

Dated

2026

HANSON COURT LIMITED

and

THE COUNCIL OF THE BOROUGH OF KIRKLEES

AGREEMENT

**Under Section 106 of the Town & Country Planning Act 1990 (as amended)
relating to Land at 35, St John's Road, Birkby, Huddersfield HD1 5DX**

Application Ref: 2024/62/93474/W

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BETWEEN

- (1) **HANSON COURT LIMITED** (Company Register Number 14351784) who registered office is situated at 31 St. Johns Road, Huddersfield, England, HD1 5DX (the **Owner**); and
 - (2) **THE COUNCIL OF THE BOROUGH OF KIRKLEES** of Town Hall Huddersfield West Yorkshire HD1 2TA (the **Council**) acting in its capacity as local planning authority only.
- (together 'the Parties').

BACKGROUND

- (A) For the purposes of the 1990 Act the Council is the local planning authority for the area in which the Site is situated and by whom the Planning Obligations in this Deed are enforceable.
- (B) The Council is the freehold owner of Title Number WYK805098 part of which comprises the land in the Site registered under Title Number WYK805098 but is not a covenanting landowner for the purposes of this Deed and enters into this Deed solely in its capacity as local planning authority.
- (C) The Owner holds long leasehold interests in the Site comprising Title Numbers YK29815, YK29814 and YWE22894 for the residual leasehold terms on 999 years granted out of the Council's freehold interest in that land, and such leasehold interest is intended to be bound by the terms of this Agreement.
- (D) The Council enters into this Deed solely in its capacity as local planning authority pursuant to section 106 of the Town and Country Planning Act 1990 and not in its capacity as landowner.
- (E) The Owner has sufficient legal interest to enter into and be bound by the planning obligations contained in this Deed.
- (F) The Owner has submitted the Application to the Council seeking planning permission for the Development.
- (G) The Council are of the view that the Development should not be permitted unless the impact thereof is mitigated by the obligations set out herein on behalf of the Owner which are:
 - (i) necessary to make the Development acceptable in planning terms

- (ii) directly related to the Development and
 - (iii) in all other respects are fairly and reasonably related in scale and kind to the Development
- (H) The Parties by entering into this Deed do so to create planning obligations in respect of the Site pursuant to Section 106 of the 1990 Act and agree to be bound by and to observe and perform the covenants agreements conditions and stipulations hereinafter contained.

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

- 1.1. In this Deed the following expressions shall have the following meanings:

Expression	Meaning
1990 Act	means the Town and Country Planning Act 1990;
Affordable Private Rent Unit	means the 3 (three) Dwellings to be built on the Site as part of the Development in accordance with the Affordable Housing Plan to be provided and Occupied as Affordable Housing in accordance with the provisions of Schedule 3 and Affordable Private Rent Units shall be construed accordingly;
Application	means the application for full planning permission for the Development allocated reference number 2024/62/93474/W;
Commencement Development	of means the date upon which the Development is begun by the carrying out on the Site pursuant to the Planning Permission of a material operation as specified in Section 56(4) of the 1990 Act (whether or not the carrying out of that material operation constitutes a lawful beginning of the Development) but excluding any operations undertaken in connection with or associated with • demolition • site clearance • archaeological investigations • ecology survey or works

Expression	Meaning
	• investigations for the purpose of assessing ground conditions and any resultant remediation works • environmental investigation • site and soil surveys • diversion and / or laying of services [excluding] drainage and sewers • erection of a contractor's work compound • erection of a site office • erection of fencing to the site boundary; and/or • the temporary display of site notices or advertisements and Commence Development and Commencement of Development or any similar derivation of this term shall be construed accordingly;
Contributions	means the Off-Site POS Contribution;
Default Interest Rate	means 4% (four per cent) per annum above the base rate from time to time of the Bank of England;
Development	means the Development of the Site for the change of use from vacant industrial unit to 17 flats, including partial demolition of the industrial unit as described in the Application pursuant to the Planning Permission;
Due Date	means the latest date that any Contribution is to be paid in accordance with this Deed;
Dwelling	means a house flat maisonette or other unit of accommodation intended for single residential use that may be built or provided on the Site as part of the Development and Dwellings and like expressions should be construed accordingly;
Expert	means a person appointed in accordance with Clause 11 to determine a dispute;
Index	means the BCIS All-In Tender Price Index;

Expression	Meaning
Index Linked	means increased in accordance with the following formula: Amount payable = the figure specified in this Deed x (A/B) where: A = the figure for the Index that applied immediately preceding the Due Date or the date paid if earlier; and B = the figure for the Index that applied when that index was last published prior to the date of the Planning Permission (or prior to the date of calculation where this Deed provides for a figure to be calculated at a different point in time);
Land Registry	means His Majesty's Land Registry responsible for the record of the legal title of registered land in England & Wales;
Market Dwelling	means any Dwelling that is not an Affordable Private Rent Unit;
Mineral Rights	means rights to exploit mine or produce minerals and other extractive resources lying below the surface of the Site;
NPPF	means the National Planning Policy Framework published by the Department for Levelling Up Housing and Communities updated February 2025 and any document that supplements or replaces it;
Occupier	means an individual occupier of a Dwelling;
Occupy	means to occupy for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction fitting out or decoration marketing display or security of the Development and Occupied and Occupation and like expressions shall be construed accordingly;
Party	means any person who is from time to time bound by the obligations herein or who may enforce or take advantage of any provision hereof;

