

DATED 10th march 2023

THE COUNCIL OF THE CITY OF MANCHESTER

- and -

KIRKLAND DEVELOPMENTS (GORTON) LIMITED

-and-

THE TRUSTEES OF THE KIRKLAND DEVELOPMENTS LIMITED DIRECTORS
PENSION SCHEME

AGREEMENT

pursuant to section 106 of the Town and
Country Planning Act 1990 (as amended)
relating to Land opposite 83-87 Vine Street,
Manchester

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

THIS AGREEMENT is made the 10th day of March
2023

BETWEEN:

- (1) **THE COUNCIL OF THE CITY OF MANCHESTER** of Town Hall, Albert Square, Manchester, M60 2LA (the "**Council**"); and
- (2) **KIRKLAND DEVELOPMENTS (GORTON) LIMITED** (incorporated in England with company reference number (09327239) whose registered office is at 5a Woodford Road, Bramhall, Stockport, Cheshire, SK7 1JN (the "**Owner**"); and
- (3) **RODNEY CRAWFORD HOGARTH and JOSEPHINE ATRATA HOGARTH** both of The Gables, Woodbrook Road, Alderley Edge, Cheshire, SK9 7BY and **ORGANON PENSION TRUSTEES LIMITED** (company number 6406804) whose registered office is at Regent House Heaton Lane, Stockport, Cheshire SK4 1BS as **TRUSTEES OF THE KIRKLAND DEVELOPMENTS LIMITED DIRECTORS PENSION SCHEME** of 5a Woodford Road, Bramhall, Stockport, Cheshire SK7 1JN (the "**Mortgagee**").

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 Numbers MAN214961 and MAN214993 together with but subject to all matters contained or referred to in the Title Registers thereunder.
- C The Mortgagee has the benefit of a charge dated 18 January 2023 over the Site.
- 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 resolved on 3rd June 2021 that it was minded to grant the Planning Permission subject to the completion of this Agreement.

- F The Council has recognised the difficulty faced by lower income groups in buying homes within the Administrative Boundaries of Manchester and the planning purpose of this Agreement is to increase the provision of Affordable Housing within the Administrative Boundaries of Manchester and 20% of the Dwellings are to be secured as Affordable Housing pursuant to the terms of this Agreement.
- G The Council has determined that in order to comply with the policy H8 of the Core Strategy the Development must contribute to the city-wide target of 20% Affordable Housing which equates to five Dwellings in this Development. The Owner has stated that in order to comply with policy five (5) Dwellings will be provided on Site pursuant to this Agreement and let at an Affordable Rent;
- H 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.
- I 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.
- J The Mortgagee has agreed to enter this Agreement in support of the Application and to give its consent to its terms.

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,

"Agreement" shall mean this Agreement,

“Application” the outline application for planning permission to which the Council gave the reference 128864/OO/2020 with all matters reserved except for access and layout for a residential development comprising 25 x 2 storey dwellinghouses (Class C3),

“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 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,

“Core Strategy” means the Manchester Core Strategy (adopted 11th July 2012) which is the key document in the Council’s Local Development Framework and details the Council’s vision for the development of Manchester during the period 2012 to 2027,

“Development” the development undertaken on the Site pursuant to the Planning Permission as specified in the Application,

“Dwelling” a unit of residential accommodation to be constructed on the Site as part of the Development pursuant to the Planning Permission,

“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;

“Management Fee” shall mean 15% of the planning application fee which equates to five hundred and fifty-four pounds and forty pence (£554.40) to be used for the purpose of management and monitoring of this Agreement and the Planning Obligations contained herein,

“NPPF” the National Planning Policy Framework issued in July 2021 (as may be updated or replaced with an equivalent policy from time to time) 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" "Occupied" "Occupiers" and "Occupancy" shall be construed accordingly,

"Plan" the plan attached to the Agreement at Schedule 1,

"Planning Obligations" shall mean the obligations of the Owner specified in Schedule 2 and Schedule 4,

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

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

"Working Day" means any day except Saturday Sunday or a bank holiday in England 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

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, 16, 17 and 18 which shall have immediate effect.

4 CONDITION SUBSEQUENT

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 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 its part contained in this Agreement including those obligations set out in Schedule 2 and Schedule 4 and hereby agrees that the Site shall be permanently subject to the obligations, restrictions and provisions specified herein, such obligations being planning obligations for the purpose of section 106 of the Act PROVIDED THAT .

5.1.1 no obligation shall be construed as binding any person mentioned in paragraph 10 of Schedule 4 or against statutory undertakers in relation to any part or parts of the Site acquired by them for their purposes or for electricity sub-stations, gas governor stations or pumping stations or against anyone whose only interest in the Site or any part of it is in the nature of an easement or covenant.

5.1.2 A mortgagee or chargee with an interest in the Site from time to time shall have no liability unless they become a mortgagee in possession of the Site in which case they shall be liable as if they were a person deriving title from the Owner.

6 THE COUNCIL'S COVENANTS

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 Schedule 3

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 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 within thirty (30) days of one party serving notice on the other calling for the

appointment of an Expert, then an Expert shall be appointed on the application of either party to the President for the time being of the Royal Town Planning Institute

7.3 Any reference of a dispute to an Expert shall if the parties are agreed in writing be deemed to be a reference to an Expert (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 representations and cross-representations with such supporting evidence as they shall respectively consider necessary and the Expert shall have regard thereto in making their 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

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 written notice within five (5) Working Days 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 or that part to which the breach relates but without prejudice to liability for any subsisting breach arising prior to parting with such interest PROVIDED THAT they shall remain liable for any subsisting breach of covenant which occurred prior to parting with their interest.

10 COUNCIL'S CONSENT OR APPROVAL

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 title of the Owner registered under title numbers MAN214961 and MAN 214993 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 clauses 11.3 above shall be met by the Owner if requested by the Council.

12 NON-PROHIBITION ON DEVELOPMENT

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

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 Director at the Council's address first above written,

14.1.2 to the Owner at their registered office address; and

14.1.3 to the Mortgagee and addressed to the Trustees at the Mortgagee's address first above written

unless, if a party desires to change its address for service pursuant to this Deed, at the new address notified by that party to the other parties.

15 FEES

15.1 The Owner shall pay forthwith to the Council its legal fees which have been 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 on the date hereof pay to the Council the Management Fee.

16. JURISDICTION

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

17. MORTGAGEE

The Mortgagee hereby consents to the Owner entering into this Agreement and acknowledges that the Site will be bound by the planning obligations in this Agreement **PROVIDED THAT** the Mortgagee shall otherwise have no liability under

this Agreement unless it takes possession of the Site in which case it shall be bound by the obligations of this Agreement as if it were a person deriving title from the Owner.

18. COMPLETION

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.

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

SCHEDULE 1

The Site

Land opposite 83-87 Vine Street, Manchester and shown for the purposes of identification only edged red on the Plan.

Belbogan
J.A. Hoggarth

Draw



SCHEDULE 2

THE OWNER'S COVENANTS

The Owner hereby covenants with the Council as follows:

1. To notify the Council in writing within 5 (five) Working Days of Commencement of Development that development has Commenced,

SCHEDULE 3

THE COUNCIL'S COVENANTS

The Council hereby covenants with the Owner as follows

- 1 To issue the Planning Permission within two (2) Working Days of the date hereof.

SCHEDULE 4

AFFORDABLE HOUSING

The definitions set out here shall apply to this Agreement in addition to those set out in Clause 1.

