

THIS AGREEMENT is made the 28th day of April 2021 2020

BETWEEN:-

1. **THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL** of Plough Lane Offices, Plough Lane, Hereford HR4 0LE ("the Council")
2. **GLENYS MARGARET PRICE** and **JANET MARGARET PROBERT** both of Hill Garn Farm Aymestery Leominster HR6 9SR and **RICHARD FRANK PRICE** of Grove Farm Monkland Leominster HR6 9DF ("the Owner")
3. ^{Homes Ltd.} **CONNEXUS HOUSING TWO LIMITED** (Community Benefit Society registered number LH4353 and FCA 8376) whose registered office is at The Gateway, the Auction Yard Craven Arms Shropshire SY7 9BW ("Connexus")

WHEREAS:-

1. The Council is the Local Planning Authority as defined in the Act and the Local Planning Authority for the purposes of planning obligations imposed pursuant to the provisions of Section 106 of the Town and Country Planning Act 1990 (as amended) by whom the restrictions and obligations contained in this Agreement are enforceable for the purpose of restricting or regulating the development or use of that land
2. The parties named as "the Owner" above are the administrators of the estate of the late Mr Frank Pudge Price which includes the whole of the Land and are duly authorised to enter into this Agreement pursuant to Letters of Administration issued on 27th April 2020.
3. Connexus is proposing to acquire the Land upon the grant of the Permission.
4. The Land has previously had the benefit of outline planning permission granted by the Council on 28th October 2016 under the Council's reference P152204/O. This planning permission was not implemented and has now expired.
4. The Owner has agreed with the Council to provide the planning obligations in accordance with the terms and conditions hereof
6. The Council delegated authority to its officers for the grant of the Permission (subject to conditions) and subject to the completion of this Deed for the purpose of restricting or regulating the development or use of the Land.

7. The Council are satisfied that entry into this Deed is of benefit to the public, that the planning obligations contained in this Deed are necessary to make the Development acceptable in planning terms and the planning obligations comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended)

THIS DEED is made pursuant to Section 106 of the Act, Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers and enactments which may be relevant for the purposes of giving validity hereto or facilitating the enforcement of the obligations herein contained with the intent to bind the Land

NOW THIS DEED WITNESSES as follows:

1. Interpretation

In this Deed:

"the Act" means the Town and Country Planning Act 1990 (as amended)

"Affordable Housing" means housing provided to eligible households whose needs are not met by the Open Market. Eligibility is determined with regard to local incomes and local house prices. Affordable Housing should remain at an affordable price for future eligible households or the subsidy recycled for alternative Affordable Housing provision. The descriptions of all types of Affordable Housing in Herefordshire are contained in the Technical Data

"Affordable Housing Units" means (unless otherwise agreed in writing by the Council) the fourteen residential units and ancillary areas comprised within the Development and intended for occupation as seven units of Intermediate Housing identified as plots 5,6,7,8,13,14 and 15 on the Proposed Site Plan Revision Z forming part of the Application and seven units of Social Rented Housing identified as plots 9,10,11,12,16,17 and 18 on the

Proposed Site Plan Revision Z forming part of the
Application to include one Wheelchair Accessible Unit

"Application"

means the application for planning permission for
'proposed 39 dwellings with associated access,
parking and landscaping' made under the Council's
reference P180517/F and validated by the Council on
20th February 2018

"Chargee"

means any mortgagee or chargee (or any receiver
(including any administrative receiver) appointed by
such mortgagee or chargee or any other person
appointed under security documentation to enable
such mortgagee or chargee to realise its security or
any administrator (howsoever appointed) including a
housing administrator) of the whole or any part of the
Affordable Housing Units

"CIL Contribution"

means any sum payable in respect of the Permission
pursuant to a charging schedule adopted by the
Council pursuant to the provisions of Section 211(1)
Planning Act 2008.

**"Commence Development" and
"Commencement of
Development"**

means to commence the Development pursuant to the
Permission by the carrying out of a Material Operation

"Contributions"

means the Education Contribution; the Recycling
Contribution; the Sports Contribution; the Transport
Contribution and the Health Contribution

"Development"

means the development of the Land as set out in the
Application

"Dwellings"

means the residential units to be constructed on the
Land pursuant to the Permission and "Dwelling"
means any one of such residential units