Expression	Meaning
Plan 1	means the plan titled Site Plan attached to this Deed at Part 2 of Schedule 1;
Plan 2	means the Affordable Housing Plan attached to this Deed at Part 2 of Schedule 1;
Planning Obligations	means the obligations restrictions conditions and stipulations on the part of the Owner set out in Schedule 2 and 3 of this Deed;
Planning Permission	means a planning permission granted by the Council pursuant to the Application or as defined in Clause 12;
Practical Completion	means the point when the construction of any Dwelling is sufficiently complete that where necessary a supervising architect has or would be able to issue a certificate of practical completion and it can be Occupied;
Secretary of State	means the Secretary of State for Housing and Communities from time to time appointed and includes any successor in function;
Site	means the land described in Part 1 of Schedule 1 which is shown edged red on Plan 1;
Statutory Undertaker	means any company corporation board or authority at the date of this Deed that is authorised by statute to carry on an undertaking for the supply of telephone or television or other electronic communications electricity gas water or drainage or other public services and any other body authorised to carry out such undertaking including Yorkshire Water Service Limited or any successor to its statutory functions under the Water Industry Act 1991 or such other licensed water company;
Working Day	means any day from Monday to Friday inclusive which is not Christmas Day Boxing Day Good Friday Easter Monday or a Statutory Bank Holiday.

- 1.2. Unless specified to the contrary any reference in this Deed to an enactment shall be construed as being a reference to that enactment as amended extended or re-enacted by or under any other enactment and shall include all instruments orders and regulations for the time being made issued or given under that enactment.
- 1.3. References to Clauses Paragraphs Parts Annexes and Schedules are references to clauses paragraphs parts annexes and schedules in this Deed.
- 1.4. References to Paragraphs within specific Parts of the Schedules are references to the corresponding Paragraph within that Part of the Schedule unless specified otherwise.
- 1.5. Words importing one gender shall be construed as importing any gender and words importing the singular shall be construed as importing the plural and vice versa.
- 1.6. The term 'person' shall be interpreted and construed as including any natural person or persons acting together and any other legally constituted body whether or not incorporated by law.
- 1.7. The expression 'the Council' shall include any successor authority to its statutory functions under the 1990 Act.
- 1.8. Where a covenant restriction or requirement is expressed to be given by more than one Party or where (from time to time) a Party is comprised of more than one person liability for such covenant restriction or requirement shall be joint and several.
- 1.9. Clause headings and the contents list shall not affect the construction of this Deed.
- 1.10. Any phrase introduced by the terms 'including' 'include' 'in particular' or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.11. Any covenant by the Council or any other Party not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing.
- 1.12. Where any details scheme strategy or plan is required to be submitted for approval under this Deed and such approval is obtained unless expressly stated otherwise nothing in this Deed shall prevent such details scheme strategy or plan from being resubmitted or amended by agreement between the Owner and the Council.

2. STATUTORY BASIS

- 2.1. This Deed is made pursuant to Section 106 of the 1990 Act and as such is enforceable pursuant to Section 106(3) of the 1990 Act against the Owner and any person claiming or deriving title to the Site (or any part or parts thereof) through or under the Owner as if that person had been an original covenanting Party to this Deed subject to the terms of this Deed.
- 2.2. This Deed is enforceable by the Council as the local planning authority for the purposes of the 1990 Act.
- 2.3. To the extent that the covenants restrictions and requirements in this Deed are not made under Section 106 of the 1990 Act they are made under Section 1 of the Localism Act 2011 and Section 111 of the Local Government Act 1972 and all other powers so enabling.

3. CONDITIONS PRECEDENT

This Deed is conditional upon the grant of the Planning Permission.

4. COVENANTS & DECLARATIONS

- 4.1. The Owner covenants with the Council to comply with the Planning Obligations.
- 4.2. The Council covenants with the Owner to comply with the obligations on its part in Schedule 4 of this Deed.

5. EXCLUSIONS & RELEASE

- 5.1. No Party shall be bound by the terms of this Deed or be liable for a breach of any Planning Obligation:

- 5.1.1. after it has parted with its interest in the Site or the part in respect of which such breach occurs (but without prejudice to liability for any breach occurring prior to parting with such interest and subsisting thereafter);

- 5.1.2. if its interest in the Site or relevant part thereof is solely as the owner of the subsoil of adopted highway and/or of Mineral Rights;

- 5.1.3. if it is a Statutory Undertaker which has an interest in any part of the Site for the purposes of its undertaking;

- 5.1.4. if that Party is Occupier of an individual Market Dwelling; or

- 5.1.5. if that Party is an Occupier of an individual Affordable Private Rent Unit save in respect of the provisions in **Error! Reference source not found..**
- 5.2. If the Planning Permission expires before the Commencement of Development or is at any time modified (without the consent of the Owner) quashed or revoked this Deed shall determine and cease to have effect.
- 5.3. No obligation in this Deed shall be binding on or enforceable against any chargee or mortgagee from time to time who shall have the benefit of a charge or mortgage of or on any part of the Site (or any receiver appointed by such chargee or mortgagee) unless and until such chargee mortgagee or receiver (or any person appointed by them) has taken or entered into possession of the Site or part thereof in which case it will also be bound by the covenants restrictions and obligations in this Deed as if it were a person deriving title from an original covenanting Party.

6. **REGISTRATION**

- 6.1. This Deed is a local land charge and may be registered as such by the Council.
- 6.2. Following either:
- 6.2.1. the performance and satisfaction of all the Planning Obligations contained in this Deed; or
- 6.2.2. the determination of this Deed in accordance with Clause 5.2;

the Council shall as soon as reasonably practicable upon the written request of the Owner effect the cancellation of all entries made in the register of local land charges in respect of this Deed.

7. **NON-FETTER & WAIVER**

- 7.1. Nothing in this Deed restricts or is intended to restrict the proper exercise at any time by the Council of any of its statutory powers functions or discretions.
- 7.2. No waiver (whether expressed or implied) by the Council 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 from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.

- 7.3. 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 before or after the date of this Deed.

8. **VAT**

- 8.1. All payments due in accordance with this Deed are expressed as being exclusive of value added tax.
- 8.2. If any payment is or is deemed to amount to a payment for a chargeable supply under the Value Added Tax Act 1994 the Party making the payment shall pay the other an amount equal to that VAT as additional consideration on receipt of a valid VAT invoice.

9. **SEVERABILITY**

If any provision in this Deed shall in whole or in part be held to be invalid illegal or unenforceable under any enactment or rule of law such provisions shall to the extent required be severed from this Deed and shall not affect the validity legality or enforceability of the remaining provisions of this Deed.

10. **CHANGE OF OWNERSHIP**

The Owner covenants to give written notice to the Council within 20 (twenty) Working Days of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site purchased by reference to a plan **PROVIDED THAT** this obligation shall not apply to a sale or Disposal of an individual Dwelling or to the Disposal of part of the Site to a Statutory Undertaker for the purposes of its undertaking.

11. **DISPUTES**

- 11.1. Any dispute or disagreement arising under this Deed which has been identified by notice in writing by one Party to the other(s) and which has not been resolved within 20 (twenty) Working Days (or such lesser period as may be agreed) of the date of receipt by the other Party(s) of such written notice may be referred at the instance of any Party for determination by an Expert.
- 11.2. The following provisions and terms of appointment shall apply to such disputes or disagreements:-

- 11.2.1. the Expert shall be agreed between the Parties or in default of agreement within 10 (ten) Working Days of receipt of the notice in Clause 11.1 above shall be appointed or identified on application by any Party by the following persons:
 - 11.2.1.1. in the case of disputes relating to land or valuation matters the President of the Royal Institution of Chartered Surveyors;
 - 11.2.1.2. in the case of disputes relating to planning or design matters the President of the Royal Town Planning Institute; or
 - 11.2.1.3. in the case of any other dispute the President of the Law Society.
- 11.2.2. the Expert shall act as an expert and not as an arbitrator
- 11.2.3. the Expert shall be required to give notice of their appointment to each of the Parties (**Expert's Notice**) and thereafter:
 - 11.2.3.1. if any Party to the dispute wishes to make written submissions to the Expert such submissions shall be sent to the Expert and all other Parties to the dispute within 20 (twenty) Working Days of receipt of the Expert's Notice;
 - 11.2.3.2. the Parties shall have 20 (twenty) Working Days from the receipt of original written submissions (or such extended period as the Expert shall allow) to respond;
 - 11.2.3.3. the Expert shall disregard any representations made out of this time;
 - 11.2.3.4. the Expert may request further information or documentation and the Parties shall comply with any requests by the Expert for further information or documentation within a reasonable time; and
 - 11.2.3.5. to the extent not provided for by this Clause the Expert may in his reasonable discretion determine such other procedures to assist with the conduct of the determination as they consider just or appropriate including (to the extent

considered necessary) instructing professional advisers to assist them in reaching their determination

- 11.2.4. the Expert shall make his decision within 20 (twenty) Working Days of the close of the period for submissions of written submissions;
 - 11.2.5. the Expert's decision shall be in writing and shall give reasons for the decision; and
 - 11.2.6. each Party shall bear its own costs and the Expert's costs will be payable in the determination of the Expert.
- 11.3. The decision of the Expert shall be binding on the Parties save in the case of manifest error and/or fraud.
- 11.4. If the Expert dies or becomes unwilling or incapable of acting or does not deliver the decision within the time required by this Clause then:
- 11.4.1. any Party may apply to the relevant body as per Clause 11.2.1 to discharge the Expert and appoint a replacement Expert with the required expertise; and
 - 11.4.2. Clause 11.2 shall apply to the new Expert as if they were the first Expert appointed.
- 11.5. Notwithstanding the above any dispute between the Parties as to the meaning or interpretation of any provision of this Deed or as regards the enforceability of any provision shall only be determined by a Court.

12. FUTURE PERMISSIONS

- 12.1. In the event that an application is made pursuant to Section 73 or Section 73B or Section 96A of the 1990 Act for an amendment to the Planning Permission and planning permission is granted by the Council in respect of that application then:
- 12.1.1. references to 'Application' 'Planning Permission' and 'Development' in this Deed shall thereafter be deemed to include the application made pursuant to Sections 73 or 73B or Section 96A of the 1990 Act the new planning permission granted pursuant to Sections 73 or 73B of the 1990 Act and the development permitted by that permission or as changed pursuant to Section 96A of the 1990 Act respectively; and

- 12.1.2. this Deed shall apply to and remain in full force in respect of both the Planning Permission and that new planning permission without the need for a further agreement to be entered into pursuant to Section 106 of the 1990 Act unless required to do so by the Council.

but in each case **PROVIDED THAT:**

- 12.1.3. nothing in this Clause 12 shall fetter the discretion of the Council in determining any application(s) under Section 73 or 73B or 96A of the 1990 Act or in requiring new or varied planning obligations whether by way of a new or supplemental deed pursuant to Section 106 and/or Section 106A of the 1990 Act; and
- 12.1.4. to the extent that any of the Planning Obligations have been discharged in respect of the original Planning Permission nothing shall require the Owner to comply with that obligation again in respect of a planning permission granted under Section 73 or 73B of the 1990 Act.

13. **DUTY TO ACT REASONABLY**

- 13.1. All Parties to this Deed acknowledge that they are under a duty to act reasonably and (without prejudice to generality) if any agreement consent confirmation notification specification approval or expression of satisfaction is due by any Party other than the Council to another under the terms of this Deed the same shall not be unreasonably withheld or delayed.
- 13.2. The Council covenants that where any details scheme strategy or plan is submitted for its approval under this Deed it shall act reasonably and not unreasonably withhold or delay its approval having regard to its duties under the 1990 Act.

14. **INDEXATION**

- 14.1. The Contributions payable to the Council shall be Index Linked.
- 14.2. Where reference is made to an index and that index ceases to exist or is replaced or rebased then it shall include reference to any index which replaces it or any rebased index or in the event the index is not replaced to an alternative reasonably comparable basis or index as the Council shall advise the Owner in writing.

15. **INTEREST ON LATE PAYMENTS**

Any amount due from the Owner to the Council under the terms of this Deed which is not paid on or prior to the Due Date shall accrue interest at the Default Interest Rate accruing from the Due Date to the date of actual payment.

16. **THIRD PARTY RIGHTS**

No person who is not a Party to this Deed may enforce any terms hereof pursuant to the Contracts (Rights of Third Parties) Act 1999 **PROVIDED THAT** this Clause shall not affect any right of action of any person to whom this Deed has been lawfully assigned with the express consent of the Council or becomes vested in law including Parties who obtain title to the Site or any part thereof from any Party to this Agreement.

17. **NOTICES**

17.1. Any notice given to a Party under or in connection with this Deed shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next Working Day delivery service at its registered office (if a company) or its principal place of business (in any other case).

17.2. Any notice shall be deemed to have been received and served:

17.2.1. if delivered by hand at the time the notice is left at the proper address (unless received after 5pm or on a non-Working Day in which case it shall be deemed received and served on 9am on the next Working Day); or

17.2.2. if sent by pre-paid first-class post or other next Working Day delivery service at 9.00 am on the second Working Day after posting.

17.3. This Clause does not apply to the service of any proceedings or other documents in any legal action or where applicable any arbitration or other method of dispute resolution.

18. **COSTS**

The Council acknowledges that the Owner has prior to the date of this Deed paid the reasonable legal costs of the Council incurred in the preparation negotiation and completion of this Deed.

19. **JURISDICTION**

This Deed is governed by and interpreted in accordance with the law of England and the Parties submit to the exclusive jurisdiction of the courts of England.

THE PARTIES HEREBY WITNESS that this document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

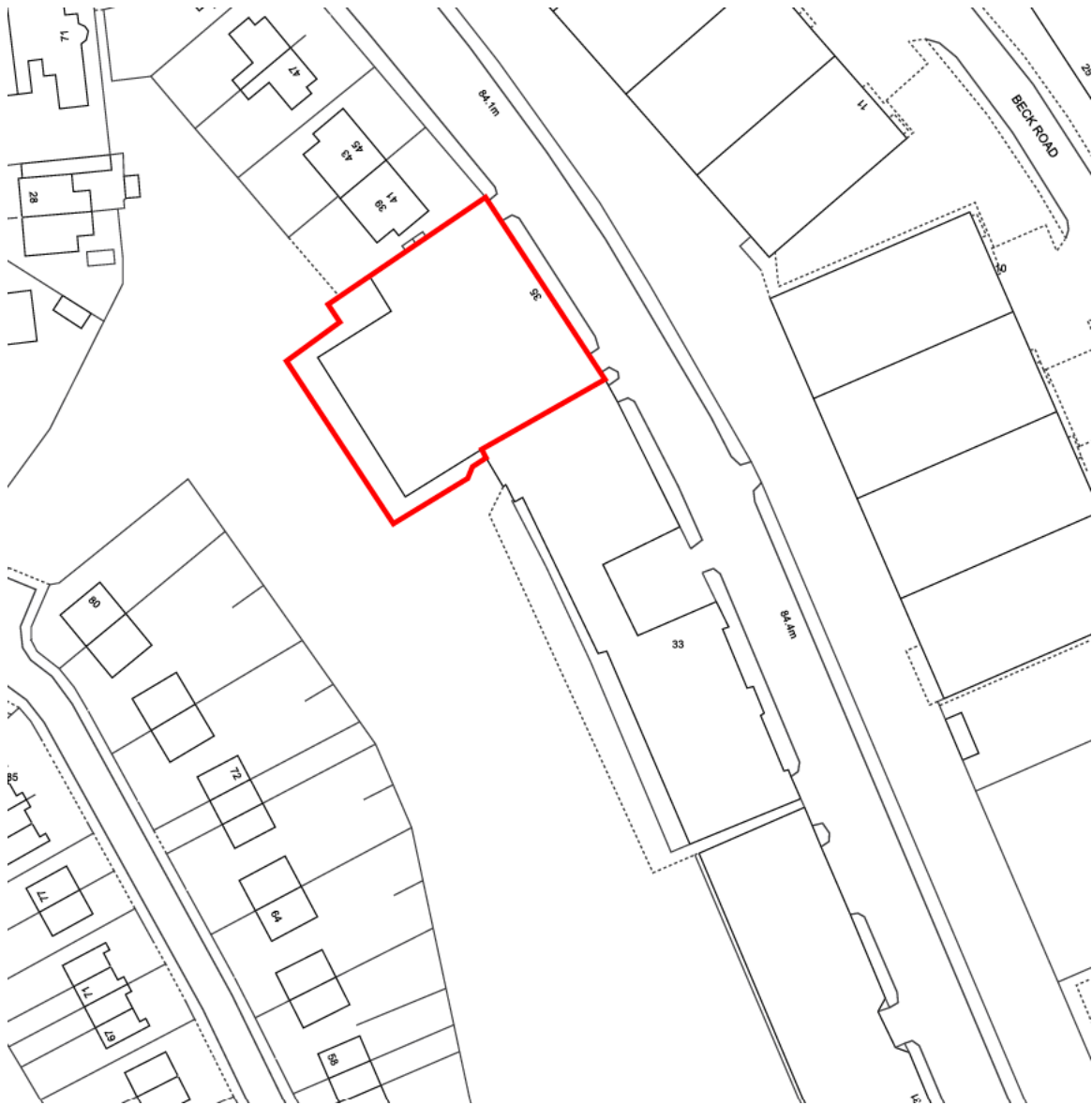
SCHEDULE 1
SITE OWNERSHIP AND PLANS

Part 1 - Site Ownership

- (A) The Owner is the leasehold owner of the Site edged red on Plan 1 registered with the Land Registry under title numbers YK29815, YK29814 and YWE22894.

Part 2 – PLANS

PLAN 1 – SITE PLAN



PLAN 2 – AFFORDABLE HOUSING PLAN

SCHEDULE 2
FINANCIAL CONTRIBUTIONS

1. INTERPRETATION

- 1.1. In this Deed unless the context otherwise requires in addition to the definitions in Paragraph 1.1 in this Schedule the following words and expressions shall have the meanings respectively assigned to them:-

Expression	Meaning
Off-Site POS Contribution	the sum of £41,909.48 (forty-one thousand nine hundred and nine pounds and forty-eight pence) Index Linked to be paid by the Owner to the Council in accordance with this Schedule 2 for the purposes set out in Schedule 4.

The Owner covenants as follows:

2. OFF-SITE POS CONTRIBUTION

- 2.1. To pay to the Council the Off-Site POS Contribution prior to the Occupation of any Dwelling; and
- 2.2. Not to cause or permit the Occupation of any Dwelling until the Off-Site POS Contribution has been paid to the Council.

SCHEDULE 3
AFFORDABLE HOUSING

1. INTERPRETATION

- 1.1. In this Deed unless the context otherwise requires in addition to the definitions set out in Paragraph 1.1 of this Deed in this Schedule the following expressions shall have the following meanings:-

Expression	Meaning
Affordable Housing	means housing provided to eligible households whose needs are not met by the market in accordance with the definition in Annex 2 of the NPPF (or any successor policy or legislation in respect of Affordable Housing);
Affordable Housing Commuted Sum	means a financial contribution payable to the Council in lieu of the on-site provision of Affordable Housing calculated in accordance with the Council's adopted planning policy (or such other basis as may be agreed in writing with the Council) to reflect the cost to the Council of securing equivalent Affordable Housing provision off-site;
Affordable Housing Plan	means the plan labelled as Plan 2 attached to this Deed at Part 2 of Schedule 1 showing (i) the location of the Affordable Private Rent Units to be provided as part of the Development and (ii) the tenure, number of bedrooms by plot number, flat type, number of storeys and the gross internal area of each identified Affordable Private Rent Unit or such other plan as may be approved by the Council in writing;
Affordable Private Rent	means rent which does not exceed 80% (eighty per cent) of Open Market Rent (including service charges where applicable)

Expression	Meaning
Annual Statement	means a statement submitted to the Council annually detailing: (i) rents charged for each Affordable Private Rent Unit; (ii) confirmation of compliance with the Rent Levels; (iii) tenant eligibility and occupancy; and (iv) confirmation of compliance with the Lettings Agreement;
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 applying to Occupy the Affordable Private Rent Unit a divorced or separated spouse or civil partner of a member or a spouse or civil partner of a deceased member or former member whose death was caused wholly or partly by their service;
BTR Scheme	means a residential development which is: (i) owned and managed as a single private rented sector scheme; (ii) professionally managed by a single management entity; (iii) made available for occupation under residential tenancy agreements; and (iv) not disposed of by way of long leasehold or freehold sales of individual dwellings save as expressly permitted by this Deed.

Expression	Meaning
Chargee	means any mortgagee or chargee of the Owner or any receiver, administrator or administrative receiver appointed by such mortgagee or chargee, or any person deriving title through such mortgagee or chargee in the exercise of its security;
Clawback Sum	means a sum payable to the Council calculated as: $D \times E$ where: (i) D = Open Market Value of the relevant Affordable Private Rent Unit at the date of Disposal; (ii) E = 20% (twenty per cent) or if greater at the date of Disposal the percentage difference between Affordable Private Rent and Open Market Rent for that Affordable Private Rent Unit expressed as a percentage of Open Market Rent assessed by a RICS Registered Valuer in accordance with RICS Valuation – Global Standards;
Close Family	means a spouse civil partner parent son daughter sibling or grandparent;
Covenant Period	means 20 (twenty) years commencing on the date of first Occupation of any Dwelling;
Disposal	means any sale transfer assignment lease or other disposition of a legal or equitable interest in land (other than the grant of a tenancy in the ordinary course of letting) and 'Disposed Of' and 'Disposing' shall be construed accordingly;

Expression	Meaning
Eligibility Criteria (Local)	means that one or more of the following criteria are met: (i) the Qualifying Person (tenant) meets the Local Connection Criteria (or in the case of a joint tenancy at least one of the joint tenants meets the Local Connection Criteria); (ii) the Qualifying Person (tenant) is (or in the case of a joint tenancy at least one of the joint tenants is) an Armed Services Member;
Lettings Agreement	means a document submitted by the Owner to the Council for approval in writing setting out the key parameters and principles governing the letting of the Affordable Private Rent Units including (without limitation) details of Rent Levels tenancy terms tenant eligibility criteria and the respective rights and responsibilities of landlord and tenant but excluding the requirement to submit the full form of tenancy agreement;
Local Connection Criteria	means criteria which are met by a person who satisfies one or more of (i) to (vii) below: (i) currently lives in the Locality as their primary residence and has done so for the past 3 (three) years; (ii) previously lived in the Locality as their primary residence for at least 5 (five) years cumulatively within the past 10 (ten) years; (iii) 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;

Expression	Meaning
	(iv) needs to move to the Locality to receive or provide care or support to somebody in the Locality; (v) is employed full time 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 full-time employment in the Locality; (vi) needs to move to the Locality to be close to local facilities because of a specific identified need; (vii) 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 Local Connection Criteria (or equivalently so titled) and which is in operation at the time of the relevant letting of the Affordable Private Rent Unit and for the avoidance of doubt any such letting criteria in operation at the time of the relevant letting of the Affordable Private Rent Unit shall be the 'Local Connection Criteria' which shall apply to that letting;
Locality	the administrative area of the Borough of Kirklees;
Management and Service Agreement	means a written statement submitted by the Owner to the Council for approval in writing confirming the proposed arrangements for the management and maintenance of the Affordable Private Rent Units and any associated service charges;
Marketing Agreement	means a written statement submitted by the Owner to the Council for approval in writing setting out the proposed arrangements for marketing the Affordable Private Rent Units to Qualifying Persons using both the Owner's usual

Expression	Meaning
	marketing methods and the Council's choice based letting scheme 'Choose 'n Move' or such scheme as may replace or supersede it;
Open Market Rent	means the rent reasonably obtainable on the open market: (i) assessed by a RICS Registered Valuer; (ii) in accordance with RICS Valuation – Global Standards; (iii) assuming: a. no restrictions in this Deed; b. a willing landlord and tenant; (iv) the comparable units are those within a BTR Scheme let as Private Market Rent Units;
Open Market Value	means a valuation provided by a qualified independent valuer who is a member of the Royal Institution of Chartered Surveyors acting reasonably and in accordance with the RICS Valuation Standards (as amended from time to time) being the price at which the Affordable Private Rent Unit would have been Disposed Of on the open market unconditionally for cash consideration on the date of valuation assuming: (i) a willing seller and a willing buyer; (ii) that any restrictions imposed by this Deed are disregarded; (iii) that there are no restrictions on Occupation or Disposal; and

Expression	Meaning
	(iv) that both parties to the transaction had acted knowledgeably prudently and without compulsion.
	which shall be valid for a period of 6 (six) months from the date of the valuation.
Private Market Rent Units	means those Dwellings that are not Affordable Private Rent Units to be let at Open Market Rent and Private Market Rent Unit shall be construed accordingly;
Qualifying Person	means a household with a gross annual household income not exceeding £80,000 (eighty thousand pounds) that meets the Eligibility Criteria (Local), except where otherwise provided in Paragraph 5.2; and Qualifying Persons shall be construed accordingly;
Reasonable Endeavours	means attempts 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 but shall not extend to an obligation to take proceedings (including any appeal) in any court public inquiry or other hearing (unless specified to the contrary);
Rent Levels	means the Affordable Private Rent payable for an Affordable Private Rent Unit and the Open Market Rent for an equivalent Private Market Rent Unit in each case inclusive of any service charges.

2. DELIVERY OF AFFORDABLE HOUSING

- 2.1. The Owner shall notify the Council of the Practical Completion of each Affordable Private Rent Unit within 10 (ten) Working Days thereof.

- 2.2. No more than 50% (fifty per cent) of the Private Market Rent Units shall be Occupied until all Affordable Private Rent Units have reached Practical Completion.
- 2.3. The Affordable Private Rent Units shall:
- 2.3.1. not be Occupied other than by a Qualifying Person except where such Occupation is permitted in accordance with Paragraph 5.2; and
 - 2.3.2. not be let at a rent exceeding the Affordable Private Rent at any time, including where the Affordable Private Rent Unit is let to a person who is not a Qualifying Person in accordance with Paragraph 5.2.
- 2.4. The Affordable Private Rent Units shall be provided in accordance with the Affordable Housing Plan and shall be substantially indistinguishable from the Private Market Rent Units in their external appearance and access arrangements.
- 2.5. Subject to Paragraphs 3.1.3 and 5.2 of this Schedule the Affordable Private Rent Units shall remain as Affordable Housing for the Covenant Period.