"Affordable Housing" shall have the same meaning given to it in the NPPF Annex 2 Glossary (as may be updated or replaced with an equivalent policy from time to time) that will be available to persons who cannot afford to rent or buy housing generally available on the open market,

"Affordable Housing Contribution" the sum of three hundred and seven thousand one hundred and sixty-one pounds and twenty two pence (£307,161 22) (Index-Linked) being a sum equivalent to the cost to the Owner of providing the number of Affordable Rented Housing Unit(s) on the Site as would be required under policy H8 of the Core Strategy,

"Affordable Housing Plan" the drawing entitled Affordable Housing Plan to be submitted with the Affordable Housing Scheme,

"Affordable Housing Scheme" a written scheme to be submitted to and approved in writing by the Council for the provision of Affordable Rented Housing Units on the Site as a whole in accordance with policy H8 of the Core Strategy and detailing the number size location occupancy criteria of the Affordable Rented Housing Units on the Site,

"Affordable Housing Statement" means the written statement detailing provision of five of the Dwellings as Affordable Housing Units in accordance with policy H8 in the form attached at Appendix 1 which has been approved by the Council detailing the following.

- a) The agreed housing mix;
- b) The proposed arrangements for the transfer of the Dwellings to a Registered Provider,
- c) Proposed arrangements to ensure that the provisions of the Dwellings are affordable for both first and subsequent occupiers of the Dwellings, and

- d) The occupancy criteria used to determine the identity of the occupiers of the Dwellings;

"Affordable Rented Housing Unit" any Dwelling to be constructed to the same overall standard in terms of quality and finish as comparable units for sale as Market Housing Units and disposed to an RP under the terms of this Agreement for letting at an Affordable Rent on assured tenancies or assured shorthold tenancies in accordance with the relevant provisions of the Housing and Regeneration Act 2008 and marketed in accordance with guidance issued by Homes England (or successor body) from time to time,

"Affordable Rent" means subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable) and which in any event will not exceed the LHA,

"Capital Funding Guide" published by Homes England in November 2016 (updated June 2019) being the rules and procedures for delivering Affordable Housing through Homes England's affordable homes programmes,

"Chargee" shall mean any mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator or any persons or bodies deriving title through such mortgagee or chargee of part or all of the Affordable Rented Housing Units,

"Chargee's Duty" the tasks and duties set out in paragraph 12 of this Schedule 4,

"Consumer Price Index" means the UK price index known as the "Consumer Price Index (CPI)" produced by the Office of National Statistics as a measure of inflation and 'CPI' shall be construed accordingly,

"Homes England" means Homes England or the Regulator of Social Housing established under the Housing and Regeneration Act 2008 or such other body as may replace them for the purpose of procuring and regulating Affordable Housing from time to time,

"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 Consumer Price Index and "Index Linking" shall be construed accordingly,

"LHA" means the Local Housing Allowance being the rates determined by the Valuation Office Agency used to calculate housing benefit for tenants renting from private landlords, such rates being based on private market rents being paid by tenants in the broad rental market area,

"Market Housing Units" Dwellings that form part of the Development which are general market housing for sale on the open market and which is not Affordable Housing;

"Open Market Value" the estimated amount for which the Affordable Rented Housing Units would be sold on the open market as Market Housing Units between a willing buyer and a willing seller in an arm's length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion,

"Protected Tenant" any tenant who

- (a) has exercised the Right to Acquire or the right to acquire pursuant to the Housing and Regeneration Act 2008 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Rented Housing Unit, or
- (b) has exercised the Right to Buy or any statutory other right to buy (or any equivalent contractual right) in respect of a particular Affordable Rented Housing Unit;

"Registered Provider" or "RP" means either a registered social landlord as defined in the Part 1 of the Housing Act 1996 who is registered with the Regulator pursuant to s 3 of the Housing Act 1996 and has not been removed from that register pursuant to s 4 of Housing Act 1996 or a provider of social housing as defined in s 80 of the Housing and Regeneration Act 2008 who is registered with the Affordable Housing Regulator pursuant to s111 of the Housing and Regeneration Act 2008 and has not been removed from the register,

“Regulator” means the body known as the Regulation Committee of Homes England, also known as the Regulator of Social Housing, or any successor organisation or body which regulates Registered Providers;

