

City of Edinburgh Council

Model S.75 Agreement for Full Applications

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Section 1 - Title Page and Preamble

MINUTE OF AGREEMENT

between

THE CITY OF EDINBURGH COUNCIL, the Local Authority for the said City in terms of the Local Government etc. (Scotland) Act 1994, and having its principal office at City Chambers, High Street, Edinburgh and having a further office at Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG (who and whose successors as the Planning Authority and Roads Authority respectively are hereinafter referred to as the “**Council**”)

and

(ENTER COMPANY NAME) a Company incorporated under the Companies Acts, Company Number (enter company number) and having its Registered Office at (enter address)

or

(ENTER RSL NAME) registered under the Industrial and Provident Societies Acts (Registered Number enter), a Scottish Charity (Registered Number enter) and having its Registered Office at (enter address)

(who with their [respective] successors in ownership of the Agreement Subjects as hereinafter defined are hereinafter referred to as the “**Proprietors**”)

[and

(ENTER FUNDER NAME) (DESIGN) (who as the holders of a Standard Security over the Agreement Subjects are hereinafter referred to as the “**Consentors**”)]

CONSIDERING (One) that the Council is the planning authority for the City of Edinburgh in terms of Section 1 of the Town and Country Planning (Scotland) Act 1997 (hereinafter referred to as “the 1997 Act”);

- (Two) that the Council is the roads authority for the City of Edinburgh in terms of Section 151 of The Roads (Scotland) Act 1984 (as said Section 151 is amended by Section 180 and Paragraph 135(10) of Schedule 13 to the Local Government etc. (Scotland) Act 1994);
- (Three) that the Council is the education authority for the City of Edinburgh in terms of section 135 of the Education (Scotland) Act 1980;
- (Four) that the Proprietors are entitled in terms of Section 75 of the 1997 Act, by agreement with the Council, in respect of land in the district of the Council as planning authority, to enter into an obligation restricting or regulating the development or use of the land, either permanently or during such period as may be prescribed by the agreement;
- (Five) that the Proprietors have applied to the Council for planning permission under the 1997 Act for the Development and the Council has resolved to grant said permission subject inter alia to an Agreement under Section 75 of the 1997 Act being entered into in the terms after-mentioned;

NOW THEREFORE the Council and the Proprietors, [with the consent of the Consentors as witnessed by their execution hereof] have agreed and do hereby agree as follows:-

Section 2 - Definitions

In this Agreement, including the preamble, the following words have the meanings ascribed to them as follows:-

“the 1997 Act”	means the Town and Country Planning (Scotland) Act 1997, as amended;
“Action Programme”	means the current adopted version of the Edinburgh Local Development Plan Action Programme as at the date that any contribution (or part of a contribution) received in terms of this agreement is utilised, which, as of the date of this agreement, is the Edinburgh Local Development Plan Action Programme, adopted January 2019;
“Affordable Housing Contracts”	means: (a) a contract or contracts for sale by the Proprietors of land within or forming part of the Agreement Subjects for the sole purposes of constructing Affordable Housing Units; or (b) a contract or contracts entered into by the Proprietors solely for sale or lease of Affordable Housing Units to Persons in Housing Need; or (c) such other contract or contracts as may be agreed by the Council for the purposes of providing Affordable Housing Units;
“Affordable Housing Policy”	means the Council’s policy guidance on the provision of affordable housing in new residential developments approved by the Council’s Planning Committee on 27 February 2019 as may be updated or replaced by the Council from time to time;
“Affordable Housing Subjects”	means that area or piece of ground forming part of the Agreement Subjects [and shown hatched in black on the Plan], or such other area or piece of ground to be agreed by the Council and the Proprietors as being capable of accommodating the Affordable Housing Units;
“Affordable Housing Unit”	means a Residential Unit which is Social Rented Housing, Mid Rent Housing, Shared Equity Housing, Shared Ownership Housing, Golden Share Housing, Intermediate Rent Housing or other format of affordable housing tenure which meets the requirements of Persons in Housing Need and is agreed in writing with the Council, whose decision shall be final;

“Agreement”	means this agreement granted in accordance with the terms of Section 75 of the 1997 Act;
“Agreement Subjects”	means ALL and WHOLE that [enter address here], registered in the Land Register of Scotland under Title Number [insert number] [or enter Sasines Conveyancing description];
“Application”	means the application for planning permission registered by the Council under the reference [enter planning application reference] for the Development;
“Bona Fide Third Party Purchaser”	means an individual purchaser who has purchased in good faith, and for value one of the individual Residential Units and pro indiviso share of common parts pertaining thereto at the Development erected pursuant to the Planning Permission;
“Car Club”	means an organisation, operating within the City of Edinburgh, which arranges for a number of people, from different households, to share or have access to a vehicle or vehicles.
“Car Club Contribution”	means the sum of [enter amount in words] POUNDS [enter amount in figures] STERLING;
“CEC Developer Contribution SG”	means the City of Edinburgh Council’s current Supplementary Guidance on Developer Contributions and Infrastructure Delivery, or equivalent, as at the date that any Contribution (or part of a Contribution) received in terms of this agreement is utilised, which, as of the date of this agreement, is the Supplementary Guidance on Developer Contributions and Infrastructure Delivery finalised by the City of Edinburgh Council’s Planning Committee on 22 August 2018;
“Commencement Date”	means the date on which the Development is initiated by the carrying out of any Material Operation;
“Commercial Unit”	means any property within the Agreement Subjects constructed and designed for commercial use of any sort and which term may apply individually or to a group of such units whether divided from each other either vertically or horizontally;
“Commutated Sum for Affordable Housing”	means the sum of [enter amount in words] POUNDS [enter amount in figures] STERLING to be applied by the Council for the provision of Affordable Housing Units;

<p>“Completion of Construction”</p>	<p>means, in respect of any Residential Unit, the earlier of the date on which the Council’s Building Standards Department as the Verifier, as defined by Section 7 of the Building (Scotland) Act 2003 (the 2003 Act):</p> <ul style="list-style-type: none"> (i) gives written intimation to the Proprietors that they have approved the Completion Certificate, in terms of Section 18 of the 2003 Act, in respect of that Residential Unit; or (ii) gives written intimation to the Proprietors that they have approved a Certificate of Temporary Habitation, in terms of Section 21 of the 2003 Act, in respect of that Residential Unit;
<p>“Contribution”</p>	<p>Means any developer contribution due to be paid in terms of this Agreement, namely the:</p> <p>[</p> <ul style="list-style-type: none"> (i) Commuted Sum for Affordable Housing; and (ii) Education Contribution; and (iii) Tram Contribution; and (iv) Transport Contribution; and (v) Car Club Contribution; and (vi) TRO Contribution; and (vii) SUO Contribution; and (viii) Green Infrastructure Contribution; and (ix) Healthcare Infrastructure Contribution; <p><i>(delete contributions not applicable as appropriate)]</i></p>
<p>“Development Contributions”</p>	<p>means the total of the:</p> <p>[</p> <ul style="list-style-type: none"> (i) Commuted Sum for Affordable Housing Indexed; and (ii) Education Contribution; and (iii) Tram Contribution Indexed; and (iv) Transport Contribution Indexed; and (v) Car Club Contribution Indexed; and (vi) TRO Contribution Indexed; and (vii) SUO Contribution Indexed; and (viii) Green Infrastructure Contribution Indexed; and (ix) Healthcare Infrastructure Contribution Indexed; <p><i>(delete contributions not applicable as appropriate)]</i></p>
<p>“the Development”</p>	<p>means the development consisting of [enter description of proposed development here] on the Agreement Subjects in terms of the Planning Permission;</p>

“District Valuer”	means a district valuer for the City of Edinburgh area employed by the District Valuer Services section of Her Majesty’s Revenue and Customs Valuation Office Agency;
“Education Contribution”	means the total of the Education Infrastructure Contribution plus the Education Land Contribution.
“Education Contribution Zone”	means each of the Education Contribution Zones as approved from time to time that are shown within the Maps annexed to the current adopted version of the City of Edinburgh Council’s Supplementary Guidance on Developer Contributions and Infrastructure Delivery, or equivalent, as at the date that any Contribution (or part of a Contribution) received in terms of this agreement is utilised, which, as of the date of this agreement are the Education Contribution Zones shown delineated in blue within the Maps contained within Annex 1 to the Supplementary Guidance on Developer Contributions and Infrastructure Delivery finalised by the City of Edinburgh Council’s Planning Committee on 22 August 2018;
“Education Infrastructure Contribution”	means the sum of [enter amount in words] POUNDS [£enter amount in figures] STERLING Indexed;
“Education Land Contribution”	means the sum of [enter amount in words] POUNDS [£enter amount in figures] STERLING which, for the avoidance of doubt, shall not be Indexed;
“Expert”	means an expert who, insofar as possible, has been professionally qualified for at least 10 years in the field in which the Dispute arises;
“Golden Share Housing”	means low cost housing where, in perpetuity, the purchase price is set at 80% of the Market Price;
“Green Infrastructure Contribution”	means the sum of [enter amount in words] POUNDS [£enter amount in figures] STERLING;
“Green Infrastructure Land”	means that [area or piece of ground] [forming part of the Agreement Subjects] [and shown crosshatched in black on the Plan], or such other site to be agreed by the Council and the Proprietors as being capable of assisting in the delivery of green infrastructure;
“GIL Remediation”	means (i) all remediation works required to provide a remediated site suitable for the delivery of green infrastructure; and (ii) provision of all guarantees and collateral warranties as the Council may reasonably require in respect of the remediated site have been provided;

“GIL Services”	means services sufficient to serve the Green Infrastructure Land for use as green infrastructure which shall include foul and surface water sewers, drains, water, gas, electricity , telephone, wires, cables and other service conducting media, roads and footpaths constructed to an adoptable standard and leading to and from an adopted highway;
“GIL Transfer Terms”	means the terms applicable to the conveyance of the Green Infrastructure Land, contained in the GIL Transfer Terms comprising Part 4 of the Schedule;
“Health Board”	means a board constituted either: <ul style="list-style-type: none"> (i) by order under section 2(1)(a) of the National Health Service (Scotland) Act 1978; or (ii) under the Public Bodies (Joint Working)(Scotland) Act 2014;
“Healthcare Contribution Zone(s)”	means the Healthcare Contribution Zones as approved from time to time that are shown within the Maps annexed to the current adopted version of the City of Edinburgh Council’s Supplementary Guidance on Developer Contributions and Infrastructure Delivery, or equivalent as at the date that any Contribution (or part of a Contribution) received in terms of this agreement is utilised, which, as of the date of this agreement, are the Healthcare Contribution Zones shown delineated in blue within the Maps contained within Annex 4 of the Supplementary Guidance on Developer Contributions and Infrastructure Delivery finalised by the City of Edinburgh Council’s Planning Committee on 22 August 2018;
“Healthcare Infrastructure Contribution”	means the sum of [enter amount in words] POUNDS [enter amount in figures] STERLING;
“Housing Need”	means households that lack their own housing or are living in housing which is inadequate or unsuitable, who are unlikely to be able to meet their needs in the housing market without some assistance and who are likely to earn below the income threshold set by the Council based on incomes across the City of Edinburgh area (£44,008 in 2019);
“Index”	means the All-in Tender Price Index figures as published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors on a quarterly basis, or if that ceases to be published or the basis upon which such index is calculated is substantially changed or rebased, such substitute or alternative index most likely to achieve an equivalent result

