

DATED

3rd October

2011
~~2010~~

RIBBLE VALLEY BOROUGH COUNCIL

-and-

LIVERPOOL HOUSING TRUST LIMITED

-and-

PETER HILTON and JANET ELIZABETH HILTON

AGREEMENT

Under Section 106 Town and Country Planning Act 1990

Relating to Land at

Whalley Road, Sabden, Clitheroe

Legal Services Manager

Ribble Valley Borough Council

Clitheroe

THIS AGREEMENT AND DEED is made the 3rd day of October Eleven Two Thousand and ~~11~~ 11 **BETWEEN RIBBLE VALLEY BOROUGH COUNCIL** of Council Offices Church Walk Clitheroe Lancashire BB7 2RA (hereinafter called "the Council") of the first part and **LIVERPOOL HOUSING TRUST LIMITED** (Industrial and Provident Society No. [IP17186R]) of Head Office , 12 Hanover Street, Liverpool L1 4AA) (hereinafter called "the Association") of the second part and **PETER HILTON and JANET ELIZABETH HILTON** of 125 Whalley Road, Sabden, Clitheroe Lancashire BB7 9EA (hereinafter called "the Owners") of the third part

WHEREAS:

- (1) The Council is the Local Planning Authority for the purposes of the Act for the area in which the Property is situated
- (2) The Owners are the registered proprietors of the Freehold Estate of the Property
- (3) The Association on the 29 May 2009 obtained an Option to Purchase the Property by way of an Option Agreement to purchase the Property made between the Association and the Owners notice of which is registered at HM Land Registry upon the title to the Property
- (4) The Owners are a party to this Agreement with the intent to bind the Property and Successors in Title
- (5) The Association on the 1st March 2010 applied to the Council for planning permission for the Proposed Development more fully shown in the Application
- (6) The Council is satisfied that the Proposed Development is such as may be approved by it under the Act but subject to the Association entering into a Planning Obligation Agreement with the Council under the provisions of Section 106 of the Act and Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 to which this agreement is made subject.

NOW THIS DEED WITNESSETH as follows:

1. DEFINITIONS

- 1.1. In this Agreement the following words and expressions shall, unless the context otherwise requires have the meanings set opposite them:

"Act"	The Town and Country Planning Act 1990 as amended by Planning and Compensation Act 1991
"Application"	The application to the Council allocated the Council's reference number [3/2010/0113/P] for the carrying out of the Proposed Development
"Approved Person"	A person who is unable to resolve their housing needs in the private sector market on the basis of their income and in the case of Sale Units a person approved by the Council and the Association under the provisions of this Agreement and who meets the local connection criteria set out in clause 5
"Intermediate Rent"	80% of the Market Rent
"Homes and Communities Agency"	The National Housing and Regeneration Agency
"Market Rent "	The rent set by an independent valuer appointed by the Association to establish a market rent for Units on the Development
"Association's Intermediate Rent Scheme"	The Rent to HomeBuy Scheme run by the Association which allows for a potential shared ownership purchaser to rent a Unit for a maximum period of five years prior to purchasing the Unit under the New Build HomeBuy scheme
"Plan"	The plan annexed to this Agreement
"Potential Purchaser"	An Approved Person who wishes to purchase a Unit
"Property"	The land at Whalley Road, Sabden, Clitheroe registered with Absolute Title at HM Land Registry under title number LAN83706 shown edged red on the Plan
"Proposed Development"	The erection of 8 new build dwellings units on the Property in accordance with the details shown in the Application
"Rental Units"	Four units being two two-bedroom units and two three-bedroom units let at a rent calculated in accordance with the Government Guidance on Formula Rent as issued by the Department of

	Communities and Local Government which governs rents to be charged by all Registered Providers or Local Authorities.
"Sale Units"	Four units being two two-bedroom units and two three-bedroom units which are offered for sale in accordance with the provisions of Clause 4.2
"Shared Ownership Accommodation"	Where a unit is owned part by the Association and part by an Approved Person
"Shared Ownership Lease"	A lease of a unit of Shared Ownership Accommodation to an Approved Person
"Unit"	A unit of property on the Proposed Development.

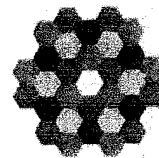
1.2. **INTERPRETATION**

Unless the context otherwise requires references to statutory provisions include those statutory provisions as amended or enacted; and references to any gender includes all genders; and words denoting the singular shall include the plural and vice versa

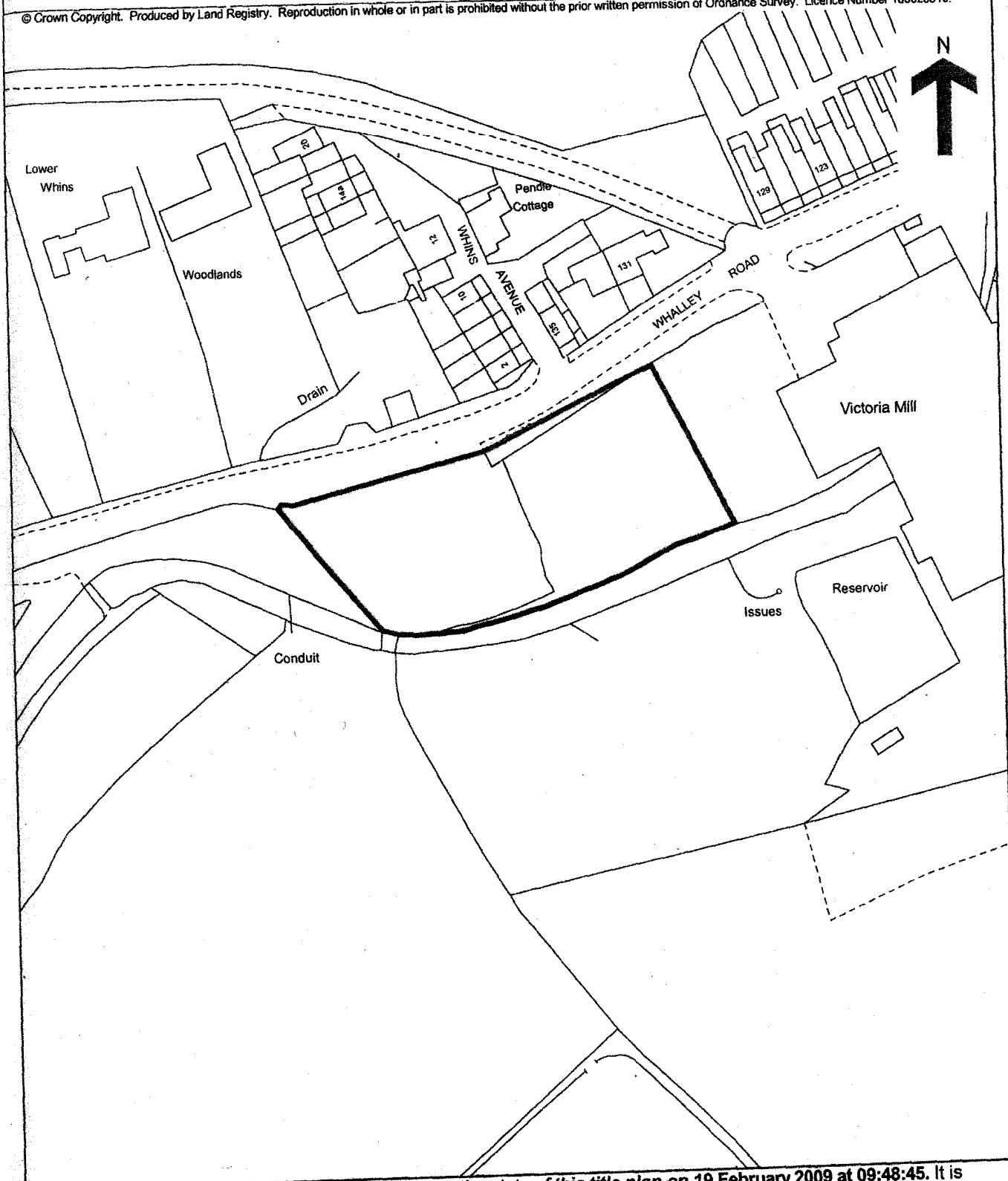
2. **THIS** Agreement is a Planning Obligation enforceable by the Council and conditional upon the granting by the Council of planning permission in respect of the Application for the Proposed Development.
3. **THE** Owners and the Association hereby covenants with the Council pursuant to section 106 of the Act that the Property shall be subject to the obligations set out in this agreement and that the Association shall duly carry out and perform such obligations.
4. **THE** Association's Covenants are as follows:
 - 4.1. Rental Units will be allocated by 100% nomination arrangements on first let to an Approved Person nominated by the Council in accordance with the allocations policy of the Council and any subsequent lets to be on 50% nomination arrangements by the Council and 50% by the Association. All such Rental Units shall remain Rental Units in perpetuity
 - 4.2. On completion of the construction of the Proposed Development or as soon as possible thereafter the Association shall

Land Registry
Official copy of
title plan

Title number **LAN83706**
Ordnance Survey map reference **SD7737SW**
Scale **1:1250** enlarged from 1:2500
Administrative area **Lancashire: Ribble Valley**



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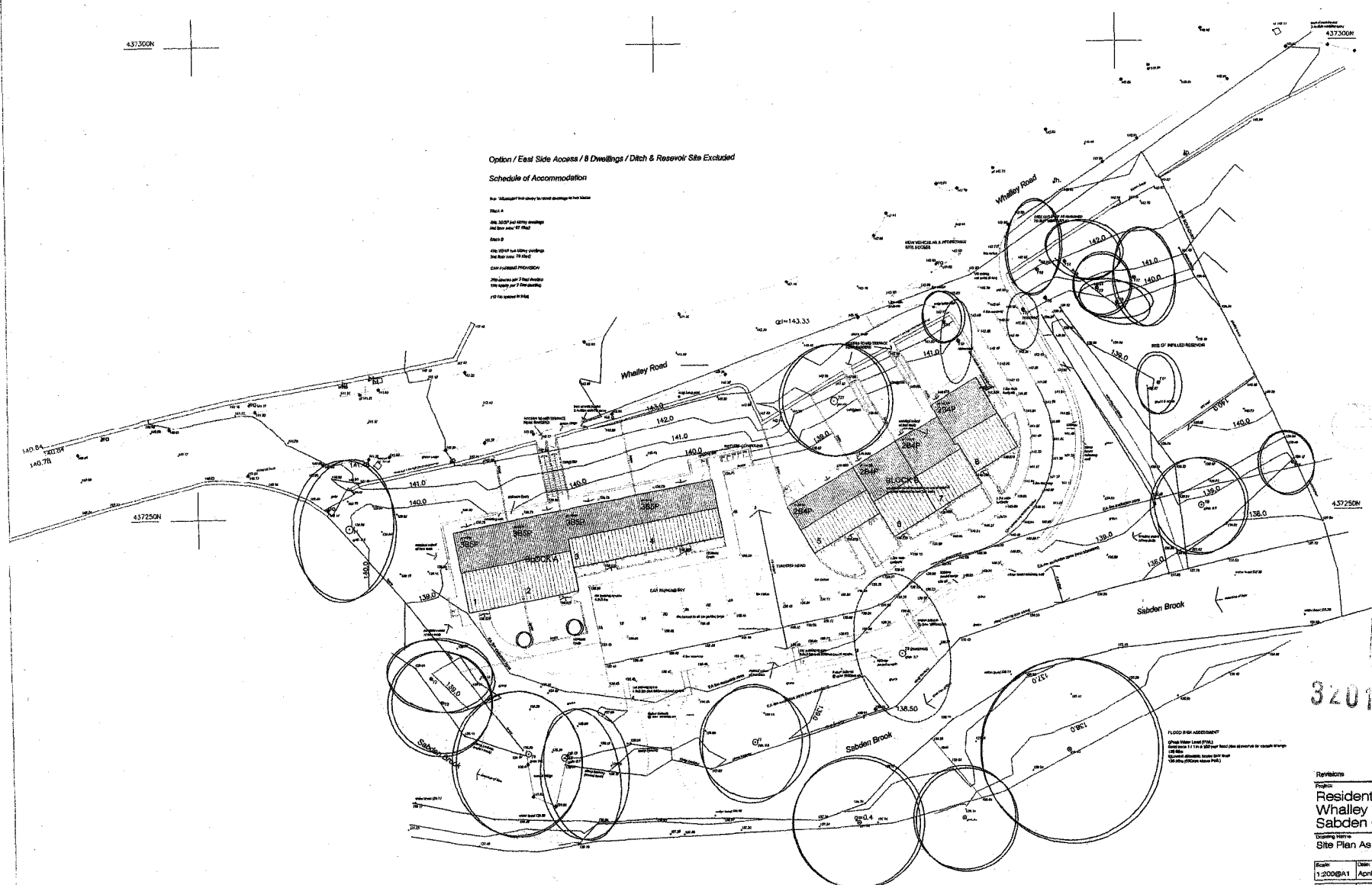


This official copy issued on 19 February 2009 shows the state of this title plan on 19 February 2009 at 09:48:45. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002).
This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. See Land Registry Public Guide 19 - Title Plans and Boundaries.
This title is dealt with by Land Registry, Lancashire Office.

Not to be reproduced or used in any form without the written consent of the Author.
Do not scale this drawing.
All bearings, distances and dimensions to be checked on site before any work is carried out.

Option / East Side Access / 8 Dwellings / Ditch & Reservoir Site Excluded
Schedule of Accommodation

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AMERICAN LANDSCAPE
DATE 19/5/10

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Revisions
Project
Residential Development
Whalley Road
Sabden Clitheroe
Drawing Name
Site Plan As Proposed

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(Kendal) Limited

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- 4.2.1. ensure that the Sale Units are used for Shared Ownership Accommodation to meet the objectives of the Association as established by the Housing Act 1996
- 4.2.2. Shared Ownership Leases shall be granted to an Approved Person and each such Approved Person shall use the Sale Unit as his own and only residence and shall not be permitted to sublet without the written consent of the Association.
- 4.2.3. The rent level on the percentage share retained by the Association under the Shared Ownership Lease shall be determined for the time being by the Homes and Communities Agency and in the absence of such determination at a rent level comparable with rent levels set for similar comparable New Build HomeBuy property in Clitheroe.
- 4.2.4. the Approved Person shall be required to purchase an initial percentage share and will then have the option to purchase additional shares to a maximum of 100% (one hundred percent) In the event that the Approved Person buys 100% of the shares in the Sale Unit and wish to sell the Sale Unit they shall be required to sell the Sale Unit to the Association thus ensuring the Sale Units remain affordable in perpetuity. The Shared Ownership Lease shall be the Homes and Communities Agency model Lease that shall contain a mandatory buy back covenant to ensure that the Sale Unit cannot be sold to any person other than the Association or another nominated Registered Provider in accordance with the terms of the Shared Ownership HCA model Lease.
- 4.2.5. Any Sale Unit of the property may be let by the Association at an Intermediate Rent for a maximum period of five years under the Association's Intermediate Rent Scheme
- 4.2.6. Not to allow occupation of any Unit otherwise than in accordance with the covenants and terms contained in this Agreement
- 5. In selecting an Approved Person the Council and the Association shall have regard to the following in order of priority:-
 - 5.1. Firstly buyers who can demonstrate a housing need requirement for the type of Unit who are in order of priority either
 - 5.1.1. currently living in the Parish of Sabden for more than 10 years or
 - 5.1.2. currently living in the Parish of Sabden and have done so continually for between 5 to 10 years

- 5.1.3. currently living in the Parish of Sabden and have done so continually for a minimum of 12 months
- 5.1.4. currently permanently employed in the Parish of Sabden for a minimum of 12 months and are employed for a minimum of 18 hours per week paid or unpaid or
- 5.1.5. Persons who at least one of the adult applicants have next of kin who have lived in the Parish of Sabden continually for a minimum of five years. Next of kin for the purposes of this clause shall be defined as mother, father, brother, sister or adult dependant children.
- 5.1.6. Persons who are former residents of the Parish of Sabden who have been forced to move from the Parish because of a lack of affordable housing in the Parish
- 5.2 Secondly buyers who can demonstrate a housing need requirement for the type of Unit who are either
- 5.2.1 currently living in the Parishes of Read & Simonstone or Wiswell and Pendleton or Whalley or Mearley for more than 10 years or
- 5.2.2 currently living in the Parishes of Read & Simonstone or Wiswell and Pendleton or Whalley or Mearley and have done so continually for between 5 to 10 years or
- 5.2.3 currently living in the Parishes of Read & Simonstone or Wiswell and Pendleton or Whalley or Mearley and have done so continually for a minimum of 12 months
- 5.2.4 currently permanently employed in the Parishes of Read & Simonstone or Wiswell and Pendleton or Whalley or Mearley for a minimum of 12 months and work for a minimum of 18 hours per week paid or unpaid or
- 5.2.5 Persons who at least one of the adult applicants have next of kin who have lived in the Parishes of Read & Simonstone or Wiswell and Pendleton or Whalley or Mearley continually for a minimum of five years. Next of kin for the purposes of this clause shall be defined as mother, father, brother, sister or adult dependant children.
- 5.2.6 Persons who are former residents of the Parishes of Read & Simonstone or Wiswell and Pendleton or Whalley or Mearley who have been forced to move from the Parish because of a lack of affordable housing in the Parish

5.3 Thirdly buyers who can demonstrate a housing need requirement for the type of Unit who are either

5.3.1 currently living in the Borough of Ribble Valley for more than 10 years or

5.3.2 currently living in the Borough of Ribble Valley and have done so continually for between 5 to 10 years or

5.3.3 currently living in the Borough of Ribble Valley and have done so continually for a minimum of 12 months or

5.3.4 currently permanently employed in the Borough of Ribble Valley for a minimum of 12 months and work for a minimum of 18 hours per week paid or unpaid or

5.3.5 Persons who at least one of the adult applicants have next of kin who have lived in the Borough of Ribble Valley continually for a minimum of five years. Next of kin for the purposes of this clause shall be defined as mother, father, brother, sister or adult dependant children.

5.3.6 Persons who are former residents of the Borough of Ribble Valley who have been forced to move from the Borough because of a lack of affordable housing in the Borough

5.4 In the event that the Association is unable to dispose of any Unit to an Approved Person because it is unable to find a person who meets the definition of Approved Person in this Agreement then the Association shall use reasonable endeavours to market the Unit to a potential Approved Person for a period of at least three months. If at the end of the period of three months in which a Unit has been marketed and no Approved Person has been identified then the Association may dispose of the Unit to a person who is not an Approved Person. The three month marketing period shall begin from the date that the Council is notified in writing that marketing is to commence.

5.5 PROVIDED THAT the Council will confirm its approval or otherwise to the proposed Approved Person within 5 working days from the Association giving notice to the Council.

6 Eligibility criteria: financial

The Association will ensure that the Approved Persons demonstrate that they

6.1 do not have sufficient income to purchase the same type of Unit on the open market

6.2 have satisfactory credit history containing no County Court Judgements or Insolvency proceedings within the past six years credit history report

6.3 have sufficient funds to cover the legal costs and disbursements involved in the purchase

7 Eligibility criteria: income

The Association will also:

7.1 impose upper income brackets per household for purchasers of each Unit in accordance with Homes and Communities Agency regulations and guidance

7.2 ensure income levels are verified via wage slips/P60's

8 Eligibility criteria: local connection

8.1 if relevant verify local connection based on employment by way of references/ confirmation of employment history and confirmation of permanence of employment will be required from an employer

8.2 if relevant verify five out of the last ten years connection by placing the onus on the Approved Person to provide suitable supporting evidence eg council tax records, electoral roll records

8.3 if relevant ensure local connection is established by reference to the electoral roll at a specific date in time

PROVIDED THAT should the Council and the Association be unable to nominate an Approved Person to any mortgagee of the Association (or the Associations successors in title or mortgagee of persons deriving title through the Association who has exercised its power of sale under any mortgage or charge of the Property or any Unit comprising the Property) within one month of a request by such mortgagee in possession the mortgagee in possession shall be free to sell the Unit on the open market

9 None of the obligations imposed by this Agreement in relation to the Proposed Development shall apply to:

9.1 Any mortgagee or chargee of the Association (provided that such mortgagee or chargee has for a period of at least three months first used all reasonable endeavours to procure the transfer of the Proposed Development to a Registered Provider)

9.2 The mortgagee or chargee of any Approved Person who has been granted a Shared Ownership Lease of the Sale Units

9.3 Any purchaser from or successor in title to any persons/organisations specified at 9.1 and 9.2 above

9.4 Any Approved Person who has exercised their Right to Acquire or Right to Buy

10 A person who is not party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the terms of this Agreement

11 Notices

Any notice or other communication given or made in accordance with this Agreement shall be in writing and may (in addition to any other effective mode of service) be sent by recorded delivery or registered post to the Strategic Housing Officer for the time being of the Council at the address of the Council shown on the first page of this Agreement or at such address as may from time to time have been notified to the sender as being the address for service of the relevant party for the purposes of this Agreement

12 Records

The Association shall maintain records enabling them to supply to the Council (within four weeks of the Council's written request to do so) such information as the Council may reasonably require in connection with this agreement

13 The Association shall on parting with the whole (or part as applicable) of its interest in the Property be released from all liabilities under the terms of this Agreement in relation thereto (save in respect of any antecedent breaches)

14 **THE** expressions "the Council" and "the Association" shall include their respective successors in title and assigns and shall include any persons or mortgagees of such persons deriving title through or under the Association **PROVIDED THAT** no such person (including the parties hereto) shall be liable for any breaches occurring after they have disposed of their interest in the Property or the relevant part or parts thereof