

To notify the County Council within 14 days of Commencement of the Development that this has taken place

**3. NOTIFY THE COUNTY COUNCIL OF DISPOSAL OF THE LAND**

To give the County Council written notice of any disposal of his interest in the Land (other than disposals of individual dwellings) and of the name and address of the new owner and the date of the disposal within 14 days of such disposal

**4. COUNTY CONTRIBUTIONS**

Not to cause or permit the Commencement of the Development (or any other trigger for payment) until the Applicant has paid the (insert definitions of contributions payable to County Council) to the County Council

**5. INSERT ANY APPROPRIATE COUNTY COUNCIL ON-SITE MEASURES**

**SCHEDULE THREE**  
**(DRAFT CONDITIONS)**

**SCHEDULE FOUR**

**(APPLIES IF COUNTY HIGHWAY CONTRIBUTIONS OVER £20K IN VALUE)**

The County Council covenants with the City Council to discuss with the City Council the programming and expenditure of the (insert definition of any highway

sum over £20k in value) and the timescale for execution of the measures to be funded by (insert definition of any highway sum).

(amend to reflect protocol)

**THE COMMON SEAL** of **(insert title of developer)**

was hereunto affixed)

in the presence )

of:- )

**THE COMMON SEAL** of **THE OXFORD**)

**CITY COUNCIL** was hereunto affixed )

by Order of the Council in the presence )

of:- )

**THE COMMON SEAL** of **THE**)

**OXFORDSHIRE COUNTY COUNCIL**)

was hereunto affixed in the presence )

of:-

Solicitor to the Council/ Designated Officer

<b>City Council covenants insert</b>	
Affordable Housing off-site residential or commercial dev't	To use the Affordable Housing sum for the provision of affordable housing in Oxford.
Biodiversity/Relocation of species	To use the Biodiversity sum for the provision of (insert appropriate wording for the creation of a biodiversity feature).  To use the Translocation sum for the (specify plants species to be translocated) from (shown areas on plan) or to a suitable alternative site (add any further specification).
Maintenance	To use the Public Open Space/Biodiversity/Play Area/maintenance sum for the future maintenance of the (insert as appropriate)
Public Art	To use the Public Art sum for the provision of a work of art on the development site or in the vicinity of the site. The contribution may be used to cover any relevant costs including (but not limited to) those associated with project management commissioning fabrication installation and on-going maintenance (and if appropriate)  To prepare the site for the Work(s) of Art as agreed with the City Council up to a maximum value of £x."
Public Open Space/Park/ Ecology/Play Area/Sports Grounds/ Indoor Sports Facilities/ Community Facilities Allotments (off-site provision)	To use the Public Open Space/Park/Ecology area sum/Play Area sum/Sports Grounds sum/Indoor Sports Facilities sum/Community Facilities sum/Allotments facilities sum (insert as appropriate) for the provision or enhancement of public open space/ facilities (insert as applicable) in the vicinity of the site.

<b>City or County Council covenants insert</b>	
Environmental Improvements/ tourist information signs	To use the Environmental Improvements sum for environmental improvements in the (specify location)
Park and Ride	To use the Park and Ride sum for the provision of Park and Ride facilities and related measures.

<b>County Council covenants insert</b>	
Bus Service and Bus Priority Measures	To use the Bus Service and Facilities sum for the provision of or improvements to bus services bus priority measures passenger access which may include bus shelters and real time information systems and waiting facilities (or any other measures that achieve similar benefits).
Controlled Parking Zone	To use the Controlled Parking Zone sum for the design promotion (and if applicable) implementation administration of a controlled parking zone in the vicinity of the development (or any other alternative which achieves similar benefits)
Education Facilities	To use the Education sum for the provision of education facilities for (insert a specific early years facility primary school secondary school sixth form or special education needs facilities as appropriate) (or any alternative which achieves similar benefits).
Infrastructure measures	To use the Waste Recycling Centres/Museum Records Centre/Day Care facility for adults/Youth Service/Fire hydrant sum for the costs of the provision of waste recycling centres (or insert as appropriate) serving the Development (or any alternative which achieves similar benefits).
Library Facilities	To use the Library sum for local library infrastructure which may include (insert a specific local library and/or the Westgate Central library if appropriate) and the mobile library service (or any alternative which achieves similar benefits).
Pedestrian and Cycle Routes (provision of specific off-site routes)	To use the Pedestrian and Cycle Routes sum the provision of (specify a particular route) (or any other alternative measures that achieve similar benefits)
Pedestrian and Cycle Facilities or Motorbike parking (off-site)	To use the Pedestrian and Cycle Facilities/Motorbike parking sum for cycle and pedestrian facilities in the vicinity of the development (or any other alternative measures that achieve similar benefits).
Transport Measures	To use the Transport sum for (insert specific transport improvement measures identified) for improvements to transport facilities in the vicinity of the site (or any other alternative measures that achieve similar benefits).
Transport Measures in General (multi-purpose contributions)	To use the Transport sum for infrastructure measures to improve access to the land by means other than private cars and/or mitigate the impact of the development which may include Park and Ride schemes public transport provision measures to facilitate cycling and/or walking and the design introduction administration and enforcement of car parking and traffic management in the vicinity of the land (or any alternative which achieves similar benefits).

<b>City Council on-site measures</b>	
Affordable Housing on-site	<p><b>DEFINITIONS AND INTERPRETATION</b></p> <p><b>Affordable Housing definition</b>  ‘Affordable Housing’ means dwellings at a rent or price that can be afforded by people who are in housing need and would otherwise be accommodated by the City Council</p> <p><b>Affordable Housing Units definition – outline application</b>  ‘Affordable Housing Units’ means dwellings:  built to be in accordance with the City Council’s Supplementary Planning Document on Affordable Housing in terms of dwelling size and type and not occupied unless they are either:  <b>(if rented)</b>  (a) let at weekly rents both for initial lettings and relets which do not exceed the relevant Housing Corporation capped rent all set in accordance with Housing Corporation guidance and in terms complying with the Housing Corporations Assured Tenants’ Charter or equivalent  or  <b>(if shared ownership)</b>  (b) disposed of on a long term shared ownership lease with the initial equity share of no more than 25% of the open market value of the dwelling and rents set at no more than 2.75% of the unsold equity</p> <p>and only those persons nominated in accordance with the Nominations Deed or the partnership Agreement and Common Housing Register shall occupy the Affordable Housing Units.</p> <p>50% of the Residential Units shall be provided on the Affordable Housing Land. No Affordable Housing Units shall be provided other than 80% Social Rented Housing and 20% Shared Ownership</p> <p><b>Affordable Housing Units definition - full or reserved matters application</b>  ‘Affordable Housing Units’ means dwellings to be constructed on that part of the Development shown ‘x’ on the Plan comprising: (add list of affordable housing units by plot reference and bedroom/person numbers distinguishing units for rent and shared ownership). The Affordable Housing Units shall not occupied unless they are either:  <b>(if rented)</b>  (a) let at weekly rents both for initial lettings and relets which do not exceed the relevant Housing Corporation capped rent all set in accordance with Housing Corporation guidance and on terms complying with the Housing Corporation Assured Tenants’ Charter or equivalent  or  <b>(if shared ownership)</b></p>