3. **BTR SCHEME AND AFFORDABLE HOUSING PRIVATE RENT OBLIGATIONS**

- 3.1. The Owner covenants with the Council that for the duration of the Covenant Period:
- 3.1.1. the Development shall be operated as a BTR Scheme;
 - 3.1.2. the Development shall be retained in single ownership; and
 - 3.1.3. no individual Affordable Private Rent Unit shall be Disposed of except:
 - a. as part of a Disposal of the entire Development; or
 - b. to a single institutional investor approved in writing by the Council being a Disposal of all Affordable Private Rent Units together,
- PROVIDED THAT** in all cases the Affordable Private Rent Units shall continue to be held in single ownership and be let as Affordable Private Rent in accordance with the provisions of this Schedule.
- 3.1.4. The Development shall not cease to operate as a BTR Scheme without the prior written consent of the Council.

- 3.1.5. In the event that the Development ceases to operate as a BTR Scheme within the Covenant Period the written approval issued by the Council pursuant to Paragraph 3.1.4 shall specify that the Owner shall comply with Paragraph 3.1.6(a) or Paragraph 3.1.6 (b).
- 3.1.6. Following receipt of written confirmation by the Council in accordance with Paragraph 3.1.4 the Owner shall either:
 - a. provide Affordable Housing within the Locality in accordance with the Council's policy requirements; or
 - b. pay the Affordable Housing Commuted Sum in lieu of on-site provision equivalent to such policy requirement.

4. RENT, LETTINGS AND MANAGEMENT

- 4.1. Prior to the commencement of marketing of any Affordable Private Rent Unit and in any event no less than 12 (twelve) weeks prior to the first Occupation of any Affordable Private Rent Unit the Owner shall submit to the Council for approval in writing:
 - 4.1.1. the Lettings Agreement;
 - 4.1.2. the Management and Service Agreement; and
 - 4.1.3. the Marketing Agreement.
- 4.2. The Council shall use Reasonable Endeavours to respond to any submission made pursuant to Paragraph 4.1 of this Schedule within 30 (thirty) Working Days of receipt.
- 4.3. No Affordable Private Rent Unit shall be Occupied unless and until the documents submitted pursuant to Paragraph 4.1 have been approved in writing by the Council.
- 4.4. The Owner shall ensure that the Affordable Private Rent Units shall:
 - 4.4.1. be let at an Affordable Private Rent; and
 - 4.4.2. marketed and offered in the first instance to Qualifying Persons in accordance with Paragraph 5 of this Schedule.

5. **MARKETING OF AFFORDABLE PRIVATE RENT UNITS**

- 5.1. The Owner shall market the Affordable Private Rent Units in accordance with the approved Marketing Agreement for a continuous period of 8 (eight) weeks or such shorter period of time should a Qualifying Person enter into a tenancy agreement in accordance with the parameters of the Lettings Agreement before the expiry of the 8 (eight) week period unless otherwise agreed in writing with the Council;
- 5.2. If after being marketed in accordance with Paragraph 5.1 no Qualifying Person has entered into a tenancy agreement in accordance with the parameters of the Lettings Agreement the Affordable Private Rent Unit may be let to a person who does not meet the Eligibility Criteria (Local) **PROVIDED THAT** the gross annual household income shall not exceed £80,000 (eighty thousand pounds) and **FOR THE AVOIDANCE OF DOUBT** each subsequent re-letting of an Affordable Private Rent Unit the provisions of Paragraph 4.3.2 and Paragraphs 5.1 and 5.2 shall apply;
- 5.3. The Owner shall submit to the Council an Annual Statement within 20 (twenty) Working Days of each anniversary of the date of first Occupation of any Affordable Private Rent Unit.
- 5.4. The Owner shall provide the Council with evidence of compliance with this Schedule within 20 (twenty) Working Days on receipt of the Council's written request.
- 5.5. The Owner shall comply at all times with the approved Lettings Agreement Management and Service Agreement and Marketing Agreement unless otherwise agreed in writing by the Council.

6. **CLAWBACK AND DISPOSAL**

- 6.1. The Owner shall not Dispose of any Affordable Private Rent Unit during the Covenant Period except:
 - 6.1.1. as part of a Disposal of the Development as a whole;
 - 6.1.2. to a single institutional investor approved in writing by the Council; or
 - 6.1.3 otherwise with the prior written approval of the Council.
- 6.2. Where the Council agrees in writing to the Disposal of any Affordable Private Rent Unit otherwise than in accordance with Paragraph 3.1.3 the Owner shall:

- 6.2.1. give the Council not less than 20 (twenty) Working Days' prior written notice of the proposed Disposal;
 - 6.2.2. submit to the Council for approval a written assessment of the Open Market Value of the Affordable Private Rent Unit; and
 - 6.2.3. pay to the Council the Clawback Sum in accordance with Paragraph 6.4.
- 6.3. The Owner shall not complete any Disposal pursuant to Paragraph 6.2 unless and until the Open Market Value has been approved in writing by the Council such approval not to be unreasonably withheld or delayed.
- 6.4. Within 28 (twenty-eight) Working Days of completion of a Disposal of an Affordable Private Rent Unit the Owner shall pay to the Council the Clawback Sum.
- 6.5. Following receipt of the Clawback Sum in full upon written request by the Owner the Council shall confirm in writing that the relevant Affordable Private Rent Unit is released from the Affordable Housing restrictions contained in this Deed.
- 6.6. If the Council and the Owner are unable to agree the Open Market Value within 20 (twenty) Working Days of submission pursuant to Paragraph 6.2:
 - 6.6.1. the Open Market Value shall be determined by two independent valuers, each being a member of the Royal Institution of Chartered Surveyors, one appointed by the Owner and the other by the Council;
 - 6.6.2. the valuers shall act as experts and not as arbitrators and their determination (or in the event of differing valuations the average of the two valuations) shall be final and binding on the Parties; and
 - 6.6.3. each Party shall bear its own costs in relation to the appointment of its valuer.

7. RENT REVIEW

- 7.1. The rent for each Affordable Private Rent Unit shall:
 - 7.1.1. be reviewed on each anniversary of the date of first Occupation of that Affordable Private Rent Unit in line with the Consumer Prices Index (CPI) (or such alternative index as may be agreed in writing with the Council), subject to an annual cap of 5% (five per cent); and

- 7.1.2. be re-benchmarked against the Open Market Rent for an equivalent Private Market Rent Unit not less frequently than once every 3 (three) years, such assessment to be carried out by a RICS Registered Valuer acting reasonably and in accordance with the RICS Valuation – Global Standards.
- 7.2. Following each review or re-benchmarking exercise the rent for each Affordable Private Rent Unit shall not exceed 80% (eighty per cent) of the Open Market Rent (inclusive of any service charges) of an equivalent Private Rent Unit within the Development.
- 8. **EXCLUSIONS TO SCHEDULE**
 - 8.1. The obligations in this Schedule shall not apply to a Chargee or any receiver administrator or administrative receiver appointed by such Chargee or any person deriving title through such Chargee provided that the provisions of Paragraph 8.2 have been complied with.
 - 8.2. Prior to Disposing of any Affordable Private Rent Unit free from the obligations of this Schedule the Chargee shall:
 - 8.2.1. give the Council not less than 3 (three) months' prior written notice of its intention to Dispose of the relevant Affordable Private Rent Units; and
 - 8.2.2. use Reasonable Endeavours during that period to Dispose of the Affordable Private Rent Units to a person who shall:
 - 8.2.2.1 operate the Development as a Build to Rent Scheme; and
 - 8.2.2.2 let the Affordable Private Rent Units as Affordable Private Rent to Qualifying Persons subject to Paragraph 5.2.
 - 8.3. If the Chargee has complied with Paragraph 8.2 and has not completed such Disposal within that 3 (three) month period the Chargee shall:
 - 8.3.1. notify the Council in writing that it has complied with the requirements of Paragraph 8.2 and has been unable despite using Reasonable Endeavours to Dispose of the Affordable Private Rent Units in accordance with that Paragraph; and

8.3.2. confirm its intention to Dispose of the Affordable Private Rent Units free from the obligations of this Schedule.

and may thereafter Dispose of the Affordable Private Rent Units free from the obligations of this Schedule which shall thereupon cease to apply to them.

8.4. There shall be no Disposal of individual Affordable Private Rent Units other than in accordance with Paragraph 3.1.3 save where such Disposal is effected by a Chargee in the exercise of its security pursuant to this Paragraph 8.

8.5. Nothing in this Schedule shall fetter or restrict any statutory rights or powers of a Chargee or any receiver or administrator appointed by it.

SCHEDULE 4
COUNCIL'S COVENANTS

1. RECEIPT OF CONTRIBUTIONS

- 1.1. The Council shall issue a receipt on request for any Contribution paid to it pursuant to this Deed.
- 1.2. The Council will place all sums received pursuant to this Deed in an interest bearing account (or in separate interest bearing accounts as the Council shall at its discretion decide).
- 1.3. The Council will apply the Contributions as follows:
 - 1.3.1. The Off-Site POS Contribution to improve existing public open space within the vicinity of the Development.
- 1.4. The Council will not apply any sums received pursuant to this Deed for any purpose other than as described in this Deed.
- 1.5. The Council shall on reasonable request by the Owner provide details of the sums collected and retained the interest accrued the sums expended and the purposes for which the sums have been expended **PROVIDED THAT** the Council shall not be obliged to comply with more than one such request within any 12 (twelve) month period.
- 1.6. The Council shall upon written request repay any Contributions or parts thereof paid to it under this Deed (plus any actual interest accrued) to the person who made the payment if not allocated committed by contract or expended within 10 (ten) years from the date of payment.

2. PERFORMANCE

- 2.1. The Council shall on reasonable request by the Owner issue written confirmation that the Planning Obligation has been performed.
- 2.2. In the event that the Council is satisfied that all Planning Obligations have been performed the Council will thereafter cancel all relevant entries in the register of local land charges.

EXECUTED AS A DEED

(but not delivered until the date
hereof) by

HANSON COURT LIMITED

Acting by a director:

In the presence of:

Director Signature:

Print Name:

Witness Signature:

Print Name:

Address:

.....

**THE COMMON SEAL of THE
COUNCIL OF THE BOROUGH OF
KIRKLEES** was affixed

In the presence of:

Authorised Signatory: