Dated 19th June 2024

THE COUNCIL OF THE CITY OF MANCHESTER

- and –

RIDGE MANCHESTER SARL

- and –

SITUS ASSET MANAGEMENT LIMITED

DEED OF VARIATION

pursuant to Section 106A Town and Country Planning Act 1990
relating to Swan House, Swan Street, Manchester, M4 5DF
in the City of Manchester

City Solicitor
Manchester City Council
P O Box 532
Town Hall
Albert Square
Manchester M60 2LA

L/AAD/PLA001/84044

THIS AGREEMENT is made the 19th day of June 2024

BETWEEN:

1) **THE COUNCIL OF THE CITY OF MANCHESTER** of Town Hall, Albert Square, Manchester ("**the Council**"),

2) **RIDGE MANCHESTER SARL** (incorporated in Luxembourg) of 11 Rue Aldringen, Luxembourg, L-1118 ("**the New Owner**"),

3) **SITUS ASSET MANAGEMENT LIMITED** with company registration number 06738409 of 10th Floor, 25 Colonnade, London, England, E14 5HZ ("**the Mortgagee**")

WHEREAS:

A The Council is the local planning authority for the purposes of the Act in relation to the Site and is the authority by whom the obligations hereby created are enforceable The Development or the Revised Development (as hereinafter defined) will be carried out on the Site The Site is situated within the Administrative Boundaries of Manchester and this planning obligation is enforceable by the Council

B The New Owner is the registered proprietor with title absolute on the freehold of the Site together with but subject to all matters contained or referred to in the title registers thereunder

C The Mortgagee is interested in the Site by virtue of the Legal Charges

D On 24 October 2019 the Council the Owner and the Developer entered into the Original Agreement

E The Council granted the Planning Permission

F On 18 July 2023 the Revised Application was submitted to the Council

G The Council is willing to grant planning permission pursuant to the Revised Application The Council and the New Owner have agreed that amendments to the Original Agreement in the manner set out herein are necessary as a result of the Council's willingness to grant planning permission pursuant to the Revised Application

AGREED TERMS

1 **DEFINITIONS AND INTERPRETATION**

"Deed" this deed,

"First Legal Charge" a registered charge registered against the title comprising the Site dated 24 June 2021,

"Legal Charges" the First Legal Charge and the Second Legal Charge,

"Original Agreement" the agreement made under section 106 of the Town and Country Planning Act 1990 dated 24 October 2019 a copy of which can be found at Appendix 1 to this Deed,

"Revised Application" shall mean the application pursuant to s 73 of the Act for planning permission dated 18 July 2023 submitted to the Council for the Revised Development with reference number 137589/JO/2023,

"Revised Development" shall mean the Development revised pursuant to the Revised Application so as to vary conditions 2 and 34 of the Planning Permission,

"Revised Planning Permission" shall mean the planning permission to be granted pursuant to the Revised Application,

"Second Legal Charge" a registered charge registered against the title comprising the Site dated 12 December 2022

1 2 In this Deed the words and expressions and phrases shall unless the context requires have the meanings prescribed in the Original Agreement, save as set out in Clause 1 1 of this Deed

1 3 This Deed shall be read in conjunction with the Original Agreement

2 **PLANNING OBLIGATION**

2 1 This Deed is made pursuant to section 106 and section 106A of the Act, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and all other enabling legislation

2 2 This Deed creates planning obligations which bind the Site and are enforceable by the Council as local planning authority for the purposes of Section 106 of the Act

3 **CONDITION PRECEDENT**

This Deed is conditional upon the grant of the Revised Planning Permission and Commencement of the Development pursuant to the Revised Planning Permission save for the provisions of Clauses 7, 8, 9, 10, 11 and 12 which shall have immediate effect

4 **EFFECTS OF THIS DEED**

In all other respects the Original Agreement (as varied by this Deed) shall remain in full force and effect

5 **VARIATIONS TO THE ORIGINAL AGREEMENT**

The parties hereto hereby agree that upon satisfaction of the conditions set out in Clause 3, the Original Agreement shall be read and construed as having been varied as follows

i There is inserted immediately after every instance of the word "Development" the words "*or if applicable the Revised Development*" save for the definition of Development in clause 1 1 and where the word "Development" is preceded by "Commencement of"

ii The following definitions of the following words and expressions shall be inserted in Clause 1 as follows

*"**Revised Application**" shall mean the application pursuant to s 73 of the Act for planning permission dated 17 July 2023 submitted to the Council for the Revised Development with reference number 137589/JO/2023,*

***"Revised Development"** shall mean the Development revised pursuant to the Revised Application so as to vary conditions 2 and 34 of the Planning Permission,*

*"**Revised Planning Permission**" shall mean the planning permission subject to conditions to be granted pursuant to the Revised Application which shall revise the Planning Permission as more particularly detailed in the Revised Application and includes any non-material amendments* ",

*"**Tree Planting Contribution"** shall mean the Index Linked sum of £42,000 (forty two thousand pounds) payable as a contribution towards the cost of tree planting and woodland management within the Administrative Boundaries of Manchester and for the purpose of any other costs and expenses in connection with or incidental to the same"*

iii The definition of "Management Fee" in Clause 1 of the Original Agreement is amended by the addition at the end of the definition of the wording, "whether the Site is developed pursuant to the Planning Permission or the Revised Planning Permission",

iv A new clause 22 is inserted as follows

It is agreed by the parties to this Agreement that the planning obligations bind the Site and are enforceable against the Owner following Commencement of Development pursuant to the Planning Permission or pursuant to the Revised Planning Permission,

v The following obligation is inserted in Schedule 2 after paragraph 7 8 as follows

"*8 Tree Planting Contribution*

8 1 To pay the Tree Planting Contribution prior to Commencement of the Revised Development ",

vi The following obligation is inserted in Schedule 4 after paragraph 1 b

"c *the Tree Planting Contribution for the provision of new street trees within the Administrative Boundaries of Manchester and for no other purpose* "

6 **COVENANTS IN ORIGINAL AGREEMENT**

6 1 The New Owner covenants to observe and perform the covenants, restrictions and obligations on its part contained in the Original Agreement as varied by this Deed

6 2 The Council covenants to observe and perform the covenants, restrictions and obligations on its part contained in the Original Agreement as varied by this Deed

7 **COUNCIL'S COSTS**

7 1 The New Owner covenants to pay to the Council on the date of this Deed such reasonable sum as is notified in respect of the Council's legal and administrative costs in connection with this Deed

8 **ISSUE OF REVISED PLANNING PERMISSION**

8 1 The Council covenants to issue the Revised Planning Permission within two (2) Working Days of the date of this Deed

9 **LOCAL LAND CHARGE AND LAND REGISTRY**

9 1 This Deed shall be registered as a local land charge by the Council

9 2 The Council will upon receipt of a written request of the New Owner's or their successors in title, at any time after the obligations set out herein have been fulfilled in their entirety, issue written confirmation thereon and thereafter cancel all related entries in the register of local land charges

9 3 The costs of registration and cancellation pursuant to clause 9 2 above shall be met by the New Owner if requested by the Council

10 **COMMUNICATION**

10 1 Any notice or document to be served on or sent pursuant to this Deed shall either be delivered personally or sent by recorded delivery service

10 1 1 to the Council and addressed to the City Solicitor at the Council's address first above written,

10 1 2 to the New Owner at their respective registered office addresses

11 **THIRD PARTIES**

11 1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Deed and no person other than the parties to this Deed (and any successors in title assigns or statutory successor bodies) shall have any rights under or be able to enforce the provisions of this Deed

12 **JURISDICTION**

12 1 This Deed is governed by and interpreted in accordance with the laws of England and subject to the exclusive jurisdiction of the English Courts

13 **COUNTERPARTS**

13 1 This Deed is may be executed in any number of counterparts each of which shall constitute a duplicate original, but all the counterparts shall together constitute this one Deed

EXECUTED as a deed by the parties on the day and year first hereinbefore appearing

APPENDIX 1

The Original Agreement

DATED 24 October 2019

MANCHESTER CITY COUNCIL

– and –

MOHAMMED HANIF RASHID

- and -

CABLE SWAN LIMITED

AGREEMENT

pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) relating to Swan House, Swan Street, Manchester, M4 5DF

City Solicitor
Manchester City Council
P O Box 532
Town Hall
Albert Square
Manchester M60 2LA
L/HC/EVD3001 /3595

[redacted]

[redacted]

Pursuant to Section 229 of the Local Government Act 1972, I hereby certify this is a true copy.