(c) disposed of on a long term shared ownership lease with the initial equity share of no more than 25% of the open market value of the dwelling and rents set at no more than 2.75% of the unsold equity

and only those persons nominated in accordance with the Nominations Deed or the partnership Agreement and Common Housing Register shall occupy the Affordable Housing Units

#### **Affordable Housing Land**

'Affordable Housing Land' means the land approved by the City Council for the construction of the Affordable Housing Units

#### **Common Housing Register**

'Common Housing Register' means a partnership between Oxford City Council and a RSL who provides homes in Oxford and contains a list of people who want a dwelling in Oxford

#### **Nominations Deed**

'Nominations Deed' means the Nominations Deed substantially in the form annexed

#### **Partnership Agreement**

'Partnership Agreement' means a framework for the partnership working between Oxford City Council and a RSL operating in Oxford City specifically in relation to the operation of a Common Housing Register and the allocation of social rented housing

#### **Residential Unit**

'Residential Unit' means a building designed for residential occupation by a single household and includes a Residential Unit built as an Affordable Housing Unit

#### **Registered Social Landlord**

'RSL' means a registered social landlord as defined by the Housing Act 1996 and registered as such by the Housing Corporation in accordance with that Act

### **SCHEDULE ONE** **(APPLICANT'S COVENANTS)**

#### **RESTRICTION ON USE OF LAND**

Not to use the Land on which the Affordable Housing Units are to be constructed (or any part thereof) other than for the purpose of providing the Affordable Housing Units. No Affordable Housing Units shall be occupied other than by a person nominated under the terms of a Nomination Deed in force or in accordance with the Partnership Agreement and Common Housing Register.

### **PARTNERSHIP AGREEMENT AND BUILDING CONTRACT**

**FOR AFFORDABLE HOUSING REQUIRED BEFORE COMMENCEMENT OF DEVELOPMENT**

Not to cause or permit Commencement of Development until the Applicant has procured that a RSL has:

1. entered into the Partnership Agreement with the City Council or any other similar agreement
- 2 entered into a building contract with the Applicant in respect of the Affordable Housing Units and
- 3 provided the City Council with a copy of the building contract referred to in paragraph **(insert para number of the sub-clause above)** such copy to be certified a true copy by a Solicitor
- 4 obtained the approval of the City Council to a programme and timetable for the provision of the Affordable Housing Units and to the location type cost standard size and level of servicing of and allocation of responsibility of the cost of such units

**CONSTRUCTION OF AFFORDABLE HOUSING UNITS**

To procure that the Affordable Housing Units are constructed to the standard required to at least meet the provisions of the:

- 1 Latest Housing Corporation Scheme Development Standards as may be current at Commencement of Development
- 2 Lifetime Homes Standards (Joseph Rowntree Foundation) 2000
- 3 Eco Homes Standard 'Excellent' (EcoHomes: The environmental rating for homes BRE April 2000 or subsequent update)
- 4 Energy Efficiency Best Practice in Housing (Energy Efficiency Best Practice in Housing Energy Saving Trust July 2003 or subsequent update)

**SALES OF AFFORDABLE HOUSING TO RSL**

There shall be no legal completion of the sale of more than 50% of the Residential Units comprised within the Development excluding the Affordable Housing Units until:

- 1 the Affordable Housing Units have been fully constructed and are finished ready for immediate occupation  
**(amend as applicable if scheme does not involve flats)**
- 2 the Leasehold interest of those Affordable Housing Units which are flats has been transferred to a RSL on a term of not less than 130 years and the freehold interest of those Affordable Housing Units which are houses has been transferred to a RSL in accordance with the Form of Transfer below

**FORM OF TRANSFER**

The Transfer by the Applicant to the RSL pursuant to paragraph **(x)** of this Schedule shall be prepared by the Applicant's solicitors at the cost of the Applicant and shall contain inter alia:

- 1 the grant by the Applicant to the RSL of all rights of access and passage of services and other rights reasonably necessary

	<p>for the beneficial enjoyment of the Affordable Housing Units</p> <p>2 a reservation of all rights of access and passages of services and rights of entry reasonably necessary for the beneficial occupation and enjoyment of the Affordable Housing Units</p> <p>3 such other reasonable covenants as the RSL and Applicant may each reasonably require to procure the occupation of the Affordable Housing Units</p>
<p>Affordable Housing - Staff Accommodation</p>	<p><b>DEFINITIONS AND INTERPRETATION</b></p> <p><b>Staff Accommodation definition – outline application</b>  ‘Staff Accommodation’ means dwellings for (insert specific categories of employees to be entitled to occupy the dwellings) and shall not be occupied unless they are either:  <b>(if rented)</b>  (a) let at weekly rents both for initial lettings and relets which do not exceed the relevant Housing Corporation capped rent all set in accordance with Housing Corporation guidance and on terms complying with the Housing Corporations Assured Tenants’ Charter or equivalent  or  <b>(if shared ownership)</b>  (b) disposed of on a long term shared ownership lease with the initial equity share of no more than 25% of the open market value of the dwelling and rents set at no more than 2.75% of the unsold equity</p> <p><b>Staff Accommodation definition - full or reserved matters application</b>  ‘Staff Accommodation’ means dwellings for (insert specific categories of employees to be entitled to occupy the dwellings) and shall not be occupied unless they are either:  <b>(if rented)</b>  (a) let at weekly rents, both for initial lettings and relets, which do not exceed the relevant Housing Corporation target rent, all set in accordance with Housing Corporation guidance and on terms complying with the Housing Corporations Assured Tenants’ Charter or equivalent  or  <b>(if shared ownership)</b>  (c) disposed of on a long term shared ownership lease with the initial equity share of no more than 25% of the open market value of the dwelling and rents set at no more than 3% of the unsold equity</p> <p><b>Key Workers definition:</b>  ‘Key Worker’ means a person employed in a front line role delivering an essential public service where there are serious</p>