“Right to Acquire” the right of a tenant to acquire the Affordable Housing Unit of which they are a tenant provided and governed by section 180 of the Housing Act 1985 and modified by the Housing (Right to Acquire) Regulations 1997 as the same may be modified or as contained in any replacement of the same,

“Right to Buy” the right of a tenant to buy the Affordable Rented Housing Unit of which they are a tenant provided:

- a) under the Housing Act 2005 and under the Housing and Planning Act 2016 as the same may be modified or as contained in any replacement of the same, or
- b) any equivalent contractual right,
- c) any extension of the Right to Buy to tenants of Registered Providers either through a voluntary scheme brought in by a Registered Provider or by government legislation as the same may be modified or contained in any replacement of the same,

“RP Sale Price” a price at which, taking into account any subsidy available to the RP, the RP can purchase the Affordable Rented Housing Units and manage them as Affordable Housing;

The Owner hereby covenants with the Council as follows

1. Either:
 - 1.1. To carry out the Development in accordance with the Affordable Housing Statement (subject to any amendments as may be agreed in writing with the Council from time to time), or
 - 1.2. Prior to Commencement of Development to submit to the Council for its written approval the Affordable Housing Scheme such scheme to detail the following.

- 1.2.1. Five (5) of the total number of Dwellings approved under the Planning Permission for the Development of the Site are to be Affordable Rented Housing Units,
 - 1.2.2. the location type and size of the Affordable Rented Housing Units to be provided as set out on the Affordable Housing Plan submitted as part of the Affordable Housing Scheme unless otherwise agreed in writing by the Council,
 - 1.2.3. the arrangements to be put in place to ensure that the Affordable Rented Housing Units are affordable for both initial and subsequent occupiers, and
 - 1.2.4. the occupancy criteria to be used for determining the identity of prospective and successive occupiers of the Affordable Rented Housing Units and the means by which such occupancy shall be enforced.
2. Where the Owner elects to proceed on the basis of an Affordable Housing Scheme pursuant to paragraph 1.2 above, paragraphs 3-10 shall apply.
3. To provide the Affordable Rented Housing Units in accordance with the approved Affordable Housing Scheme subject to provisions of paragraph 6 and 7 below.
4. Prior to Commencement of Development to make offers to sell the freehold interest of the Affordable Rented Housing Units at the RP Sale Price in accordance with the approved Affordable Housing Scheme to such RPs as may be agreed by the prior written approval of the Council.
5. Any sale pursuant to an offer made in accordance with Paragraph 4 shall be with full title guarantee free from encumbrances or other obligations and with the benefit of full unrestricted rights of access over any access roads to be built to a standard capable of adoption by the Highway Authority from the boundary of the Affordable Rented Housing Units to an adopted highway (and vice versa) and full unrestricted rights for all services and conducting media and drains or sewers to be laid or constructed to or adjacent to the boundary of the Affordable Rented Housing Units to a standard capable of adoption by the respective service providers.

6. In the event that the Owner gives notice to the Council that either
 - 6.1. offers have been made in accordance with Paragraph 4 to at least two RPs , all of whom have declined to accept the transfer of the Affordable Rented Housing Units in accordance with the offer made to it, or
 - 6.2. Six (6) months have expired following the date that detailed offer documentation has been provided to the RPs (being a minimum of two to whom offers have been made in accordance with paragraph 4) without a binding acceptance of the offer being given by any of them within that period,

then the Owner shall pay to the Council the Affordable Housing Contribution in the following instalments:

- (a) 50% (fifty per cent) on or prior to Occupation of 30% (thirty per cent) of the Dwellings on the Site and
 - (b) 50% (fifty per cent) on or prior to Occupation of 80% (eighty per cent) of the Dwellings on the Site),
7. In the event that notice is given in accordance with Paragraph 6 above, Paragraph 3, Paragraph 5, Paragraph 11 and Paragraph 12 shall no longer be enforceable and for the avoidance of doubt those Affordable Rented Housing Units may be sold as Market Housing Units and will be free from the affordable housing provisions set out in this Schedule 4.
8. For the avoidance of doubt, in the event that the Affordable Rented Housing Units are provided in accordance with the approved Affordable Housing Scheme and Paragraph 3, Paragraph 5, Paragraph 9 and Paragraph 10, the Owner shall not be liable for the Affordable Housing Contribution under Paragraph 6 above.
9. Not to allow Occupation of more than 30% (thirty per cent) of the Dwellings on the Site until either
 - 9.1. the first Affordable Rented Housing Unit on the Site has been completed in accordance with the Planning Permission and the Affordable Housing Scheme and made ready for Occupation and written notification of such has been given to the Council or

- 9.2. the Owner has given notice in accordance with paragraph 6 above and paid 50% of the Affordable Housing Contribution to the Council
- 10. Not to allow Occupation of more than 95% (ninety five per cent) of the Dwellings until either.
 - 10.1. all Affordable Housing Rented Units have been completed in accordance with the Planning Permission and the Affordable Housing Scheme and made ready for Occupation and written notification of such has been given to the Council; or
 - 10.2. the Owner given notice in accordance with paragraph 6 above and paid has paid 100% of the Affordable Housing Contribution as set out in Paragraph 6 above.
- 11 Subject to Paragraphs 6 and 7, from the date of Practical Completion of the Affordable Rented Housing Units they shall not be used other than for Affordable Housing save that this obligation shall not be binding on:
 - 11.1. any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and chargees; or
 - 11.2. any Chargee provided that the Chargee shall have first complied with the Chargee's Duty and any person deriving title from the Chargee or any successor in title thereto and their respective mortgagees and chargees, or
 - 11.3. any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor and any person deriving title from that purchaser or any successor in title thereto and their respective mortgagees and chargees, or
 - 11 4. any purchaser or successor in title or any mortgagee of an individual unit sold as Market Housing Unit in accordance with Paragraph 7 of this Schedule 4.

- 12 Subject to Paragraphs 6, and 7, the provisions relating to the Affordable Housing Units to be delivered pursuant to this Schedule 4 of this Agreement shall not be binding on a Chargee PROVIDED THAT
- 12 1. such Chargee shall first give written notice to the Council of its intention to dispose of one or more of the five (5) Affordable Housing Units 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
- 12.2. if such disposal has not completed within a three month period from the date of the written notice mentioned above, the Chargee shall be entitled to dispose of the Affordable Housing Unit(s) free from the provisions of Schedule 4 of this Agreement which provisions shall determine absolutely
13. Nothing in this Agreement shall prohibit the twenty (20) Dwellings that are not designated as Affordable Rented Housing Units for the purposes of this Agreement being provided as Affordable Housing whether pursuant to the terms of any grant funding agreement entered into with Homes England in accordance with Homes England's Capital Funding Guide or otherwise and the Owner may provide such Dwellings as Affordable Housing at its absolute discretion and such Dwellings will not be subject to the provisions of this Schedule.

Appendix 1

Affordable Housing Statement

- 1 This Affordable Housing Statement has been prepared in support of the Development
- 2 This Affordable Housing Statement addresses the provision of relevant Affordable Housing consideration in light of national and local policy The Affordable Housing shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework (or any future, equivalent guidance that replaces it)
3. This Affordable Housing Statement includes details of
 - i the type, tenure and location of the affordable housing provision, which shall consist of not less than 5 Affordable Housing Units,
 - ii the arrangements for the transfer of the 5 Affordable Housing Units to a Registered Provider or the management of the 5 Affordable Housing Units if no Registered Provider is involved,
 - iii the arrangements to ensure that such provision is affordable for both the first and subsequent Occupiers of the Affordable Housing Units, and
 - iv the occupancy criteria to be used for determining the identity of Occupiers of the Affordable Housing and the means by which such Occupancy criteria shall be enforced
4. The following information is provided in respect of each of the criteria,

The scheme comprises the following tenure and unit mix

Tenure type – Affordable Rented Housing Units	Total secured by this Agreement -5
Total	5

- 5 The Owner will construct the Affordable Housing Units on behalf of the Jigsaw Homes North, who are a Registered Provider Following handover of the completed

Affordable Housing Units, the Registered Provider will manage the Affordable Housing Units and be responsible for their future lettings and maintenance. The disposal of the Affordable Housing Units to a Registered Provider will ensure that those units remain affordable in perpetuity, subject to the exceptions and exclusions set out in this Agreement.

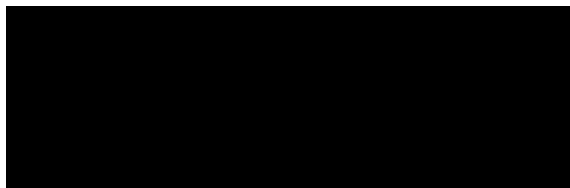
- 6 The Council will have 100% nominations on first lettings, and also subsequent lets through the agreed common allocations framework, for the Affordable Housing Units. Lettings will be through the Manchester Move system and allocated as per the allocations policy, or any approach agreed locally between the Council and the Registered Provider.
- 7 The provisions of this Agreement shall not be enforceable against
 - a a person who has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit,
 - b a person who has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit, or
 - c any successor in title to any person mentioned above

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:



01119424

EXECUTED as a DEED by KIRKLAND)
DEVELOPMENTS (GORTON) LIMITED acting)
by a director in the presence of:



Director's name

Witness' signature

Witness' name (in BLOCK CAPITALS):

Witness' address (including post code)

Witness' occupation:

COMPANY DIRECTOR

EXECUTED as a DEED by the TRUSTEES)
OF THE KIRKLAND DEVELOPMENTS)
LIMITED DIRECTORS PENSION SCHEME

acting by its Trustees: EXECUTED as a
DEED by [REDACTED]
[REDACTED]

[REDACTED]

Trustee's name

in the presence of [REDACTED]

Witness' signature [REDACTED]

Witness' name (in BLOCK CAPITALS): [REDACTED]

Witness' address (including post code [REDACTED])

Witness' occupation:

COMPANY DIRECTOR

By [REDACTED]

[REDACTED]

Trustee's name

in the presence of [REDACTED]

Witness' signature [REDACTED]

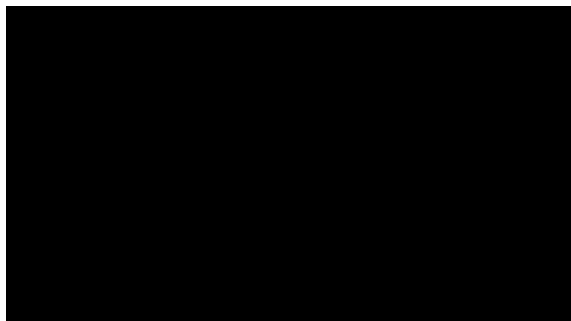
Witness' name (in BLOCK CAPITALS): [REDACTED]

Witness' address (including post code [REDACTED])

Witness' occupation:

COMPANY DIRECTOR

By ORGANON PENSION TRUSTEES
LIMITED acting by a director in the
presence of:



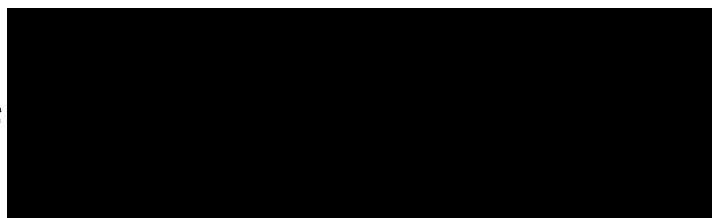
Director's name

Witness' signature:



Witness' name (in BLOCK CAPITALS):

Witness' address (including post code):



Witness' occupation:

Property Administrator