

Dated

202[]

THE CITY COUNCIL OF BRISTOL (1)

and

[Owner] (2)

and

[Developer] (3)

and

[Mortgagee] (4)

A G R E E M E N T

under Section 106 of the Town and Country Planning Act 1990
Sections 111 and 120 of the Local Government Act 1972
Section 1 of the Localism Act 2011
and other statutory provisions relating to land at
[]

Planning ref: []

Tim O’Gara
Service Director - Legal
& Democratic Services City Hall
College Green
Bristol
BS1 5TR
Ref:GD04.[]

"1990 Act"	the Town and Country Planning Act 1990 (as amended) and that and any other reference to the 1990 Act shall include any amending or replacing legislation for the time being in force
"Commencement"	the date on which any material operation (as defined in section 56(4) of the 1990 Act) forming part of the Development begins to be carried out other than (for the purposes of this Agreement and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Commencement of Development" or "Commence Development" shall be construed accordingly
"Committed for Expenditure"	the Council has identified a financial contribution for spending in its annual financial forward plan or otherwise allocated the contribution for spending in accordance with its legal duties pursuant to Section 151 of the Local Government Act 1972
"Development"	the development authorised or to be authorised by the Planning Permission
"Director"	the Council's Strategic Director of Growth and Regeneration for the time being or his duly appointed agent
"Expert"	the expert appointed pursuant to clause 18.1 or 18.2
"Index Linked"	shall be construed in accordance with Schedule [XX]

"Land"	the land situated at XXXXX Bristol in respect of which the Owner/Developer has made the Planning Application as shown edged red for the purposes of identification on the Plan and for the avoidance of doubt except where the context otherwise requires shall include each and every part of the land
"Occupation"	the occupation of an individual Residential Unit [and/or commercial building] but not including occupation by personnel engaged in construction fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and "Occupy" and "Occupied" and "Occupier" shall be construed accordingly
"Plan"	the plan annexed to this Agreement at Annexure 1 and marked with drawing number [XXXX]
"Planning Application"	the application made by the Owner/Developer to the Council (reference number XXXXX) for planning permission to develop the Land for [insert description]
"Planning Permission"	any permission given in respect of the Planning Application or such other permission as may be granted by the Council in respect of the Land pursuant to an application for planning permission to amend such permission made pursuant to Section 73 of the 1990 Act provided that such permission does not materially alter the obligations contained in this Agreement save that the Council reserves the right to require a supplemental deed pursuant to Section 106/Section 106A (as appropriate) of the 1990 Act at its sole election
"Residential Units"	The [XX number] residential properties forming part of the Development which includes the open market Build to Rent Units and the Affordable Private Rent

Units (as both are defined in Schedule 1) and
“Residential Unit” will be interpreted accordingly

“Working Day”

a day other than a Saturday or Sunday or public
holiday in England

- 1.2. Any reference to the parties or any other legal or natural person shall include his her its or their heirs assigns and successors in title and in the case of any local authority shall also include any successor in function
- 1.3. Any covenants obligations or other commitments given by more than one party shall be joint and several
- 1.4. Where the Owner/Developer is not a body corporate then neuter words shall include the masculine or feminine gender (as the case may be) and singular words shall include their plural numbers
- 1.5. The headings throughout this Agreement are for convenience only and shall not be taken into account in the construction and interpretation of this Agreement

2. STATUTORY POWERS

2.1. THIS Agreement:

2.1.1. will be registered as a Local Land Charge;

2.1.2. is entered into pursuant to Section 106 of the 1990 Act Sections 111 and 120 of the Local Government Act 1972 Section 1 of the Localism Act 2011 and all other statutory and enabling powers;

2.1.3. to the extent that the obligations in this Agreement fall within the terms of Section 106 of the 1990 Act the obligations contained in this Agreement are planning obligations for the purposes of Section 106 of the 1990 Act; and

2.1.4. to the extent that the obligations contained in this Agreement are not planning obligations within the meaning of the 1990 Act they are entered into pursuant to the power contained in Sections 111 and 120 of the Local

Government Act 1972 Section 1 of the Localism Act 2011 and all other statutory and enabling powers

3. ENFORCEMENT

3.1. The covenants herein on behalf of the Owner/Developer are planning obligations (as defined in the 1990 Act) and they shall in accordance with Section 106(3) of the 1990 Act be enforceable by the Council against all persons obtaining title to the Land (or any part thereof) through any of those parties

3.2. No person shall be bound by any covenant or obligation herein in respect of any period during which that person no longer has an interest in the Land or part thereof except in respect of any breach arising and subsisting prior to parting with such interest