	<p>recruitment and retention problems and in a group recommended for inclusion by the Regional Housing Board</p> <p><b>Staff Accommodation Units definition - Outline application</b>          ‘Staff Accommodation Units’ means 80% of the Residential Units that are to be provided on the Staff Accommodation Land as Staff Accommodation (insert % of mix of Social Rented Housing and Shared Ownership Housing and if appropriate the number of self-contained dwellings and accommodation with shared facilities)</p> <p><b>Staff Accommodation Units definition - full or reserved matters</b>          ‘Staff Accommodation Units’ means the dwellings to be constructed on that part of the Development shown x on the Plan comprising:          (add list of Staff Accommodation units by plot reference and bedrooms person numbers distinguishing whether they are to be self-contained or accommodation with shared facilities)</p> <p><b>Staff Accommodation Housing Units definition</b>          ‘Staff Accommodation Housing Units’ means the dwellings to be constructed on that part of the Development shown ‘x’ on the Plan comprising:          (list details &amp; numbers of key worker units/other service provider units)          for occupation solely by a household that includes at least one person who is eligible for key worker housing under any agreement between his or her employer the Council and a RSL</p> <p><b>Staff Accommodation Land</b>          ‘Staff Accommodation Land’ means the land approved by the City Council for the construction of the Staff Accommodation Units</p> <p>Definitions for: Residential Unit, Registered Social Landlord will be the same as for on-site Affordable Housing but substituting the words ‘Affordable Housing’ for ‘Staff Accommodation’.</p> <p><b><u>SCHEDULE ONE</u></b>  <b><u>(APPLICANT’S COVENANTS)</u></b>          (This would contain the same clauses as above but substituting the words ‘Affordable Housing’ for ‘Staff Accommodation’ and adjusted as appropriate).</p>
<p>Affordable Housing Commercial Development providing land on-site</p>	<p><b>Restriction on use of Land</b> – Not to use the land on which Affordable Housing Units are to be constructed (or any part thereof) other than for the purpose of providing the Affordable Housing Units.</p> <p><b>Transfer of Land Within the Development for Affordable</b></p>

	<p><b>Housing</b> – Prior to commencement of the development the Applicant shall transfer the Land (shown ‘x’ on the Plan) to the RSL and the transfer shall be prepared by the Applicant’s solicitors at the cost of the Applicant and shall contain inter alia:</p> <ol style="list-style-type: none"> <li>1. the grant by the Applicant to the RSL of all rights of access and passage of services and other rights reasonably necessary for the beneficial enjoyment of the Affordable Housing Units;</li> <li>2. a reservation of all rights of access and passages of services and rights of entry reasonably necessary for the beneficial occupation and enjoyment of the Affordable Housing Units;</li> <li>3. such other reasonable covenants as the RSL and Applicant may each reasonably require to procure the occupation of the Affordable Housing Units.</li> </ol>
<p>Biodiversity (on-site)</p>	<p><b>Applicant to Create New Habitat</b>          To submit to the City Council (specify time period) a written scheme together with appropriate plans for the management and maintenance of the (title of new habitat) scheme to be approved by the City Council in writing (the Approved Scheme) and for the scheme to provide for (insert details of scheme). To complete any works necessary under the Approved Scheme within (insert timescale) of receipt of written approval from the City Council.</p> <p>To implement immediately on completion of the said works the methods under the Approved Scheme to manage and maintain the (title of habitat) and thereafter not to make any substantial changes to any works carried out under nor to the management under the Approved Scheme without the prior written consent of the City Council such consent not to be unreasonably withheld or delayed.</p> <p>If the Applicant fails at any time to manage the Approved Scheme or maintain it then the City Council may serve written notice on the Applicant specifying the remedial steps to be taken to ensure that the terms of the Approved Scheme are complied with and specifying a reasonable period within which such remedial steps must be taken and if the Applicant shall fail to comply with that remedial notice the Applicant will permit the City Council to carry out the works required to remedy any default and to charge the cost of such works to the Applicant.</p> <p><b>Management of Habitat</b>          From henceforth to manage the area of nature conservation interest in perpetuity in accordance with the provisions of the Schedule (insert schedule describing the specific characteristics of the habitat and the measures required for the management of the areas).          That no substantial changes to management of the site will be made without the written consent of the City Council such consent</p>

	<p>not to be unreasonably withheld.</p> <p>To allow representatives of the City Council to visit the site on prior written request to ensure that the terms of the agreement are being complied with and to permit a member of the City Council's staff to visit the site at least once a year on prior notice. If the Applicant shall fail to maintain the site in accordance with the terms of this Agreement then except in case of emergency the City Council may serve written notice on the Applicant specifying remedial steps to be taken and specifying a reasonable period within which such steps must be taken. If the Applicant shall fail to comply with that notice or in case of emergency the Applicant will permit the City Council to carry out the works required to remedy the default and to charge the cost thereof to the Applicant.</p>
Play area (on-site provision)	<p>Not to cause or permit (insert a fixed amount of development) to be occupied before the Applicant has at its own expense constructed the Play Area in accordance with a specification to be agreed with the City Council in writing (insert a fixed period) and to keep the Play Area in a tidy and well maintained condition until it is transferred to the City Council.</p> <p>Within (insert time period) of completion of the Play Area to transfer the Play Area to the City Council for the sum of £1 (one pound)</p>
Public Art	<p><b>Public Art on-site:</b> Before development commences, a scheme shall be agreed for Public Art to a value of £x on the land identified on the approved plan (or such location as may otherwise be agreed in writing with the City Council). The development shall be undertaken in accordance with the details as approved and Public Art shall be provided (before the building is brought into use/before the xth residential unit is occupied/before x percentage of the development is complete)</p> <p>Thereafter the Public Art to be maintained in a clean and tidy condition in perpetuity or until decommissioned. The Public Art may not be decommissioned before [date] without the prior approval of the City Council.</p>
Public Open Space (on-site provision)	<p>The Applicant covenants with the City Council that from the Open Space Date the Open Space Land shall at all times be available for use by members of the public as open space as defined in the Open Space Act 1906 provided that this shall not inhibit the installation and maintenance of service media beneath the Open Space Land.</p> <p>The City Council will if so notified in writing by the Applicant following the Open Space Date and subject to the condition of the Open Space Land according with the landscape management</p>

	<p>plan approved by the City Council accept a transfer of Open Space Land as set out in THE SCHEDULE at a nominal consideration of £1 and on completion of the transfer of the Open Space Land the Applicant shall pay to the City Council the Maintenance Contribution (index linked)</p> <p>THE SCHEDULE</p> <p>Terms of agreement for transfer of the Open Space Land</p> <p>1 The Standard Conditions of Sale (3<sup>rd</sup> Edition) shall apply insofar as they are not varied by or inconsistent with the provisions of this Schedule.</p> <p>2 The Open Space Land will be transferred subject to the following but otherwise free from encumbrances.</p> <p>2.1 All local land charges whether registered or not before the date of this Agreement and all matters registerable or capable of registration as local land charges (whether or not actually registered).</p> <p>2.2 All notices charges orders resolutions demands regulations restrictions agreements directions entries proposals requirements or other matters affecting or relating to the Open Space Land given or made by a Government department statutory undertaker or other public body or local authority or arising under any enactment or any regulation or order made under any enactment.</p> <p>2.3 All rights easements quasi easements exceptions privileges or other similar matters whether or not apparent on inspection or disclosed in any of the documents referred to in this Agreement.</p> <p>2.4 The matters contained or referred to in the registers of Title No "x" and the provisions of this Agreement the Council shall not raise requisitions in respect of any such matters.</p> <p>3 Title of Open Space Land shall be deduced in accordance with Section 110 of the Land Registration Act 1925.</p> <p>4 The transfer of Open Space Land shall:-</p> <p>4.1 Except and reserve such easements rights and privileges as may reasonably be required by the Applicant for the satisfactory and comprehensive development of the remainder of the Open Space Land and its future enjoyment.</p> <p>4.2 Contain covenant by the City Council with intent to bind so far as legally may be the City Council and its successors in title and assigns owners and occupiers of the Open Space Land and each</p>
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	<p>and every part of it not to use the Open Space Land other than for open space purposes as defined in the Open Space Act 1906.</p> <p>2.1 Contain an indemnity by the City Council in favour of the Applicant in respect of any liability for any future breach of the provisions of the documents referred to in paragraph '2.4' above insofar as they affect the Open Space Land and are still subsisting and capable of taking effect.</p> <p>3 The transfer of Open Space Land will be with vacant possession.</p> <p>4 The transfer of the Open Space Land will be completed 28 days from Applicant giving notice pursuant to Clause "4.2" of this Agreement. (Similar wording will be applied for the transfer of land for other City Council functions eg Community Centres)</p>
<p>Student Numbers</p>	<p>The applicant covenants with the City Council that upon completion of the development:</p> <ol style="list-style-type: none"> <li>a. Not to enrol or allow to attend the completed development more than "x" students at any given time; and</li> <li>b. Provide the City Council upon written request on an annual basis certification of the number of students enrolled with the (specify organisation).</li> </ol>
<p>Travel Plans</p>	<p><i>For outline applications or applications for speculative development, where the full Travel Plan has not been agreed at the time of determination of the planning application but information for preparing an outline Travel Plan is available:</i></p> <p>The development shall not be commenced until a Full Travel Plan has been submitted to and approved in writing by the City Council, such Full Travel Plan to accord with any previously approved outline Travel Plan and to include the following together with a timetable for the implementation of each such element:</p> <ul style="list-style-type: none"> <li>• appointment of a Travel Plan co-ordinator (to include their role, responsibilities and line management)</li> <li>• background information (to include proposed employment patterns and types, visitor numbers, and anticipated travel patterns)</li> <li>• specific, measurable, achievable, realistic and time bound targets</li> <li>• demonstration of effective marketing amongst existing and future staff and visitors</li> <li>• demonstration of adequate resourcing for programme of measures proposed</li> <li>• demonstration of the support of senior management</li> <li>• include specified incentives for meeting targets</li> <li>• specify actions to remediate any deviation from targets</li> <li>• incentives to meet targets</li> </ul>

	<ul style="list-style-type: none"> <li>• means of monitoring progress against targets (to specify method and frequency of monitoring)</li> <li>• method and frequency of reporting of results to the City Council</li> <li>• requirement for actions to address any deviation of progress against target</li> </ul> <p>The Full Travel Plan shall also contain a set of objectives, to include positive support for sustainable travel, and reductions in the need to travel by private car.</p> <p>No part of the development shall be occupied prior to implementation of the Full Travel Plan (or implementation of those parts identified in the Full Travel Plan as capable of being implemented prior to occupation). Those parts of the Full Travel Plan that are identified therein as being capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied.</p> <p>[The clause may contain financial sanctions for non-compliance with the Full Travel Plan if appropriate]</p> <p><i>Where the Travel Plan has been submitted with the planning application and agreed by the City Council:</i></p> <p>No part of the development shall be occupied prior to implementation of the Approved Travel Plan (or implementation of those parts identified in the Approved Travel Plan as capable of being implemented prior to occupation). Those parts of the Approved Travel Plan that are identified therein as being capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied.</p> <p>[The clause may contain financial sanctions for non-compliance with the Approved Travel Plan if appropriate]</p>
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<b>On-site measures – City or County</b>	
Pedestrian and Cycle Routes (on-site)	<p>Not to cause or permit the (completion of a specific proportion of the development) until the completion of construction of an ‘x’ metre wide cycle/pedestrian link (insert where from and to and refer to plan) in accordance with the specification contained in Schedule “x” to this Agreement.</p> <p>(Specification Schedule to include thickness of sub-base and top</p>

	<p>surface) or for route to be constructed to the standard for adoption by the County Highway Authority.</p> <p>Dedication of route to make available land shown (specify area on plan “x”) for the construction of a cycle/pedestrian route if requested by the County Highway Authority.</p> <p>On completion of the Development and thereafter to make the cycle/pedestrian link shown as Route “x” on Plan “x” available for public use daily between the hours of “x” and not to prevent public access other than with the prior written agreement of the County/City Council or in the case of an emergency adversely affecting members of the public and/or public safety the prevention of such access is to be limited to such period as is reasonably necessary at the discretion of the Applicant and/or the County/City Council.</p> <p>To keep the Pedestrian Route free of impediments and in a safe condition.</p> <p>At its own expense to implement and maintain the Pedestrian Route Maintenance Programme.</p> <p><b>Pedestrian Route Maintenance Programme</b></p> <p>The Pedestrian Route shall be constructed in accordance with the Planning Permission and shall be maintained as follows:</p> <ul style="list-style-type: none"> <li>• it shall be kept free of debris at all times</li> <li>• it shall be swept at least ‘x’ in every year</li> <li>• it shall be kept weeded and free of weeds by spraying with a DEFRA approved weedkiller</li> <li>• it shall be kept free of overhanging vegetation and such vegetation shall be cut back at least (insert frequency) a year</li> <li>• the surface of the path shall be renewed at least once every ‘x’ years from the date of completion of the Development</li> <li>• the surface of the path to be kept fit at all times for the purpose of its use as a Pedestrian Route.</li> </ul>
<p>Sports Facilities Indoor/ Outdoor – Joint use agreement for public access</p>	<p>The Applicant covenants not to occupy the Development until the Owner has entered into a Community Access Package with the City Council (and the County Council) and to obtain the City/County Council’s consent and approval to the Community Access Package such consent not to be unreasonably withheld or delayed. The Community Access Package shall provide for local groups (and schools) to have access to the Development for the use of the (insert details of the part of the building to be included in the Community Access Package). Times and rates for the use shall also be contained in the Community Access Package.</p>

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- and -

**OXFORD CITY COUNCIL**

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**NOMINATIONS AGREEMENT FOR**

Units at • Oxford

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File Ref:•

Jeremy Thomas

Legal and Democratic Services Manager

Oxford City Council

The Town Hall

Blue Boar Street

Oxford

OX1 4EY

**THIS AGREEMENT** is made the                      day of                      200•

**BETWEEN**

(1) • whose registered office is situate at • ("the Association")  
and

(2) **THE OXFORD CITY COUNCIL** of The Town Hall Blue Boar Street Oxford OX1 4EY ("the Council")

**WHEREAS:**

(A) The Council is a Local Authority for the purposes of the Local Government Act 1972 and a Local Housing Authority for the purposes of Part I of the Housing Act 1985

(B) The Association is a registered social landlord within the meanings of Sections 1 and 2 of the Housing Act 1996

