

Dated

2026

EXECUTOR OF KENNETH HALL and KENNETH HALL (BUILDER) LIMITED

and

THE COUNCIL OF THE BOROUGH OF KIRKLEES

**Agreement under Sections 106 and 106A
of the Town and Country Planning Act 1990**

**Land adj to 20 Honey Head Lane
Honley, Holmfirth HD9 6RW**

Application Number 2025/90297
Legal Reference Number 108919

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BETWEEN

- (1) **KENNETH SCOTT HALL** the Executor of the will of the late **KENNETH HALL** of Lower Halstead Farm, Halstead Lane Thurstonland Huddersfield HDX4 6XT and **KENNETH HALL (BUILDER) LIMITED** (Co. Regn. No. 00748331) of Lower Halstead Farm, Halstead Lane, Thurstonland, Huddersfield (**the Owner**); and.
 - (2) **THE COUNCIL OF THE BOROUGH OF KIRKLEES** of Town Hall Huddersfield West Yorkshire HD1 2TA (**the Council**)
- (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 Agreement are enforceable.
- (B) The Owner has an interest in the Site as set out in Part 1 of Schedule 1
- (C) The Original Planning Permission granted planning permission for the construction of 34 dwellings on the Original Site which included the Site and subsequent thereto a number of planning applications were submitted and approved pursuant to Section 73 of the 1990 Act
- (D) Prior to the grant of the Original Planning Permission the Original Agreement was entered into and prior to the grant of each permission submitted and approved pursuant to Section 73 of the 1990 Act the Previous Planning Agreements were entered into pursuant to (inter alia) Section 106 and Section 106A of the 1990 Act in order that planning obligations within the Original Agreement were tied to subsequent permissions granted pursuant to Section 73 of the 1990 Act (so far as not previously complied with)
- (E) The Owner and the Council have agreed subject to the completion of this Agreement that all Previous Planning Agreements shall be discharged with no obligations surviving insofar as they bind persons with an interest in the Site but with the Council retaining any sums paid pursuant to obligations in those Previous Planning Agreements

- (F) The Application has been submitted 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 Planning Obligations set out herein on behalf of the Owner which are:
- necessary to make the Development acceptable in planning terms;
 - directly related to the Development; and
 - in all other respects are fairly and reasonably related in scale and kind to the Development
- (H) The Parties by entering into this Agreement do so
- (i) 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; and
- (ii) so far as is possible to discharge the obligations in the Previous Planning Agreements that have not already been complied with

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

1.1. In this Agreement the following expressions shall have the following meanings:

Expression	Meaning
1990 Act	the Town and Country Planning Act 1990
Application	the planning application submitted pursuant to Section 73 of the 1990 Act to carry out the development permitted by the Original Planning Permission without complying with condition 2 attached to the Original Planning Permission expressed as: 'Variation of condition 2 (plans) on previous permission 99.93218 for erection of 34 dwellings with garages' and allocated reference number 2025/90297

Expression	Meaning
Development	the development of the Site comprising four Dwellings as shown on drawing number (20)002 Rev A a reduced copy of which is attached as Plan 2
Dwelling	each house intended for single residential use that may be built or provided on the Site as part of the Development
Expert	a person appointed in accordance with Clause 11 to determine a dispute
Mineral Rights	rights to exploit mine or produce minerals and other extractive resources lying below the surface of the Site
NPPF	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	an individual occupier or occupiers of a Dwelling
Occupy	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 ' ' Occupation ' and like expressions shall be construed accordingly
Of No Effect	means for the purposes of this Agreement and so far as they cover the whole of the Original Site and the Site itself that the obligations conditions restrictions or requirements of the Previous Planning Agreements are (save in respect of this Agreement) void and confirmed as being of no effect and are not enforceable and are deemed to be removed from the Register of Local Land Charges where they shall not have been removed for any reason following the completion of this Agreement;

Expression	Meaning
Off-Site POS Contribution	the monies previously paid by the Owner to the Council pursuant to the Original Agreement
Original Agreement	the agreement entered into by Kenneth Hall (1) Kenneth Hall (Builder) Limited (2) and The Council of the Borough of Kirklees (3) on 7 August 2000
Original Site	the land identified in the Original Agreement as land at Long Lane and Bradshaw Road, Honley as shown edged in red on the plan annexed to the same
Party	any person who is from time to time bound by the obligations herein or who may enforce or take advantage of any provision hereof
Plan 1	the plan titled Existing Site Plan with drawing reference (EX)003 Rev A a reduced copy of which is attached to this Agreement at Part 2 of Schedule 1
Plan 2	the plan showing the Dwellings attached to this Agreement at Part 2 of Schedule 1
Planning Obligations	the obligations restrictions conditions and stipulations on the part of the Owner set out in Schedule 3 of this Agreement
Planning Permission	a planning permission granted by the Council pursuant to the Application or as defined in Clause 12
Practical Completion	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
Previous Planning Agreements	the Original Agreement and the supplemental agreements which varied the terms of the Original Agreement each described in further detail within Schedule 2
Register of Local Land Charges	means the Council's register of Local Land Charges under the Local Land Charges Act 1975 as amended and if

Expression	Meaning
	applicable any other register statutory or otherwise or informative media controlled and/or administered by the Council that shall reference the Previous Planning Agreements;
Site	the land described in Part 1 of Schedule 1 which is shown edged red on Plan 1
Statutory Undertaker	any company corporation board or authority at the date of this Agreement 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	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 Agreement 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 Agreement.
- 1.4. References to Paragraphs within specific Parts of the Schedules are references to the corresponding Paragraphs 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 Agreement.
- 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 Agreement and such approval is obtained unless expressly stated otherwise nothing in this Agreement 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 Agreement is made pursuant to Sections 106 and 106A 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 Agreement subject to the terms of this Agreement.
- 2.2. Insofar as this Agreement discharges any obligations contained in the Previous Planning Agreements it is made pursuant to Section 106A of the 1990 Act
- 2.3. This Agreement is enforceable by the Council as the local planning authority for the purposes of the 1990 Act.

- 2.4. To the extent that the covenants restrictions and requirements in this Agreement 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 Agreement 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 herein.
- 4.2. It is hereby agreed and declared that as regards the interest in the Original Site retained by the Owners the obligations in the Previous Planning Agreements are hereby discharged and the Owner hereby releases the Council from the covenants therein on behalf of the Council save as set out below
- 4.3. The Council covenants with the Owner to comply with the obligations on its part in Schedule 3 and Schedule 4 of this Agreement and it is agreed that the financial contributions made to the Council pursuant to the Previous Planning Agreements shall be retained by the Council and expended by the Council without limitation of time as set out in Schedule 4
- 4.4. **FOR THE AVOIDANCE OF DOUBT** the Council further covenants that:
- 4.4.1. all obligations in relation to public open space in the Previous Planning Agreements are hereby discharged and Of No Effect; and
- 4.4.2. all off-site or on-site public open space planning obligations (including financial contributions) set out in the Previous Planning Agreements have been discharged and are Of No Effect from the date of this Agreement

5. **EXCLUSIONS & RELEASE**

- 5.1. No Party shall be bound by the terms of this Agreement 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 an owner or Occupier or mortgagee/chargee of an individual First Home save in respect of the provisions of Schedule 3 which shall apply.

6. **REGISTRATION**

6.1. This Agreement is a local land charge and may be registered as such by the Council.

6.2. Following the performance and satisfaction of all the Planning Obligations contained in this Agreement 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 Agreement.

7. **NON-FETTER & WAIVER**

7.1. Nothing in this Agreement 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 Agreement 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 Agreement 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 Agreement.

8. **VAT**

8.1. All payments due in accordance with this Agreement 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**

9.1. If any provision in this Agreement 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 Agreement and shall not affect the validity legality or enforceability of the remaining provisions of this Agreement.

