

Dated1 October

2024

Deed of Agreement made pursuant to Section 106 of the Town and Country Planning Act 1990

Land at the Former William Freeman Site, Wakefield Road, Mapplewell

BARNSLEY METROPOLITAN BOROUGH COUNCIL

and

PURICO LANDINVEST LIMITED

DATE 1 October 2024

PARTIES

- (1) **BARNSELEY METROPOLITAN BOROUGH COUNCIL** of Town Hall Barnsley South Yorkshire S70 2TA (the **Council**).
- (2) **PURICO LANDINVEST LIMITED** Co. Regn. No. 14029588) of C/O Purico Limited Environment House, 1 St. Marks Street, Nottingham NG3 1DE (the **Owner**).

BACKGROUND

- (A) By virtue of section 1 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 hereby created are enforceable.
- (B) The Owner is the proprietor of the freehold title to the Site which is registered at the Land Registry under Title Number SYK430302.
- (C) The Owner has submitted the Application to the Council for planning permission for the Development.
- (D) The Council has resolved to grant the Planning Permission subject to the prior completion of this Deed.
- (E) The Owner 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.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

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

1990 Act the Town and Country Planning Act 1990.

Additional First
Homes
Contribution means in circumstances where a sale of a First Home other than as a First Home has taken place in accordance with paragraphs 5.3.8, 5.3.9 or 5.5 of the First Schedule, the lower of the following two amounts:

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

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

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

Affordable Housing	affordable housing as defined in Annex 2 of the NPPF.
Affordable Housing Contribution	a financial contribution which is (if applicable) to be calculated and paid by the Owner to the Council in accordance with and in the circumstances specified in paragraphs 3.1 - 3.2 of Schedule 13 of this Deed as a contribution towards the cost of providing new Affordable Housing within the Council's administrative area.
Affordable Housing Scheme	a scheme for the provision of the Affordable Units which shall include: (a) the number, location, tenure and type of the Affordable Units; (b) details of how the proposed design and construction of the Affordable Housing Units will ensure that the Affordable Housing Units are materially indistinguishable (in terms of outward design and appearance) from the Open Market Dwellings of similar size within the Development (c) the Registered Provider(s) to which the Owner intend to market the Affordable Units for transfer; and (d) draft heads of terms for the transfer of the Affordable Units to a Registered Provider
Affordable Value	means a price being not greater than 50% (fifty percent) of the Open Market Value of an equivalent open market unit or such other discounted sum agreed with the Registered Provider that is financially viable for a Registered Provider to be able to purchase an Affordable Housing Unit;.
Affordable Units	means 10 (ten) Dwellings (excluding the First Homes) to be built on the Site as part of the Development and to be provided as Affordable Housing in accordance with the provisions of Schedule 1 of this Deed of which shall be provided as Affordable Housing for Rent (as defined by Annex 2 of the NPPF).
Application	the application for reserved matter approval (ref 2021/1405) of planning permission for the Development which was submitted to the Council on behalf of the Owner and which was given reference number 2017/1718.
Armed Service Member	Means a member of the Royal Navy the Royal Marines the British Army or the Royal Air Force or a former member who was a member within the 5 (five) years prior to the purchase of the First Home, a divorced or separated spouse or civil partner of a member or a spouse or civil partner of a deceased member or former member whose death was caused wholly or partly by their service;
Chargee	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 Units or any persons or bodies deriving title through such mortgagee or chargee or Receiver.

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.
Contributions	collectively the Affordable Housing Contribution (if applicable), the Education Contribution and the Off Site Open Space Contribution
Compliance Certificate	means the certificate issued by the Council confirming that a Dwelling is being disposed of as a First Home to a purchaser unless paragraph 5.3.2 applies
Council's Approved List	means the following Registered Providers: Acis Homes Auxesia Homes Anchor Hanover Berneslai Homes Limited; South Yorkshire Housing Association Limited; Yorkshire Housing Limited; Guinness Northern Counties Limited; Equity Housing Group Limited; North 54 ; Park properties Housing Association Sanctuary Housing Together Housing Association Wakefield and District Housing Limited and Yorkshire Housing Association or such other Registered Provider(s) that may be nominated by the Owner and approved by the Council from time to time;

Default Interest Rate	4% per annum above the base rate from time to time of the Bank of England.
Development	Residential development of 91 dwellings and associated works,
Disposal	means a transfer of the freehold or (in the case of a flat only) the grant or assignment of a leasehold interest in a First Home other than: (a) a letting or sub-letting in accordance with paragraph 5.4 of the First Schedule; (b) a transfer of the freehold interest in a First Home or land on which a First Home is to be provided before that First Home is made available for occupation except where the transfer is to a First Homes Owner; (c) an Exempt Disposal; and "Disposed" and "Disposing" shall be construed accordingly;
Dwelling	a residential unit that may be built on the Site pursuant to the Planning Permission and the term Dwellings shall be construed accordingly.
Education Contribution	the sum of £ 496,000 (four hundred and ninety six thousand pounds) Index Linked to be paid by the Owner to the Council and to be used by the Council towards the provision of and/or improvements to educational provision, facilities and places in accordance with the Councils SPD Financial Contributions to Schools or any replacement thereof ..
Eligibility Criteria (Local)	means criteria (if any) published by the Council at the date of the relevant disposal of a First Home which are met in respect of a disposal of a First Home if: (a) the purchaser's annual gross income (or in the case of a joint purchase, the joint purchasers' joint annual gross income) does not exceed the Income Cap (Local); and (b) any or all of criteria (i) (ii) and (iii) below are met: (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 and/or (iii) the purchaser is (or in the case of a joint purchase at least one of the joint purchasers is) a Key Worker;
Eligibility Criteria (National)	means criteria which are met in respect of a purchase of a First Home if: (a) the purchaser is a First Time Buyer (or in the case of a joint purchase each joint purchaser is a First Time Buyer); and

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

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

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

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

(c) Disposal to a former spouse or former civil partner of a First Homes Owner in accordance with the terms of a court order, divorce settlement or other legal agreement or order upon divorce, annulment or dissolution of the marriage or civil partnership or the making of a nullity, separation or presumption of death order;

(d) Disposal to a trustee in bankruptcy prior to sale of the relevant Dwelling (and for the avoidance of doubt paragraph 5.5 of the First Schedule shall apply to such sale);

PROVIDED THAT in each case other than (d) the person to whom the disposal is made complies with the terms of paragraph 5.4 of the First Schedule;

Expert a person of at least 10 years post qualification continual and continuing experience in the subject matter of the dispute.

First Homes means 4 (four) units (in addition to the Affordable Units) to be provided as first homes as defined in the Department for Levelling Up, Housing and Communities 'First Homes' guidance published in May 2021 (or any future guidance or initiative that replaces or supplements it) and which may be disposed of as a freehold or (in the case of flats only) as a leasehold property to a First Time Buyer at the First Home Sale Price and which on its first Disposal does not exceed the Price Cap and reference to "First Home" shall be construed accordingly;

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

(a) the Owners; 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) the freehold a tenant or sub-tenant of a permitted letting under paragraph 5.4 of the First Schedule;

First Home Sale Price	means the price of the First Homes to be agreed with the Council prior to the disposal of any of the First Homes but that shall be a price equal to the Market Value of an equivalent Open Market Dwelling less a discount equal to 30% (thirty percent) of the Market Value;
First Time Buyer	means a first time buyer as defined by paragraph 6 of Schedule 6ZA to the Finance Act 2003 and reference to "First Time Buyers" shall be construed accordingly
General Housing Unit	a Dwelling which is not an Affordable Unit.
Homes England	the Homes and Communities Agency (trading as Homes England) or any body or bodies undertaking the existing functions of the Homes and Communities Agency within the meaning of Part I of the Housing and Regeneration Act 2008 (or as redefined by any amendment, replacement or re-enactment of such Act).
Income Cap (Local)"	means £80,000.00 (eighty thousand pounds) or such other local income cap as may be published from time to time by the Council and is in force at the time of the relevant disposal of the First Home;
Income Cap (National)	means: (a) in the case of a First Home situated within the administrative area of any London Borough Council (including the City of London), £90,000.00; and (b) in the case of any other First Home, £80,000.00; or such other sum as may be published for this purpose from time to time by the Secretary of State and is in force at the time of the relevant disposal of the First Home;
Index Linked	increased in accordance with the following formula: (a) Amount payable = the payment specified in this Deed x (A/B) where: (b) A = the figure for the Retail Price Index published by the Office for National Statistics that applied immediately preceding the date the payment is due; and (c) B = the figure for the Retail Price Index published by the Office for National Statistics that applied when that index was last published prior to the date of this Deed.
Initial Disposal	means the first Disposal of a First Home excluding any subsequent Disposals;
Key Worker	means a person employed or with a confirmed job offer in one of the following categories of employment: NHS staff; police officers;

firefighters;

transport workers; and

teachers;

or such other categories of employment as may be published by the Council from time to time as the "Key Worker criteria" and 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 "Key Worker" criteria which shall apply to that disposal;

SAVE THAT where the Council has not set any key worker criteria such categories of employment as may be designated and published by the Council from time to time as the "Key Worker criteria" and 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 "Key Worker" criteria which shall apply to that disposal it being acknowledged that at the date of this agreement the Council has not designated any categories of employment as Key Worker;

Local Connection Criteria means either (a) or (b) below:

(a). A person has a local connection in the following circumstances:

- They have lived for 3 out of the last 5 years in Barnsley or have lived in Barnsley for 6 months out of the last 12 months.
- They are currently employed in the Barnsley area.
- They have close family who have lived in Barnsley for 3 out of the last 5 years or have lived in Barnsley for 6 months out of the last 12 months.
- Members of the Armed Forces and former service personnel, where the application is made within five years of discharge from HM Forces.
- Bereaved spouses and civil partners of members of the Armed Forces leaving Services Family Accommodation following the death of their spouse or civil partner
- Serving or former members of the Reserve Forces who need to move because of a serious injury, medical condition or disability which is wholly or partly attributable to their military service.
- They have other special circumstances that connect them to Barnsley.

(b) such other local connection criteria as may be published by the Council from time to time as its "Local Connection Criteria" 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;

NPPF	the National Planning Policy Framework, July 2021 (or as redefined by any amendment, replacement or re-enactment thereof).
Occupation	occupation for the purposes permitted by the Planning Permission but not including occupation for the purposes of fit out, decoration, marketing, display or security operations and the term Occupy and Occupied shall be construed accordingly.
Off Site Open Space Contribution	the sum of £82,298.33 (eighty two thousand two hundred and ninety eight pounds and 33 pence) Index Linked to be paid by the Owner to the Council and to be used by the Council towards the provision of and/or improvements of off site open space sites in accordance with the Councils Supplementary Planning Document "Open Space provision on New Housing Developments adopted May 2019 (or any replacement thereof).
Open Market Value	means an amount for which the property should exchange on the date of valuation between a willing buyer and a willing seller in an arm's length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion as proposed by the Owner and approved by the Council or in the absence of agreement as determined by an Valuer assessed in general accordance with the Appraisal & Valuation Manual of the Royal Institute of Chartered Surveyors as amended from time to time;
Plan	The Land edged red on plan ref P08:4145:02
Planning Obligations	the obligations, conditions and stipulations set out at Schedules 1 and 2 of this Deed and the term Planning Obligation shall be construed accordingly.
Planning Permission	a planning permission permitting the Development granted by Council pursuant to the Application.
Practical Completion	means either: (a) the issue of a certificate signed by a chartered architect which confirms that a specified Dwelling has been constructed in compliance with building regulations and is completed so as to be fit for habitation as a residential housing unit; or (b) the issue of a Buildmark cover note in relation to a Dwelling by the National House-Building Council or such cover note of similar effect from an alternative warranty provider and Practically Completed shall be construed accordingly;
Price Cap	means the amount for which the First Home is sold after the application of the First Home Sale Price which on its first Disposal shall not exceed £250,000.00 (two hundred and fifty thousand pounds) or such other amount as may be published from time to time by the Secretary of State;

Protected Tenant any tenant who:

- (a) has exercised the right to acquire pursuant to the Housing Act 1996 or any similar statutory provision for the time being in force (or equivalent contractual or voluntary right) in respect of a particular Affordable Unit (except for a First Homes);
- (b) has exercised any statutory right to buy (or equivalent contractual or voluntary right) in respect of a particular Affordable Housing Unit (except for a First Homes);
- (c) has been granted a shared ownership lease by a Registered Provider (or similar arrangement where a share of the Affordable Unit is owned by the tenant and a share is owned by the Registered Provider) and the tenant has subsequently purchased from the Registered Provider all the remaining shares so that the tenant owns the entire Affordable Unit (except for a First Home);
- (d) is a former tenant of an Affordable Unit (except for a First Home) who has purchased that Affordable Unit under the provisions of the Housing and Regeneration Act 2008 or any statutory right in force from time to time entitling tenants of Registered Providers to purchase their homes;
- (e) has been granted a shared ownership lease by a Registered Provider (or similar arrangement where a share of the Affordable Unit (except for a First Home) is owned by the tenant and a share is owned by the Registered Provider) in respect of a particular Affordable Unit and who has subsequently purchased from the Registered Provider all the remaining shares so that the tenant owns 100% of that Affordable Unit;
- (f) is a former tenant of an Affordable Unit (except for a First Home) where a Registered Provider sells to the tenant through Social Homebuy funded pursuant to section 19(3) of the Housing and Regeneration Act 2008, a voluntary grant scheme under section 21 of the Housing Act 1996, or any amendment or replacement thereof; and/or

any person or body deriving title through or from any of the parties mentioned in (a) to (f) above.

Registered Provider	a registered provider of social housing as defined in Section 80(2) of the Housing and Regeneration Act 2008 and listed in the registers kept by Homes England under Chapter 3 of that Act and on the Council's Approved List.
SDLT	means Stamp Duty Land Tax as defined by the Finance Act 2003 or any tax replacing it of like effect;
Site	all that Site known as Land at the William Freeman Site Wakefield Road, Mapplewell shown edged red on the Plan.
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.

Valuer	a chartered surveyor (being a member of the Royal Institution of Chartered Surveyors) appointed by agreement between the Owner and the Council to act as an independent expert in the determination of the Open Market Value where required in accordance with this Agreement.
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 or repealed 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 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.
- 1.4 Any words denoting natural persons shall include legal persons and vice versa.
- 1.5 References to clauses paragraphs and schedules are references to clauses paragraphs and schedules to this Deed.
- 1.6 The expression Owner shall include their successors in title and assigns.
- 1.7 The expression Council shall include any successor authority to its statutory functions under the 1990 Act.
- 1.8 Where a party includes more than one person any obligations of that party shall be joint and several.
- 1.9 Clause headings shall not affect the construction of this Deed.
- 1.10 Any phrase introduced by the terms 'including' 'include' 'in particular' or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2. STATUTORY BASIS

- 2.1 This Deed secures planning obligations made pursuant to section 106 of the 1990 Act and 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 local planning authority for the purposes of the 1990 Act.
- 2.3 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

- 3.1 This Deed is conditional upon and does not become effective unless and until the Planning Permission is granted.
- 3.2 Clause 4 of this Deed is further conditional upon and does not become effective unless and until the Commencement of Development.

4. COVENANTS & DECLARATIONS

- 4.1 The Owner covenants with the Council to comply with the Planning Obligations in this Deed at Schedules 1 and 2.
- 4.2 The Council covenants with the Owner to comply with the obligations in this Deed at Schedule 3.
- 4.3 The Owner hereby acknowledges that its interest in the Site is bound by the covenants, restrictions and obligations in this Deed.

5. EXCLUSIONS AND RELEASE

- 5.1 No party shall be bound by the terms of this Deed or be liable for the 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:
 - 5.2.1 expires before the Commencement of Development; or
 - 5.2.2 is at any time revoked or modified (without the consent of the Owner) pursuant to Part IV of the 1990 Act

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 over 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 shall 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 shall 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 upon the written request of the Owner as soon as reasonably practicable effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.

7. NON-FETTER AND 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. SECTION 73 OF THE 1990 ACT

If an application is made under section 73 of the 1990 Act in respect of the Planning Permission to carry out the Development without complying with a condition or conditions to which the Planning Permission is subject (a S73 Application) then in the event that the Council is minded to approve such S73 Application:

- (a) if the Council considers that the Planning Obligations contained in this Deed are both sufficient and necessary to make the development proposed by such S73 Application acceptable in planning terms then references to Planning Permission in this Deed shall be deemed to also be references to that new planning permission and the Parties agree that this Deed shall apply to and remain in full force in respect of both that new planning permission and the Planning Permission without the need for a further deed to be made pursuant to section 106 of the 1990 Act; or
- (b) if the Council considers that additional or modified planning obligations are necessary to make the development proposed by such S73 Application acceptable in planning terms then for the avoidance of doubt nothing in this Clause 8 shall fetter the Council's ability in the exercise of its proper planning judgment to require the completion of such further deed made pursuant to section 106 of the 1990 Act as it considers necessary and in such case Clause 8(a) shall be disregarded.

9. INTEREST

If any sum or amount has not been paid to the Council by the date it is due then the sum payable shall attract interest on that sum or amount at the Default Interest Rate and such interest shall accrue on a daily basis for the period from the due date to and including the actual date of payment.

10. INDEXATION

- 10.1 All Contributions payable to the Council shall be Index Linked.
- 10.2 Where reference is made in this Deed to an index, and that index ceases to exist or is replaced or rebased, then such reference shall be deemed to include any replacement or rebased index or, in the event the index is not replaced, to such alternative reasonably comparable index as the Council shall advise the Owner in writing.

11. VAT

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

12. SEVERANCE

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.

13. CHANGE OF OWNERSHIP

The Owner agrees with the Council to give the Council written notice within 10 Working Days of any change in proprietorship 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 disposal of an individual Dwelling.

14. NOTIFICATION

14.1 Any notice, request, demand or other written communication to be given or served under this Deed must be in writing and must be:

14.1.1 delivered by hand; or

14.1.2 sent by special delivery post or another recorded delivery next working day delivery service.

14.2 Any notice, request, demand or other written communication to be given or served under this Deed must be sent to the relevant party as follows:

14.2.1 to the Head of Planning and Building Control at Barnsley Metropolitan Borough

14.2.2 Council, Westgate Plaza One, PO Box 600, Barnsley, S70 9EZ, quoting the Application reference number 2021/1661;

14.2.3 to the Owner marked for the attention of the Directors at the address given at the start of this deed with a copy sent to and marked for the attention of the Directors, Purico Limited, Environment House, 1 St Marks Street, Nottingham NG3 1DE

at or as otherwise specified by the relevant party by notice in writing to each other party whether or not in accordance with Clause 14.

14.3 Any notice, request, demand or other written communication given or served in accordance with Clause 14.1 or Clause 14.2 shall be deemed to have been received:

14.3.1 if delivered by hand, on signature of a delivery receipt provided that if delivery occurs after 5.00 pm on a Working Day, or on a day which is not a Working Day, the notice shall be deemed to have been received at 9.00 am on the next Working Day; or

14.3.2 if sent by pre-paid first class post or other next working day delivery service, on the Working Day after posting.

- 14.4 A notice, request, demand or other written communication given under this deed shall not be validly given if sent by e-mail.
- 14.5 This Clause 14 does not apply to the service of any proceedings or other documents in any legal action.

15. DISPUTE RESOLUTION

- 15.1 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.
- 15.2 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 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 whose decision (except in cases of manifest error or fraud) shall be final and binding on the parties.
- 15.3 The following provisions and terms of appointment shall apply to such disputes or disagreements:-
- 15.3.1 the Expert shall be agreed between the parties or, in default of agreement within 10 Working Days of receipt of the notice in Clause 15.2 above, shall be appointed or identified by the following persons:
- (a) in the case of disputes relating to land or valuation matters the President of the Royal Institution of Chartered Surveyors;
 - (b) in the case of disputes relating to planning or design matters the President of the Royal Town Planning Institute; or
 - (c) in the case of any other dispute the President of the Bar Council.
- 15.3.2 the Expert shall act as an expert and not as an arbitrator
- 15.3.3 the Expert shall be required to give notice of their appointment to each of the parties (Expert's Notice) and thereafter:
- (a) 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;
 - (b) 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;
 - (c) the Expert shall disregard any representations made out of this time; and
 - (d) 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;
 - (e) 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

- 15.3.4 the Expert shall make his decision within 20 Working Days of the close of the period for submissions of written representations;
- 15.3.5 the Expert's decision shall be in writing and shall give reasons for the decision; and
- 15.3.6 each party shall bear its own costs and the Expert's costs will be payable in the determination of the Expert.
- 15.3.7 The Expert's decision is binding except in the case of manifest error.
- 15.4 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:
 - 15.4.1 either party may apply to the relevant body as per Clause 15.3.1 to discharge the Expert and appoint a replacement Expert with the required expertise; and
 - 15.4.2 Clause 15.3 shall apply to the new Expert as if they were the first Expert appointed.

16. THIRD PARTY RIGHTS

No person who is not a party to this Deed may enforce any terms hereof pursuant to the Contracts (Rights of Third Parties) Act 1999 PROVIDED THAT this clause shall not affect any right of action of any person to whom this Deed has been lawfully assigned or becomes vested in law including successors in title to the Site.

17. COSTS

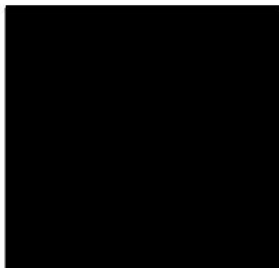
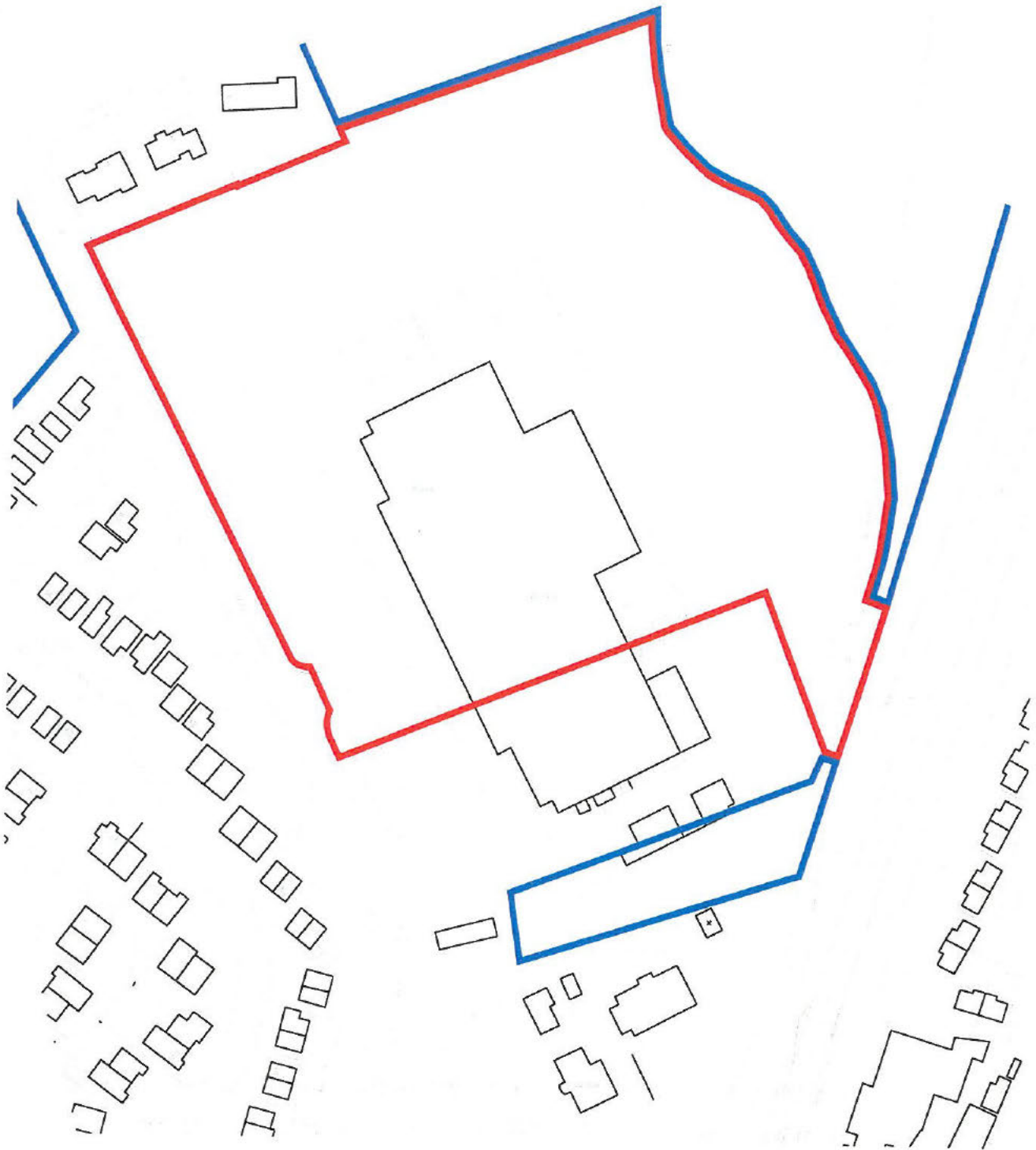
The Owner shall on (or prior to) the date hereof pay the reasonable legal costs of the Council incurred in the preparation, negotiation and completion of this Deed in the sum of £1500.

18. JURISDICTION

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.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Plan



B	12.10.18	RED LINE AMENDED AT SOUTHERN BOUNDARY	SD	LM
A	13.04.16	RED & BLUE LINE AMENDED	LS	LM

REV	DATE	DESCRIPTION	BY	CHECK
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CLIENT:
PIPESTONE LTD

DRAWING NUMBER:
P08:4145:02

PROJECT:
EAST OF WAKEFIELD ROAD,
MAPPLEWELL

SCALE @ A3:
1:1250

DRAWING:
LOCATION PLAN

DRAWN:
SD

DATE:
DEC 17

CHECKED:
LM

DATE:
DEC 17

14 MARINER COURT / CALDER PARK / WAKEFIELD / WF4 3FL
01924 363322 / www.jrpassoc.co.uk / info@jrpassoc.co.uk
JRP Associates is a trading style of JRP & P Policy Associates Limited



1:1250 SCALE



02 / LOCATION PLAN

SCHEDULE 1 (PART 1)

AFFORDABLE HOUSING

1. PROVISION OF ON-SITE AFFORDABLE UNITS

- 1.1 The Owner shall not Commence Development until the Council has approved in writing an Affordable Housing Scheme such approval not to be unreasonably withheld or delayed.
- 1.2 As part of the carrying out of the Development the Owner shall ensure that the Affordable Units shall:
 - 1.2.1 be provided in accordance with an approved Affordable Housing Scheme; and
 - 1.2.2 be provided in accordance with the Planning Permission and any applicable legislation, policy and regulatory requirements relevant to the delivery of new Affordable Housing.
- 1.3 The Owner shall notify the Council of the Practical Completion of the last of the Affordable Units within 30 days thereof.

2. TRANSFER OF THE AFFORDABLE UNITS

- 2.1 The Owner shall as soon as reasonably practicable following the Commencement of Development issue draft heads of terms (the Initial Registered Provider Transfer Terms) to a Registered Provider and thereafter use reasonable endeavours to contract to transfer the Affordable Units to the Registered Provider (the Initial Registered Provider) in accordance with the approved Affordable Housing Scheme.
- 2.2 If the proposed sale does not proceed in accordance with the Initial Registered Provider Transfer Terms the Owner will continue to use reasonable endeavours to exchange contracts with an alternative Registered Provider appearing on the Council's Approved List (subject to any variations to the Council's Approved List that may be agreed in writing between the Council and the Owner from time to time) and will keep the Council informed of the Owner's progress.
- 2.3 If the Owner has complied with paragraphs ^{2.1} ~~Paragraph 2.2 of 0~~ ~~Paragraph Error! Reference source not found.~~ of this Deed and no Registered Provider has contracted to acquire one or more of the Affordable Units:
 - 2.3.1 within a period of 6 months from the Practical Completion of the last of the Affordable Units; or
 - 2.3.2 upon the Occupation of 30% of the General Housing Units (whichever is the earlier)the Owner may (at the Owners' absolute discretion) either:
 - 2.3.3 suggest a further alternative Registered Provider and thereafter the procedure contained in paragraphs Paragraph 2.1 to Paragraph 2.2 of 0 shall be repeated until a Registered Provider(s) agrees to accept the transfer of such Affordable Units; or
 - 2.3.4 dispose of such Affordable Units on the open market and in lieu of the on-site provision of Affordable Housing the Owner shall pay to the Council the Affordable Housing Contribution.

3. RESTRICTION ON OCCUPATION OF GENERAL HOUSING UNITS

- 3.1 The Owner shall not Occupy or permit to be Occupied more than 50% of the General Housing Units until the Owner have either:

3.1.1 notified the Council in writing that 80% of the Affordable Units have been Practically Completed and transferred to the Registered Provider and the Owner shall not Occupy or permit to be Occupied more than 80% of the General Housing Units of the Affordable Units have been Practically Completed and transferred to the Registered Provider; or

3.1.2 paid an Affordable Housing Contribution to the Council in respect of any Affordable Units not falling within paragraph 3.1.1.

3.2 Any Affordable Housing Contribution payable in accordance with Paragraph 3.1.2 of ^{Schedule 1} above shall be calculated as follows (in reference to each applicable Affordable Unit):

A – (B)

Where: A = the Open Market Value.

B = the Affordable Value.

In calculating any Affordable Housing Contribution:

3.2.1 in the event that the Owner and the Council cannot agree the Affordable Housing Contribution within 30 Working Days (or such lesser period as may be agreed) the Affordable Housing Contribution shall be determined by a Valuer;

3.2.2 the Valuer shall act as an expert and his decision shall be final; and

3.2.3 the costs of any determination by the Valuer shall be paid by the Owner.

4. MANAGEMENT AND OCCUPATION OF ON-SITE AFFORDABLE UNITS

4.1 Subject only to paragraphs 2.3.4 and 5 of this Schedule 1 the Owner shall not permit the Affordable Units to be Occupied other than as Affordable Housing in accordance with an approved Affordable Housing Scheme.

4.2 For the avoidance of doubt, nothing in this Schedule 1 shall prevent any of the General Housing Units from being voluntarily provided as Affordable Housing and in such case such General Housing Units:

4.2.1 may comprise 'affordable housing' for the purposes of the National Planning Policy Framework and/or a 'qualifying dwelling' for the purposes of Regulation 49(2) of the Community Infrastructure Levy Regulations 2010; and

4.2.2 shall not comprise Affordable Units for the purposes of this Deed

5. EXCLUSIONS TO THIS SCHEDULE 1

5.1 The obligations in this Deed shall not be binding on:

5.1.1 any Protected Tenant (or any mortgagee or chargee, receiver or administrative receiver of the Protected Tenant);

5.1.2 any Chargee (subject only to Paragraph 5.2 of 0); or

5.1.3 any purchaser of an individual Affordable Unit from a Protected Tenant or a Chargee.

5.2 This 0of this Deed shall not be binding on a Chargee PROVIDED THAT:

5.2.1 such Chargee has first given written notice to the Council of its intention to dispose of the relevant Affordable Unit(s) and thereafter has used reasonable endeavours over a

period of three months from the date of the written notice to complete a disposal of the relevant Affordable Unit(s) to a 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

- 5.2.2 if such disposal has not completed within the three month period, the Chargee shall be entitled to dispose of the Affordable Unit(s) free from the obligations in this 0 of this Deed which thereafter will determine absolutely in respect of such Affordable Unit(s).

SCHEDULE 1 (PART 2)

FIRST HOMES

5.3 First Homes – Delivery Mechanism

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

5.3.1.1 the Eligibility Criteria (National); and

5.3.1.2 Eligibility Criteria (Local) (if any).

5.3.2 If after a First Home has been actively marketed for three months (such period to expire no earlier than 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 5.3.1.2 of this Schedule shall cease to apply.

5.3.3 Subject to paragraphs 5.3.6 to 5.3.10 of this Schedule, no First Home shall be Disposed of (whether on a first or any subsequent sale) unless not less than 50% (fifty percent) of the purchase price is funded by a first mortgage or other home purchase plan with a Mortgagee.

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

5.3.4.1 The Council has been provided with evidence that:

(a) the intended purchaser meets the Eligibility Criteria (National) and unless paragraph 5.3.2 of this Schedule applies meets the Eligibility Criteria (Local);

(b) the Dwelling is being Disposed of as a First Home at the First Home Sale Price; and

(c) the transfer of the First Home includes:

(i) a definition of the "Council" which shall be Barnsley Metropolitan Borough Council;

(ii) a definition of "First Homes Provisions" in the following terms:

"means the provisions set out in paragraphs 5.3.1 to 5.3.9 of the First Schedule to the Section 106 Agreement;"

(iii) a definition of "Section 106 Agreement" means the agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 dated [] made between (1) Barnsley Metropolitan Borough Council and (2) Pipestone Limited.

(iv) a provision that the First Home is sold subject to and with the benefit of the First Homes Provisions and the transferee acknowledges that it may not transfer or otherwise Dispose of the First Home or any part of it other than in accordance with the First Homes Provisions;

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

5.3.4.2 The Council has issued the Compliance Certificate and the Council hereby covenants that it shall issue the Compliance Certificate within 7 (seven) days of being provided with evidence sufficient to satisfy it that the requirements of paragraphs 5.3.3 and 5.3.4.1 of this Schedule have been met.

5.3.4.3 The Owner shall pay to the Council prior to the date of the Initial Disposal of each First Home the sum of £1,500.00 (one thousand five hundred pounds) as a contribution towards the Council's costs incurred in connection with the performance of the Council's obligations under this Agreement.

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

"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by f Barnsley Metropolitan Borough Council of Town Hall Barnsley South Yorkshire S70 2TA or a conveyancer that the provisions of clause XX (the First Homes Provision) of the Transfer dated [Date] referred to in the Charges Register have been complied with or that they do not apply to the disposition"

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

5.3.6.1 the Dwelling has been actively marketed as a First Home for 6 (six) months in accordance with paragraphs 5.3.1 and 5.3.2 of this Schedule (and in the case of a first Disposal the 6 (six) months shall be calculated from a date no earlier than 6 (six) months prior to Practical Completion) and reasonable endeavours have been made to Dispose of the Dwelling as a First Home but it has not been possible to Dispose of that Dwelling as a First Home in accordance with paragraphs 5.3.3 and 5.3.4.1 of this Schedule; or

5.3.6.2 requiring the First Homes Owner to undertake active marketing for the period specified in paragraph 2.1.6.1 of this Schedule before being able to Dispose of the Dwelling other than as a First Home would be likely to cause the First Homes Owner undue hardship.

5.3.7 Upon receipt of an application served in accordance with paragraph 2.1.6 of this Schedule the Council shall have the right (but shall not be required) to direct that the relevant Dwelling is disposed of to it at the First Home Sale Price.

5.3.8 If the Council is satisfied that either of the grounds in paragraph 5.3.6 of this Schedule have been made out it shall confirm in writing within 28 (twenty eight) days of receipt of the written request made in accordance with paragraph 5.3.6 of this Schedule that the relevant Dwelling may be Disposed of:

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

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

and on the issue of that written confirmation the obligations in this Agreement which apply to First Homes shall cease to bind and shall no longer affect that Dwelling apart from paragraph 5.3.10 of this Schedule which shall cease to apply on receipt of payment by the Council where the relevant Dwelling is disposed of other than as a First Home.

5.3.9 If the Council does not wish to acquire the relevant Dwelling itself and is not satisfied acting reasonably that either of the grounds in paragraph 5.3.6 of this Schedule have been made out then it shall within 28 (twenty eight) days of receipt of the written request made in accordance with paragraph 5.3.6 of this Schedule serve notice on the Owners setting out the further steps it requires the owner to take to secure the Disposal of a Dwelling as a First Home and the timescale (which shall be no longer than six months). If at the end of that period the owner has been unable to Dispose of the Dwelling as a First Home he may serve notice on the Council in accordance with paragraph 5.3.6 of this Schedule following which the Council must within 28 (twenty eight) days issue confirmation in writing that the Dwelling may be Disposed of other than as a First Home.

5.3.10 Where a Dwelling is Disposed of other than as a First Home or to the Council at the First Home Sale Price in accordance with paragraphs 5.3.8 or 5.3.9 of this Schedule the owner of the First Home shall pay to the Council forthwith upon receipt of the proceeds of sale the Additional First Homes Contribution.

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

5.3.11.1 within 28 (twenty eight) working days of such receipt, provide a completed application to enable the removal of the restriction on the title set out in paragraph 5.3.5 of this Schedule where such restriction has previously been registered against the relevant title;

5.3.11.2 apply all monies received towards the provision of Affordable Housing within the Craven Ward (Ward 09)

5.3.12 Any person who purchases a First Home free of the restrictions in this Schedule pursuant to the provisions in paragraphs 5.1.9 and 5.1.10 of this Schedule shall not be liable to pay the Additional First Homes Contribution to the Council.

5.4 First Homes – Use

Each First Home shall be used only as the main residence of the First Homes Owner and shall not be let, sub-let or otherwise Disposed of other than in accordance with the terms of this Agreement PROVIDED THAT letting or sub-letting shall be permitted in accordance with paragraphs 5.4.1 – 5.4.4 of this Schedule:

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

5.4.2 A First Homes Owner may let or sub-let their First Home for any period provided that the First Homes Owner notifies the Council and the Council consents in writing to

the proposed letting or sub-letting. The Council covenants not to unreasonably withhold or delay giving such consent and not to withhold such consent in any of circumstances of paragraphs 2.2.2.1 to 2.2.2.6 of this Schedule:

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

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

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

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

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

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

5.4.2.7 A letting or sub-letting permitted pursuant to paragraph 5.4.1 or 5.4.2 of this Schedule must be by way of a written lease or sub-lease (as the case may be) of the whole of the First Home on terms which expressly prohibit any further sub-letting.

5.4.3 Nothing in this paragraph 5.4 prevents a First Homes Owner from renting a room within their First Home or from renting their First Home as temporary sleeping accommodation provided that the First Home remains at all times the First Home Owner's main residence.

5.5 First Homes – Mortgagee Exclusion

The obligations in paragraphs 5.3 and 5.4 of this Schedule in relation to First Homes shall not apply to any Mortgagee or any receiver (including an administrative receiver appointed by such Mortgagee or any other person appointed under any security documentation to enable such Mortgagee to realise its security or any administrator (howsoever appointed (each a Receiver)) of any individual First Home or any persons or bodies deriving title through such Mortgagee or Receiver PROVIDED THAT:

5.5.1 such Mortgagee or Receiver shall first give written notice to the Council of its intention to Dispose of the relevant First Home; and

5.5.2 once notice of intention to Dispose of the relevant First Home has been given by the Mortgagee or Receiver to the Council the Mortgagee or Receiver shall be free to sell that First Home at its full Market Value and subject only to paragraph 5.5.3 of this Schedule;

5.5.3 following the Disposal of the relevant First Home the Mortgagee or Receiver shall following the deduction of the amount due and outstanding under the relevant security documentation including all accrued principal monies, interest and reasonable costs and expenses pay to the Council the Additional First Homes Contribution;

5.5.4 following receipt of notification of the Disposal of the relevant First Home the Council shall:

5.5.4.1 forthwith issue a completed application to the purchaser of that Dwelling to enable the removal of the restriction on the title set out in paragraph 5.3.5 of this Schedule; and

5.5.4.2 apply all such monies received towards the provision of Affordable Housing.

SCHEDULE 2

Financial Contributions

1. EDUCATION CONTRIBUTION

- 1.1 The Owner shall pay the Education Contribution to the Council in the following instalments:
- 1.2 £248,000 (two hundred and forty-eight thousand pounds) prior to the Occupation of more than 25% of the Dwellings and shall not allow more than 25% of the Dwellings to be Occupied until the said first instalment of the Education Contribution has been paid to the Council.
- 1.3 £248,000 (two hundred and forty-eight thousand pounds) prior to the Occupation of more than 50 Dwellings and shall not allow more than 50 Dwellings to be Occupied until the said second instalment of the Education Contribution has been paid to the Council

2. OFF SITE OPEN SPACE CONTRIBUTION

- 2.1 The Owner shall pay the Off Site Open Space Contribution to the Council prior to the Occupation of more than 25% of the Dwellings and shall not allow more than 25% Dwellings to be Occupied until the Off Site Open Space has been paid to the Council.

SCHEDULE 3

Council's Covenants

1. The Council shall issue separate receipts on request for any sum paid to it under this Deed;
2. The Council shall place the Contributions and any Affordable Housing Contribution in an interest bearing account or in separate accounts as the Council shall at its discretion decide.
3. The Council shall not apply the Contributions or any Affordable Housing Contribution for any purpose other than for the purposes set out in this Deed;
4. In the event that any Contribution or the Affordable Housing Contribution (or any part or parts thereof) are not expended or committed within 10 (ten) years of the date of payment then the sum or sums not expended plus interest accrued shall be repaid to the party that paid it or their nominee as soon as reasonably practicable; and
5. The Council shall respond to any request to account for the sums expended within 28 (twenty eight) Working Days of that request being made.

Executed as a deed by affixing the common seal of **BARNSELY METROPOLITAN BOROUGH COUNCIL** in the presence of a duly authorised signatory:

.....
Signature

.....
Print Name



EXECUTED as a **DEED**

by)
PURICO LANDINVEST LIMITED
)

Acting by a Director

.....
Signature

Witness Signature:

Witness Name:

Witness Address:

Witness Occupation: