

DATED

30th May

2025

HARTLEY PROPERTY TRUST LIMITED

- and -

THE COUNCIL OF THE BOROUGH OF KIRKLEES

PLANNING OBLIGATION BY WAY OF AGREEMENT

**under Section 106 of the Town and Country
Planning Act 1990 (as amended) and all other enabling powers
relating to
Land off Cockley Hill Lane,
Kirkheaton, Huddersfield HD5 0HH
(Phase 2)**

IKEN 105613

THIS DEED is made the 30th day of May 2025

BETWEEN:

- (1) **HARTLEY PROPERTY TRUST LIMITED** (company registration number 00443554) with registered office at The Management Block, Globe 1, Bridge Street, Slaithwaite, HD7 5JN and correspondence address at 98 Kirstall Road, Leeds LS3 1YN ("the Owner") and
- (2) **THE COUNCIL OF THE BOROUGH OF KIRKLEES** of Town Hall, Huddersfield, West Yorkshire ("the Council")

WHEREAS

- (1) The Council is the local planning authority and the housing authority for the purposes of the 1990 Act in respect of the area within which the Site is situated and is the authority by whom the planning obligations hereby created are enforceable.
- (2) The Owner is the freehold owner of the Site, the Green Land and the Drainage Strip which are registered at HM Land Registry under title number WYK650151
- (3) The Application has been submitted to the Council for the Development.
- (6) The Council has resolved to grant planning permission subject to the prior completion of this Deed.
- (7) The parties have agreed to enter into this Deed so as to create planning obligations in favour of the Council pursuant to Section 106 of the 1990 Act and to be bound by and observe and perform the covenants agreements conditions and stipulations hereinafter contained.

NOW THIS DEED WITNESSES AS FOLLOWS:

1. DEFINITIONS

For the purposes of this Deed the following words and expressions shall where the context so requires or admits have the following meanings:

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

“Adopted Highway” means the adopted highway joining the Green Land to the east and the Drainage Strip to the west as shown on drawing number 0906/05/SK15 Rev A attached hereto at Annex A

“Application” means the planning application for the erection of 29 (twenty-nine) dwellings, formation of access, public space, attenuation and associated infrastructure submitted on behalf of the Owner and received by the Council and validated on 21 July 2021 and registered by the Council under reference 2021/62/92527/W

“Additional First Homes Contribution” means in circumstances where a sale of a First Home other than as a First Home has taken place in accordance with paragraphs 4.3.8, 4.3.9 or 4.3 of the First Schedule, the lower of the following two amounts:

- (a) 30% (thirty percent) of the proceeds of sale; and

- (a) the proceeds of sale less the amount due and outstanding to any First Homes Mortgagee of the relevant First Home under relevant security documentation which for this purpose shall include all accrued principal monies, interest and reasonable costs and expenses that are payable by the First Homes Owner to the First Homes Mortgagee under the terms of any mortgage but for the avoidance of doubt shall not include other costs or expenses incurred by the First Homes Owner in connection with the sale of the First Home;

and which for the avoidance of doubt shall in each case be paid following the deduction of any SDLT payable by the First Homes Owner as a result of the disposal of the First Home other than as a First Home;

“Affordable Dwellings”

means 6 (six) Dwellings to be provided in perpetuity as part of the Development consisting of 3 (three) Affordable Rented Dwellings or Social Rented Dwellings and 2 (two) First Homes and 1 (one) Discounted Sale Unit as shown on the Affordable Housing Plan or such other tenure and location as otherwise agreed in writing with the Council to be provided as Affordable Housing and "Affordable Dwelling" shall be construed accordingly;

“Affordable Dwelling Price”	means the price to be paid by the Registered Provider or the Alternative Registered Provider to the Owner for the Affordable Rented Dwellings to be agreed at a price that is based upon the transfer values set out in the Affordable Housing and Housing Mix SPD dated March 2023 or such other policy concerning affordable housing which shall supersede or modify this document
“Affordable Housing”	means housing provided to eligible households whose needs are not met in accordance with the definition in Annex 2 of the National Planning Policy Framework (NPPF) (or any successor policy or legislation in respect of affordable housing)
“Affordable Rent Commuted Sum”	means if applicable the payment to be made in lieu of the provision of on-site Affordable Rented Dwellings calculated as described in the Kirklees Interim Affordable Housing Policy 2020 or such other policy concerning affordable housing which shall supersede or modify this document
“Affordable Housing Plan”	means drawing number P19:5336:03 K attached hereto at Annex B
“Affordable Price”	means the sum to be paid by the Registered Provider (or Alternative Registered Provider) to the Owner which shall reflect the range of prices prevailing in the Council's Affordable Housing and Housing Mix Supplementary Planning Document dated March 2023 (or any document which supersedes this) or such other

sum as may be reasonably agreed between the Owner and the Council

“Affordable Rent”

means an affordable rent that is subject to rent controls that require a rent of no more than 80% (eighty percent) of the local market rent (including service charges, where applicable), calculated using RICS approved valuation methods;

“Affordable Rented Dwellings”

means 3 (three) Dwellings of Affordable Housing (Plots B25, B26 and B27) as shown on the Affordable Housing Plan provided in accordance with the following conditions (i) at an Affordable Rent (ii) the landlord is a Registered Provider and (iii) which complies with the definition of ‘Affordable Housing for Rent’ in Annex 2 of the NPPF (or any successor policy or legislation in respect of affordable housing);

**“Alternative
Provider”**

Registered

means such other Registered Provider as shall be agreed by the Council under paragraph 1.5 of the First Schedule;

**“Areas of Public Open Space
(POS) and Incidental
Landscaping”**

means those areas of public open space/green space and incidental landscaping, together with the LEAP, which are to be included within the Development and laid out and landscaped in accordance with condition(s) to the Planning Permission and which are not within private curtilages or otherwise adopted by other parties shown numbered PA10, PA11 and PA12 on drawing number P19:5336.06 attached hereto at Annex C

"Areas of POS and Incidental Landscaping Inspection Fee" means a sum of £900 (nine hundred pounds) to be paid to the Council by the Owner as a contribution towards the cost of the Council inspecting the Areas of POS and Incidental Landscaping in accordance with this Deed

"Areas of POS and Incidental Landscaping Management Scheme" means a scheme for the future maintenance and management of the Areas of POS and Incidental Landscaping to be submitted by the Owner in accordance with the provisions of paragraph 7.1 of the Second Schedule and approved by the Council (together with any variation of such scheme agreed in writing from time to time between the Owner and the Council)

"Armed Services Member" means a member of the Royal Navy the Royal Marines the British Army or the Royal Air Force or a former member who was a member within the 5 (five) years prior to the purchase of the First Home, or a spouse or civil partner of a deceased member or former member whose death was caused wholly or partly by their service;

"Authority to Exchange" means a notice served by the Council to the Owner (which for the purpose of this definition shall include any First Homes Owner) in the form set out by the Council or such other form as the Council may from time to time reasonably require, providing the Council's consent to exchange contracts on the First Home such notice to be issued after:

- (a) an Authority to Proceed has been issued; and

the Owner has submitted a request to the Council for an Authority to Exchange to be issued following a mortgage offer having been received by the intended purchaser and contract having been agreed between the Owner and the intended purchaser;

“Authority to Proceed”

means a notice served by the Council to the Owner (which for the purposes of this definition shall include any First Homes Owner) in the form set out by the Council or such other form as the Council may from time to time reasonably require, notifying the Owner following receipt of the Owner’s application form that the intended purchaser meets the Eligibility Criteria (National) and Eligibility Criteria (Local) unless paragraph 4.3.2 of the First Schedule applies;

“Chargee”

means any mortgagee or chargee of the Registered Provider or an Alternative Registered Provider as the case may be or of an individual Affordable Rented Dwelling or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925;

“Close Family”

means a spouse, civil partner, partner, son, daughter, sibling, grandparent

**“Commencement
Development”**

of means the date on which any material operation (as defined in Section 56(4) of the 1990 Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site

clearance, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and “Commence Development” shall be construed accordingly

“Compliance Certificate”

means the certificate issued by the Council confirming that a Dwelling is being disposed of as a First Home to a purchaser meeting the Eligibility Criteria (National) and unless paragraph 4.3.2 of the First Schedule applies the Eligibility Criteria (Local) and the cost of any subsequent Compliance Certificate that may arise on subsequent disposal of a Dwelling as a First Home will be borne by the owner of that Dwelling (Owner in respect of the first disposal and the First Homes Owner in respect of subsequent disposals);

“Design and Quality Standards”

means the Housing Corporation’s Scheme Development Standards or Homes England Design and Quality Standards document (April 2007) for Affordable Housing and any subsequent standard as Homes England may reasonably require;

“Development”

means the development of the Site in pursuance of the Planning Permission

“Discounted Sale Restriction”

the restriction to be entered in the Proprietorship Register at the Land Registry in relation to the Discounted Sale Unit in the following terms (subject to any amendments thereto required by the Land Registry and agreed between the parties hereto):

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge not being a charge registered before the entry of this restriction is to be registered without a certificate signed by a solicitor of Kirklees Council that the provisions of paragraph 3.11 of First Schedule of the Section 106 Agreement dated [] containing planning obligations relating to land off Cockley Hill Lane Kirkheaton Huddersfield HD5 0HH (Phase 2) entered into between (1) the Council of the Borough of Kirklees and (2) Hartley Property Trust Limited have been complied with or that they do not apply to the disposition."

“Discounted Sale Price”

means a price not exceeding 80% (eighty per cent) of the Open Market Value of the Discounted Sale Unit.

“Discounted Sale Unit”

means the Dwelling (Plot B24) as shown on the Affordable Housing Plan which shall be sold to a Qualifying Person at the Discounted Sale Price

“Disponee”		means a potential Qualifying Person to whom the Owner for the time being proposes to dispose of the Discounted Sale Unit
“Drainage Scheme”	Construction	means a scheme in respect of the construction of the Foul Sewer Works, the Surface Water Drainage Works and the Land Drainage System including:- -a method statement setting out how the Foul Sewer Works, the Surface Water Drainage Works and the Land Drainage System are to be constructed; -programme/timetable for the construction of the Foul Sewer Works, the Surface Water Drainage Works and the Land Drainage System in relation to the construction and Occupation of the Dwellings; and -measures to deal with the existing drainage conditions in that part of the Site in which the Dwellings numbered B1 to B12 on drawing 0906/05/SK15 Rev A attached hereto at Annex A are situated to enable construction of Dwellings in that part of the Site to commence
“Drainage Strip”		means the land shown coloured yellow on drawing number 0906/05/SK15 Rev A attached hereto at Annex A

“Dwellings”	means all dwellings to be constructed on the Site as part of the Development pursuant to the Application and “Dwelling” shall be construed accordingly
“Eligible Households”	means a person in need of housing because their needs are not met by the market, determined with regard to local incomes and local house prices and determined by the Registered Provider / Alternative Registered Provider and "Eligible Households" shall be construed accordingly
“Final Dwelling”	the last Dwelling to be constructed within the Development
“Financial Contribution”	means the payment to be made in lieu of the provision of on-site Social Rented Dwellings (or a full complement thereof). In the event a financial contribution is required, in respect of the relevant Social Rented Dwellings, it shall be calculated to the equal value of median build costs for Kirklees, as recognised by the RICS Build Cost Information Service (BCIS) and an additional administration charge payable to the Council of 1% of the Financial Contribution for its reasonable and proper costs incurred by the Council in consideration of the following:- (i) the determination of the Financial Contribution, (ii) the consideration of the evidence supplied by the Owner pursuant to paragraphs 2.4 and 2.5 of the First Schedule

- (iii) acknowledgement of receipt of the proper payment of the Financial Contribution;

provision of any certificate to confirm that there has been compliance with paragraph 2.6 of the First Schedule of this Deed;

“First Homes”

means 2 (two) Dwellings of Affordable Housing (Plots B13 and B14) as shown on the Affordable Housing Plan or in such other locations that may be agreed in writing between the Council and the Owner to be provided as first homes as defined in the Department for Levelling Up, Housing and Communities 'First Homes' guidance published in May 2021 (or any future guidance or initiative that replaces or supplements it) and which may be disposed of as a freehold or (in the case of flats only) as a leasehold property to a First Time Buyer at the First Home Sale Price and which on its first Disposal does not exceed the Price Cap and reference to “First Home” shall be construed accordingly

“First Homes Administration Charge”

means the reasonable and proper costs incurred by the Council in consideration of the evidence provided to it pursuant to paragraph 4.3.4.1 of the First Schedule and to be paid by the First Homes Owner;

“First Homes Disposal”

means a transfer of the freehold or (in the case of a flat only) the grant or assignment of a leasehold interest in a First Home other than:

- (a) a letting or sub-letting in accordance with paragraph 4.4 of the First Schedule;
- (b) a transfer of the freehold interest in a First Home or land on which a First Home is to be provided before that First Home is made available for occupation except where the transfer is to a First Homes Owner;
- (c) a First Homes Exempt Disposal;

“First Homes Eligibility Criteria (Local)” and reference to **“Disposed”** shall be construed accordingly;

means criteria published by the Council in the document entitled “First Homes Provision Statement Kirklees Council December 2021” (or any subsequent updating/replacing documentation at the date of the relevant disposal of a First Home) which are met in respect of a disposal of a First Home if:

- (a) the purchaser’s annual gross income (or in the case of a joint purchase, the joint purchasers’ joint annual gross income) does not exceed the Income Cap (Local) (if any); and
- (b) any or all of criteria (i) and (ii) below are met:
 - (i) the purchaser meets the First Homes Local Connection Criteria (or in the case of a joint purchase at least one of the joint

purchasers meets the Local Connection Criteria); and/or

(ii) the purchaser is (or in the case of a joint purchase at least one of the joint purchasers is) an Armed Services Member;

“First Homes Eligibility Criteria (National)”

means criteria which are met in respect of a purchase of a First Home if:

(a) the purchaser is a First Time Buyer (or in the case of a joint purchase each joint purchaser is a First Time Buyer); and

(b) the purchaser’s annual gross income (or in the case of a joint purchase, the joint purchasers’ joint annual gross income) does not exceed the Income Cap (National);

“First Homes Exempt Disposal”

means the Disposal of a First Home in one of the following circumstances:

(a) a Disposal to a spouse or civil partner upon the death of the First Homes Owner;

(b) a Disposal to a named beneficiary under the terms of a will or under the rules of intestacy following the death of the First Homes Owner;

(c) Disposal to a former spouse or former civil partner of a First Homes Owner in accordance with the terms of a court order, divorce settlement or other legal agreement or order upon divorce, annulment or dissolution of the

marriage or civil partnership or the making of a nullity, separation or presumption of death order;

- (d) Disposal to a trustee in bankruptcy prior to sale of the relevant Dwelling (and for the avoidance of doubt paragraph 4.5 of the First Schedule shall apply to such sale);

PROVIDED THAT in each case other than (d) the person to whom the disposal is made complies with the terms of paragraph 4.4 of the First Schedule;

“First Homes Mortgagee”

means any financial institution or other entity regulated by the Prudential Regulation Authority and the Financial Conduct Authority to provide facilities to a person to enable that person to acquire a First Home including all such regulated entities which provide Shari’ah compliant finance for the purpose of acquiring a First Home

“First Homes Owner”

means the person or persons having the freehold or leasehold interest (as applicable) in a First Home other than:

- (a) the Owner; or
- (b) another developer or other entity to which the freehold interest or leasehold interest in a First Home or in the land on which a First Home is to be provided has been transferred before that First Home is made available and is

disposed of for occupation as a First Home; or

the freehold owner or a tenant or sub-tenant of a permitted letting under paragraph 4.4 of the First Schedule;

“First Homes Price Cap”

means the amount for which the First Home is sold after the application of the First Home Sale Price which on its first Disposal shall not exceed £250,000.00 (two hundred and fifty thousand pounds) or such other amount as may be published from time to time by the Secretary of State;

“First Homes Qualifying Person”

means a person who meets the First Homes Eligibility Criteria (National) and (unless paragraph 4.3.2 of the First Schedule applies) the Eligibility Criteria (Local);

“First Time Buyer”

means a first-time buyer as defined by paragraph 6 of Schedule 6ZA to the Finance Act 2003 and reference to “First Time Buyers” shall be construed accordingly

“First Occupation”

means when any Dwelling within the Development is Occupied for the first time after Completion or after Practical Completion if applicable

“Foul Sewer Works”

means the foul water sewer to be provided by the Owner as part of the Development and shown indicatively coloured by a brown solid

line on drawing number 0906/05/SK15 Rev A attached to this Deed at Annex A

“Green Land”

means the land shown coloured green on drawing number 0906/05/SK15 Rev A attached hereto at Annex A

“Homes England”

means the Homes and Communities Agency trading as Homes England or any bodies undertaking the existing functions of Homes England within the meaning of Part I of the Housing and Regeneration Act 2008 (or as redefined by any amendment, replacement or re-enactment of such Act)

“Income Cap (Local)”

means the local income cap as may be published from time to time by the Council and is in force at the time of the relevant disposal of the First Home it being acknowledged that at the date of this Deed the Council has not set an Income Cap (Local);

“Income Cap (National)”

means:

- (a) in the case of a First Home situated within the administrative area of any London Borough Council (including the City of London) – £90,000.00 (ninety thousand pounds); and
- (b) in the case of any other First Home – £80,000.00 (eighty thousand pounds)

or such other sum as may be published for this purpose from time to time by the Secretary of State and is in force at the time of the relevant Disposal of the First Home;

“Independent Surveyor”

means an independent chartered surveyor qualified to act as an expert in relation to a dispute relating to or arising out of the terms of this Deed having no less than 10 (ten) years post qualification experience unconnected to either of the Parties hereto and experienced in residential development matters who shall be appointed at the Owner’s cost but first approved by the Council;

“Index Linked”

increased in accordance with the following formula:

Amount payable = the payment specified in this Deed x (A/B) where:

- (a) A is the figure for the All In Tender Price Index that applied immediately preceding the date the payment is due; and
- (b) B is the figure for the All In Tender Price Index that applied when the index was last published before the date of this Deed

In the event the All In Tender Price Index ceases to exist such index as the Council reasonably nominates

“Intermediate Housing”

means Affordable Dwellings for sale and rent provided at a cost above Social Rented Housing but below open market levels the form of which shall be agreed with the Council at its absolute discretion but may include shared equity (shared ownership housing and equity loans) other low-cost homes for sale and Intermediate Rent but not Affordable Rented Housing

“Intermediate Rent”	means the Intermediate Housing let by a Registered Provider to a Qualifying Person and which is subject to rent controls that require a rent of no more than 80% of local open market rent (including service charges, where applicable) at the time of letting which may be increased by no more than the Consumer Price Index plus 1% annually or such other amount as prescribed by the Regulator of Social Housing from time to time
“Land Drainage Management Scheme”	means the scheme setting out arrangements for the future management and maintenance of the Land Drainage System in perpetuity (including the identity of the proposed Management Company) and which is to be submitted to the Council for approval in writing pursuant to paragraph 2.1 of the Second Schedule
“Land Drainage System”	means a system for the provision of land drainage infrastructure for the Development which has been submitted to and approved by the Council and which is to be located within the Site, Phase 1, the Green Land, the Adopted Highway and the Drainage Strip as shown indicatively coloured by a pale blue solid line on drawing number 0906/05/SK15 Rev A attached to this Deed at Annex A
“LEAP”	means a ‘local equipped area for play’ as defined by Fields in Trust (or such successor body or organisation whose primary objectives are protecting and improving outdoor sports

and play spaces) including play equipment predominantly for children up to the age of 12 (twelve) years with seating for accompanying adults

“Local Connection Criteria”

means a person or a member of their household having a connection to the Locality by reason of the following:

- (a) currently lives in the Locality as their primary residence and has done so for the past 3 (three) years;
- (b) previously lived in the Locality as the primary residence for at least 5 (five) years cumulatively in the past 10 (ten) years;
- (c) has Close Family ordinarily resident in the Locality and that Close Family has been ordinarily resident in the Locality for the past 3 (three) years;
- (d) need to move to the Locality to receive or provide care or support;
- (e) is employed on a permanent basis for more than 16 (sixteen) hours per week in the Locality or is about to take up an offer of permanent employment in the Locality;
- (f) needs to move to the Locality to be close to local facilities because of a specific identified need

- (g) has some other connection to the Locality as approved by the Council in writing;

OR

Such other local connection criteria as may be published by the Council from time to time as its "First Homes Local Connection Criteria" (or equivalently so titled) and which is in operation at the time of the relevant disposal of the First Home and for the avoidance of doubt any such replacement criteria in operation at the time of the relevant disposal of the First Home shall be the "Local Connection Criteria" which shall apply to that Disposal

"Locality"

means the Council's administrative area where a Qualifying Person has not offered to acquire a Discounted Sale Unit after a marketing period of 8 (eight) weeks then the Discounted Sale Unit may be offered to Qualifying Persons who need not satisfy the Local Connection Criteria

"Management Company"

means a limited liability company incorporated in England and Wales or Scotland with registered office in England or Scotland (as applicable) and registered at Companies House which may already be in existence, or which may be formed by the Owner whose primary objects permit the ongoing maintenance of the Areas of Public Open Space (POS) and Incidental Landscaping in perpetuity (and in accordance with the Second Schedule) and ongoing maintenance of the Land Drainage System in perpetuity (and in

accordance with Second Schedule paragraphs 7.7 to 7.9)