**NOW THIS DEED WITNESSES** and it is agreed as follows:Definitions

1. "Extension" means such extension of time as is reasonably necessary for the carrying out of the Project in accordance with the provision contained in the Building Contract or otherwise for any reasons outside the reasonable control of the Association for which the Association has used in the opinion of the Council acting reasonably all reasonable endeavours to avoid and/or minimise
2. "the Land" means all that freehold land situated at • as the same is shown edged red on the plan annexed hereto
3. "Nomination Rights" shall mean the right granted by the Association to the Council to nominate in accordance with this agreement
4. "Practical Completion Date" means the date on which the Units on the Land are structurally complete and ready for residential occupation such date to be certified by the Association's employers agent
5. "the Project" means the development of • units and buildings reasonably ancillary to a residential development for the purposes of providing social housing at affordable rents
6. "Units" shall mean the • units for residential occupation constructed on the Land being *[insert unit types]*

The Agreement

1. The Association covenants with the Council that:-
  - 1.1 The Association shall construct or procure the construction on the Land of • units being *[insert unit types]* with the intention of providing affordable housing to rent and to complete the same by • subject to any Extension in accordance with the planning permission reference • and issued by the Council as local planning authority and to ensure all construction is carried out in a good and workmanlike manner in accordance with the recommended practices of the Housing Corporation
  - 1.2 The Association grants to the Council the right to nominate tenants for a period of sixty years or the normal and economically viable lifetime of the Units whichever is the longer on the basis of 100% nominations to all new lettings and 75% of subsequent re-lettings of all Units
2. The Nomination Rights shall be exercised from the Practical Completion Date by the Council in accordance with the agreed practice of the Council as set out in the "Procedures for Council Nominations to Housing Association Properties" a copy of which is in Schedule A annexed to this Agreement and which may

only be varied by agreement between the Council and the Association which agreement shall be evidenced in writing and signed by both parties

3. No liability shall devolve on the Council to reimburse the Association for any loss of rent or service charge or for any legal or other costs or fees or any other expenses incurred by the Association arising from or in any way connected with exercise of the Nomination Rights
4. THE Association AGREES with the Council that during the period of this Agreement the Association will not dispose of the Land or any part of it except:-
  - 4.1 in accordance with the provisions of this Agreement
  - 4.2 by way of mortgage or legal charge to a lender ("the Lender") assisting with the funding of the development or any future refinancing of the development and such lender shall be approved in writing by the Housing Corporation
  - 4.3 to a purchaser or transferee who is a registered social landlord within the meaning of the Housing Act 1996 who is willing to enter into an agreement on similar terms to this Agreement insofar as such obligations remain to be observed and performed and prior to any such disposal the Association must seek the written consent of the Council such consent not to be unreasonably withheld or delayed

AND for the avoidance of doubt it is confirmed that the terms of this Agreement shall not be binding upon the Lender or any person acting by under or through the Lender or any tenant exercising the right to acquire under Part 1 of the Housing act 1996
5. Should the monitoring procedure provided for in the Policy and set out in Schedule B to this Agreement reveal that the Nomination Rights granted to the Council by this Agreement and exercised over the Units have not been provided then the Council shall be entitled to serve notice on the Association detailing the alleged breach and if the Association is unable to provide evidence of good reason why the Nomination Rights were not made available to the Council within 28 days of service of the notice alleging the breach time being of the essence (and good reason shall include where the Association has been unable to provide the Nomination Rights for reasons set out in paragraph 1.2 of Schedule A or where the Association has served written notice on the Council that the Council did not provide a nomination within the agreed timescale and such failure to comply with the timescale is proven) then the Council shall be entitled to charge the Association a sum not exceeding £5,000 per Nomination Right.
6. The £5,000 will be indexed by a sum equivalent to the annual percentage increases in the rents on the Land between the period of the first letting and the point of failure to honour the nominations obligations less the proportion equal to the number of years out of 60 that the Nomination Right has been exercised by the Council and this penalty shall be paid on each occasion that a unit is not allocated in accordance with this Agreement and shall be recoverable as a liquidated debt on demand
7. For the avoidance of doubt the sum payable by the Association to the Council under clause 5 above shall be payable on each and every occasion that the Nomination Rights are not provided in accordance with this Agreement
8. The Association will adopt Housing Corporation guidance on tenant consultation and will fully comply with the Housing Corporation's policies and

- procedures in relation to the promotion of equal opportunities
9. The Association agrees that the initial net rent for the social rented units shall not exceed the relevant Housing Corporation capped rent and only be increased from 1<sup>st</sup> April each year, all set in accordance with Housing Corporation guidance
  10. The Association will use its reasonable endeavours to keep all its costs in relation to the Project to a minimum so that in turn the service charges in relation to the Development are kept to a minimum (having regard to the needs and expectations of residents and prospective residents) and it will consult with the Council on how to achieve this
  11. The Association will pay to the Council an administration fee calculated on the basis of 0.5% multiplied by the sum of the land value plus the outturn construction cost such payment to be made on the date of this agreement
  12. In the event that any difference arises between the parties with regard to this deed such dispute shall in the first instance be referred to the Chief Executive of the Association and the appropriate Strategic Director of the Council or their nominees who shall meet and attempt to resolve the dispute within 14 days from the date of such referral
  13. If such dispute cannot be resolved as provided for in clause 11 above then the dispute shall be referred to the determination of a person chosen by the Chief Executive for the time being of the Chartered Institute of Housing and such person so chosen shall act as an expert and not as an arbitrator but shall consider written representations made to him/her by the parties and the costs of such persons shall be borne as s/he may determine
  14. NOTHING contained or implied in this Agreement shall prejudice or affect the Council's rights powers duties and obligations in the exercise of its functions as a local authority and the same may be as fully and effectually exercised in relation to the dwellings constructed on the Site as if this Deed had not been executed by it
  15. This Agreement contains all the terms expressly agreed between the parties in respect of the exercise of the Nomination Rights and shall only be varied in writing and signed by both parties or on their behalf provided that this Agreement may be varied by the Council or the Association where such variation is required by statute order bye-law or statutory instrument or is a change imposed by the Housing Corporation or its statutory successor.
  16. ANY written communication or notice required by this Deed to be served on the Council shall be deemed to have been received if addressed to the Legal Services Manager at The Town Hall Blue Boar Street Oxford OX1 4EY and sent to him by postal recorded delivery service and any written communication required to be sent to the Association shall be addressed to its Chief Executive and shall be deemed to have been received by him if addressed to him at the address of the Association above written and sent to him by postal recorded delivery service
  17. IN this Deed the expressions "the Association" and "the Council" shall include their respective successors and assignees and where the context admits the singular shall include the plural and the masculine include the feminine and vice versa

The parties to this Agreement have executed this Deed the day and year first set out above in this Agreement

**SCHEDULE A**  
The Procedures for Council Nominations to  
Housing Association Properties

**1. Nominations Rights Policy**

1.1 This schedule applies to all categories of properties on the basis of 100% of initial lettings and 75% of relets

The housing associations shall use the remaining 25% for priority transfers within the Association's stock within the administrative district of Oxford set out in paragraph 1.2 below save for 1.2(e) (f) and (g) which applies outside the boundary

The period: nominations will be monitored over each period of twelve months commencing 1st April in each year

Where a special scheme results in specific negotiated rights those rights will take precedence over the provisions agreed here but where time limited and in default of any new agreement this policy will apply at the end of the special arrangements.

1.2 The following may be used for the Association's 25% but these categories will be subject to review by the parties in the interests of good housing management practice and are not in any order of priority:

(a) where the Association has a case of serious overcrowding in accordance with the Association's policy

(b) where the Association has a case of major repair, which requires the decanting of the tenants while the repairs are carried out;

(c) where the Association has an urgent need to transfer a tenant because of any:

(i) general harassment/abuse which may be racial sexual (including domestic violence), sexual orientation or due to physical disability

(ii) health grounds

(iii) serious nuisance

(v) moves to be near work or give/receive support

(d) where a household is under-occupying its existing property and in the interests of good management of housing stock should be transferred

(e) where a household is rehoused through the HOMES mobility scheme

(f) inter association transfers within the administrative district of Oxford or own stock transfers from outside the administrative district of Oxford

(g) any other person or case or any group of people agreed by the Council and the Association from time to time

1.3 In determining the number type and size of relets made available to each agency, the Council and the Association will endeavour through the monitoring process to ensure that the relative overall percentages are maintained and patterns of identified housing need are reflected

- 1.4 If the Association does not have any tenants or other persons falling in the categories set out in 1.2 then the letting will be offered to the Council in any event
- 1.5 If the Association considers that 25% is insufficient allocation for the Association to deal with the issues set out in 1.2 the Association shall produce evidence as to why it is insufficient and may approach the Council who will act reasonably in accordance with good housing management practice in considering whether to allow an increased percentage and no penalty will be payable to the Council if the percentage is increased in line with this paragraph
- 1.6 The parties will agree a standard format of information to be provided by the Council for all nominations and the Council and the Associations agree to share all information relevant to the nomination in order to ensure a suitable letting in accordance with Housing Corporation Social Housing Standard F1.3 (December 1999 edition) namely:-
- (a) the reasonable preference criteria under which the applicant has been nominated
  - (b) whether the applicant has any known care needs or provision a history of rent arrears or housing benefit fraud
  - (c) whether they have a known history of anti-social behaviour including violence towards staff
- 1.7 The consent of the client should be obtained to the disclosure of information provided that this does not increase risk

## 2. **Criteria for Selecting Nominations**

- 2.1 The Council will make reasonable endeavours to make nominations in line with its current allocation priorities.
- 2.2 The Council will consult Associations in the event of considering changes to its relative priorities and any change will be notified to the Associations.
- 2.3 Designated special needs accommodation is :
- 1. elderly cat 1
  - 2. elderly cat 2
  - 3. disabled adapted and purpose built disability dwellings
  - 4. properties for vulnerable single people
  - 5. other types of properties as agreed from time to time

The Council, upon receipt of a nomination request, will inform the Association if the vacancy is to be offered to a single vulnerable applicant, Special Needs accommodation will be nominated to in accordance with paragraph 3.2.2 and paragraph 3.5 and paragraph 3.6.

## 3. **Procedures for Nominations**

### Who is responsible

- 3.1 The Council and each Association will nominate a contact person for the purposes of the nominations procedures. The Council's Housing Management Unit will be responsible for operating the procedures from the Council side for nominations to permanent accommodation.

### Initial Lettings

- 3.2 The Associations will provide to the Council a timetable for the handover of the development to the Associations as soon as such a

timetable is available and for each phase the number and types of property to be available identified by plot and block numbers and any special requirements shall be set out together with a detailed site plan

3.2.1 The Associations will give the Council written notification to be served on such officer as is delegated by the Council to receive FORM HA1(A) at least three weeks prior to the properties over which nomination rights are to be exercised being ready for letting

3.2.2 In the case of special needs accommodation the Association will give written notification on to be served on the Council's officer at least eight weeks before the properties over which nomination rights are to be exercised are ready for letting and confirmation of the hand over taking place shall be given before it is due to take place

3.2.3 The Council will need the minimum periods of notice for an initial letting in order to provide the required number of nominations and the Association shall build those minimum notice periods into any handover timetable

### The Nominations Process

3.3 The Associations will use FORM HA1 for the purposes of informing the Council of a property which is subject to Council nomination. In order to streamline the procedure and thereby reducing void periods to an absolute minimum, the Associations will telephone, fax, electronic mail or by shared database communicate the property details to the Council's officer as soon as they are aware of a potential void which will be followed by notice of the actual void as soon as possible. If the nomination is made by telephone, the Association will forward a copy of form HA1 to the Council

3.4 The forms to be used are: HA1 - Nomination request HA2 Nomination and HA3 Nomination Outcome and the design of these forms is to be substantially as are attached in Schedule C.

3.5 In the case of general needs accommodation, the Council will have 2 working days following the Associations contact to notify the Associations of the Council's nominations. In all other cases referred to in 2.3 the Council will be required to provide nominations within 5 working days.

3.6 The Council will provide the details of up to two nominated households as specified in paragraph 3.5 for general needs and three for special needs and non-elderly singles all in priority order on Form HA2. The nominations will be provided as requested rather than in one block on the first occasion. Nominations may be made by telephone, fax or electronically via the shared database, but if the nomination is made by telephone the Council will forward a copy of FORM HA2 to the Association. The second or third nomination will be made within 24 hours unless additional time is agreed between the parties.

3.7 If the Council is unable to provide the nominations the reason for being unable to nominate must be stated on FORM HA2.

3.8 If the Council fails to comply within this time-scale on either initial lettings or relets then it will forfeit its nomination right and the Association will be entitled to let the property to any household which in

its opinion has a housing need consistent with its charitable objectives. This will result in a net loss to the Council over the year in question. The Council and the Associations may continue by agreement to work together to find a nominee and the Associations must inform the Council when the property is let. The Association will inform the Council in writing of forfeiture and will include details in the monitoring returns.

- 3.9 The Associations will return the completed FORM HA3 within two working days of the Association being aware of the outcome in the case of a withdrawal within two working days of that withdrawal. These time scales will apply on first, second and third nomination. Withdrawals are only permitted if the nomination was inappropriate as defined by the relevant criteria set out in FORM HA1 and decided in accordance with paragraph 3.10. Should the nominee refuse the offer or the Association withdraws the offer from the household due to inappropriate nomination as defined by the relevant criteria set out in Form HA1 and this has happened on the second and third (if made) nomination, then the Association will notify the Council that it intends to forfeit and will proceed to let the property to any household which in its opinion has a housing need consistent with its charitable objectives.
- 3.10 Inappropriate nomination must be decided on a tenancy related basis after relevant enquiries and information sharing and with reasons for the decision recorded on Form HA3 together with supporting evidence
- 3.11 If the parties cannot agree on whether a nomination should be withdrawn the case will be referred to and decided by the respective managers or other appropriate person in their absence within 3 working days and if still disputed the decision will be referred to the appropriate Strategic Director of the Council or such other officer as may be nominated in his place within a further 5 working days

## **SCHEDULE B**

### Monitoring

For the purposes of allocation of Nomination Rights and in order to minimise the risk that such rights are not exercised for whatever reason the Council and the Associations agree that the procedure below should be adhered to and failure to do so shall result for the Council in the loss of its right to nominate for that property on that occasion and for the Associations shall mean the financial penalty set out in clause 7 of this Agreement which shall become payable to the Council after year end when monitoring is complete

The Associations will provide to the Council in quarterly returns beginning on 21<sup>st</sup> April and subsequently on 21<sup>st</sup> April 21<sup>st</sup> July 21<sup>st</sup> October and 21<sup>st</sup> January of each year the following:

- (i) addresses of properties vacant during that period
- (ii) for those properties let during that period the source of nomination and if it was a Council nomination the Application Number taken from FORM HA2
- (iii) analysis of properties let by accommodation type and size showing the total number of nominations, the number of nominations by the Council and the Association and Association lettings by category as set out in 1.2 above

- (iv) analysis of properties let by accommodation size and type showing the ethnic origin of the households
- (v) analysis of number of lettings made to statutory homeless and non statutory homeless
- (vi) analysis of rent levels charged for each property or group of properties as appropriate

The Council and the Associations will hold a monitoring meeting at least annually or by agreement quarterly after receipt of the monitoring returns and that meeting will agree any changes or additions to referral rights or local letting plans which should be recorded in the minutes of the meeting and a copy of the minutes will be provided to each party

**SCHEDULE C**  
Approved Forms

- Form HA1 - Nomination Request
- Form HA2 - Nomination
- Form HA3 - Nomination Outcome

**THE COMMON SEAL** of )  
**THE OXFORD CITY COUNCIL** )  
was hereunto affixed by order of )  
the Council in the presence of:- )

**THE COMMON SEAL** of )  
• was hereunto )  
affixed in the presence of:- )

DATED 200

and -

OXFORD CITY COUNCIL

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NOMINATIONS AGREEMENT FOR

- Shared Ownership

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File Ref: 1

Jeremy Thomas  
Legal and Democratic Services Business Manager  
Oxford City Council  
The Town Hall  
Blue Boar Street  
Oxford OX1 4EY

THIS AGREEMENT is made the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

BETWEEN

(1) \_\_\_\_\_ whose registered office is at ("the Association")

and

(2) THE OXFORD CITY COUNCIL of The Town Hall Oxford OX1 1BX ("the Council")

WHEREAS:

1. The Council is a Local Authority for the purposes of the Local Government Act 1972 and a Local Housing Authority for the purposes of Part I of the Housing Act 1985

2. The Association is a registered social landlord within the meanings of Sections 1 and 2 of the Housing Act 1996

NOW THIS DEED WITNESSES and it is agreed as follows:

### Definitions

1. "Extension" means such extension of time as is reasonably necessary for the carrying out of the Project in accordance with the provision contained in the Building Contract or otherwise for any reasons outside the reasonable control of the Association for which the Association has used in the opinion of the Council acting reasonably all reasonable endeavours to avoid and/or minimise

2. "the Land" means all that freehold land being an area of approximately • hectares (• acres) or thereabouts situated at • as the same is shown edged red on the plan annexed hereto

3. "Nomination Rights" shall mean the right granted by the Association to the Council to nominate in accordance with this agreement

4. "Practical Completion Date" means the date on which the Units on the Land are structurally complete and ready for residential occupation such date to be certified by the Association's employers agent

5. "the Project" means the development of • units and buildings reasonably ancillary to a residential development for the purposes of providing social housing demised by way of Shared Ownership lease

6. "Units" shall mean the • units for residential occupation constructed on the Land being *[insert unit types]*

7. "SO Lease" means a lease of a Unit for a term of 99 years granted on payment of a premium calculated by reference to a percentage of the open market value of the Unit and giving the leaseholder the right to purchase a further percentage or percentages of the then open market value of the Unit upon the terms contained in the SO Lease

8. "Staircasing" means the purchase by a leaseholder or leaseholders of a Unit of further percentages of the open market value of a Unit under the terms of an SO Lease

9. "Staircasing Proceeds" means the price (net of the Association's reasonable sale expenses) paid by a leaseholder when Staircasing

### The Agreement

1. The Association covenants with the Council that:

1.1 The Association shall construct or procure the construction on the Land of • units being *[insert unit types]* with the intention of providing social housing at affordable rents and to be demised by way of Shared Ownership lease and to complete the same by • subject to any

Extension in accordance with the planning permission reference • and issued by the Council as local planning authority and to ensure all construction is carried out in a good and workmanlike manner in accordance with the recommended practices of the Housing Corporation

- 1.2. The Association grants to the Council the right to nominate tenants for a period of sixty years or the normal and economically viable lifetime of the Units whichever is the longer on the basis of 100% nominations to all new lettings and 75% of subsequent allocations of all Units by the Association subject to the completion of staircasing out
2. The Nomination Rights shall be exercised from the Practical Completion Date by the Council in accordance with the agreed practice of the Council as set out in the "Procedures for Council Nominations to Housing Association Properties" a copy of which is in Schedule A annexed to this Agreement and which may only be varied by agreement between the Council and the Association which agreement shall be evidenced in writing and signed by both parties
3. No liability shall devolve on the Council to reimburse the Association for any loss of rent or service charge or for any legal or other costs or fees or any other expenses incurred by the Association arising from or in any way connected with exercise of the Nomination Rights
4. The Association agrees with the Council that during the period of the nominations the Association will not dispose of the land on which any scheme has been developed or is being developed or any part of it except:
  - 4.1 in accordance with the terms of this agreement by way of a SO Lease
  - 4.2 by way of mortgage or legal charge to a lender ( the "Lender") assisting with funding or future funding and such lender shall be approved in writing by the Housing Corporation
  - 4.3 to a purchaser or transferee who is a registered social landlord within the meaning of the Housing Act 1996 who is willing to enter into an agreement on similar terms to this agreement and prior to any such disposal the Association must seek the written consent of the Council such consent not to be unreasonably withheld or delayed
  - 4.4 in accordance with the staircasing provisions in the SO Lease
5. The terms of this Agreement shall not be binding upon:
  - 5.1 any Lender or any Receiver appointed by a Lender or any person deriving title through the Lender
  - 5.2 any person granted an SO Lease or any successor in title to such person
  - 5.3 any mortgagee of any person as mentioned in clause 6.3 or any person deriving title through such mortgagee
  - 5.4 person who by virtue of the terms of an SO Lease is granted or has transferred to such person either a reversionary interest or a new SO Lease of a Unit
- 6 The Association shall ensure that the SO Lease contains a provision requiring a leaseholder or leaseholders wishing to assign their interest in the SO Lease to offer for a period of 2 months to sell a Unit to a person nominated by the Association (the Association having given the Council a period of fourteen days to make a nomination to it prior to exercising any rights to nominate

under the SO Lease)

7. If and when the Association has out of monies arising from the premiums received by it on the grant of the SO Leases the rents payable under the SO Leases and the Staircasing Proceeds fully repaid to the Lender all monies due and, if Social Housing Grant has been used to fund the development, has paid to the Housing Corporation (or its successor for receipt of such payments) all payments or repayments of Social Housing Grant which are required to be paid or repaid then the Association shall apply all or the balance of any subsequent Staircasing Proceeds for and towards the provision of affordable housing within the administrative district of Oxford in full consultation with the Council and on schemes and projects approved by the Council
8. In the event that any difference arises between the parties with regard to this deed such dispute shall in the first instance be referred to the Chief Executive of the Association and the appropriate Strategic Director for the Council or their nominees who shall meet and attempt to resolve the dispute within 14 days from the date of such referral
9. If such dispute cannot be resolved as provided for in clause 8 above then the dispute shall be referred to the determination of a person chosen by the Chief Executive for the time being of the Chartered Institute of Housing and such person so chosen shall act as an expert and not as an arbitrator but shall consider written representations made to him/her by the parties and the costs of such persons shall be borne as s/he may determine
10. Nothing contained or implied in this Agreement shall prejudice or affect the Council's rights powers duties and obligations in the exercise of its functions as a local authority and the same may be as fully and effectually exercised in relation to the dwellings constructed on the Site as if this Deed had not been executed by it
11. This Agreement contains all the terms expressly agreed between the parties in respect of the exercise of nomination rights and shall only be varied in writing and signed by both parties or on their behalf provided that this Agreement may be varied by the Council or the Association where such variation is required by statute order bye-law or statutory instrument or is a change imposed by the Housing Corporation or its statutory successor
12. ANY written communication or notice required by this Deed to be served on the Council shall be deemed to have been received if addressed to the Legal Services Manager at The Town Hall Blue Boar Street Oxford OX1 4EY and sent to him by postal recorded delivery service and any written communication required to be sent to the Association shall be addressed to its Chief Executive and shall be deemed to have been received by him if addressed to him at the address of the Association above written and sent to him by postal recorded delivery service
13. In this Deed the expressions "the Association" and "the Council" shall include their respective successors and assignees and where the context admits the singular shall include the plural and the masculine include the feminine and vice versa

The parties to this Agreement have executed this Deed the day and year first set out above in this Agreement

**SCHEDULE A****The Procedures for Council Nominations  
to and Monitoring of Shared Ownership Properties****Nominations Rights Policy**

1. Where Housing Associations have developed shared ownership schemes, the percentage of nomination rights will be dependent on negotiations at development stage.
2. The procedure for nominations will be initiated by the Association advertising the scheme in the local press, inviting applications to be made to the Association. The publicity will state that Council tenants and applicants on the waiting list will be given priority.
3. After the closing date for applications, the Association will give notice of the need for nomination and send the details of the applicants to the Council who will prioritise those applicants who are either Council tenants or applicants who are on the Waiting List.
4. The Council will return the list of applicants indicating relative priority to the Association within 7 working days. In allocating the properties, the Association will give the highest priority to the Council's nominations up to the agreed percentage of nomination rights, except where the number of nominations falls short of this percentage.
5. The Association will provide a report on the allocation to the Council within 10 working days of the allocation of a shared ownership lease. Monitoring will be undertaken as in Schedule B below.
6. The Association will provide to the Council in annual returns the following:
  - (i) addresses of properties vacant and available for shared ownership during that period
  - (ii) addresses of properties where shared ownership lease was offered
  - (iii) where an offer has been made the Council's Application Number
  - (iv) analysis of properties sold by accommodation type and size showing the proportion of Council nominations.
  - (v) analysis of properties sold by accommodation size and type showing the ethnic origin of the households
  - (vi) analysis of rent levels, mortgage payments and equity sold for each property.
7. The Council and the Association will hold a monitoring meeting at least annually after receipt of the monitoring returns and that meeting will agree any changes or additions to referral rights or local letting plans which should be recorded in the minutes of the meeting and a copy of the minutes will be provided to each party

**THE COMMON SEAL** of )  
**THE OXFORD CITY COUNCIL** )  
 was hereunto affixed by order of )  
 the Council in the presence of:- )

THE COMMON SEAL of )  
was hereunto affixed in the )  
presence of:- )

Authorised signatory

Authorised signatory

**STANDARD UNILATERAL UNDERTAKING**

**DATED** \_\_\_\_\_ **20** \_\_\_\_\_

**(NAME OF APPLICANT/DEVELOPER/OWNER)**

-and-

**OXFORD CITY COUNCIL/OXFORDSHIRE COUNTY COUNCIL (DELETE AS APPLICABLE)**

**PLANNING OBLIGATION (by Unilateral Undertaking)**

Relating to development at

(insert name and address of the site)

**THIS UNILATERAL UNDERTAKING** is given this (insert date) 20

BY (INSERT NAME OF APPLICANT/DEVELOPER/OWNER)

whose registered office is at (insert address of applicant/developer/owner) ('the Applicant')

TO **THE OXFORD CITY COUNCIL/OXFORDSHIRE COUNTY COUNCIL** (delete as appropriate) whose principal office is at (insert address) ('the Council')

## 1. Interpretation

In this deed

- 1.1 'the 1990 Act' means the Town and Country Planning Act 1990 (as amended)
- 1.2 'the Infrastructure' means (insert description of infrastructure provision)
- 1.3 'the Contribution' means the sum of £x
- 1.4 'the Planning Application' means (insert details of application)
- 1.5 'the Site' means (insert application address and refer to site plan)

## 2. Preliminary

- 2.1 The Applicant is the (freehold) owner (of a lease) of the Site
- 2.2 The City Council is the local planning authority for the City of Oxford for the purposes of the Town and Country Planning Act 1990. OR The County Council is the county planning authority for the area which includes the site (delete as applicable)
- 2.3 The Applicant has submitted the Planning Application to Oxford City Council and Oxford City Council is minded to grant planning permission for the Development subject to the completion of this Deed
- 2.4 This Deed is made under Section 106 of the 1990 Act and is a planning obligation for the purposes of Section 106 of the 1990 Act entered into by the Applicant in respect of the Site and enforceable by the Council

## 3. Covenant

The Applicant covenants to pay the Contribution to the Council on the date of this undertaking to be applied towards the cost of the infrastructure

## 4 Acknowledgements

The Applicant acknowledges that nothing contained or implied in this Deed shall prejudice or affect the rights discretion powers and duties and obligations of the Council in the exercise of their functions

## 5. Third Party Rights

This Deed is enforceable by the Council but otherwise it confers no rights under the Contract (Rights of Third Parties) Act 1999

**EXECUTED AS A DEED** by )

(insert name of Applicant/Developer/Owner) )

Director

Director/Secretary