

Dated 15th September 2010

DEVONSHIRE HOMES LTD

AND

NORTH DEVON DISTRICT COUNCIL

DEED OF COVENANT

Under S.33 Local Government (Miscellaneous Provisions) Act 1982

In relation to

Public Open Space at
Broomhouse Park, Witheridge, Devon

Mrs. B. Evans,
Legal Services Manager,
North Devon District Council,
Civic Centre,
Barnstaple,
Devon,
EX31 1EA.

HM LAND REGISTRY

LAND REGISTRATION ACT 2002

Administrative Area: North Devon
Title Number: DN543387
Property: Land on the South West Side of Broomhouse Park, Witheridge

THIS DEED is made the 15th day of September 2010

BETWEEN:

- (1) **DEVONSHIRE HOMES LIMITED** (Company Registration Number 02769742) whose registered office is at Pyramid House, Tiverton Way, Tiverton, Devon, EX16 6TG ("the Owner) and
- (2) **NORTH DEVON DISTRICT COUNCIL** of Civic Centre, Barnstaple, Devon, EX31 1EA ("the Council")

NOW THIS DEED WITNESSES as follows: -

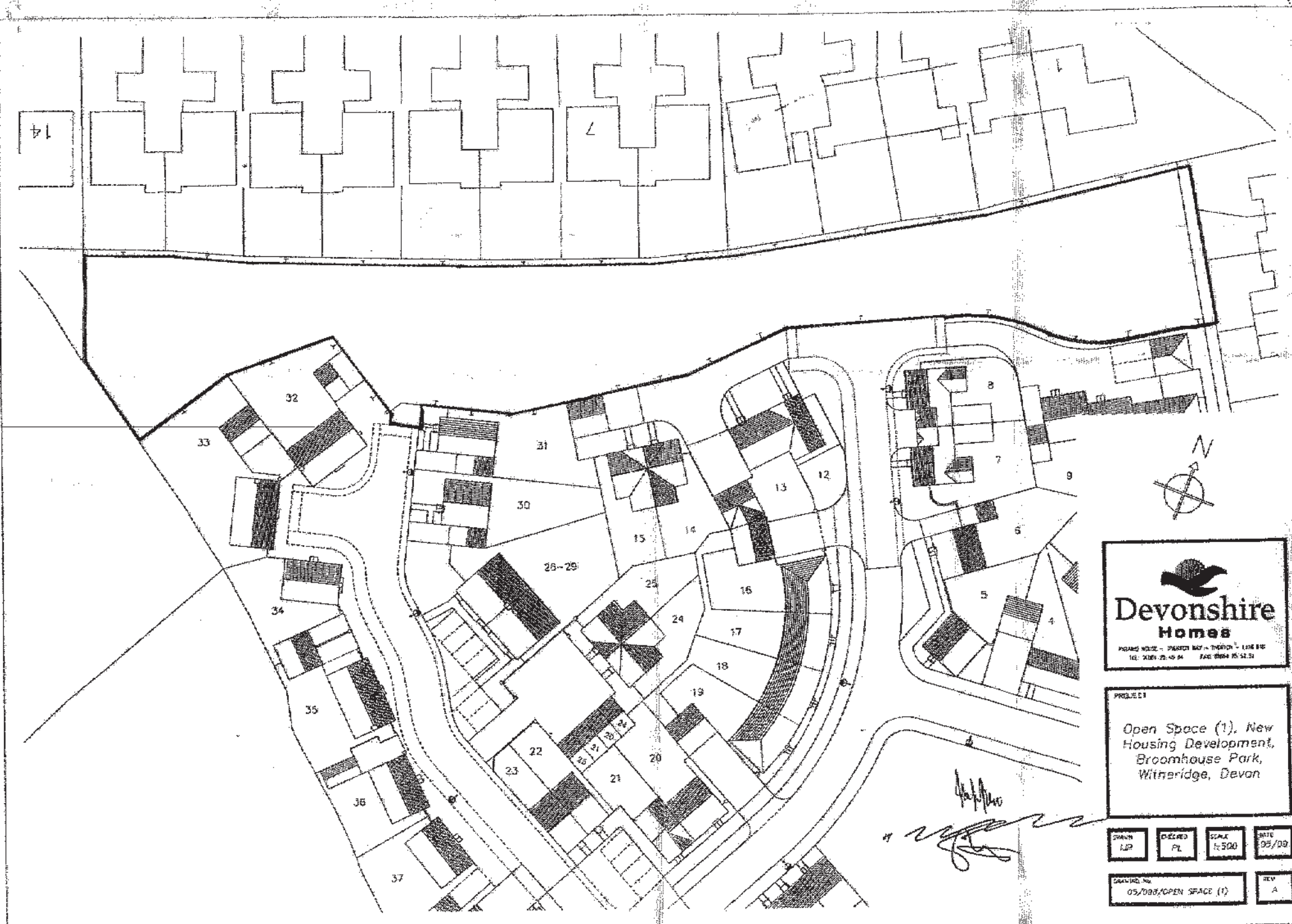
1. Definitions and interpretation

In this deed, unless the context otherwise requires, the following words and expressions have the following meanings:

- 1.1 "Management Scheme" means the Public Open Space Management Scheme annexed hereto
- 1.2 "Open Space" means the land on the South West Side of Broomhouse Park, Witheridge, Tiverton in the County of Devon shown edged red on the two plans annexed hereto

2. Recitals

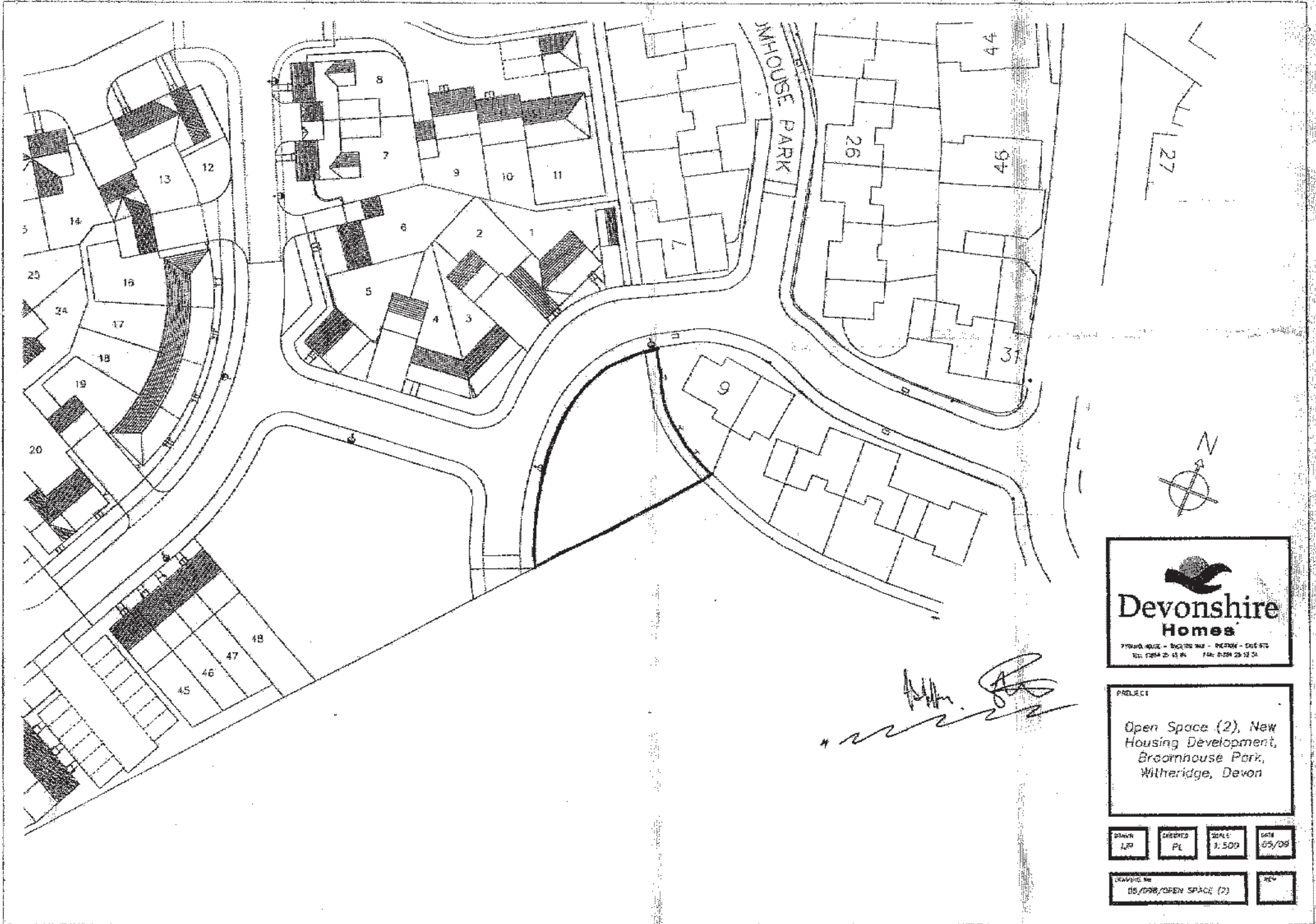
- 2.1 The Owner has agreed with the Council that the Open Space shall hereafter be held maintained used and enjoyed as a Public Open Space
- 2.2 In order to secure such future use and maintenance for the benefit of the amenity of the area the Owner has agreed to enter into the covenants with the Council hereinafter contained




**Devonshire
Homes**
PLANNING SERVICE - OPERATIONAL MAPS - TECHNICAL - LIAISON BUREAU
 TEL: 02089 25 45 04 FAX: 02089 25 52 51

PROJECT
**Open Space (1), New
 Housing Development,
 Broomhouse Park,
 Witheridge, Devon**

DESIGN L.P.	DRAWN P.L.	SCALE 1:500	DATE 05/09
DRAWING NO. 05/008/OPEN SPACE (1)			REV A



**Devonshire
Homes**

PLANNING - DESIGN - BUILDING - PROJECTS - 0163 272
TEL: 01634 25 43 84 FAX: 01634 25 12 31

PROJECT

Open Space (2), New
Housing Development,
Broomhouse Park,
Witheridge, Devon

DRAWN LJP	CHECKED PL	SCALE 1:500	DATE 05/09
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DRAWING NO 05/09B/OPEN SPACE (2)	REV
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3. The Owner's covenants

The Owner for itself and its successors in title to the Open Space to the intent that the obligation thereof shall hereafter attach to the Open Space covenants with the Council as follows: -

- 3.1 Not to use or permit the use of the Open Space otherwise than as an open space for free public use and enjoyment
 - 3.2 At all times to allow full and free public access to the Open Space
 - 3.3 At all times hereafter to maintain the Open Space at the Owner's own sole cost to and in accordance with the standards practices and requirements set out in Paragraphs 7.0 - 12.2 of the Management Scheme
 - 3.4 Upon receipt of notice in writing from the Council of any failure to comply with any of the requirements of paragraphs 7.0 – 12.2 of the Management Scheme and of the remedial actions required by it to carry out such remedial actions to the reasonable satisfaction of the Council within 14 days of the date of such notice
 - 3.5 Within 14 days of any transfer of ownership of the Open Space to give written notice to the Council of the date of such transfer and the name and correspondence address of the transferee
 - 3.6 This Deed is made with the intent that it shall be enforceable without any limit of time against the Owner and the Owner's heirs and successors in title to the Open Space or any part of the Open Space provided that no person shall be liable for any breaches of the covenants contained in this Deed which occurs after that person has parted with their entire interest in the Open Space or the part of it in respect of which the breach occurs but without prejudice to any liability for any subsisting breach arising prior to parting with such interest.
- 4.0 Application of Section 33 Local Government (Miscellaneous Provisions) Act 1982**

This Deed is made pursuant to the Local Government (Miscellaneous Provisions) Act 1982 Section 33 and the provisions of the said Section 33 shall apply to the covenants given herein

IN WITNESS of whereof the parties hereto have executed this document as a deed the day and year first before written

“Broomhouse Park”

Witheridge

Tiverton

Public Open Space Management Scheme

Prepared by

Devonshire Homes Ltd

2010

1.0 DEFINITIONS

- 1.1 "Management Company" means Greenbelt Group Limited, (Company Registration Number SC192378) whose registered office is at Abbotsford House, Abbotsford Place, Glasgow, Lanarkshire, G5 9SS
- 1.2 "Section 106 Agreement" means an agreement made under Section 106 of the Town and Country Planning Act 1990 relating to The Land and made on 18th September 2006 between (1) North Devon District Council (2) Devon County Council (3) Geoffrey Richard Cox and Margaret Ann Cox (4) Devonshire Homes Limited and (5) South West Water Limited
- 1.3 "The Land" means The Public Open Space as defined in the Section 106 Agreement

2.0 INTRODUCTION

- 2.1 The role of the Management Company is as landowner, with a long term interest in not only managing the open space but also working with the community by encouraging people of all ages to take an active part in the environment in which they have chosen to live.

The open space includes amenity grassed areas, wildflower meadow land, formal shrub planting, a new native hedgerow, management of existing hedge banks and groups of new native broadleaf species

Most on-site management operations will be contracted out to suitably qualified local contractors who in turn will be monitored by the Management Company personnel to ensure the works are carried out to the correct standard of workmanship as follows:

- 2.2 The selected contractors will carry out the services throughout the term of their contract to the standards of service set out in the Public Open Space Management Plan Para. 7.0 -12.0 which are deemed to be the minimum acceptable standards to be achieved. Management Company requires their contractors to carry out all operations necessary to maintain these standards at each visit.
- 2.3 Nursery stock, which has died, stolen, or vandalised, will be replaced during the first five years planting seasons, or as observed during later years during regular site inspection by the Management Company personnel.
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3.0 APPROVAL OF MANAGEMENT COMPANY

The Management Company is hereby designated as the approved body for the purposes of Paragraph 6 of Schedule 2 to the Section 106 Agreement

4.0 STATUTORY REQUIREMENTS

It shall be the responsibility of the Management Company to (i) be satisfied that the services provided by the contractor do not conflict with any statutory requirements and (ii) obtain all consents as may be required to facilitate fulfilment by the contractor.

5.0 LABOUR

- 5.1 Each contractor must comply with all statutory requirements concerning the employment of labour whether those provisions affect the execution of the services or otherwise.
- 5.2 All operatives will be approved by the Management Company and at all times be employees of the contractor, or shall be sub-contracted to him.

6.0 INSURANCE LIABILITY

- 6.1 The contractors shall be liable for, and indemnify the Management Company against and insure and keep insured and cause any sub-contractor to insure and keep insured against any expense, liability, loss, claim or proceedings in respect of any damage whatsoever to any property real or personal so far as such damage is due to any negligence or default of the contractor or any person for whom the contractor is responsible, or of any sub-contractor or person for whom the sub-contractor is responsible, and that for a minimum sum of £5,000,000 for any one claim.
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LANDSCAPE MAINTENANCE SPECIFICATION

7.0 Litter Picking

- Litter- means paper, bottles, cans and sweet wrappers and other small paper, glass or plastic based products.
- Debris- means stones, bricks, twigs and any storm damaged material.
- Fly tipping- means any material purposely dumped without authority on any part of the site, including but not limited to household rubbish, household appliances, furniture or garden waste.
- On every visit the whole site will be walked and litter collected and removed to an off site tipping, or recycling facility. Debris and fly-tipping will be removed by the Management Company; this may occur separate from the routine maintenance visit.