“Market Dwellings”

means those dwellings within the Development excluding as applicable the Affordable Rented Dwellings or Social Rented Dwellings and the First Homes and Intermediate Dwellings and reference to “Market Dwelling” shall be construed accordingly

“Marketing Strategy”

means the strategy to be approved by the Council pursuant to paragraph 3.4 of the First Schedule for the Discounted Sale Unit and paragraph 4.3 of the First Schedule for the First Homes and to detail the marketing measures to be undertaken to dispose of the Discounted Sale Unit to a Qualifying Person and the First Homes to a First Homes Qualifying Person (as the case may be) and upon a first Disposal to include advertising for sale on one national property website and the Owner's regional web-site or any other similar organisation promoting intermediate market housing

“New Appointments and Variations”

means a limited company which provide a water and/or sewerage service to customers in an area which was previously provided by the incumbent monopoly provider. It involves one company replacing another as the appropriate appointee for a specific geographic area

“Occupation”

means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and "Occupy" and "Occupied" shall be construed accordingly

“Off-site Public Open Space Contribution”

means sum of £23,352.64 (Twenty-Three Thousand Three Hundred and Fifty-Two Pounds Sixty-Four Pence) (Index Linked) to address shortfall in respect of provision of on-site public open space within the Development

“Open Market Value”

means the open market value agreed between the Council and the Owner as being the open market value of an Affordable Dwelling at which the sale of an interest in the property would have been completed unconditionally for cash consideration on the date of the valuation assuming;

- (i) a willing seller;
 - (ii) that any restrictions imposed on the Dwelling by reason of this Deed are disregarded;
 - (iii) that there are no restrictions as to the persons who may occupy the Affordable Dwelling or to whom a transfer or lease may be granted or assigned; and
- that both parties to the transaction had acted knowledgeably prudently and without compulsion

“Phase”	a phase for construction of the Development as agreed pursuant to the Planning Permission being Phase 1 and Phase 2
“Phase 1”	the phase as shown edged red on the Plan
“Phase 2”	the phase as shown edged blue the Plan
“Plan”	means the plan with drawing number P19:5336:250 for identification purpose only showing the extent of the Site annexed to this Deed at Annex D
“Planning Permission”	means a planning permission which may be granted by the Council pursuant to the Application
“Practical Completion”	the issue of a certificate of practical completion by the Owner’s architect or in the event that the Development is constructed by a party other than the Owner the issue of a certificate of practical completion by the other party’s architect and “Practically Completed” and “Practically Complete” shall be construed accordingly with regards to First Homes it means the stage when a First Home has been constructed and fitted out and is ready for physical Occupation
“Protected Tenant”	means any tenant or person who: (a) has exercised the right to acquire pursuant to the Housing Act 1996 or

any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Rented Dwelling; or

- (b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Rented Dwelling; or
- (c) has been granted a shared ownership lease by the Registered Provider or an Alternative Registered Provider as the case may be (or similar arrangement where a share of the Affordable Rented Dwelling is owned by the tenant and a share is owned by the Registered Provider or an Alternative Registered Provider as the case may be) in respect of a particular Affordable Rented Dwelling and the tenant has subsequently purchased from the Registered Provider or an Alternative Registered Provider as the case may be all the remaining shares so that the tenant owns the entire Affordable Rented Dwelling; and
- (d) any successor in title to any of (a) (b) or (c) above;

“Qualifying Criteria”

means

- (i) the Local Connection Criteria; and
- (ii) the Financial Criteria; or
- (iii) such other criteria as the Council (acting reasonably at all times) may determine from

time to time having regard to local housing needs

“Qualifying Person”

means a person who is unable to meet their needs in the existing local housing market without assistance through a discounted sale price and who also satisfies the Qualifying Criteria

“Reasonable Endeavours”

means that it is agreed by the Parties that the Party under such an obligation will not be required to take proceedings (including any appeal) in any court, public inquiry, or other hearing (unless specified to the contrary) but subject to these and to other terms of this Deed such Party will 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 to expect;

“Registered Provider”

a registered provider of social housing as defined in the Housing and Regeneration Act 2008 or any company or other body approved by Homes England for receipt of social housing grant as may be proposed by the Owner and approved by the Council;

“Retaining Walls”

means those retaining walls that are within the Areas of POS and Incidental Landscaping and which are not within private curtilages, associated with public highways or otherwise to be adopted by other parties

“SDLT”

means Stamp Duty Land Tax as defined by the Finance Act 2003 or any tax replacing it of like effect

“Secretary of State”

means the Secretary of State for the Department of Levelling Up, Housing and Communities or any substitute or any Inspector appointed by him;

“Site”

means the land off Cockley Hill Lane, Kirkheaton, Huddersfield HD5 0HH (Phase 2) shown for the purposes of identification only edged blue on the Plan attached hereto at Annex D

“Social Rented Dwellings”

means housing where all of the following are met:

- (i) the rent is set in accordance with the government's rent policy for "social rent" or
- (ii) "affordable rent" is at least twenty percent below local market rents (including service charges where applicable);
- (iii) the landlord is a Registered Provider; and

it includes provisions to remain at an affordable price for future Eligible Households

"Surface Water/Foul Drainage Maintenance and Management Plan" means a detailed management plan setting out measures to be undertaken to ensure the Surface Water Drainage Works and Foul Sewer Works are properly maintained and managed until such Surface Water Drainage Works and Foul Sewer Works are adopted by the Water Company or a NAV

"Surface Water Drainage Works" means the sustainable drainage measures for surface water (road and roof drainage) infrastructure to be provided by the Owner as part of the Development and shown indicatively coloured by a blue solid line on drawing number 0906/05/SK15 Rev A attached to this Deed at Annex A

"Sustainable Contribution" **Transport** means sum of £15,071.30 (Fifteen Thousand Seventy-One Pounds Thirty Pence) (Index Linked) in respect of provision of sustainable transport to serve the locality of the Development

"Travel Plan" a travel plan to be prepared by or on behalf of the Owner and approved by the Council to encourage travel to and from the Development by the workforce by sustainable modes of travel and to seek to reduce the proportion of trips by single occupancy cars. FOR THE AVOIDANCE OF DOUBT such Travel Plan shall cover both Phase 1 and Phase 2 and a separate travel plan shall not be required for Phase 1 or for Phase 2

“Travel Plan Monitoring Contribution” means the sum of £10,000 (Ten Thousand Pounds) (Index Linked) in respect of monitoring the Travel Plan for both Phase 1 and Phase 2 developments, which has been secured under the s106 agreement for Phase 1 dated of the same date as this Deed

“Water Company” means Yorkshire Water Services Limited whose registered office is at Western House, Halifax Road Bradford BD6 2SZ and its statutory successors in title

“Working Days” means any day except a Saturday, Sunday or any public holiday in England and Wales

2. CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.

- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.
- 2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.6 References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Council any successor to its statutory functions.

3. LEGAL BASIS

- 3.1 This Deed is made pursuant to section 106 of the 1990 Act section 111 of the Local Government Act 1972 section 1 of the Localism Act 2011 and all other enabling powers.
- 3.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to section 106 of the 1990 Act which bind the Site and are enforceable by the Council as local planning authority against the Owner and her successors in title.

4. CONDITIONALITY

- 4.1 This Deed shall take effect upon the date hereof but the covenant from the Owner in clause 5 of this Deed is conditional upon:

- (a) the grant of Planning Permission; and
- (b) the Commencement of Development

save for the provisions of paragraphs in bold at the beginning of the First Schedule and paragraphs 1.1, 1.2, 2.1, 2.2, 3.1 and 3.2 of the Second Schedule which shall come into effect immediately upon completion of this Deed.

5. THE OWNER'S COVENANT

- 5.1 The Owner covenants with the Council as set out in the First and Second Schedules.

6. THE COUNCIL'S COVENANT

- 6.1 The Council covenants with the Owner as set out in the Third Schedule.

7. MISCELLANEOUS

- 7.1 The Owner shall pay to the Council on completion of this Deed the Council's reasonable legal costs incurred in the negotiation, preparation and execution of this Deed in the sum of £2,500 (Two Thousand Five Hundred Pounds).
- 7.2 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 7.3 This Deed is given on the condition that following the performance and satisfaction of all the obligations contained in this Deed and upon the written request of the Owner the Council shall forthwith effect the cancellation of all entries made in the register of Local Land Charges in respect of this Deed.
- 7.4 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 7.5 This Deed shall cease to have effect (insofar only as it has not been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure other than a non-material amendment under section 96A of the 1990 Act or expires prior to Commencement of Development.
- 7.6 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed:

- (a) to the extent that such breach relates to any part of the Site in which that person has no interest; and/or
- (b) which occurs after it shall have parted with its interest in the Site or if it be part only the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest for which it shall continue to be liable

7.7 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.

7.8 Wherever this Deed requires the approval, agreement, determination or consent of the Council or the Owner such approval, agreement, determination or consent must be in writing and shall not be unreasonably withheld or delayed.

7.9 In the event that a condition or conditions to the Planning Permission is or are varied pursuant to Section 96A of the 1990 Act (and the Council is satisfied that no revised planning obligations are required as a result of such amendment) this Deed shall continue in full force in respect of the Planning Permission with the relevant condition or conditions as so varied.

7.10 This Deed shall not be enforceable against owner-occupiers or tenants of a Dwelling constructed pursuant to the Planning Permission nor against those deriving title from such owner-occupiers or tenants of such Dwelling (including for the avoidance of doubt any mortgagee of a Dwelling).

8. REGISTRATION

8.1 This Deed shall be registered as a local land charge in the register of Local Land Charges maintained by the Council.

9. NOTICES

- 9.1 Any notice or other written communication to be served by one party upon any other pursuant to the terms of this Deed shall be deemed to have been validly served if delivered by hand or sent by pre-paid special or recorded delivery post to the party to be delivered at its address herein specified or such other address as may from time to time be notified for the purpose by notice served under this Deed specifically referring to this clause and the intention of the notice to notify an address thereunder.

10. DISPUTE RESOLUTION

- 10.1 In the event of any dispute or difference arising between any of the parties to this Deed in respect of any matter contained in this Deed which cannot be resolved by prior agreement between the parties such dispute or difference shall be referred to an independent and suitable person (the "Expert") holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with experience of resolving such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.
- 10.2 In the absence of an agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 10.1 or as to the appropriateness of the professional body then such question may be referred by either party to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.
- 10.3 Any Expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of

the dispute and in any event not more than 28 (twenty-eight) Working Days after the conclusion of any hearing that takes place or 28 (twenty-eight) Working Days after he has received any file or written representation.

- 10.4 The Expert shall be required to give notice to each of the said parties requiring them to submit to him within 10 (ten) Working Days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter submission within a further 10 (ten) Working Days.

11. WAIVER

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

12. JURISDICTION

- 12.1 This Deed is governed by and interpreted in accordance with the law of England.

13. DELIVERY

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

FIRST SCHEDULE

Owner's Covenants

The Owner covenants with the Council in the following terms:

Not to Commence Development allow or permit Commencement of the Development until the Owner has in writing confirmed to the Council whether 3 (three) of the Affordable Dwellings shall be delivered as Affordable Rented Dwellings OR Social Rented Dwellings.

Following such confirmation, such 3 (three) Affordable Dwellings shall be delivered in accordance with the obligations in this First Schedule as applicable.

1. Affordable Rented Dwellings

- 1.1. To construct the Affordable Rented Dwellings to Design and Quality Standards (or such other standards as may be agreed between the Owner and the Registered Provider or the Alternative Registered Provider as the case may be) in accordance with the Planning Permission and approved plans unless otherwise agreed with the Registered Provider or the Alternative Registered Provider as the case may be.
- 1.2. Not to cause or permit the Occupation of more than:
 - 1.2.1. 10 (ten) of the Market Dwellings (or such other number of Market Dwellings that may be agreed in writing by the Council from time to time) until 3 (three) of the Affordable Rented Dwellings have been constructed and are ready for Occupation;
- 1.3. To inform the Council in writing when it has offered the Affordable Rented Dwellings to a Registered Provider(s) at the Affordable Dwelling Price, together with providing details of the Registered Provider(s) to whom the Affordable Rented Dwellings have been offered (the "Offer Notice Date").

- 1.4. The Owner will enter into negotiations with the Registered Provider(s) and use Reasonable Endeavours to dispose of the Affordable Rented Dwellings to the Registered Provider(s) at the Affordable Dwelling Price.
- 1.5. If the Registered Provider(s) shall not confirm in writing to the Owner its willingness subject to contract to accept the Affordable Rented Dwellings at the Affordable Dwelling Price within 3 (three) calendar months of the Offer Notice Date (or within such other period of time that may be agreed in writing by the Council from time to time) then the Owner shall as soon as reasonably practicable offer the Affordable Rented Dwellings to an Alternative Registered Provider(s) and this provision may be repeated as often as is necessary (subject to paragraph 1.6 of this Schedule) until such time as one of the Alternative Registered Providers shall have confirmed its willingness subject to contract to purchase the Affordable Rented Dwellings at the Affordable Dwelling Price.
- 1.6. If neither the Registered Provider nor any Alternative Registered Provider shall have confirmed its willingness subject to contract to purchase the Affordable Rented Dwellings at the Affordable Dwelling Price within a period of 6 (six) calendar months of the Offer Notice Date (or within such other period of time that may be agreed in writing by the Council from time to time) and the Owner shall have produced evidence in writing to the reasonable satisfaction of the Council that it has used Reasonable Endeavours to secure acceptance of the Affordable Rented Dwellings at the Affordable Dwelling Price by a Registered Provider or an Alternative Registered Provider then the Owner will be free to offer such dwellings for sale on the open market but the provisions of paragraph 1.9 of this Schedule shall apply.
- 1.7. If the Registered Provider or the Alternative Registered Provider as the case may be after confirming its willingness to purchase the Affordable Rented Dwellings at the Affordable Dwelling Price (the "Offer Acceptance Date") does not then contract to buy the Affordable Rented Dwellings at the Affordable Dwelling Price within 3 (three) calendar months from the delivery of the complete package of contract documentation to the Registered Provider's solicitor or the solicitor of the Alternative Registered Provider then:
 - 1.7.1. if a period of 9 (nine) calendar months from the Offer Notice Date (or within such other period of time that may have been agreed in writing

by the Council) has expired the Owner will be free to offer the Affordable Rented Dwellings on the Site for sale on the open market but the provisions of paragraph 1.9 of this Schedule shall apply; and

1.7.2. in any other circumstances the provisions of paragraphs 1.5 and 1.6 of this Schedule shall continue to apply.

1.8. Save where the Owner is entitled to dispose of the Affordable Rented Dwellings or an individual Affordable Rented Dwelling as the case may be on the open market pursuant to paragraph 1.6 or 1.7.1 of this Schedule, the Affordable Rented Dwellings shall not be used other than for Affordable Housing save that this obligation shall not be binding on:

1.8.1. any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and chargees; or

1.8.2. any Chargee exercising a power of sale or any successors in title thereto and their mortgagees and chargees.

1.9. In the event that the Owner is free to offer some or all of the Affordable Rented Dwellings on the Site for sale on the open market pursuant to the provisions of paragraphs 1.6 or 1.7.1 of this Schedule:

1.9.1. the Owner shall serve a written notice on the Council confirming that they intend to sell some or all of the Affordable Rented Dwellings on the open market ("Owner's Affordable Rented Notice");

1.9.2. the Owner shall within 25 (twenty five) Working Days of the date of the Owner's Affordable Rented Notice pay to the Council the relevant Affordable Housing Commuted Sum **PROVIDED THAT** it is agreed that in the event that only a proportion of the Affordable Rented Dwellings are disposed of in accordance with paragraphs 1.6 or 1.7.1 of this Schedule then the Owner will pay to the Council the proportion of the Affordable Housing Commuted Sum that relates to the Affordable Rented Dwellings that are disposed of on the open market

1.10. Following confirmation by the Council of receipt of the Affordable Housing Commuted Sum, the Owner may dispose of such Affordable Rented

Dwelling(s) on the open market free of the provisions of this Schedule and those Affordable Rented Dwellings shall thereafter be free of the provisions of this Schedule.

OR

2. Social Rented Dwellings

The Owner covenants with the Council as follows:

- 2.1 Not to Occupy permit or allow Occupation of more than 10 (ten) of the Market Dwellings until the Social Rented Dwellings have been constructed in accordance with Paragraph 2.2 hereof and made available for sale to the Registered Provider or Alternative Registered Provider ("the Marketing Date")
- 2.2 To construct the Social Rented Dwellings to Homes England's Design and Quality Standards or Houses Corporation Scheme development standards (or such other standards as may be agreed between the Owner and the Registered Provider or Alternative Registered Provider) in accordance with the Planning Permission and approved plans unless otherwise agreed by the Registered Provider or the Alternative Registered Provider
- 2.3 If the Registered Provider or the Alternative Registered Provider shall not confirm in writing to the Owner its willingness subject to contract to accept the Social Rented Dwellings at the Affordable Price within 3 (three) calendar months of the Marketing Date (or within such other period of time that may be agreed in writing by the Council from time to time) then the Owner shall as soon as reasonably practical nominate another Registered Provider and its provision may be repeated as often as is necessary until

such time as one of the nominated Registered Providers shall have confirmed its willingness subject to contract to purchase the Social Rented Dwellings

2.4 If neither the Registered Provider or the Alternative Registered Provider shall have confirmed its willingness subject to contract to purchase the Social Rented Dwellings at the Affordable Price within a period of 9 calendar months from the Marketing Date and the Owner shall have produced evidence in writing to the reasonable satisfaction of the Council that he has made all Reasonable Endeavours to secure acceptance of the Social Rented Dwellings by the Registered Provider or the Alternative Registered Provider then the Owner will be free to offer such Social Rented Dwellings for sale on the open market subject to the provisions of paragraphs 2.6 and 2.7

2.5 If the Registered Provider or Alternative Registered Provider has confirmed its willingness to purchase the Social Rented Dwellings and does not then contract to buy the Social Rented Dwellings within 3 months from the delivery of the completion package of contract documentation to the Registered Provider's solicitor or the solicitor of the Alternative Registered Provider then:

2.5.1 if a period of 9 (nine) calendar months from the Marketing Date has expired the Owner will be free to offer the Social Rented Dwellings for sale on the open market but the provisions of paragraphs 2.6 and 2.7 below shall apply; and

2.5.2 in any other circumstances the provisions of paragraphs 2.3 and 2.4 shall continue to apply

2.6 In the event that the Owner is free to offer some or all of the Social Rented Dwellings on the Site for sale on the open market pursuant to the provisions of paragraphs 2.4 or 2.5.1 of this Schedule:

2.6.1. the Owner shall serve a written notice on the Council confirming that they intend to sell some or all of the Social Rented Dwellings on the open market ("Owner's Social Rented Notice");

2.6.2. the Owner shall within 25 (twenty five) Working Days of the date of the Owner's Social Rented Notice pay to the Council the Financial Contribution PROVIDED THAT it is agreed that in the event that only a proportion of the Social Rented Dwellings are disposed of in accordance with paragraphs 2.4 or 2.5.1 of this Schedule then the Owner will pay to the Council the proportion of the Financial Contribution that relates to the Social Rented Dwellings that are disposed of on the open market

2.7. Following confirmation by the Council of receipt of the Financial Contribution, the Owner may dispose of such Social Rented Dwelling(s) on the open market free of the provisions of this Schedule and those Social Rented Dwellings shall thereafter be free of the provisions of this Schedule.

2.8 Save where an open market sale takes place pursuant to paragraphs 2.4 - 2.6 of this First Schedule the Social Rented Dwelling shall not be used other than as a Social Rented Dwelling provided that the obligations in this paragraph 2 of this First Schedule shall not be binding:

2.8.1. on any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and chargees; or

2.8.2 on any Chargee exercising a power of sale nor any successors in title thereto and their mortgagees and chargees.

3. Intermediate Housing - Discounted Sale Unit

The Owner covenants with the Council as follows:

- 3.1 Not to Occupy or permit or allow to be Occupied more than 12 (twelve) of the Market Dwellings until the Discounted Sale Unit has been Practically Completed.
- 3.2 Subject to the terms of this Deed the Discounted Sale Unit shall be Occupied only by a Qualifying Person together with their family or any other person who may reasonably be expected to reside with such Qualifying Person.
- 3.3 Subject to the terms of this Deed the Discounted Sale Unit shall not be sold at a sale price that is greater than the Discounted Sale Price.
- 3.4 The Owner shall submit to the Council the Marketing Strategy for the Council's approval and the Owner shall use all reasonable endeavours to
 - 3.4.1 dispose of the Discounted Sale Unit to Qualifying Persons in accordance with the Marketing Strategy; and
 - 3.4.2 complete a transfer of the Discounted Sale Unit as soon as reasonably practicable following an agreement subject to contract to acquire the Discounted Sale Unit
- 3.5 On every first disposal and on each subsequent disposal no disposal of the Discounted Sale Unit shall take place and the Discounted Sale Unit shall not be Occupied until and unless the Council has certified:
 - 3.5.1 the Discounted Sale Price; and
 - 3.5.2. that the intended Disponee is a Qualifying Person.
- 3.6 In order for the Council to certify relevant details pursuant to Paragraph 3.5 above, the Owner shall provide to the Council the following:
 - 3.6.1 A copy of a RICS the valuation report such valuation to have been carried out no more than 6 (six) months prior to its

submission to the Council and such valuation to be agreed by the Council;

3.6.2 Details of the proposed Discounted Sale Price for the Discounted Sale Unit;

3.6.3 Confirmation that the Qualifying Person meets the Qualifying Criteria;

3.6.4 A letter from a reputable mortgage lender stating the maximum that they are able to lend to the Disponee which must be at or above the Discounted Sale Price but not at or above the Open Market Value of the Discounted Sale Unit;

3.6.5 A copy of the draft sale contract in respect of the disposal to the Disponee; and

3.6.6 The Certification Fee

3.7 Where the Owner for the time being has provided the Council with all of the details as required pursuant to paragraph 3.6 above, the Council acting reasonably at all times shall within 20 (twenty) Working Days either:

3.7.1 Notify the Owner that it agrees with the details provided and therefore certify that the Disponee is a Qualifying Person and the Discounted Sale Price; or

3.7.2 Notify the Owner that it does not agree with the details provided.

3.8 If the Council notifies the Owner that it does not agree with the Open Market Value pursuant to paragraph 3.7 above then the Owner and the Council shall use reasonable endeavours for a further 20 (twenty) Working Days to agree the relevant details. If those details still cannot be agreed between the Owner and the Council within those further 20 (twenty) Working Days then the Open Market Value will be determined by an independent valuer appointed jointly by the Owner and the Council and failing such joint appointment by an independent valuer appointed by the President for the time being of (RICS) and the

independent valuer's expenses in respect of any determination shall be borne by the Council and the Owner equally.

3.9 If pursuant to paragraph 3.7 above the Council notifies the Owner that it does not agree that the Disponee is a Qualifying Person the matter shall be referred for determination in accordance with Clause 10 of this Deed.

3.10 The contract for the disposal of a Discounted Sale Unit shall include covenants to the effect that:

3.10.1 the Discounted Sale Unit is to be sold at a Discounted Sale Price;

3.10.2 the Disponee acknowledges that the Dwelling is a Discounted Sale Unit as defined in this Deed; and

3.10.3 the Disponee is a Qualifying Person as defined in this Deed, such covenant to also set out the basis upon which the Qualifying Person satisfies the Local Connection.

3.11 The Discounted Sale Unit shall not be Occupied unless it is (or in the case of the first sale will be following completion of the registration at the Land Registry of the transfer of such Discounted Sale Unit) subject to the Discounted Sale Restriction on the register of title to the Discounted Sale Unit.

3.12 If either

3.12.1 after the end of a period of 3 (three) months from the Practical Completion of the Discounted Sale Unit the Owner has not been able to reach agreement with a purchaser on a subject to contract basis for the transfer to it of the Discounted Sale Unit at the Discounted Sale Price; or

3.12.2 after a period of 6 (six) months from the Practical Completion of the Discounted Sale Unit there has not been a completed transfer of the freehold interest of the Discounted Sale Unit then the Owner shall be able to request the Council's approval to dispose of the Discounted Sale Unit at Open Market Value such approval not to be unreasonably withheld or delayed provided that:

- i. the Owner has used all Reasonable Endeavours to market and dispose of the Dwelling as a Discounted Sale Unit pursuant to paragraphs 3.4 and 3.5 of this First Schedule and provides evidence to the Council of such Reasonable Endeavours; and
- ii. the Owner pays to the Council 20% (twenty percent) of the gross sale price of the relevant Dwelling received by the Owner on the disposal of the Discounted Sale Unit as an Off-Site Affordable Housing Contribution; and
- iii. the Owner pays to the Council the Administration Charge.

3.13 For the purposes of this Deed the Discounted Sale Unit shall be deemed to have been provided upon the date when the Owner has paid the Off-Site Affordable Housing Contribution in respect of that Dwelling pursuant to paragraph 3.12 above and thereafter the provisions of this paragraph 3 of this First Schedule shall cease and determine in respect of that Dwelling.

3.14 Save where an open market sale takes place pursuant to paragraph 3.12 of First Schedule the Discounted Sale Unit shall not be used other than as a Discounted Sale Unit provided that the obligations in this paragraph 3 of the First Schedule shall not be binding on any Chargee exercising a power of sale nor any successors in title thereto and their mortgagees and chargees.

4. First Homes

4.1 First Homes – Delivery Mechanism

4.2 The Owner (which for the purposes of this paragraph shall include any First Homes Owner) shall not Dispose of or Occupy any Affordable Housing Dwellings that are to be provided as First Homes in accordance with the approved Affordable Housing Plan other than in accordance with paragraphs 4.3.8 and 4.3.10 of this First Schedule.

4.3 Within 3 (three) months of Commencement of Development the Owner shall submit to the Council the Marketing Strategy for the Council's approval and the Owner shall not enter into a contract for the Disposal of any of the First Homes unless and until such marketing strategy has been approved by the Council and thereafter the First Homes shall be disposed of according to the terms of the Marketing Strategy **PROVIDED THAT** it is agreed that if the Council does not notify the Owner of its approval or proposed amendments to the Marketing Strategy within 25 (twenty five) Working Days (or such longer period as may be reasonably required by the Council and agreed in writing between the Council and the Owner within the said 25 (twenty-five) Working Days) it shall be deemed that the Council has approved the Marketing Strategy submitted by the Owner.

4.3.1 The First Homes shall be marketed for sale and shall only be sold (whether on a first or any subsequent sale) as First Homes to a person or person(s) meeting:

4.3.1.1 the Eligibility Criteria (National); and

4.3.1.2 the Eligibility Criteria (Local) (if any).

4.3.2 If after a First Home has been actively marketed for 3 (three) months (such period to expire no earlier than 3 (three) months prior to Practical Completion) it has not been possible to find a willing purchaser who meets the Eligibility Criteria (Local) (if any), paragraph 4.3.1.2 of this First Schedule shall cease to apply.

4.3.3 Subject to paragraphs 4.3.6 to 4.3.10 of this Schedule, no First Home shall be Disposed of (whether on a first or any subsequent sale) unless not less than 50% (fifty percent) of the purchase price is funded by a first mortgage or other home purchase plan with a First Homes Mortgagee.

4.3.4 No First Home shall be Disposed of (whether on a first or any subsequent sale) unless and until:

4.3.4.1 The Council has been provided with evidence that:

- (a) the intended purchaser meets the First Homes Eligibility Criteria (National) and unless paragraph 4.3.2 of this First Schedule applies meets the First Homes Eligibility Criteria (Local) (if any);
- (b) the Dwelling is being Disposed of as a First Home at the First Home Sale Price; and
- (c) the transfer of the First Home includes:
 - (i) a definition of the "Council" which shall be "The Council of the Borough of Kirklees";
 - (ii) a definition of "First Homes Provisions" in the following terms:

"means the provisions set out in paragraphs 4.3.1 to 4.3.9 of the First Schedule to the Section 106 Agreement;"
 - (iii) a definition of "Section 106 Agreement" in the following terms:

"means the agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 dated [] made between (1) The Council of the Borough of Kirklees and (2) Hartley Property Trust Limited;"
 - (iv) a provision that the First Home is sold subject to and with the benefit of the First Homes Provisions and the transferee acknowledges that it may not transfer or otherwise Dispose of the First Home or

any part of it other than in accordance with the First Homes Provisions;

(v) a copy of the First Homes Provisions in an Annexure to the transfer.

(vi) The First Homes Administration Charge has been paid to the Council by the seller (Owner in respect of the first disposal and the First Homes Owner in respect of subsequent disposal);

4.3.4.2 The Council here by covenants that it shall issue:

4.3.4.3 The Authority to Proceed within 15 (fifteen) Working Days of being provided with the relevant information pursuant to paragraph 4.3.4.1 of this Schedule;

4.3.4.4 The Authority to Exchange and Compliance Certificate within 20 (twenty) Working Days of receiving a request to issue the Authority to Exchange and having been provided with evidence sufficient to satisfy it that requirement of paragraphs 4.3.3 and 4.3.4.1 of this Schedule have been met;

4.3.5 On the first Disposal of each and every First Home to apply to the Chief Land Registrar pursuant to Rule 91 of and Schedule 4 to the Land Registration Rules 2003 for the entry on the register of the title of that First Home of the following restriction:

"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by The Council of the Borough of Kirklees of Civic Centre, 3, Market Street, Huddersfield, HD1 1WG or a conveyancer that the provisions of clause [XX] (the First Homes Provision) of the Transfer dated referred to in the Charges Register have been complied with or that they do not apply to the disposition".

4.3.6 The owner of a First Home (which for the purposes of this clause shall include the Owner and any First Homes Owner) may apply to the Council to Dispose of it other than as a First Home on the grounds that either:

4.3.6.1 the Dwelling has been actively marketed as a First Home for 6 (six) months in accordance with paragraphs 4.3.1 and 4.3.2 of this Schedule (and in the case of a first Disposal the 6 (six) months shall be calculated from a date no earlier than 6 (six) months prior to Practical Completion) and Reasonable Endeavours have been made to Dispose of the Dwelling as a First Home but it has not been possible to Dispose of that Dwelling as a First Home in accordance with paragraphs 4.3.3 and 4.3.4.1 of this First Schedule; or

4.3.6.2 requiring the First Homes Owner to undertake active marketing for the period specified in paragraph 4.3.6.1 of this Schedule before being able to Dispose of the Dwelling other than as a First Home would be likely to cause the First Homes Owner undue hardship.

4.3.7 Upon receipt of an application served in accordance with paragraph 4.3.6 of this Schedule the Council shall have the right (but shall not be required) to direct that the relevant Dwelling is Disposed of to it at the First Home Sale Price.

4.3.8 If the Council is satisfied that either of the grounds in paragraph 4.3.6 of this Schedule have been made out it shall confirm in writing within 28 (twenty eight) days of receipt of the written request made in accordance with paragraph 4.3.6 of this Schedule that the relevant Dwelling may be Disposed of:

4.3.8.1 to the Council at the First Home Sale Price; or

4.3.8.2 (if the Council confirms that it does not wish to acquire the relevant Dwelling) other than as a First Home;

and on the issue of that written confirmation the obligations in this Deed which apply to First Homes shall cease to bind and shall no

longer affect that Dwelling apart from paragraph 4.3.10 of this First Schedule which shall cease to apply on receipt of payment by the Council where the relevant Dwelling is disposed of other than as a First Home.

4.3.9 If the Council does not wish to acquire the relevant Dwelling itself and is not satisfied acting reasonably that either of the grounds in paragraph 4.3.6 of this Schedule have been made out then it shall within 28 (twenty eight) days of receipt of the written request made in accordance with paragraph 4.3.6 of this Schedule serve notice on the Owner setting out the further steps it requires the owner to take to secure the Disposal of a Dwelling as a First Home and the timescale (which shall be no longer than 6 (six) months). If at the end of that period the Owner has been unable to Dispose of the Dwelling as a First Home he may serve notice on the Council in accordance with paragraph 4.3.6 of this Schedule following which the Council must within 28 (twenty eight) days issue confirmation in writing that the Dwelling may be Disposed of other than as a First Home.