"Education Contribution"	means a financial contribution of £156,785.00 (one hundred and fifty-six thousand seven hundred and eighty-five pounds) index-linked in accordance with clause 8 of this Deed to provide the Education Facilities required as a consequence of the Development.
"Education Facilities"	means enhanced educational infrastructure at Orleton Primary School, Wigmore Secondary School and special schools maintained by the local authority
"Health Care Contribution"	means a financial contribution of £20,611.00 (twenty thousand six hundred and eleven pounds) index-linked in accordance with clause 8 of this Deed to provide the Health Care Facilities required as a consequence of the Development.
"Health Care Facilities"	means the development of infrastructure at Hereford County Hospital.
"Help to Buy Midlands"	means the Help to Buy government scheme providing a range of home ownership options and Help to Buy Midlands is the government appointed agent for the Midlands including the Council's administrative area
"Herefordshire Allocations Policy"	means the Council's Policy for the allocation of Affordable Housing in the administrative area of the Council which under the Housing Act 1996 as amended by the Homelessness Act 2002 and the Localism Act 2011 the Council has a duty to provide

"Home Point"

means the agency or body (or any successor agency or body) that on behalf of the Council holds the common housing register and operates a choice based lettings system (or any subsequent lettings system) through which Affordable Housing in the administrative area of the Council is advertised

"Intermediate Housing"

means homes for purchase and rent provided at a cost above levels for Social Rented Housing but below Open Market levels subject to the criteria in the Affordable Housing definition above and for the purposes of this Deed means housing provided by way of Shared Ownership only.

"Land"

means land to the north west of Kings Road Orleton and shown edged red on the Location Plan

"Local Connection"

means (for the purposes of paragraph 2.4 of the First Schedule (Part 2)) having a connection to one of the parishes specified because that person:

is or in the past was normally resident there (having resided in one of the parishes in the County of Herefordshire for 6 out of the last 12 months or 3 out of the last 5 years); or

is employed there (in the employ of another (or has a formal offer of such employment) not being of a casual nature but shall not exclude part-time employment of 16 hours or more per week or self-employment); or

has a family association there (where a person or a member of his household has parents, adult children, brothers or sisters currently residing in one of the parishes of the County of Herefordshire and who have been resident for a period of at least 12 months and that person indicates a wish to be near them); or

a proven need to give support to or receive support from family members (need to provide or receive

personal and physical care to enable a person or a family member to live independently in the community and includes people who are in need of such support but are not normally resident but have long standing links with the local community); or

because of special circumstances (shall not normally apply but amount to circumstances which in the view of the Council may give rise to a Local Connection)

"Location Plan"

means the plan numbered Zeb110/P/001 attached to this Deed

"Management Company"

means a body with a registered office in England or Wales that is nominated or established by the Owner in accordance with the Management Company Plan for the acquisition and long term management and maintenance of the Open Space Facilities in accordance with the provisions of the First Schedule (Part 3) such body to be adequately self-funded or will be funded through on-going arrangement or through local arrangements the details of which are to be provided to the Council for approval in writing (such approval not to be unreasonably withheld or delayed)

"Management Company Plan"

means (unless otherwise agreed with the Council in writing) a written scheme demonstrating the way in which:

(i) the future management and maintenance requirements for the Open Space Facilities have been identified and how an ongoing maintenance regime (including but not limited to task timing and frequency of the operations for all the features of the Open Space Facilities) specifically fulfils the Management Company objectives;

(ii) the Management Company is or will be set up and

purposes of construction and fitting out

"Open Market"

means the open market for the sale or letting of housing by a person or body other than (a) a local housing authority (b) a Registered Provider or (c) any other person or body offering housing accommodation to the public at less than the prevailing market sale/rent price.

"Open Market Units"

means those residential units in the Development that are not Affordable Housing Units and which are intended for sale or letting on the Open Market and 'Open Market Unit' shall mean any one of such units.

"Open Space Facilities"

means the provision of a minimum of 0.087 hectares (870 sqm) of designated open space(s) comprising not less than;

0.035 hectares (350sqm) @ 0.4ha per 1000 population for public open space

0.05 hectares (500 sqm) @ 0.8ha per 1000 population for a children's play area

Provided within the Development including all or part of a sustainable urban drainage system serving the Development)

"Permission"

means the planning permission subject to conditions and reserved matters to be granted by the Council permitting the Development pursuant to the Application

"Reasonable Endeavours"

means that the party under such an obligation shall not be required to take proceedings (including any appeal) in any court public inquiry or other hearing (unless specified to the contrary) but subject thereto such party shall be bound to attempt to fulfil the relevant obligation by the expenditure of such effort and/or sums of money and the engagement of such professional or other advisers as in all the circumstances may be reasonable

"Recycling Contribution"

means a financial contribution of £3,120.00 (three thousand one hundred and twenty pounds) index linked in accordance with clause 8 of this Deed per Dwelling towards the Recycling Facilities

"Recycling Facilities"

means one waste collection bin and one recycling collection bin to be provided for each Open Market Unit

"Registered Provider"

means a registered provider of Affordable Housing under Part 2 of the Housing and Regeneration Act 2008 being a preferred development partner listed (or intended for listing) in the Council's 'provision of affordable housing technical data' which supports the supplementary planning document Planning Obligations April 2008 (or any subsequent or updated document), or any such other Registered Provider as may previously be agreed with the Council in writing such agreement not to be unreasonably withheld

"School Car Park Land"

means an area of Land shown for identification purposes only edged in red on the Plan numbered

ZEB1100-P-005 School Car Park Transfer Plan
attached to this Deed

"School Car Park Facilities"

means the provision of a car parking area for Orleton Primary School which has been constructed and ready for use prior to first occupation of any dwelling being constructed on the site

"School Car Park Transfer Plan"

means the plan numbered ZEB1100-P-005 attached to this Deed

"Shared Ownership"

means ownership under the terms of a lease by which a lessee may (subject to the restriction in paragraph 2.7 of the First Schedule (Part 2) to this Deed) acquire a share or shares of the equity in an Affordable Housing Unit from the Registered Provider who retains the remainder and may charge a rent and "Shared Ownership Unit" means any Affordable Housing Unit designated for Shared Ownership.

"Social Rented Housing"

means housing owned by local authorities or Registered Providers for which guideline target rents are determined through the national rent regime and may also be owned by other persons and provided under equivalent rental arrangements to the above as agreed with the local authority or with the Homes England (or any successor agency or body) and "Social Rented Unit" means any Affordable Housing Unit designated for Social Rented Housing

"Specified Date"

means the date upon which an obligation arising under this Deed is due to be performed

"Sports Contribution"

means a financial contribution of £21,278 (twenty-one thousand two hundred and seventy-eight pounds) index linked in accordance with paragraph 8 of this Deed to provide the Sports Facilities

"Sports Facilities"

means outdoor sports facilities for outdoor sports provision for football at Orleton Football Clubas identified in the Council Playing Pitch Assessment 2012 and Outdoor Sports Investment Plan 2016

"Technical Data"

means the data updated annually by the Council entitled 'Provision of Affordable Housing Technical Data to Support the SPD – Planning Obligations April 2008' (or any technical data published by the Council in support of any replacement planning policy document)

"Transport Contribution"

means a financial contribution of £87,397.00 (eighty-seven thousand three hundred and ninety-seven pounds index-linked in accordance with clause 8 of this Deed to provide the Transport Facilities.

"Transport Facilities"

means any or all of the following facilities: improvements to the connectivity to local amenities by the creation of new and the enhancement in the usability of existing footpaths, cycleways and bus infrastructure.

"Wheelchair Accessible Unit"

means the Affordable Housing Unit provided and built to comply with the Wheelchair Standards.

"Wheelchair Standards"

means to the standard set out in the optional requirement to dwellings M4(2) Category 2: Accessible and adaptable dwellings of Part M

(access to and use of buildings) Building Regulations 2010 (as amended) (or subsequent revision or replacement standard current at the time the Owners submission of the relevant Buildings Regulations application

In this Deed the following words and expressions shall where the context so admits have the following meanings:-

The expressions "the Owner" and the "the Council" shall include their respective successors in title and assigns

Words importing the singular meaning where the context so admits include the plural meaning and vice versa

Words of the masculine gender include the feminine and neuter genders and all references in this Deed to a person or persons shall include corporations and unincorporated associations and all other legal entities.

Where there are two or more persons included in the expression "the Owner" covenants expressed or implied to be made by the Owner shall be deemed to be made by such persons jointly and severally

Words denoting an obligation on a party to do any act include an obligation to procure that it be done

Words placing a party under a restriction include an obligation not to permit infringement of that restriction

References to any statute or statutory instrument shall except where otherwise specifically provided include reference to any statutory modification or re-enactment thereof for the time being in force

2. Statutory provisions

The Owner and the Council hereby covenant and agree that:

2.1 the restrictions and obligations in this Deed are planning obligations imposed by Section 106 of the Act (as amended) and are enforceable by the Council in accordance

with the provisions of Section 106(3) against the Owner and successors in title to the Land and;

2.2 to the extent that any of the covenants restrictions agreements declarations and all other requirements imposed upon the Owner under this Deed are not planning obligations within the meaning of Section 106 of the Act they are entered into by the Council pursuant to Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers and enactments which may be relevant for the purposes of giving validity to this Deed or to facilitate the enforcement of any of the requirements of this Deed

2.3 with the exception of this clause and clauses 1, 2.4, 7, 10, 13, 14, 15 and 17 delivery and any other relevant clauses of this Deed which have effect on the date of this Deed none of the terms or provisions of this Deed will have operative effect unless and until the date that the Permission is issued by the Council

2.4 The restrictions and obligations in the First Schedule to this Deed shall not be enforceable against owners or occupiers of the Open Market Units nor against those deriving title from them except for the restrictions on residential occupation in paragraph 2.2 in the First Schedule (Part 2) and 3.4 and 3.5 of the First Schedule (Part 3) and paragraph 1 of the First Schedule (Part 4)

2.5 This Deed shall not be binding on statutory undertakers occupying the Land solely for purposes connected with their statutory undertaking.