10. **CHANGE OF OWNERSHIP**

10.1. 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 Agreement 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 Agreement 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 Agreement 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 Section 73A or Section 73B or Section 96A of the 1990 Act for an amendment to the Planning Permission (however expressed) 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 Agreement shall thereafter be deemed to include the application made pursuant to Sections 73 73A or 73B or Section 96A of the 1990 Act the new planning permission granted pursuant to Sections 73 73A 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 Agreement 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 Sections 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 Agreement 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 Agreement 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 Agreement 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 Agreement it shall act reasonably and not unreasonably withhold or delay its approval having regard to its duties under the 1990 Act.

14. **THIRD PARTY RIGHTS**

14.1. No person who is not a Party to this Agreement 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 Agreement 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.

15. **NOTICES**

15.1. Any notice given to a Party under or in connection with this Agreement 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).

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

15.2.1. 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

15.2.2. 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.

15.3. 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.

16. **COSTS**

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

17. **JURISDICTION**

This Agreement 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

The Owner is the freehold owner of the Site which is part of the land registered with HM Land Registry under Freehold Title number WYK732012



LOCATION PLAN.
1:1250

REVISION	DESCRIPTION	DATE	STATUS	PROJECT TITLE
			PLANNING DRAWING	HONEY HEAD LANE
			ORANGE DESIGN STUDIO. ARCHITECTURAL PRACTICE	DRAWING TITLE LOCATION PLAN
			hello@orangedesignstudio.co.uk 59A, Huddersfield Road, Mirfield, WF14 8AA orangedesignstudio.co.uk 01924 650930	SCALE: 1:1250 DRAWN: JH CHECKED: JH PROJECT REFERENCE: ODS_23/755
				PAPER SIZE: A4 DRAW NUMBER: (EX)001 DATE: 17/7/23 REVISION: A
				CLIENT: HALSTEAD HOMES
				COPYRIGHT © ORANGE DESIGN STUDIO LIMITED

SCHEDULE 2
PREVIOUS PLANNING AGREEMENTS

1. The Original Agreement relating to the whole of the Original Site
2. The Supplemental Agreement varying the Original Agreement dated 28th September 2006 made between Kenneth Hall (1), Kenneth Hall (Builder) Limited (2) and the Council of the Borough of Kirklees (3) relating to part of the Original Site identified in this Supplemental Agreement as Plot 26
3. The Supplemental Agreement further varying the Original Agreement dated 12th January 2007 made between Kenneth Hall (1), Kenneth Hall (Builder) Limited (2) and the Council of the Borough of Kirklees (3) relating to part of the Original Site identified in this Supplemental Agreement as Plots 15 and 28
4. The Supplemental Agreement further varying the Original Agreement dated 5th July 2007 made between Kenneth Hall (1), Kenneth Hall (Builder) Limited (2) and the Council of the Borough of Kirklees (3) relating to part of the Original Site identified in this Supplemental Agreement as Plot 29
5. The Supplemental Agreement further varying the Original Agreement dated 11th June 2008 made between Kenneth Hall (1), Kenneth Hall (Builder) Limited (2) and the Council of the Borough of Kirklees (3) relating to part of the Original Site identified in this Supplemental Agreement as Plot 16
6. The Supplemental Agreement further varying the Original Agreement dated 29 July 2009 made between Kenneth Hall (1), Kenneth Hall (Builder) Limited (2) and the Council of the Borough of Kirklees (3) relating to part of the Original Site identified in this Supplemental Agreement as Plot 25
7. The Supplemental Agreement further varying the Original Agreement dated 2nd February 2010 made between Kenneth Hall (1), Kenneth Hall (Builder) Limited (2) and the Council of the Borough of Kirklees (3) relating to part of the Original Site identified in this Agreement as Plot 23
8. The Supplemental Agreement dated 11th August 2011 made between Kenneth Hall (1), Kenneth Hall (Builder) Limited (2) and the Council of the Borough of Kirklees (3) further varying the Original Agreement but without reference to any part of the Original Site