8.0 Grassland Management

8.1 General operations

- Prior to all grass cutting operations litter and debris shall be collected and removed off site.
- The contractor shall ensure that no damage is caused to trees or shrubs especially trees planted in grass areas.
- The grass will cut using machinery of an appropriate type for the work intended. The equipment shall be adjusted to give a clean even cut without damaging the grass.
- All arisings on roads and pathways shall be removed before leaving site.
- All growth at, and around obstacles, fence lines, shrub beds shall be cut at the same time as the mowing operation. The contractor will be required to re-cut any area, deemed to be unsatisfactory.
- Where there are bulbs, cutting will not commence until at least 6 weeks after flowering.
- During wet weather conditions the grass operations may cease if damage occurs. If the time between returning to complete the work is prolonged the whole grass area shall be cut so as to give an even cut to the whole area.

8.2 Amenity Grass

- Amenity Grass shall be cut to the frequency sufficient to ensure that the height does not exceed 65mm and that it is cut to a height of 25mm. arisings will be left onsite evenly spread.
 - All amenity grassed areas will have a spring application of a selective weed and feed.
 - Grass which encroaches onto footpaths shall be cut back.
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8.3 Wildflower Meadow

Wildflower grass areas will only be cut twice a year in June and September. The seed heads will be left to mature on site before the arisings are removed.

9.0 Shrub Beds

- Where there is no covering of bark mulch beds will be forked at a frequency to ensure effective aeration of soil...
- Where there is bark mulch covering, they will be topped up to a depth of 20mm, to maintain a 50 -75mm depth.
- Weeds will be controlled by chemical or mechanical means at each visit and all dead vegetation removed.
- Formative pruning will be carried out for each species at the appropriate time of the year
- Perimeter growth will be pruned as and when required.
- All dead diseased dying or damaged plants will be removed at each visit and replaced with the same species and size during the next available planting season (September-March).
- All amenity grass edges to shrub planting shall be re-formed and maintained, using a half moon edging iron or similar to ensure a distinct edge. Soil edges shall be banked up to approx. 45 degrees and residual edgings shall be removed off site.

10.0 Heavy Standard Trees

- Standard trees will be checked and stakes and ties adjusted during January, May and September.
- All stakes, which have been planted for a minimum of 12 months, shall be reduced in height by 33% in May and the ties adjusted. Once deemed self-supporting the remaining section of stake shall be removed and the posthole back filled, all material to be removed off site
- Epicormic growth, dead and diseased branches shall be removed as and when required. The crown shall be lifted to a minimum height of 3mts. Creating a balanced crown
- Any dead or damaged trees (including any associated stakes) will be replaced with a similar size and species within the next available planting season

11.0 Fence Lines

- All edges will be strimmed at intervals sufficient to prevent encroachment.
 - Fencing and access gates will be inspected and repaired as necessary.
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12 Hedges

12.1 Existing hedge bank

- The hedge bank will have an annual inspection, which will identify management work to ensure the hedge is maintained in a healthy and safe condition cut to a neat and regular shape up to a minimum height of 4mts. When required, the hedge will be cut and layered during the dormant season and repair works undertaken to the structure of the bank. All extraneous matter to be removed off site

12.2 New native hedge

- The hedge will be cut by hand to create a dense thicket of growth from ground level to the desired height of 4mts and 1.50 at the base. This work will be undertaken outside of the nesting season and after the fruiting bodies have dispersed. All extraneous matter to be removed off site

This scheme is hereby approved this 15th day of September 2010

[Redacted signature]

(Duly authorised officer for and on behalf of North Devon District Council)

.....
IAN JOHN PALFREY being the attorney)
of Devonshire Homes Limited in the)
presence of: -)

[Redacted signature]

Signature of Witness
Name
Address

[Redacted witness details]