	<p>as the parties may agree or, in the absence of agreement, as shall be determined pursuant to Clause [4.3] of this Agreement;</p>
<p>“Indexed”</p>	<p>means increased in accordance with the following formula:-</p> $\frac{b \times c}{a}$ <p>Where: <i>a</i> equals the Index figure published in respect of the: : [</p> <ul style="list-style-type: none"> (i) Commuted Sum for Affordable Housing as at [either: I. the final date of signing of this agreement; or II. [Relevant date inserted by the receiving department of the Council] <i>(delete option that is not applicable in respect of the particular S75)</i>]; and (ii) Education Infrastructure Contribution as at [either: I. the final date of signing of this agreement; or II. [Relevant date inserted by the receiving department of the Council (e.g. Q4 2017 for the Education department of the Council)] <i>(delete option that is not applicable in respect of the particular S75)</i>]; and (iii) Tram Contribution as at [either: I. the final date of signing of this agreement; or II. [Relevant date inserted by the receiving department of the Council] <i>(delete option that is not applicable in respect of the particular S75)</i>]; and (iv) Transport Contribution as at [either: I. the final date of signing of this agreement; or II. [Relevant date inserted by the receiving department of the Council] <i>(delete option that is not applicable in respect of the particular S75)</i>]; and (v) Car Club Contribution as at [either: I. the final date of signing of this agreement; or II. [Relevant date inserted by the receiving department of the Council] <i>(delete option that is not applicable in respect of the particular S75)</i>]; and

	<p>(vi) TRO Contribution as at [either: I. the final date of signing of this agreement; or II. [Relevant date inserted by the receiving department of the Council] <i>(delete option that is not applicable in respect of the particular S75)</i>]; and</p> <p>(vii) SUO Contribution as at [either: I. the final date of signing of this agreement; or II. [Relevant date inserted by the receiving department of the Council] <i>(delete option that is not applicable in respect of the particular S75)</i>]; and</p> <p>(viii) Green Infrastructure Contribution as at [either: I. the final date of signing of this agreement; or II. [Relevant date inserted by the receiving department of the Council] <i>(delete option that is not applicable in respect of the particular S75)</i>]; and</p> <p>(ix) Healthcare Infrastructure Contribution as at [either: I. the final date of signing of this agreement; or II. [Relevant date inserted by the receiving department of the Council] <i>(delete option that is not applicable in respect of the particular S75)</i>];</p> <p><i>(delete contributions not applicable as appropriate)</i></p> <p>b equals the Index figure as at the date of payment of the relevant sum to be Indexed; and</p> <p>c equals the relevant sum to be Indexed;</p>
<p>“Insolvency Event”</p>	<p>means the occurrence in relation to any party bound by this agreement of any of the following events: (a) the party becoming apparently insolvent; (b) the making of an order that they be wound up or the passing of a resolution for voluntary winding up; (c) the appointment of an administrative receiver or receiver and manager in respect of any of their assets and undertakings; (d) the making of any bankruptcy order or order for sequestration; (e) the making of any voluntary arrangement (corporate or individual) for a composition of debts; (f) the application for, or the</p>

	<p>appointment of, an administrator or the making of an administrative order; (g) the party being struck off the Register of Companies; (h) the appointment of a liquidator; or (i) the possession of any of the party's property under the terms of a floating charge; or (j) any similar event which in the opinion of the Council is of like effect;</p>
“Keeper”	<p>means the Keeper of the Registers of Scotland as defined in Section 113 of the Land Registration etc (Scotland) Act 2012;</p>
“Low Cost Home Ownership Housing”	<p>means either: (a) a Residential Unit sold to Persons in Housing Need at a percentage discount of its open market value; or (b) the purchase of a percentage of a Residential Unit sold to Persons in Housing Need at a price that is approved in writing by the Council as being affordable;</p>
“Material Operation”	<p>means a Material Operation in accordance with Section 27 of the 1997 Act. For the avoidance of doubt, this definition excludes any Material Operation undertaken in terms of any valid planning permission granted before the date of the Planning Permission;</p>
“Mid Rent Housing”	<p>means housing with rents set at a level higher than Social Rented Housing, but lower than market rent levels to meet the requirements of Persons in Housing Need, such rent levels to be agreed with the Council, acting reasonably, having regard to other schemes in Edinburgh;</p>
“Occupation”	<p>means the occupation of any Residential Unit by any person for residential use but does not include occupation by personnel engaged in construction, fitting out or decoration, or occupation for marketing or display or occupation in relation to security operations, and "Occupied" shall be construed accordingly;</p>
“Off-site Affordable Housing Subjects”	<p>means the lands/area known as [enter name of subjects] and registered in the Land Register of Scotland under Title Number [enter title number] or ... that area or piece of ground referred to as “Off-site Location” on the plan annexed and signed as relative hereto which area of ground forms part and portion of ALL and WHOLE [enter conveyancing description here];</p>

“Off-site AH Remediation”	means that: (i) there has been carried out all remediation works required to provide a remediated site suitable for the delivery of Affordable Housing Units; and (ii) all guarantees and collateral warranties as the Council may reasonably require in respect of the remediated site, have been provided;
“Off-site AH Services”	means services sufficient to serve the Off-site Affordable Housing Subjects for use as Affordable Housing Units which shall include foul and surface water sewers, drains, water, gas, electricity, telephone, wires, cables and other service conducting media, roads and footpaths constructed to an adoptable standard and leading to and from an adopted highway;
“Off-site AH Transfer Terms”	means the terms applicable to the conveyance of the Off-site Affordable Housing Subjects, contained in the Off-site AH Transfer Terms comprising Part 3 of the Schedule;
“Open Market Housing Units”	means the Residential Units comprised in the Total Housing Units which are not Affordable Housing Units;
“Persons in Housing Need”	means persons with identified Housing Need who cannot afford to access accommodation through the regular functioning of the housing market, whether for rental or other home ownership tenures;
“Planning Permission”	means the planning permission for the Development subject to the conditions set out in the report on the Application to the Council’s Development Management Sub Committee held on [enter date];
“Plan”	means the plan annexed and signed as relative hereto;
“Prescribed Rate”	means the rate of 5% above the current United Kingdom Bank Rate set by the Bank of England;
“Registered Social Landlord”	means a landlord registered under Section 20 of the Housing (Scotland) Act 2010 or its subsidiary;
“Relevant Milestone”	means the date on which any of the following occur in respect of a Residential Unit: (i) Completion of Construction for that Residential Unit; or (ii) that the Residential Unit is Occupied; or (iii) settlement actually occurs in terms of the first sale transaction for that Residential Unit;

“Residential Unit”	means any property within the Agreement Subjects and/or forming part of the Development which is constructed and designed for residential use of any sort and which term may apply individually or to a group of such units whether divided from one another either vertically or horizontally and which term also includes the Affordable Housing Units;
“Schedule”	means the schedule annexed and signed as relative hereto;
“Shared Equity Housing”	means that the individual owner of a Residential Unit, whilst bearing to own a 100% share of a Residential Unit, owns a part agreed share with the remaining share secured to a Registered Social Landlord or Scottish Ministers or other such landlord or body as may be approved by the Council;
“Shared Ownership Housing”	means that the individual owner purchases part of a Residential Unit, with the remaining share of the Residential Unit remaining in the ownership of a Registered Social Landlord. Any equity gain when the Residential Unit is sold shall be split between the Registered Social Landlord and the individual owner on the basis of their respective shares in ownership;
“Social Rented Housing”	means property provided at an affordable rent owned, managed, leased or otherwise provided by a Registered Social Landlord (or such other body as may be approved by the Council) to meet the requirements of Persons in Housing Need and let through a Scottish Secured Tenancy;
“SUO”	means a stopping up order(s) allowing for the Roads Authority/Council to permanently stop up a road and prohibit access by vehicles and/or pedestrians;
“SUO Contribution”	means the sum of [enter amount in words] POUNDS [enter amount in figures] STERLING;
“Total Commercial Units”	means the total number of Commercial Units which are permitted to be constructed on the Agreement Subjects in terms of the Planning Permission;
“Total Housing Units”	means the total number of Residential Units which are permitted to be constructed on the Agreement Subjects in terms of the Planning Permission;
“Tram Contribution”	means the sum of [enter amount in words] POUNDS [enter amount in figures] STERLING;

<p>“Tram Project”</p>	<p>means the proposals to construct and operate tram lines in Edinburgh including the provision of tram vehicles, tram stops, and all associated infrastructure, plant and equipment, including but not limited to that authorised by the Edinburgh Tram (Line One) Act 2006 and the Edinburgh Tram (Line Two) Act 2006 as may be amended from time to time;</p>
<p>“Transferring Party”</p>	<p>means the Proprietors who elect to transfer the ownership of the Affordable Housing Subjects to the Council, or to a third party nominated by the Council, for nil consideration, having first used all reasonable endeavours to transfer the Affordable Housing Units and to enter into any other Affordable Housing Contracts;</p>
<p>“Transport Contribution”</p>	<p>means the sum of [enter amount in words] POUNDS [enter amount in figures] STERLING;</p>
<p>“Transport Contribution Zone”</p>	<p>means the Transport Contribution Zones approved from time to time that are shown within the Maps annexed to the current adopted version of the City of Edinburgh Council’s Supplementary Guidance on Developer Contributions and Infrastructure Delivery, or equivalent, as at the date of utilisation of any Contribution (or part of a Contribution) received in terms of this agreement currently shown delineated in blue within the Maps contained within Annex 2 of the Supplementary Guidance on Developer Contributions and Infrastructure Delivery finalised by the City of Edinburgh Council’s Planning Committee on 22 August 2018;</p>
<p>“Transport Improvement Works”</p>	<p>means works to be financed and carried out by the Proprietors in the vicinity of the Development, specifically [enter details of works to be carried out to local transport infrastructure here/or if extensive and complex within a schedule to the agreement];</p>
<p>“TRO”</p>	<p>means a means a traffic regulation order(s) allowing for the Roads Authority/Council to restrict, regulate or prohibit the use of a road, or any part of a road, by vehicles or pedestrians;</p>
<p>“TRO Contribution”</p>	<p>means the sum of [enter amount in words] POUNDS [enter amount in figures] STERLING;</p>
<p>“Working Days”</p>	<p>means all days of the week excluding:</p> <ul style="list-style-type: none"> (i) Saturday & Sunday; and (ii) all statutory holidays in Scotland; and (iii) all national public holidays in Scotland; and (iv) all Edinburgh local public holidays;

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Section 3 - Operative Clauses

STATUTORY AUTHORITIES

- 3.1 If any provision in this Agreement shall, in whole or in part, be held to be invalid or unenforceable under any enactment or rule of law such provision shall to that extent be deemed not to form part of this Agreement and the enforceability of the remainder of this Agreement shall not be affected.
- 3.2 If any provision of this Agreement is held in any proceedings to be a provision which cannot competently be included or enforced in an agreement entered into under section 75 of the 1997 Act, such provision shall be enforceable to the same extent and effect as if this Agreement was an agreement in common form amongst the parties.

[N.B. The Development Contributions Payment Clauses can be used where all contributions are to be paid at the same date(s) instead of payment clauses for every contribution. Otherwise these clauses should be delete]

DEVELOPMENT CONTRIBUTIONS PAYMENT

- 3.2A.1 The Commencement Date shall not occur until after the Proprietors have paid to the Council the Development Contributions. In the event that the Development Contributions, or any instalment thereof, is not paid timeously, interest shall be payable thereon (by the Proprietors to the Council) at the Prescribed Rate until payment of the relevant sum in full.
- 3.2A.2 The Council shall, on receipt of the Development Contributions or part thereof, pay it into an interest-bearing account held by the Council.]

AFFORDABLE HOUSING

3.3 On-site Affordable Housing

- 3.3.1 A minimum of Twenty-five percent of the Total Housing Units shall be Affordable Housing Units, which units shall be constructed on the Affordable Housing Subjects.
- 3.3.2 The Commencement Date shall not occur until the Proprietors have agreed with the Council, both acting reasonably at all times, the following details in writing :-
- (a) the type of affordable housing tenure(s) for the Affordable Housing Units;
 - (b) the location(s) of the Affordable Housing Subjects if not already agreed between the Council and the Proprietors;
 - (c) the design standards to which the Affordable Housing Units are to be built, which standards shall be agreed with the Council[’s affordable housing consultee] and shall not be deemed to have been agreed by virtue of the grant of the Planning Permission or any other approval granted by the Council;
 - (d) the type of Affordable Housing Contracts by which the Affordable Housing Units are to be leased, sold or otherwise made available to Persons in Housing Need, whether by transfer of land or completed units to the Council, to a Registered Social Landlord or otherwise;
- 3.3.3 The details agreed in accordance with terms of Clause 3.3.2 shall be implemented by the Proprietors to the complete satisfaction of the Council but may be varied by the written agreement of the Proprietors and the Council, both acting reasonably at all times.
- 3.3.4 The Proprietors shall use all reasonable endeavours to enter into Affordable Housing Contracts with the Council, or a third party nominated by the Council, prior to thirty per cent of the Open Market Housing Units reaching a Relevant Milestone.
- 3.3.5 The Proprietors shall use all reasonable endeavours to transfer the Affordable Housing Subjects to the Council, or to a third party nominated by the Council, prior to thirty five per cent of the Open Market Housing Units reaching a Relevant Milestone.
- 3.3.6 In the event that the Proprietors have been unable to enter into any Affordable Housing Contracts in accordance with Clause 3.3.5 prior to the Completion of Construction of thirty per cent of the Open Market Housing Units, the Proprietors shall give notice to that effect to the

Council and shall, with any such notice, provide the Council with evidence demonstrating that they have used all reasonable endeavours to enter into such Affordable Housing Contracts. If, following receipt of the said notice, the Council confirms that it is satisfied that the Proprietors have used all reasonable endeavours as aforesaid, then the provisions of Clause 3.3.5 shall cease to apply and in that event the Proprietors shall continue to use all reasonable endeavours to transfer the Affordable Housing Subjects to the Council, or to a Registered Social Landlord or to enter into any other Affordable Housing Contracts; provided always that the Proprietors shall not permit more than forty per cent of the Open Market Housing Units to reach a Relevant Milestone until such time as they have entered into any other Affordable Housing Contract.

- 3.3.7 If, following receipt of a notice in accordance with clause 3.3.6, the Council (being bound to act reasonably) confirms that it is satisfied that the Proprietors have used all reasonable endeavours as aforesaid, then the Proprietors shall within 60 Working Days transfer the Affordable Housing Subjects to the Council, or to a third party nominated by the Council, for no consideration. The Proprietors as the Transferring Party shall grant the Council or the third party nominated by the Council, as the case may be, a valid marketable title to the Affordable Housing Subjects.
- 3.3.8 The terms of the conveyance of the Affordable Housing Subjects shall be agreed prior to the delivery thereof between the Council, or the third party nominated by the Council as the case may be, and the Transferring Party, declaring that the said conveyance shall contain the Transferring Party's absolute warrantice insofar as relating to the Affordable Housing Subjects and may, at the option of the Transferring Party, contain a condition providing that for the initial 63 months following the transfer the Affordable Housing Subjects shall only be used for the provision of Affordable Housing Units.
- 3.3.9 On the delivery of the duly executed conveyance of the Affordable Housing Subjects by the Transferring Party to the Council, or the third party nominated by the Council, the limits on the occupation of the Open Market Housing Units contained within clause 3.3 of this agreement shall cease to apply.
- 3.3.10 In the event that within 60 months of the Affordable Housing Subjects being transferred in accordance with clause [3.3.8] (the "AH Delivery Period") the Council, or the third party nominated by the Council, cannot enter into Affordable Housing Contracts to provide Affordable Housing Units or transfer them to a Registered Social Landlord, the Council, or the third party nominated by the Council shall:
- (a) on receipt of request by written notice from the Transferring

- Party, provided it is received within 60 Working Days of the end of the AH Delivery Period, transfer the Affordable Housing Subjects back, for no consideration, to that Transferring Party who shall be able to market them for the purposes of Open Market Housing Units;
- (b) be entitled at their sole discretion, within 60 Working Days of the end of the AH Delivery Period, to give written notice to the Transferring Party that they are opting to transfer the Affordable Housing Subjects back to the Transferring Party, for no consideration, who shall be able to market them for the purposes of Open Market Housing Units.

[N.B. For sites which are 100% RSL-owned the following is to be inserted:

3.3.12 Clauses 3.3.2 to 3.3.11 inclusive shall only apply if the Agreement Subjects are sold to a party other than a Registered Social Landlord as defined by the Housing (Scotland) Act 2010, as amended, and the Affordable Housing Units are not delivered in accordance with this clause.]

Goldenshare Housing

- 3.3.11 In the event that it is agreed in accordance with Clause 3.3.2 that the Affordable Housing Tenure shall be Golden Share Housing for all or some of the Affordable Housing Units (or in the event that a Registered Social Landlord who is the heritable proprietor of the Agreement Subjects proposes some or all of the Affordable Housing Units shall be Golden Share Housing) then:
- 3.3.11.1 the provisions contained in Part 1 of the Schedule shall apply to such Golden Share Housing.
- 3.3.11.2 Clauses 3.3.4 to 3.3.10 shall not apply to such Golden Share Housing.

[N.B. Standalone clause where this agreed as appropriate at application stage. Otherwise delete

3.3A Commuted Sum for Affordable Housing

3.3A.1 The Commencement Date shall not occur until the Proprietors have paid to the Council the Commuted Sum for Affordable Housing Indexed. In the event that the Commuted Sum for Affordable Housing, or any part thereof, is not paid timeously, interest shall be payable thereon (by the Proprietors to the Council) on demand at the Prescribed Rate until payment of the relevant sum in full.

3.3A.2 The Council shall, on receipt of the Commuted Sum for Affordable Housing, or part thereof, pay it into an interest-bearing account held by

the Council.

3.3A.3 On payment of the Commuted Sum for Affordable Housing to the Council by the Proprietors, the limits on the Affordable Housing Subjects contained in this Agreement shall cease to apply.

3.3A.4 The Council shall utilise the Commuted Sum for Affordable Housing towards the provision of Affordable Housing Units.

3.3A.5 In the event of the Commuted Sum for Affordable Housing not being utilised in full by the Council within ten years of the date of receipt of payment by the Council (or if phased payments the date of receipt of the last payment) then such contribution or the unused part thereof, as appropriate, together with any interest that has accrued thereon, shall be refunded to the Proprietors who paid it in terms of Clause 3.3A.1 within 25 Working Days of a written request from the said Proprietors for repayment.]

[N.B. Standalone clause where this agreed as appropriate at application stage. Otherwise delete]

3.3B Off-site Affordable Housing

3.3B.1 The Commencement Date shall not occur until the Proprietors submit in writing to the Council for their approval, the proposed details of the Off-site Affordable Housing Subjects, namely:

- (a) evidence that it complies with all Council policy and guidance;
- (b) where it is to be located;
- (c) that it is either:
 - (i) capable of accommodating the same number (or more) of Affordable Units as would be required on the Agreement Subjects, namely Twenty-five percent of the Total Housing Units; or
 - (ii) that it is of roughly equal (or greater) land value than 25% of the Agreement Subjects
- (d) that subject to the Off-site AH Remediation being completed, there are not any other substantial constraints that would render it unable to be developed for Affordable Housing Units
- (e) Confirmation that all necessary permissions for a residential use of the Off-site Affordable Housing Subjects have been obtained;

On agreement being reached in terms of this clause the Council shall give the Proprietors notice in writing of their approval ("Off-site AH Approval Notice")

3.3B.2 The Commencement Date shall not occur until, following receipt by the Proprietors from the Council of the Off-site AH Approval Notice, the Proprietors have conveyed to the Council, or to a Registered Social Landlord approved by the Council the Off-site Affordable Housing Subjects Site for nil consideration in accordance with the Off-Site AH Transfer Terms and clause 3.3B.3, together with the provision of sufficient temporary site access for construction traffic to and from the Off-site Affordable Housing Subjects, to the reasonable satisfaction of the Council.

3.3B.3 Prior to transferring the Off-site Affordable Housing Subjects to the Council, the Proprietors shall, at its sole expense, provide:

- (i) the Off-site AH Services to the boundary of the Off-site Affordable Housing Subjects;
- (ii) the Off-site AH Remediation of the Off-site Affordable Housing Subjects
- (iii) vehicular and pedestrian accesses to the boundary of the Off-site Affordable Housing Subjects sufficient to allow all necessary access to the Off-site Affordable Housing Subjects, to the reasonable satisfaction of the Council.

3.3B.4 On the delivery of the duly executed conveyance the Off-site Affordable Housing Subjects Site to the Council, or the third party nominated by the Council, the limits on the Affordable Housing Subjects contained in this agreement shall cease to apply and for the avoidance of doubt the Proprietors shall be entitled to develop and market up to One Hundred percent of the Total Housing Units as Open Market Housing Units.]

EDUCATION

3.4 Education Contributions

- 3.4.1 The Commencement Date shall not occur until after the Proprietors have paid to the Council the Education Contribution. In the event that the Education Contribution, or any instalment thereof, is not paid timeously, interest shall be payable thereon (by the Proprietors to the Council) at the Prescribed Rate until payment of the relevant sum in full.
- 3.4.2 The Council shall on receipt of the Education Contribution, or part thereof, pay it into an interest-bearing account held by the Council.
- 3.4.3 The Council shall utilise, as it acting reasonably solely determines, the Education Contribution towards alleviating accommodation pressures at any school where the catchment area includes the Agreement Subjects, or towards any actions identified in the Council's Action Programme which will alleviate accommodation pressures within the Education Contribution Zone(s) which includes the Agreement Subjects.
- 3.4.4 In the event of the Education Contribution paid under Clause 3.4.1 hereof not being utilised in full by the Council within thirty years of the date of receipt of payment by the Council (or, if phased payments, the date of receipt of the last payment) then such contribution or the unused part thereof, as appropriate, together with any interest that has accrued thereon, shall be refunded to the Proprietors who paid it in terms of Clause 3.4.1 within 25 Working Days of a written request from the said Proprietors for repayment.

TRAM

3.5 Tram Contributions

- 3.5.1 The Commencement Date shall not occur until after the Proprietors have paid to the Council the Tram Contribution Indexed. In the event that the Tram Contribution, or any instalment thereof, is not paid timeously, interest shall be payable thereon (by the Proprietors to the Council) at the Prescribed Rate until payment of the relevant sum in full.
- 3.5.2 The Council shall on receipt of the Tram Contribution, or part thereof, pay it into an interest-bearing account held by the Council.
- 3.5.3 The Council shall utilise, as it acting reasonably solely determines, the Tram Contribution towards the Tram Project.
- 3.5.4 In the event that the Council decides not to proceed with the part of the Tram Project that is in the vicinity of the Development, then the Council shall be entitled to utilise, as it acting reasonably solely determines, the Tram Contribution towards the design and delivery of transport infrastructure improvements in the vicinity of the Development.
- 3.5.5 In the event of the Tram Contribution not being utilised in full by the Council within ten years of the date of receipt of the last payment by the Council, then such contribution, or the unused part thereof, as appropriate, together with any interest that has accrued thereon, shall be refunded to the Proprietors (who paid it in terms of Clause 3.5.1) within 25 Working Days of a written request from the Proprietors for repayment.

TRANSPORT

3.6 Transport Infrastructure Works

- 3.6.1 Prior to the Occupation of the Development/ first Working Day of trading/ the Commencement Date (delete as appropriate) the Proprietors shall agree in writing with the Council, acting in its aforesaid capacity as roads authority for the City of Edinburgh, the design and specification of all of the Transport Improvement Works .
- 3.6.2 Prior to the Occupation of the Development/ first Working Day of trading/ the Commencement Date (delete as appropriate) the Proprietors shall:
- (a) carry out and complete the Transport Improvement Works, in accordance with the design and specification agreed in terms of clause 3.6.1 of this agreement, to the complete satisfaction of the Council; and
 - (b) upon completion of the Transport Improvement Works, write to and obtain from the Council written confirmation that it is satisfied that the Transport Improvement Works have been satisfactorily completed in accordance with this agreement, which written confirmation will not be unreasonably withheld by the Council, acting in its aforesaid capacity as roads authority for the City of Edinburgh.

3.7 Transport Contribution

- 3.7.1 The Commencement Date shall not occur until after the Proprietors have paid to the Council the Transport Contribution Indexed. In the event that the Transport Contribution, or any instalment thereof, is not paid timeously, interest shall be payable thereon (by the Proprietors to the Council) at the Prescribed Rate until payment of the relevant sum in full.
- 3.7.2 The Council shall on receipt of the Transport Contribution, or part thereof, pay it into an interest-bearing account held by the Council.
- 3.7.3 The Council shall utilise, as it acting reasonably solely determines, the Transport Contribution towards:
- (a) the design and delivery of site specific transport infrastructure improvements; and/or
 - (b) the design and delivery of such transport infrastructure improvements, that are identified as actions in the Council's Action Programme within the Transport Contribution Zone(s) which includes the Agreement Subjects.
- 3.7.4 In the event of the Transport Contribution not being utilised in full by the Council within ten years of the date of receipt of the last payment by the

Council, then such contribution, or the unused part thereof, as appropriate, together with any interest that has accrued thereon, shall be refunded to the Proprietors who paid it in terms of Clause 3.7.1 within 25 Working Days of a written request from the said Proprietors for repayment.

3.8 Car Club Contribution

- 3.8.1 The Commencement Date shall not occur until after the Proprietors have paid to the Council the Car Club Contribution Indexed. In the event that the Car Club Contribution, or any instalment thereof, is not paid timeously, interest shall be payable thereon (by the Proprietors to the Council) at the Prescribed Rate until payment of the relevant sum in full.
- 3.8.2 The Council shall on receipt of the Car Club Contribution, or part thereof, pay it into an interest-bearing account held by the Council.
- 3.8.3 The Council shall utilise the Car Club Contribution towards a Car Club to fund the provision of [a] Car Club vehicle(s) to be located within the vicinity of the Development and associated costs.
- 3.8.4 In the event of the Car Club Contribution not being utilised in full by the Council within ten years of the date of receipt of the last payment by the Council, then such contribution or the unused part thereof, as appropriate, together with any interest that has accrued thereon, shall be refunded to the Proprietors who paid it in terms of Clause 3.8.1 within 25 Working Days of a written request from the said Proprietors for repayment.

3.9 SUO Provision

- 3.9.1 The Commencement Date shall not occur until after the Proprietors have paid to the Council the SUO Contribution. In the event that the SUO Contribution, or any instalment thereof, is not paid timeously, interest shall be payable thereon (by the Proprietors to the Council) at the Prescribed Rate until payment of the relevant sum in full.
- 3.9.2 The Council shall on receipt of the SUO Contribution, or part thereof, pay it into an interest-bearing account held by the Council.
- 3.9.3 The SUO Contribution shall be applied by the Council towards the promotion of a SUO at [enter location address], Edinburgh.
- 3.9.4 In the event of the SUO Contribution not being utilised in full by the Council within ten years of the date of receipt of the last payment by the Council, then such contribution or the unused part thereof, as appropriate, together with any interest that has accrued thereon, shall be refunded to the Proprietors (who paid it in terms of Clause 3.10.1) within 25 Working Days of a written request from the Proprietors for repayment.

HEALTHCARE INFRASTRUCTURE

3.11 Healthcare Infrastructure Contributions

- 3.11.1 The Commencement Date shall not occur until after the Proprietors have paid to the Council the Healthcare Infrastructure Contribution Indexed. In the event that the Healthcare Infrastructure Contribution, or any instalment thereof, is not paid timeously, interest shall be payable thereon (by the Proprietors to the Council) at the Prescribed Rate until payment of the relevant sum in full.
- 3.11.2 The Council shall on receipt of the Healthcare Infrastructure Contribution, or part thereof, pay it into an interest-bearing account held by the Council.
- 3.11.3 The Council shall utilise, as it acting reasonably solely determines, the Healthcare Infrastructure Contribution towards the provision of healthcare infrastructure improvements that are identified as actions in the Council's Action Programme within the Health Care Contribution Zone(s) which includes the Agreement Subjects.
- 3.11.4 The Council may, once it has identified how to apply the Healthcare Infrastructure Contribution in accordance with clause 3.11.3, transfer the Healthcare Infrastructure Contribution to the Health Board(s) that is responsible for the area in which each of the healthcare infrastructure improvements are to be made. In the event the Council transfer all or part of the Healthcare Infrastructure Contribution to a Health Board, then that Health Board shall apply the Healthcare Infrastructure Contribution in accordance with clause 3.11.3 towards the healthcare infrastructure improvements identified by the Council. For the avoidance of doubt, any such transfer by the Council shall be made strictly on the basis that, in the event that the Health Board has not utilised in full the part of the Healthcare Infrastructure Contribution transferred to them within ten years of the date of receipt of payment by the Council of the Healthcare Infrastructure Contribution from the Proprietors (or if phased payments the date of receipt of the last payment), then such contribution or the unused part thereof, as appropriate, together with any interest that has accrued thereon, shall be refunded to the Council within 25 Working Days.
- 3.11.5 In the event of the Healthcare Infrastructure Contribution not being utilised in full by the Council within ten years of the date of receipt of payment by the Council (or if phased payments the date of receipt of the last payment), then such contribution or the unused part thereof, as appropriate, together with any interest that has accrued thereon, shall be refunded to the Proprietors who paid it in terms of Clause 3.11.1 within 25 Working Days of a written request from the Proprietors for repayment.

GREEN INFRASTRUCTURE

3.12 Green Infrastructure Contributions

- 3.12.1 The Commencement Date shall not occur until after the Proprietors have paid to the Council the Green Infrastructure Contribution Indexed. In the event that the Green Infrastructure Contribution, or any instalment thereof, is not paid timeously, interest shall be payable thereon (by the Proprietors to the Council) at the Prescribed Rate until payment of the relevant sum in full.
- 3.12.2 The Council shall on receipt of the Green Infrastructure Contribution, or part thereof, pay it into an interest-bearing account held by the Council.
- 3.12.3 The Council shall utilise, as it acting reasonably solely determines, the Green Infrastructure Contribution, in the vicinity of the Development, towards:
- (a) the financing of providing and/or enhancing local green infrastructure; or
 - (b) any actions identified in either the Council's Action Programme or within the CEC Developer Contribution SG , which as at the date of this agreement are contained in Annex 3 thereof, for the acquisition, adoption and transitional costs of maintaining new green infrastructure;
- 3.12.4 In the event of the Green Infrastructure Contribution paid under Clause 3.12.1 hereof not being utilised in full by the Council within ten years of the date of payment to the Council (or if phased payments the date of the last payment) then such contribution or the unused part thereof, as appropriate, together with any interest that has accrued thereon, shall be refunded to the Proprietors who paid it in terms of Clause 3.12.1 within 25 Working Days of a written request from the said Proprietors for repayment.

3.13 Green Infrastructure Land Transfer

- 3.13.1 The Proprietors shall convey to the Council a valid marketable title to the Green Infrastructure Land for nil consideration in accordance with the GIL Transfer Terms together with the provision of a temporary site access for construction traffic, to and from, the Green Infrastructure Land by a date occurring no later than [insert period agreed] months following the Commencement Date.

- 3.13.2 Following conveyance of the Green Infrastructure Land, the Proprietor shall at its sole expense :
- (i) provide the GIL Services to the boundary of the Green Infrastructure Land no later than the date occurring [insert period agreed] months after the date of conveyance of the Green Infrastructure Land;
 - (ii) carry out the GIL Remediation of the Green Infrastructure Land no later than the date occurring [insert period agreed] months after the date of conveyance of the Green Infrastructure Land; and
 - (ii) provide vehicular and pedestrian accesses to the boundary of the Green Infrastructure Land sufficient to allow all necessary access to the Green Infrastructure Land, to the reasonable satisfaction of the Council no later than the date occurring [insert period agreed] months after the date of conveyance of the Green Infrastructure Land.
 - (i) establish and maintain, to the Council's satisfaction (acting reasonably), the Green Infrastructure Land for a period of 5 years following the date of conveyance. For the avoidance of doubt after the expiry of this 5 year period the Council shall be responsible for maintaining, to such standards as they see fit, the Green Infrastructure Land at their sole expense.

3.14 TRO Provision

- 3.14.1 The Commencement Date shall not occur until after the Proprietors have paid to the Council the TRO Contribution. In the event that the TRO Contribution, or any instalment thereof, is not paid timeously, interest shall be payable thereon (by the Proprietors to the Council) at the Prescribed Rate until payment of the relevant sum in full.
- 3.14.2 The Council shall on receipt of the TRO Contribution, or part thereof, pay it into an interest-bearing account held by the Council.
- 3.14.3 The TRO Contribution shall be applied by the Council towards the promotion of TROs in the vicinity of the Development.
- 3.14.4 In the event of the TRO Contribution not being utilised in full by the Council within ten years of the date of receipt of the last payment by the Council, then such contribution or the unused part thereof, as appropriate, together with any interest that has accrued thereon, shall be refunded to the Proprietors (who paid it in terms of Clause 3.14.1) within 25 Working Days of a written request from the Proprietors for repayment.

Section 4 - General Clauses

REFUSAL OR REVOCATION

- 4.1 In the event of the Planning Permission being refused, revoked or in any way falling, then all contributions specified in this Agreement, or the unused parts thereof, together with any interest that has accrued thereon, as appropriate, shall be refunded by the Council to the relevant Proprietors, or former Proprietors, which paid the Contributions within 25 Working Days of a written request being received from the relevant Proprietors or former Proprietors for repayment.

DISCHARGE AND MODIFICATION

- 4.2 In the event that the Proprietors apply to modify and/or discharge the whole or any part of this agreement the Proprietors shall be responsible for the Council's reasonable legal expenses and outlays properly incurred in the negotiation, drafting, preparation, completion and registration of any Notice of Determination and any other document required to enable registration of such Notice in the Land Register/General Register of Sasines as appropriate to give effect to the discharge and/or modification hereof.

ASSIGNATION

- 4.3 The original Proprietors (who for the purpose of this clause are the Proprietors who signed this Agreement) shall not transfer or assign their rights and obligations under this Agreement or dispose of their interests in the Agreement Subjects (or any part thereof) prior to registration of this Agreement in the Land Register of Scotland, or the recording of this Agreement in the relevant Division of the General Registers of Sasines (as appropriate) being completed.

DISPUTE PROCEDURE

- 4.4 The parties agree that any dispute or difference arising out of, under or in connection with this agreement (a "**Dispute**"), can be referred to an Expert for determination and will be resolved in accordance with the procedure set out in Clauses 4.5 to 4.9 (*Dispute Procedure*).
- 4.5 The parties agree that they shall give effect immediately to every decision of each Expert or the Scottish Courts (as the case may be).

4.6 **Notice of Expert Determination**

- (a) Any party entitled to refer a dispute for Expert determination (the "**Referring Party**") must give written notice to the other party of its intention to refer a dispute to an Expert under the procedures set out in these Clauses 4.5 to 4.9 (the "**Notice of Expert Determination**").
- (b) A Notice of Expert Determination must:-
 - (i) set out the Referring Party's position;
 - (ii) set out the facts upon which that position is based;
 - (iii) annex copies of any relevant correspondence and background material;
 - (iv) contain detailed particulars of the quantification of any claim made, if appropriate; and
 - (v) nominate an Expert.

4.7 **Appointment of Expert**

- (a) If the party other than the Referring Party is not satisfied with the Expert nominated by the Referring Party they must intimate that in writing to the Referring Party within 10 Working Days of receipt of the Notice of Expert Determination (time being of the essence) failing which the Expert nominated will be deemed to be approved.
- (b) If:-
 - (i) the Expert approved (or deemed to have been approved) under Clause 4.7(a) has not accepted his appointment as Expert within 10 Working Days of the date of service of the Notice of Expert Determination; or
 - (ii) the Expert nominated in the Notice of Expert Determination has been properly rejected under Clause 4.7(a),then any party may apply to the President of the Law Society of Scotland to nominate an Expert (who is within the same period to accept his appointment as Expert) to determine the Dispute as soon as practicable.
- (c) When requesting the nomination of an Expert, the Referring Party must supply a copy of this agreement and the Notice of Expert Determination to the President of the Law Society of Scotland, who will have regard to the nature of the Dispute which is referred for expert determination when nominating an Expert.
- (d) The date on which the Expert accepts his appointment will be the date of referral of the Dispute ("**Referral**").
- (e) The Expert will be appointed as an expert not an arbitrator and the Arbitration (Scotland) Act 2010 and the law relating to arbitration will not apply to the Expert or his determination or the procedure by which he reaches his determination.

4.8 **Expert Determination Procedure**

- (a) Provided the parties are given the opportunity to put their position on the matter in dispute to the Expert, the Expert has absolute discretion to decide on the procedure to be followed, including whether a hearing is necessary, to resolve the Dispute.
- (b) In any event, the Expert must provide to the parties his written decision on the Dispute as soon as possible and no later than 20 Working Days after the Referral (or such other period as the parties may agree). Unless the parties otherwise agree, the Expert must give reasons for his decision.
- (c) The Expert's decision, in the absence of manifest error, will be final and binding on the parties.
- (d) The Expert must act impartially and may take the initiative in ascertaining the facts and the law.
- (e) The Expert may open up, review and revise any opinion, certificate, instruction, determination or decision of whatever nature given or made pursuant to the Agreement, provided that any such opinion, certificate, instruction, determination or decision is not final and conclusive in nature under the Agreement (unless the parties expressly agree otherwise in writing).
- (f) The Expert may appoint experts to advise on discrete technical or legal issues in relation to which, in the Expert's sole opinion, the Expert does not have the necessary expertise.
- (g) All information, data or documentation disclosed or delivered by a party to the Expert in consequence of or in connection with his appointment as Expert must be treated as confidential. All such information, data or documentation will remain the property of the party disclosing or delivering it and all copies will be returned to that party on completion of the Expert's work.

4.9 **Expert's Costs**

- (a) The Expert's costs (including those of any expert in turn appointed by the Expert in accordance with Clause 4.8(f)) will be borne as the Expert specifies or, in default, equally by the parties.
- (b) The parties will each bear their own costs arising out of the expert determination, including legal costs and the costs and expenses of any witnesses.

ENFORCEABILITY

- 4.10.1 This Agreement is made pursuant to Section 75 of the 1997 Act, as amended, and it is agreed by the Council and the Proprietors that the obligations undertaken by the Proprietors in this Agreement shall be enforceable at the instance of the Council as planning and roads authority against the Proprietors and persons deriving title to the

Agreement Subjects or any part thereof from the Proprietors, provided always that for the purposes of Section 75C of the 1997 Act, no person shall be liable for the performance, or any breach of, any obligation after they have disposed of their interest in the Agreement Subjects or the relevant part thereof, save in relation to any breach subsisting prior to disposing of such interest.

- 4.10.2 In respect of the Bona Fide Third Party Purchaser of any Residential Unit or land associated with any such Residential Unit constructed on the Agreement Subjects:
- (a) where the said Bona Fide Third Party Purchaser is not a Golden Share Dwelling Owner they shall not be bound by the terms of this Agreement;
 - (b) where the said Bona Fide Third Party Purchaser is a Golden Share Dwelling Owner they shall:
 - (i) be bound in terms of part 1 and part 2 of the Schedule to this Agreement in respect of their Golden Share Dwelling; and
 - (ii) not otherwise be bound by the terms of this Agreement;
- The liability of the Proprietors under this Agreement shall continue notwithstanding such sales.

- 4.10.3 The terms of this Agreement shall not be binding on any utility company that acquires part of the Agreement Subjects for the purposes of providing services to the Development and the liability under this Agreement of the selling party in any such sale shall continue notwithstanding such sales.

- 4.10.4 Nothing (contained or implied) in this Agreement shall fetter or restrict the Council's statutory rights, powers, discretions and responsibilities.

REGISTRATION

- 4.11.1 The parties consent to registration hereof for preservation and execution in:
- (i) the Books of Council and Session; and
 - (ii) [the Land Register of Scotland and/or the General Register of Sasines (delete not applicable register as appropriate)]
- 4.11.2 The Proprietors (unless otherwise agreed with the Council) undertake, as soon as reasonably practicable after the last date of execution hereof, to concurrently register this agreement:
- (i) in the Books of Council and Session; and
 - (ii) against the Agreement Subjects in the [the Land Register of Scotland and/or the General Register of Sasines (delete not applicable register as appropriate)]; .

The Proprietors shall as soon as reasonably practicable after registration deliver to the Council a registered extract of the Agreement;

- 4.11.3 The Council shall issue the Planning Permission as soon as reasonably practicable following receipt of:
- (i) the Keeper of the Register of Scotland's acknowledgement of the application for registration of this agreement in the [the Land Register of Scotland and/or the General Register of Sasines (delete not applicable register as appropriate)]; and
 - (ii) a Legal Report disclosing the application for registration of this agreement and disclosing no entries prejudicial to the Council's interests; and
 - (iii) a search against the Proprietors in Companies House brought down to the date of submission of the application for registration of this agreement and disclosing no entries prejudicial to the Council's interests; and
 - (iv) payment of the Council's fees and expenses pursuant to Clause [3.7] hereof.
- 4.11.4 In the event that the Keeper rejects the application for registration of this agreement the Proprietors undertake to:
- (i) within 2 Working Days of receipt of the Keepers rejection, inform the Council, in writing and supply a copy of the rejection letter from the Keeper;
 - (ii) promptly undertake such actions as may reasonably be required to allow the Keeper to accept this agreement for registration, or a substitute agreement in terms agreed by the Council, acting reasonably.
- 4.11.5 The Proprietors undertake and warrant that:
- (i) they shall not take steps to withdraw the application for registration of this agreement in [the Land Register of Scotland and/or the General Register of Sasines (delete not applicable register as appropriate)] without the consent of the Council, such consent not to be unreasonably withheld; and
 - (ii) to the best of their knowledge and belief that, at the date on which they execute this agreement, they are not subject to, or under threat or warning of, any bankruptcy, insolvency proceedings, or other Insolvency Event, including voluntary insolvency or bankruptcy, and will not take steps to enter into any voluntary insolvency, bankruptcy, or other arrangements that may result in an Insolvency Event between the date on which they sign this agreement and the updating of the Title Sheet by the Keeper disclosing this agreement.
- 4.11.6 In the event that the Keeper of the Registers of Scotland refuses or is unable to register this agreement by virtue of the Proprietors' failure to comply with

Clause 4.11.4 hereof, the Council, acting reasonably, shall be entitled, but not obliged, to revoke the Planning Permission in terms of Section 65 of the 1997 Act and the Proprietors agree that they will not (i) oppose such revocation in terms of Section 66 of the 1997 Act nor (ii) seek compensation or expenses from the Council. The Proprietors hereby notify the Council, under section 67(1)(b) that they do not object to any such revocation order so issued.

4.11.7 In the event that the Keeper of the Registers of Scotland refuses or is unable to register this agreement by reason of an Insolvency Event, the Council, acting reasonably, shall be entitled, but not obliged, to revoke the Planning Permission in terms of Section 65 of the 1997 Act and the Proprietors agree that they will not (i) oppose such revocation in terms of Section 66 of the 1997 Act nor (ii) seek compensation or expenses from the Council. The Proprietors hereby notify the Council, under section 67(1)(b) that they do not object to any such revocation order so issued.

4.11.8 The Council undertakes that before taking steps to revoke the Planning Permission in terms of Clause 4.11.6 and 4.11.7 hereof, the Council will serve written notice on the Proprietors of their intention to revoke the Planning Permission and will allow the Proprietors a reasonable opportunity to comply with the requirements of the Keeper of the Registers of Scotland to enable this agreement to be registered.

NOTICES

4.12.1 All notices which require to be given in terms of this agreement shall be in writing and shall be deemed to be sufficiently served if signed by or on behalf of the party issuing the notice and either (i) delivered personally, or (ii) sent by pre-paid recorded delivery or registered post addressed:

(a) In the case of the Proprietors at their registered Office and, for subsequent persons with an interest in the Agreement Subjects (if a body corporate) at their Registered Office or Head Office, and (if an individual) at his last known address in the United Kingdom and (if a partnership) to the partnership and any one or more of the partners thereof at its last known principal place of business in the United Kingdom or (in any case) at such address as the Proprietors may have notified in writing to the Council;

(b) In the case of the Council, to the Council to both their Principal Office and to the [City of Edinburgh Council, (Planning) Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG] or to such other address as the Council may have notified to the Proprietors previously in writing;

and any such notice shall be deemed to have been served (I) if delivered

personally, at the time of delivery, and (II) in the case of pre-paid recorded delivery or registered post, on the second Working Day after the date on which the same was posted.

- 4.12.2 In providing service, it shall be sufficient to prove that the envelope containing the notice was duly addressed to the Council or the Proprietors, as the case may be, in accordance with this Clause and posted to the place to which it was so addressed.

COMMUNICATION IN WRITING

- 4.13.1 In the case of all requirements to communicate in writing in terms of this Agreement, except notices, it shall be acceptable for the written communication to be by either: (i) a letter signed by or on behalf of the party issuing the letter; or (ii) an email sent by or on behalf of the party issuing the email;
- 4.13.2 Where written communications are sent by post they shall be addressed:
- (a) In the case of the Proprietors at their registered Office and, for subsequent persons with an interest in the Agreement Subjects (if a body corporate) at their Registered Office or Head Office, and (if an individual) at his last known address in the United Kingdom and (if a partnership) to the partnership and any one or more of the partners thereof at its last known principal place of business in the United Kingdom or (in any case) at such address as the Proprietors may have notified in writing, by post or email, to the Council previously;
 - (b) In the case of the Council, to [City of Edinburgh Council, (Planning) Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG] or to such other address as the Council may have notified to the Proprietors previously in writing, by post or email;
- 4.13.3 Where written communications are sent electronically by email they shall be addressed to:
- (a) In the case of the Proprietors to [insert relevant email address] or to such email address as the Proprietors may have notified in writing, by post or email, to the Council previously;
 - (b) In the case of the Council to planning.agreements@edinburgh.gov.uk, or to such other email address as the Council may have notified to the Proprietors previously in writing, by post or email;

EXPENSES

4.14 The Proprietors shall meet the Council’s reasonable legal expenses and outlays properly incurred in the negotiation, drafting, preparation, completion and registration of this agreement, to include the provision of two Extracts of this agreement for the Council’s own use: IN WITNESS WHEREOF these presents consisting of this and the preceding [] pages [together with the plan(s)and schedule(s) annexed] are executed as follows:-

SUBSCRIBED for and on behalf of
the said THE CITY OF EDINBURGH COUNCIL

at

on

by

.....
Print Full Name

.....
Proper Officer

Before this witness

.....
Print Full Name

.....
Witness

.....
Address

.....

.....

SUBSCRIBED for and on behalf of
the said

at

on

by

.....
Print Full Name

.....
Director

Before this witness

.....
Print Full Name

.....
Witness

.....
Address

.....

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**THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING MINUTE OF AGREEMENT
BETWEEN THE CITY OF EDINBURGH COUNCIL AND [.....]**

**Schedule Part 1
Golden Share Housing Provisions**

Any reference to a Clause in this part of the Schedule shall be to a clause in this part of the Schedule, unless otherwise stated. In this part of the Schedule words and phrases defined in the foregoing Agreement shall have the same meaning, and the following words and phrases shall have the following definitions respectively set against them:

"Criteria"	means the criteria, then obtaining, against which the Council assesses an applicant's eligibility as a purchaser of a Golden Share Dwelling. The criteria to apply shall be set and updated by the Council from time to time, acting reasonably. The criteria as at the date of this Agreement is that the applicant can demonstrate: <ul style="list-style-type: none"> • a local connection to the Edinburgh area; • a need for a property of the size being applied for; • an inability to finance the purchase at the Market Price; • that the applicant does not have any other live application for a Golden Share Dwelling;
"Eligible Purchaser"	means a person who satisfies the Criteria, or a person who is otherwise approved by the Council and who shall occupy a Golden Share Dwelling as his only permanent home;
"Eligible Survivor"	means a widow, widower or surviving resident dependant of an Eligible Purchaser;
"Golden Share"	means a form of non-subsidised Low Cost Home Ownership Housing, with conditions attached to the title to maintain the Residential Units as Affordable Housing Units to subsequent purchasers being Persons in Housing Need;
"Golden Share Dwelling Owner"	means an Eligible Purchaser who has purchased and acquired ownership of a Golden Share Dwelling in accordance with this Agreement;
"Golden Share Dwellings"	means the Residential Units to be constructed as Golden Share Housing on the Affordable Housing Subjects;
"Golden Share Initial Repayment Amount"	means twenty per cent (20%) of the Initial Market Price;

<p>“Golden Share Marketing Period”</p>	<p>means in respect of:</p> <ul style="list-style-type: none"> (i) the first sale of a Golden Share Dwelling, a period of one year and one Working Day commencing on the date of the first media advertisement of the Golden Share Dwellings; (ii) any subsequent resale of a Golden Share Dwelling, a period of thirteen weeks commencing on the date of the first media advertisement of the Golden Share Dwellings;
<p>“Golden Share Maximum Security Sum”</p>	<p>means a sum of no more than the relevant Market Price applicable from time to time in respect of the relevant Golden Share Dwelling, less the amount of the Golden Share Repayment Amount secured in terms of the Golden Share Standard Security;</p>
<p>“Golden Share Repayment Amount”</p>	<p>means twenty per cent (20%) of the Market Price;</p>
<p>“Golden Share Secured Lender”</p>	<p>means a lender who has provided funds to assist with the purchase of a Golden Share Dwelling and in whose favour the Eligible Purchaser has granted a standard security over such Golden Share Dwelling;</p>
<p>“Golden Share Standard Security”</p>	<p>Means a standard security granted in favour of the Council for the Golden Share Repayment Amount, in the form of the draft standard security <i>mutatis mutandis</i> forming Part 2 of the Schedule (or in substantially the same form). The standard security shall secure, and shall bind the Eligible Purchaser to comply with, the terms of Part 1 of the Schedule;</p>
<p>“GSD Sale Failure Council Acceptance”</p>	<p>Means a notice issued by the Council, in writing, following receipt of the GSD Sale Failure Notice, confirming to the Golden Share Dwelling Owner that it is completely satisfied that GSD Sale Failure Council Requirements have been met;</p>
<p>“GSD Sale Failure Council Request For Further Information”</p>	<p>Means a notice issued by the Council, in writing, following receipt of the GSD Sale Failure Notice, requiring the Golden Share Dwelling Owner to provide further information in order that the Council can determine whether it is completely satisfied that GSD Sale Failure Council Requirements have been met;</p>
<p>“GSD Sale Failure Council Refusal”</p>	<p>Means a notice issued by the Council, in writing, following receipt of the GSD Sale Failure Notice, confirming to the Golden Share Dwelling Owner that it is not completely</p>

	satisfied that GSD Sale Failure Council Requirements have been met;
“GSD Sale Failure Council Requirements”	Means satisfying the Council that throughout the Golden Share Marketing Period the Golden Share Dwelling Owner has used all reasonable endeavours to facilitate conclusion of missives;
“GSD Sale Failure Notice”	Means documentation provided by the Golden Share Dwelling Owner to the Council that: <ul style="list-style-type: none"> (a) gives notice to the Council in writing that the Golden Share Dwelling has failed to sell; and (b) provides sufficient evidence in writing to demonstrate that throughout the Golden Share Marketing Period they have used all reasonable endeavours to facilitate conclusion of missives;
“GSD Initial Sale Failure Council Acceptance”	Means a notice issued by the Council, in writing, following receipt of the GSD Initial Sale Failure Notice, confirming to the Initial Seller that it is completely satisfied that GSD Initial Sale Failure Council Requirements have been met;
“GSD Initial Sale Failure Council Request For Further Information”	Means a notice issued by the Council, in writing, following receipt of the GSD Initial Sale Failure Notice, requiring the Initial Seller to provide further information in order that the Council can determine whether it is completely satisfied that GSD Initial Sale Failure Council Requirements have been met;
“GSD Initial Sale Failure Council Refusal”	Means a notice issued by the Council, in writing, following receipt of the GSD Initial Sale Failure Notice, confirming to the Initial Seller that it is not completely satisfied that GSD Initial Sale Failure Council Requirements have been met;
“GSD Initial Sale Failure Council Requirements”	Means satisfying the Council that: <ul style="list-style-type: none"> (a) throughout the Golden Share Marketing Period the Initial Seller has used all reasonable endeavours to facilitate conclusion of missives; and (b) the Initial Seller has provided sufficient evidence to demonstrate that the Initial Market Price Estimate is a reasonable estimate of the attainable Market Price for that Golden Share Dwelling as at that date and that the Initial Market Price is therefore agreed;

<p>“GSD Initial Sale Failure Notice”</p>	<p>Means documentation provided by the Initial Seller to the Council that:</p> <ul style="list-style-type: none"> (a) gives notice to the Council in writing that the Golden Share Dwelling has failed to sell; and (b) provides sufficient evidence in writing to demonstrate that throughout the Golden Share Marketing Period they have used all reasonable endeavours to facilitate conclusion of missives; (c) provides sufficient evidence in writing to the Council to demonstrate that the Initial Market Price Estimate is a reasonable estimate, as at that date, of the attainable Market Price for that Golden Share Dwelling if it was being sold as an Open Market Housing Unit. Which evidence shall include: <ul style="list-style-type: none"> (i) the details of comparable sales for the proposed market price; (ii) the details of all sales of other Residential Units at the Development; (iii) copies of Mortgage Lenders Disclosure of Incentives Forms for all relevant comparable units sold in the development;
<p>“Initial Market Price”</p>	<p>means the sum agreed with the Council following the Initial Market Price Estimate, in terms of Clauses 5(c), 6(b) and 7(a);</p>
<p>“Initial Market Price Estimate”</p>	<p>means the reasonably estimated Market Price for the relevant Golden Share Dwelling prior to its initial sale;</p>
<p>“Initial Seller”</p>	<p>means the Proprietors who owns, as part of the Agreement Subjects, a Golden Share Dwelling prior to it being sold separately for the first time;</p>
<p>“Market Price”</p>	<p>means the price which could reasonably be obtained on the open market for the relevant Golden Share Dwelling with vacant possession on a given date, assuming a willing buyer and a willing seller in an arm’s length transaction and disregarding the restrictions contained within this Agreement, as determined by:</p> <ul style="list-style-type: none"> (i) the District Valuer; or (ii) an independent chartered surveyor whose appointment is approved by the Council; or (iii) the provision of a home report, in respect of the relevant Golden Share Dwelling, by an independent chartered surveyor whose appointment is approved by the Council; <p>(the cost of which valuation shall be met by the party seeking, in respect of the relevant Golden Share Dwelling to: (a) market</p>

	it for sale; or (b) retain it and obtain a new standard security over it;);
"Maximum Residual Savings"	means a sum after the purchase of a Golden Share Dwelling not exceeding SIXTEEN THOUSAND POUNDS (£16,000) STERLING or such other sum as approved by the Council either generally or in any particular case;
"Sale Price"	means 80% of the Market Price;

- 1 No more than twenty five per cent of the Open Market Housing Units shall be permitted to reach a Relevant Milestone until the Proprietors have at their own cost constructed and obtained Completion of Construction in respect of the Golden Share Dwellings. The Proprietors shall give notice to the Council immediately on the occurrence of Completion of Construction of the Golden Share Dwellings.
- 2 Subject to the terms of this Agreement, each of the Golden Share Dwellings shall: (a) be occupied in all time coming only by an Eligible Purchaser (or Eligible Survivor); and (b) not be let or sub-let without the prior written consent of the Council;
- 3 On any sale of a Golden Share Dwelling (whether an initial sale by the Initial Seller or a subsequent sale by a Golden Share Dwelling Owner), the seller of the Golden Share Dwelling shall prior to commencing the Golden Share Marketing Period, submit to the Council for their written approval:
 - (a) the proposed media advertisement for sale, accompanied by all necessary supporting documents for said advertisement (details of the necessary documentation to be determined by the Council acting reasonably);
 - (b) the proposed marketing strategy, accompanied by all necessary supporting documents for said marketing strategy (details of the necessary documentation to be determined by the Council acting reasonably);
 - (c) the proposed date of the first media advertisement of the Golden Share Dwellings;

The Council shall respond in writing within twenty Working Days of any approval request by the seller of the Golden Share Dwelling, indicating whether approval is granted or not. For the avoidance of doubt the seller of the Golden Share Dwelling shall not be permitted to commence the Golden Share Marketing Period until they have obtained the written approval of the Council. The seller of the Golden Share Dwelling shall be obliged to confirm to the Council in writing the date of the first media advertisement of the Golden Share Dwellings and to provide a copy of the advertisement for the Council's retention.
- 4 On any sale of a Golden Share Dwelling (whether by the Initial Seller or by a Golden Share Dwelling Owner), the seller of the Golden Share Dwelling shall throughout the whole of the Golden Share Marketing Period use all reasonable endeavours to:

- (a) market the Golden Share Dwellings to Eligible Purchasers at the Sale Price; and
 - (b) conclude missives for the sale of Golden Share Dwellings at the Sale Price to Eligible Purchasers who have been approved by the Council as meeting the Criteria;
- 5 In the event that an Initial Seller has not concluded missives with an Eligible Purchaser for the sale of that Golden Share Dwelling at the Sale Price before the date on which the Golden Share Marketing Period expires, the Initial Seller shall within 10 Working Days of the Golden Share Marketing Period expiring provide the Council with the GSD Initial Sale Failure Notice.
- 6 The Council shall within 20 Working days of receipt of the GSD Initial Sale Failure Notice issue to the Initial Seller either the:
- (a) GSD Initial Sale Failure Council Acceptance, in which case Clauses 7 and 8 shall apply; or
 - (b) GSD Initial Sale Failure Council Request For Further Information, in which case the Initial Seller shall have 10 Working days from receipt (or such other longer period as specified by the Council), to provide the requested further information failing which Clause 7(c) shall apply; or
 - (c) GSD Initial Sale Failure Council Refusal, in which case the Initial Seller shall, subject to fully complying with Clauses 3 and 4, market the Golden Share Dwelling again for an entire Golden Share Marketing Period (which for the avoidance of doubt in this scenario is a period of one year and one Working Day commencing on the date of the first media advertisement of the Golden Share Dwelling). For the further avoidance of doubt in the event that the Initial Seller has not concluded missives with an Eligible Purchaser for the sale of that Golden Share Dwelling at the Sale Price before the date on which this further Golden Share Marketing Period expires then Clauses 5 and 6 shall apply;
- 7 In the event that the Council issues a GSD Initial Sale Failure Council Acceptance to the Initial Seller in terms of Clause 6(a), then the Initial Seller shall within 10 working days of receipt pay to the Council the Golden Share Initial Repayment Amount. In the event that the Golden Share Initial Repayment Amount, or any instalment thereof, is not paid timeously, interest shall be payable thereon (by the Initial Seller to the Council) on demand at the Prescribed Rate until payment of the relevant sum in full. On payment of the Golden Share Initial Repayment Amount to the Council by the Initial Seller the:
- (a) the Initial Seller shall be entitled from and after such date to sell the Residential Unit in question as an Open Market Housing Unit, subject to the Council's written approval; and
 - (b) Clause 2 shall cease to apply to the said Residential Unit; and
 - (c) provisions of Clauses 3.3.1 to 3.3.12 of this Agreement shall cease to apply in respect of the said Residential Unit;

- 8 In the event that the Golden Share Initial Repayment Amount is paid in accordance with clause 7, the Council shall:
- (a) on receipt of the Golden Share Initial Repayment Amount, or part thereof, pay it into an interest-bearing account held by the Council;
 - (b) utilise the Golden Share Initial Repayment Amount towards the provision of Affordable Housing Units;
 - (c) In the event of the Golden Share Initial Repayment Amount not being utilised in full by the Council within ten years of the date of receipt of payment by the Council (or if phased payments the date of receipt of the last payment) then such contribution or the unused part thereof, as appropriate, together with any interest that has accrued thereon, shall be refunded to the Initial Seller (who paid it in terms of Clause 7) within 25 Working Days of a written request from the Initial Seller for repayment;
- 9 In the event that on any sale of a Golden Share Dwelling (except the initial sale by the Initial Seller), the Golden Share Dwelling Owner has not concluded missives with an Eligible Purchaser for the sale of any Golden Share Dwelling at the Sale Price by the date on which the Golden Share Marketing Period expires, then the Golden Share Dwelling Owner shall within 10 Working days of the Golden Share Marketing Period expiring provide the Council with the GSD Sale Failure Notice.
- 10 The Council shall within 20 Working days of receipt GSD Sale Failure Notice issue to the Golden Share Dwelling Owner either the:
- (a) GSD Sale Failure Council Acceptance, in which case Clause 11 shall apply;
 - (b) GSD Sale Failure Council Request For Further Information, in which case the Golden Share Dwelling Owner shall have 10 Working days (or such other longer period as specified by the Council), from receipt of the Golden Share Dwelling Sale Failure Council Response, to provide the requested further information failing which Clause 10(c) shall apply;
 - (c) GSD Sale Failure Council Refusal, in which case the Golden Share Dwelling Owner shall, subject to fully complying with Clauses 3 and 4, market the Golden Share Dwelling again for a reduced Golden Share Marketing Period (which for the avoidance of doubt in this scenario is a period of 20 Working Day commencing on the date of the first media advertisement of the Golden Share Dwelling). For the further avoidance of doubt in the event that the Golden Share Dwelling Owner has not concluded missives with an Eligible Purchaser for the sale of that Golden Share Dwelling at the Sale Price before the date on which this further Golden Share Marketing Period expires then Clauses 9 and 10 shall apply;

- 11 In the event that the Council confirms in the Golden Share Dwelling Sale Failure Council Response to the Golden Share Dwelling Owner that they are satisfied in terms of Clause 10(a), then:
- (a) the Golden Share Dwelling Owner shall be entitled from and after such date to sell the Residential Unit in question as an Open Market Housing Unit, subject to the Council's written approval; and
 - (b) Any relevant Golden Share Dwelling sold in these circumstances shall be discharged from the terms of this Agreement subject to compliance with the remaining obligation in Clause 28;
- 12 On any sale of a Golden Share Dwelling (whether an initial sale by the Initial Seller or a subsequent sale by a Golden Share Dwelling Owner), the seller of the Golden Share Dwelling shall procure that the purchaser of the Golden Share Dwelling shall, at the time of purchase of the Golden Share Dwelling, grant a Golden Share Standard Security at his own expense in favour of the Council for the Golden Share Repayment Amount. The Parties acknowledge that any Golden Share Standard Security granted in accordance with this Clause shall be postponed to rank after any standard securities granted by the relevant Eligible Purchaser to assist in purchasing the Golden Share Dwelling.
- 13 On any sale of a Golden Share Dwelling (whether an initial sale by the Initial Seller or a subsequent sale by a Golden Share Dwelling Owner), the seller of the Golden Share Dwelling shall procure that the purchaser of the Golden Share Dwelling shall:
- (a) (unless otherwise agreed with the Council) as soon as reasonably practicable after the last date of execution of the Golden Share Standard Security, register it against the title for that Golden Share Dwelling in the [the Land Register of Scotland and/or the General Register of Sasines (delete not applicable register as appropriate)].
 - (b) as soon as reasonably practicable after registration deliver to the Council a registered extract of the Golden Share Standard Security;
- 14 On any sale of a Golden Share Dwelling (whether an initial sale by the Initial Seller or a subsequent sale by a Golden Share Dwelling Owner), the seller of the Golden Share Dwelling shall procure that the purchaser of the Golden Share Dwelling, in the event that the Keeper rejects the application for registration of the Golden Share Standard Security, shall:
- (a) within 2 Working Days of receipt of the Keepers Rejection, inform the Council, in writing and supply a copy of the rejection letter from the Keeper;
 - (b) promptly undertake such actions as may reasonably be required to allow the Keeper to accept the Golden Share Standard Security for registration, or a substitute Golden Share Standard Security in terms agreed by the Council acting reasonably;

- 15 On any sale of a Golden Share Dwelling (whether an initial sale by the Initial Seller or a subsequent sale by a Golden Share Dwelling Owner), the seller of the Golden Share Dwelling shall procure that the purchaser of the Golden Share Dwelling undertakes and warrants that:
- (a) they shall not take steps to withdraw the application for registration of the Golden Share Standard Security in [the Land Register of Scotland and/or the General Register of Sasines (delete not applicable register as appropriate)] without the consent of the Council, such consent not to be unreasonably withheld; and
 - (b) to the best of their knowledge and belief that, at the date on which they execute the Golden Share Standard Security, they are not subject to, or under threat or warning of, any bankruptcy, insolvency proceedings, or other Insolvency Event, including voluntary insolvency or bankruptcy, and will not take steps to enter into any voluntary insolvency, bankruptcy, or other arrangements that may result in an Insolvency Event between the date on which they sign the Golden Share Standard Security and the updating of the Title Sheet by the Keeper disclosing the Golden Share Standard Security;
- 16 In the event that the Keeper of the Registers of Scotland refuses or is unable to register the Golden Share Standard Security by virtue of the purchaser of that Golden Share Dwelling failing to comply with Clause 14 and/or Clause 15, the Council, acting reasonably, shall be entitled, to immediate payment of the Golden Share Repayment Amount from the purchaser of that Golden Share Dwelling, upon written request from the Council.
- 17 In the event that the Keeper of the Registers of Scotland refuses or is unable to register this Golden Share Standard Security by reason of an Insolvency Event, the Council, acting reasonably, are entitled, to immediate payment of the Golden Share Repayment Amount from the purchaser of that Golden Share Dwelling, upon written request from the Council.
- 18 The Council undertake that before taking steps to request immediate payment of the Golden Share Repayment Amount in terms of Clause 16 and 17 hereof, the Council will serve written notice on the purchaser of that Golden Share Dwelling of their intention and will allow the purchaser of that Golden Share Dwelling a reasonable opportunity to comply with the requirements of the Keeper of the Registers of Scotland to enable the Golden Share Standard Security to be registered.
- 19 The Council shall discharge the existing standard security in its favour on the sale or transfer of a Golden Share Dwelling provided that the Eligible Purchaser, who is acquiring that Golden Share Dwelling, has provided a standard security in security of the Golden Share Repayment Amount incorporating the terms of Clause 12 and on the same or equivalent terms to the previous standard security.

- 20 No Eligible Purchaser is permitted to grant any standard security, or series of standard securities, over a Golden Share Dwelling that total more than the Golden Share Maximum Security Sum.
- 21 Any standard security granted in favour of the Council in terms of this Clause shall provide that:
- (a) the Golden Share Dwelling which is the subject of the standard security shall only be occupied by the grantee, another Eligible Purchaser, or an Eligible Survivor ; and
 - (b) No Golden Share Dwelling shall be let or sublet by the Eligible Purchaser without the consent of the Council;
- Clause 21(a) shall not apply to a Golden Share Secured Lender in possession of a Golden Share Dwelling.
- 22 Any standard security in favour of the Council in terms of this part of the Schedule shall contain a condition requiring the Eligible Purchaser to comply with the terms of Clause 12 hereof in so far as relevant.
- 23 Prior to any sale or other disposal of a Golden Share Dwelling (except by the Initial Seller) by a Golden Share Dwelling Owner, that Golden Share Dwelling Owner shall provide to the Council one independent valuation of the Market Price of the relevant Golden Share Dwelling by a suitably qualified surveyor whose appointment is to be agreed between the Golden Share Dwelling Owner and the Council, and failing agreement within ten Working Days of the nomination of the said surveyor by the Golden Share Dwelling Owner to the Council, the surveyor shall be appointed on the request of either party by the President of the Royal Institution of Chartered Surveyors Scotland for the time being. The valuation required by this Clause shall be addressed to the Council and shall be provided to the Council within 20 Working Days of the date of the appointment of the particular surveyor. The Golden Share Dwelling Owner shall be solely responsible for the cost of obtaining the valuation.
- 24 Save as specifically provided herein, a Golden Share Dwelling purchased by an Eligible Purchaser pursuant to the process in Clause 12 shall not subsequently be sold, assigned, transferred or disposed of at a price exceeding the Sale Price.
- 25 Any Golden Share Dwelling shall be sold only to a Eligible Purchaser, approved by the Council, subject to the exceptions provided in Clauses 5 to 11.
- 26 In the event that any party sells a Golden Share Dwelling (whether an initial sale by the Initial Seller or a subsequent sale by a Golden Share Dwelling Owner) in breach of the provisions of this part of the Schedule, then the provisions of this Agreement (incorporating this part of the Schedule) shall remain in effect as regards any subsequent sale, assignation, transfer or disposal of the Golden Share Dwelling.