[redacted]

CITY SOLICITOR

[redacted]

Maria Thonon
Vice President

THIS AGREEMENT is made the 24 day of October 2019

BETWEEN:

(1) **MANCHESTER CITY COUNCIL** of PO Box 532, Town Hall, Albert Square, Manchester M60 2LA (the **"Council"**);

(2) **MOHAMMED HANIF RASHID** of 2 Rochdale Road, Manchester, M4 4JR (the **"Owner"**); and

(3) **CABLE SWAN LIMITED** (incorporated in England and Wales with company number 10390283) whose registered office is at 160-164 Wellington Road, Withington, Manchester, M20 3FU (the "**Developer**").

BACKGROUND

A The Council is the local planning authority for the purposes of the Act in relation to the Site and is the authority by whom the obligations hereby created are enforceable. The Development will be carried out on the Site. The Site is situated within the Administrative Boundaries of Manchester and this planning obligation is enforceable by the Council.

B The Owner is the freehold owner of the Site registered at the Land Registry with Title Absolute under Title Number GM141625 together with but subject to all matters contained or referred to in the Title Registers thereunder.

C The Developer has the benefit of an option agreement dated 9 February 2017 to acquire the Owner's interest in the Site subject to, amongst other things, the grant of planning permission for the Development.

D The Application was submitted to the Council for planning permission to carry out the Development in the manner set out in the plans, specifications and particulars forming part of the Application.

E The Council as local planning authority is satisfied that the Development is such as may be approved by the Council under the Act and is minded to grant planning permission for the Development in accordance with the Application but having considered the Local Plan and the Regulations is desirous of the Owner entering into this Agreement without which planning permission would not be granted.

F The Owner has agreed to enter into this Agreement in support of the Application so as to create planning obligations in favour of the Council pursuant to section 106 of the Act and to be bound by and observe and perform the covenants hereinafter contained.

G The Owner proposes to create a Development which is Build to Rent. The Owner will enter into covenants agreeing to the Development being managed as Build to Rent, but the Owner will also enter into obligations under this Agreement which will set out prescribed clawback provisions should the Development not be managed as Build to Rent for the duration of this covenant periods set out in the Schedules.

H The Owner will enter into covenants agreeing that 19 Dwellings will be provided as Affordable Housing Units on the Site in perpetuity but the Owner will also enter into obligations under this Agreement which will set out a prescribed clawback provision should there be any withdrawal of an Affordable Housing Unit.

[redacted]

[redacted]

[redacted]

[redacted]

I The application of the Local Plan to the Development also means that there is a requirement to provide Affordable Housing on the Site in the manner appearing in this Agreement. The Council has determined that the Development in order to comply with the Core Strategy should support the Maximum Provision.

J Notwithstanding Recital I the Owner has also stated that there are viability issues affecting the development of the Site as Build to Rent and has submitted to the Council as part of the Planning Application documentation in support of this contention. The Council has accepted that at the date of this Agreement without a reduction in the Maximum Provision the implementation of the Development is not viable. The Council has agreed to accept the provision of the Affordable Housing Units in lieu of the Maximum Provision on the basis of the information contained in the documentation relating to viability submitted by the Owner to the Council. In addition the Owner has agreed to enter into the planning obligations contained herein requiring them to submit the early stage Viability Appraisal if the Commencement of Development has not occurred within 2 years of the date of the Planning Permission. The Owner has also agreed to submit a further Viability Appraisal on completion of construction of 75% of the Dwellings.

K In addition to the Maximum Provision the Owner has agreed to make the Highway Contribution towards meeting expenditure relating to off-site highway improvements as more particularly defined below and the calculation of the Highway Contribution is based upon the total of the contribution amounts in respect of each of these areas of expenditure. The combination of the Maximum Provision and the Highway Contribution will not exceed the total amounts the Council is entitled to require under it's Local Plan

L The planning purpose of this Agreement is to improve the amenity of land in the locality of the Site with benefit for the occupiers of the Development and to mitigate the adverse impacts of the Development in accordance with the development plan for the area and other material considerations. The Council is satisfied that the obligations in this Agreement are;

(a) necessary to make the Development acceptable in planning terms (including where appropriate, obligations necessary to mitigate the adverse impacts of the Development in accordance with the development plan for the area and other material considerations);

(b) directly related to the Development; and

(c) fairly and reasonably related in scale and kind to the Development

OR

(d) will secure other planning benefits.

[redacted]

AGREED TERMS

DEFINITIONS AND INTERPRETATION

1.1 The definitions and rules of interpretation set out in this Clause apply to this Agreement.

"Act" the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004 and the Planning Act 2008.

[redacted]

"Administrative Boundaries of Manchester" all the wards that together comprise the city of Manchester.

"Agreement" this agreement.

"Affordable Housing" affordable housing as defined in the NPPF that will be available to persons who cannot afford to rent or buy housing generally available on the open market provided that the total amount of Affordable Housing on the Site subject to paragraph 4 of Schedule 3 shall not be less than 19 (nineteen) Dwellings in total number (equivalent in monetary terms to £1,350,000 (one million three hundred and fifty thousand pounds).

"Affordable Private Rent" as defined in the NPPF (as may be updated or replaced with an equivalent policy from time to time) that is a rent of at least of at least 20% below Market Rent (including any service charges where applicable) for the relevant rental market area.

"Affordable Private Rent Housing" build to rent housing which will be let by the Owner as Affordable Housing for the lifetime of the Development at the Affordable Private Rent.

"Affordable Housing Scheme" a written scheme to be submitted to and approved in writing by the Council for the provision of Affordable Housing Units on the Site as a whole accordance with the Local Plan and detailing the matters referred to within paragraph 1 of Schedule 3 of this Agreement.

"Affordable Housing Unit" those Dwellings which shall be designated as Affordable Private Rent Housing under the Affordable Housing Scheme submitted by the Owner and approved by the Council and in accordance with the Planning Permission provided that those Dwellings shall (subject to paragraph 4 of Schedule 3) not be less than 19 (nineteen) Dwellings in total number and "Affordable Housing Units" shall be construed accordingly.

"Affordable Housing Monitoring Statement" a statement to be provided annually by the Owner to the Council setting out the Owner's approach to letting the Affordable Housing Units, the ongoing status of such units and a report setting out how the Owner is meeting the Affordable Housing Scheme requirements.

[redacted]

"Application" the application to which the Council gave the reference 121380/FO/2018 for planning permission for the erection of a part 31, part 13, part 5 storey building to form 373 residential apartments (Use Class C3a) and 12 serviced apartments (Use Class C1) together with a ground floor commercial unit (408 sqm) (Use Class A1, A2 or A3) with associated car parking, public realm and other associated works following demolition of existing buildings at the Site.

[redacted]

"Build to Rent" is purpose built housing that is typically 100% rented out providing tenants with the option of longer tenancy agreements of three years or more, and will be professionally managed in single ownership and management control.

"Calculation Date" shall be the First Calculation Date or the Second Calculation Date as the context permits.

[redacted]

"**Chargee**" means any mortgagee or chargee of the Site (or any part thereof) or the successors in title to such mortgagee or chargee or any receiver or manager nominated by him for the purposes of this Agreement.

