

DATED _____ **2025**

RIBBLE VALLEY BOROUGH COUNCIL (1)

and

**VINCENT JOSEPH GATES & ROBERT CLIFFORD GATES as Executors of Christopher
Stephen Gates (deceased) (2)**

and

HALLAM LAND MANAGEMENT LIMITED (3)

Section 106 of the Town and Country Planning Act 1990 (as amended)

AGREEMENT AND PLANNING OBLIGATION

Relating to Land at Longsight Road, Langho, Blackburn

Application Reference No. 3/2025/0196

WALKER MORRIS LLP

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Ref: JIF/HAL00487.140

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BETWEEN:

- (1) **RIBBLE VALLEY BOROUGH COUNCIL** of Council Offices, Church Walk, Clitheroe, Lancashire, BB7 2RA (“**Council**”) of the first part; and
- (2) **VINCENT JOSEPH GATES & ROBERT CLIFFORD GATES as Executors of Christopher Stephen Gates (deceased)** both of 7 Bonny Grass Terrace, Billington, Clitheroe, BB7 9LY (“**Owner**”) of the second part; and
- (3) **HALLAM LAND MANAGEMENT LIMITED** (Company registration no. 02456711) whose registered office is at Isaacs Building, 4 Charles Street, Sheffield, United Kingdom, S1 2HS (“**Promoter**”) of the third part;

together the “**Parties**” and reference to “**Party**” shall be construed accordingly.

BACKGROUND

- (A) For the purposes of the 1990 Act the Council is the local planning authority for the area in which the Site is situated and by whom the Planning Obligations hereby created are enforceable.
- (B) The Owner is the registered freehold proprietor of the Site which is registered at HM Land Registry under Title Number LAN147514.
- (C) The Promoter has an interest in the Site by way of a conditional agreement dated 23 December 2013 and made between the Owner and the Promoter.
- (D) The Promoter has submitted the Application to the Council for planning permission for the Development.
- (E) The Council resolved on 27 June 2025 to refuse the Planning Permission for the Development and the Appeal has been lodged on behalf of the Promoter.
- (F) The Parties by entering into this Agreement 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.

1. DEFINITIONS AND INTERPRETATION

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

- “1990 Act”** means the Town and Country Planning Act 1990;
- “Appeal”** means the appeal PINS Reference No. [] lodged on behalf of the Promoter against the Council’s refusal of the Application for the Development;
- "Affordable Housing"** affordable housing as defined in Annex 2 of the National Planning Policy Framework (December 2024) (or as redefined by any amendment, replacement or re-enactment thereof).;
- "Affordable Housing Units"** 30% of the Dwellings shall be provided as Affordable Housing constructed in accordance with the Planning Permission and the provisions of this Agreement and provided as:
- (i) 50% Affordable Rent Units; and
 - (ii) 50% Discount Sale Units or Shared Ownership Units
- and "Affordable Housing Unit" shall be construed accordingly;
- "Affordable Rent Units"** means an Affordable Housing Unit available for rent where the lettings shall be made under a form of tenancy prescribed by Homes England and at a rent equal to or less than the maximum amount of local housing allowance payable for the Dwelling;
- "Allocation Scheme"** the Council’s policy for the allocation of Affordable Rent Units;
- “Application”** means the application validated by the Council on 31 March 2025 under reference number 3/2025/0196 for outline planning application for up to 300 residential

dwellings, associated access, rail station car park, green infrastructure and sustainable drainage systems (all matters reserved except for access);

"Chargee"

any mortgagee, chargee or receiver of a Registered Provider in respect of the Affordable Housing Units;

"Commencement of Development"

means for the purposes of this Agreement only the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development or a Phase (as the context requires) begins to be carried out pursuant to the Planning Permission other than operations consisting of site clearance, demolition work, archaeological investigations, site preparation including earthworks, investigations for the purposes of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, the erection of any temporary means of enclosure and the temporary display of site notices or advertisements and "Commence Development" and "Commence the Development" shall be construed accordingly;

"Contributions"

means the Public Transport Contribution, Travel Plan Contribution, and Travel Plan Modal Shift Contribution;

"Default Interest Rate"

means 1% (one percent) per annum above base rate from time to time of Barclays Bank;

"Development"

means the development of the Site in accordance with the Planning Permission;

"Discount Sale Unit"

any Affordable Housing Unit which is to be sold at no more than 70% (seventy per cent) of Market Value pursuant to paragraph 1.12 of Schedule 1 of this Agreement;

“Dwelling” means a residential unit that may be built on the Site in accordance with the Planning Permission and reference to **“Dwellings”** shall be construed accordingly;

"Eligible Household" a person or household in need of Affordable Housing because their needs are not met by the market as determined with regard to housing need, local incomes, local house prices and:

(a) in the case of Affordable Rent Units, identified in accordance with the provisions of the Allocation Scheme or other criteria reasonably adopted by the Council from time to time; and

(b) in the case of Shared Ownership Dwellings, a household with an income of £80,000.00 (eighty thousand pounds) or less and a first-time buyer, or someone who owns an existing home where they are unable to afford to buy a home suitable for meeting the housing needs on the open market;

(c) in the case of Discount Sale Units a household with an income of £80,000.00 (eighty thousand pounds) or less and a first-time buyer, or someone who owns an existing home where they are unable to afford to buy a home suitable for meeting the housing needs on the open market;

“Expert” means an independent person of at least 10 (ten) years standing in the area of expertise relevant to the dispute to be agreed between the parties to this Agreement or, failing agreement, to be nominated at the request and option of any of them, at their joint expense, by or on behalf of the President for the time being of the Law Society of England and Wales;

"Homes England" means 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);

“Index” means the BCIS Tender Price Index (being the Tender Price Index published by the Building Cost Information Service or any official publication substituted for it);

“Index Linked” means such increase to any sum or sums payable under this Agreement on an annual basis or pro rata per diem from the date of this Agreement to the date the payment is due based upon the Index last published before the date of this Agreement;

“Inspector” means an inspector appointed by the Secretary of State to determine the Appeal pursuant to Schedule 6 of the 1990 Act;

“Management Company” means a company or partnership or other body constituted for the purpose of maintaining open spaces for public access and/or recreation and/or other purposes;

"Market Dwellings" the residential units to be constructed pursuant to the Planning Permission excluding the Affordable Housing Units;

"Market Value" the estimated amount for which a Discount Sale Unit would sell on the open market for cash consideration on the date of valuation as agreed by the Council (or in the absence of agreement by an expert) assuming:

(a) it was not subject to the restrictions in this Agreement;

(b) a willing buyer and a willing seller in an arm's length transaction;

(c) that prior to the date of valuation there had been a

reasonable period (having regard to the nature of the Discount Sale Unit and the state of the market) for the proper marketing of the Discount Sale Unit for the agreement of price and terms and for the completion of the same;

(d) that the state of the market level of values and other circumstances were on any other earlier assumed date of exchange of contracts the same as on the date of valuation;

(e) that no account is taken of any additional bid by a purchaser with a special interest; and

(f) that each party had acted knowledgeably prudently and without compulsion;

“Occupation”

means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in the construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and reference to “**Occupy**” shall be construed accordingly;

"Open Space"

the open space to be provided as part of the Development shown for indicative purposes only on Plan 2;

"Open Space Completion Notice"

a notice(s) to be served by the Owner on the Council confirming that the Open Space has been Substantially Completed;

"Open Space Final Certificate"

the written confirmation of the Council that the Open Space set out in the Open Space Completion Notice is in accordance with the approved Open Space Management Scheme;

"Open Space Management

means a written scheme setting out the proposals for the provision of and implementation of ongoing maintenance

Scheme"

and management of Open Space (which for the avoidance of doubt can be provided in Phases) and such scheme shall include (save where such matters are dealt with adequately by a condition or conditions within the Planning Permission or reserved matters):

- (a) the specification for the Open Space;
- (b) the date or other means of determining the commencement of the laying out of the Open Space;
- (c) the period required to complete the laying out of the Open Space;
- (d) the projected schedule of maintenance outlining the details of the future maintenance of the Open Space after completion; and
- (e) the identity of the Management Company (if applicable).

"Over 55 Accommodation"

means a Dwelling that shall not be Occupied by a person under the age of 55 years (except that in circumstances of a married couple or civil partnership at least one person in the married couple or civil partnership is not less than 55 years of age) or by a person certified by the Council as requiring accommodation habitable without necessitating the need for access to upper floors;

"Plan 1"

means Drawing No. 0100 dated 29.10.2024 appended hereto at Annex 1;

"Plan 2"

means Drawing No. 0101 Rev F dated 11 November 2025 appended hereto at Annex 2;

"Planning Obligations"

means the obligations, conditions and stipulations set out in Schedule 1;

“Planning Permission”

means a planning permission which may be granted pursuant to the Application and the Appeal by an Inspector or the Secretary of State;

"Priority Order"

the following cascading order of persons to whom an Affordable Housing Unit must be offered in accordance with paragraph 1.7 or 1.14 of Schedule 1:-