SCHEDULE 3
FIRST HOMES

1. **INTERPRETATION**

1.1. In addition to the definitions set out above in Clause 1.1 of this Agreement the following expressions in this Schedule 3 relating to First Homes shall have the following meanings unless the context shall otherwise require:

Expression	Meaning
Additional First Homes Contribution	the lowest of: (a) 30% (thirty per cent) of the net proceeds of sale after deduction of any SDLT payable by the First Home Owner as a result of the Disposal of the Dwelling and the reasonable cost of selling; and (b) the proceeds of sale less the amount due and outstanding to any First Homes Mortgagee of the First Home under relevant security documentation including all accrued principal monies interest and reasonable costs and expenses that are payable by the First Home 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
Armed Service Member	(a) a member of the Royal Navy the Royal Marines the British Army or the Royal Air Force (b) a former member of (a) above who was a member within the 5 (five) years prior to the purchase of the Dwelling (c) a divorced or separated spouse or civil partner of (a) above (d) a spouse or civil partner of a deceased member or former member of (a) above whose death was caused wholly or partly by their service;
Authority to Exchange	a notice served by the Council to the Owner (which for the purposes of this definition shall include the Owner and any First

Expression	Meaning
	<p>Homes Owner) providing the Council's consent to exchange contracts on the Dwelling such notice to be issued after:</p> <ul style="list-style-type: none"> a) an Authority to Proceed has been issued; and b) 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	<p>a notice from the Council to the Owner (which for the purposes of this definition shall include the Owner and any First Homes Owner) notifying the Owner that following receipt of the Owner's application form that the intended purchaser meets the Eligibility Criteria (National) and/or the Eligibility Criteria (Local) unless Paragraph 0 below applies;</p>
Close Family	<p>a spouse civil partner parent son daughter sibling or grandparent;</p>
Compliance Certificate	<p>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 0 below applies the Eligibility Criteria (Local)</p>
Disposal	<p>a transfer of a Dwelling other than:</p> <ul style="list-style-type: none"> a) a letting or sub-letting in accordance with Paragraph 5 below; b) a transfer of a Dwelling or land on which a Dwelling is to be provided before that Dwelling is made available for Occupation except where the Transfer is to a First Home Owner; or c) an Exempt Disposal <p>and Disposed of and Disposing shall be construed accordingly.</p>
Eligibility Criteria (National)	<p>criteria which are met in respect of a purchase of the Dwelling if:</p> <ul style="list-style-type: none"> 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).

Expression	Meaning
Eligibility Criteria (Local)	<p>the criteria (if any and if applicable) 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:</p> <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> (i) the purchaser meets the 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;
Exempt Disposal	<p>the Disposal of a Dwelling in one of the following circumstances:</p> <ul style="list-style-type: none"> (a) a Disposal to a spouse or civil partner upon the death of the First Home 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 Home Owner; (c) Disposal to a former spouse or former civil partner of a First Home 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 6 of Schedule 3 shall apply to such sale); <p>PROVIDED THAT in each case other than (d) the person to whom the Disposal is made complies with the terms of Paragraph 4 of Schedule 3.</p>

Expression	Meaning
First Home	a Dwelling to be built on the Site as part of the Development in accordance with Plan 2 to 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 Discount Market Price and which on the Initial Disposal does not exceed the Price Cap in accordance with the provisions of this Schedule 3 and a reference to 'First Homes' shall be construed accordingly.
First Homes Administration Charge	the reasonable and proper costs incurred by the Council in consideration of the evidence provided to it pursuant to Paragraph 0 below and the provision of the Compliance Certificate to be paid by the Owner (which for the purposes of this definition shall include the Owner and any First Homes Owner);
First Home Discount Market Price	a sum which is the Market Value of the Dwelling discounted by 30% (thirty per cent) which will apply to the Dwelling in perpetuity unless otherwise set out in this Agreement and a reference herein to 'First Homes Discount Market Price' shall be construed accordingly;
First Home Owner	<p>the person or persons having the freehold interest or leasehold interest (in the case of flats only) in the Dwelling other than:</p> <ul style="list-style-type: none"> a) the Party named herein as '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 c) a tenant or sub-tenant of a permitted letting under Paragraph 5 of Schedule 3 <p>and a reference herein to a 'First Homes Owner' shall be construed in a like manner</p>
First Homes Mortgagee	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