3. Commencement

This Deed shall come into effect on the date of this Deed

4. Owner's Covenants

The Owner covenants and agrees with the Council that the Owner will observe the restrictions and perform the obligations set out in the First Schedule to this Deed

5. Council's Covenants

The Council covenants and agrees with the Owner that the Council will comply with the obligations set out in the Second Schedule to this Deed

6. Certificates

The Owner covenants and agrees with the Council:

6.1 Where this Deed imposes a requirement for the making of a payment or the undertaking of an act or the cessation of an activity on a Specified Date the Owner shall give to the Planning Obligations Manager 14 days' notice of the Specified Date

6.2 If the Owner fails to give the notice required under clause 6.1 above the Council shall be entitled in its absolute discretion to determine the Specified Date and shall give notice to the Owner of its determination

7. Notices

7.1 A notice under this Deed is valid only if it is given by hand sent by recorded delivery or document exchange and it is served at the address shown in this Deed for the receiving party or at any address specified in a notice given by that party to the other parties.

7.2 A notice sent to the Council:

7.2.1 in relation to any matters arising from the First Schedule (Part 2) of this Deed shall be addressed to the Housing Development Officer (Strategic Housing Herefordshire Council, Plough Lane, Hereford HR4 0LE) quoting reference P180517/F; or

7.2.2 in relation to any matters arising from all other obligations in this Deed shall be addressed to the 'Planning Obligations Manager,' Development Management Team, Herefordshire Council, Plough Lane Offices Plough Lane Hereford HR4 0LE quoting reference P180517/F

7.3 A notice:

7.3.1 sent by recorded delivery is to be treated as served on the second working day after posting if sent by first class post or on the third working day after posting if sent by second class post;

7.3.2 sent through a document exchange is to be treated as served on the first working day after the day on which it would normally be available for collection by the recipient

8 Indexation of Contributions

8.1 The Owner covenants and agrees with the Council that the Contributions payable in accordance with the obligations contained in Part 1 of the First Schedule to this Deed shall be uplifted by reference to:

8.1.1 any increase in the BCIS tender price index published by the Royal Institution of Chartered Surveyors occurring between the date of its publication prior to the date of this Deed and the date that such sum is actually paid to the Council; or

8.1.2 an equivalent index that the Council may at their discretion select in the event that the BCIS tender price index shall cease to be published before such sums are paid

9. Interest

If any payment due under the terms of this Deed has not been paid to the Council on the due date late interest calculated at the rate of 4% per annum above the National Westminster Bank Plc base rate from time to time will be payable from the date payment is due to the date payment is made inclusive

10. Determination

10.1 If the Permission shall expire before Commencement of Development or shall at any time be revoked or quashed this Deed shall forthwith determine and cease to have effect insofar only as it has not already been complied with and without prejudice to the validity of anything done or payments or contributions made or expended whilst this Deed is in force

10.2 If the Council agrees following an application under section 73 of the Act to vary or release any condition contained in the Permission or if a condition is varied or released following an appeal under section 78 of the Act the covenants or provisions of this Deed shall be deemed to bind the varied permission and to apply in equal terms to the new planning permission unless the Council in determining the application for the new planning permission indicate that consequential amendments are required to this Deed to reflect the impact of the section 73 application when a separate deed under s106 of the Act will be required to secure relevant planning obligations relating to the new planning permission

10.3 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Permission including any variation thereto agreed pursuant to section 73 of the Act) granted (whether or not on appeal) after the date of this Deed

10.4 If any provision or part provision of this Deed:

10.4.1 shall be held by any court or competent authority to be invalid illegal or unenforceable the validity legality or enforceability of the remaining provisions shall not in any way be deemed to be affected or impaired; and

10.4.2 if any invalid illegal or unenforceable provision or part provision of this Deed would be valid legal and enforceable if some part or parts of it were amended the parties shall amend such provision(s) so that as amended it is legal valid and enforceable and so far as possible achieves the original intentions of the parties.