4.3.10 Where a Dwelling is Disposed of other than as a First Home or to the Council at the First Home Sale Price in accordance with paragraphs 4.3.8 or 4.3.9 of this First Schedule the owner of the First Home shall pay to the Council forthwith upon receipt of the proceeds of sale the Additional First Homes Contribution.

4.3.11 Upon receipt of the Additional First Homes Contribution the Council shall:

4.3.11.1 within 28 (twenty-eight) Working Days of such receipt, provide a completed application to enable the removal of the restriction on the title set out in paragraph 4.3.5 of this Schedule where such restriction has previously been registered against the relevant title;

4.3.11.2 apply all monies received as Local Housing Authority for the provision and enabling of housing accommodation pursuant to the Housing Act 1985 the Housing Act 1988 the Housing Act 1989 (or as any of the same may be subsequently

amended) and all other enabling powers the nature of such payments being within the absolute discretion of the Council.

4.3.12 Any person who purchases a First Home free of the restrictions in this First Schedule pursuant to the provisions in paragraphs 4.3.9 and 4.3.10 of this Schedule shall not be liable to pay the Additional First Homes Contribution to the Council.

4.4 **First Homes – Use**

Each First Home shall be used only as the main residence of the First Homes Owner and shall not be let, sub-let or otherwise Disposed of other than in accordance with the terms of this Deed **PROVIDED THAT** letting or sub-letting shall be permitted in accordance with paragraphs 4.4.1 – 4.4.3 of this Schedule:

4.4.1A First Homes Owner may let or sub-let their First Home for a fixed term of no more than 2 (two) years, provided that the First Homes Owner notifies the Council in writing before the First Home is Occupied by the prospective tenant or sub-tenant. A First Homes Owner may let or sub-let their First Home pursuant to this paragraph more than once during that First Homes Owner's period of ownership, but the aggregate of such lettings or sub-lettings during a First Homes Owner's period of ownership may not exceed 2 (two) years.

4.4.2A First Homes Owner may let or sub-let their First Home for any period provided that the First Homes Owner notifies the Council and the Council consents in writing to the proposed letting or sub-letting. The Council covenants not to unreasonably withhold or delay giving such consent and not to withhold such consent in any of the circumstances in paragraphs 4.4.2.1 to 4.4.2.6 of this Schedule:

4.4.2.1 the First Homes Owner is required to live in accommodation other than their First Home for the duration of the letting or sub-letting for the purposes of employment;

4.4.2.2 the First Homes Owner is an active Armed Services Member and is to be deployed elsewhere for the duration of the letting or sub-letting;

4.4.2.3 the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to escape a risk of harm;

4.4.2.4 the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of relationship breakdown;

4.4.2.5 the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of redundancy; and

4.4.2.6 the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to provide care or assistance to any person.

4.4.3 A letting or sub-letting permitted pursuant to paragraph 4.4.1 or 4.4.2 of this Schedule must be by way of a written lease or sub-lease (as the case may be) of the whole of the First Home on terms which expressly prohibit any further sub-letting.

4.4.4 Nothing in this paragraph 4.4 prevents a First Homes Owner from renting a room within their First Home or from renting their First Home as temporary sleeping accommodation provided that the First Home remains at all times the First Home Owner's main residence.

4.5 First Homes – First Homes Mortgagee Exclusion

The obligations in paragraphs 4.1 to 4.4 of this First Schedule in relation to First Homes shall not apply to any First Homes Mortgagee or any receiver (including an administrative receiver appointed by such First Homes Mortgagee or any other person appointed under any security documentation to enable such First Homes Mortgagee to realise its security or any

administrator (howsoever appointed (**each a Receiver**)) of any individual First Home or any persons or bodies deriving title through such First Homes Mortgagee or Receiver **PROVIDED THAT:**

- 4.5.1 such First Homes Mortgagee or Receiver shall first give written notice to the Council of its intention to Dispose of the relevant First Home; and
- 4.5.2 once notice of intention to Dispose of the relevant First Home has been given by the First Homes Mortgagee or Receiver to the Council the First Homes Mortgagee or Receiver shall be free to sell that First Home at its full Market Value and subject only to paragraph 4.5.3 of this First Schedule;
- 4.5.3 following the Disposal of the relevant First Home the First Homes Mortgagee or Receiver shall following the deduction of the amount due and outstanding under the relevant security documentation including all accrued principal monies, interest and reasonable costs and expenses pay to the Council the Additional First Homes Contribution;
- 4.5.4 following receipt of notification of the Disposal of the relevant First Home the Council shall:
 - 4.5.4.1 forthwith issue a completed application to the purchaser of that Dwelling to enable the removal of the restriction on the title set out in paragraph 4.5.5 of this Schedule; and
 - 4.5.4.2 apply all such monies received towards the provision of Affordable Housing.

SECOND SCHEDULE

Owner's Covenants

The Owner covenants with the Council in the following terms-

1. DRAINAGE CONSTRUCTION SCHEME

- 1.1 Not to Commence Development permit or allow Commencement of the Development until the Drainage Construction Scheme has been submitted to and approved in writing by the Council.
- 1.2 In the event that the Council considers (acting reasonably) that it is unable to approve the submitted version of Drainage Construction Scheme then the Owner shall submit a revised version to the Council, taking into account any comments that the Council has provided, for their approval. Such procedure shall be repeated as often as is necessary until the Council approve the Drainage Construction Scheme

2. LAND DRAINAGE SYSTEM CONSTRUCTION AND MAINTENANCE

- 2.1 Not to Commence Development permit or allow Commencement of the Development until the Land Drainage Management Scheme has been submitted to and approved in writing by the Council.
- 2.2 In the event that the Council considers (acting reasonably) that it is unable to approve the submitted version of Land Drainage Management Scheme then the Owner shall submit a revised version to the Council, taking into account any comments that the Council has provided, for their approval. Such procedure shall be repeated as often as is necessary until the Council approve the Land Drainage Management Scheme
- 2.3 To provide the Land Drainage System in accordance with the programme/timetable in the approved Drainage Construction Scheme

- 2.4 In the event that the Council considers (acting reasonably) that the requirements of the approved Land Drainage Management Scheme are not being complied with then the Council may serve a written notice on the Owner specifying the breach and requiring the Owner to undertake such remedial steps as are necessary to remedy the breach specified in the notice.
- 2.5 The Owner shall comply with the terms of any notice served by the Council pursuant to paragraph 2.4 above within 28 (twenty-eight) days of the date of service by the Council of the said notice or within such other reasonable period that may be agreed by the Council in writing
- 2.6 The approved Land Drainage Management Scheme shall only be varied or amended with the written approval of the Council.
- 2.7 The Owner shall ensure that the Council is provided with up-to-date contact details (including a contact name, address, telephone number and e-mail address) of any third party or person who is engaged or contracted to carry out any maintenance or management works in respect of the Land Drainage System
- 2.8 The Owner covenants with the Council to fully comply with the approved Land Drainage Management Scheme and at all times thereafter shall ensure that the Land Drainage System from the time of construction is maintained in accordance with the Land Drainage Management Scheme and shall keep it maintained until such time as responsibility for its maintenance (together with all necessary rights to enable the Management Company to maintain the Land Drainage System) is transferred to the Management Company PROVIDED THAT it is agreed that it shall be a written term of the appointment of the Management Company that the transfer is on the condition that they shall manage and

maintain the Land Drainage System in accordance with the Land Drainage Management Scheme and for the lifetime of the Development.

- 2.9 The Owner shall transfer responsibility for the maintenance of the Land Drainage System (together with all necessary rights to enable the Management Company to maintain the Land Drainage System) to the Management Company upon completion of the Final Dwelling within the Development and shall notify the Council in writing within 5 (five) Working Days of the date that the transfer took place.
- 2.10 The written agreement of the Council shall be sought in the event that the Management Company proposes to transfer responsibility for the Land Drainage System to another Management Company who is willing to accept the transfer on the condition that such Management Company shall manage and maintain the Land Drainage System in accordance with the Land Drainage Management Scheme and for the lifetime of the Development.

3. SURFACE WATER DRAINAGE WORKS AND FOUL SEWER WORKS CONSTRUCTION AND MAINTENANCE

- 3.1 Not to Commence Development permit or allow Commencement of the Development until the Owner has submitted to the Council for approval the Surface Water/Foul Drainage Maintenance and Management Plan
- 3.2 In the event that the Council considers (acting reasonably) that it is unable to approve the submitted version of Surface Water/Foul Drainage Maintenance and Management Plan then the Owner shall submit a revised version to the Council, taking into account any comments that the Council has provided, for their approval. Such procedure shall be

repeated as often as is necessary until the Council approve the Surface Water/Foul Drainage Maintenance and Management Plan.

- 3.3 To construct the Surface Water Drainage Works and Foul Sewer Works in accordance with the programme/timetable in the approved Drainage Construction Scheme
- 3.4 The Owner covenants with the Council to fully comply with the approved Surface Water/Foul Drainage Maintenance and Management Plan and at all times thereafter to manage and maintain the Surface Water Drainage Works and Foul Sewer Works provided in accordance with the details set out in the approved Surface Water/Foul Drainage Maintenance and Management Plan until the date that the Surface Water Drainage Works and Foul Sewer Works are adopted by the Water Company or a NAV.
- 3.5 Until such time as the Surface Water Drainage Works and Foul Sewer Works are adopted by the Water Company or a NAV the Council may upon reasonable notice in writing enter the Site in order to check and monitor compliance with the approved Surface Water/Foul Drainage Maintenance and Management Plan.
- 3.6 In the event that the Council considers (acting reasonably) that the requirements of the approved Surface Water/Foul Drainage Maintenance and Management Plan are not being complied with then the Council may serve a notice in writing on the Owner specifying the breach and requiring the Owner to undertake such steps as are necessary to remedy the breach specified in the notice.
- 3.7 The Owner shall comply with the terms of any notice served by the Council pursuant to paragraph 3.6 above within twenty-eight (28) days of the date of service by the Council of the said notice or within such other fair and reasonable period that may be agreed by the Council in writing.

- 3.8 The approved Surface Water/Foul Drainage Maintenance and Management Plan shall only be varied or amended with the written approval of the Council.
- 3.9 The Owner shall ensure that the Council is provided with up-to-date contact details (including a contact name, address, telephone number and e-mail address) of any third party or person who is engaged or contracted to carry out any maintenance or management works in respect of the Surface Water Drainage Works
- 3.10 The Owner shall maintain the Surface Water Drainage Works and Foul Sewer Works until such a time that such Surface Water Drainage Works and Foul Sewer Works are transferred to the Water Company or a NAV

3.11 Adoption by a Water Company

Upon receipt by the Council of satisfactory evidence that the Surface Water Drainage Works and Foul Sewer Works have been transferred to a Water Company the obligations in paragraphs 3.1 to 3.10 of this First Schedule shall thereafter cease and not be applicable.

4. TRAVEL PLAN MONITORING CONTRIBUTION

- 4.1 Not to Occupy or permit or allow Occupation of the Development until the Travel Plan Monitoring Contribution Index Linked has been paid to the Council

5. OFF-SITE PUBLIC OPEN SPACE CONTRIBUTION

- 5.1 Not to Occupy or permit or allow Occupation of the Development until the Off-site Public Open Space Contribution Index Linked has been paid to the Council

6. SUSTAINABLE TRANSPORT CONTRIBUTION

- 6.1 Not to Occupy or permit or allow Occupation of the Development until the Sustainable Transport Contribution Index Linked has been paid to the Council

7 ON-SITE MANAGEMENT

AREAS OF POS AND INCIDENTAL LANDSCAPING

- 7.1 Prior to first Occupation of fifty percent (50%) of the Dwellings (or any Phase if applicable) within the Development to submit to the Council for approval in writing the Areas of POS and Incidental Landscaping Management Scheme and following such approval in writing having been obtained to provide the Areas of POS and Incidental Landscaping in accordance with the Planning Permission and condition(s) thereto and to notify the Council in writing within 20 (twenty) Working Days of Completion of the Areas of POS and Incidental Landscaping.
- 7.2 Not to Occupy permit or allow first Occupation of 75% (seventy five per cent) of the Dwellings (or in any relevant Phase if applicable) within the Development until the Areas of POS and Incidental Landscaping have been laid out and Completed as required in paragraph 7.1 above
- 7.3 To undertake the works in relation to the construction and laying out of the Areas of POS and Incidental Landscaping in a proper and workmanlike manner with sound and good quality planting and materials in accordance with good horticultural and ecological practice to adoptable standards and to the reasonable satisfaction of the Council.

7.4 Within 1 (one) month of the Council receiving the notice pursuant to paragraph 7.1 of this Second Schedule (or paragraph 7.5.2 as the case may be) of this Schedule the Council shall inspect the Areas of POS and Incidental Landscaping and if the Areas of POS and Incidental Landscaping have been provided to its reasonable satisfaction the Council shall confirm as such in writing to the Owner within two weeks of inspection.

7.5 If following the inspection pursuant to paragraph 7.4 of this Second Schedule the Council consider (acting reasonably) the Areas of POS and Incidental Landscaping as carried out by the Owner has not been provided to its satisfaction:

7.5.1 it shall notify the Owner in writing within two weeks of the inspection specifying the measures necessary to complete the Areas of POS and Incidental Landscaping to its reasonable satisfaction; and

7.5.2 the Owner shall as soon as reasonably practicable carry out those works and notify the Council (and the procedure in paragraphs 7.1 and 7.4 shall be repeated as often as is necessary until such time as the Council confirms completion of those works to its reasonable satisfaction).

7.6 Not to Occupy any of the Dwellings (or such other number of Dwellings that may be agreed in writing by the Council) until it has submitted for the written approval of the Council a draft Areas of POS and Incidental Landscaping Management Scheme for the future maintenance and management of the Areas of POS and Incidental Landscaping.

7.7 Within 3 (three) months (or within such other period of time that may be agreed in writing by the Council) of the Areas of POS and Incidental

Landscaping having been provided in accordance with the Planning Permission and condition(s) thereto and this Deed the Owner shall transfer the Areas of POS and Incidental Landscaping to a Management Company **PROVIDED THAT** it is agreed that the transfer shall contain a covenant so as to bind the Areas of POS and Incidental Landscaping into whomsoever hands the same may be transferred to maintain the Areas of POS and Incidental Landscaping in accordance with the approved Areas of POS and Incidental Landscaping Management Scheme **PROVIDED FURTHER THAT** it is agreed that the Owner will maintain the Areas of POS and Incidental Landscaping in accordance with the approved Areas of POS and Incidental Landscaping Management Scheme until such time as those areas shall be transferred to a Management Company.

- 7.8 The name and contact details of the Management Company to whom the Areas of POS and Incidental Landscaping are transferred to pursuant to paragraph 7.7 shall be provided to the Council prior to such transfer occurring.
- 7.9 In the event that the Management Company should cease to exist or should transfer the Areas of POS and Incidental Landscaping to another Management Company the details provided to the Council pursuant paragraph 7.8 of this Second Schedule shall be updated within 5 (five) Working Days of these changes.
- 7.10 To allow the Council upon reasonable written notice to enter the Site in order to check and monitor compliance with the Areas of POS and Incidental Landscaping Management Scheme.
- 7.11 In the event that the Council should serve a notice on the Owner (or the Management Company as appropriate) following an inspection undertaken pursuant to paragraph 7.10 of this Second Schedule considers that the Areas of POS and Incidental Landscaping Management Scheme is not being fully complied with, the Council may serve a notice in writing specifying the breach and requiring the Owner

to undertake such steps as are necessary to remedy the breach specified in the notice .

7.12 The Owner shall comply with the terms of any notice served by the Council pursuant to paragraph 7.11 above within twenty-eight (28) days of the date of service by the Council of the said notice or within such other fair and reasonable period that may be agreed by the Council in writing.

7.13 Not to close the Areas of POS and Incidental Landscaping save for 1 (one) day in each calendar year to avoid public rights of way or common rights coming into being **PROVIDED THAT** this shall not prevent:

- (a) the temporary closure in the event of emergency;
- (b) the exclusion of members of the public who in the opinion of the Owner or the Management Company as the case may be should be excluded in the interests of safety, peace, prudent building management or security;
- (c) the temporary closure for the purposes of carrying out maintenance, repair, cleansing or renewal of the Areas of POS and Incidental Landscaping **PROVIDED THAT** the period of closure is reasonable and commensurate with the activity being undertaken and prior written notice is provided to the Council;
- (d) the temporary closure of all or any part of the Areas of POS and Incidental Landscaping for the holding of events with the prior written consent of the Council;
- (e) the access being subject to such other requirements and regulations as may from time to time be imposed by the Owner or the Management Company as the

case may be having regard to overriding reasons of safety, security, anti-social behaviour and prudent building management **PROVIDED THAT** such requirements and regulations shall not be imposed without the Council's prior written approval.

- 7.14 To pay the Areas of POS and Incidental Landscaping Inspection Fee to the Council within 20 (twenty) Working Days of receipt of written request from the Council (PROVIDED THAT such request shall not be made any earlier than the date of the Council's inspection of the completed Areas of POS and Incidental Landscaping and nothing in this paragraph 7.14 requires the Owner to pay the Areas of POS and Incidental Landscaping Inspection Fee on any date which is earlier than 20 (twenty) Working Days after the inspection).

THIRD SCHEDULE

Council's Covenants

The Council covenants with the Owner in the following terms:

1. The Council shall apply and appropriate the Travel Monitoring Contribution and any other financial contributions paid to the Council solely as stipulated in this Deed and not for any other purpose.
2. In the event that the Travel Monitoring Contribution or (or any part or parts thereof) or any other financial contributions (or parts thereof) paid pursuant to the Deed have not been expended or committed for expenditure within ten (10) years of the date of receipt of the respective payment then the sum or sums not expended plus any interest accrued shall be repaid to the party that paid it.
3. That it will following receipt of the written request of the Owner provide details in writing of the amount of the Travel Plan Contribution or any other financial contributions paid pursuant to this Deed which have been expended or committed for expenditure together with details of the purposes for which they have been expended or committed for expenditure.
4. That it will following receipt of the written request of the Owner at any time or times after any of the obligations in this Deed have been discharged issue written confirmation thereof as soon as reasonably practicable or if the Planning Permission has expired or been quashed or revoked will cancel all relevant entries in the register of Local Land Charges as soon as reasonably practicable.

IN WITNESS WHEREOF the parties hereto have caused this Deed to be executed as a Deed on the day and year first before written

THE CORPORATE COMMON SEAL of
THE COUNCIL OF
THE BOROUGH OF KIRKLEES

was hereunto affixed in the presence of:-



Director- Legal Governance and Commissioning /Authorised Signatory

EXECUTED AS A DEED

by **HARTLEY PROPERTY TRUST LIMITED**

acting by a Director

Director

in the presence of:

Witness Signature

Witness Name:

Witness Address:

Witness Occupation:

Annex A

KEY

- Foul sewer serving Phase 1 & 2
- Surface water sewer serving Phase 1 & 2
- Land drain serving Phase 1 & 2
- Phase 1
- Phase 2
- Phase 2 overlap with Phase 1

022137

SUBJECT TO THE
APPROVAL OF
ALL RELEVANT
AUTHORITIES

ARP ASSOCIATES Sustainable Consulting Engineers 100, 101 & 102, 103 & 104, 105 & 106, 107 & 108, 109 & 110, 111 & 112, 113 & 114, 115 & 116, 117 & 118, 119 & 120, 121 & 122, 123 & 124, 125 & 126, 127 & 128, 129 & 130, 131 & 132, 133 & 134, 135 & 136, 137 & 138, 139 & 140, 141 & 142, 143 & 144, 145 & 146, 147 & 148, 149 & 150, 151 & 152, 153 & 154, 155 & 156, 157 & 158, 159 & 160, 161 & 162, 163 & 164, 165 & 166, 167 & 168, 169 & 170, 171 & 172, 173 & 174, 175 & 176, 177 & 178, 179 & 180, 181 & 182, 183 & 184, 185 & 186, 187 & 188, 189 & 190, 191 & 192, 193 & 194, 195 & 196, 197 & 198, 199 & 200, 201 & 202, 203 & 204, 205 & 206, 207 & 208, 209 & 210, 211 & 212, 213 & 214, 215 & 216, 217 & 218, 219 & 220, 221 & 222, 223 & 224, 225 & 226, 227 & 228, 229 & 230, 231 & 232, 233 & 234, 235 & 236, 237 & 238, 239 & 240, 241 & 242, 243 & 244, 245 & 246, 247 & 248, 249 & 250, 251 & 252, 253 & 254, 255 & 256, 257 & 258, 259 & 260, 261 & 262, 263 & 264, 265 & 266, 267 & 268, 269 & 270, 271 & 272, 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Annex B



PHASE 2		
SCHEDULE OF ACCOMMODATION:		
AFFORDABLE UNITS	HOUSETYPE	AMOUNT
	TYPE C2+ 2 Storey Semi/Ter 2 Bed	2 No.
	TYPE R 2 Storey Semi/Ter 3 Bed	4 No.
	TOTAL	6 No.
OPEN MARKET UNITS	HOUSETYPE	AMOUNT
	TYPE R 2 Storey Semi/Ter 3 Bed	2 No.
	TYPE S 2 Storey Semi/Ter/Det 3 Bed	1 No.
	TYPE F 2 Storey Semi 3 Bed	10 No.
	TYPE Q 2 Storey Det 3 Bed	4 No.
	TYPE J 2.5 Storey Semi 4 Bed	2 No.
	TYPE G 2 Storey Det 4 Bed	3 No.
	TYPE E 2 Storey Det 4 Bed	1 No.
	TOTAL	23 No.
	COMBINED TOTAL	29 No.

SITE LAYOUT KEY:	
	1800mm BRICK WALL
	1800mm BRICK WALL & FENCE
	1800mm TIMBER FENCE
	600mm KNEE HIGH RAIL
	900mm METAL RAILINGS
	REAR GARDEN WALL WITH STEPS
	RETAINING WALLS (LOCATIONS AND DESIGN TO BE CONFIRMED BY CONSULTING ENGINEER)
	ELECTRIC VEHICLE CHARGING POINT
	LOCKABLE REAR ACCESS GATE
	BIN COLLECTION POINTS
	REAR GARDEN CYCLE STORE
	AFFORDABLE DENOTATION
	GRASSED AREAS (FRONT GARDEN)
	GRASSED AREAS (REAR GARDEN)
	BLOCK PAVING
	EXISTING TREES RETAINED
	EXISTING TREES REMOVED
	DRAINAGE EASEMENT
	EXISTING PUBLIC RIGHT OF WAY KIR8/40

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Annex C

06 / POS AREAS



KEY:	
	AMENITY GREENSPACE
	PARKS & RECREATION
	NATURAL & SEMI-NATURAL GREENSPACE
	ALLOTMENTS / COMMUNITY GROWING
	OUTDOOR SPORTS
	CHILDREN & YOUNG PEOPLE



NORTH



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TYPOLGY	AREA m ²	TARGET m2	SURPLUS m2
Amenity Greenspace	3251	1837.08	1414
Parks & Recreation	1828	2449.44	-621
Natural & Semi-Natural Greenspace	14768	6123.6	8644
Allotments/Community Growing	953	630	323
Outdoor Sports	0	2646	-2646
Children & Young People	1108	1688.4	-581

REF	LOCATION	AREA m ²	TYPOLGY	DESIGN AIMS
APPLICATION 2021/91506 (SHOP LANE RM 41 UNITS)				
PA1	Shop lane - POS with footpath connection to Bankfield Lane	466	Parks & Recreation	Pocket Park with natural play features, planting to soften/buffer boundaries to existing dwellings
PA2	Shop Lane - POS adjacent plot 25	181	Children & Young People	
PA3	Shop Lane - POS to rear of plot 22-24 parking	73	Allotments & Community Growing	Small area of compact fruit trees and/or raised growing beds to serve adjacent dwellings
PA4	Shop Lane - POS adjacent plot 13	31	Allotments & Community Growing	Small area of compact fruit trees and/or raised growing beds to serve adjacent dwellings
PA5	Shop Lane - POS adjacent plot 13	112	Allotments & Community Growing	Small area of compact fruit trees and/or raised growing beds to serve adjacent dwellings
PA6	Shop Lane - grass verge to front of plots 31-41	146	Amenity Greenspace	Grass verge for visual amenity benefit and to separate footway
PA7	Shop Lane - POS to the left of the entrance from Shop Lane	55	Amenity Greenspace	Ornamental shrub and tree planting to frame site entrance
PA8	Shop Lane - POS to the Right of the entrance from Shop Lane	39	Amenity Greenspace	
PA9	Shop lane - POS adjacent parking with footpath connection to Shop Lane	226	Amenity Greenspace	Grass, ornamental shrubs and tree planting to create a pleasant walkway and soften parking area
PA10	Cockley Hill Lane - POS off Shop Lane/Orchard Road	2785	Amenity Greenspace	Larger orchard area to serve wider community, on Orchard Road. Mix of apple, pear, cherry & plum
PA11	Cockley Hill Lane - POS off Shop Lane/Orchard Road	347	Allotments & Community Growing	
TOTAL		4460		

APPLICATION 2021/92527 (FULL 29 UNITS)				
PA10	Cockley Hill Lane - POS facing plots B8-B12	1362	Parks & Recreation	Park with LEAP playspace. Play to be designed to be sympathetic to the context with a more natural
PA11	Cockley Hill Lane - POS with attenuation basin	927	Children & Young People	
PA12	Cockley Hill Lane - POS either side of the access to no. 60 Cockley Hill Lane	8549	Natural & Semi-Natural Greenspace	Native woodland and scrub planting around surface water basin
PA13	Cockley Hill Lane - POS either side of the access to no. 60 Cockley Hill Lane	4331	Natural & Semi-Natural Greenspace	Existing tree belts and hedgerows retained and managed to maximise biodiversity
TOTAL		15170		

APPLICATION 2021/91507 (RM 55 UNITS)				
PA13	Cockley Hill Lane - POS adjacent 46 and 52 Cockley Hill Lane	400	Allotments & Community Growing	Orchard area with a mix of apple, pear, cherry & plum trees. Grass to be close mown to provide a smart entrance to the site.
PA14	Cockley Hill Lane - POS running along the NW drainage easement	1887	Natural & Semi-Natural Greenspace	Existing tree belts and hedgerows retained and managed to maximise biodiversity
TOTAL		2287		

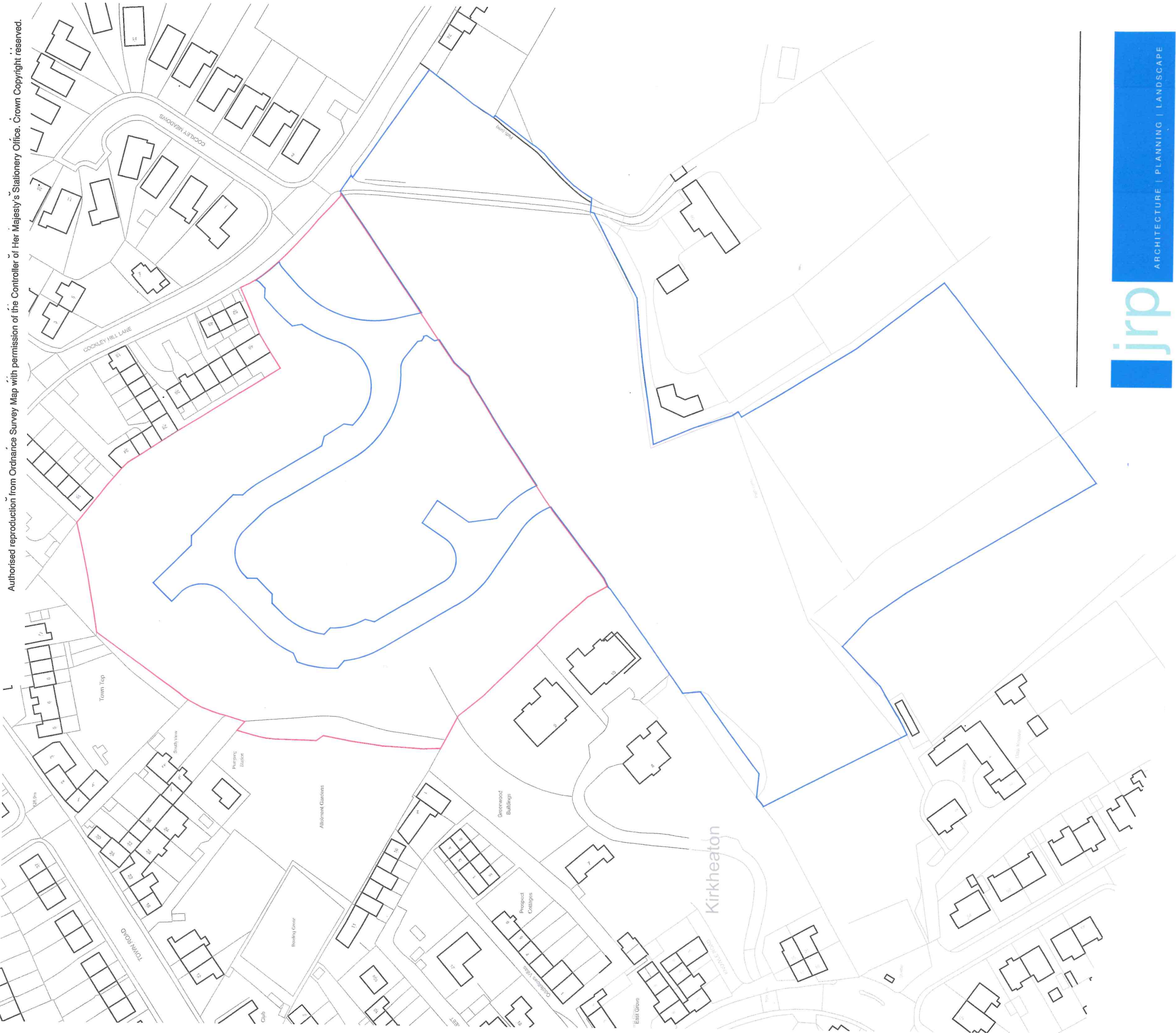
B / 22.01.25 / POS AREAS UPDATED TO REFLECT LATEST LAYOUTS USING COMBINED SITE PLAN 19 5336 200 REV L DATED 04.07.24. SCHEDULE UPDATED.		LB	LM
A / 16.11.22 / POS AREAS UPDATED TO REFLECT LATEST LAYOUTS USING COMBINED SITE PLAN 19 5336 200 REV G DATED 24.10.23.		LB	LM



CLIENT:	HARTLEY PROPERTIES	DRAWING NUMBER:	P19:5336:06
PROJECT:	SITES @ SHOP LANE & COCKLEY HILL LANE, KIRKHEATON	SCALE @ A1:	1:1000
DRAWING:	POS AREAS PLAN	DRAWN:	AT
		CHECKED:	LM
		DATE:	JAN 23
		DATE:	JAN 23

JRP Associates 14 Manor Court, Colden Park, Wakefield, WF4 3EL	01924 388322 info@jrpassoc.co.uk jrpassoc.co.uk
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Annex D

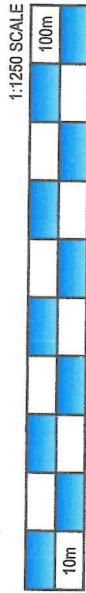
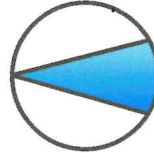


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Key

Phase 1

Phase 2



jrp

ARCHITECTURE | PLANNING | LANDSCAPE

CLIENT:	HARTLEY PROPERTIES	DRAWING NUMBER:	P19:5336:250
PROJECT:	PROPOSED RESIDENTIAL DEVELOPMENT @ COCKLEY HILL LANE, KIRKHEATON	SCALE @ A3:	1:1250
DRAWING:	S106 PLAN	DRAWN:	THS
		CHECKED:	LM/SD
		DATE:	DEC '24
		DATE:	DEC '24

250 / S106 PLAN

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