

Dated

2025

ROCHDALE BOROUGH COUNCIL

and

BLOOR HOMES LIMITED

**Deed of Agreement under Section 106 of the Town and
Country Planning Act 1990**

**Land to the west of Hollingworth Road and Land off
Rakewood Road, Littleborough**

Application Ref: 24/00581/HYBR

THIS DEED is made

2025

BETWEEN

- (1) **ROCHDALE BOROUGH COUNCIL** of Number One Riverside, Smith Street, Rochdale OL16 1XU (**the Council**);
- (2) **BLOOR HOMES LIMITED (Co. Regn No. 02162561)** of Ashby Road, Measham, Swadlincote, DE12 7JP (**the Owner**)

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 Owner is the registered freehold proprietor of the Site which are registered at HM Land Registry under Title Number MAN449814 and also has the benefit of a registered charge over the Second Owner's land pursuant to an option to purchase dated 5 November 2018.
- (C) The Application has been submitted to the Council seeking planning permission for the Development.
- (D) The Council resolved on to grant the Planning Permission subject to the prior completion of this Deed.
- (E) 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 have the following meanings:

1990 Act	the Town and Country Planning Act 1990
Affordable Dwellings	Fifteen per cent (15%) of the total number of Dwellings to be delivered as part of the Development which shall be constructed as Affordable Dwellings on the Development, and which shall comprise: a) 75% Affordable Rent Dwellings b) 25% Intermediate Affordable Dwellings c) Or such other tenure/provision as shall otherwise be approved in writing by the Borough Council The dwellings shall be provided in accordance with the tenure mix table annexed hereto at schedule [] (unless otherwise agreed in writing with the Council).
Affordable Housing	affordable housing as defined in Annex 2 of the National Planning Policy Framework February 2025 (or as redefined by any amendment, replacement or re-enactment thereof).

Affordable Housing Contribution	means if necessary, a financial contribution to be calculated and submitted for approval to the Council to cover any shortfall in the provision of the full policy on-site requirement of Affordable Housing in compliance with Policy C4 of the Rochdale Borough Council adopted Core Strategy and the Affordable Housing SPD to be utilised by the Council in-lieu for the provision of off-site Affordable Housing by the Council within its administrative borough
Affordable Housing Plan	means the plan attached to this Agreement which shows: • the location of the Affordable Dwellings • the tenure of the Affordable Dwellings
Affordable Housing SPD	means the Affordable Housing Supplementary Planning Document adopted by the Council in March 2008
Affordable Rent Dwellings	dwellings let by a Registered Provider at rent of not more than eighty per cent (80%) of local market rent
Application	the application for planning permission for the Development which was validated by the Council on 19 July 2024 under reference number 24/00581/HYBR
Car Park Contribution	means the sum of One Million and Fifty Four Thousand Nine Hundred and Forty Nine Pounds (£1,054,949.00) payable by the Owner to the Council for the delivery of the car park on the Car Park Land or for use to improve existing car parking in the vicinity of the Site.
Car Park Land	the land to be reserved for the provision of a car park as shown on Plan 
Commencement of Development	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 SAVE THAT for the purposes of this Deed the term 'material operation' shall not include any operations undertaken in connection with or associated with demolition, site clearance, archaeological investigations, investigations for the purpose of assessing ground conditions, remediation works, environmental investigation, site and soil surveys, diversion and laying of services, 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 shall be construed accordingly.
Committed	means monies shall be deemed to have been committed if the Council has entered into any contract or given any undertaking (whether enforceable in law or otherwise) the performance or fulfilment of which will require the Council to expend funds in the future and such monies