3.3. Unless stated specifically herein to the contrary nothing herein shall bind any statutory undertaker whose interest in the Land is held as part of their undertaking

3.4. In relation to individual owners and occupiers of a Residential Unit:

3.4.1. nothing herein shall bind an individual owner and/or Occupier of any single Build to Rent Unit;

3.4.2. [Schedule [1] (as relevant) shall bind an individual owner/Occupier of an individual Affordable Private Rented Unit]

4. THIRD PARTIES

4.1. In accordance with Sections 1(2) and 2(3)(a) of the Contracts (Rights of Third Parties) Act 1999 no term of this Agreement shall be enforceable by a third party and any term may be rescinded or varied without the consent of any third party

5. SUBSTANTIVE COVENANTS

5.1. The Owner/Developer for and on behalf of itself and its heirs assigns and successors in title to its interests in the Land with the intention that the following provisions shall bind the Land and every part of it into whosoever's hands it may

come covenants with the Council that it will comply with the covenants contained in the Schedules annexed to this Agreement

- 5.2. The Council agrees and acknowledges that the covenant on the part of the Owner/Developer in clause 5.1 above shall apply only in the event that the Owner/Developer or anyone on its behalf or with its consent Commences the Development save as provided under clause 12 below and any pre-commencement obligations and conditions required by this Agreement which shall have full force and effect from the date of this Agreement

6. RIGHT OF ENTRY

If pursuant to a breach the Council requires to carry out all or any part of the works required under the terms of this Agreement the Owner/Developer (if in possession or if a receiver has been appointed) irrevocably authorises the Council and anyone appointed on its behalf (on giving reasonable notice except in the case of an emergency) to enter any part of the Land reasonably required for that purpose

7. CHANGE OF OWNERSHIP

- 7.1. Until such time as the provisions of this Agreement have been fully complied with the Owner/Developer will in relation to any freehold or leasehold transfer of all or any part of their respective interests in the Land save for the transfer of individual Residential Units which form part of the Development deliver to the Council notice in writing of the transfer including the following information namely

7.1.1. the name and address of the transferee; and

7.1.2. a description of the land subject of the transfer including a plan; and

7.1.3. the nature of the interest transferred

- 7.2. Where notice pursuant to clause 7.1 above has been given and subsequently it is identified that the details provided require change (whether due to an error or to a change in the terms of the transfer or otherwise) the Owner/Developer shall serve a further notice in accordance with clause 7.1 save that in the case of a non-material change the Council may in writing and in its absolute discretion waive the need for such further notice

8. WARRANTY

The Owner/Developer warrants that it is entitled to perform all of the obligations provided for in this Agreement in under or upon the Land and to carry out the Development

9. NOTICES

9.1. Any notices to be served on or document to be submitted to any party to this Agreement:

9.1.1. In the case of the Owner/Developer shall be delivered or posted to that party at the following address: [] (or as may otherwise be advised by the Owner/Developer in writing to the Council);

9.1.2. in the case of the Council shall be addressed to the Planning Obligations Manager Strategic Planning Team quoting the planning reference number unless the Council advises the other parties hereto of an alternative address for service; and

9.1.3. in the case of any other person shall be delivered or posted to the address for service notified by or on behalf of that person

10. CONFIRMATION OF INTERESTS

The Owner/[Developer] confirms that to the best of its information apart from the parties to this Agreement there are no other persons with any interest (legal or equitable) in the Land or any part thereof

11. LOCAL AUTHORITY'S STATUTORY POSITION

Nothing herein contained or implied shall limit prejudice or affect the rights duties and obligations of the Council under all statutes byelaws statutory instruments orders and regulations in the exercise of its function as a local authority

12. OPERATIVE DATE

Save in respect of obligations requiring compliance prior to Commencement of Development this Agreement shall not become operative until the Commencement of Development

13. COMMENCEMENT OF DEVELOPMENT

The Owner/Developer shall give to the Council seven (7) days written notice of its intention to Commence Development and shall confirm in writing within seven (7) days following Commencement that Development has Commenced PROVIDED THAT failure to provide either of the said notifications shall not render this Agreement inoperative

14. COSTS

The Owner/Developer shall pay to the Council on the date hereof its reasonable legal costs incurred in connection with this Agreement

15. INDEMNITY

The Owner/Developer will without prejudice to the Council's statutory and common law powers and rights hold the Council harmless and keep the Council indemnified from and against any claim in connection with or incidental to the carrying out of any works required by this Agreement or in respect of any other requirement or covenant with the Council contained in this Agreement

16. INTEREST

If any sum payable under this Agreement is not paid within fourteen (14) days of the date when it is due then save in the case of a manifest error by the Council in calculating the due sum the Owner/Developer shall in addition to any payment in respect of the sum due pay interest on the sum from the due date until actual payment at the rate of 3% above the base rate from time to time of National Westminster Bank Plc

17. OBLIGATIONS OF THE COUNCIL

17.1. The Council agrees:

17.1.1. to issue the Planning Permission on the date hereof or as soon as reasonably practicable thereafter

17.1.2. that if any of the Contributions (or any part thereof) (as defined in Schedule [xx]) is not applied or Committed for Expenditure by the Council for the purposes as specified in Schedule 3 (as the case may be) within five (5) years of the date of receipt of each payment to

repay the relevant Contribution (or such part as has not been applied or committed) to the person who paid such Contribution(s) together with interest thereon at the annual average local authority seven day rate as published in The Financial Times calculated from the date of receipt of each payment (as applicable) until repayment

18. DISPUTE PROVISIONS

- 18.1. In the event of any dispute or difference arising between any of the parties to this Agreement in respect of any matter contained in this Agreement such dispute or difference may be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an Expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the Expert shall determine and failing such determination shall be borne by the parties in equal shares.
- 18.2. In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 18.1 or as to the appropriateness of the professional body then such question may be referred by either party to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an Expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.
- 18.3. Any Expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty (20) Working Days after the conclusion of any hearing that takes place or twenty (20) Working Days after he has received each party's final written representation.
- 18.4. The Expert shall be required to give notice to each of the said parties requiring them to submit to him within ten (10) Working Days of notification of his

appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten (10) Working Days.

- 18.5. The provisions of this clause shall not affect the ability of the Council to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages or any other means of enforcing this Agreement and consequential and interim orders and relief.

19. JURISDICTION

- 19.1. This Agreement is governed by and interpreted in accordance with the law of England and the parties submit to the exclusive jurisdiction of the courts of England.

20. MISCELLANEOUS

- 20.1. Insofar as any clause or clauses of this Agreement are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement

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

21. [CONSENT OF THE MORTGAGEE

The Mortgagee acknowledges and declares that this Agreement has been entered into by the Owner/Developer with its consent to the intent that the planning obligations shall be binding on the Land and that the security of the Charge over the Land shall take effect subject to this Agreement PROVIDED THAT the Mortgagee shall only be liable for any breach that itself caused whilst mortgagee in possession but shall not be liable for any pre-existing breach]

EXECUTED as a deed by the parties and delivered the day and year first before written

SCHEDULE 1
AFFORDABLE PRIVATE RENTED HOUSING

(Part 1)

1. DEFINITIONS

1.1. In this Schedule 1 and elsewhere in this Agreement the words below shall mean as follows:-

“Access” the provision of roads footpaths and cycleways together with all rights and easements over the said roads footpaths and cycleways as are necessary to provide access to the Affordable Private Rented Units or any one of them

“Affordable Housing” affordable housing within the meaning of the National Planning Policy Framework 2021 (NPPF) Annex 2 Glossary or any amendment thereto or any Planning Policy Statement Guidance Notes or Circulars which may supersede it and ‘**Affordable Housing Unit**’ shall be so construed

“Affordable Mix” the number and size of Affordable Private Rented Units as set out [in the Layout Plan] or such other size tenure and mix as may be agreed in writing with the Council (including any agreement that may be required on the size, tenure and mix following a Viability Review)

“Affordable Private Rent”

a rent (inclusive of any Service Charge) which shall not at the time of :

- i) the Initial Letting; and
- ii) each and every subsequent letting (to a new tenant)

exceed the lower of either 80% of the Local Market Rent; or the published Local Housing Allowance applicable to the relevant property type and in the rental market area allowing for any modifications to the level of such allowance as published from time to time by the Government and current at the time of signing of a tenancy agreement for the specific property PROVIDED THAT the rent may subsequently be subject to Annual Increases unless agreed otherwise with the Council (such approval not to be unreasonably withheld or delayed) AND FOR THE AVOIDANCE OF DOUBT the rent at the time of a Renewed Letting shall not exceed that rent charged at the end of the previous letting but may subsequently be subject to further Annual Increases unless agreed otherwise with the Council (such approval not to be unreasonably withheld or delayed)

“Affordable Private Rented Units”

Affordable Housing (as defined above) being [no.] xxxx [xx] Build to Rent Units which:

- i) are available for let at the Affordable Private Rent to persons who comply with the Nominations and Allocations Plan;
- ii) shall reflect the Affordable Mix; and

- iii) are to be let pursuant to the Management Plan

Annual Increases

the annual increase to the rent which may be no more than the requirements of the “Department for Levelling Up, Housing and Communities Policy Statement on Rents for Social Housing and the Regulator of Social Housing Rent Standard” (or any document which may supersede it) unless agreed otherwise with the Council

Annual Statement

an annual statement to the Council:

- i) confirming the approach to rents at commencement and any Annual Increase,
- ii) confirming the approach to letting, including tenancy duration and turnover, for the Affordable Private Rented Units and their ongoing status;
- iii) clearly identifying how the scheme is meeting the overall affordable housing level required in the planning permission; and
- iv) supplying summary equalities data to evidence the letting of properties in accordance with equalities legislation.

"Build to Rent Units"

purpose built housing that is typically 100% rented out under a single professional management control, as defined more

specifically in Annex 2: of the National Planning Policy Framework, and includes Open Market Units and Affordable Private Rented Units

**“Category 2:
Accessible and
Adaptable
Dwellings”**

dwellings which are built to standards which require that:

1. reasonable provision must be made for people to:
 - (a) gain access to; and
 - (b) use

the dwellings and its facilities; and

2. the provisions must be sufficient to:
 - (a) meet the needs of occupiers with differing needs, including some older or disabled people; and
 - (b) allow adaptation of the dwellings to meet the changing needs of occupants over time

as specified in the ‘Optional Requirement M4(2) Category 2: Accessible and Adaptable dwellings’ section of the Building Regulations 2010 Approved Document M 2016 edition or such similar standards and regulations that may replace these

**“Category 3:
Wheelchair User
Dwellings”**

dwellings which are built to standards which require that:

1. reasonable provision must be made for people to:
 - (a) gain access to; and

(b) use
the dwellings and its facilities; and

2. the provisions must be sufficient to:
 - (a) allow simple adaptation of the dwellings to meet the needs of occupants who are wheelchair users; or
 - (b) meet the needs of occupants who use wheelchairs

as specified in the 'Optional Requirement M4 (3) Category 3: Wheelchair User Dwellings' section of the Building Regulations 2010 Approved Document M2016 edition or such similar standards and regulations that may replace these

AND

dwellings that comply with the requirements of the Council's Local Plan Policy DM4 (Core Strategy BCS18) that two per cent (2%) of new housing within a development scheme of fifty (50) units or more should be designed to be wheelchair accessible or easily adaptable for residents who are wheelchair users

Council's Approved Allocation Policy the Council's approved allocation policy from time to time in force for the allocation of residential accommodation to persons in need of such accommodation

Council's Area The administrative area of the City of Bristol Council

“Development Standard”	a standard to meet or exceed the Nationally Described Space Standard as published by the Department for Communities and Local Government (March 2015) or any such updated or replacement standards published by the HCA, the Regulator of Social Housing and/or the Ministry of Levelling Up, Housing and Communities from time to time
“Director”	the Director of Growth and Regeneration for the time being of the Council or such other officer of the Council as shall be substituted therefor and notified in writing to the Owner
“Eligible Persons”	those persons identified as requiring housing in accordance with the criteria established by the Council’s Approved Allocation Policy or as agreed in writing with the Council.
[“Enabling Fee”]	<i>[the fee of £570.00 (five hundred and seventy pounds) charged by the Council for each Affordable Private Rented Unit and payable on Practical Completion of each Affordable Private Rented Unit]</i>
“Estate Charges”	any rentcharge imposed on a freehold property/owner pursuant to The Rentcharges Act 1977
“Ground Rent Charges”	any charges or payments that can legally be imposed on a leasehold property/owner pursuant to the Leasehold Reform (Ground Rent) Act 2022
“Initial Letting”	the first letting of a unit to a tenant

“Local Housing Allowance”

the flat rate rental allowance providing financial assistance towards the housing costs of low income households for different rental areas and property types set out and reviewed by the Valuation Office Agency under a framework introduced by the Department of Work and Pensions or such similar framework that may replace it

“Local Market Rent”

the rent charged for comparable properties rented on the open market (inclusive of Service Charges where applicable) within the same local area or such rent as valued by a qualified valuer (who is a member of the Royal Institute of Chartered Surveyors)

“Nominations and Allocations Plan”

the details, to be approved by the Council, relating to the allocation of residential accommodation to persons in need of such accommodation, the eligible persons entitled to be offered such accommodation and details relating to the nomination of the Affordable Private Rented Units to such persons

“Management Plan”

the management plan for the Affordable Private Rented Units which shall include:

- the allocations policy
- the tenancy agreement (including notice periods)
- the repairs and maintenance policy
- the equalities policy
- the complaints policy

- the name and contact details of the proposed management company for the Affordable Private Rented Units; and
- details setting out how the housing management will be consistent with other Build to Rent Units within the Development and of a quality that meets appropriate standards (e.g. as set out in [the Council's rental standards], and/or required by regulatory and/or voluntary bodies such as Homes England)

“Open Market Units”

those Build to Rent Units that are for rent on the Private Housing Market

“Perpetuity”

a minimum term of 125 (one hundred and twenty five) years from the date of first Occupation of the first Affordable Private Rented Unit

“Practical Completion”

the practical completion of the Affordable Private Rented Unit(s) as evidenced by the issue of a certificate by an architect, surveyor or other suitably qualified professional person confirming that the construction of the Affordable Housing Units or any one of them is completed internally and externally and further evidenced by Building Regulation approval and **“Practically Completed”** shall have the same meaning

“Private Housing Market”

the open market for the sale or letting of residential accommodation provided by a person or body other than:

- a local housing authority; or
- an RP; or
- any other person or body offering residential accommodation to the public at less than the prevailing market rent/sale price

“Renewed Letting”

the renewed letting of a unit to the existing tenant of that unit

“Service Charge”

a sum (which expression shall include any Estate Charge(s) and Ground Rent Charges) that covers the contributions required from time to time for those Services facilities and insurance which are of a nature and to a standard reasonably required in connection with the Affordable Private Rented Unit(s) such as maintaining, repairing and servicing any communal parts related to the Affordable Private Rented Unit(s), the cleaning and lighting of common parts and the maintenance of any communal gardens or landscaping areas or shared highways that directly benefit the Affordable Private Rented Unit(s) and which would be met by Universal Credit.

“Service Charge Cap”

the sum of £650.00 (Six Hundred and Fifty Pounds) per annum per unit Index Linked AND FOR THE AVOIDANCE OF DOUBT the Service Charge Cap shall not include those components of the Service Charge relating to ‘lifestyle’ which would not be met by Universal

Credit and which can be paid for separately by the individual tenant.

“Service Installations”

(without prejudice to the generality of this expression) shall include sewers drains culverts channels outlets mains wires cables ducts flues soakaways and other conducting media for the supply of Services

“Services”

(without prejudice to the generality of this expression) shall include electricity telephone gas water foul drainage surface water drainage cable television and other cable services

“Universal Credit”

the means-tested credit system introduced by the Welfare Reform Act 2012, as amended

(Part 2)

Owner/Developer Covenants

1. The Owner/Developer hereby covenants with the Council as follows:
 - 1.1. not to Commence the Development until the Owner/Developer has submitted to and obtained the written approval of the Director to:
 - 1.1.1. a programme and timetable for the provision of the Affordable Private Rented Units; and
 - 1.1.2. the location type and level of servicing (as applicable) of the Affordable Private Rented Units; and
 - 1.1.3. a rent and affordability scheme for the Affordable Private Rented Units demonstrating how the proposed rental structure and review mechanisms

(including Annual Increases) will meet the Affordable Private Rent requirements and restrictions; and

1.1.4. the number and location of Category 2 (M4(2)) (Accessible and Adaptable Dwellings) and Category 3 (M4(3)) (Wheelchair User Dwellings)

such approval not to be unreasonably withheld or delayed

AND FOR THE AVOIDANCE OF DOUBT the details and information required to be provided under paragraph 1.1 inclusive above shall also apply to each and every Additional On-site (Viability Review) Affordable Housing Unit (if any) to be provided pursuant to Schedule [2] following a Viability Review

- 1.2. to provide the Affordable Private Rented Units in accordance with the Affordable Mix and in accordance with the Layout Plan
- 1.3. upon Commencement of the Development to construct the Affordable Private Rented Units together with the Services Service Installations and Access in accordance with:
 - 1.3.1. the Development Standard; and
 - 1.3.2. the approval of the Director issued pursuant to paragraph 1.1
- 1.4. not less than six (6) months prior to completion of the [First Residential Unit/Development]] to submit to and obtain the written approval of the Director to:
 - 1.4.1. the Nominations and Allocations Plan;
 - 1.4.2. the Management Plan
- 1.5. not to Occupy or permit first Occupation of any Build to Rent Unit until the Council has approved in writing the Management Plan and the Nominations and Allocations Plan
- 1.6. not to Occupy nor permit to be Occupied more than 60% (sixty per cent) of the Open Market Units until the Owner/Developer has substantially completed 75% (seventy-five per cent) of the Affordable Private Rented Units