(a) people who have lived in the Borough of Ribble Valley for at least 5 of the last 10 years;

(b) people who currently live within the Borough of Ribble Valley and have done so for at least the past 12 months (proof of residence for the relevant period must be provided in the form of the electoral roll or (if such persons are not on the electoral roll) utility and council tax bills);

(c) people who previously lived in the Borough of Ribble Valley for not less than 3 years but were forced to move away because of the lack of Affordable Housing;

(d) people who (currently work in the Borough of Ribble Valley and have done so for at least the past 12 months for more than 18 hours per week;

(e) people who currently have a close family member (mother, father, brother, sister, son, daughter) living in the Borough of Ribble Valley and who have done so for not less than 3 years; and

(f) people who are the wife, husband or civil partner (as defined in the Civil Partnership Act 2004) or are the resident dependent (such as a child) of such a person specified in (i) to (v) above;

“Public Transport

means the sum of £583.33 (Five Hundred and Eighty Three Pounds and Thirty Three Pence) per Dwelling per

Contribution”

annum to be paid in accordance with paragraph 4 of Schedule 1 such sum to be applied by the Council for [X];

"Protected Tenant"

any tenant who:

(a) has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being enforced (or any equivalent contractual right) in respect of a particular Affordable Housing Unit;

(b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit;

(c) has acquired an Affordable Housing Unit from a Registered Provider through Social HomeBuy funded pursuant to section 19(3) of the Housing and Regeneration Act 2008, or any amendment or replacement thereof;

(d) has been granted a Shared Ownership Lease by a Registered Provider (or similar arrangement where a share of the Affordable Housing Unit is owned by the Tenant and a share is owned by the Registered Provider) in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the Registered Provider all the remaining shares so that the tenant owns the entire Affordable Housing Unit;

and any person or body and/or their mortgagee deriving title through or from any of the parties mentioned in paragraphs (a) to (d) above;

"Registered Provider"

a company or organisation whose aim or function includes the provision and management of Affordable Housing (including Affordable Housing of the type and amount proposed within the Development) and which is either:

(a) a Non Profit Registered Provider as defined by the

Housing and Regeneration Act 2008 (or as redefined by any amendment, replacement or re-enactment of that Act) and registered with Homes England; or

(b) any company or other body approved by Homes England for receipt of social housing grant;

"Shared Ownership Lease" a lease in the form of the Homes England model shared ownership lease as amended from time to time and on terms that permit part purchase of a minimum of 10% (ten per cent) of the equity in a Dwelling together with the rent payable for the open market rack rental value of the unpurchased percentage of the equity in the unit up to a value which does not exceed the rent set by Homes England from time to time (or such other rent or form of lease approved in writing by the Council in its absolute discretion) and permits staircasing up to 100% (one hundred per cent) ownership;

"Shared Ownership Units" an Affordable Housing Unit made available and sold subject to a Shared Ownership Lease;

"Site" means the land at Longsight Road, Langho, Blackburn shown edged red on Plan 1;

"Statutory Undertaker" means any company corporation board or authority at the date of this Agreement authorised by statute to carry on an undertaking for the supply of telephone and television communications electricity gas water or drainage and any authorised successor to any such undertaking;

"Transfer" means in relation to the transfer of an interest in property the transfer of a freehold interest and "Transferred" shall be construed accordingly;

"Travel Plan" means the Framework Travel Plan dated 6 March 2025, prepared by Hydrock Fore and submitted as part of the

Application;

"Travel Plan Contribution" means the sum of £60 (Sixty Pounds) per Dwelling such sum to be applied by the Council towards Travel Plan support, promotion, monitoring and evaluation;

"Travel Plan Modal Shift Contribution" means the sum of £250 (Two Hundred and Fifty Pounds) per Dwelling such sum to be applied by the Council towards supporting a modal shift agreed and linked to the Travel Plan targets; and

"Working Day" means any day from Monday to Friday inclusive which is not Christmas Day, Boxing Day, Good Friday, Easter Monday or a Statutory Bank Holiday and the term **"Working Days"** shall be construed accordingly.

1.2. Where the context so requires:

1.2.1. Reference in this Agreement 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.

1.2.2. 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.

1.2.3. Any words denoting natural person shall include legal persons and vice versa.

1.2.4. References to clauses paragraphs and schedules are references to clauses paragraphs and schedules to this Agreement.

1.2.5. The expression the "Owner" and the "Promoter" shall include their respective successors in title and assigns.

1.2.6. The expression "the Council" shall include any successor authority to its statutory functions under the 1990 Act.

- 1.2.7. Where a covenant, restriction or requirement is expressed to be given by more than one Party, or where a Party is comprised of more than one person, liability for such covenant, restriction or requirement shall be joint and several.
- 1.2.8. Any covenant by the Owner not to do any act or thing shall be deemed to include a covenant not to cause permit or suffer the doing of that act or thing.
- 1.2.9. Clause headings shall not affect the construction of this Agreement.
- 1.2.10. 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 Agreement is made pursuant to section 106 of the 1990 Act and binds the Site and as such is enforceable pursuant to section 106(3) of the 1990 Act against the Owner and any person claiming or deriving title to the Site (or any part or parts thereof) through or under the Owner as if that person had been an original covenanting party to this Agreement.
- 2.2. This Agreement 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. CONDITION PRECEDENT

- 3.1. This Agreement is conditional upon and does not become effective until the following conditions are satisfied:
 - 3.1.1. the Planning Permission has been granted; and
 - 3.1.2. except where otherwise stated in this Agreement, the Commencement of Development.
- 3.2. In the event that the Inspector or Secretary of State grants the Planning Permission pursuant to the Appeal but expressly states in his/her decision letter that any Planning Obligation (or part thereof) contained in this Agreement:

3.2.1. Is not a material planning consideration; or

3.2.2. That no weight can be attached to the Planning Obligation in determining the Appeal; or

3.2.3. Otherwise fails to comply with Regulation 122 or 123 of the Community Infrastructure Regulations 2010 (as amended);

then such Planning Obligation (or part thereof) will be deemed to be null and void and severed from the remainder of this Agreement.

4. COVENANTS & DECLARATIONS

4.1. The Owner covenant with the Council to comply with the Planning Obligations.

4.2. The Council covenants with the Owner to comply with the obligations in Schedule 2 and where applicable in Schedule 1.

5. EXCLUSIONS & RELEASE

5.1. No Party shall be bound by the terms of this Agreement or be liable for the breach of any covenants restrictions or obligations contained in this Agreement:

5.1.1. occurring prior to he or it acquiring an interest in the Site or the part in respect of which such breach occurs;

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

5.1.3. if he she or it shall be an individual owner, individual occupier or individual lessee of individual Dwellings or if it shall be a mortgagee and/or chargee and/or their respective successors in title and/or receiver appointed by the mortgagee and/or chargee of a Dwelling; or

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

5.2. If the Planning Permission expires prior to the Commencement of Development or is revoked or otherwise withdrawn or modified without the consent of the Owner or their successors in title this Agreement shall cease to have effect from the date of the said expiration revocation

withdrawal or modification (as the case may be) but without prejudice to any rights liabilities or obligations which may have been incurred by or shall have accrued to any party prior to such date.

- 5.3. No obligation in this Agreement shall be binding on or enforceable against any chargee or mortgagee from time to time who shall have the benefit of a charge or mortgage of or on any part of the Site (or any receiver appointed by such chargee or mortgagee) unless and until such charge, mortgagee or receiver (or any person appointed by them) has taken or entered into possession of the Site or part thereof in which case it will also be bound by the covenants, restrictions and obligations in this Agreement as if it were a person deriving title from an original covenanting party.

6. REGISTRATION

- 6.1. This Agreement 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 Agreement; or

6.2.2. the determination of this Agreement 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 Agreement.

7. NON-FETTER & WAIVER

- 7.1. Nothing in this Agreement restricts or is intended to restrict the proper exercise at any time by the Council of any of its statutory powers, functions or discretions.

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

- 7.3. Nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission or specified in a

section 73 application to which Clause 16 applies) granted before or after the date of this Agreement.

8. INDEXATION

8.1. All Contributions payable to the Council shall be Index Linked.

8.2. Where reference is made to an index and that index ceases to exist or is replaced or rebased then it shall include reference to any index which replaces it or any rebased index or in the event the index is not replaced, to an alternative reasonably comparable basis or index as the Council shall advise the Owner in writing.

9. INTEREST

If any sum or amount has not been paid to the Council by the date it is due the Owner shall pay interest on that amount at the Default Interest Rate (both before and after any judgment). Such interest shall accrue on a daily basis for the period from the due date to and including the date of payment.

10. VAT

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

11. SEVERENCE

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

12. CHANGE OF OWNERSHIP

The Owner agrees with the Council to give written notice to the Council within 20 (twenty) Working Days of any change in ownership of any of its interests in the Site occurring before all the obligations under this Agreement have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site purchased by reference to a plan **PROVIDED THAT** this obligation

shall not apply to a sale or disposal of an individual Dwelling or to the disposal of part of the Site to a Statutory Undertaker for the purposes of its undertaking.

13. NOTIFICATION

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

13.1.1. delivered by hand; or

13.1.2. sent by pre-paid first class post or other next working day delivery service.

13.2. Any notice, request, demand or other written communication to be given or served under this Agreement must be sent to the relevant Party as follows:

13.2.1. to the Council at Council Offices, Church Walk, Clitheroe, Lancashire, BB7 2RA;

13.2.2. to the Owner at the addresses given on page 3; and

13.2.3. to the Promoter at Isaacs Building, 4 Charles Street, Sheffield, United Kingdom, S1 2HS;

(or to such other address as the Party to whom the notices, requests, demands or other written communication is to be given or made shall from time to time notify in writing to the other Parties as its address for the purposes of this Clause 13.2).

13.3. Any notice, request, demand or other written communication given or served in accordance with Clause 13.1 or Clause 13.2 will be deemed to have been received:

13.3.1. 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 will be deemed to have been received at 9.00 am on the next Working Day; or

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

13.4. A notice, request, demand or other written communication given under this Agreement shall not be validly given if sent by e-mail.

- 13.5. This Clause 13 does not apply to the service of any proceedings or other documents in any legal action.

14. THIRD PARTY RIGHTS

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

15. COSTS

- 15.1. The Council acknowledges that the Promoter has prior to the date hereof paid the reasonable legal costs of the Council incurred in the preparation, negotiation and completion of this Agreement.

16. DISPUTE RESOLUTION

- 16.1. Any dispute arising between the parties relating to any matter contained in this Agreement may be referred to the Expert by any Party.
- 16.2. The Expert will act as an expert and not as an arbitrator.
- 16.3. Each Party will bear its own costs and the Expert's costs will be paid as determined by him.
- 16.4. The Expert will be required to give notice to each of the Parties, inviting each of them to submit to him written representations and cross representations with such supporting evidence as they shall consider necessary and the Expert shall have regard thereto in making his decision.
- 16.5. The Expert's decision will be given in writing as expediently as possible with reasons and in the absence of manifest error or fraud will be final and binding on the Parties.

17. FUTURE PERMISSIONS

- 17.1. In the event that the description of Development or a condition or conditions to the Planning Permission is or are varied pursuant to Section 96A of the 1990 Act this Agreement shall continue in full force in respect of the Planning Permission with the relevant condition or conditions as so varied.

17.2. In the event that any new planning permission(s) are granted by the Council pursuant to Section 73 of the 1990 Act (as amended) and unless otherwise agreed in writing between the parties:

17.2.1. The obligations in this Agreement shall relate to and bind any subsequent planning permission(s) in respect of the Site granted pursuant to Section 73 of the 1990 Act and the Site itself and this Agreement shall apply to and bind the Owner in respect of that subsequent planning permission; and

17.2.2. The definitions of Application, Development and Planning Permission in this Agreement shall be construed to include reference to any application under Section 73 of the 1990 Act, the planning permissions granted thereunder and the development permitted by such subsequent planning permissions;

PROVIDED THAT nothing in this clause shall fetter the discretion of the Council in determining any application(s) under Section 73 of the 1990 Act or the appropriate nature and/or quantum of Section 106 obligations in so far as they are materially different to those contained in this Agreement and required pursuant to a determination under Section 73 of the 1990 Act whether by way of a new deed or supplemental deed pursuant to Section 106 of the 1990 Act.

18. **JURISDICTION**

This Agreement 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.

19. **DELIVERY**

Subject to clause 3 the provisions of this Agreement (other than this clause which shall be of immediate effect) shall be of no effect until this Agreement has been dated.

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

SCHEDULE 1
(Owner's Planning Obligations)

The Owner hereby covenants with the Council:

1. Affordable Housing

- 1.1 Subject to Paragraph 2.2 of this Schedule, 30% of the Dwellings to be provided within the Development shall be constructed, provided and Occupied as Affordable Housing Units as follows:
- (a) 50% Affordable Rent Units; and
 - (b) 50% Shared Ownership Units or Discount Sale Units.
- 1.2 Not to Occupy the Development until the location of the Affordable Housing Units are agreed in writing with the Council. Thereafter the Affordable Housing Units shall be constructed in the locations so agreed.
- 1.3 Not to Occupy or permit the Occupation of any Affordable Housing Unit until a cover note for the relevant Affordable Housing Unit has been issued by the new home warranty provider confirming that the new home warranty provider has inspected the relevant Affordable Housing Unit and that they are satisfied with the relevant Affordable Housing Unit.
- 1.4 Unless otherwise agreed in writing with the Council, not to Occupy or permit the Occupation of any of the Affordable Housing Units until the Owner has made bona fide offers on an arm's length basis to enter into a contract to sell the Affordable Housing Units to one or more Registered Provider(s) in accordance with the approved plans and the terms of this Agreement.

- 1.5 From the date the Affordable Housing Units within the Development are first offered to a Registered Provider pursuant to paragraph 1.4 the Owner shall use reasonable endeavours to complete a Transfer of the Affordable Housing Units to a Registered Provider in accordance with the terms of this Agreement prior to the Occupation of 90% of the Market Dwellings and the Owner shall not Occupy or permit the Occupation of more than 90% of the Market Dwellings until all of the Affordable Housing Units have been transferred to a Registered Provider **PROVIDED THAT** for the avoidance of doubt there shall be no obligation on the Owner to have commenced construction of the relevant Affordable Housing Units at the point when the said Affordable Housing Units are offered in accordance with paragraph 1.4.
- 1.6 To provide the Council or its agents with such information concerning negotiation between the Owner and a Registered Provider in respect of the Affordable Housing Units proposed to be transferred to a Registered Provider as the Council or its agents may reasonably request.
- 1.7 Each and every Affordable Housing Unit shall be used only as Affordable Housing and shall only be offered for Occupation to and Occupied by Eligible Households in accordance with the Priority Order (unless otherwise agreed in writing with the Council) save that this obligation shall not be binding upon:
- (a) any Chargee **PROVIDED THAT:**
 - (i) such Chargee shall first give written notice to the Council of its intention to dispose of the relevant Affordable Housing Unit and shall have used reasonable endeavours over a period of 3 (three) months from the date of the written notice to complete a disposal of the relevant Affordable Housing Unit to another registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and

- (ii) if such disposal has not completed within the 3 (three) month period, the Chargee shall be entitled to dispose of the relevant Affordable Housing Unit free from the affordable housing provisions in this Agreement which provisions shall determine absolutely in respect of such Affordable Housing Unit **BUT FURTHER PROVIDED THAT** at all times the rights and obligations of the Chargee in this paragraph 1.7 shall not require the Chargee to act contrary to its duties under the charge or mortgage nor oblige the Chargee to dispose of an Affordable Housing Unit at a sum which is insufficient to redeem the outstanding sum of the mortgage or charge plus costs;
- (b) any Protected Tenant or any mortgagee or chargee of a Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and chargees; or
- (c) a disposal (and any subsequent Occupation) required by:
 - (i) any statutory provisions now or hereafter in force; or
 - (ii) Homes England; or
 - (iii) a court order.

1.8 The Owner shall ensure that any Transfer of an Affordable Housing Unit to a Registered Provider shall contain the following provisions that shall be binding on the Registered Provider to whom the Affordable Housing Units are Transferred and all successors in title but subject to the provisions of paragraph 1.7 above:

- (a) A covenant that the Registered Provider shall not use the Affordable Housing Unit otherwise than for Affordable Housing;
- (b) A covenant that the Affordable Housing Unit shall only be offered for Occupation by Eligible Households in accordance with the Priority Order (unless otherwise agreed in writing with the Council);

- (c) A covenant that those Affordable Housing Units which are Affordable Rented Units shall be made available for letting at a rent level not exceeding the local housing allowance rent; and
- (d) A covenant that those Affordable Housing Units which are Shared Ownership Units shall not be Occupied other than under the terms of the Shared Ownership Lease.

1.9 In the event that:

- (a) the Registered Provider to whom an offer is made by the Owner in accordance with paragraph 1.4 declines to accept a Transfer of some or all of the Affordable Housing Units within the Development; or
- (b) no sale of some or all of the Affordable Housing Units within the Development has been effected within 6 months from either the Commencement of Development or the date the Affordable Housing Units were offered to the Registered Provider in accordance with paragraph 1.4 (whichever is the later)

then paragraph 1.10 below shall apply in respect of such Affordable Housing Units.

1.10 Where this paragraph 1.10 applies then:

- (a) the Owner may at any time serve notice upon the Council stating that this paragraph 1.10 applies and providing evidence as to why despite complying with paragraph 1.5 the Owner has been unable to Transfer the Affordable Housing Units to the Registered Provider, together with evidence from the Registered Provider that they are not willing to so purchase the Affordable Housing Units (if such evidence is available);

- (b) upon receipt of the Owner's written notice served pursuant to sub-paragraph 1.10(a) the Council shall consider the evidence (if any is available) and confirm in writing within 10 Working Days of the date of receipt whether or not it agrees that despite complying with paragraph 1.5 the Owner has been unable to Transfer the Affordable Housing Units to the Registered Provider and in the event that the Council disagrees the Council shall set out its full reasons for such disagreement.

1.11 In the event that the Council confirms in writing pursuant to sub-paragraph 1.10(b) that it disagrees that despite complying with paragraph 1.5 the Owner has been unable to Transfer the Affordable Housing Units to the Registered Provider then the Owner may:

- (a) make a further offer to Transfer the relevant Affordable Housing Units to the Registered Provider or another Registered Provider in accordance with paragraph 1.4 (in which case the Owner shall be entitled to invoke the procedure set out in this paragraph 1.11 in the event that some or all of the Affordable Housing Units have still not been Transferred to an Registered Provider at the end of a further period of 20 (twenty) Working Days beginning with the date of the making of such an offer); or
- (b) submit further evidence and submissions to the Council in order to address the Council's reasons for disagreement (in which case sub-paragraphs 1.10(a) to 1.10(b) shall apply mutatis mutandis to the Council's consideration of such evidence and submission; or (c) refer any dispute or disagreement for independent determination in accordance with Clause 16 of this Agreement.

1.12 In the event that the Council or an Expert confirms pursuant to paragraph 1.11 or Clause 13 (as the context requires) that despite complying with paragraph 1.5 the Owner has been unable to Transfer the Affordable Housing Units to a Registered Provider then the Owner shall be entitled to dispose of the relevant Affordable Housing Units free from the restrictions in this paragraph 1.

1.13 In the event of a disposal of any of the Affordable Housing Units as Discount Sale Units then the Owner shall ensure that any Transfer of an Affordable Housing Unit shall contain the following provisions that shall be binding on the person to whom the Discount Sale Unit is Transferred and all successors in title:

- (a) A covenant that the owner shall not use the Discount Sale Unit other than as their primary place of residence; and
- (b) A covenant that the Discount Sale Unit shall only be offered for Occupation by Eligible Households in accordance with the Priority Order (unless otherwise agreed in writing with the Council).

1.14 Each and every Discount Sale Unit shall be used only as a Discount Sale Unit and shall only be offered for Occupation to and Occupied by Eligible Households in accordance with the Priority Order (unless otherwise agreed in writing with the Council) save that this obligation shall not be binding upon:

- (a) (a) any Chargee **PROVIDED THAT:**
 - (i) such Chargee shall first give written notice to the Council of its intention to dispose of the relevant Discount Sale Unit and shall have used reasonable endeavours over a period of 3 (three) months from the date of the written notice to complete a disposal of the relevant Discount Sale Unit 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;

- (ii) if such disposal has not completed within the 3 (three) month period, the Chargee shall be entitled to dispose of the relevant Discount Sale Unit free from the provisions in this Agreement which provisions shall determine absolutely in respect of such Discount Sale Unit **BUT FURTHER PROVIDED THAT** at all times the rights and obligations of the Chargee in this paragraph shall not require the Chargee to act contrary to its duties under the charge or mortgage nor oblige the Chargee to dispose of a Discount Sale Unit at a sum which is insufficient to redeem the outstanding sum of the mortgage or charge plus costs;
- (b) a disposal (and any subsequent Occupation) required by:
 - (i) any statutory provisions now or hereafter in force; or
 - (ii) Homes England; or
 - (iii) a court order.

2. **Over 55 Accommodation**

- 2.1. 15% of the Dwellings to be provided within the Development shall be constructed, provided and Occupied as Over 55 Accommodation.
- 2.2. 50% of the Dwellings provided as Over 55 Accommodation shall be provided as Affordable Housing, and shall form part of the quantum of Affordable Housing prescribed by Paragraph 1 of Schedule 1 of this Deed.
- 2.3. Any Dwelling provided as Over 55 Accommodation (unless otherwise agreed in writing by the Council):
 - 2.3.1. Shall not be Occupied by a person under the age of 55 years (save that in circumstances of a married couple or civil partnership at least one person in the married couple of civil partnership is not less than 55 years of age); and
 - 2.3.2. Shall only be transferred subject to a covenant that the Over 55 Accommodation shall not be Occupied by a person under the age of 55 years (save that in circumstances of a married couple or civil partnership at least one person in the married couple of civil partnership is not less than 55 years of age).

3. Open Space

- 3.1. Prior to the Occupation of the first Dwelling to be constructed on the Site pursuant to the Planning Permission, to submit the Open Space Management Scheme to the Council.
- 3.2. To lay out the Open Space in accordance with the Open Space Management Scheme.
- 3.3. To serve the Open Space Completion Notice upon the Council upon the Substantial Completion of each area of Open Space.
- 3.4. To carry out reasonable additional works to the Open Space as may be required by the Council.
- 3.5. Following the issue of the Open Space Final Certificate the Owner shall transfer the Open Space to a Management Company.
- 3.6. Upon the transfer to a Management Company to require the Management Company to covenant to reasonably and properly maintain the relevant Open Space in accordance with the terms of the Open Space Management Scheme.
- 3.7. In the event that the Management Company fails to comply with the objectives of the covenant referred to in paragraph 3.6 above the Council may serve notice on the Management Company detailing any works which it considers to be reasonably required in accordance with the Open Space Management Scheme and giving to the Management Company the required notice as will be set out in the relevant projected maintenance schedule in the Open Space Management Scheme which shall be at least 2 (two) weeks and if the Management Company fails to comply with such notice within 2 (two) weeks of receipt of it then the Council may access the Open Space with workmen, plant and machinery to carry out the works required to remedy the default and to recover its reasonable costs of carrying out such works from the Management Company.

4. Public Transport Contribution

- 4.1. To pay 20% of the Public Transport Contribution to the Council prior to the Occupation of more than 20% of the Dwellings (or such other number of Dwellings that may first be agreed in writing by the Council) and not to allow or permit the Occupation of more than 20% of the Dwellings (or such other number of Dwellings that may first be agreed in writing by the Council) until 20% of the Public Transport Contribution has been paid to the Council.

- 4.2. To pay a further 20% of the Public Transport Contribution to the Council on the first anniversary of the first occupation of 20% of the Dwellings.
- 4.3. To pay a further 20% of the Public Transport Contribution to the Council on the second anniversary of the first occupation of 20% of the Dwellings.
- 4.4. To pay a further 20% of the Public Transport Contribution to the Council on the third anniversary of the first occupation of 20% of the Dwellings.
- 4.5. To pay the final 20% of the Public Transport Contribution to the Council on the fourth anniversary of the first occupation of 20% of the Dwellings.

5. Travel Plan Contribution

- 5.1. No Dwellings shall be Occupied until the Owner has paid the Travel Plan Contribution to the Council in full.

6. Travel Plan Modal Shift Contribution

- 6.1. No Dwellings shall be Occupied until the Owner has paid the Travel Plan Modal Shift Contribution to the Council in full.

SCHEDULE 2
(Council's Covenants)

The Council hereby covenants with the Owner:

1. Contributions

- 1.1 To issue separate receipts on request for any sum paid to the Council under this Agreement.
- 1.2 To place the Contributions in an interest bearing account or in separate accounts as the Council shall at its discretion decide.
- 1.3 Not to apply the Contributions for any purpose other than for the purposes set out in this Agreement.
- 1.4 To provide (annually on the anniversary of the payment of each respective Contribution(s)) evidence that the Contributions have been so applied in accordance with paragraph 1.3 of this Schedule.
- 1.5 In the event that any of the Contributions or any part or parts thereof are not expended within 5 (five) years of the date of payment (or if the Contribution is payable in instalments, the date of payment of the final instalment) then the sum or sums not expended plus interest accrued will be repaid by the Council at the end of such period to the Owner or their nominee.

2. Performance

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

3. Approvals & Inspections

Wherever this Agreement requires the approval, agreement, inspection, determination, or consent of the Council such approval, agreement, determination, or consent shall be provided in writing and will not be unreasonably withheld or delayed.

The **COMMON SEAL** of)
RIBBLE VALLEY BOROUGH COUNCIL)
was hereunto affixed in the presence of:-)

.....

DRAFT

EXECUTED as a **DEED** (but not delivered)

until the date hereof) by)

VINCENT JOSEPH GATES

(as executor for Christopher Stephen Gates))

.....

in the presence of:)

Signature

Signature witness:

Name of witness:

Address:

.....

.....

Occupation:

EXECUTED as a **DEED** (but not delivered)

until the date hereof) by)

ROBERT CLIFFORD GATES

(as executor for Christopher Stephen Gates))

.....

in the presence of:)

Signature

Signature witness:

Name of witness:

Address:

.....

.....

Occupation:

EXECUTED as a **DEED** by **HALLAM LAND**)
MANAGEMENT LIMITED)
acting by a Director, ,
in the presence of:) Director's Signature

.....
Director's Name (Print)

Witness signature:

Witness name:

Witness address:
.....
.....

Occupation:

Annex 1
Plan 1

DRAFT

Annex 2
Plan 2

DRAFT