DATED 2026

THE COUNCIL OF THE CITY OF MANCHESTER

- and –

BRIAN CLIFF, JAMES BRIAN ELMS, GERALD JOSEPH BOWES and PETER ANTHONY MCMAHON as TRUSTEES OF LONGSIGHT CRICKET CLUB

-and-

BLACKTHORN DEVELOPMENTS NW LTD and JC BRENNAN DEVLOPMENTS LTD

-and-

VIEWS (HOLDINGS) LIMITED

AGREEMENT

pursuant to section 106 of the Town and
Country Planning Act 1990 (as amended)
relating to land at Longsight Cricket Club, East Road, Manchester

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

L/EPG/PLA001/84203

THIS AGREEMENT is made the day of 2026

BETWEEN:

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

(2) **BRIAN CLIFF, JAMES BRIAN ELMS, GERALD JOSEPH BOWES and PETER ANTHONY MCMAHON as TRUSTEES OF LONGSIGHT CRICKET CLUB** of Longsight Cricket Club 84 East Road, Longsight, Manchester M12 5GZ (the **"Owner"**);

(3) **BLACKTHORN DEVELOPMENTS NW LTD** incorporated and registered in England and Wales with company number 14548591 of 432 Wellington Road North, Stockport, SK4 5AD and **JC BRENNAN DEVELOPMENTS LTD** incorporated and registered in England and Wales with company number 02524406 of 74 Dickenson Road, Rusholme, Manchester, M14 5HF (together the "**Registered Option Holder**");

(4) **VIEWS (HOLDINGS) LIMITED** incorporated and registered in England and Wales with company number 11742662 of Adullam London Road, Adlington, Macclesfield, SK10 4DU (the "**Unregistered Option Holder**")

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 MAN169005 together with but subject to all matters contained or referred to in the title registers thereunder.

C By virtue of a transfer dated 11 March 202, the Owner has now transferred part of the Site registered at the Land Registry with title absolute under title number MAN169005 to the Registered Option Holder. However, the Owner has been included as a party to this Deed on the basis that it technically remains the legal Owner whilst the associated land Registry application relating to the transfer is pending.

D The Registered Option Holder is interested in the Site by virtue of an option to purchase the Site, notice of which is entered against title number MAN169005.

E The Unregistered Option Holder is interested in the Site by virtue of an option to purchase the Site pursuant to an option agreement dated 1 September 2023 as amended by a deed of variation dated 13 October 2025, which has not yet been protected on the title to the Land.

F 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.

G 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.

H The Council has determined that the Development in order to comply with the Local Plan requires a payment of XX pounds (£XX) ("**Maximum Contribution**") as a contribution towards off-site Affordable Housing.

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.

J The Registered Option Holder and the Unregistered Option Holder have agreed to enter into this Agreement for the purpose of consenting to the terms.

K The Council has determined that in order to comply with the Core Strategy the Development should provide 20% on-site Affordable Housing or an equivalent financial contribution towards Affordable Housing within the Administrative Boundaries of Manchester or a combination of both ("the Affordable Housing Policy Requirement"). However, the Owner has stated that there are viability issues affecting the development of the Site and have submitted to the Council documentation in support of this contention. The Council has accepted that at the date of this Agreement without a reduction in the Affordable Housing Policy Requirement the implementation of the Development is not viable. The Council has agreed to accept the Initial Affordable Housing Contribution in lieu of the full policy requirement on the basis of the information contained in the documentation relating to viability submitted by the Owners to the Council. The Owner has agreed to enter into the planning obligations contained herein requiring the Owner to submit a Viability Appraisal and pay any Viability Payment found to be due in accordance with the provisions contained in this Agreement.

L The Council is satisfied that the obligations in this Agreement are;

(a) necessary to make the Development acceptable in planning terms;

(b) directly related to the Development; and

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

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);

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

“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;

"Agreement” shall mean this agreement;

“Application” the application for the erection of twenty (20) three-storey residential units (Class C3) with new access from East Road, landscaping, drainage infrastructure and other associated works to which the Council gave the reference 141700/FO/2024

“Architect” Ollier Smurthwaite Architects, 40 King Street, Manchester, M2 6BA

“Benchmark Land Value” means £107,000 (ONE HUNDRED AND SEVEN THOUSAND POUNDS) Index Linked;

“Calculation Date” means on Completion of Construction of 75 % (SEVENTY FIVE PERCENT) of the Dwellings;

“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 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.

“Completion of Construction” the date upon which a valid certificate of completion shall have been issued in respect of the relevant number of Dwellings for the purposes of the Building Act 1984 and the Building Regulations 2010 or any amendment or replacement of the same and **“Completed”** and “**Completion**” shall be construed accordingly;

“Construction Period” means the period from the carrying out of the first Material Operation to the Practical Completion of the Development;

“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

“Costs” means the costs to be taken into account for the purpose of the Viability Appraisal as defined in paragraph 013 (reference: 10-013-20240214) of the section of the NPPG headed “Viability” as the same may be amended or any replacement thereof. In addition, the Council will accept in the calculation of Costs:

1. the actual costs Reasonably and Properly Incurred in relation to the Development prior to and up until the time of submission of the Viability Appraisal; and

2. the estimated costs that remain to be Reasonably and Properly Incurred in completing the Development and such details shall be included in the Viability Appraisal,
provided always in the case of points (1) and (2) of this definition that any such actual or estimated costs are amongst those detailed or referred to in paragraph 014 of the NPPG section headed "Viability" (as may be amended or any replacement of the same);

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

"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.

"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.

"GDV" means gross development value as defined in RICS Guidance or any replacement, update 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 actual sale and rental prices achieved at the development up to the time of preparation of the Viability Appraisal and detailed therein PROVIDED THAT where in the opinion of the Council a Dwelling:

(a) has not been Disposed Of at a value that is equal to or greater than its Open Market Value; or
(b) is not yet Disposed Of or not yet sold subject to contract and the advertised price for the Dwelling is not equal to or greater than its Open Market Value then (in either case) the Council may opt in writing to substitute the Open Market Value of the said Dwelling concerned in place of the actual monies received or (if applicable) in place of its advertised price;

"Gross Margin" means the GDV less the Costs;

"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;

"Initial Affordable Housing Contribution" the sum of £XXXX (XXXXXXXX) Index Linked to be paid in accordance with the provisions of contained in Schedule 3

Commented [EP1]: TBC

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

"Letting" means a lease or tenancy of a Dwelling which is not a Long Lease and **"Lettings"** shall be construed accordingly;

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

"Long Lease" means a lease of a Dwelling for not less than ninety-five (95) years granted at a premium without reservation of a rack rental;

"Management Fee" shall mean 15% of the planning application fee which equates to £XXX (XXX) for the purpose of monitoring and reporting on the delivery of this Agreement and the Planning Obligations contained herein;

Commented [EP2]: TBC

"Material Operation" means material operation comprised in the Development as defined by Section 56(2) and (4) of the Act and "Material Operations" shall be construed accordingly;

"Maximum Contribution" the sum of £821,000 (EIGHT HUNDRED AND TWENTY ONE THOUSAND) Index Linked

"Method of Disposal" whether the units are being sold on an Open Market Sales basis or subject to a Pre-Sale and/or as Build to Rent;

"NPPF" the National Planning Policy Framework issued in December 2024 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;

"NPPG" the National Planning Practice Guidance which provides context on the Government's planning policies as set out in the NPPF 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 Sales" means the marketing and sale of individual Dwellings within the Development disposed of at Open Market Value;

"Open Market Value" means the market value as defined in the IVS definition of market value set out in paragraph 30 on pages 18 to 20 of the section headed "IVS 104 Bases of Value" in Part 6 of the RICS publication titled "RICS Valuation - Global Standards 2017" and issued in June 2017 or any replacement, update or amendment of the same from time to time;

"Open Space, Sport and Recreation Facilities Contribution" the sum of £11,925 (ELEVEN THOUSAND NINE HUNDRED AND TWENTY-FIVE POUNDS) Index Linked to be used for maintenance equipment at Beech House Bowling Club to create capacity and maintain the standard of the existing green;

"Permitted Profit Level" means in the case of Open Market Sales when the Gross Margin is equivalent to 18% (EIGHTEEN PERCENT) of the GDV.

"Plan" the plan attached to the Agreement;

"Planning Obligations" shall mean the obligations of the Owner specified in the Schedules;

"Planning Permission" the planning permission granted pursuant to the Application in or substantially in the form as detailed in Schedule 2 and as may be amended by any non-material amendment granted by the Council pursuant to s96A of the Act

"Practical Completion" the issue of a certificate of practical completion by the Owner's Architect, engineer or other certifying officer as the case may be under the relevant building contract entered into in respect of the Development or part or parts thereof;

"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;

"RICS Guidance" means the RICS guidance note entitled "Assessing viability in planning under the National Planning Policy Framework 2019 for England" 1st Edition, March 2021 or any replacement, update or amendment of the same;

"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 in relation to the Development required to be provided on the Calculation Date in accordance with the provisions of Schedule 3 of this Agreement. Further guidance on the format to follow can be found in the RICS Guidance;

"Viability Assessment Fee" the sum of £12,000 (TWELVE THOUSAND) plus VAT to cover the cost of the Council's review of the Viability Appraisal in order to determine whether and the extent to which the Development can support a requirement to provide the Viability Payment.

"Viability Payment" a payment required to be made by the Owner to the Council if the Viability Appraisal shows that the Permitted Profit Level as assessed will be achieved and will be the amount by which the Gross Margin exceeds the Permitted Profit Level PROVIDED THAT the sum of the Initial Contribution and the Viability Payment as well as any Clawback shall not exceed the Maximum Contribution. The Viability Payment will be payable in accordance with the timescales set out in Schedule 3 hereto;

"Viability Payment Deadline" means the twenty eighth (28th) Working Day next following the later of:

(a) the day on which the Council states pursuant to paragraph 3.1 of Schedule 3 that the Viability Appraisal is agreed;

(b) the day on which the Viability Appraisal is agreed in writing between the Owner and the Council pursuant to paragraph 4 of Schedule 3; and

(c) the day on which the written determination of the Chartered Surveyor is issued pursuant to Clause 7 of the Agreement and paragraph 4 of Schedule 3;

as the case may be;

"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**

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**

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, 18 and 20 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**

The Owner on behalf of itself 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 3 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.

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 the Schedule 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 or Clawback Valuation 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**

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 provided that this clause shall not apply to the Disposal of a Dwelling or a Disposal to a statutory undertaker for the purpose of their statutory undertaking.

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 (save that compliance with the provisions of clause 19 and liability for any Clawback if applicable shall subsist if a person does not retain in single ownership Dwellings which have been delivered as Built to Rent and that person has disposed of such Dwellings by Open Market Sales) 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 after that person has parted with its interest in the Site.

9.3 The obligations contained in this Agreement shall not be binding on:

9.3.1 Any tenant, owner, occupier, mortgagee, and/or chargee of a Dwelling and their successors in title; and

9.3.2 Any statutory undertaker who acquires any part of the Site for the purpose of its statutory undertaking.

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 ENTRY**

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

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

11.3 The costs of registration and cancellation pursuant to clauses 11.2 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 City Solicitor at the Council's address first above written;

14.1.2 to the Owner at their registered office addresses;

15 **FEES**

15.1 The Owner shall on the date hereof pay 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 on the date hereof pay to the Council the Management Fee;

15.4 When submitting a Viability Appraisal the Owner shall pay to the Council the related Viability Assessment Fee within 10 Working Days of his receipt from the Council of an invoice detailing the amount.

16. **INTEREST**

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. **WARRANTY AS TO TITLE**

The Owner hereby warrants to the Council that the title details recited in this Agreement are complete and accurate in every respect and no other person other than the Registered Option Holder and the Unregistered Option Holder has an interest in the Site and hereby indemnifies the Council in respect of any loss that arises should there be any breach of this warranty.

18. **JURISDICTION**

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

20. **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.

21. **THE REGISTERED OPTION HOLDER'S AND THE UNREGISTERED OPTION HOLDER'S CONSENT**

21.1 The Registered Option Holder and the Unregistered Option Holder enter into this deed for the purpose of consenting to the terms of this deed, acknowledging their respective interests in the Site, and agreeing that the Planning Obligations contained in this deed shall bind their interests (so far as relevant) and any future exercise of their rights under their respective option agreements.

21.2 For the avoidance of doubt, neither the Registered Option Holder nor the Unregistered Option Holder shall be liable for the performance of the covenants in this deed unless and until they become the owner of the Land.

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

SCHEDULE 1

The Site

Land at Longsight Cricket Club, East Road, Manchester, M12 5GZ and shown for the purposes of identification only edged red on the Plan.

SCHEDULE 2

Draft Planning Permission

SCHEDULE 3

THE OWNER'S GENERAL COVENANTS

The Owner hereby covenants with the Council as follows:

1. NOTICES

1.1 To notify the Council in writing;

1.1.1 within five (5) Working Days of Commencement of Development that development has Commenced;

1.1.2 within 5 (five) Working Days of the date of Completion of Construction of [seventy-five percent (75%)] of the Dwellings, and

1.1.3 within 5 (five) Working Days of Completion of Construction of all of the Dwellings constructed as part of the Development.

2. CONTRIBUTIONS

2.1 To pay the Council the Open Space, Sport and Recreation Facilities Contribution Index Linked on or prior to the commencement of Development.

2.2 To pay the Council the Initial Contribution on the date hereof.

3. VIABILITY REVIEW AT CALCULATION DATE AND VIABILITY PAYMENT

3.1 Within ten (10) Working Days of the Calculation Date:

3.1.1 to confirm the Permitted Profit Level to the Council in writing; and

3.1.2 to provide a copy of the Viability Appraisal in order that the Council may instruct a Chartered Surveyor to review the Viability Appraisal and advise the Council on its contents and conclusion.

3.2 Within sixty (60) Working Days of its receipt of the Viability Appraisal the Council shall give written notice to the Owner either:-

3.2.1 Stating that it accepts the Viability Appraisal or,

3.2.2 Correcting or challenging any of the amounts or conclusions included in the Viability Appraisal and giving details of the disputed amounts or conclusions.

3.3 In the event that the Council shall have served a notice on the Owner pursuant to paragraph 3.2.2 of this Schedule 3 the Owner and the Council shall use reasonable endeavours to reach agreement in respect of the Viability Appraisal but if the Owner and the Council shall have failed to agree the Viability Appraisal within twenty-eight (28) Working Days of the notice served by the Council pursuant to Paragraph 3.2.2 of this Schedule 3, then the matter in dispute shall be referred to the Chartered Surveyor, in accordance with the provisions of Clause 7 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 Viability Appraisal, which both Parties agree will be final and binding upon them (save in respect of manifest error);

3.4 The Viability Appraisal not by way of limitation shall include and confirm:

5.1 the GDV and NDV;

5. 2 the Costs;

5.3 the Gross Margin; and,

5.4 the Viability Payment, if any.

3.5. Viability Payment

3.5.1 On or before the Viability Payment Deadline to pay to the Council the Viability Payment (if any) PROVIDED ALWAYS that the Viability Payment and the aggregate of any Clawback shall be capped so that they do not exceed the Maximum Contribution;

3.5.2 In the event that the information contained in the Viability Appraisal (as agreed by the Council or determined pursuant to paragraph 4 of this Schedule 3) 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;

3.5.3 From the Calculation Date the Owner shall not Occupy nor permit Occupation of any Dwelling unless and until:

(a) the Viability Payment (if any) has been paid in full; or

(b) the Council has confirmed in writing that no Viability Payment is due.

SCHEDULE 4

The COUNCIL'S COVENANTS

The Council hereby covenants with the Owner as follows:

1. To use the Open Space Sport and Recreation Facilities Contribution for maintenance equipment at Beech House Bowling Club to create capacity and maintain the standard of the existing green, and for no other purpose.

2. To use the Initial Contribution and any Viability Payment towards the provision of Affordable Housing within the Administrative Boundaries of Manchester and for no other purpose.

3. 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 within twenty (20) Working Days of receipt of the request.

4. The Council shall provide written details of any expenditure incurred by the Council using the Open Space Sport and Recreation Facilities Contribution, the Initial Contribution, any Viability Payment and any Clawback within 20 Working Days of a written request to do so from the party/person who made the payment to the Council.

5. To repay to the paying party such sum or sums remaining from the Open Space Sport and Recreation Facilities Contribution, the Initial Contribution, any Viability Payment and any Clawback as have not been expended in accordance with paragraphs 1 and 2 of this Schedule (excluding any such sums in respect of which though not yet expended the Council has contractually committed to expend) within ten (10) years of the date of receipt by the Council.

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

SCHEDULE 5

VIABILITY TEMPLATE

Land at Longsight Cricket Club, East Road, Manchester, M12 5GZ

Gross Development Value (GDV) £

Permitted Profit Level – based upon 18% of GDV of Open Market Value	£
All in build cost – Includes (but not limited to) - house build (superstructure), plot costs (incl. substructure), infrastructure, overheads and prelims, operating costs, sales incentives	£
Schedule of abnormals TBA	£
Contingency on build costs and abnormals TBA	£
Professional fees on build costs and abnormals TBA	£
Sales and marketing costs TBA	£
Section 106 payments TBA	£
Finance cost of TBA	£
Agreed land value (The Lower of 1). Benchmark Land Value set at planning consent stage of £XX or 2). Actual land value – to be evidenced)	£
Agreed Stamp Duty - TBA	
TOTAL COSTS (Costs)	
Gross Margin equals GDV - Costs	
Gross Margin minus Permitted Profit Level	
VIABILITY PAYMENT – equating Gross Margin minus Permitted Profit Level	

NB –The sum of the Initial Contribution and the Viability Payment shall not exceed the Maximum Contribution

The Headings in the Viability Template are not exhaustive

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:

AUTHORISED SIGNATORY

[OWNER EXECUTION BLOCK]

Signed as a deed by: **BRIAN CLIFF**

In the presence of a witness:

Witness Signature:

Name:

Address:

Occupation:

Signed as a deed by: **JAMES BRIAN ELMS**

In the presence of a witness:

Witness Signature:

Name:

Address:

Occupation:

Signed as a deed by: **GERALD JOSEPH BOWES**

In the presence of a witness:

Witness Signature:

Name:

Address:

Occupation:

Signed as a deed by: **PETER ANTHONY MCMAHON**

In the presence of a witness:

Witness Signature:

Name:

Address:

Occupation:

[REGISTERED OPTION HOLDER EXECUTION BLOCK]

Signed as a deed by: **BLACKTHORN DEVELOPMENTS NW LTD**

Acting by a Director in the presence of a witness

Witness signature;

Name:

Address:

Occupation:

OR

in the presence of: -

Signature: ……..

Name (In Capitals): ……

Director

Signature: ……..

Name (In Capitals): ……

Director/Company Secretary*

(*delete as appropriate)

Signed as a deed by: **JC BRENNAN DEVELOPMENTS LTD**

Acting by a Director in the presence of a witness

Witness signature;

Name:

Address:

Occupation:

OR

in the presence of: -

Signature: ……..

Name (In Capitals): ……

Director

Signature: ……..

Name (In Capitals): ……

Director/Company Secretary*

(*delete as appropriate)

[UNREGISTERED OPTION HOLDER EXECUTION BLOCK]

Signed as a deed by: **VIEWS (HOLDINGS) LIMITED**

Acting by a Director in the presence of a witness

Witness signature;

Name:

Address:

Occupation:

OR

in the presence of: -

Signature: ……..

Name (In Capitals): ……

Director

Signature: ……..

Name (In Capitals): ……

Director/Company Secretary*

(*delete as appropriate)