

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

Relating to Land at Chain House Lane, New Longton

Dated: 15th November 2019

SOUTH RIBBLE BOROUGH COUNCIL (1)

-and-

GRAHAM HENRY LOVE and WENDY ELIZABETH LOVE (2)

-and-

WAINHOMES (NORTH WEST) LIMITED (3)

DATE 15th day 05 November

2019

PARTIES

- (1) **SOUTH RIBBLE BOROUGH COUNCIL** of Civic Centre, West Paddock, Leyland, Lancashire ("Council")
- (2) **GRAHAM HENRY LOVE AND WENDY ELIZABETH LOVE** of 6 Long Barn Row Hoghton, Preston PR5 0SA ("Landowner")
- (3) **WAINHOMES (NORTH WEST) LIMITED** (Company Registration No. 4978580) whose registered office is situate at Kelburn Court, Daten Park, Birchwood, Warrington WA3 6UT ("the Developer")

INTRODUCTION

- 1 The Council is the local planning authority for the purposes of the Act for the area in which the Site is situated.
- 2 The Landowner is the freehold owner of the Site (as hereinafter defined).
- 3 The Developer has the benefit of an option to acquire the Site.
- 4 The Developer submitted the Application in respect of the Site.
- 5 The Council refused to grant planning permission pursuant to the Application.
- 6 The Landowner and the Developer have made the Planning Appeal and enter into this Deed to the intent that any objections of the Council to the grant of planning permission are overcome.
- 7 The Landowner and the Developer consider that the covenants, restrictions and obligations contained in this Deed serve planning purposes, are material to the Application and comply with the statutory tests set out in the Community Infrastructure Levy Regulations 2010.
- 8 The Parties have agreed to enter into this Deed with the intention that the covenants restrictions and obligations contained in this Deed may be enforced by the Council against the Landowner and their respective successors in title and assigns.

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1 DEFINITIONS

For the purposes of this Deed the following expressions shall have the following meanings:

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|----------------------------|--|
| "Act" | the Town and Country Planning Act 1990 |
| "Affordable Housing" | means subsidised housing that will be available to local persons who cannot afford to rent or buy housing generally available on the open market who have a need of local housing; |
| "Affordable Housing Units" | means those Dwellings within the Development which are to be provided as Affordable Housing in accordance with the |

"Affordable Housing Scheme"	<p>Affordable Housing Scheme and "Affordable Housing Unit" shall be construed accordingly;</p> <p>means the scheme for the provision of the Affordable Housing Units within the Development approved by the Council pursuant to paragraphs 1.2 and 1.3 of Schedule 3;</p>
"Affordable Rented Housing"	<p>means:</p> <ul style="list-style-type: none"> a) the Affordable Rented Housing being Dwellings permitted to be constructed upon the Site as hereinafter provided being subsidised housing that will be available to local persons who cannot afford to rent or buy housing generally available on the open market; and b) the Dwellings shall be constructed pursuant to the Planning Permission as Affordable Rented Housing where the lettings shall be made in accordance with Schedule 3 and the sub regional choice based lettings scheme complying with the Homes England (HE) rent and tenancy regulations; and c) the Dwellings shall be subject to rent controls that require that the rent is less than 80% of the local market gross rent (including service charges where applicable) or the maximum amount of local housing allowance payable for the Dwelling if this is lower than the calculated figure; and d) the Dwellings shall be used as Affordable Rented Housing in perpetuity
"Application"	<p>the outline application submitted to the Council for a residential development comprising of up to 100 dwellings and allocated reference 07/2018/9316/OUT</p>
"Bus Contribution"	<p>means the sum of One Hundred and Fifty Thousand Pounds (£150,000)</p>
"CIL"	<p>means a tax, tariff or charge introduced by the Borough Council in accordance with regulations made pursuant to the Planning Act 2008 including the Community Infrastructure Regulations 2010 or any subsequent legislation and/or guidance to fund the delivery of infrastructure known as the "community infrastructure levy" or known by any other name;</p>
"Commencement of Development"	<p>the date on which any material operation (as defined in Section 56(4) of the Act) begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the erection of a sales cabin, the</p>

	temporary display of site notices or advertisements and "Commence Development" shall be construed accordingly
"Cycle Contribution"	means the sum of Six Thousand Pounds (£6,000)
"Decision Letter"	The decision letter issued by the Planning Inspector or the Secretary of State confirming whether or not the Planning Appeal is allowed
"Development"	means the development of the Site as set out in the Application;
"Dwelling"	any dwelling (including a house flat or maisonette) to be constructed pursuant to the Planning Permission
"Eligibility Criteria"	means the criteria set out in the Fourth Schedule
"Homes England"	means the Homes England or any successor government agency that funds and is responsible for the delivery of new Affordable Housing in England;
"Inspector"	means the inspector appointed by the Secretary of State to determine the Planning Appeal and/or report to the Secretary of State following the public inquiry in relation to the refusal of the Application by the Council
"Interest"	interest at 4 per cent above the base lending rate of the Royal Bank of Scotland Plc from time to time
"Intermediate Affordable Housing"	has the meaning given to it in Annex 2: Glossary of the NPPF - whereby the lessee enters into a lease and initially purchases a percentage of the equity in an Affordable Intermediate Housing, the lessee pays rent to the Registered Provider in respect of the remaining equity shares in the property. The lessee has the option to "Staircase" or increase their equity share in the property to 100%
"Landscaping Management Scheme"	means a scheme for the Open Space setting out the landscaping and future management and maintenance of the Open Space including the funding thereof and giving the Landowner the right to elect either to offer the Open Space (or any part thereof) to be transferred to a management company
"Market Dwellings"	means Dwellings which are not Affordable Housing Units
"Market Value"	has the meaning ascribed to it in the then current edition of the Appraisal and Valuation Manual published by the Royal Institution of Chartered Surveyors.
"Occupation" and "Occupied"	occupation for residential purposes as permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations
"Open Space"	means that part of the Development identified in the Open Space Scheme subject to amendment from time to time with the written approval of the Council

"Open Space Scheme"	means the scheme for the provision of public open space as part of the Development
"Planning Appeal"	the planning appeal lodged in respect of the Council's refusal of the Application given the appeal reference number APP/F2360/W/19/3234070
"Planning Permission"	the outline planning permission granted by the Inspector or the Secretary of State pursuant to the Planning Appeal in respect of the Application
"Public Open Space Contribution"	means the sum of £1,507 per Market Dwelling
"Practical Completion"	means the issue of a certificate of practical completion by the Landowner's new build warranty provider or architect in lieu thereof or in the event that the Development is constructed by a party other than the Landowner the issue of a certificate of practical completion by that other party's new build warranty provider or architect in lieu thereof and " Practically Completed " shall be construed accordingly
"Registered Provider"	means a registered provider as defined by the Housing and Regeneration Act 2008 (or as redefined by any amendment, replacement or re-enactment of such Act) and registered under the provisions of the Housing and Regeneration Act 2008 or any company or other body approved by Homes England
"Relevant Agreement"	an agreement to secure planning obligations under section 106 of the Act and which relates to planning permission granted for development where such agreement has been entered into on or after 6 April 2010 and 'Relevant Agreements' shall be construed accordingly
"Scheme Development Standards"	means the Scheme Development Standards (SDS) for the construction and provision of Affordable Housing projects as administered by the Homes England or equivalent in force from time to time;
"Secretary of State"	means the Secretary of State for Communities and Local Government or any other minister or authority for the time being entitled to exercise the powers given under sections 77, 78 and 79 of the Act
"Social Rented Housing"	means: <ul style="list-style-type: none"> a) the Social Rented Housing being Dwellings permitted to be constructed upon the Site as hereinafter provided being subsidised housing that will be available to local persons who cannot afford to rent or buy housing generally available on the open market; and b) the Dwellings shall be constructed pursuant to the Planning Permission as Social Rented Housing where the lettings shall be made in accordance with the second Schedule and the sub regional choice based lettings

scheme complying with the Homes England (HE) rent and tenancy regulations; and

- c) the Dwellings shall be subject to government rent controls set to guidance formula rents
- d) the Dwellings shall be used as Social Rented Housing in perpetuity

"Site"

the land against which this Deed may be enforced in accordance with this Deed being land as more particularly described in the First Schedule to this Deed

2 CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 2.4 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.5 References to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council and the successors to its statutory functions.
- 2.6 The headings and contents list are for reference only and shall not affect construction.

3 LEGAL BASIS

- 3.1 This Deed is made pursuant to Section 106 of the Act, Section 111 of the Local Government Act 1972 and Section 2 of the Local Government Act 2000.
- 3.2 The covenants, restrictions and requirements imposed upon the Landowner under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Landowner as hereinafter appearing.
- 3.3 If the Planning Permission expires is quashed ceases to have effect, is superseded or is revoked in its entirety then this Deed will cease to have effect.
- 3.4 If in determining the Planning Appeal the Secretary of State or the Planning Inspector expressly states in the Decision Letter that any planning obligation contained in this Deed:
 - (i) is not a material planning consideration
 - (ii) can be given no or little weight in determining the Planning Appeal; or
 - (iii) does not constitute a reason for granting Planning Permission in accordance with Regulation 122 of the CIL Regulations; or

requires funding or provision towards a project or towards a type of infrastructure where the Council or the County Council has entered into five (5) or more Relevant Agreements which provide for the funding or provision towards the same project or towards that type of infrastructure then such

planning obligation shall not be enforceable pursuant to this Deed and shall cease to have effect within this Deed save as set out in the Decision Letter

4 CONDITIONALITY

This Deed is conditional upon:

- (iv) the grant of the Planning Permission; and
- (ii) the Commencement of Development

save for the provisions of Clauses 7.1, 10, 13, and 14 which shall come into effect immediately upon completion of this Deed.

5 THE LANDOWNER'S COVENANTS

- 5.1 The Landowner covenant with the Council as set out in Part 1 the Second Schedule.
- 5.2 For the avoidance of doubt neither the Landowner nor their successors in title shall be bound by the covenants once they have transferred ownership of the Site or the relevant part thereof.

6 THE COUNCIL'S COVENANTS

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

7. MISCELLANEOUS

- 7.1 The Landowner shall pay to the Council prior to completion of this Deed the sum of £1000.00 towards the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed
- 7.2 This Deed shall be registrable as a local land charge by the Council.
- 7.3 Where the agreement, approval, consent or expression of satisfaction is required by the Landowner from the Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the Council by the Director of Planning and Housing or their successor and any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.
- 7.4 Following the performance and satisfaction of all the obligations contained in this Deed (or in the case of the occurrence of any of the events referred to in Clause e 7.6 below) the Council shall within a reasonable time effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.
- 7.5 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 7.6 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked, superseded, ceases to have effect or otherwise withdrawn or (without the consent of the Landowner) it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 7.7 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its relevant interest in the Site or the relevant part thereof but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 7.8 This Deed shall not be enforceable against any statutory undertakers or the owner-occupiers or tenants of Market Dwellings constructed pursuant to the Planning Permission nor against those

deriving title from them and further Part 2 of the Second Schedule shall not be enforceable against the owner-occupiers or tenants of Affordable Housing Units constructed pursuant to the Planning Permission nor against those deriving title from them save for the obligations in respect of the Affordable Dwellings.

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

7.10 Nothing contained or implied in this Deed shall prejudice or affect the rights discretions powers duties and obligations of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.

8. WAIVER

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

9. INTEREST

If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.

10. VAT

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

11. DISPUTE PROVISIONS

11.1 In the event of any dispute or difference arising between any of the parties to this Deed in respect of any matter contained in this Deed (save for a matter of law) such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.

11.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 11.1 or as to the appropriateness of the professional body then such question may be referred by either party to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.

11.3 Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight working days after the conclusion of any hearing that takes place or twenty-eight working days after he has received any file or written representation.

11.4 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten working days of notification of his appointment written submissions and supporting

material and the other party will be entitled to make a counter written submission within a further ten working days.

12. **JURISDICTION**

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

13. **THIRD PARTY RIGHTS**

All third party rights arising under the Contracts (Rights of Third Parties) Act 1999 are excluded and no one other than the Council and the Landowner shall have any right to enforce any obligation or term of this Deed.

14. **DELIVERY**

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

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

FIRST SCHEDULE

means the whole of the land lying to the south of Chain House Lane, Whitestake, Preston (PR4 4LE) being the land registered under the Title Number LAN 187076 and each and every part of it

SECOND SCHEDULE

The Landowner's Covenants with the Council

PART 1

AFFORDABLE HOUSING

- 1.1 To provide Affordable Housing as part of the Development in accordance with the provisions of this Part 1 of the Second Schedule
- 1.2 Not to Commence Development until there has been submitted to the Council and the Council has approved in writing a scheme for the provision of Affordable Housing within the Development and the approved scheme shall be the hereinafter referred to as the "Affordable Housing Scheme"
- 1.3 The Affordable Housing Scheme shall *inter alia*:
 - 1.3.1 Identify 30% of the Dwellings to be constructed within the Development as Affordable Housing Units of which:
 - i) 70% will be for Affordable Rented Housing or Social Rented Housing; and
 - ii) 30% will be Intermediate Affordable Housing;
 - 1.3.2 Identify the location of the Affordable Housing Units (including plot numbers) within the Development together with details of the relevant house type, tenure and number of bedrooms of each Affordable Housing Unit;
 - 1.3.3 Identify a Registered Provider to whom the Affordable Housing Units are to be transferred
 - 1.3.4 The Affordable Housing Units shall remain as Affordable Housing in perpetuity subject to the provisions of this Deed
 - 1.3.5 All lettings shall be made in accordance with the sub regional choice based lettings scheme complying with the Homes England rent and tenancy regulations. Any Affordable Rented Dwellings shall be subject to rent controls that require that the rent is less than 80% of the local market gross rent (including service charges where applicable) or the maximum amount of local housing allowance payable for the Dwelling if this is lower than the calculated figure. Any Social Rented Dwellings will be subject to guidance target rents determined through the national rent regime.
- 1.4 From the Commencement of Development the Affordable Housing Units shall be constructed in accordance with the Planning Permission, the Affordable Housing Scheme and to Scheme Development Standards
- 1.5 Subject to the following provisions not more than 50% of the Market Dwellings (rounded down to the nearest whole Market Dwelling if necessary) shall be Completed before/until Practical Completion of 50% of the Affordable Housing Units
- 1.6 In addition (subject to the following provisions) not more than 80% of the Market Dwellings (rounded down to the nearest whole Market Dwelling if necessary) shall be Completed before/until Practical Completion of 100% of the Affordable Housing Units

Part 2

AFFORDABLE RENTED HOUSING AND SOCIAL RENTED HOUSING

- 2.1 From the date of Practical Completion each Affordable Housing Unit shall be used only as Affordable Housing save that this obligation shall not be binding on any protected tenant or any mortgagee or

chargee of the protected tenant or any person deriving title from the protected tenant or any successor in title thereto and their respective mortgagees and chargees

- 2.2 No later than six months after the date of the Commencement of Development the Landowner shall market and offer the Affordable Rented Housing and/or Social Rented Housing to a Registered Provider in accordance with the Affordable Housing Scheme and the terms of this Deed
- 2.3. If the Registered Provider shall not have entered into a contract to purchase the Affordable Rented Housing and/or Social Rented Housing within 6 calendar months of them first being offered to the Registered Provider in accordance with paragraph 2.2 above then the Landowner shall market and offer the Affordable Rented Housing and/or Social Rented Housing to an alternative Registered Provider or Registered Providers and the Landowner shall then comply with paragraph 2.2 above as if the reference to the Registered Provider within that provision was a reference to an alternative Registered Provider or Registered Providers and this provision may be repeated as often as is necessary until such time as one of the nominated Registered Providers shall have confirmed its willingness subject to contract to purchase the Affordable Rented Housing and/or Social Rented Housing
- 2.4 The Landowner shall ensure that any transfer of any Dwelling being Affordable Rented Housing and/or Social Rented Housing to the Registered Provider or alternative Registered Provider shall contain a covenant that the Registered Provider or alternative Registered Provider shall not use the Affordable Rented Housing otherwise than as Affordable Rented Housing and/or Social Rented Housing and for the purpose of providing housing to persons in housing need who meet the objectives of the Council.
- 2.5 On completion of the Affordable Rented Housing and/or Social Rented Housing they will be allocated by 100% nomination arrangements or first let to approved persons (see below) nominated by the Council in accordance with the Council's allocations policy which is currently through the sub-regional choice based lettings partnership.
- 2.6 Subsequent lets of the Affordable Rented Housing and/or Social Rented Housing will be to approved persons in accordance with the Council's Sub-Regional Choice Based Lettings Policy or their successor. This would at the time of completing this Deed be by Select Move
- 2.7 Each and every Dwelling of Affordable Rented Housing and/or Social Rented Housing shall not be occupied by any person except an 'Approved Person' who have been nominated by the Council or selected by the Registered Provider on behalf of the Council via the Select Move scheme. Approved Persons for the purposes of the Affordable Housing Scheme are detailed below:

A person deemed to be in housing need for the Affordable Rented Housing and/or Social Rented Housing and who meets the criteria set out in the Council's Sub Regional Choice Based Lettings allocations policy which at the time of completing this Deed be Select Move

Provided Further that once the Landowner is of the opinion (acting reasonably) that the obligations as aforesaid will not be discharged by the trigger date detailed above despite using reasonable endeavours to do so and demonstrating as such to the Council the Landowner may approach the Council in writing to agree an alternative scheme whereby the Landowner shall not be prejudiced financially for not being able to comply with the obligations at paragraph 2.2 above and provided further that in the event that the Landowner (acting reasonably) are unable to reach agreement with the Council then the issue of an alternative scheme may be determined in accordance with the dispute procedure prescribed by clause 11 of this Deed upon the application of the Landowner or the Council

Part 3

INTERMEDIATE AFFORDABLE HOUSING

- 3.1 No later than six months after the date of Commencement of Development the landowner shall market and offer the Intermediate Affordable Housing to a Registered Provider at a price which allows the Registered Provider to sell such Units as Intermediate Affordable Housing

- 3.2 If the Registered Provider shall not have entered into a contract to purchase the Intermediate Affordable Housing as aforesaid within 6 calendar months of them first being offered to the Registered Provider in accordance with paragraph 3.1 above then the Landowner shall market and offer the Intermediate Affordable Housing to an alternative Registered Provider or Registered Providers and the Landowner shall then comply with paragraph 3.1 above as if the reference to the Registered Provider within that provision was a reference to an alternative Registered Provider or Registered Providers and this provision may be repeated as often as is necessary until such time as one of the nominated Registered Providers shall have confirmed its willingness subject to contract to purchase the Intermediate Affordable Housing
- 3.3 The Landowners shall give the Council written notice within 10 working days of the Landowners entering into a binding agreement to transfer (or grant a long lease of) of the Intermediate Affordable Housing with the Registered Provider and also the date of completion of the transfer (or grant of a long lease) in accordance with this Deed.
- 3.4 No part of any Intermediate Affordable Housing shall be used for any purpose other than the provision of Affordable Housing for disposal by way of a transfer or the grant of a lease to persons satisfying the Eligibility Criteria as detailed in Fourth Schedule of this Deed
- 3.5. The Landowners shall in the initial transfer (or lease) of the Intermediate Affordable Housing to the Registered Provider require:
- 3.5.1 a covenant that the Intermediate Affordable Housing shall not be used other than for residential purposes
- 3.5.2 a covenant to comply with Part 3 of Schedule 3 of this Deed save as provided in Part 4 below
- 3.6 Provided Further that once the Landowners are of the opinion (acting reasonably) that the obligations as aforesaid will not be discharged by the trigger date detailed above despite using reasonable endeavours to do so and demonstrating as such to the Council the Landowners may approach the Council in writing to agree an alternative scheme whereby the Landowners shall not be prejudiced financially for not being able to comply with the obligations at paragraph 3.1 above and provided further that in the event that the landowners (acting reasonably) are unable to reach agreement with the Council then the issue of an alternative scheme may be determined in accordance with the dispute procedure prescribed by clause 13 of this Deed upon the application of the Landowners or the Council

Part 4

Mortgagee in Possession Provisions

- 4.1 None of the Affordable Housing obligations in Part 1 – 3 (incl.) of this Second Schedule of this Deed shall be binding upon a chargee or mortgagee of the Registered Provider or of any owner of a Dwelling being Intermediate Affordable Housing in the event of default under a mortgage or charge or upon any receiver appointed by them (including administrative receivers) or any successors in title to such mortgagee, chargee or receiver and such mortgagee, chargee or receiver appointed by them and their successors in title shall be entitled to sell the Affordable Housing free from the provisions of Part 1 of the Second Schedule to this Deed and provided further that such provisions shall not bind:
- (i) a tenant of any Affordable Rented Housing who exercises any right to buy or right to acquire such Dwelling nor any mortgagee or chargee of such a tenant nor any receiver appointed by such mortgagee or chargee (including administrative receivers); nor
 - (ii) any tenant who staircases out of a Dwelling being an Intermediate Affordable Housing to 100% nor any mortgagee or chargee of such a tenant nor any receiver appointed by such mortgagee or

chargee (including administrative receivers); nor

- (iii) any persons deriving title from the tenants, mortgagees, chargees or receivers referred to in (i) and (ii) above.

PART 5

PUBLIC OPEN SPACE CONTRIBUTION

- 5.1. The Landowner covenants with the Council to pay to the Council the Public Open Space Contribution to be used by the Council strictly for the purposes set out in paragraph 5.2 below no later than the day the 20th Market Dwelling on the Site is first Occupied
- 5.2. The Council covenants with the Landowner to use the Public Open Space Contribution for the purposes of improving and enhancing and thereafter repairing and maintaining the playing pitches at New Longton Playing fields, St Cuthberts Playing fields and Worden Park
- 5.3. Subject to paragraph 5.2 above the Council may mingle the Public Open Space Contribution or any other part thereof with any other monies and shall not be required to separately identify an account for the said sum but it must be used for the purpose set out in paragraph 5.2 above and may use it or any similar sum from any source in furtherance of the lawful purposes of the Council

PART 6

BUS CONTRIBUTION

- 6.1. The Landowner covenants with the Council to pay to the Council the Bus Contribution to be used by the Council strictly for the purposes set out in paragraph 6.2 below no later than the day the 1st Market Dwelling on the Site is first Occupied
- 6.2. The Council covenants with the Landowner to use the Bus Contribution to support the continued 114 bus service between Preston and Chorley
- 6.3. Subject to paragraph 6.2 above the Council may mingle the Bus Contribution or any other part thereof with any other monies and shall not be required to separately identify an account for the said sum but it must be used for the purpose set out in paragraph 6.2 above and may use it or any similar sum from any source in furtherance of the lawful purposes of the Council

PART 7

CYCLE CONTRIBUTION

- 7.1. The Landowner covenants with the Council to pay to the Council the Cycle Contribution to be used by the Council strictly for the purposes set out in paragraph 7.2 below no later than the day the 50th Market Dwelling on the Site is first Occupied
- 7.2. The Council covenants with the Landowner to use the Cycle Contribution to improve, enhance and maintain the cycle parking at Lostock Hall train station
- 7.3. Subject to paragraph 7.2 above the Council may mingle the Cycle Contribution or any other part thereof with any other monies and shall not be required to separately identify an account for the said sum but it must be used for the purpose set out in paragraph 7.2 above and may use it or any similar sum from any source in furtherance of the lawful purposes of the Council

PART 8

PUBLIC OPEN SPACE

- 8.1 The Landowner covenants with the Council to submit the Open Space Scheme to the Council for approval such Open Space Scheme to include (a) the part or parts of the Site where the Open Space is to be provided; and (b) the Landscaping and Management Scheme
- 8.2 The Landowner covenants with the Council not to Occupy or cause or allow to be Occupied any Dwelling until the Council has approved the Landscaping and Management Scheme.
- 8.3 The Landowner covenants with the Council not to Occupy or cause or allow to be Occupied any Dwelling other than in accordance with the Landscaping and Management Scheme
- 8.4 The Landscaping and Management Scheme may be amended or varied from time to time by agreement in writing between the Council and the Owner (both acting reasonably and without delay).
- 8.6 The Open Space shall be laid out and made available for use in accordance with the approved Landscaping and Management Scheme prior to the first Occupation of the 50th Dwelling and thereafter maintained by the Landowner until it is transferred in accordance with the approved Landscaping and Management Scheme.

THIRD SCHEDULE

Council's Covenants

Use

1. The Council hereby covenants with the Landowner to use all sums received from the Landowner under the terms of this Deed for the purposes specified in this Deed for which they are to be paid.

Repayment of Contributions

2. The Council covenants with the Landowner that it will pay to the Landowner such amount of any payment made by the Landowner pursuant to Parts 5 and 6 of the Second Schedule of this Deed to the Council which has not been expended in accordance with the provisions of this Deed within six years of the date of receipt by the Council of such payment together with interest at the Barclays Bank Plc base rate plus 2% from time to time for the period from the date of payment to the date of refund.
3. The Council shall provide to the Landowner such evidence, as the Landowner shall reasonably require in order to confirm the expenditure of the sums paid by the Owner under this Deed.

Discharge of obligations

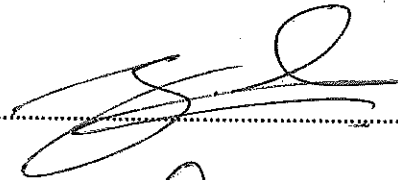
4. At the written request of the Landowner the Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed.

FOURTH SCHEDULE

ELIGIBILITY FOR INTERMEDIATE AFFORDABLE HOUSING

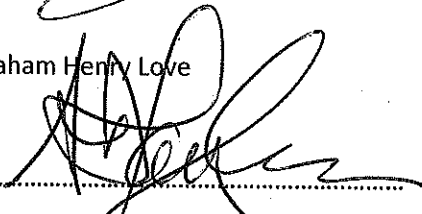
1. The following is the Council's Eligibility Criteria for the Intermediate Affordable Housing:
 - 1.1 Applicants must have a local connection with the area in which they are seeking to live;
 - 1.2 Applicants must be deemed to be in need of financial assistance to purchase a property on the open market;
 - 1.3 Applicants must be able to demonstrate a housing need for a property type.
2. For the avoidance of doubt local connection means in the following order of priority
 - 2.1 Applicants who have previously had their only or principal home in the borough of South Ribble
for a continuous period of three years; or
 - 2.2 Applicants who for a period of 12 months prior to proposed occupation of the Intermediate Affordable Housing had their principal place of work within the borough of South Ribble
 - 2.3 Applicants who have immediately prior to the proposed occupation of the Intermediate Affordable Housing one or more of their parents grandparents children or siblings living within the borough of South Ribble for a continuous period of five years
3. For the avoidance of doubt when considering the ability of a person to purchase on the open market the Council will take into account household income levels, and other commitments.
4. For the avoidance of doubt Applicants will be assessed on their current housing need. Applicants will only be authorised to proceed with a purchase after meeting the criteria above. Applicants will only be permitted to purchase an Intermediate Affordable Housing Dwelling with an excess of one bedroom for their current housing need.
5. Provided Always that notwithstanding the above the Council and Affordable Housing Provider (if applicable) may agree between themselves any amendment to the Eligibility Criteria where the Council shall deem it reasonable to do so and provided further that after such amendments are applied the Applicant is able to demonstrate a Housing Need for a property type.
6. The Applicants must use the Intermediate Affordable Housing as their main and principal residence.

Signed as Deed by **GRAHAM HENRY LOVE** in the presence of a witness:


.....

Graham Henry Love

Signature of witness


.....

Witness

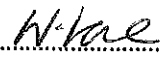
Name (in BLOCK CAPITALS)

ANDREW TAYLORSON
ECKERSELEY
.....

Address

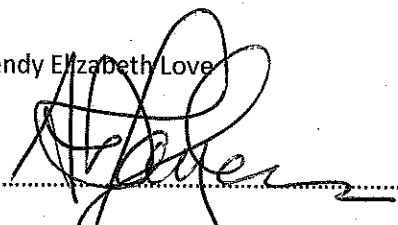
25A WINKLEY SQUARE
PRESTON PR13 3SS
.....

Signed as Deed by **WENDY ELIZABETH LOVE** in the presence of a witness:


.....

Wendy Elizabeth Love

Signature of witness


.....

Witness

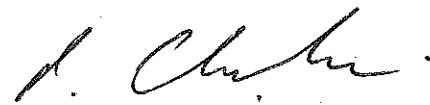

Name (in BLOCK CAPITALS)

ANDREW TAYLORSON
ECKERSELEY
.....

Address

25A WINKLEY SQUARE
PRESTON PR13 3SS
.....

EXECUTED AS A DEED by
**WAINHOMES (NORTH WEST)
LIMITED** acting by two director or a
director and its company secretary
witness:

) 
) R. CHAMBERLAIN (MANAGING DIRECTOR)
) 
L. DONALDSON (Co. SECRETARY)

THE COMMON SEAL OF SOUTH RIBBLE
BOROUGH COUNCIL
was affixed in the presence of:

)
)
)



Authorised Signatory:



Seal n° 56120