- 1.7. not to Occupy nor permit to be Occupied more than 80% (eighty per cent) of the Open Market Units until the Owner/Developer has substantially completed 100% of the Affordable Private Rented Units
- 1.8. to notify the Director of the Practical Completion of all of the Affordable Private Rented Units
- 1.9. unless otherwise provided for in this Agreement, to ensure and procure that the Affordable Private Rented Units shall be provided as such in Perpetuity
- 1.10. by the end of June of each year to submit to the Council the Annual Statement
- 1.11. to observe the terms and requirements of this Schedule 1
- 1.12. that (unless otherwise permitted in writing by the Director or as otherwise permitted by this Agreement) the Owner/Developer will not vary the Affordable Mix of the Affordable Private Rented Units

(Part 3)

Agreements between the Council and the Owner/Developer

1. The Owner hereby covenants with the Council that (subject to paragraphs 2 and 3 below) the Owner will:
 - 1.1. ensure and procure that the Affordable Private Rented Units shall at all times be Occupied and managed in accordance with the provisions of the Management Plan
 - 1.2. provide that the Affordable Private Rented Units shall not be Occupied for any use other than as Affordable Private Rented Units
 - 1.3. ensure and procure that the Affordable Private Rented Units shall not be Occupied otherwise than in accordance with the approved Nominations and Allocations Plan (or such variation thereof as may be agreed in writing with the Council)

- 1.4. ensure and procure that the Affordable Private Rented Units shall be excluded (so far as legally possible) from:
 - 1.4.1. any voluntary purchase grant scheme;
 - 1.4.2. any right to acquire or social home-buy scheme introduced in favour of the occupiers of the Affordable Private Rented Units; and/or
 - 1.4.3. any other mechanism that could result in any of the Affordable Private Rented Units becoming available for rent or sale on the Private Housing Market
- 1.5. not charge the tenant of an Affordable Private Rented Unit a rent in excess of the Affordable Private Rent
- 1.6. at the Initial Letting of an Affordable Private Rented Unit not charge the tenant of the Affordable Private Rented Unit a Service Charge in excess of the Service Charge Cap unless as agreed in writing with the Council
- 1.7. on serving notice to terminate a tenancy, provide not less than 90 days written notice and at the same time provide details of other available affordable housing options, including local authority housing
- 1.8. *[that the Enabling Fee is paid to the Council on Practical Completion of each Affordable Private Rented Unit in accordance with the Council's Affordable Housing Practice Note 2022 or such other document that may supersede it]*
- 2 The Owner may request for the Council to agree in writing that an Affordable Private Rented Unit(s) may be disposed of on the Private Housing Market and released from the obligations and restrictions contained in this Schedule 1 (such agreement to be at the absolute discretion of the Council)
- 3 Any agreement from the Council pursuant to paragraph 2 above shall be on the basis that the Owner pays to the Council (in order to enable the provision of Affordable Housing in the Council's Area other than on the Land) a clawback sum equal to the price at which the Affordable Private Rented Unit is disposed of on the Private Housing Market (or if sold at a discount, the Local Market Value of the

Affordable Private Rented Unit) multiplied by the percentage discount that had been applied to the rent which had been charged in respect of the Affordable Private Rented Unit being disposed of on the Private Housing Market

Part 4

Details of Affordable Private Rented Units

The Affordable Private Rented Units shall comprise the following:

Property Type	Plot No./Location	[Accessibility standard]	Number of Units
[]- bed [house/flat]	[]	[] [M4(3)]	
TOTAL			

SCHEDULE [xx]
BUILD TO RENT UNITS (Open Market only)

1. Definitions:

1.1. For the purposes of this schedule, the following definitions shall apply:

"Build to Rent Term" means the period of [15] years commencing on first Occupation of an Open Market Build to Rent Unit

"Build to Rent Purposes" means the use of the Build to Rent Units specifically for Open Market rental purposes only, such rental units to be held collectively in a single ownership structure, with a unified professional on-going property management

"Clawback Amount" means an amount of money payable in respect of any Qualifying Unit(s) identified in a Release Application which shall be calculated as follows:

Clawback Amount = Value as Market Sale less Value as Build to Rent Housing where:

"Value as Market Sale" means the value of the Qualifying Unit subject to the Release Application valued on an Open Market sale basis after deduction of 1.8% sale costs at the date of the Release Application (and the sale price of any Build to Rent Units notified to the Council pursuant to this Agreement shall inform the valuation of the remaining Build to Rent Units to the extent they are genuine arms length transactions); and

“Value as Build to Rent Housing” means the net internal area in square feet of the Qualifying Unit subject to the Release Application multiplied by £425.00 (four hundred and twenty five pounds) (or such other amount as is agreed by the Council in writing) per square foot and index linked according to the Index of Private Housing Rental Prices Indices) from and including the date of this Agreement to and including the date of the relevant disposal of the Qualifying Unit

PROVIDED THAT the Clawback Amount shall be £0 (zero pounds) where [30/40%] of the Build to Rent Units are Affordable Private Rented Units at the date of the calculation of the Clawback Amount

“Index of Private Housing Rental Prices Indices”

means an Office for National Statistics experimental price index tracking the prices paid for renting property from private landlords in the UK and including measures of owner occupiers’ housing costs

“Management Scheme”

means a written scheme setting out details of the long-term management and maintenance objectives of the management company serving the Build to Rent Units (including the Affordable Private Rented Units)

“Permitted Sale”

means the disposal of the Open Market Build to Rent Units to a third party such that they continue to be used for Build to Rent Purposes

“Qualifying Units” means any Build to Rent Unit, except those that have been allocated and are used and occupied as Affordable Private Rented Units

“Release Application” means a written request from the Owner to the Council for the disposal of a Qualifying Unit which is not a Permitted Sale

“Release Notice” means a notice from the Council to the Owner permitting the disposal of a Qualifying Unit which is not a Permitted Sale

2. In relation to Open Market Build to Rent Units the Owner covenants with the Council as follows:

2.1 That the Open Market Build to Rent Units shall be used for the Build to Rent Purposes and for no other purpose for the duration of the Build to Rent Term save as provided for in paragraph 3 below

2.2 Not to Occupy any Build to Rent Units until the Owner has submitted to the Council the Management Scheme for the Development

3. The Owner and the Council agree as follows:

3.1. At any time during the Build to Rent Term, the Owner may submit to the Council a Release Application and the Owner covenants to provide twenty (20) Working Days’ notice to the Council of its intention to submit a Release Application

3.2. Where a Release Application is made in respect of any Qualifying Unit, the Owner shall submit to the Council with the Release Application a statement setting out the Owner’s calculation of the Clawback Amount for such unit(s) (“**Clawback Calculation**”) with documentary evidence and a statement (“**Statement**”) setting out:

- 3.2.1. the actual sale price of the Qualifying Units which were the subject of any previous Release Notices;
 - 3.2.2. the agreed sale price of any Qualifying Units that are the subject of the Release Application;
 - 3.2.3. the anticipated date of the disposal of the Qualifying Units;
 - 3.2.4. the Owner's calculation of the Clawback Amount; and
 - 3.2.5. the identity and address of the person(s) to whom the Qualifying Unit(s) are intended to be disposed
4. On receipt of the Release Application and the Statement, the Council shall assess the information to determine the Clawback Amount
5. The Council may appoint an Expert (at the Owner's cost) to assess the Release Application and the Statement and in the event of such appointment it is agreed that the Expert may, thereafter, be deemed to act on behalf of the Council in relation to the Release Application
6. Within twenty (20) Working Days following receipt of the Release Application and supporting information pursuant to paragraph 3.2 above, the Council shall either:
 - 6.1.1. confirm in writing that it has received sufficient information to review the calculation of the Clawback Amount (in which case the date of such confirmation shall be the "**Clawback Amount Validation Date**"); or
 - 6.1.2. request such further valuation information as (acting reasonably) it deems necessary in order to review the calculation of the Clawback Amount, which may include evidence of the actual or agreed sale prices identified in the Release Application
7. On receipt of any request for further information pursuant to paragraph 6.1.2 above, the Owner shall as soon as reasonably practicable and in any case within ten (10) Working Days of such request provide to the Council the information requested in which case the date such information is provided shall be the "**Clawback Amount Validation Date**"

8. Within twenty (20) Working Days of the relevant Clawback Amount Validation Date, the Council shall confirm in writing that either:
 - 8.1. it accepts the Owner's calculation of the Clawback Amount (which confirmation shall be the "**Clawback Amount Acceptance Notice**")
 - 8.2. it does not accept the Owner's calculation of the Clawback Amount (which confirmation shall be the "**Clawback Amount Non-Acceptance Notice**")
9. In the event that pursuant to paragraph 8.2 above, the Owner and the Council have not agreed the Clawback Amount, either party shall be entitled to refer the matter to the Expert for determination pursuant to clause 18 of this Agreement and each shall use its reasonable endeavours to do so within one (1) calendar month of the date of the Clawback Amount Non-Acceptance Notice (unless otherwise agreed between the Council and the Owner)
10. In making his determination pursuant to paragraph 9 above, the Expert shall have regard to:
 - 10.1. all relevant material submitted to him by the Council and the Owner;
 - 10.1.1. such relevant financial, legal, planning or other matters he considers relevant using reasonable care and skill and his professional expertise; and
 - 10.1.2. the provisions of this Agreement
11. Unless otherwise agreed by the Council and the Owner or notified to them by the Expert, the Expert shall be appointed on the basis that his decision shall include a calculation of the Clawback Amount and such decision is to be final and binding
12. Within twenty (20) Working Days following receipt of the relevant Clawback Amount in cleared funds in respect of a Release Application (such amount having either been accepted by the Council in writing or determined by the Expert), the Council shall issue to the Owner a Release Notice

13. Upon the issue by the Council of a Release Notice, the Qualifying Unit to which that Release Notice relates shall no longer be bound by the restrictions set out in this Schedule [xx]
14. The Council covenants not to use the Clawback Amount(s) for any purpose other than to enable the provision of Affordable Housing within the Council's Area (excluding the Land)
15. Where the Clawback Amount has been paid to the Council, the Council covenants with the Owner that it will pay to the person who paid the Clawback Amount to the Council such part of the Clawback Amount which has not been expended or Committed for Expenditure in accordance with the provisions of this Agreement within 5 (five) years of the date of receipt by the Council of such payment together with interest accrued

SCHEDULE [xx]
FINANCIAL CONTRIBUTIONS

SCHEDULE [xx]

INDEXATION

1. DEFINITIONS

1.1. For the purposes of this Schedule [xx], “**Index**” means:

1.1.1. in relation to the Affordable Private Rented Units, the indices based on the the Consumer Price Index or any such alternative index or comparable measure of price inflation as may be agreed in writing with the Council in respect of the rent and Service Charge Cap payable for the Affordable Private Rented Units under this Agreement; and

1.1.2. in relation to the Contributions, [*and the Affordable Housing Contribution (if payable in accordance with Schedule 2)*] the indices means the All items Index of Retail Prices published by the Office for National Statistics or any publication substituted therefor

2. CALCULATION OF INDEXATION

2.1. CONTRIBUTIONS

2.1.1. All Contributions will be subject to indexation based on increases in the Index and calculated using the following formula:

$$C = \text{£Y} \times (B / A)$$

Where:

A is the value of the Index for the month immediately preceding the date of this Agreement in respect of the relevant Contribution

B is the value of the Index for the month immediately preceding payment of a Contribution pursuant to the provisions of this Agreement

£Y is the Contribution

C is the level of the Contribution after the application of the Indexation formula

2.2 [AFFORDABLE HOUSING CONTRIBUTION

2.2.1 *This contribution will be subject to indexation based on increases in the Index and calculated using the following formula:*

$$C = \text{£Y} \times (B / A)$$

Where:

A is the value of the Index for the month in which the amount of the Affordable Housing Contribution is agreed (either between the parties or by the Expert)

B is the value of the Index for the month immediately preceding payment of the Affordable Housing Contribution pursuant to the provisions of this Agreement

£Y is the Contribution

C is the level of the Contribution after the application of the Indexation formula]

2.3 SERVICE CHARGE CAP

2.3.1 The Service Charge Cap for the Affordable Private Rented Units will be subject to indexation based on increases in the Index and calculated using the following formula:

$$C = \text{£Y} \times (B / A)$$

Where:

A is the value of the Index for September 2018

- B is the value of the Index for September of the financial year preceding the Initial Letting of an Affordable Private Rented Unit
- £Y is the Service Charge Cap in respect of the Affordable Private Rented Units
- C is the level of Service Charge Cap in respect of the Affordable Private Rented Units after application of the Indexation formula

EXECUTED as a DEED by affixing THE COMMON SEAL of **THE CITY COUNCIL OF BRISTOL** in the presence of:

Authorised signatory

EXECUTED as a DEED by [] acting
by two Directors or one Director and its Company
Secretary:

Director

Director/Company Secretary

ANNEXURE 1

(The Plan)

ANNEXURE [2]
LAYOUT PLAN FOR THE AFFORDABLE PRIVATE RENTED UNITS