Expression	Meaning
First Time Buyer	<p>Shari'ah compliant finance for the purpose of acquiring a First Home.</p> <p>a first time buyer as defined by Paragraph 6 of Schedule 6ZA to the Finance Act 2003</p>
Income Cap (Local)	<p>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 Dwelling it being acknowledged that at the date of this agreement the Council has not set an Income Cap (Local);</p>
Income Cap (National)	<p>£80,000.00 (eighty thousand pounds only) 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 Dwelling;</p>
Initial Disposal	<p>the first Disposal of a Dwelling following its Practical Completion;</p>
Local Connection Criteria	<p>criteria which are met by a person who satisfies one or more of (a) to (g) below:</p> <ul style="list-style-type: none"> (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 their primary residence for at least 5 (five) years cumulatively within 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) needs to move to the Locality to receive or provide care or support to somebody in the Locality; (e) 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; (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;

Expression	Meaning
	<p>OR</p> <p>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;</p>
Locality	the administrative area of the Borough of Kirklees;
Marketing Strategy	<p>the strategy approved by the Council pursuant to Paragraph Error! Reference source not found. detailing the marketing measures to be undertaken to Dispose of the Dwelling to a Qualifying Person prior to the Initial Disposal;</p>
Market Value	<p>the open market value as assessed by a Valuer in accordance with the RICS Valuation - Professional Standards (as applicable at the date of assessment or any such replacement guidance issued by the Royal Institution of Chartered Surveyors) and agreed between the Council and the Owner as being the open market value of the Dwelling at which the sale of an interest in the Dwelling would have been completed unconditionally for cash consideration on the date of the valuation assuming:</p> <ul style="list-style-type: none"> (a) a willing seller and a willing buyer; (b) that any restrictions imposed on the Dwelling by reason of the provisions in this Schedule are disregarded; (c) that there are no restrictions as to the persons who may occupy the Dwelling or to whom a transfer or lease may be granted or assigned; and (d) that both parties to the transaction had acted knowledgeably prudently and without compulsion;
Price Cap	<p>the amount for which the Dwelling is sold after the application of the First Homes Discount Market Price which on its Initial Disposal only shall not exceed £250,000 (two hundred and fifty thousand</p>

Expression	Meaning
	pounds) or such other amount as may be published from time to time by the Secretary of State;
Qualifying Person	a person who meets the Eligibility Criteria (National) and (unless Paragraph 0 of Schedule 3 applies) the Eligibility Criteria (Local);
SDLT	Stamp Duty Land Tax as defined by the Finance Act 2003 or any tax replacing it of like effect;
SPD	means the Council's 'Affordable Housing and Housing Mix' supplementary planning document dated March 2023 or any such document that supersedes this from time to time;
Valuer	for the purposes of this Schedule 3 a Member or Fellow of the Royal Institution of Chartered Surveyors being a Registered Valuer with that organisation and appointed by the Owner and acting in an independent capacity.

2. OBLIGATIONS

2.1. Subject always to Paragraph 5.1 unless otherwise agreed in writing by the Council the Owner covenants with the Council as below save that

2.1.1. Paragraph 3 of this Schedule 3 shall not apply to a First Homes Owner;

2.1.2. Paragraphs 4 and 5 of this Schedule 3 apply as set out therein but and for the avoidance of doubt where a Dwelling is owned by a First Homes Owner they shall apply to that First Homes Owner only in respect of the Dwelling owned by that First Homes Owner; and

2.1.3. Paragraph 6 shall apply as set out therein.

3. FIRST HOMES STANDARDS

3.1. The internal specification of each Dwelling shall not be inferior to the internal specification of an equivalent open market dwelling or dwelling of a reasonably similar type on the Original Site but (subject to that requirement) variations to the internal specifications of the Dwelling are permitted.

4. **DELIVERY MECHANISM**

4.1. The Owner (which for the purposes of this Schedule shall include the Owner and any First Homes Owner) shall not Dispose of or Occupy any Dwelling other than in accordance with this Paragraph 4 and Paragraph 5 of this Schedule 3.

4.2 Prior to marketing the First Home(s) for sale, the Owner shall contact the council (housing.regeneration@kirklees.gov.uk) to submit or agree a Marketing Strategy for the Council's approval and the Marketing Strategy shall be deemed approved where the Council shall not respond in writing within 10 (ten) working days of agreeing or submitting a Marketing Strategy (by or on behalf of the Owner) it shall be deemed to be approved and thereafter each First Homes Unit shall only be Disposed of according to the terms of the Marketing Strategy.

4.3 Each Dwelling shall be marketed for sale and shall only be sold (whether on a first or any subsequent sale) to a person or person(s) meeting:

4.3.1 the Eligibility Criteria (National); and

4.3.2 the Eligibility Criteria (Local).

4.4 If after a Dwelling 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 0 shall cease to apply.

4.5 Subject to Paragraphs 0 to 0 the Dwelling shall not be Disposed of (whether on a first or any subsequent sale) unless not less than 50% (fifty per cent) of the purchase price is funded by a first mortgage or other home purchase plan with a First Homes Mortgagee.

4.6 The Dwelling shall not be Disposed of (whether on a first or any subsequent sale) unless and until:

4.6.1 The Council has been provided with evidence that:

4.6.1.1 the intended purchaser meets the Eligibility Criteria (National) and unless Paragraph 0 applies meets the Eligibility Criteria (Local) (if any);

4.6.1.2 the Dwelling is being Disposed of at the First Homes Discount Market Price; and

4.6.1.3 the transfer of the First Home includes:

4.6.1.4 a definition of the "Council" which shall be *"the Council of the Borough of Kirklees of Town Hall Huddersfield West Yorkshire"*

4.6.1.5 a definition of *"First Homes Provisions"* in the following terms:

"means the provisions set out in Paragraphs 4.1 – 4.11 of Schedule 3 of the Section 106 Agreement a copy of which is attached hereto as the Annexure."

4.6.1.6 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 Executor of Kenneth Hall and Kenneth Hall (Builder) Limited and (2) the Council of the Borough of Kirklees"

4.6.1.7 a provision that the Dwelling 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 Dwelling or any part of it other than in accordance with the First Homes Provisions;

4.6.1.8 a copy of the First Homes Provisions in an annexure; and

4.6.1.9 the First Homes Administration Charge has been paid to the Council by the Owner in respect of the Initial Disposal and the First Home Owner of the Dwelling on all subsequent Disposals;

4.6.2 the Council has issued the Compliance Certificate and the Council hereby covenants that it shall issue the Compliance Certificate within 20 (twenty) Working Days of being provided with evidence sufficient to satisfy it that the requirements of Paragraphs 0 and 0 have been met.

4.6.3 the Council has issued the Authority to Proceed and the Authority to Exchange and the Council hereby covenants that it shall issue:

4.6.3.1 the Authority to Proceed within ten (10) Working Days of being provided with the relevant information pursuant to Paragraphs 0 and 0 above;

4.6.3.2 the Authority to Exchange and Compliance Certificate within fifteen (15) Working Days of receiving a request to issue the Authority to Exchange and having been provided with evidence sufficient to satisfy it that the requirements of Paragraphs 0 and 4.6 have been met.

4.7 On the Initial Disposal of each and every Dwelling the Owner shall 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 Dwelling 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 an officer of the Council of the Borough of Kirklees that the provisions of Paragraph 0 of Schedule 3 (the First Homes provision) of the agreement dated and made pursuant to Section 106 of the Town and Country Planning Act 1990 between (1) The Executor of Kenneth Hall and Kenneth Hall (Builder) Limited and (2) the Council of the Borough of Kirklees have been complied with or that they do not apply to the disposition"

4.8 The owner of a Dwelling (which for the purposes of this Paragraph shall include the Owner and any First Home Owner) may apply to the Council to Dispose of it free from the restrictions in Paragraphs 0 and 0 of this Schedule on the grounds that either:

4.8.1 the Dwelling has been actively marketed as a First Home for 3 (three) months in accordance with Paragraphs 4.1 and 0 (and in the case of an Initial Disposal the 3 (three) months shall be calculated from a date no earlier than 3 (three) 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 0 and 0; or

4.8.2 requiring the First Home Owner to undertake active marketing for the period specified in Paragraph 0 before being able to Dispose of the Dwelling other than as a First Home would be likely to cause the First Home Owner undue hardship.

4.9 Upon receipt of an application served in accordance with Paragraph 4.7 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 Discount Market Price.

4.10 If the Council is satisfied that either of the grounds in Paragraph 0 above have been made out it shall confirm in writing within 20 (twenty) Working Days of receipt of the written request made in accordance with Paragraph 0 that the relevant Dwelling may be Disposed of:

4.10.1 to the Council at the First Home Discount Market Price; or

4.10.2 (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 Schedule which apply to First Homes shall cease to bind and shall no longer affect that Dwelling apart from Paragraph 4.12 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

4.11 If the Council does not wish to acquire the relevant Dwelling and is not satisfied that either of the grounds in Paragraph 0 above have been made out then it shall within 28 (twenty eight) Working Days of receipt of the written request made in accordance with Paragraph 40 serve notice on the owner of the First Homes Unit setting out the further steps it requires the owner to take to secure the Disposal of that Dwelling as a First Home and the timescale (which shall be no longer than 3 (three) months) **PROVIDED THAT** if at the end of that period the owner of the First Home has been unable to Dispose of the Dwelling as a First Home he may serve notice on the Council in accordance with Paragraph 0 following which the Council must within 28 (twenty eight) Working Days issue confirmation in writing that the Dwelling may be Disposed of other than as a First Home.

4.12 Where a Dwelling is Disposed of other than:

4.12.1 as a First Home; or

4.12.2 to the Council at the First Home Discount Market Price in accordance with Paragraphs 0 or 0 above

the Owner of the Dwelling shall pay to the Council forthwith upon receipt of the proceeds of sale the Additional First Homes Contribution.

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

4.13.1 within 20 (twenty) Working Days of such receipt provide a certification to the Owner to enable the Owner to apply for the removal of any restrictions on the title set out in Paragraph 4.7 where such restriction has previously been registered against the relevant title; and

4.13.2 apply all monies received towards the provision of Affordable Housing within the Locality.

4.14 Any person who purchases a Dwelling free of the restrictions in this Schedule 3 pursuant to the provisions in Paragraphs 0 and 0 shall not be liable to pay the Additional First Homes Contribution to the Council.

5. **USE OF THE FIRST HOMES**

5.1. Each Dwelling shall be used only as the main residence of the First Home Owner and shall not be let sub-let or otherwise Disposed of other than in accordance with the terms of this Agreement **PROVIDED THAT** letting or sub-letting shall be permitted in accordance with Paragraphs 5.1.1 to 5.1.4 below inclusive.

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

5.1.2. In addition a First Home Owner may let or sub-let their Dwelling for any period provided that the First Home Owner notifies the Council and the Council consents in writing to the proposed letting or sub-letting and in such case the Council covenants not to unreasonably withhold or delay giving

such consent and not to withhold such consent in any of circumstances in Paragraphs 5.1.2.1 to 5.1.2.6 below:

- 5.1.2.1. the First Home Owner is required to live in accommodation other than the Dwelling for the duration of the letting or sub-letting for the purposes of employment;
 - 5.1.2.2. the First Home Owner is an active Armed Services Member and is to be deployed elsewhere (domestically or internationally) for the for the duration of the letting or sub-letting;
 - 5.1.2.3. the First Home Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to escape a risk of harm;
 - 5.1.2.4. the First Home Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of relationship breakdown;
 - 5.1.2.5. the First Home Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of redundancy; and
 - 5.1.2.6. the First Home 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.
- 5.1.3. A letting or sub-letting permitted pursuant to Paragraph 5.1.1 or 5.1.2 must be by way of a written lease or sub-lease (as the case may be) of the whole of the Dwelling on terms which expressly prohibit any further sub-letting.
 - 5.1.4. Nothing in this Paragraph 5 prevents a First Home Owner from renting a room within their Dwelling or from renting their Dwelling as temporary sleeping accommodation provided that the Dwelling remains at all times the First Home Owner's main residence.

6. **EXCLUSIONS AND RELEASE**

- 6.1. The obligations in Paragraphs 1-5 of this Schedule 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 Dwelling or any persons or bodies deriving title through such First Homes Mortgagee or Receiver **PROVIDED THAT:**

- 6.1.1. such First Homes Mortgagee or Receiver shall first give written notice to the Council of its intention to Dispose of the relevant Dwelling; and
- 6.1.2. once notice of intention to Dispose of the relevant Dwelling 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 Dwelling at its full Market Value and subject only to Paragraph **Error! Reference source not found.**; and
- 6.1.3. following receipt of notification of the Disposal of the relevant Dwelling the Council shall forthwith issue a certificate to the purchaser of that Dwelling to enable the purchaser to apply for the removal of the restriction on the title set out in Paragraph 4.7.

SCHEDULE 4
COUNCIL'S COVENANTS

1. **RECEIPT OF CONTRIBUTIONS**

- 1.1. The Council shall issue separate receipts on request for any Contributions paid to it pursuant to this Agreement.
- 1.2. The Council may place or retain all sums received pursuant to this Agreement and/or the Previous Planning Agreements in an interest bearing account (or in separate interest bearing accounts as the Council shall at its discretion decide).
- 1.3. The Council will use:
- 1.3.1. the Additional First Homes Contribution (if applicable) for the provision of affordable housing in its administrative area; and
 - 1.3.2. the Off-Site POS Contribution paid by the Owner to the Council in accordance with the Previous Planning Agreements for the provision of play equipment in the Honley area.
- 1.4. The Council will not apply any sums received pursuant to this Agreement or the Previous Planning Agreements for any purpose other than as described in this Agreement or any of the Previous Planning Agreements if applicable.
- 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 remove the Previous Planning Agreements from the Register of Local Land Charges whether or not it registers this Agreement in the Register of Local Land Charges.

2. **PERFORMANCE**

- 2.1. The Council shall on reasonable request by the Owner issue written confirmation that each Planning Obligation has been performed.

2.2. In the event that the Council is satisfied that all of the Planning Obligations have been performed the Council will thereafter cancel all relevant entries in the Register of Local Land Charges.

3. **DISCHARGE OF PREVIOUS PLANNING AGREEMENTS**

3.1 The Council acknowledges that from the date of this Agreement all Previous Planning Agreements are hereby discharged and Of No Effect in respect of the Original Site (including the Site) save in respect as set out in this Agreement.

EXECUTION

EXECUTED AS A DEED (but not delivered until the date hereof) by **KENNETH SCOTT HALL** as the Executor of the late **KENNETH HALL** in the presence of:

Witness Signature:

Name of Witness:

Address:
.....

EXECUTED AS A DEED (but not delivered until the date hereof) by **KENNETH HALL (BUILDER) LIMITED** acting by a Director In the presence of:

Witness Signature:

Name of Witness:

Address:
.....

EXECUTED AS A DEED (but not delivered until the date hereof) by the affixing of **THE COMMON SEAL of THE COUNCIL OF THE BOROUGH OF KIRKLEES** in the presence of

Authorised Sealing Officer