

DATED

9th MARCH.

2017

**GEDLING BOROUGH COUNCIL**

**AND**

**NOTTINGHAMSHIRE COUNTY COUNCIL**

**AND**

**ARRIVA PLC**

**PLANNING OBLIGATION**

**under**

**Section 106 of the Town and Country Planning Act 1990**

**relating to**

**Land at Mill Field Close Burton Joyce in the County of Nottinghamshire**

H E Barrington  
Council Solicitor & Monitoring Officer  
Gedling Borough Council  
Civic Centre  
Arnot Hill Park  
Arnold  
Nottingham  
NG5 6LU

**THIS AGREEMENT** is made the 9 day of ~~MARCH~~ Two Thousand and Seventeen  
**BETWEEN**

1. **THE GEDLING BOROUGH COUNCIL** of the Civic Centre Arnot Hill Park Arnold in the County of Nottingham ("the Council")
2. **THE NOTTINGHAMSHIRE COUNTY COUNCIL** of County Hall West Bridgford Nottingham NG2 7QP ("the County Council")
- 3.. **ARRIVA PLC** (registered number 00347103) whose registered office is at 1, Admiral Way, Doxford International Business Park, Sunderland, Tyne and Wear SR3 3XP ("the Owner")

**WHEREAS**

1. The Owner is the freehold owner of the Site registered at HM Land Registry under title number NT117497
3. For the purposes of the Town and Country Planning Act 1990 as amended ("the Act") the Council is the local planning authority for the area within which the Site is situated
4. The County Council is the local highway authority and the local education authority for the area within which the Site is located and is a local planning authority
5. The obligations restrictions and provisions on the part of the Owner contained in this Agreement are planning obligations for the purposes of Section 106 of the Act and enforceable as such by the Council and the County Council
6. The Owner has applied to the Council for outline planning permission under Reference No. 2015/0424 ("the Application") for residential development of up to 23 dwellings (class C3) and associated works on the Site ("the Development")
7. The Council has authorised that subject to the completion of this Agreement to make provision for regulating the Development as hereinafter specified the Permission should be granted

**NOW THIS DEED WITNESSES** as follows:-

1.

**Enabling Powers**

- 1.1 This Agreement is made pursuant to Section 106 of the Act and pursuant to Sections 111, 120 and 139 of the Local Government Act 1972, Section 2 of the Local Government Act 2000, Section 1 of the Localism Act 2011 and all other enabling powers to the intent it shall bind (so far as provided by this Agreement) the Owner and the successors in title of the Owner to each and every part of the Site and its assigns
  
- 1.2 To the extent that the obligations contained herein fall within the terms of Section 106 of the Act they are planning obligations for the purpose of Section 106 of the Act and are enforceable by the Council and the County Council

**Liability for the Covenants herein**

- 1.3 No person will be liable for any breach of this Agreement unless they hold an interest in the part of the Site in respect of which such breach occurs or held such an interest at the date of the breach

**Conditions Precedent**

- 1.4 This Agreement is conditional upon the grant of the Permission, save for the provisions of Clauses 1.8, 1.9 and 6 which shall come into effect immediately upon completion of this Agreement
  
- 1.5 If the Permission shall expire within the meaning of Sections 91, 92 or 93 of the Act or is revoked or otherwise withdrawn or modified by any statutory procedure without the consent of the Owner or its successors in title this Agreement shall cease to have effect and any monies paid to the Council or the County Council under the terms of this Agreement (save for any monies paid pursuant to clause 1.8) shall be returned to the party that made payment

**Application of Agreement**

- 1.6 Nothing in this Agreement shall be construed as prohibiting or limiting any right to develop any part of the Site in accordance with a planning permission other than the Permission granted by the Council

## **General**

- 1.7 Where any consent approval or action is required on the part of the Council or the County Council in respect of any aspect of this Agreement then such consent approval or action shall not be unreasonably withheld or delayed by the Council or the County Council
- 1.8 The Owner will pay the Council's reasonable legal costs up to a maximum of £640 and the County Council's reasonable legal costs up to a maximum of £640 for the preparation negotiation and completion of this Agreement on completion
- 1.9 In the event of the Owner disposing of its interest in the Site or any part thereof before all the obligations under this Deed have been discharged the Owner shall within twenty eight days of such disposal give written notice of the name and address of its successors to the Council and County Council together with sufficient details of the land included in the disposal to allow its identification PROVIDED THAT this covenant will not apply to the disposal of individual newly constructed residential dwellings on the Development
- 1.10 This Agreement is a Local Land Charge and shall be registered as such
- 1.11 The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement

## **2. DEFINITIONS**

In this Agreement the following words and expressions shall have the following meanings

- 2.1 "the Act" shall have the meaning given in Recital 3
- 2.2 "Affordable Housing" is defined in Annex 2 of the National Planning Policy Framework 2012 and means social rented or affordable rented and intermediate housing provided to eligible households whose needs are not met by the market or who cannot afford to rent or buy housing generally available on the open market

- 2.3 "the Affordable Housing Contribution" means the financial contribution that may be payable in lieu of provision of an Affordable Housing Dwelling as part of the Development in accordance with the provisions of Schedule One and which shall be calculated as the open market value of the relevant Dwelling less the price reasonably payable by a willing Registered Provider for the tenure proposed in the Affordable Housing Scheme such value to be determined by an independent valuation carried out by an expert agreed between the parties and at the expense of the Owner
- 2.4 "the Affordable Housing Dwellings" means thirty per centum (30%) of the total number of Dwellings authorised to be constructed on the Site all such housing to be provided in accordance with the Council's Affordable Housing Guidance and the Affordable Housing Scheme approved pursuant to Schedule One
- 2.2 "Affordable Housing for Rent" means rented housing provided by a Registered Provider that is outside the national rent regime but is subject to other rent controls that require it to be offered to eligible households at a rent of up to 80% of local market rent
- 2.5 "the Affordable Housing Guidance" means the Council's December 2009 adopted Affordable Housing Supplementary Planning Document
- 2.6 "Affordable Housing Scheme" means a scheme to be submitted by the owners to the Council before the issue of a reserved matters approval detailing the size, type and location of those dwellings to be provided as affordable Housing in accordance with the provisions of Schedule One
- 2.7 "the Application" shall have the meaning given in Recital 6
- 2.8 "Chargee" means any mortgagee or chargee of the Registered Provider or any administrator, fixed charge receiver including any receiver or manager appointed pursuant to the Law of Property Act 1925, administrative receiver or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security (and shall include the successors in title to such chargee) but does not include the First Chargee or the Second Chargee.
- 2.10 "Choice Based Lettings Scheme" means the Council's web based allocations system through which available properties will be advertised and tenants selected
- 2.11 "Commencement of 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 purposes 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" and "Commenced" shall be interpreted accordingly

- 2.12 "the Development" means the provision of up to 23 dwellings including associated landscaping and parking in accordance with the Permission (Reference 2015/0424)
- 2.13 "Discount Price" means the price at which the Owner could reasonably be expected to offer the relevant Affordable Housing Dwelling as an Open Market Dwelling with no restriction on the disposal less 30%
- 2.14 "Dwelling" means any unit of residential accommodation authorised to be constructed by the Permission and any approval of a Subsequent Application for the Site
- 2.15 "Education Contribution" means the sum of £126,315 PUBSEC Index Linked (subject to any variation pursuant to the provisions in Schedule 2 paragraph 2 to be used as a contribution towards the provision of new or enhanced educational facilities to accommodate the pupils generated by the Development being the sum of £57,275 as a contribution towards educational facilities at Burton Joyce Primary School and the sum of £69,040 as a contribution towards educational facilities at Carlton-le-Willows Academy or such other school or schools in the vicinity of the site able to accommodate the increase in pupil numbers arising as a result of the Development.
- 2.16 "Integrated Transport Contribution" means the sum of £14,700 RPI Index Linked (but subject to increase only) being a contribution towards the provision of integrated transport measures in the vicinity of the Site as detailed in Schedule Three
- 2.17 "Local HelptoBuy Agent" means the organisation appointed from time to time by the Government to manage the advertisements, applications and nominations for low cost home ownership properties and covering the Borough of Gedling
- 2.18 "Occupation" means occupation for the purposes permitted by the Permission but not including occupation by personnel engaged in construction, fitting out or

decoration or occupation for marketing or display or occupation in relation to security operations and the terms "Occupy" and "Occupied" shall be construed accordingly

- 2.19 "Open Market Dwelling" means a Dwelling other than a unit of residential accommodation comprising Affordable Housing Dwelling
- 2.20 "the Open Space Guidance" means the Council's adopted guidance titled "New Housing Development Supplementary Planning Guidance for Open Space Provision November 2001"
- 2.21 "Open Space Maintenance Contribution" means the sum of £18,736.80 RPI Index Linked or such other sum as may be agreed between the parties as part of the Open Spaces Scheme which shall be calculated in accordance with the Open Space Guidance in relation to those parts of the Open Spaces which are to be transferred to the Council
- 2.22 "Open Spaces Off Site Contribution" means the sum of £63,637.04 RPI Index Linked, comprising of £44,900.24 payable to the Council by the Owner in accordance with Schedule Four in lieu of the provision of on-site open space together with £18,736.80 towards the maintenance of those open spaces for a period of 10 years, or such other sum as may be agreed between the parties as part of the Open Spaces Scheme in respect of the shortfall of on-site provision calculated in accordance with the Open Space Guidance
- 2.23 "the Open Spaces Scheme" means the scheme approved by the Council in writing pursuant to Schedule Four
- 2.24 "the Permission" means the planning permission granted pursuant to the Application
- 2.25 "Plan" means the plan attached to this Agreement
- 2.26 "PUBSEC Index Linked" means increased annually from April 2017 in accordance with the Pubsec Tender Price Index as published and reviewed annually by the Department of Business Enterprise and Regulatory Reform
- 2.27 "RPI Index Linked" means the relevant sum increased by a percentage equivalent to the percentage increase in the All Items Index of Retail Prices issued by the Office for National Statistics from the date of this Agreement to the date of actual payment
- 2.28 "Registered Provider" means a provider of Affordable Housing which is registered under Part 2 of the Housing and Regeneration Act 2008 or any superseding legislation (such definition shall include a former registered social

- landlord) and who is approved by the Council as a body able to effectively manage the relevant Affordable Housing Dwellings bearing in mind the terms of this Agreement or other entity providing Affordable Housing under equivalent rental or lease arrangements to Registered Providers approved or accredited by the Homes and Communities Agency and whose terms of approval or accreditation have been evidenced to the reasonable satisfaction of the Council
- 2.29 "Shared Ownership" means those Affordable Housing Dwellings whereby a leasehold interest is sold by a Registered Provider at a sum equal to a percentage of the open market value (the amount of such sum to be agreed with the Council) but subject to a rent payable in respect of the unpurchased percentage whether or not the lessee has the right to pay a further premium in respect of a further percentage of the market value to increase their degree of ownership to 100%
- 2.30 "Site" means the land against which this deed may be enforced being land at Mill Field Close Burton Joyce Nottinghamshire registered in the Land Registry under Title No NT 117497 and shown hatched red on the Plan
- 2.31 "Social Rented Housing" means those Affordable Housing Dwellings to be offered and occupied via the Registered Provider pursuant to an assured tenancy for rent at or below the Target Rents to persons registered as being in housing need
- 2.32 "Subsequent Application" means any application for approval of reserved matters or discharge of conditions pursuant to the Permission
- 2.33 "Target Rents" means rent levels set by the government and the Homes and Communities Agency which are used to measure the affordability of Social Rented Housing

## **2 OBLIGATIONS**

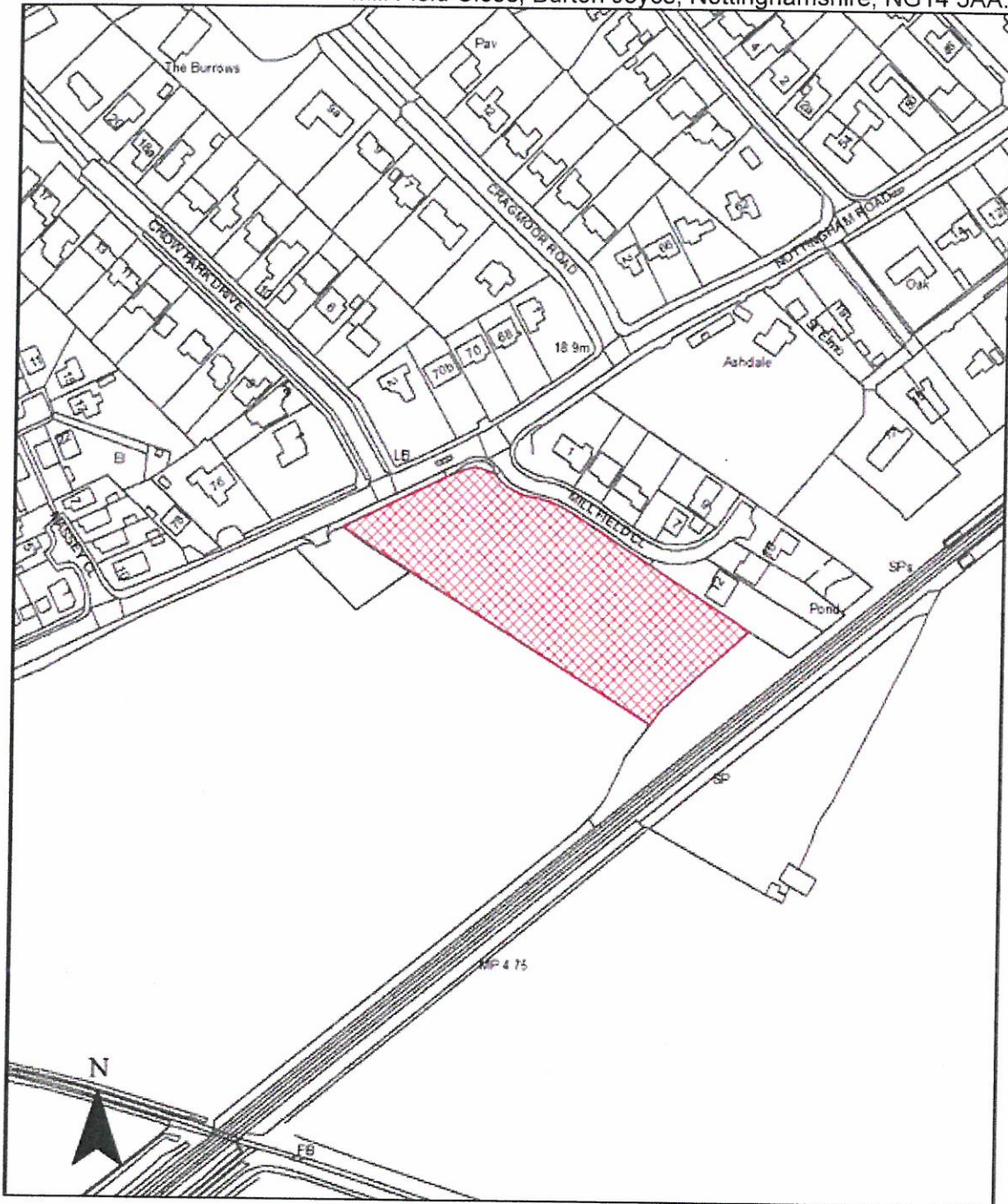
- 3.1 The Owner covenants with the Council to observe and perform the obligations contained in the Schedules One and Four on the part of the Owner
- 3.2 The Owner covenants with the County Council to observe and perform the obligations contained in the Schedules Two and Three on the part of the Owner
- 3.3 The Council covenants with the Owner to observe the requirements of the Schedules on the part of the Council





Application Number: 2015/0424

Location: Mill Field Close, Burton Joyce, Nottinghamshire, NG14 5AA.



**NOTE:**

This map is provided only for purposes of site location and should not be read as an up to date representation of the area around the site.  
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3.4 The County Council covenants with the Owner and Developer to observe the requirements of the Schedules on the part of the County Council

#### 4. LIABILITY OF INDIVIDUAL HOUSEHOLDERS

- 4.1 Upon the transfer by the Registered Provider of a freehold interest or the grant of a term of years in any Affordable Housing Unit(s) pursuant to a statutory right, voluntary right to buy scheme or any other similar purchase grant scheme or the terms of a shared ownership lease, shared equity lease or equity mortgage arrangements to acquire that interest or term, the Affordable Housing Unit shall by operation of this clause be automatically released from the obligations contained within Schedules One, Two and Three to this Agreement
- 4.2 The provisions of this Agreement shall not be binding on a mortgagee or chargee of any Affordable Housing Unit or any administrator, fixed charge receiver including any receiver or manager appointed pursuant to the Law of Property Act 1925, administrative receiver or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or on any person deriving title from such mortgagee, charge or other person appointed under any security documentation or any successor in title
- 4.3 The provisions of this Agreement shall not be binding upon any statutory undertaker which only holds an interest in the Site for the purposes of its undertaking
- 4.4 The provisions of this Agreement shall not be binding upon an individual owner, lessee or occupier of any Dwelling save that those provisions of Schedule One which restrict the nature of the occupation of such unit shall be binding on an individual owner or occupier of any Affordable Housing Unit (but subject always to the provisions of clauses 4.1 – 4.3 above).
- 4.5 No person shall be liable for any breach of a covenant, restriction or obligation contained in this Deed after parting with all of its interest in the Property, except in respect of any breach subsisting prior to parting with such interest.

## **5. MONITORING**

5.1 For the purposes of monitoring compliance with this Agreement the Owner shall notify the Council's Service Managers for Development Services, for Economic Growth and Regeneration and for Parks and Street Care in writing of:-

5.1.1 the proposed date of Commencement of Development not less than 14 days prior to the date thereof;

5.1.2 the proposed date of commencement of construction of the Affordable Housing not less than 14 days prior to the date thereof

5.1.3 Occupation of the first Dwelling constructed on the Site (save for Occupation as a show home or similar or as a sales office) within 14 days thereof;

5.1.4 Occupation of the first Open Market Dwelling on the Site (if different from 5.1.4) above within 14 days thereof; and

5.1.5 the date when 40%, 50% and 60% of the Dwellings comprising the Development becomes occupied within 14 days thereof.

5.2 The Owner shall notify the County Council's 106 Contributions Manager for and on behalf of both the Group Manager for Strategic Place Planning and School Admissions(Children Families and Cultural Services) and its Highway Manager Development Control in writing of the date of the proposed Commencement of Development and the dates on which first, twelfth and twenty-third Dwelling shall be occupied (save for occupation as a show home or similar or as a sales office) not less than seven days in advance of such dates (where proportionate)

## **6. RESOLUTION OF DISPUTES**

In the event of any dispute or difference arising between the parties in relation to any matter under this Agreement such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of agreement) by and on behalf of the President for the time being of the professional body chiefly concerned in England with such matters as may be in dispute and such person shall act as an expert and his decision shall be final and binding on the parties to the dispute or difference and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties to the dispute in equal shares

## **7. NOTICES**

- 7.1 Any notice consent or approval required to be given under this Agreement shall be in writing and shall be delivered personally or sent by prepaid first class Recorded Delivery post telex or facsimile transmission
- 7.2 The address for service of any such notice consent or approval as aforesaid shall be on all of the parties at the addresses aforesaid or such other address for service as shall have been previously notified in writing by the parties to all the other parties to this Agreement
- 7.3 A notice consent or approval under this Agreement shall be deemed to have been served as follows:-
- (i) if personally delivered at the time of delivery
  - (ii) at the expiration of forty eight hours after the envelope containing the same was delivered into the custody of the postal authority within the United Kingdom
  - (iii) if sent by telex or facsimile transmission at the time of successful transmission
- 7.4 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 (if appropriate) or that the telex or facsimile was successfully transmitted on a tested line as the case may be

## **8 INTERPRETATION**

- 8.1 The expressions "the Owner" "the Developer" "the Council" and "the County Council" shall include their respective successors in title and assigns and/or any successor body
- 8.2 Where appropriate the singular includes the plural and vice versa. Words importing one gender include all other genders
- 8.3 Unless otherwise stated all references to clause numbers schedules and paragraph numbers of schedules are references to clause numbers schedules and paragraph numbers of schedules contained within this Agreement
- 8.4 References to statutory provisions shall be construed as references to those provisions as may hereafter be amended or re-enacted

8.5 The obligations herein relate to the Site and each and every part thereof

8.6 The clause headings in this Agreement are for ease of reference only and shall not affect the construction thereof

**IN WITNESS** whereof this Agreement has been duly executed as a Deed by all the parties hereto the day and year first above written

**SCHEDULE ONE**  
**AFFORDABLE HOUSING**

1. The Development shall not be Commenced until the Owner has submitted to the Council at the time of submission of a Subsequent Application or as part of an application for approval of a Subsequent Application the Affordable Housing Scheme which provides for 30% of the Dwellings to be Affordable Housing and which complies with the requirements of paragraph 13 of this Schedule One and which provides for:
  - a. not less than 75% of the Affordable Housing to be Affordable Rented; and
  - b. the remaining 25% of the Affordable Housing to be Shared Ownership,and the Council's Service Manager for Economic Growth and Regeneration has given written approval of the Affordable Housing Scheme for the purposes of this paragraph **PROVIDED ALWAYS** that the Affordable Housing Scheme may be varied from time to time subject to prior approval in writing from the Council or by operation of paragraph 7 below and **PROVIDED ALWAYS** that should an application for the whole Site for fewer than 15 dwellings be approved there shall be no requirement to submit an Affordable Housing Scheme.
2. Prior to the first occupation of any Dwelling the Owner shall make contact with at least one Registered Provider to negotiate the sale and purchase of the Affordable Housing Dwellings to be provided as part of the Development (excluding those to be provided at a Discount Price pursuant to the Affordable Housing Scheme) and shall notify the Council in writing of the identity of the Registered Provider(s) so approached
3. The Owner shall within the period of five months from and including the date of the first approach made pursuant to paragraph 2 above use reasonable endeavours to exchange legally binding contracts with that or an alternative Registered Provider for the sale and purchase of the Affordable Housing Dwellings (excluding only those to be provided at a Discount Price pursuant to the Affordable Housing Scheme)
4. If after the expiration of the five month period referred to in paragraph 3 above the Owner has been unable to exchange legally binding contracts with a Registered Provider for the sale and purchase of all or any of the Affordable Housing Dwellings (excluding only those to be provided at a Discount Price pursuant to the Affordable

Housing Scheme) then the Owner shall notify the Council in writing identifying which Affordable Housing Dwellings are not the subject of a legally binding contract and shall give reasons where possible as to why any offer of transfer has been rejected or contracts have failed to be exchanged

5. The Council may within the period of 28 days from receipt of notice pursuant to paragraph 4 identify a Registered Provider and seek to negotiate a contract for the sale and purchase of the remaining Affordable Housing Dwellings (excluding only those to be provided at a Discount Price pursuant to the Affordable Housing Scheme) on terms acceptable to the Owner (acting reasonably) and if such terms are agreed the Owner and the identified Registered Provider shall within the following period of 28 days use reasonable endeavours to conclude a legally binding contract for the sale and purchase of the relevant Affordable Housing Dwellings with the nominated Registered Provider

6. If

- 6.1 at the end of the initial period of 28 days referred to in paragraph 5 above the Council has been unable to agree acceptable terms with the nominated Registered Provider for the sale and purchase of the relevant Affordable Housing Dwellings; or

- 6.2 following the further period of 28 days legally binding contracts have not been exchanged for the sale and purchase of the relevant Affordable Housing Dwellings

the provisions of paragraph 7 shall apply

7. If at the conclusion of the procedure set out in paragraphs 2 – 6 above all or any of the Affordable Housing Dwellings (excluding those to be provided at a Discount Price pursuant to the Affordable Housing Scheme) are not the subject of a legally binding contract for sale and purchase with a Registered Provider the Owner shall within 56 days of the end of the relevant 28 day period referred to in paragraph 6 make payment to the Council of the Affordable Housing Contribution in lieu of provision of the relevant Dwellings as Affordable Housing Dwellings



8. Following payment of the Affordable Housing Contribution the obligation on the Owner to retain the relevant Dwellings as Affordable Housing Dwellings shall cease and they may be offered for disposal as Open Market Dwellings
9. The Owners covenant to provide to the Council within ten days of completion written confirmation of completion of the sale and purchase agreement to a Registered Provider of the Affordable Housing Dwellings
10. The Owners shall not occupy allow suffer or permit to be occupied more than 40% of the Open Market Dwellings to be constructed on the Site before the commencement of construction of the Affordable Housing Dwellings in accordance with the approved Affordable Housing Scheme
11. The Owners shall not occupy allow suffer or permit to be occupied more than 50% of the Open Market Dwellings until all of the Affordable Housing Dwellings have been constructed and connected to such services as may be necessary for their occupation in accordance with the approved Affordable Housing Scheme
12. The Owners shall not cause or permit the occupation of an Affordable Housing Dwelling (other than as a show house or similar or sales office) excluding those Affordable Housing Dwellings to be provided at a Discount Price pursuant to paragraph 13.2 of this Schedule One unless the freehold interest has been transferred to a Registered Provider and in accordance with the provisions contained herein
13. The Owners shall not cause or permit occupation of
  - 13.1 less than 80% of the Affordable Housing Dwellings once all constructed except by way of either Affordable Housing for Rent or Social Rented Housing and without payment of a premium
  - and
  - 13.2 the remainder by way of Discount Price or Shared Ownership in accordance with the Affordable Housing Scheme
14. The Owners shall not cause or permit the occupation of each Affordable Housing Dwelling to be provided by way of Discount Price or as Shared Ownership pursuant

to paragraph 13 except to a person or persons who fulfils the criteria set out in paragraph 15 below

15 The criteria referred to in paragraph 14 above is that (in order of preference) at the time of acquiring an interest in an Affordable Housing Dwelling:

15.1 not less than one of the persons acquiring the interest shall be confirmed either by the Council or by the Local HelptoBuy Agent in writing as being in need of affordable housing and immediately prior to occupation of the relevant Affordable Housing Dwelling ordinarily resident or working within the administrative area of the Council OR

15.2 in the event of no person meeting the aforesaid criteria within one calendar month of the Council or the Local HelptoBuy Agent receiving notification that an Affordable Housing Dwelling is available for occupation then eligibility shall widen to a person who immediately prior to occupation of the relevant Affordable Housing Dwelling is ordinarily resident or working within the Boroughs of Broxtowe, Gedling, Newark & Sherwood, Nottingham City or Rushcliffe OR

15.3 in the event of no person meeting the aforesaid criteria within two calendar months of the said notification of availability for occupation the criteria will widen to any person confirmed by the Council or Local HelptoBuy Agent as being in need of Affordable Housing,

PROVIDED ALWAYS that should the Council or Local HelptoBuy Agent fail to nominate such a person within three calendar months of the said notification of availability for occupation, the Owner may dispose of the interest in the property concerned to a person who they, in their reasonable opinion, certify as being in need of Affordable Housing

16 The Owner shall, unless otherwise agreed in writing by the Council, enter into a Service Level Agreement with the Local HelptoBuy Agent appointed from time to time by the Government in order to ensure that the Affordable Housing Dwellings made available for sale under Discount Price or Shared Ownership are advertised by the Local HelptoBuy Agent, with the Owner bearing the full cost incurred under such an agreement

- 17 The Owner shall not dispose of the freehold interest or grant a term of years in an Affordable Housing Dwelling to be provided at a Discount Price unless
- 17.1 the transfer contains a covenant on the part of the purchaser referring to this obligation pursuant to Section 106 of the Act not to dispose of his freehold interest in the property except at the Discount Price at the date of the purchaser's disposal
- 17.2 the purchaser consents to a restriction being entered upon the title to the property at H M Land Registry that, except under an order of the Registrar, no disposition of the property (other than by a charge) by the proprietor of the property is to be registered without a certificate signed on behalf of the Council that the provisions of paragraphs 14, 15 and 16 of this Schedule have been complied with unless otherwise agreed in writing with the Council
- 18 The Owner shall deliver notice in writing to the Council as soon as reasonably practicable after completion of the transfer of the freehold interest in an Affordable Housing Dwelling to be provided at a Discount Price giving the name of the purchaser and the price at which the property was disposed of
- 19 The Council shall use the Affordable Housing Contribution (if paid) towards the development of new Affordable Housing in the Borough of Gedling or for the improvement of existing Affordable Housing in the borough to secure its retention or extend its lifetime as Affordable Housing and for no other purpose whatsoever
- 20 If all or any part of the Affordable Housing Contribution has not been expended or otherwise committed towards the provision of Affordable Housing in the Borough of Gedling in accordance with the provisions of paragraph 19 above at the expiration of 10 years from and including the date of payment of the Affordable Housing Contribution in full then the Council shall refund such unexpended or uncommitted balance of the Affordable Housing Contribution together with accrued interest thereon to the party that made payment within 28 days of receipt of a written request from the paying party
- 21 The Chargee shall prior to seeking to dispose of any of the Affordable Housing Units pursuant to any default under the terms of its mortgage or charge give not less than three months prior notice to the Council of its intention to dispose and:

- (a) in the event that the Council responds within one month from receipt of the notice indicating that arrangements for the transfer of the Affordable Housing Units can be made in such a way as to safeguard them as Affordable Housing then the Chargee shall co-operate with such arrangements and use its best endeavours to secure such transfer
- (b) if the Council does not serve its response to the notice served under paragraph 26(a) within the one month then the Chargee shall be entitled to dispose free of the restrictions set out in this Part of the Schedule
- (c) if the Council or any other person cannot within three months of the date of service of its response under paragraph 26(a) secure such transfer then provided the Chargee shall have complied with its obligations under paragraph 26(a) the Chargee shall be entitled to dispose free of the restrictions set out in this Part of the Schedule

PROVIDED THAT at all times the rights and obligations in this paragraph 21 shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council must give consideration to protecting the interest of the Chargee in respect of moneys outstanding under the charge or mortgage

**SCHEDULE TWO**  
**EDUCATION CONTRIBUTION**

1. The Owner agrees with the County Council to pay to the County Council the Education Contribution on or prior to the earlier of (a) first Occupation of the twelfth Dwelling or (b) 12 months from the date of the first Occupation of the first Dwelling.

2. The Owner shall not permit or allow Occupation of:-

2.1 more than 12 Dwellings (in the event that paragraph 1 (a) above applies); nor

2.2 any further Dwellings other than those already Occupied by the date that is 12 months after it has Occupied the first Dwelling (in the event that paragraph 1(b) above applies

until it has paid the Education Contribution to the County Council.

PROVIDED THAT that in the event of the Commencement of Development pursuant to approval of a Subsequent Application pursuant to the Permission for a lesser number of dwellings than 23 or for an additional number of dwellings than 23 then the Education Contribution shall be respectively decreased or increased by the agreed sum of £5,167 (five thousand one hundred and sixty seven pounds) (PUBSEC Index Linked) for each less or additional dwelling

3. The County Council agrees with the Owner as follows:

3.1 to apply the Education Contribution only toward the provision of educational facilities as set out in the definitions above PROVIDED THAT if the whole or any part of the relevant Education Contribution has not been expended or committed within the period of ten years from the receipt in full of the Education Contribution then the County Council will on receipt of a written request at any time after the expiration of the said period of ten years from the person who paid the Education Contribution (whether or not that person remains the Owner at such time) ("the Payer") pay the balance unexpended or uncommitted at the date of the request to such person within 3 months of such request.

2.2 Upon receipt of a written request referred to in paragraph 2.1 of this Schedule to provide to the Payer a certificate from the Accounts Officer of the County Council's Children Families and Cultural Services Department showing all payments made during the previous five years from the account into which the

Education Contribution have been paid when received and the purposes to which they have been applied

## SCHEDULE THREE

### INTEGRATED TRANSPORT

1. The Owner agrees with the County Council
  - 1.1 to pay to the County Council the Integrated Transport Contribution immediately prior to the Commencement of the Development
  - 1.2 Not to Commence Development until the Integrated Transport Contribution has been paid in full to the County Council
  
2. The County Council agrees with the Owner as follows:
  - 2.1 To apply the Integrated Transport Contribution towards the provision of bus stop improvements in the vicinity of the Site **PROVIDED THAT** if the whole or any part of the Integrated Transport Contribution has not been expended or committed by the County Council for such or other transport purposes directly related to the Site at the expiration of the period of five years from receipt the County Council will on receipt of a written request at any time after the expiration of the said period of five years from the person who paid the Integrated Transport Contribution (whether or not that person remains the Owner at such time) pay the balance unexpended or uncommitted at the date of the request to such person within three months of such written request.

PROVIDED THAT that in the event of the Commencement of Development pursuant to approval of a Subsequent Application pursuant to the Permission for a lesser number of dwellings than 23 or for an additional number of dwellings than 23 then the Transport Contribution shall be respectively decreased or increased by the agreed sum of £639 [six hundred and thirty nine pounds] (RPI Index Linked) for each less or additional dwelling.

**SCHEDULE FOUR**  
**PUBLIC OPEN SPACE**

1. Not to Commence the Development until the Open Spaces Scheme has been submitted to and approved by the Council in writing. Such scheme to include:
  - 1.1. the location or locations on the Site of the Open Spaces together with details of the preparation and layout of and equipment for the Open Spaces within the Development together with a timetable for their delivery;
  - 1.2. the amount of the Open Space Maintenance Contribution to be paid to the Council in respect of the future maintenance of the Open Spaces provided within the Development and which are intended to be transferred to the Council;
  - 1.3. the proposed maintenance programme for any Open Spaces provided within the Development;
  - 1.4. in respect of any areas of Open Space not intended to be transferred to the Council the proposed method for securing the permanent availability management and maintenance of those Open Spaces to be provided within the Development;
  - 1.5. the amount of the Open Spaces Off Site Contribution (if any) to be paid to the Council in lieu of provision of Open Spaces within the Development to be used by the Council for the provision and/or improvement of open spaces/recreational facilities within a radius of 2km from the centre of the Development.
  
2. Subject to the Council's prior approval of the relevant Subsequent Application, the Owner shall at its own cost provide prepare layout and complete the Open Spaces in accordance with the approved Open Spaces Scheme to the satisfaction of the Council and pay the Open Spaces Off Site Contribution (if any) in lieu of the provision of the full requirement of the Open Spaces for the Development
  
3. Forthwith upon completion of the laying out and equipping of any part of the Open Spaces in accordance with the approved Open Spaces Scheme the Owner shall serve written notice on the Council informing it that the relevant part of the Open Spaces have been so laid out and equipped



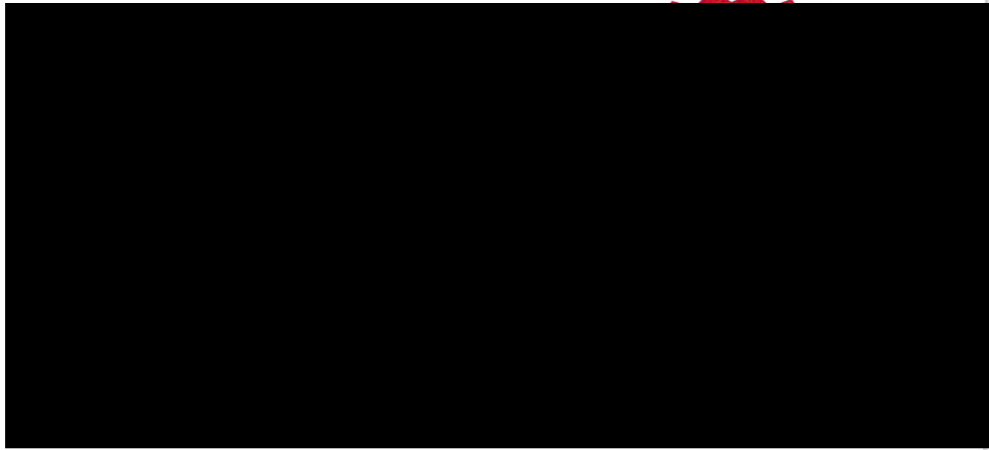
4. The Council shall within 28 days of receipt of a notice mentioned in paragraph 3 above inspect the relevant Open Space to which the notice relates and shall either certify that the laying out of the relevant Open Space has been completed to the standard and specification required by the approved Open Spaces Scheme or provide details of any works reasonably required to so complete it and where the Council reasonably require further works the Owner shall undertake those works and the procedure under this paragraph shall be repeated until the Council issues its certificate that the relevant Open Space has been set out to the standard and specification required by the approved Open Spaces Scheme
5. Not to cause or permit occupation of more than 50% of the Dwellings comprised in the Development until
  - 5.1 the Council has issued certificates that the all of the Open Spaces have been laid out and equipped in accordance with the approved Open Spaces Scheme; or
  - 5.2 the Open Spaces Off Site Contribution referred to in the Open Spaces Scheme has been paid to the Council
6. Unless and until such time as the Open Spaces are owned or managed by the Council or a management company approved by the Council the Owner will manage and maintain the Open Spaces and any play equipment erected thereon in accordance with the standards and specifications set out in the approved Open Spaces Scheme
7. At any date after the date of issue of the Council's final certificate in accordance with paragraph 4 above but no later than one year after that date, the Owner shall either
  - 7.1. offer to transfer the freehold interest in any part of the Open Spaces to the Council or
  - 7.2. notify the Council that it intends to retain the freehold interest in any part of the Open Spaces or to transfer the same to a management company approved by the Council
8. The requirements of the transfer of the Open Spaces to the Council are to include:-
  - 8.1. transfer for nil financial consideration

- 8.2. a transfer of the entire freehold interest
- 8.3. be free from any pre-emption or option Agreement
- 8.4. be free from any covenants or restrictions other than a covenant by the Council expressed to be for the benefit of the Owner's retained land that "the Council shall hold the land as public open space pursuant to the provisions of the Open Spaces Act 1906 and shall not use the land or permit the land to be used for any purpose other than public open space or public recreation"
- 8.5. be free from any mortgage charge lien or other encumbrance whatsoever
- 8.6. the grant to the Council of a right of way at all times and for maintenance and inspection purposes with or without vehicles over all estate roads and paths comprised or to be comprised within the Development until such roads are adopted as public highways
- 8.7. a reservation in favour of the Owner all necessary development rights to permit the Owner to use any existing services passing in or under the Open Spaces and the right to lay any new services under the Open Spaces together with rights to enter onto the Open Spaces to inspect repair renew enlarge divert cleanse and maintain the same PROVIDED THAT after each exercise of any such rights the Owner shall reinstate and restore the Open Spaces to their previous condition
- 8.8. a declaration that any boundary structure separating any of the Open Spaces from any Dwelling comprised in the Development shall belong to and be forever thereafter maintained by the owner for the time being of such Dwelling and the transfer of such Dwelling shall provide accordingly
- 8.9. provision for the payment to the Council of the Open Space Maintenance Contribution towards the Council's future costs of managing and maintaining the Open Spaces transferred to the Council
- 8.10. a covenant by the Council to apply the Open Spaces Maintenance Contribution towards the future costs of management and maintenance of the Open Spaces transferred to the Council

**THE COMMON SEAL of  
GEDLING BOROUGH COUNCIL**  
was hereunto affixed in the  
presence of:-



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



**EXECUTED** as a deed by  
**ARRIVA PLC**  
**Acting by:**  
Director  
Director/Secretary