10.5 The Owner shall not be entitled to any costs or compensation whatsoever from the Council arising from the agreement restrictions and obligations contained in this Deed

10.6 No person shall be liable for a breach of any of the planning obligations or other provisions of this Deed after parting with all interest in the Land or the part of the Land in respect of which such breach occurs but without prejudice to liability for any subsisting breach prior to parting with such interest

11. Third Party Rights

A person who is not a party to this Deed has no right under the Contracts (Rights of Third Party) Act 1999 to enforce any term of this Deed but this does not affect any right or remedy of a third party which exists or is available apart from such act

12. CIL

Any payment or contribution required under this obligation shall only take effect in so far as that payment or any part of it is found to meet the requirements under Regulation 122 of the Community Infrastructure Levy Regulations 2010 (SI 2010 No.948) so that the payment or part of it can be taken into account in granting planning permission

12.1 If after the date of this Deed the Owner becomes liable to pay a CIL Contribution and:-

12.2 a Contribution (or part thereof) has already been paid in respect of infrastructure towards which the CIL Contribution could be applied then the Council shall repay the Contribution (or part thereof) to the person who paid the Contribution; and/or

12.3 the Owner has not yet paid a Contribution (or part thereof) in respect of infrastructure towards which the CIL Contribution could be applied then the obligation to pay such unpaid Contribution (or part thereof) shall cease and determine absolutely

13. Reservations

For the avoidance of doubt nothing in this Deed shall prevent the Council from exercising any of its statutory powers or functions in relation to the development of the Land

14. Registration

14.1 The Owner hereby consents to the registration of this Deed as a Local Land Charge and as a Notice on title HW170254 at HM Land Registry

14.2 On the written request of the Owner at any time after each or all of the obligations have been performed or otherwise discharged the Council will issue a written confirmation of such performance or discharge

14.3 Following the performance and full satisfaction of all the terms of this Deed or if this Deed is determined pursuant to clause 10 the Council will on the written request of the Owner record such performance or determination in the Local Land Charges Register in respect of this Deed

15. Costs

The Owner covenants and agrees with the Council:

15.1 on or before the date of this Deed to pay to the Council its reasonable and proper costs in the preparation and completion of this Deed and

15.2 The Council's disbursements of registering this Deed as a notice against title

15.2 in the event that before Commencement of Development the Council shall agree in writing to any variation to the timescale for payment of the financial obligation in the First Schedule (Part 1) to pay to the Council a fee being 2% of the total amount of the Contributions towards the Council's additional monitoring costs and for the avoidance of any doubt the payment of this fee is not a reason for granting the Permission nor shall it be construed as such

15.4 In the event that before Commencement of Development the Council shall agree in writing to any variation to the timescale for payment of the financial obligation in the First Schedule (Part 1) this Deed will be varied accordingly

16. Waiver

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

17. Arbitration

17.1 In the event of any dispute or difference arising out of this Deed between the parties (other than a dispute or difference relating to a matter of law or concerning the meaning or construction of this Deed) which is not resolved within 14 days such dispute or difference shall at the request of any party be referred for arbitration under the Arbitration Act 1996 to a sole arbitrator to be agreed between the parties or in the absence of agreement within fourteen days after any party has given to the other(s) a written request to concur in the appointment of an arbitrator to be appointed at the request of any party by the President or Vice President of the Chartered Institute of Arbitrators and in these respects these presents shall be construed as a submission to arbitration within the meaning of the Arbitration Act 1996

17.2 The costs of bringing the arbitration will be borne jointly by the parties unless the arbitrator finds against one party at which the costs recommended by the arbitrator against that party will be borne by the same

18. Warranty

18.1 The Owner warrants to the Council that the title details herein referred to in the Recitals is/are complete and accurate in every respect and that no person other than the Owner has any legal or equitable interest in the Land

18.2 The Owner hereby warrants to the Council that they have not leased mortgaged charged or otherwise created an interest in the Land at the date of this Deed

19. VAT

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

20. SDLT

Entry into this Deed does not constitute a transaction for a chargeable consideration for which Stamp Duty Land Tax is required

21. Connexus' acknowledgement

Connexus acknowledges that the Land shall be bound by the restrictions and obligations contained in this Deed PROVIDED THAT Connexus shall not be bound by any of the obligations unless and until it becomes a successor in title.

22. General

22.1 The Owner and the Council agree that:

22.1.1 Nothing in this Deed constitutes an obligation to grant planning permission

22.1.2 Nothing in this Deed grants planning permission or any other approval consent or permission required from the Council in the exercise of any other statutory function

22.1.3 This Agreement constitutes a Deed

22.1.4 This Deed constitutes the entire agreement between the parties in respect of the Permission

22.1.5 None of the parties has relied on any express or implied statement warranty representation or undertaking given by or on behalf of another and no collateral agreement exists between the parties

22.1.6 Nothing herein contained excludes the liability of any of the parties in relation to fraud

22.1.7 This Deed supersedes and replaces all previous negotiations whether oral or written

22.1.8 This Deed shall be governed by and construed in accordance with the laws of England and shall be subject to the exclusive jurisdiction of the English Courts

22.1.9 The headings in this Deed are for convenience only and shall not be taken into account in the construction and interpretation thereof

22.1.10 The obligations in Part 1 of the First Schedule to this Deed shall not be enforceable against owners or occupiers of the Affordable Housing Units or their mortgagees or chargees nor against those deriving title from them

IN WITNESS of which this instrument has been duly executed as a Deed by the parties
and delivered on the date set out above

FIRST SCHEDULE
(The Owner's covenants)

(PART 1)

1. Contributions

The Owner covenants and agrees with the Council:

- 1.1 Not to Commence or allow Commencement of the Development until the Contributions have been paid in full to the Council

(PART 2)

2. Affordable Housing

The Owner covenants and agrees with the Council:

- 2.1 Following the Commencement of Development to construct or procure the construction of the Affordable Housing Units at no cost to the Council in accordance with the Permission

- 2.2 Not to Occupy or cause or permit the Occupation of more than 50% of the Open Market Units on any part or parts of the Land until a minimum of 50% of the Affordable Housing Units have been constructed in accordance with paragraph 2.1 above and are ready and available for residential occupation and are accessible by vehicles and pedestrians and have been transferred (by freehold transfer with title absolute and full title guarantee) to a Registered Provider AND FURTHER not to Occupy or cause or permit Occupation of more than 80% of the Open Market Units until 100% of the Affordable Housing Units have been constructed in accordance with paragraph 2.1 above and are ready and available for residential occupation and are accessible by vehicles and pedestrians and have been transferred (by freehold transfer with title absolute and full title guarantee) to a Registered Provider

- 2.3 Subject to paragraph 2.6 of this Schedule not to let manage or co-own or allow the Affordable Housing Units to be let managed or co-owned other than strictly in accordance with the guidance issued by Homes England (or any successor agency) from

time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Provider and satisfy the following requirements:

2.3.1 registered with Home Point or in the case of the Shared Ownership Units Help to Buy Midlands at the time the Affordable Housing Unit becomes available for residential Occupation; and

2.3.2 satisfy the requirements of paragraph 2.4 of this schedule

2.4 Not to Occupy or allow Occupation of the Affordable Housing Units by any person until the Affordable Housing Units have been registered and advertised through Home Point and in the case of the Shared Ownership Units Help to Buy Midlands and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of whom has:

2.4.1 a Local Connection with the parish of Orleton; or

2.4.2 in the event of there being no person who has a Local Connection to the Parish of Orleton a person with a Local Connection to the parish of Aymestry; or Croft and Yarpole; or Richards Castle; or Brimfield; or Eye Morton and Ashton; or

2.4.3 in the event of there being no person with a Local Connection to a relevant parish specified in sub-paragraphs 2.4.1 or 2.4.2 of Part 2 of this Schedule any other person ordinarily resident within the administrative area of the Council who is eligible under the allocation policies of the Registered Provider if the Registered Provider can demonstrate to the Council that after 4 consecutive weeks of advertising of any of the Affordable Housing Units becoming available for letting or in the case of the Shared Ownership Units for sale the Registered Provider having made all reasonable efforts through the use of Home Point and in the case of the Shared Ownership Units use of Help to Buy Midlands have found no suitable candidate under sub-paragraphs 2.4.1 and 2.4.2 above

2.5 The transfer of the Affordable Housing Units to the Registered Provider shall include the following provisions:-

2.5.1 the grant to the acquiring Registered Provider of all rights of way access and passage of services and all other rights (including the right to use the Open Space Facilities) reasonably necessary for the beneficial enjoyment of the Affordable Housing Units.

2.5.2 a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the purposes of the Development.

2.6 The provisions of paragraphs 2.1 to 2.5 inclusive above of Part 2 of this Schedule shall not be binding on nor enforceable against

2.6.1 A Chargee of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such Chargee PROVIDED THAT :

2.6.1.1 such Chargee shall first give written notice to the Housing Development Officer (Strategic Housing Herefordshire Council, Plough Lane, Hereford HR4 0LE) quoting reference P180517/F of its intention to dispose of the Affordable Housing Units (or relevant part) and shall have used Reasonable Endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Units (or relevant part) to another Registered Provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses: and

2.6.1.2 if such disposal has not completed within the three month period the Chargee shall be entitled to dispose of the Affordable Housing Units (or relevant part) free from the provisions of Part 2 of the First Schedule of this Deed which provisions shall determine absolutely; or

2.6.2 any Chargee of an Affordable Housing Unit designated for Shared Ownership ("SO Unit") who shall prior to seeking to dispose of any SO Unit pursuant to any default under the terms of the mortgage or charge give not less than 20 working days' prior notice to the Council and to the Registered Provider with an interest in the SO Unit of its intention to dispose and;

2.6.2.1 in the event that the Registered Provider responds within 20 working days from receipt of the notice indicating that arrangements for the transfer of the SO Unit can be made in such a way as to safeguard it as Affordable Housing then the Chargee shall co-operate with such arrangements and use its Reasonable Endeavours to secure such transfer

2.6.2.2 if the Registered Provider does not serve its response to the notice served under paragraph 2.6.2 within the 20 working days then the Chargee shall be entitled to dispose

of the SO Unit free from all the restrictions set out in Part 2 of the First Schedule which shall from the time of completion of the disposal cease to apply

2.6.2.3 if the Registered Provider cannot within 40 working days of the date of service of its response under paragraph 2.6.2.1 secure a binding contract for sale then provided that the Chargee shall have complied with its obligations under paragraph 2.6.2 the Chargee shall be entitled to dispose of the SO Unit free from of all the restrictions set out in sub-paragraphs 2.1 to 2.5 inclusive of Part 2 of the First Schedule which shall from the time of completion of the disposal cease to apply and be extinguished in respect of that disposal

PROVIDED FURTHER that at all times the rights and obligations in this paragraph 2.6 shall not require the Chargee to dispose of the SO Unit for any consideration less than the amount due and outstanding under the relevant security documentation including all accrued interest and costs and expenses or

2.6.3 any occupier of an Affordable Housing Unit who has exercised a statutory right to buy (or any subsequent or substituted contractual right) the whole of the freehold estate in an Affordable Housing Unit nor any Chargee or such occupier or their respective successors in title; or

2.6.4 the owner/lessee of a Shared Ownership Unit who has taken the model form of lease prescribed in paragraph 2.7 below and who has staircased his or her interest in that unit such that he or she owns one hundred per cent (100%) of the equity in that unit and his or her successors in title nor any Chargee of such owner/lessee and their successors in title."

2.7 Where any of the Affordable Housing Units are made available for Shared Ownership housing the occupiers shall not (unless otherwise agreed in writing by the Council) be permitted to own more than 80% of the total equity value of such Affordable Housing Units Provided That this paragraph shall not apply if the Shared Ownership lease of any such unit is in a model form for the protection of Affordable Housing in rural areas published or approved by the Homes England (or a successor body) containing provisions that:

2.7.1 permit an occupier to acquire more than 80% of the total equity in such unit; and

2.7.1 require the mandatory buy back of any such unit by the Registered Provider or its nominee in the event of an intended disposal by any such occupier.

(PART 3)

3 Open Space Facilities

The Owner covenants and agrees with the Council:

3.1 Not to Commence Development until the Council has approved in writing (such approval not to be unreasonably withheld or delayed) the arrangements as identified in the Management Company Plan for the long term management and maintenance of the Open Space Facilities; the establishment of the Management Company; the freehold transfer of the Open Space Facilities to the Management Company and the details of/for the recovery by that Management Company of service charge contributions from the owners of the Open Market Units towards the upkeep and permanent maintenance of the Open Space Facilities

3.2 Thereafter to implement the arrangements in accordance with the Management Company Plan which will include:

3.2.1 the setup, constituted or otherwise of the incorporated Management Company; and

3.2.2 the Owner entering into a contract with the Management Company to transfer the Open Space Facilities to the Management Company in accordance with the provisions of this Schedule; and

3.2.3 the laying out of the Open Space Facilities to the Council's written satisfaction and making it available for amenity use; and

3.2.4 The Owner shall not sell or otherwise dispose of any Open Market Unit without requiring (through appropriate covenants) for the purchaser of that Open Market Unit and his successors in title to become members of the Management Company and to enter into a covenant with the Management Company to pay a service charge towards the costs of the Management Company discharging its functions towards the management of the Open Space Facilities together with provisions for recovery of those contributions in accordance with the arrangements approved pursuant to this part Schedule.

3.3 Prior to Occupation of the final Open Market Unit the Owner shall transfer the freehold of the Open Space Facilities to the Management Company for a consideration of £1.00 (if demanded) Subject To:

3.3.1 covenants by the Management Company to maintain the Open Space Facilities in perpetuity in accordance with the Management Company Plan and not to use the Open Space Facilities except as an area of open space for free public recreation and enjoyment in perpetuity; and

3.3.2 in the event that the Council shall have confirmed its intention to adopt all or any part of a sustainable urban drainage system serving the Development (subject to the payment by the Owner to the Council of an appropriate 60 year commuted sum for the long term maintenance of the sustainable urban drainage system) the reservation of all necessary rights for the Council (such rights to apply only and as necessary if the Council does adopt all or part of the sustainable urban drainage system serving the Development) over the Open Space Facilities for the use, repair, maintenance or replacement of all or any part of such sustainable urban drainage system (including attenuation basins or balancing ponds) in under or forming part of the Open Space Facilities subject to the Council making good any damage caused in the exercise of such rights to the reasonable satisfaction of the Owner.