"**Chartered Surveyor**" a professional expert who is a chartered member of the Royal Institution of Chartered Surveyors with a minimum of ten (10) years post-qualification experience.

"Commencement of Development" the date upon which the Development shall begin by the carrying out of a material operation in accordance with the provisions of section 56(4) of the Act PROVIDED THAT any works of or associated with demolition, site clearance, remediation works, environmental or archaeological investigations, site and soil surveys, erections of contractors work compound, erection of site office, erection of fencing to site boundaries, marking of site boundaries and laying out of access roads and services shall for the purposes of the agreement be deemed not to be material operations and **"Commence"**, **"Commencement"** and **"Commenced"** shall be construed accordingly.

"Contributions" being together the Highway Contribution, the Viability Payment (if any), the BTR Clawback Sum (if any and as defined more particularly below) and the AH Clawback Sum (if any and as defined more particularly below).

"Development" the development undertaken on the Site pursuant to the Planning Permission as specified in the Application and "Developed" shall be construed accordingly;

"Disposal" means either the sale of the freehold of a Private Rent Home of the grant of a lease of a Private Rent Home and **"Disposed"** shall have the same meaning.

"Dwelling" a unit of residential accommodation to be constructed on the Site as part of the Development pursuant to the Planning Permission and **"Dwellings"** shall be construed accordingly.

"Early Stage Review" means the Viability Appraisal to be undertaken on the First Calculation Date;

"Expert" a professional expert in town planning, who is a Chartered Member of the Royal Town Planning Institute with a minimum of ten (10) years post-qualification experience.

[redacted]

"First Calculation Date" shall be the date which falls on the second year anniversary of the date of the Planning Permission.

[redacted]

"GDC" means gross development cost as defined in Appendix F of the RICS guidance note 1st edition entitled "Financial viability in planning" and assigned reference GN 94/2012 or any replacement, update or amendment of the same. In addition the Council will accept in the calculation of GDC the actual costs incurred in the Development up to the time of preparation of the Viability Appraisal and the estimated costs of the Development remaining to be incurred and such details shall be included in the Viability Appraisal provided always that any such actual costs are allowed for in the said Appendix F of the RICS guidance note.

"GDV" means gross development value as defined in Appendix F of the RICS guidance note 1st edition entitled "Financial viability in planning" and assigned reference GN 94/2012 or any replacement, update

[redacted]

or amendment of the same together with the value of any grant funding/public subsidy received in respect of the Development. In addition the Council will accept in the calculation of GDV the estimated Market Value at the Calculation Date of all components of the Development based on detailed comparable evidence.

"Gross Margin" the GDV after deducting the GDC as more particularly detailed in the Viability Appraisal.

"Highway Contribution" means the sum of £150,000.00 (one hundred and fifty thousand pounds) Index Linked and to be apportioned in accordance with paragraph 5 of Schedule 2.

"Index Linked" adjusted on an annual basis or pro rata per diem from the date of this Agreement to the relevant date of payment in accordance with the Retail Price Index and "Index Linking" shall be construed accordingly.

"Interest" interest at 4% (four per cent) above the base lending rate of the Bank of England from time to time.

"Key Worker" means a person employed or proposed to take employment within the Administrative Boundaries of Manchester in:

a) a school or other educational establishment;
b) a hospital or other health establishment;
c) the police force, fire or ambulance service;
d) social services;
e) the armed forces;
f) national and local public services;
g) agriculture, forestry or fishery;
h) any industry which the Council designate as being critical economic importance to the area

"Late Stage Viability Review" means the Viability Appraisal to be undertaken on the Second Calculation Date.

"Local Plan" includes the Core Strategy adopted by Manchester City Council on 11 July 2012, the extant Unitary Development Policies and all other relevant strategic planning documents adopted by Manchester City Council.

"Market Rent" is as defined by RICS (or such successor or replacement organisation) which is the estimated amount for which an interest in real property should be leased on the valuation date between a willing lessor and willing lessee on appropriate lease terms in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion.

[redacted]

[redacted]

"Management Fee" shall mean the sum of £10,913.25 (ten thousand nine hundred and thirteen pounds and twenty five pence) (being 15% of the planning application fee) to be used for the purpose of management and monitoring of this Agreement and the Planning Obligations contained herein.

"Market Value" is as defined by RICS and is the estimated amount for which an asset or liability should exchange on the Calculation Date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion.

"Maximum Provision" the maximum sum of £ 5,400,000.00 (five million four hundred thousand pounds) being a commuted sum equivalent to the provision of 20% of the Dwellings as Affordable Housing in accordance with the Local Plan.

"NPPF" the National Planning Policy Framework issued in July 2018 being the framework setting out the Government's planning policies for England and how these are expected to be applied as may be amended or any replacement of the same.

"Occupation" means occupation of any part of the Development for the purposes permitted by the Planning Permission but does not include use by personnel whilst engaged in construction, fitting out or decoration of the Dwellings or occupation for marketing or display or occupation in relation to security operations and "Occupy" and "Occupied" shall be construed accordingly.

"Open Market Build for Sale Value" means the value of a Private Rent Home sold on the open market,

"Open Market Rent" means the annual rent of a Private Rented Home rented on the open market,

"Plan" the plan attached to the Agreement.

"Planning Permission" the planning permission granted pursuant to the Application as may be amended by any non-material amendment.

"Private Rent Homes" all those Dwellings which are not designated Affordable Housing Units in the Affordable Housing Scheme.

"Profit Level" means when the Gross Margin is equivalent to 8.5 % of the GDV.

"Qualifying Persons" means a person:

a) who's annual income is below the average income for Manchester (to be agreed annually in the Affordable Housing Monitoring Statement) and who has reasonably demonstrated to the Council that having regard to house prices and private market rents within the Administrative Boundaries of Manchester he is unable to afford such prices/ market rents based on his earned income and any available capital and that of any person living with him which can reasonably be taken into account based on an assumption of a mortgage of not more than three times earned income of any co- habitee repayable or such other less restrictive criteria as may be reasonably agreed from time to time by the Council; and

b) who:

i) has been ordinarily resident in the Administrative Boundaries of Manchester for the preceding twelve months ; or

ii) is permanently employed within the Administrative Boundaries of Manchester and reasonably required to be housed there in order to maintain that employment;

iii) has accepted an offer of permanent employment in the Administrative Boundaries of Manchester and reasonably requires to be housed there in order to take up that employment: or

iv) has a long standing connection to the area within the Administrative Boundaries of Manchester and is in need of family support from relatives living within the Administrative Boundaries of Manchester or has relatives living in the Administrative Boundaries of Manchester who reasonably require support: or

v) is a Key Worker.

"Regulations" the Community Infrastructure Levy Regulations 2010.

"Retail Price Index" twelve (12) month percentage change in the All Items Retail Price Index published by the Office for National Statistics Centre and in the Monthly Digest of Statistics (or contained in any official publication substituted therefor) or such other index as may from time to time be published in substitution therefor.

"RICS" the Royal Institution of Chartered Surveyors.

"Second Calculation Date" shall be upon the Completion of Construction of 75% of the Dwellings;

"Site" the property described in Schedule 1 and shown for the purposes of identification only edged red on the Plan.

"Viability Appraisal" a written appraisal in the form set out in Schedule 5 to assess the Gross Margin required to be provided on the Calculation Date in accordance with the provisions of Schedule 2 of this Agreement. Further guidance on the format to follow can be found in the first edition of the Guidance Note published in August 2012 by the Royal Institution of Chartered Surveyors titled "Financial Viability in Planning" or any amendment, update or replacement of the same.

[redacted]

"Viability Assessment Fee" a fee of £10,000 (ten thousand pounds) payable each time the Council is required to review any BTR Clawback Sum, AH Clawback Sum, or Viability calculation triggered by this Agreement.

"Viability Payment" a payment required to be made by the Owner to the Council if the Viability Appraisal shows that the Profit Level as assessed will be achieved and will be the amount by which the Gross Margin exceeds the Profit Level PROVIDED THAT the Viability Payment when added to the provision of Affordable Housing Units on site, the BTR Clawback Sum (if any) and the AH Clawback Sum (if any) shall be required to be no more than the amount that is needed in order to equal the

[redacted]

Maximum Provision. The Viability Payment will be payable within the timescale set out in the provisions contained in Schedule 2.

"Working Day" means any day except Saturday Sunday or a bank holiday and reference to "Working Days" shall be construed accordingly.

1.2 The Clause headings do not affect this interpretation.

1.3 Unless otherwise indicated, references to Clauses and Schedules are to Clauses of and Schedules to this Agreement and references in a Schedule to a Part or Paragraph are to a Part or Paragraph of that Schedule.

1.4 References to any statute or statutory provision include reference to:

1.4.1 all Acts of Parliament and all other legislation having legal effect in the United Kingdom as directly or indirectly amended, consolidated, extended, replaced or re-enacted by any subsequent legislation; and

1.4.2 any orders, regulations, instruments or other subordinate legislation made under that statute or statutory provision.

1.5 Except for the provisions of Clause 9 references to the Site include any part of it.

1.6 References to any party in this Agreement include the successors in title of that party. In addition, references to the Council include any successor local planning authority exercising planning powers under the Act and any successor local highway authority exercising powers under the Highways Act 1980.

1.7 **"Including"** means **"including, without limitation"**.

1.8 Any covenant by the Owner or the Council not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing.

1.9 If any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of this Agreement is to be unaffected.

1.10 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

1.11 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.

2 **PLANNING OBLIGATION**

2.1 This Agreement is made pursuant to section 106 of the Act, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and all other enabling legislation and is a planning obligation for the purposes of section 106 of the Act, with the intent that covenants hereinafter contained shall be enforceable by the Council acting under the powers contained in section 106 or such other enabling powers against the Owner.

3 **CONDITION PRECEDENT**

3.1 This Agreement is conditional upon the grant of the Planning Permission and Commencement of Development save for the provisions of Clauses 9, 11, 15, 17 and 18 which shall have immediate effect.

4 **CONDITION SUBSEQUENT**

4.1 If the Planning Permission for the Development has not been implemented by the carrying out of a material operation in accordance with the provisions of sections 56, 91 and 93 of the Act or is revoked or modified in whole or in part (other than in approval of an application by or on behalf of either of the Owner) or quashed or declared unlawful as a result of legal proceedings then this Agreement shall absolutely determine and become null and void but without prejudice to the rights of either party against the other in respect of any antecedent breach.

5 **THE OWNER'S COVENANTS**

5.1 The Owner on behalf of himself and any person deriving title to any part of the Site from the Owner hereafter hereby covenants with the Council so as to bind the Site to fully observe and perform the obligations on his part contained in this Agreement including those obligations set out in Schedule 2 and Schedule 3 and hereby agrees that the Site shall for the duration of the Development be subject to the obligations, restrictions and provisions specified herein, such obligations being planning obligations for the purpose of section 106 of the Act.

6 **THE COUNCIL'S COVENANTS**

6.1 The Council hereby covenants with the Owner to observe and perform the obligations on its part in this Agreement including those obligations set out in Schedules 3 and 4.

7 **DISPUTE RESOLUTION**

7.1 In the event of any dispute arising in connection with any of the terms of this Agreement other than a dispute involving the construction or interpretation of the terms of this Agreement or the enforcement of any decision pursuant to this Clause, the same shall unless the Council and the Owner otherwise agree be referred to an Expert or in relation to the Viability Appraisal to a Chartered Surveyor to be appointed by agreement between the Council and the Owner.

7.2 If the Council and the Owner are unable to agree on the appointment of an Expert or Chartered Surveyor within thirty (30) days of one party serving notice on the other calling for the appointment of an Expert or Chartered Surveyor, then an Expert or Chartered Surveyor shall be appointed on the application of either party to the President for the time being of the Royal Town Planning Institute or the Royal Institution of Chartered Surveyors as applicable.

7.3 Any reference of a dispute to an Expert or Chartered Surveyor shall if the parties are agreed in writing be deemed to be a reference to an expert or chartered surveyor (and not to an arbitrator) whose decision shall be final and binding (save for manifest error) but shall otherwise be deemed to be a reference to an arbitrator pursuant to the Arbitration Act 1996 and any statutory amendment variation substitution or re-enactment thereof.

7.4 Any party to this Agreement shall be entitled to submit to the Expert or Chartered Surveyor representations and cross-representations with such supporting evidence as they shall respectively consider necessary and the Expert or Chartered Surveyor shall have regard thereto in making his decision which shall be delivered in writing. The reference of any dispute shall include authority to determine in what manner all the costs of the referral shall be paid.

8 **WAIVER**

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

9 **CHANGE IN OWNERSHIP & LIABILITY**

9.1 The Owner agrees with the Council to give the Council immediate written notice of any change in ownership of any of its interest 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 (unless the purchase relates to the entirety of the Site) the area of the Site or unit of occupation purchased by reference to a plan.

9.2 No person shall be liable for any breach, non performance and non observance of the covenants, obligations and restrictions contained in this Agreement after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest nor shall this hinder or preclude the Council's rights as the Local Planning Authority to require that the breach, non performance or non observance be remedied by an successor in title after that person has parted with its interest in the Site. Neither the reservation of any rights or the inclusion of any covenants or restrictions over the Site in any transfer will constitute an interest for the purposes of this clause 9.2.

9.3 The obligations in this Agreement will not be enforceable against:

9.3.1 the individual owner-occupiers of the Development; or

9.3.2 a statutory undertaker after the transfer of the statutory apparatus and any land upon or in which the statutory apparatus is situated by the Owner to that statutory undertaker.

10 **COUNCIL'S CONSENT OR APPROVAL**

10.1 Where in this Agreement the consent, agreement or approval of the Council is required to be given by the Council, the Council confirms that such consent, agreement or approval shall not be unreasonably withheld or delayed provided that this shall not fetter the proper discretion of the Council.

11 **LOCAL LAND CHARGE AND LAND REGISTRY ENTRY**

11.1 This Agreement is a Local Land Charge and shall be registered as such by the Council.

11.2 For the purpose of noting this Agreement on the titles of the Owner registered under title number GM141625 at the Land Registry the Owner will on the date hereof provide the Council with completed

Form AN1 (or any replacement of this form) together with either a cheque made payable to the Land Registry to cover the requisite fee or alternatively with the Owner's solicitor's completed Land Registry account key number details inserted in the form. The Council will arrange for the AN1 (or any replacement of this form) to be registered at the Land Registry and the Owner will supply the Council with a copy of the amended registers as soon as reasonably practicable following their receipt by the Owner from the Land Registry.

11.3 The Council will upon receipt of a written request of the Owner's or their successors in title, at any time after the obligations set out herein have been fulfilled in their entirety, issue written confirmation thereon and thereafter cancel all related entries in the register of local land charges.

11.4 The costs of registration and cancellation pursuant to clause 11.3 above shall be met by the Owner if requested by the Council.

12 **NON-PROHIBITION ON DEVELOPMENT**

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

13 **THE CONTRACTS ACT**

13.1 Save as provided in respect of the successors in title to the Site or any successor to the relevant statutory functions of the Council this Agreement shall not be enforceable by any third party pursuant to the Contracts (Rights of Third Parties) Act 1999 and no third party shall acquire any benefit rights or claims whatsoever pursuant thereto.

14 **COMMUNICATION**

14.1 Any notice or document to be served on or sent pursuant to this Agreement shall either be delivered personally or sent by recorded delivery service:

14.1.1 to the Council and addressed to the City Solicitor at the Council's address first above written; and

14.1.2 to the Owner and the Developer respectively at their last known addresses.

15 **FEES**

15.1 The Developer shall pay forthwith to the Council its legal fees reasonably and properly incurred in preparation of this agreement.

15.2 Receipt by the Council of the payment of such sum shall not create any lawyer-client type contractual relationship between the Council and the Owner nor absolve the Owner from any liability or obligation imposed upon them by the terms of this Agreement or by statute or at common law.

15.3 The Owner shall pay to the Council a Viability Assessment Fee, within 10 Working Days of receipt from the Council of an invoice, on each of the following occasions: the Early Stage Review, calculation

of the BTR Clawback Sum, the Late Stage Viability Review and the calculation of the AH Clawback Sum..

15.4 The Owner covenants with the Council to pay to the Council on the date hereof the Management Fee.

16. **INTEREST**

16.1 If any payment due under this Agreement is paid late Interest will be payable from the date payment is due to the date that payment is received.

17. **JURISDICTION**

17.1 This Agreement is governed by and interpreted in accordance with the law of England.

18 **COMPLETION**

18.1 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.

19 **CHARGEE**

19.1 No Chargee will incur any liability for any breach of the obligations contained in this Agreement unless and until it becomes a mortgagee in possession of the Site or the relevant part of it in which case it too will be bound by the obligations contained in this Agreement as if it were a person deriving title from the Owner.

20 **VIABILITY**

20.1 Should the Viability Appraisal be required any calculations carried out in accordance with the provisions of this Agreement will be carried out on the basis that the Development is Build to Rent.

21 CLAWBACK

21.1 Each time the Council is required to review a clawback payment under either paragraph 2 of Schedule 2 or paragraph 4 of Schedule 3, the Owner covenants to pay the Council's reasonable costs of such review.

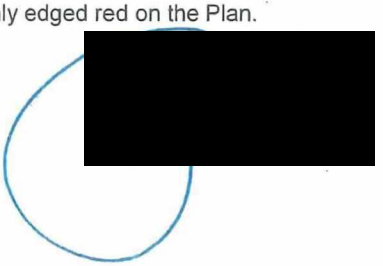
[redacted]

EXECUTED as a deed by the parties on the day and year first hereinbefore appearing.

SCHEDULE 1

The Site

Land at Swan House, Swan Street, Manchester, M4 5DF registered at HM Land Registry under Title Number GM141625 and shown for the purposes of identification only edged red on the Plan.



[redacted]

SCHEDULE 2

THE OWNER'S COVENANTS

The Owner hereby covenants with the Council as follows:

1. General

1.1 To provide prior notification to the Council in writing at least 7 (seven) Working Days in advance of Commencement of Development;

1.2 To provide prior notification to the Council in writing at least 28 (twenty eight) Working Days in advance of Occupation.

2. Private Rent Homes

2.1 Subject to the provisions within this Schedule 2 to deliver the Private Rent Homes as Build to Rent and to ensure that the freehold of the Private Rent Homes is retained in a single ownership as Build to Rent by the Owner (or the successor in title to the Owner) for a minimum period of 15 (fifteen) years from the date of Occupation.

3. Disposal of Private Rent Homes

3.1 Should the Owner :

3.1.1 dispose of any part of the Private Rent Homes or any Private Rent Home (other than a disposal retaining the Private Rent Homes within single ownership or used as Build to Rent) otherwise than in accordance with paragraph 2 of this Schedule 2 then the Owner shall take free of the covenant at paragraph 2 of this Schedule 2 but shall be required to pay a sum of money (the "BTR Clawback Sum") to the Council calculated as set out in paragraph 3.1.2 below and paid in accordance with the provisions of paragraph 4 of this Schedule 2:

3.1.2

$$\text{BTR Clawback Sum} = \frac{C}{2}$$

Where:

A = The Open Market Build for Sale Value of the Private Rent Home(s) which is/are being Disposed of such value to be calculated at the date of Disposal.

B = The Build to Rent value of the Private Home(s) which is/are being Disposed of (being the Open Market Rent value calculated at the date of Disposal x the prevailing gross yield at the date of Disposal).

C = A-B

Provided that where A-B is a negative figure, no BTR Clawback will be required.

[redacted]

[redacted]

Worked example.

The following example is provide for illustrative purposes only.

1. The Open Market Build for Sale Value of a Private Rent Home (A) is assumed to be £250,000.

2. The open market rent for a Private Rent Home is assumed to be £1,000 per month, therefore the Open Market Rent is £12,000 per annum.

3. The gross market yield is assumed to be 6%.

4. The Build to Rent value of a Private Rent Home (B) is: £12,000 / 0.06 = £200,000.

5. C = £250,000 - £200,000, ie £50,000.

6. The BTR Clawback Sum is:

$$\frac{£50,000}{2}$$

ie, £25,000, subject to Schedule 2, paragraph 4.6.

3.2 As soon as reasonably practicable following each anniversary of first Occupation of the Development until the expiry of the 15 (fifteen year) covenant period referred to within paragraph 2 of this Schedule 2 the Owner shall provide the Council with written confirmation of the number of Private Rent Homes or any part of the Private Rent Homes which have been disposed of in breach of the covenant in this Schedule 2 during the preceding 12 (twelve) month period.

[redacted]

4. The Owner shall pay the BTR Clawback Sum (if any) to the Council as follows:

4.1 upon the disposal of more than 25% of the Private Rent Home or aggregate total of part of the Private Rent Homes in breach of the covenant at paragraph 2 of this Schedule 2 to pay the relevant proportion of the BTR Clawback Sum (in so far as that proportion has not already been paid to the Council) relating to those Private Rent Homes (or part thereof) to the Council;

4.2 upon the disposal of more than 50% of the Private Rent Homes or aggregate total of part of the Private Rent Homes in breach of the covenant at paragraph 2.1 of this Schedule 2 to pay the relevant

[redacted]

proportion of the BTR Clawback Sum (in so far as that proportion has not already been paid to the Council) relating to those Private Rent Homes (or part thereof) to the Council;

4.3 upon the disposal of more than 75% of the Private Rent Home or aggregate total of part of the Private Rent Homes in breach of the covenant at paragraph 2 of this Schedule 2 to pay the relevant proportion of the BTR Clawback Sum (in so far as that proportion has not already been paid to the Council) relating to those Private Rent Homes (or part thereof) to the Council; and

4.4 upon the disposal of 100% of the Private Rent Home or aggregate total of part of the Private Rent Homes in breach of the covenant at paragraph 2 of this Schedule 2 to pay the relevant proportion of the BTR Clawback Sum (in so far as that proportion has not already been paid to the Council) relating to those Private Rent Homes (or part thereof) to the Council;

PROVIDED ALWAYS that:

4.5 if following the expiry of the fifth anniversary, tenth anniversary and the fifteenth anniversary following first Occupation the number of disposals of the Private Rent Homes (or any part thereof) contrary to the provisions of paragraph 2 of this Schedule 2 does not exceed the disposal triggers stated in paragraphs 4.1, 4.2, 4.3 and/or 4.4 of this Schedule 2 then the Owner shall pay any accrued proportion of the BTR Clawback Sum (in so far as that proportion has not already been paid to the Council) to the Council within 28 (twenty eight) Working Days from the fifth, tenth anniversary and/or the fifteenth anniversary following first Occupation (as the context permits); and

4.6 notwithstanding the provisions within this Schedule 2 the BTR Clawback Sum shall only be payable if the BTR Clawback Sum together with any commitment to provide Affordable Housing Units, the Viability Payment (if any) and the AH Clawback Sum (if any) does not exceed the Maximum Provision. For the avoidance of doubt, if the BTR Clawback Sum together with any commitment to provide Affordable Housing Units, the Viability Payment (if any) and the AH Clawback Sum (if any) exceed the Maximum Provision, then such proportion of the BTR Clawback Sum only shall be payable which would not result in the Maximum Provision being exceeded.

[redacted]

5. Highway Contribution

5.1 To pay the Highway Contribution to the Council in accordance with the following instalments:

5.1.1 an instalment of £120,000 (one hundred and twenty thousand pounds) Index Linked within 7 (seven) Working Days following the Commencement of Development;

5.1.2 To pay the final instalment of £30,000 (thirty thousand pounds) Index Linked on the first anniversary of the Commencement of Development.

[redacted]

6. Early Stage Review

6.1 If the carrying out of a material operation in accordance with the provisions of section 56(4) of the Act has not occurred by the First Calculation Date then the Owner agrees to provide the Council the Early Stage Review for agreement by the Council. The Early Stage Review will be provided by the Owner to the Council within 28 (twenty eight) days of the First Calculation Date.

6.2 The Early Stage Review not by way of limitation shall include and confirm:
6.2.1the GDV;
6.2.2 the GDC; and
6.2.3 Each of the GDV and the GDC figures set out in the clause must be accompanied by detailed evidence explaining how each figure has been calculated including all costings and assumptions.

6.3 Within 42 (forty two) Working Days of its receipt of the Early Stage Review the Council shall give written notice to the Owner either:-
6.3.1 Stating that it accepts the Early Stage Review; or
6.3.2 Correcting or challenging any of the amounts or conclusions included in the Early Stage Review and giving details of the disputed amounts or conclusions.

6.4 In the event that the Council shall have served a notice on the Owners pursuant to paragraph 6.3.2 of this Schedule the Owners and the Council shall use reasonable endeavours to reach agreement in respect of the Early Stage Review but if the Owners and the Council shall have failed to agree the Early Stage Review within 28 Working Days of the notice served by the Council pursuant to Paragraph 6.3.2 of this Schedule, then the matter in dispute shall be referred to the Chartered Surveyor, in accordance with the provisions of Clause 7 of this Agreement with the Chartered Surveyor being requested that he/she should as soon as practicable issue a written determination as to the matter in dispute and a written determination of the correct Early Stage Review, which both Parties agree will be final and binding upon them.

[redacted]

6.5 In the event that the Early Stage Review is agreed by the Council or should the Parties not agree be determined pursuant to Clause 7 of this Agreement and the information contained therein shows that in accordance with the provisions of this Agreement that the viability of the Development has improved to the extent that the Profit Level as assessed will be achieved then the Owner shall pay to the Council the Viability Payment relating to the Early Stage Review in accordance with paragraph 6.6 of this Schedule, which is in addition to the Highway Contribution and the commitment to provide Affordable Housing Units on Site already agreed under this Agreement PROVIDED THAT the Viability Payment shall not be required where the Viability Payment when added to the provision of Affordable Housing Units on site, the BTR Clawback Sum (if any) and the AH Clawback Sum (if any) shall exceed the Maximum Provision

[redacted]

[redacted]

6.6 The Owner shall pay to the Council the Viability Payment relating to the Early Stage Review within 28 Working Days of the agreement by the Council of the Early Stage Review or if applicable within 28 Working Days of the Early Stage Review being determined pursuant to Clause 7 of this Agreement.

6.7 In the event that the information contained in the Early Stage Review (as agreed by the Council or determined pursuant to Clause 7 of this Agreement) shows that a Viability Payment is not due then it is agreed by the Council that the Viability Payment shall not be payable and only the Viability Assessment Fee shall be payable.

7. Late Stage Review

7.1 Within 28 (fourteen) Working Days of the Second Calculation Date to provide the Council with a copy of the Late Stage Review for agreement by the Council;

7.2 Within 28 (twenty eight) Working Days of its receipt of the Late State Review the Council shall give written notice to the Owners either:-
7.2.1 Stating that it accepts the Viability Appraisal; or
7.2.2 Correcting or challenging any of the amounts or conclusions included in the Viability Appraisal and giving details of the disputed amounts or conclusions;

7.3 In the event that the Council shall have served a notice on the Owners pursuant to paragraph 7.2 of this Schedule 2 the Owners and the Council shall use reasonable endeavours to reach agreement in respect of the Late Stage Review but if the Owners and the Council shall have failed to agree the Late Stage Review within 28 Working Days of the notice served by the Council pursuant to Paragraph 7.2 of this Schedule 2, then the matter in dispute shall be referred to the Chartered Surveyor, in accordance with the provisions of Clause 7 of the Agreement with the Chartered Surveyor being requested that he/she should as soon as practicable issue a written determination as to the matter in dispute and a written determination of the correct Late Stage Review, which both Parties agree will be final and binding upon them;

[redacted]

7.4 The Viability Appraisal not by way of limitation shall include and confirm:
7.4.1 the GDV;
7.4.2 the GDC; and
7.4.3 Each of the GDV and the GDC figures set out in the clause must be accompanied by detailed evidence explaining how each figure has been calculated including all costings and assumptions.

7.5 In the event that the Late Stage Review is agreed by the Council or should the Parties not agree be determined pursuant to Clause 7 of this Agreement and the information contained therein shows that in accordance with the provisions of this Agreement that the viability of the Development has improved to the extent that the Profit Level as assessed will be achieved then the Owner shall pay to the Council

[redacted]

the Viability Payment relating to the Late Stage Review in accordance with paragraph 7.6 of this Schedule, which is in addition to the Highway Contribution and the commitment to provide Affordable Housing Units on Site already agreed under this Agreement PROVIDED THAT the Viability Payment shall not be required where the Viability Payment when added to the provision of Affordable Housing Units on site, the payment of any Viability Payment relating to the Early Stage Review (if any) the BTR Clawback Sum (if any) and the AH Clawback Sum (if any) shall exceed the Maximum Provision.

7.6 The Owner shall pay to the Viability Payment relating to the Late Stage Review within 28 days of the agreement by the Council of the Late Stage Review or if applicable within 28 Working Days of the Late Stage Review being determined pursuant to Clause 7 of the Agreement

7.7 In the event that the information contained in the Viability Appraisal (as agreed by the Council or determined pursuant to clause 7 of the Agreement) shows that a Viability Payment is not due then it is agreed by the Council that the Viability Payment shall not be payable although the Viability Assessment Fee shall still be due.

7.8 The Developer covenants with the Council that it will indemnify the Council to the full extent of any Viability Payment and related Viability Assessment Fee due that remains unpaid on the expiry of the time limit for payment set out in paragraph 7.6 of this Schedule (the "Outstanding Amount") and will pay the Outstanding Amount to the Council within 28 days of its receipt of a written request from the Council for the Outstanding Amount.

[redacted]

SCHEDULE 3

THE OWNER'S AFFORDABLE PRIVATE RENT COVENANTS

The Owner hereby covenants with the Council as follows:

1. Prior to Occupation to submit to the Council for its written approval the Affordable Housing Scheme in writing, such scheme to include details of the following:

1.1 confirmation that the total number of Affordable Housing Units will not be less than 19 (nineteen) Dwellings in total;

1.2 the tenure mix of the Affordable Housing Units to be provided;

1.3 the size and location of each Affordable Housing Unit within the Development;

1.4 the Affordable Private Rent and the approach to be used in rent reviews setting out arrangements which provide the tenant with as much certainty as possible as to rent increases applied during the tenancy;

1.5 that the occupancy criteria will be restricted to Qualifying Persons and their immediate dependants

1.6 how the Owner proposes to administer and check that only Qualifying Persons will be offered a tenancy in an Affordable Housing Unit;

1.7 details of the rent being charged and the tenancy agreements being offered by the Owner in relation to Private Rent Homes

1.8 the manner and methods by which the availability of the Affordable Housing Units are to be marketed by the Owner on the initial and subsequent lettings; and

1.9 any other information as the Council may reasonably require to be assured that the Affordable Housing Units are being let in accordance with the requirements of the Planning Permission and the NPPF and the relevant government planning practice guidance in relation to build to rent schemes published on 13 September 2018 and which may be updated from time to time.