	are so expended no later than 12 (twelve) months beyond the specified repayment date;
Contribution	any one of the financial contributions required (or which may be required) to be paid by the Owner to the Council pursuant to a Schedule to this Deed.
Default Interest Rate	4% per annum above the base rate from time to time of the Bank of England.
Development	the development of the Site comprising the erection of residential development of 309 dwellings (Use Class C3) with associated access, landscaping including works at land off Hollingworth Road, alongside reconfiguration of and extension to the existing car park and associated works off Rakewood Road. Outline planning permission with access (all other matters reserved) for the erection of primary school
Dwelling	a residential unit that may be built on the Site as part of the Development.
Discounted Purchase Price	means not more than 80% (eighty percent) of the Open Market Value
Expert	a person of at least 10 years post qualification continual and continuing experience in the subject matter of the dispute.
Highway Contribution	means the sum of Nine Hundred and Twenty Seven Thousand Pounds (£927,000.00) payable towards off site highways works to include MOVA signal improvements, bus stop improvement works, works to the A58 relief road and or any other reasonable alternative works required in order to mitigate the impacts of the Development.
Index	the BCIS All-In Tender Price Index.
Index Linked	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 date the payment is due; and B = the figure for the Index that applied when that index was last published prior to the date of this Deed (or prior to the date of calculation where this Deed provides for a figure to be calculated at a later point in time).
Intermediate Affordable Dwellings	dwellings let by a Registered Provider at rent of not more than eighty per cent (80%) of local market rent
Management Company	a limited company or companies registered at Companies House which may already be in existence or which may be formed by the Owner for the purposes

carrying out future management and maintenance of the Public Open Space and/or the SuDS and:

- (a) which is incorporated in England and Wales;
- (b) which has its registered office in England or Wales; and
- (c) whose primary objects permit it to maintain and renew the Public Open Space and/or the SuDS.

For the avoidance of doubt it is agreed that there may be more than one management company across the Site as a whole and/or different management companies responsible for the SuDS and the Public Open Space.

Monitoring Fees

means the sum of £..... (..... pounds) to meet the Councils administrative costs of monitoring compliance with the obligations of this agreement.

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.

Off Site POS Contribution

means the sum of Four Hundred and Ninety Two Thousand One Hundred and Thirteen Pounds and Forty Three Pence (£492,113.43) payable by the Owner to the Council for the purpose of providing improvements to public open space and leisure development at the adjacent lake and at Your Trust Littleborough Sports Centre.

Open Market Dwellings

means the Dwellings to be developed under the Planning Permission excluding the Affordable Dwellings

Open Market Value

the price that might reasonably be expected to be achieved at which the sale of an interest in an Affordable Dwelling would have been completed unconditionally if it were a Market Dwelling assuming:

- a willing seller and buyer
- the property was freely exposed to the market and there had been a reasonable period within which to negotiate the sale (having regard to the nature of the property and the state of the market) and that values remained static throughout the period;
- that no account is to be taken of any bid a prospective purchaser with a special interest
- that both parties to the transaction had acted, knowledgeably, prudently and without compulsion

Plan 1	the plan titled "Red Edge Plan" attached to this Deed at Schedule 1 with drawing reference
Planning Obligations	the obligations, conditions and stipulations set out in Schedules 3 – 5 (inclusive) of this Deed.
Planning Permission	a planning permission granted by the Council pursuant to the Application substantively in the form annexed at Schedule 2.
Primary School	means the primary school to be provided on the Primary School Site
Primary School Site	means the land to be reserved for the provision of the Primary School as shown on the Plan to be delivered in accordance with Schedule [7]
Public Open Space	on-site public open space and play equipment to be provided as part of the Development as shown on the Public Open Space Plan attached to this Deed
Public Open Space Plan	means the area of Public Open Space to be laid out and delivered in accordance with Schedule 3
Public Open Space Management Plan	means the plan for the long-term management and maintenance of the Public Open Space, to be submitted to the Council for approval in accordance with paragraph [] of Schedule 3 and which shall include: • The proposals for the future management and ownership of the Public Open Space which for the avoidance of doubt may provide for the Owner to transfer of the Public Open Space to a Management Company for the purposes of its future management and in the event that such a transfer to a Management Company is proposed the Public Open Space Scheme shall include: • Details of the Management Company (including contact details of the company) to whom the Public Open Space will be transferred upon its completion; and • Any arrangements for ensuring that individual householders have a say or influence over the activities of the Management Company and whether this is to be achieved via the householders being given membership of the Management Company or the Management Company being set up as a community interest company • increases in any service charge and whether such restriction is to be fixed to a relevant cost index

Public Rights of Way Contribution	means the sum of [£ .] to be paid by the Owner to the Council towards the improvements to the Public Right of Way Network in the vicinity of the Site
Registered Provider	means a provider of social housing approved by the Council within the meaning of the Housing and Regeneration Act 2008 (or as redefined by any amendment replacement or re-enactment of such Act)
Reserve	to reserve an area of the Development Site for the Primary School Site and upon which no permanent Development (which for the purposes of this definition shall exclude temporary uses required to facilitate construction activities or other temporary meanwhile uses) shall take place except in strict accordance with the terms of this Deed and Reserved shall be construed accordingly;
Secondary Education Contribution	means the Five Hundred and Eighty Four Thousand Five Hundred and Eighty Three Pounds and Fifty Pence (£584,583.50.) to be paid by the Owner to the Council towards .
Shared Equity Dwellings	means an Intermediate Affordable Dwelling of a type to be sold at 75% Open Market Value on terms of the disposal thereof with the balance of 25% being secured by means of a legal charge in favour of the Borough Council or the Borough Council's nominated Registered Provider (as is applicable)
Shared Ownership Dwelling	dwellings purchased on a shared equity basis whereby not more than 75% and not less than 10% of the equity is initially sold to the purchaser with the flexibility to increase their degree of Ownership to 100% if they so wish
Site	the land against which the obligations contained in this Deed may be enforced and which is shown edged red on Plan 1.
Statutory Undertaker	any company corporation board or authority at the date of this Deed authorised by statute to carry on an undertaking for the supply of telephone or television communications, electricity, gas, water, or drainage and any authorised successor to any such undertaking.
Tree Pit Maintenance Contribution	means the sum of £1,145.75 per tree pit to be offered for adoption
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. Reference in this Deed to any enactment shall be construed as 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 and schedules are references to clauses paragraphs and schedules in this Deed.

- 1.4. 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.
- 1.5. Any words denoting natural person shall include legal persons and vice versa.
- 1.6. The expression "the Owner" shall include its respective successors in title and assigns.
- 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 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 and shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.11. Any covenant by the Owner or the Council 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 binds the Site 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.
- 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

- 3.1. This Deed is conditional upon the grant of the Planning Permission.
- 3.2. Clause 4 below is further conditional upon the Commencement of Development.

4. COVENANTS & DECLARATIONS

- 4.1. The Owner covenant with the Council to comply with the Planning Obligations.
- 4.2. The Council covenants with the Owner to comply with the provisions of Schedule 7.

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 subsisting breach prior to parting with such interest);
 - 5.1.2. if it is a Statutory Undertaker which has an interest in any part of the Site for the purposes of its undertaking; or
 - 5.1.3. if that party is an owner or occupier of an individual Dwelling.
- 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 Site 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 given in accordance with this Deed shall be exclusive of any value added tax properly payable.
- 9. **SEVERABILITY**
 - 9.1. 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 or enforceability of the remaining provisions of this Deed.

10. **CHANGE OF OWNERSHIP**

- 10.1. The Owner agrees with the Council to give written notice to the Council within 20 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. Where the agreement, approval, consent or expression of satisfaction is required by any party under the terms of this Deed such agreement, approval, consent or expression of satisfaction shall not be unreasonably withheld or delayed.
- 11.2. 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 Working Days (or such other period as may be agreed or specified in this agreement) 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 whose decision (except in cases of manifest error or fraud) shall be final and binding on the parties.
- 11.3. The following provisions and terms of appointment shall apply to such disputes or disagreements:-
- 11.3.1. the Expert shall be agreed between the parties or, in default of agreement within 10 Working Days of receipt of the notice in Clause 11.2 above, shall be appointed or identified by the following persons:
- 11.3.1.1. in the case of disputes relating to land or valuation matters the President of the Royal Institution of Chartered Surveyors;
- 11.3.1.2. in the case of disputes relating to planning or design matters the President of the Royal Town Planning Institute; or
- 11.3.1.3. in the case of any other dispute the President of the Bar Council.
- 11.3.2. the Expert shall act as an expert and not as an arbitrator
- 11.3.3. the Expert shall be required to give notice of their appointment to each of the parties (**Expert's Notice**) and thereafter:
- 11.3.3.1. the persons calling for the determination shall make written submissions to the Expert and the other parties within 20 Working Days of receipt of the Expert's Notice;
- 11.3.3.2. the other parties shall have 20 Working Days from the receipt of such written submission (or such extended period as the Expert shall allow) to respond;
- 11.3.3.3. the Expert shall disregard any representations made out of this time; and
- 11.3.3.4. 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;

- 11.3.3.5. to the extent not provided for by this clause the Expert may in their 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
- 11.3.4. the Expert shall make his decision within 20 Working Days of the close of the period for submissions of written representations;
- 11.3.5. the Expert's decision shall be in writing and shall give reasons for the decision; and
- 11.3.6. each party shall bear its own costs and the Expert's costs will be payable in the determination of the Expert.
- 11.4. The decision of the Expert shall be binding on the parties.
- 11.5. 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:
 - 11.5.1. either party may apply to the relevant body as per Clause 11.3.1 to discharge the Expert and appoint a replacement Expert with the required expertise; and
 - 11.5.2. Clause 11.3 shall apply to the new Expert as if they were the first Expert appointed

12. **FUTURE PERMISSIONS**

- 12.1. In the event that an application is made pursuant to Section 73 or Section 73B of the 1990 Act for an amendment to the Planning Permission and a planning permission is granted in respect of that application then:
 - 12.1.1. references to "Planning Permission" in this Deed shall thereafter be deemed to include both the Planning Permission and the new planning permission granted pursuant to Section 73 or Section 73B of the Act; 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 Act unless required to do so by the Council

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 Section 73B 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 Section 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, approval or expression of satisfaction is due by one party 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.

14. **INDEXATION**

- 14.1. All 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**

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

16. **THIRD PARTY RIGHTS**

- 16.1. 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 or becomes vested in law including successors in title to the Site.

17. **NOTICES**

- 17.1. 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).
- 17.2. Any notice shall be deemed to have been received:
- 17.2.1. if delivered by hand, at the time the notice is left at the proper address; 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**

- 18.1. 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.
- 18.2. The Owner will pay to the Council a monitoring fee in the sum of £..... on or prior to the Commencement of Development to be used by the Council towards the costs of monitoring compliance with the terms of this Deed.

19. **JURISDICTION**

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

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 – Plans

Schedule 2 – Draft Planning Permission

Schedule 3 – Public Open Space

1. Provision of On-Site Public Open Space

- 1.1. The Owner shall as part of the carrying out of the Development provide the Public Open Space in accordance with the approved Public Open Space Plan (as may be varied from time to time).
- 1.2. The Owner shall submit to the Council the Public Open Space Management Plan for approval prior to the first Occupation of the Development and once approved the management and maintenance of the Public Open Space shall be carried out in accordance with that approved scheme.

2. Management and Maintenance of the Public Open Space

- 2.1. Upon the Public Open Space being completed to the Council's reasonable satisfaction in accordance with the approved Public Open Space Plan the Owner shall either:
 - 2.1.1. Transfer title for the Public Open Space on that Phase to a Management Company (having first supplied to the Council a certified copy of the Memorandum and Articles of Association of the Management Company) on the terms agreed between the Owner and the Management Company in consultation with the Council and all further maintenance shall be thereafter carried out by the Management Company **PROVIDED THAT** it shall be a term of the transfer that the Management Company shall:
 - 2.1.1.1. Maintain and manage in perpetuity the Public Open Space in accordance with the Public Open Space Management Plan or any variations that may be agreed in writing from time to time; and
 - 2.1.1.2. Only allow the use of the Public Open Space for public access and recreation and for no other purpose; or
 - 2.1.2. Maintain and manage in perpetuity the Public Open Space in accordance with the approved Public Open Space Plan (or any variations that may be agreed in writing between the Owner and the Council from time to time) **IN DEFAULT OF WHICH** the Council shall be entitled (upon giving reasonable prior written to the Owner) to carry out any maintenance works reasonably required to the Public Open Space and recover the proper and reasonable costs and expenses involved from the Owner.
- 2.2. The Owner hereby declares that pursuant to Section 31(6) Highways Act 1980 that the Public Open Space has not been dedicated to the public nor is any use by the public of any part of the Public Open Space to be taken in any way as an intention by the Owner to dedicate the same as highway.
- 2.3. The Owner shall allow public access to the Public Open Space **SUBJECT ALWAYS** to the following provisions:
 - 2.3.1. Access to the Public Open Space shall be subject to such requirements and regulations as may from time to time be imposed by the Owner having regard to overriding reasons of safety, security and prudent building management **PROVIDED THAT** such requirements and regulations shall not be imposed without the Council's prior approval; and
 - 2.3.2. The Owner may erect notices on the Public Open Space and access to the Public Open Space may be denied by the Owner for one day each year in order to prevent public rights of way or common rights coming into being;

- 2.3.3. The Owner may close the Public Open Space or any part thereof for reasonable periods by reason of:
- 2.3.3.1. Emergency;
 - 2.3.3.2. Cleansing, maintenance and repair;
 - 2.3.3.3. At the direction of the emergency services or other lawful authority;
and
 - 2.3.3.4. Construction activities whilst the Development is being carried out.

Schedule 4 – Financial Contributions

1. Monitoring Fees

- 1.1. To pay the Monitoring Fees to the Council prior to Commencement of the Development and not to Commence the Development without having paid the Monitoring Fees to the Council

2. Secondary Education Contribution

- 2.1. The Owner shall not cause or permit Commencement of the Development until it has paid 25% of the Secondary Education Contribution to the Council.
- 2.2. The Owner shall not permit more than 50% of the Occupation until 50% of the Secondary Education Contribution has been paid to the Council
- 2.3. The Owner shall not permit more than 75% of the Occupations until 100% of the Secondary Education Contribution has been paid to the Council.

3. Highways Contribution

- 3.1. The Owner shall not cause or permit Commencement of the Development until it has paid 25% of the Highway Contribution to the Council.
- 3.2. The Owner shall not permit more than 50% of the Occupation until 50% of the Highway Contribution has been paid to the Council
- 3.3. The Owner shall not permit more than 75% of the Occupations until 100% of the Highway Contribution has been paid to the Council.

4. Off Site POS Contribution

- 4.1. The Owner shall not cause or permit Commencement of the Development until it has paid 25% of the Off Site POS Contribution to the Council.
- 4.2. The Owner shall not permit more than 50% of the Occupation until 50% of the Off Site POS Contribution has been paid to the Council
- 4.3. The Owner shall not permit more than 75% of the Occupations until 100% of the Off Site POS Contribution has been paid to the Council.

5. Car Park Contribution

- 5.1. The Owner shall not cause or permit Commencement of the Development until it has paid 25% of the Car Park Contribution to the Council.
- 5.2. The Owner shall not permit more than 50% of the Occupation until 50% of the Car Park Contribution has been paid to the Council
- 5.3. The Owner shall not permit more than 75% of the Occupations until 100% of the Car Park Contribution has been paid to the Council.

6. Public Rights of Way Contribution

- 6.1. The Owner shall not cause or permit Commencement of the Development until it has paid 25% of the Public Rights of Way Contribution to the Council.
- 6.2. The Owner shall not permit more than 50% of the Occupation until 50% of the Public Rights of Way Contribution has been paid to the Council

6.3. The Owner shall not permit more than 75% of the Occupations until 100% of the Public Rights of Way Contribution has been paid to the Council.

7. **Tree Pit Maintenance Contribution**

7.1. The Owner shall pay the Tree Pit Maintenance Contribution on the installation of the Tree Pits

Schedule 5– Affordable Housing

1. The Owner hereby covenant as follows:

Part 1 AFFORDABLE HOUSING

- 1.1. To provide the Affordable Dwellings in accordance with the Affordable Housing Plan unless otherwise varied by way of agreement between both parties
- 1.2. Not to allow or permit the Commencement of Development until the Owner has submitted to the Council and the Council have approved in writing a scheme ("**Affordable Housing Scheme**") relating to the provision of the Affordable Dwellings on the Site such scheme to provide details of the following:
 - 1.2.1. the mix and tenure of the Affordable Dwellings as set out in the above definition of "Affordable Dwellings"
 - 1.2.2. the layout of each Affordable Dwelling by reference to tenure and including the number of habitable rooms proposed for each Affordable Dwelling, together with the gross internal floorspace of each of the Affordable Dwellings;
 - 1.2.3. how the Affordable Dwellings will be transferred to a Registered Provider(s) at the Discounted Purchase Price for subsequent allocation in accordance with paragraph 1.5 of this Schedule 5 or otherwise disposed of as Affordable Dwellings;
 - 1.2.4. the build sequence and implementation programme relating to the linkages between the Occupation of the Open Market Dwellings and the delivery of the Affordable Dwellings to be provided on the Site.
 - 1.2.5. how the Owner will ensure that the Affordable Dwellings will initially be occupied as Affordable Housing (in accordance with the definition of Affordable Housing published by the government within the National Planning Policy Framework or any successor document which is in place at the time that the Affordable Housing Scheme is submitted) and any provisions which will be made to ensure that the Affordable Dwellings will continue to be treated as Affordable Housing for the benefit of any future owners occupiers or tenants; and
 - 1.2.6. an appropriate method for addressing the position in the event that there is lack of interest from Registered Provider(s) in taking any Affordable Dwellings at the Discounted Purchase Price which are proposed to be disposed of to a Registered Provider.
- 1.3. Within 30 Working Days (or within such other time period that the Council may reasonably require and which may be agreed in writing between the Council and the Owner within the initial 30 working day period) of the Council receiving from the Owner or an Affordable Housing Scheme the Council will notify the Owner in writing of its approval to the Affordable Housing Scheme proposed by the Owner or will acting reasonably provide in writing its proposed amendments to the Affordable Housing Scheme pursuant to which the Owner acting reasonably shall submit an Affordable Housing Scheme incorporating those amendments as are reasonable and accepted **PROVIDED THAT** if the Council does not notify the Owner of its approval or proposed amendments to the Affordable Housing Scheme within 30 Working Days (or such other period of time that may be agreed) it shall be deemed that the Council has approved the Affordable Housing Scheme submitted by the Owner **AND FURTHER PROVIDED THAT** if agreement (including deemed agreement) cannot be reached between the Council and the Owner within 40 Working Days of the date of the submission of the Affordable Housing Scheme to the Council (or such other period of time that may be agreed) then the provisions of Clause 11 of this Agreement relating to Expert determination can be invoked by any Party in relation to only those matters that are in dispute. Such provision to

apply in the event that the agreed affordable housing tenure mix needs to be varied by agreement with the Council

- 1.4. Upon receipt of the Council's approval or deemed approval to an Affordable Housing Scheme pursuant to paragraph 1.2 of this Schedule (or upon receipt of expert determination in relation to an Affordable Housing Scheme if applicable) to construct the Affordable Dwellings in accordance with the Planning Permission, approved plans and approved Affordable Housing Scheme and with the benefit of a recognised new build insurance or guarantee certificate compliant with the Council of Mortgage Lenders handbook current at the time of the Commencement Date and to deliver those Affordable Dwellings in accordance with the approved Affordable Housing Scheme and the provisions of this Agreement.
- 1.5. To serve on the Council a Commencement Notice 14 days prior to the Commencement of Development.

Transfer of the Affordable Dwellings

- 1.6. As soon as reasonably practicable following the Commencement of Development the Owner shall market the Affordable Dwellings for transfer to a Registered Provider for subsequent allocation in accordance with the approved Affordable Housing Scheme
- 1.7. In the event that the Council is reasonably satisfied that the Owner has taken all reasonable steps to transfer the unsold Affordable Dwellings to a Registered Provider in accordance with the approved Affordable Housing Scheme and have been provided with written evidence of the Owners endeavours to secure such transfer then it shall notify the Owner accordingly and the Owner may elect to pay to the Council the Affordable Housing Contribution.
- 1.8. Upon receipt by the Council of an Affordable Housing Contribution the Owner shall be entitled to dispose of any unsold Affordable Dwellings on the open market free of the restrictions in this Schedule 5

Occupation and General Provisions

- 1.9. Save with the consent in writing of the Council each of the Affordable Dwellings shall be Occupied in accordance with the approved Affordable Housing Scheme

PROVIDED THAT this clause shall not be binding upon:-

- 1.9.1. on any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and all their respective mortgagees and chargees; and/or
- 1.9.2. on any Chargee or any person deriving title from the Chargee or any successors in title thereto and all their mortgagees and chargees who has first complied with the Chargee's Duty in Clause 1.10 below

Chargees Duty

- 1.10. The affordable housing provisions in this Schedule 5 shall not be binding on a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a **Receiver**)) of the whole or any part of the Affordable Dwellings or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:
 - 1.10.1. such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Dwellings and shall have used

reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Dwellings to another registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and

- 1.10.2. if such disposal has not completed within the three-month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Dwellings free from the affordable housing provisions in this Agreement which provisions shall determine absolutely

Schedule 6– Primary School Site

- 1 The Owner shall make provision within the Development for the Primary School Site and shall ensure that the Primary School Site is Reserved until such time as the Primary School Site is transferred to the Council or is released from the obligations contained this Schedule 6 in accordance with paragraph 3.
- 2 The Council may at any time prior to the Occupation of 150 Dwellings (or such other time period as the Owner and the Council may agree in writing) call for a transfer of the Primary School Site for the purposes of providing the Primary School. The Council may also at any time prior to Occupation of 150 Dwellings notify the Owner that they no longer require the Primary School Site to be Reserved, in which case the Owner is released from its obligations contained in this Schedule 6 in accordance with paragraph 3.
- 3 If the Council does not serve written notice on the Owners calling for a transfer of the Primary School Site within the period specified in paragraph 2 above, then the obligations in this Schedule shall cease to apply in respect of the Primary School Site.
- 4 If the Council does call for a transfer of the Primary School Site in accordance with paragraph 2 of this Schedule 6 then within one month of the acceptance or deemed acceptance of the Primary School Site by the Council the Owner shall offer to transfer the same to the Council or its nominee and thereafter use reasonable endeavours to conclude the transfer to the Council or its nominee as soon as reasonably practicable. PROVIDED ALWAYS THAT if the transfer of the Primary School Site does not take place within a reasonable period of time then the transfer shall be deemed not to be necessary and the Owner shall be released from its obligations under this Schedule 6
- 5 The Primary School Site shall be transferred to the Council with vacant possession.
- 6 Only once the Primary School Site is transferred to the Council shall a restriction be placed on the title of the Primary School Site to ensure that the land can only be used as a primary school. If the Primary School Site is never transferred in accordance with paragraphs 3 or 4 of this Schedule 7 then this restriction shall not apply.
- 7 The Owner shall grant such rights and easements whatsoever (including without prejudice to the generality of the foregoing the provision of all rights of access of services and passage of services and other rights) so as to ensure that the Council can access and bring services to the boundary of the Primary School Site from the adopted highway, without the need for further rights. Such rights of access to the Primary School Site shall be granted in perpetuity.

Schedule 7– Car Park Land

- 8 The Owner shall make provision within the Development for the Car Park Land and shall ensure that the Car Park Land is Reserved until such time as the Car Park Land is transferred to the Council or is released from the obligations contained this Schedule 7 in accordance with paragraph 3.
- 9 The Council may at any time prior to the Occupation of 150 Dwellings (or such other time period as the Owner and the Council may agree in writing) call for a transfer of the Car Park Land. The Council may also at any time prior to Occupation of 150 Dwellings notify the Owner that they no longer require the Car Park Land to be Reserved, in which case the Owner is released from its obligations contained in this Schedule 7 in accordance with paragraph 3.
- 10 If the Council does not serve written notice on the Owners calling for a transfer of the Car Park Land within the period specified in paragraph 2 above, then the obligations in this Schedule shall cease to apply in respect of the Car Park Land.
- 11 If the Council does call for a transfer of the Car Park Land in accordance with paragraph 2 of this Schedule 6 then within one month of the acceptance or deemed acceptance of the Car Park Land by the Council the Owner shall offer to transfer the same to the Council or its nominee and thereafter use reasonable endeavours to conclude the transfer to the Council or its nominee as soon as reasonably practicable. PROVIDED ALWAYS THAT if the transfer of the Car Park Land does not take place within a reasonable period of time then the transfer shall be deemed not to be necessary and the Owner shall be released from its obligations under this Schedule 7
- 12 The Car Park Land shall be transferred to the Council with vacant possession.
- 13 Only once the Car Park Land is transferred to the Council shall a restriction be placed on the title of the Car Park Land to ensure that the land can only be used as a place for the temporary siting of vehicles. If the Car Park Land is never transferred in accordance with paragraphs 3 or 4 of this Schedule 7 then this restriction shall not apply.

Schedule 8- Council's Covenants (General)

1. Receipt of Financial Contributions

- 1.1. The Council will issue separate receipts on request for any sum paid to the Council under this Deed.
- 1.2. The Council will place all sums received under this Deed in an interest bearing account or in separate accounts as the Council shall at its discretion decide.
- 1.3. The Council will not apply the Contributions or any sums received pursuant to this Deed for any purpose other than as described in this Deed.

2. Repayment of Financial Contributions

- 2.1. Any Contributions received by the Council under this Deed (or part or parts thereof) which are not expended or Committed within 5 (five) years of the date of payment shall, upon the written request of the paying party, be returned to that party or its nominee together with any interest accrued.

3. Performance

- 3.1. Upon the reasonable written request of the Owner after any of the Planning Obligations have been performed the Council will issue written confirmation thereof and will thereafter cancel all relevant entries in the register of local land charges.

Executed as a Deed (but not delivered

Until the date of it) by the affixing of

THE COMMON SEAL of

ROCHDALE BOROUGH COUNCIL

Authorised Sealing Officer

(A permanent Officer of the Council)

Executed as a deed (but not delivered
Until the date of it)

BLOOR HOMES LIMITED by

.....

acting by:

.....

Director

.....

Director/Secretary

Signed as a deed

(but not delivered until the date hereof) by

DAVID KERSHAW as the First Owner

.....

In the presence of:

Witness Signature:

Name of Witness:

Address:

.....

Signed as a deed

(but not delivered until the date hereof) by

DAVID KERSHAW as part of the Second Owner

.....

In the presence of:

Witness Signature:

Name of Witness:

Address:

.....

Signed as a deed

(but not delivered until the date hereof) by

IAIN ROSS KERSHAW

.....

In the presence of:

Witness Signature:

Name of Witness:

Address:

.....

Signed as a deed

(but not delivered until the date hereof) by

STEPHEN GLENN KERSHAW

.....

In the presence of:

Witness Signature:

Name of Witness:

Address:

.....