3.4 The Owner shall not Occupy or permit Occupation of the final Open Market Unit until the Open Space Facilities have been transferred to the Management Company.

3.5 No more than 50% of the Open Market Units shall be Occupied until the Owner has laid out and equipped the Open Space Facilities (including those elements if any which will form part of a sustainable drainage system serving the Development) to the Council's satisfaction (such expression of satisfaction not to be unreasonably withheld or delayed) in accordance with a scheme of works; quality standards and a maintenance specification previously approved in writing by the Council.

3.6 Until a transfer of the Open Space Facilities pursuant to this part Schedule the Owner shall:

3.7.1 not use the Open Space Facilities for any purpose other than as a public amenity area and any use in connection with a sustainable urban drainage system serving the Development; and

3.7.2 at all times remain fully responsible for the repair, maintenance, safety and general upkeep of the Open Space Facilities consistent with its use as a public amenity and as a sustainable urban drainage system serving the Development.

Part 4

(School Car Park Land)

1. Not to Occupy the Development until the School Car Park Land has been transferred (by freehold transfer with title absolute and full title guarantee) to Orleton Primary School (or its statutory successor in title) PROVIDED ALWAYS that Occupation may take place in the event that Orleton Primary School (or its statutory successor in tile) refuses to accept or unreasonably delays acceptance and/or completion of the transfer of the School Car Park Land AND that the Council shall have approved in writing (such approval not to be unreasonably withheld or delayed) written evidence submitted to the Council by the Owner demonstrating that the Owner has used all reasonable endeavours to transfer the School Car Park Land to Orleton Primary School (or its statutory successor in title)
2. The transfer of the School Car Park Land to Orleton Primary School (or its statutory successor in title) shall be for the sum of £1.00 (one pound) and shall include the grant to Orleton Primary School of all rights of way access and passage of services and all other rights reasonably necessary for the beneficial enjoyment of the School Car Park Land for the School Car Park Facilities use.

SECOND SCHEDULE

(The Council's Covenants)

The Council covenants and agrees:

1. Upon receipt of the Contributions the Council will place the same in an interest bearing account

2. The Council shall apply the Contributions towards the facilities referred to in this Deed.
3. The Council agree that if any part of the Contributions has not been expended or remains uncommitted following ten years from the date of payment then such part of the Contributions as may remain unspent or uncommitted together with interest accrued as aforesaid on the balance shall be returned to the payer of the Contributions
4. If so requested to provide the payer of the Contributions with such evidence as shall be reasonably requested to confirm the expenditure of the Contributions

EXECUTED AS A DEED when
THE COMMON SEAL OF
THE COUNTY OF HEREFORDSHIRE
DISTRICT COUNCIL
was hereunto affixed BY ORDER

Authorised Officer



SIGNED AS A DEED by
GLENYS MARGARET PRICE



In the presence of



Witness signature:



Name (capitals)
Address:



SIGNED AS A DEED by
JANET MARGARET PROBERT

[REDACTED]

In the presence of:

[REDACTED]

Witness signature:

[REDACTED]

Name (capitals):

[REDACTED]

Address:

[REDACTED]

SIGNED AS A DEED by
RICHARD FRANK PRICE

[REDACTED]

In the presence of:

[REDACTED]

Witness signature:

[REDACTED]

Name (capitals):

[REDACTED]

Address:

[REDACTED]

EXECUTED AS A DEED by
CONNEXUS HOUSING TWO LIMITED
Homes Ltd.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]





1:1250@A3	drawn	checked
January 2018	JS	CP
Zeb110/P/001	revision	—
PLANNING		

drawing title

Location Plan

project
Kings Road
Orleton

client

revision

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School Car Park Transfer Plan

3/12/2020

School parking
36 car spaces

flood zone 3

Access to informal recreational area

Replacement
tree for As/

pedestrian crossing

drawing title



zebra architects ltd. is part of zebra group consulting ltd.

Other architects had a more difficult time.

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ed in conjunction with appropriate structural engineers drawings.

Research, operations and high quality information.



Dated

28th April 2021

~~2020~~

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL (1)

- and -

GLENYS MARGARET PRICE and JANET MARGARET PROBERT and RICHARD
FRANK PRICE (2)

And

~~CONNEXUS HOUSING TWO LIMITED (3)~~
Homes Ltd

DEED OF PLANNING OBLIGATION

made under the provisions of

Section 106 Town and Country Planning Act 1990 (as amended)

relating to

land to the north west of Kings Road Orleton

Herefordshire