2. To provide to the Council the Affordable Housing Monitoring Statement on a date to be set by the Council and notified to the Owner.

3. The Affordable Housing Units will be occupied by Qualifying Persons and their immediate dependants, in perpetuity . (subject to the provisions of paragraph 4 of this Schedule below) and the Owner shall ensure that all such units are retained in single ownership as Build to Rent by the Owner (or the successor in title to the Owner) in perpetuity (subject to the provisions contained in this Schedule

4. Should any of the Affordable Housing Units be occupied, transferred or otherwise disposed of in breach of the covenant contained at paragraph 3 of Schedule 3 then the Owner shall be required to pay a sum of money (the "AH Clawback Sum") to the Council calculated as follows and thereafter shall be free to dispose of the Affordable Housing Units free of the covenant at paragraph 3 of Schedule 3

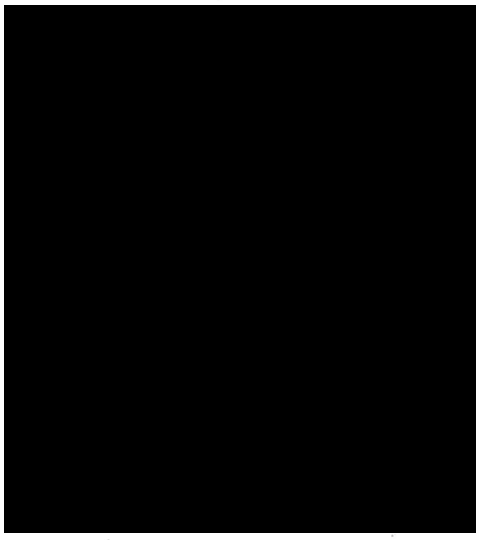
AH Clawback Sum = D x E

Where

D is the price at which the Dwelling(s) withdrawn from Affordable Private Rent are sold

E is the percentage discount that had been applied to the rent in respect of the Affordable Private Rent Dwelling being sold

5. The Owner shall pay the AH Clawback Sum (if any) to the Council within 56 days of the breach of the covenant at paragraph 3 of this Schedule 2 PROVIDED ALWAYS that the AH Clawback Sum together any commitment to provide Affordable Housing Units, the Viability Payment (if any) and the BTR Clawback Sum (if any) does not exceed the Maximum Provision.



SCHEDULE 4

The COUNCIL'S COVENANTS

The Council hereby covenants with the Owner as follows:

1. To use:

a. the Highway Contribution to contribute to a crossing on Swan Street and Traffic Regulation Orders along Swan Street, Cable Street and Mason Street and any other highway works in this location; and

b. the Viability Payment (if any), the BTR Clawback Sum (if any) and the AH Clawback (if any) to contribute towards Affordable Housing which does not form part of the Site but forms part of another site within the Administrative Boundaries of Manchester.

2. At the written request of the Owner to provide written confirmation of the discharge of the obligations contained in this Agreement when satisfied that such obligations have been performed.

3. That none of the projects or infrastructure items that the Contributions are funding or contributing to have been funded or contributed to by more than four other s.106 Agreements since 6 April 2010 and that the Council has reviewed its records and is satisfied that the Contributions are not in breach of the requirements of Regulation 123 of the Community Infrastructure Levy Regulations 2010;

4. In the event that any part of the Contributions paid to the Council have not been spent by the Council within 10 years of the date on which the Contributions were paid to the Council the Council shall on the written request of the Owner repay to the party/person which paid the Contributions such unspent balance (excluding any such sums in respect of which though not yet expended the Council has contractually committed to expend) together with interest on that balance calculated from the date of payment to the Council to the date of repayment.

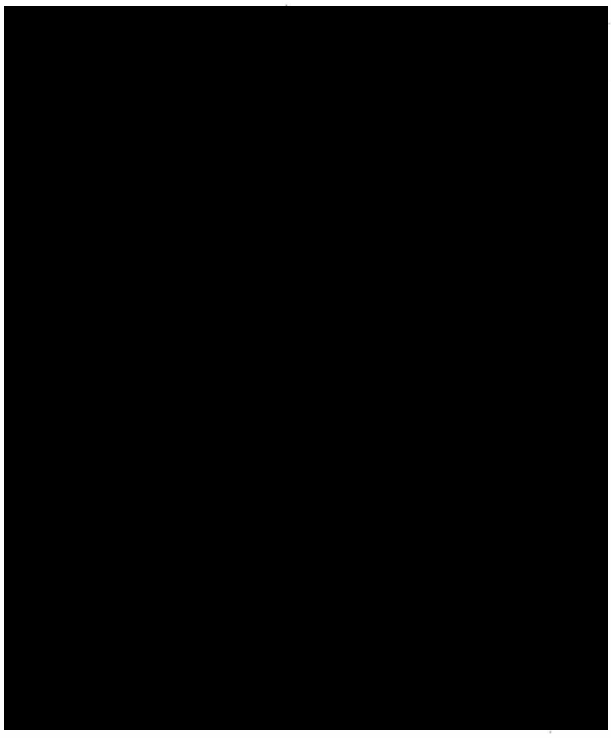
5. The Council shall provide written details of any expenditure incurred by the Council using the Contributions within 20 Working Days of a written request to do so from the party/person who paid those Contributions to the Council.

6. To issue the Planning Permission within 2 Working Days of the date hereof.

[redacted]

SCHEDULE 5

VIABILITY TEMPLATE



Early Stage Viability Assessment

1	Gross Development value of the PRS element (Residential and parking) assuming the development is complete	£	
2	Gross Development value of the commerical element assuming the development is complete	£	
3	GDV of the completed scheme		(1+2)
4	All in build cost	£	£64,766,569 Index linked
5	Developer Contingency	3%	
6	Furniture Packs	£	£2,000 per unit index linked
7	Initial Launch and Marketing costs	£	£1,000 per unit index linked
8	Rights to light liability	£	£200,000 index linked
9	Latent Defect Insurance	£	£550,000 index linked
10	Pre Construction service Agreement	£	£450,000 index linked
11	Off-site highways / S.106	£150,000	
12	All Professional Fees		7% of build costs plus contingency
13	Finance / Borrowing rate 5% or prevailing rate at the review	£	5% or prevailing rate at the review
14	Developer Profit		8.5% of total costs (4-13 inclusive)
15	TOTAL GROSS DEVELOPMENT COSTS (GDC)		sum of 4-14 inclusive
16	Residual Land Value		(3 - 15)
17	Legal & Agents Fees @ 1.8% of Land Value plus SDLT at the prevailing rate		
18	Net Residual land value		(16-17)
19	Benchmark Land Value	£3,850,000	
20	S.106 Contribution Paid to Date	£1,350,000	*plus any other sums paid in addition to this*
21	VIABILITY PAYMENT: 18-(19+20)		*18-(19+20)* *X say, 0.5, if split of viability payment agreed at 50:50.*
22	Maximum Viability Contribution	£5,400,000	

Test **Viability Payment due if 21 is greater than £0, and that 20 + 21 do not exceed the Maximum Contribution (22)**

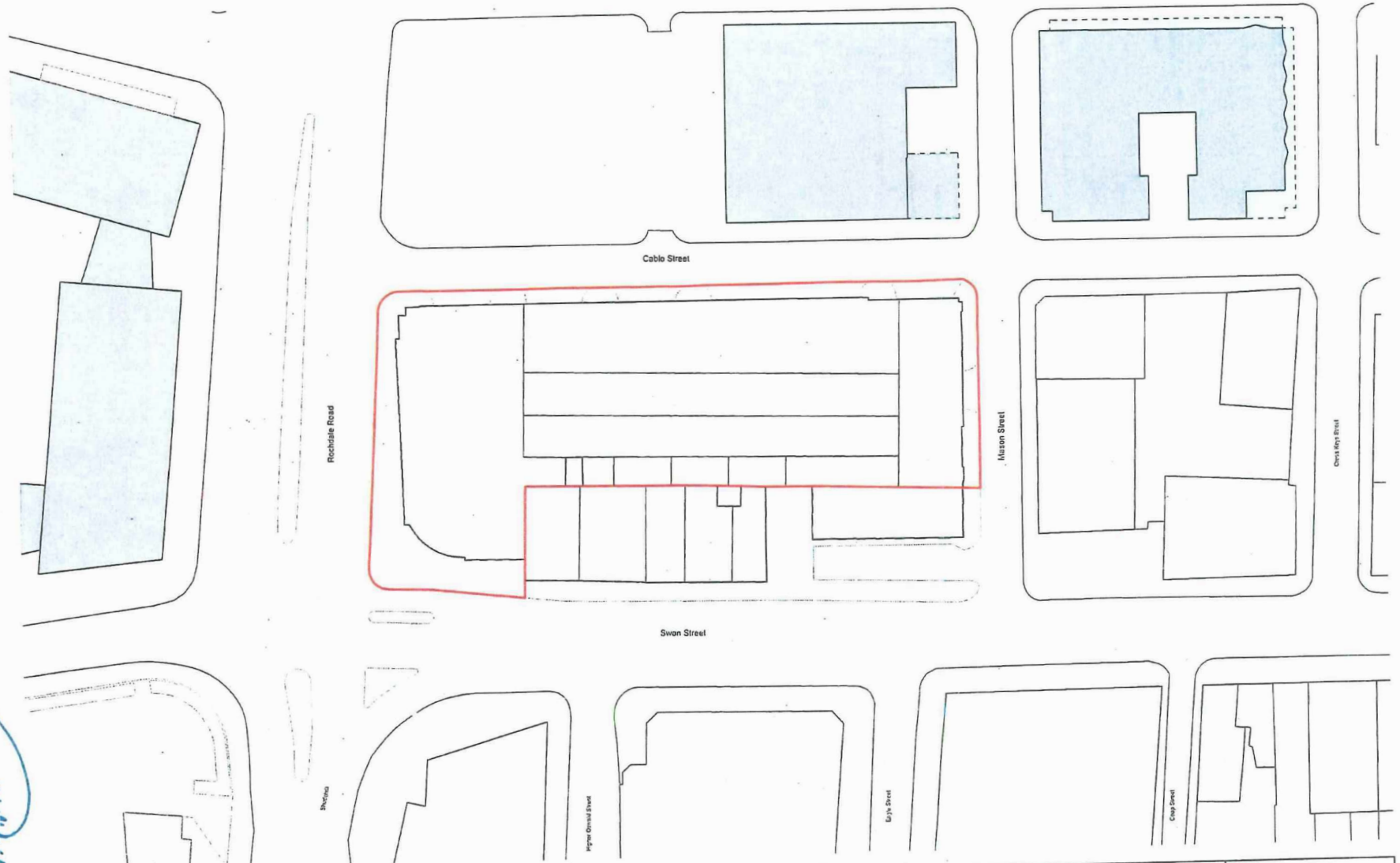
[redacted]

Late Stage Viability Assessment

1	Gross Development value of the PRS element (Residential and parking) assuming the development is complete	£	
2	Gross Development value of the commerical element assuming the development is complete	£	
3	GDV of the completed scheme		(1+2)
4	All in build cost	£	*Use developer's actual spent costs
5	Developer Contingency	0%	
6	Furniture Packs	£	*Use developer's actual spent costs
7	Initial Launch and Marketing costs	£	*Use developer's actual spent costs
8	Rights to light liability	£	*Use developer's actual spent costs
9	Latent Defect Insurance	£	*Use developer's actual spent costs
10	Pre Construction service Agreement	£	*Use developer's actual spent costs
11	Off-site highways / S.106	£150,000	
12	All Professional Fees	£	*Use developer's actual spent costs
13	Finance / Borrowing rate	£	5% or prevailing rate at the review
14	Developer Profit		8.5% of total costs (4-13 inclusive)
15	TOTAL GROSS DEVELOPMENT COSTS (GDC)		sum of 4-14 inclusive
16	Residual Land Value		(3 - 15)
17	Legal & Agents Fees @ 1.8% of Land Value plus SDLT at the prevailing rate		
18	Net Residual land value		(16-17)
19	Benchmark Land Value	£3,850,000	
20	S.106 Contribution Paid to Date	£1,350,000	plus any other sums paid in addition to this
21	VIABILITY PAYMENT:		18-(19+20) X say, 0.5, if split of viability payment agreed at 50:50.
22	Maximum Viability Surplus	£5,400,000	

Test — Viability Payment due if 21 is greater than £0, and that 20 + 21 do not exceed the Maximum Contribution (22)

[redacted]



[redacted]

[redacted]

This drawing is copyright
Do not scale all dimensions.

All dimensions to be checked on site by contractor.

Contractor to report any dimensional discrepancies, errors or omissions prior to commencing on site.

Scale Bar 1:250 @ A1

NORTH

Rev	Date	Description
A	14.06.18	Issued for Planning

Project title: Swan House
2 Rochdale Road
Manchester

Drawing title: Site Plan

Status: Planning Issue

Project number: 10133

Scale: 1:500 @ A2 / 1 : 250@ A1

Date: Jun 2018

Drawing number: 10133-ZO-XX-XP-A-BSD8-G100-0002

Revision: 00

simpsonhaugh

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[redacted]

THE COMMON SEAL of THE COUNCIL OF THE CITY OF MANCHESTER was hereunto affixed in pursuance of an Order of the Council of the said City:

01103193

[redacted]

Authorised Signatory

EXECUTED AS A DEED by **CABLE SWAN LIMITED**
acting by a director

DIRECTOR

Signature: [redacted]

Name (in block capitals)
M. JAMIL (DIRECTOR)

IN THE PRESENCE OF:

Signature: [redacted]

Name: (in block capitals) CARL DALE

Address: [redacted]

[redacted]

SIGNED AS A DEED by **MOHAMMED HANIF RASHID** [redacted]

in the presence of:

Witness signature: [redacted]

Witness name: REHMAN HAMID

Witness address [redacted]

Occupation: LAWYER

[redacted]

012410

THE COMMON SEAL of THE COUNCIL OF THE CITY OF MANCHESTER was hereunto affixed in pursuance of an Order of the Council of the said City:

Authorise [redacted]

Executed as a deed by)
RIDGE MANCHESTER SARL)
)
a company incorporated in Luxembourg,) Print Name Flavien Tullier Director
acting by)
Flavien Tullier Director)
[redacted]
) Authorised signatory
who, in accordance with the laws of that territory,)
are acting under the authority of the company)

Signature in name of company
RIDGE MANCHESTER SARL

Ridge Manchester SÀRL, a private limited company (société à responsabilité limitée) incorporated under the laws of the Grand Duchy of Luxembourg, with ~~its~~ registered office located at 11, rue Aldringen L 1118 Luxembourg-City, Grand Duchy of Luxembourg, registered with the Luxembourg Register of Commerce and Companies (R C S Luxembourg) under B247302. PF

[redacted]

EXECUTED as a **DEED**)
By _____) .....
as attorney for and on behalf of) (attorney's signature)
SITUS ASSET MANAGEMENT LIMITED
in the presence of

Maria Thonon
Vice President

[redacted] .....
Signature of witness

Name
.....WILLIAM SERWADDA.....

Address
[redacted]