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Cherwell District Council

and

Graven Hill Village Holdings Limited

and

Graven Hill Village Development Company Limited

Shareholders Agreement

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Shareholders agreement

dated 2024

Parties

- (1) **Cherwell District Council** whose principal office is at Bodicote House, Bodicote, Banbury, Oxfordshire, OX15 4AA (the **Council**);
- (2) **Graven Hill Village Holdings Limited** a company incorporated and registered in England and Wales with registered number 09102490 whose registered office is at Graven Hill Site Office Building E25, Graven Hill Road, Bicester, OX25 2BF (**HoldCo**); and
- (3) **Graven Hill Village Development Company Limited** a company incorporated and registered in England and Wales with registered number 09102699 whose registered office is at Graven Hill Site Office Building E25, Graven Hill Road, Bicester, OX25 2BF (**DevCo**).

Introduction

- (A) HoldCo and DevCo were each incorporated under the Companies Act 2006 on 25 June 2014 as a private company limited by shares.
- (B) At the date of this Agreement HoldCo has issued share capital of £31,942,347.00 divided into 21,717,347 ordinary shares of £1 each, which are owned by the Council
- (C) At the date of this Agreement DevCo has issued share capital of £31,942,347.00 divided into 31,942,347 ordinary shares of £1 each, 1 of which is owned by the Council and 31,942,346 of which are owned by HoldCo.
- (D) The parties to this Agreement entered into a Shareholders Agreement in respect of HoldCo and DevCo on 30 September 2019. The parties have agreed to enter into this Agreement to replace the previous Shareholders Agreement.
- (E) This Agreement sets out the respective rights and obligations of the parties in relation to the business and operations of HoldCo and DevCo and is made pursuant to the Council's powers under Sections 1 and 4 of the Localism Act 2011. This is to include any other relevant and reasonable powers to meet the objectives of both HoldCo and DevCo.

Agreed terms

1 Interpretation and definitions

1.1 In this Agreement:

Annual Accounts Date means the accounting reference date of each Company from time to time;

Board of Directors means the board of directors of a Company;

Board Meeting means a meeting of the Board of Directors;

Business means the business of DevCo described in clause 3 and such other business as the Council may agree from time to time in writing should be carried on by DevCo or any other Company in the Group;

Business Day means a day other than a Saturday or Sunday or public holiday in England and Wales;

Business Plan means the business plan for DevCo, or, where a Business Plan is required to be produced by any Subsidiary Undertaking then, any other Company in the Group as the case may be, in the agreed form and any subsequent business plan agreed by the Board of Directors in accordance with clause 3.3 and applicable from time to time;

Companies means DevCo and HoldCo and each Subsidiary Undertaking in the Group and **Company** means either of them;

Deed of Adherence means a deed of adherence in substantially the same form as set out in schedule 1;

Director means any director appointed to the Board by the Council;

Environmental Information Regulations means the Environmental Information Regulations 2004;

FOIA means the Freedom of Information Act 2000;

Group means, in relation to HoldCo, DevCo itself and any other Subsidiary Undertaking of HoldCo or DevCo; and the expression **Group Member** shall be construed accordingly;

Independent Chair means a person appointed by the Council to act as the chair of the Board;

Independent Non-executive Director (INED) means an individual who is a member of the board of directors who does not have a material or pecuniary relationship with the company or related persons and is neither employed by, or an elected member of, the Council. The INED's role is to provide independent oversight and constructive challenge to the executive directors.

Information has the meaning given to it under section 84 of the FOIA;

Management Accounts Date means scheduled dates being the financial year quarter date or as otherwise advised by the Council from time to time in each financial year;

Request for Information has the meaning set out in the FOIA or any apparent request for information made under the FOIA or the Environment Information Regulations;

Security Interest means any mortgage, charge, pledge, lien, hypothecation, assignment by way of security, guarantee, indemnity, debenture, declaration of trust, right of set off or combination of accounts or any other type of preferential arrangement (including without limitation, a title transfer and retention of title) or any encumbrance or security interest whatsoever, howsoever arising and whether monetary or not;

Shareholder means Cherwell District Council acting in its capacity as sole owner

Subsidiary Undertaking means a subsidiary undertaking as defined in section 1162 of the Companies Act 2006 whether existing at the date of this Agreement, or incorporated at any

later date.

- 1.2 Any reference to a statute or statutory provision is a reference to it as it is in force from time to time, taking account of any change, extension, consolidation or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.3 Clause headings in this Agreement are for convenience only and do not affect the construction of any provision.
- 1.4 References to any gender shall include the other genders and references to the singular shall include the plural and vice versa.
- 1.5 Any reference to a person (which for the purposes of this Agreement shall include a firm, unincorporated association, body corporate, government, state or agency of state, any association or partnership or joint venture (whether or not having a separate legal personality)) shall include its successors in title.
- 1.6 In this Agreement all obligations and liabilities on the part of the Shareholders are (unless expressly stated otherwise) several and shall be construed accordingly.
- 1.7 Any reference to a document **in the agreed form** shall be a reference to that document in the form agreed and initialled by or on behalf of each of the Shareholders for the purpose of identification and attached to this Agreement.

2 Not used

3 The business of DevCo

- 3.1 The Shareholder acknowledges and agrees that unless and until it agrees otherwise, the business of DevCo shall be to develop the land at Graven Hill as set out in the annually updated Business Plan and Facility Agreement, as well as any other relevant and reasonable business for meeting the objectives of DevCo.
- 3.2 The Business shall be carried on in accordance with the current Business Plan on sound commercial principles.
- 3.3 The Business Plan shall be resolved upon by the Board of Directors and approved by the Council in accordance with clause 7.1 and replaced on a rolling basis annually in respect of the coming financial year and the next three financial years and superseded or modified from time to time. No adoption, variation or replacement of any Business Plan shall take effect unless such adoption, variation or replacement has received consent in accordance with clause 7.1.
- 3.4 The Business Plan shall be:
 - (a) prepared by the Board by no later than 31st January in each year; and
 - (b) put before the Board for approval as soon as practicable after it has been prepared.
- 3.5 If an updated Business Plan is not so approved within thirty (30) days or at the next scheduled Board meeting, whichever is the later, following the date it has been prepared by

the Board in each year, the Business Plan in force at the time shall continue in its existing form without amendment.

3.6 The Business Plan and any updated Business Plan will provide:

3.6.1 a 3 year medium-term strategic vision; and

3.6.2 a rolling 3 year forecast of information to be provided

3.6.3 as a minimum, the Business Plan shall include in relation to the Financial Year to which it relates:

- a. projected monthly income and expenditure for the forthcoming Financial Year (year 1) and projected annual income and expenditure for subsequent Financial Years (years 2 to 3), analysed by source of income and classification of expenditure;
- b. a monthly cash flow forecast for the forthcoming Financial Year (year 1) with annual cash flow forecast for subsequent Financial Years (years 2 to 3);
- c. forecast annual profit or loss and corporation tax;
- d. projected dividend and retaining earnings at the end of each financial year;
- e. a management report giving business objectives and operational approach for the year including: (i) planned phases for development; and (ii) estimated roles and resourcing requirements to be contributed by the Shareholder;
- f. financial reports which shall include an analysis of the estimated results of the Company for the previous Financial Year compared with the respective Business Plans for that year, identifying variations in sales revenues, costs and other material items;
- g. a written narrative explaining the source and provenance of these figures along with any assumptions which underpin them, including but not limited to inflation and pay awards;
- h. any additional items considered appropriate or prudent by the Board.

3.6.4 an assessment of market, commercial, delivery and other material risks

3.7 The principal place of business of each Group Member and the principal place for management of each Group Member shall be within the administrative boundaries of the Council, unless otherwise agreed in writing by the Council.

3.8 Subject to the provisions of this Agreement, the parties understand and agree that each Company shall use all reasonable and proper means to maintain and improve the Business.

4 **Conduct of each Company's affairs**

4.1 With the exception of those matters requiring the Council's consent pursuant to clause 7, the day-to-day management of each Company shall be vested in its Directors. Without

prejudice to the generality of the foregoing, the Directors will determine the general policies of each Company and the manner in which the Business is to be carried out, subject to the Business Plan, to those matters requiring the Council's consent pursuant to clause 7 and to any other express provisions of this Agreement. In particular, but without limitation to the generality of the foregoing, each of the parties will all use the voting and other rights and powers of control available to it, so as to procure (insofar as it is able to do so by the exercise of those rights and powers) that each Company shall:

- 4.1.1 carry on and conduct its business and affairs in a proper and efficient manner, for its own benefit and in accordance with the Business Plan and with good business practices, and
 - 4.1.2 transact all its business on arm's length terms.
- 4.2 Each Company shall not carry out any activity which would render the holding of shares by the Council unlawful provided that where a proposed change of law would render such shareholding unlawful the Council will use all reasonable endeavours to take such steps as are necessary to allow it to continue lawfully to hold its shares.
- 4.3 Each Company will if it requires any approval, consent or licence for the carrying on of its Business in the manner in which it is from time to time carried on or proposed to be carried on, use all reasonable endeavours to obtain and maintain the same in full force and effect.
- 4.4 Each Company shall permit any Director to discuss the affairs, finances and accounts of that Company with any Shareholder's designated members, officers and executives at any time. All books, records, accounts and documents relating to the business and the affairs of each Group Member shall be open to the inspection of any such person, who shall be entitled to make any copies thereof as he or she deems appropriate to keep the relevant shareholder properly informed about the business and affairs of the Group or to protect its interests as a shareholder. Any confidential information secured as a consequence of such discussions and examinations shall be kept confidential by the requesting shareholder and its designated officers and executives in accordance with the terms of clause 12.
- 4.5 Each Company agrees that it will maintain effective and appropriate control systems in relation to the financial, accounting and record-keeping functions of the Group and will generally keep the shareholders informed of the progress of each Group Member's business and affairs and in particular will procure that each shareholder is given such information and such access to the officers, employees and premises of the Group as it may reasonably require for the purposes of enabling it to monitor its investment in the Group and to comply with its obligations under the Prudential Code for Local Authorities.
- 4.6 The Companies shall not breach nor cause the Council to be in breach of the Local Authorities (Companies) Order 1995, Part V of the Local Government and Housing Act 1989, the Local Government Public Involvement in Health Act 2007 or its obligations under the Public Contracts Regulations 2015 or any other Legislation on public procurement effective in the United Kingdom.
- 4.7 Each Company shall:
 - 4.7.1 identify the Council's participation on all its official business stationery

4.7.2 ensure its directors and staff shall not engage in any party political publicity.

4.8 Each Company may offer remuneration to Independent Non-executive Directors.

4.9 The remuneration packages for executives, managers and staff shall be controlled and Determined by each Company under the formation of the relevant Business Plan.

5 **The Boards of Directors**

5.1 The Board has responsibility for the supervision and management of the Companies and its Business, subject to clause 4. To the extent permitted by law, the Shareholder shall cause its appointed directors to vote and to take all other actions as shall be necessary to ensure the fulfilment of the terms and conditions of this agreement.

5.2 There shall be a minimum number of 2 directors and no more than 8 on the Board of each company.

5.3 The Council shall be entitled at any time to appoint and maintain in office up to 8 Directors and to remove or replace any Director so appointed.

5.4 Director appointments and removals shall be made by the Shareholder giving notice in writing to the Company. The appointment or removal takes effect on the date on which the notice is received by the Company or, if a later date is given in the notice, on that date.

5.5 The post of chairperson shall be appointed by the Council for a term to be determined by the Council and held by a INED. The chairperson shall have a casting vote. The chairperson shall be the Independent Chair. If the Independent Chair is unable to attend any meeting of the Board, the Directors may appoint another Director to act as chair at that meeting.

5.6 If the Shareholder removes a Director, the Shareholder shall, as appropriate and reasonable, indemnify and keep indemnified the Company against any claim connected with the Director's removal from office.

5.7 Unless the parties agree otherwise in writing, at least 4 Board Meetings for each Company will be held (at reasonably regular intervals) in each calendar year.

5.8 Unless otherwise agreed by all the Directors, 10 Business Days' notice shall be given to each of the Directors of all Board Meetings. The notice convening a Board Meeting shall include an agenda specifying in reasonable detail the matters to be discussed, together with any relevant papers for discussion at such meeting. The Shareholder may attend a Board meeting and will be notified of the dates and times of such meetings. Minutes of Board meetings will be reported to the Shareholder.

5.9 Each Company will procure that its chairman and managing director or nominated deputies will attend meetings with the Council to discuss the business and affairs of the Company at such times and at such locations as the Council may reasonably require. A forward plan for such meetings should be agreed with the Shareholder each year and set out to the Companies' Boards and to the Shareholder Committee before each municipal year

commences.

6 **Finance**

If any Company requires capital, it may request such capital from the Council **provided that** the Council shall not be obliged to provide any guarantee or security in respect of any indebtedness of a Company or to put up the finance concerned.

7 **Matters reserved to the council**

Determining INEDs' fees

7.1 Appointing and removing Board level positions, including the Chair, INEDs, the Managing Director and Executive Directors. The Council shall consult the companies on such decisions and involve them in the process.

8 **Matters requiring the consent of the Council**

8.1 Each Company shall take all such steps and do all such acts and things as may be necessary or desirable, including, without limitation, exercising all voting and other rights and powers of control available to it, so as to procure (insofar as it is able to do so by the exercise of those rights and powers) that at all times during the term of this Agreement no action shall be taken or resolution passed by a Company in respect of any of the following matters except with the prior written consent of the Council:

8.1.1 altering in any respect its articles of association or the rights attaching to any of its shares;

8.1.2 permitting the registration of any person as a member of HoldCo other than the Council;

8.1.3 permitting the registration of any person as a member of DevCo other than the Council and HoldCo;

8.1.4 permitting the registration of any person as a member of any Subsidiary Undertaking other than the Council, the HoldCo and the DevCo;

8.1.5 issuing or allotting any shares;

8.1.6 borrowing any monies outside of the agreed Business Plan (other than normal trade credit);

8.1.7 changing its name or its registered office;

8.1.8 adopting or amending the Business Plan in respect of each Financial Year;

8.1.9 changing the nature of Business or commencing any new business which is not ancillary or incidental to the Business;

8.1.10 forming any Subsidiary Undertaking or acquiring shares in any other company or participating in any partnership or joint venture (incorporated or not);

- 8.1.11 amalgamating or merging with any other company or business undertaking;
- 8.1.12 making any acquisition or disposal of any material asset(s), to exclude house plot sales and transfer of management companies which have no financial value and which are limited by guarantee to resident members on the sale of the last plot or long leasehold interests.
- 8.1.13 creating or granting any Security Interest over the whole or any part of a Company's business, undertaking or assets;
- 8.1.14 making any loan (otherwise than by way of deposit with a bank or other institution the normal business of which includes the acceptance of deposits) or granting any credit (other than in the normal course of trading) or giving any guarantee or indemnity;
- 8.1.15 entering into any arrangement, contract or transaction outside the normal course of its business or other than on arm's length terms;
- 8.1.16 changing its auditors or its financial year end;
- 8.1.17 making or permitting to be made any change in the accounting policies and principles adopted by it in the preparation of its audited or management accounts except as may be required to ensure compliance with relevant accounting standards under the Companies Act 2006 or any other generally accepted accounting principles in the United Kingdom;
- 8.1.18 declaring or paying any dividend;
- 8.1.19 appointing or employing any person who is or was formerly a councillor or officer of the Council;
- 8.1.20 Having taken advice from the Companies Remuneration Committee establishing or amending the remuneration packages of Executive Directors and the senior leadership team including base pay, any profit-sharing, share option, bonus or other incentive scheme of any nature for directors or employees;
- 8.1.21 making any bonus payment to any director or employee;
- 8.1.22 instituting, settling or compromising any legal proceedings instituted or threatened against it or submitting to arbitration or alternative dispute resolution any dispute involving it; or
- 8.1.23 entering into an agreement to do any of the foregoing.

9 **Production of accounts and reports**

- 9.1 DevCo shall produce a balance sheet, as at each Management Accounts Date which is to be presented at a pre-agreed quarterly meeting and a profit and loss account which is to be a at each pre-agreed quarterly meeting. The balance sheet and profit and loss account

will be accompanied by a report in such format and covering such issues as may reasonably be requested by the Council.

- 9.2 HoldCo shall produce an annual profit and loss sheet and a balance sheet, as part of its financial year end process at each pre-agreed annual meeting. The balance sheet and profit and loss account will be accompanied by a report in such format and covering such issues as may reasonably be requested by the Council.
- 9.3 Each Subsidiary Undertaking shall produce an annual profit and loss sheet and a balance sheet, as part of its year end process at each pre-agreed annual meeting. The balance sheet and profit and loss account will be accompanied by a report in such format and covering such issues as may reasonably be requested by the Council.
- 9.4 Each Company shall ~~instruct its auditors~~ prepare and audit a balance sheet and have them externally audited, as at the Annual Accounts Date each year and a profit and loss account, for the 12 month financial period ending on the Annual Accounts Date each year. Draft accounts shall be presented to the Council within 3 months of the financial year end. Final accounts shall be presented to the Council within 6 months after the end of the period to which such accounts relate. The balance sheet and profit and loss account will be accompanied by a report in such format and covering such issues as may reasonably be requested by the Council.
- 9.5 Each Company will provide to its shareholders full details of any actual or prospective material change in its business or financial position or affairs, as soon as such details are available.
- 9.6 All accounts referred to in this clause shall be prepared in pounds sterling and in accordance with applicable law and generally accepted accounting standards, principles and practices in the United Kingdom.

10. Anti-corruption

In this clause:

Adequate Procedures means adequate procedures, as referred to in section 7(2) of the Bribery Act 2010 and any guidance issued by the Secretary of State under section 9 of the Bribery Act 2010;

Associated Person means in relation to a party to this Agreement, any person (including an officer, employee, agent or Subsidiary Undertaking) who performs services for or on behalf of that party;

Corrupt Activity means extortion, fraud, deception, collusion, cartels, abuse of power, embezzlement, trading in influence, money-laundering or any similar activity including without limitation any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 Bribery Act;

- 10.1 Each party declares and undertakes to the other parties that:

- a. it has not and will not in relation to any Company, or the operation of the Business, engage in any Corrupt Activity;

- b. it will not authorise or acquiesce in or turn a blind eye to, any Corrupt Activity;
- c. it has and will maintain in place, or in the case of each Company it will put and maintain in place, Adequate Procedures designed to prevent any Associated Person from undertaking any conduct that would give rise to an offence under section 7 of the Bribery Act 2010;
- d. it has not and will not engage in any activity, practice or conduct which could place any Company or any other party in breach of section 7(1) Bribery Act;
- e. it will not, and will procure that the Company will not engage in any activity, practice or conduct which would constitute an offence under section 45 or 46 of the Criminal Finances Act 2017;
- f. it has and will maintain in place, and will procure that the Company has and will maintain in place, Prevention Procedures designed to prevent any Associated Person from undertaking any conduct that would give rise to an offence under section 45 or 46 of the Criminal Finances Act 2017; and
- g. from time to time, at the reasonable request of the other party, it will confirm in writing that it has complied with its undertakings under clause 9.2.1 and clause 9.2.2 and will provide any information reasonably requested by the other party in support of such compliance.
- h. breach of any of the undertakings in this clause shall be deemed to be a material breach of the agreement.
- i. from time to time, at the reasonable request of the other party, it will confirm in writing that it has complied with its undertakings under this clause 9.2 and will provide any information reasonably requested by the other party in support of such compliance; and
- j. it will ensure that its Associated Persons will comply with its commitments under this clause 9.

11 Conflict with articles of association

- 11.1 In the event of any ambiguity or discrepancy between the provisions of this Agreement and the provisions of the articles of association of any Company, then it is the intention of the parties that the provisions of this Agreement shall prevail. Accordingly, each party which holds shares in a Company (so far as each is able) shall take all such steps and do all such acts and things as may be necessary or desirable, including, without limitation, exercising all voting and other rights and powers of control available to it as a shareholder, so as to give effect to the provisions of this Agreement and shall further if necessary procure (insofar as it is able to do so by the exercise of those rights and powers) any required amendment to the relevant articles of association of the relevant Company.

13 No fetter

- 13.1 Nothing in this Agreement shall operate to bind any Company or the Council to the extent that it constitutes an unlawful fetter on any statutory power of such Company or the Council

(but this shall not affect the validity of the relevant provision as between the other parties to this Agreement or the respective obligations of such other parties as between themselves under clause 10).

14. Confidentiality

14.1 This clause applies to:

- all information of a confidential nature disclosed (whether in writing, verbally or by any other means and whether directly or indirectly) by one party to one of the other parties whether before or after the date of this Agreement;
- any information concerning the business affairs of one party or other information confidential to that party which one of the other parties learns as a result of the relationship between the parties pursuant to this Agreement;
- including any information relating to any party's products, operations, processes, plans or intentions, product information, know-how, design rights, trade secrets, market opportunities and business affairs (together, **Confidential Information**).

14.2 In this clause, in relation to a particular item of Confidential Information:

- the **Disclosing Party** means the party by whom (or on whose behalf) that Confidential Information is disclosed or (where there is no such disclosure) the party to whom the Confidential Information relates, or to whom the Confidential Information is proprietary or who otherwise desires that the confidentiality of the Confidential Information is respected; and
- the **Receiving Party** means the other party.

14.3 During the term of this Agreement and after termination of this Agreement for any reason whatsoever, the Receiving Party shall:

- keep the Confidential Information confidential;
- not disclose the Confidential Information to any other person other than with the prior written consent of the Disclosing Party or in accordance with this clause; and
- not use the Confidential Information for any purpose other than the performance of its obligations and the exercise of its rights under this Agreement.

14.4 Notwithstanding clause 14.3, the Receiving Party may disclose Confidential Information as follows:

- To its professional advisers (each, a **Recipient**) providing the Receiving Party ensures that each Recipient is made aware of and complies with all the Receiving Party's obligations of confidentiality under this Agreement as if the Recipient was a party to this Agreement; and
- to other parties to this Agreement, and where disclosure is required by law, by any court of competent jurisdiction or by any appropriate regulatory body

14.5 This clause shall not apply to any Confidential Information which:

- Is at the date of this Agreement or at a later date comes into the public domain other than through breach of this Agreement by the Receiving Party or any Recipient;
- Was known by the Receiving Party before receipt from (or on behalf of) the Disclosing Party (or, as appropriate, before the Receiving Party learnt of the same pursuant to this

- Agreement) and which had not previously been obtained under an obligation of confidence;
or
- subsequently comes lawfully into the Receiving Party's possession from a third party, free of any obligation of confidence.
- 14.6 Each Company acknowledges that the Council is subject to the requirements of the FOIA, the Environmental Information Regulations and other access to information and propriety controls as provided in legislation, and shall facilitate the Council's compliance with its Information disclosure requirements pursuant to and in the manner provided for in clauses 14.10.
- 14.7 If the Council receives a Request for Information in relation to Information that a Company is holding and which the Council does not hold itself, the Council shall refer to the relevant Company such Request for Information as soon as practicable and in any event within five (5) Business Days of receiving a Request for Information, and the relevant Company shall:
- 14.7.1 provide the Council with a copy of all such Information in the form that the Council requires as soon as practicable and in any event within 10 Business Days (or such other period as the Council acting reasonably may specify) of the Council's request; and
 - 14.7.2 provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to a Request for Information within the time for compliance set out in Section 10 of the FOIA or Regulation 5 of the Environmental Information Regulations.
- 14.8 Following notification under clause 14.7, and up until such time as the relevant Company has provided the Council with all the Information specified in clause 1.7, the relevant Company may make representations to the Council as to whether or not or on what basis Information requested should be disclosed, and whether further information should reasonably be provided in order to identify and locate the information requested, provided always that the Council shall be responsible for determining, at its absolute discretion:
- 14.8.1 whether Information is exempt from disclosure under the FOIA and the Environmental Information Regulations; and
 - 14.8.2 whether Information is to be disclosed in response to a Request for Information, and in no event shall the relevant Company respond directly to a Request for Information.
- 14.9 Each Company acknowledges that (notwithstanding the provisions of clause 12.1) the Council may, acting in accordance with the Department of Constitutional Affairs' Code of Practice on the Discharge of Functions of Public Authorities under part I of the Freedom of Information Act 2000, be obliged under the FOIA or the Environmental Information Regulations to disclose Information concerning the Company:
- 14.9.1 in certain circumstances without consulting with the Company; or
 - 14.9.2 following consultation with the Company and having taken its views into account.

14.10 Each Company shall transfer to the Council any Request for Information received by it as soon as practicable and in any event within 3 Business Days of receiving it.

13 *Data Processing SUGGEST THIS IS MOVED TO A SCHEDULE THAT IS REVIEWED ANNUALLY FOR EASE OF UPDATING AS LAW AND BEST PRACTICE DEVELOPS*

13.1 The parties undertake to indemnify each other in full and hold each other harmless from any cost, charge, damages, expense or loss which they cause each other as a result of their breach of any of the provisions of the terms of the Data Protection Act 2018 or the UK GDPR.

15 **General**

15.1 Except where this Agreement provides otherwise, each party shall pay its own costs relating to or in connection with the negotiation, preparation, execution and performance by it of this Agreement and of each agreement or document entered into pursuant to this Agreement and the transactions contemplated by this Agreement.

15.2 No variation of this Agreement or any agreement or document entered into pursuant to this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.

15.2A The parties agree that the Shareholders' Agreement dated 30 September 2019 shall cease, determine and expire absolutely on the date that this Agreement is entered into. Such determination or expiry shall not affect any pre-existing right, obligation or liability of any party to that agreement which arose prior to the date of determination.

15.3 No delay, indulgence or omission in exercising any right, power or remedy provided by this Agreement or by law shall operate to impair or be construed as a waiver of such right, power or remedy or of any other right, power or remedy.

15.4 No single or partial exercise or non-exercise of any right, power or remedy provided by this Agreement or by law shall preclude or restrict any other or further exercise of such rights, power or remedy or of any other right, power or remedy.

14.5 A waiver of a breach of any of the terms of this Agreement or of a default under this Agreement does not constitute a waiver of any other breach or default and shall not affect the other terms of this Agreement.

15.6 A waiver of a breach of any of the terms of this Agreement or of a default under this Agreement will not prevent a party from subsequently requiring compliance with the waived obligation.

15.7 The rights and remedies provided by this Agreement are cumulative and subject as otherwise provided in this Agreement are not exclusive of any rights, powers or remedies provided by law.

15.8 If any provision of this Agreement is or becomes illegal, invalid or unenforceable under the law of any jurisdiction, that shall not affect or impair:

15.8.1 the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement; or

- 14.8.1 the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.
- 14.9 Subject to clause 14.2A above, this Agreement, and the documents referred to in it, constitute the entire agreement and understanding between the parties and supersede any previous agreement, understanding or arrangement between the parties relating to the subject matter of this Agreement.
- 14.10 Each of the parties acknowledges and agrees that:
- 14.10.1 in entering into this Agreement, and the documents referred to in it, it does not rely on, and shall have no remedy in respect of, any statement, representation, assurance, warranty or understanding of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement or those documents;
- 14.10.2 the only remedy available to it arising out of or in connection with this Agreement or its subject matter shall be for damages for breach of contract under the terms of this Agreement;
- 14.10.3 nothing in this clause shall operate to limit or exclude any liability for fraud.
- 14.11 Save for a person who acquires shares in a Company and enters into a Deed of Adherence, no person who is not a party to this Agreement shall have any right to enforce this Agreement or any agreement or document entered into pursuant to this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999.

15 **Assignment**

This Agreement is personal to the parties and neither party shall assign, transfer, charge, make the subject of a trust or deal in any other manner with this Agreement or any of its rights or obligations under it, or purport to do any of the same, nor sub-contract any or all of its obligations under this Agreement without the prior written consent of the other party, save where either: (a) the Group is, or any Company forming part of the Group are, subject to a corporate restructure in which case whatever corporate entity replaces the Group, or any Company forming part of the Group, to continue in the Business (or any other business which is similar to the Business, as appropriate); or (b) the Council's function are transferred or assigned to a successor body. Each party is entering into this Agreement for its benefit and not for the benefit of another person.

16 **No partnership or agency**

Nothing in this Agreement is intended to or shall operate to create a partnership, or to authorise any party to act as agent for any other or to establish any other fiduciary relationship between the parties. No party shall have authority to act in the name or on behalf of or otherwise to bind any other party in any way (including but not limited to the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

17 **Notices**

17.1 Any notice or other communication given under this Agreement:

17.1.1 shall be in writing;

17.1.2 shall be signed by or on behalf of the party giving it;

17.1.3 shall be served by email, delivering it by hand, or sending it by pre-paid recorded delivery or registered post at the address set out in clause 17.2 of the party due to receive it and marked for the attention of the person named in clause 17.2 (or at such other address in the United Kingdom or marked for the attention of such other person as last notified in writing to the other parties;

17.1.4 shall be deemed to have been received:

(a) if delivered by hand, at the time of actual delivery; and

(b) in the case of pre-paid recorded delivery or registered post, two Business Days after the date of posting.

17.2 The addresses of the parties for the purposes of clause 17.1 are:

HoldCo

Address: Graven Hill Site Office Building E25, Graven Hill Road, Bicester, OX25 2BF

For the attention of: Managing Director

DevCo

Address: Graven Hill Site Office Building E25, Graven Hill Road, Bicester, OX25 2BF

For the attention of: Managing Director

For each Subsidiary Undertaking (unless the parties agree otherwise in writing)

Address: Graven Hill Site Office Building E25, Graven Hill Road, Bicester, OX25 2BF

For the attention of: Managing Director of DevCo

The Council

Address: Bodicote House, Bodicote, Banbury, OX15 4AA

For the attention of: S151 Officer and the Monitoring Officer

17.3 To prove delivery it shall be sufficient to prove that the envelope containing the notice was addressed to the address of the relevant party set out in clause 17.2 and delivered either to that address or into the custody of the postal authorities as a pre-paid recorded delivery, registered post or airmail letter.

17.4 In this clause if deemed receipt occurs before 9am on a Business Day the notice shall be deemed to have been received at 9am on that day, and if deemed receipt occurs after 5pm on a Business Day, or on a day which is not a Business Day, the notice shall be deemed to have been received at 9am on the next Business Day.

17.5 For the avoidance of doubt, a notice or other communication given under this Agreement shall not be validly served if sent by e-mail.

18 **Counterparts**

This Agreement may be executed in any number of counterparts and by different parties on separate counterparts (which may be facsimile copies), but shall not take effect until each party has executed at least one counterpart. Each counterpart shall constitute an original, and all the counterparts together shall constitute a single agreement.

19 **Applicable law**

19.1 The parties agree that this Agreement and any dispute or claim arising out of or in connection with this Agreement, its negotiation or its subject matter, or any non-contractual obligation arising in connection with the foregoing, shall be governed by and construed in accordance with English law.

19.2 Each of the parties irrevocably agrees to submit to the exclusive jurisdiction of the courts of England and Wales in relation to any claim or matter arising out of or in connection with this Agreement, its negotiation or its subject matter, or any non-contractual obligation arising in connection with the foregoing.

This Agreement has been executed on the date stated at the beginning of this Agreement.