- 27 For the avoidance of doubt, in the event that a Golden Share Secured Lender exercises any power of sale or takes any enforcement action in terms of a standard security over a Golden Share Dwelling, the Golden Share Secured Lender shall, if and when it sells the relevant Golden Share Dwelling, be subject to the provisions of this part of the Schedule.
- 28 The proceeds from an open market sale of any Golden Share Dwelling shall be used to re-pay in descending order:
- (a) firstly, any outstanding sums due by the Golden Share Dwelling Owner of that Golden Share Dwelling to a Golden Share Secured Lender; and
 - (b) secondly, the Golden Share Repayment Amount to the Council in terms of the standard security referred to above; and
 - (c) thirdly, any outstanding sums due to any heritable creditor of the Golden Share Dwelling Owner of that Golden Share Dwelling, other than a Golden Share Secured Lender; and
 - (d) Fourthly, all remaining proceeds (if any) shall belong to the Golden Share Dwelling Owner of that Golden Share Dwelling.
- 29 In the event of the Golden Share Repayment Amount paid to the Council in terms of Clause 28 not being utilised in full by the Council within ten years of the date of payment to the Council for the provision of Affordable Housing Units, then such payment or the unused part thereof, as appropriate, shall be refunded to the Golden Share Dwelling Owner who paid it in terms of Clause 28 by the Council within 25 Working Days following a written request from the Golden Share Dwelling Owner for re-payment.

Schedule Part 2
Model Standard Security for Golden Share Housing

I/We, [] ("the **Owners**"), being bound by a Minute of Agreement between the Council (as hereinafter defined) and [name] dated the [] and [] days of [] Two Thousand and seventeen and registered in the Land Register for Scotland under Title Number [] ("the **Agreement**") in respect of inter alia the Security Subjects (as hereinafter defined), NOW THEREFORE WE DO HEREBY IN SECURITY OF (i) all sums due and that may become due by the Owners to the Council; and (ii) the performance by the Owners of the whole obligations *ad factum praestandum* incumbent upon us in terms of the following provisions (the "**Secured Obligations**") GRANT in favour of **THE CITY OF EDINBURGH COUNCIL** constituted under the Local Government etc (Scotland) Act 1994 and having its principal offices at City Chambers, High Street, Edinburgh as planning authority for the City of Edinburgh in terms of Section 1 of the Town and Country Planning (Scotland) Act 1997 (the "Council") a Standard Security over [ALL and WHOLE the subjects outlined in [red] on the plan annexed and executed as relative hereto, which subjects form part and portion of [] being the subjects registered in the Land Register of Scotland under Title Number [];] TOGETHER WITH (One) the parts, privileges and pertinents thereof; (Two) our whole right, title and interest in and to the whole heritable fittings and fixtures therein and thereon; (Three) the whole rights of access and any other rights whether mutual or exclusive effering to the subjects hereby secured; and (Four) our whole right, title and interest present and future in and to the subjects hereby secured (the "**Security Subjects**"); under declaration that all defined terms utilised in the Secured Obligations which are defined in the Agreement, and subject to such amendments as may be made from time to time thereto, shall have the same meaning as ascribed to them in the Agreement:

- 1 The Owners shall perform the whole obligations contained in Part 1 of the Schedule to the Agreement which are enforceable against them as Eligible Purchasers and as the Golden Share Dwelling Owner.
- 2 Subject to the terms of the Agreement, the Security Subjects shall: (a) be occupied in all time coming only by an Eligible Purchaser (or Eligible Survivor); and (b) not be let or sub-let without the prior written consent of the Council.
- 3 On any sale of the Security Subjects, the seller thereof shall procure that the purchaser shall, at the time of purchase, grant a standard security at his own expense in favour of the Council in the form of this standard security *mutatis mutandis* (or in substantially the same form). Any standard security granted in accordance with this Clause shall be postponed to rank after any standard securities granted by the relevant Eligible Purchaser to assist in purchasing the Security Subjects.
- 4 The Council shall discharge this standard security on the subsequent sale or transfer of the Security Subjects provided that the subsequent Eligible Purchaser, who are acquiring the Security Subjects, have provided a standard security in terms of Clause 3 above.

- 5 The Owners are not permitted to grant any standard security, or series of standard securities, over the Security Subjects that total more than the Golden Share Maximum Security Sum.
- 6 Save as hereinafter specifically provided, the Security Subjects may not be sold, assigned, transferred or disposed of at a price exceeding the Sale Price.
- 7 Prior to the sale or other disposal of the Security Subjects the Owners shall provide to the Council one independent valuation of the Market Price of the Security Subjects by a suitably qualified surveyor whose appointment is to be agreed between the Owners and the Council, and failing agreement within ten Working Days of the nomination of the said surveyor by the Owners to the Council, the surveyor shall be appointed on the request of either party by the President of the Royal Institution of Chartered Surveyors Scotland for the time being. The valuation required by this Clause shall be addressed to the Council and shall be provided to the Council within 20 Working Days of the date of the appointment of the particular surveyor. The Owners shall be solely responsible for the cost of obtaining the valuation.
- 8 The Security Subjects shall be sold only to a subsequent Eligible Purchaser, approved by the Council, subject to the exceptions provided in Clause 14 below.
- 9 In the event that a Golden Share Secured Lender exercises any power of sale or takes any enforcement action in terms of a standard security over the Security Subjects, the Golden Share Secured Lender shall, in any subsequent sale of the Security Subjects, be subject to the provisions of the part of the Schedule to the Agreement referred to in Clause 1 above.
- 10 On a subsequent sale of the Security Subjects the Owners shall prior to commencing the Golden Share Marketing Period, submit to the Council for their written approval:
 - (a) the proposed media advertisement for sale, accompanied by all necessary supporting documents for said advertisement (details of the necessary documentation to be determined by the Council acting reasonably);
 - (b) the proposed marketing strategy, accompanied by all necessary supporting documents for said marketing strategy (details of the necessary documentation to be determined by the Council acting reasonably);
 - (c) the proposed date of the first media advertisement of the Security Subjects;The Council shall respond in writing within twenty Working Days of any approval request by the seller of the Security Subjects, indicating whether approval is granted or not. The Owners shall be obliged to confirm to the Council in writing the actual date of the first media advertisement of the Security Subjects and to provide a copy of the finalised advertisement for the Council's retention.

- 11 On a subsequent sale of the Security Subjects the Owners shall throughout the whole of the Golden Share Marketing Period use all reasonable endeavours to:
- (a) market the Security Subjects to Eligible Purchasers at the Sale Price; and
 - (b) conclude missives for the sale of the Security Subjects at the Sale Price to Eligible Purchasers who have been approved by the Council as meeting the Criteria;
- 12 In the event that on a subsequent sale of the Security Subjects the Owners have not concluded missives with an Eligible Purchaser for the sale of the Security Subjects at the Sale Price by the date on which the Golden Share Marketing Period expires, then the Owners shall within 10 Working days:
- (a) give Notice to the Council in writing that the Security Subjects has failed to sell; and
 - (b) sufficient evidence in writing to demonstrate that throughout the Golden Share Marketing Period they have used all reasonable endeavours to facilitate conclusion of missives (the "Security Subjects Sale Failure Notice").
- 13 The Council shall within 20 Working days of receipt of the Security Subjects Sale Failure Notice notify the Owners in writing whether it is completely satisfied that that throughout the Golden Share Marketing Period the Owners have used all reasonable endeavours to facilitate conclusion of missives (the "Security Subjects Sale Failure Council Response"). In the event that the Council determine and give notice to the Owners in their Security Subjects Sale Failure Council Response:
- (a) that they are satisfied then Clause 14 shall apply;
 - (b) that further information is required then Owners shall have 10 Working days, from receipt of the Security Subjects Sale Failure Council Response, to provide the requested further information failing which Clause 13(c) shall apply;
 - (c) that they are not satisfied then the Owners shall, subject to fully complying with Clauses 10 and 11, market the Security Subjects again for a reduced Golden Share Marketing Period (which for the avoidance of doubt in this scenario is a period of 20 Working Day commencing on the date of the first media advertisement of the Security Subjects);
- 14 In the event that the Council confirms in the Security Subjects Sale Failure Council Response to the Owners that they are satisfied in terms of Clause 13(a), then:
- (a) the Owners shall be entitled from and after such date to sell the Security Subjects as an Open Market Housing Unit, subject to the Council's written approval; and
 - (b) the Security Subjects shall be discharged from the terms of the Agreement subject to compliance with Clause 15 hereof;

- 15 The proceeds from an open market sale of the Security Subjects shall be used to repay in descending order:
- (a) first, any outstanding sums due by the Owners to a Golden Share Secured Lender; and
 - (b) secondly, the Golden Share Repayment Amount to the Council; and
 - (c) thirdly, any outstanding sums due to any heritable creditor of the Owners, other than a Golden Share Secured Lender; and
 - (d) fourthly, all remaining proceeds (if any) shall belong to the Owners.

The Standard Conditions specified in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970 and any lawful variation thereof operative for the time being shall apply; [And the Owners agree that the Standard Conditions shall be varied in accordance with the Agreement and the following provisions:-]

- I. [NB any variation to the Standard Conditions should be considered at the point each standard security is entered into]
- II. The undertakings and obligations on the part of the Owners contained in this Standard Security shall be in addition to, and not in substitution for, the undertakings and obligations on the part of the Owners contained in the Agreement.
- III. For the purposes of this Standard Security any reference to the Security Subjects shall include a reference to any part or parts thereof and where there is any conflict between the Standard Conditions and the terms of this Standard Security and the Agreement, this Standard Security and the Agreement shall prevail and shall have effect in preference to the Standard Conditions.
- IV. This Standard Security hereby granted and all rights of enforcement thereof shall rank after and postponed to any and all security (whether fixed or floating) granted by the Owners in security of a loan for the purchase of the Security Subjects or to refinance any such loan, and all rights of enforcement thereunder; and all issues relating to consent and approvals required pursuant to the Standard Conditions or otherwise will rank after and postponed to the requirements of such creditors.

The Owners grant warrandice and consent to registration hereof for preservation and execution.

This document is executed as follows:-

For []

..... signature of signature of Owner
..... full name of above (print) full name of above (print)
..... date of signing
..... address of witness place of signing

Schedule Part 3
Off-site Affordable Housing Subjects Transfer Terms

- 1.1 The Proprietors shall:
- 1.1.1 transfer the Off-site Affordable Housing Subjects to the Council for nil consideration;
 - 1.1.2 pay the cost of all Land and Buildings Transaction Tax due in respect of the sale of the Off-site Affordable Housing Subjects to the Council;
- 1.2 Entry to and vacant possession of the Off-site Affordable Housing Subjects will be given on the [] Date of Entry.
- 1.3 The Proprietors shall exhibit to the Council prior to the [] Date of Entry the [] title deeds to the [] which will demonstrate that the Proprietors have a valid and marketable title to the whole of the Off-site Affordable Housing Subjects.
- 1.4 The Proprietors shall apply to the Keeper for an Advance Notice for the [] Disposition, in the form adjusted with the Council, to be either:
- 1.4.1 entered on the application record for the []; or
 - 1.4.2 recorded in the Register of Sasines,
no earlier than 5 Working Days prior to the [] Date of Entry. The cost of the Advance Notice for the [] Disposition will be met by the Proprietors.
 - 1.4.3 If Completion is likely to occur after the [] Date of Entry, the Proprietors, if requested to do so by the Council, will apply for a further Advance Notice for the [] Disposition, in the form adjusted with the Council, and the cost of any additional Advance Notices will be met:
 - 1.4.3.1 by the Proprietors, if the delay in settlement is due to any failure or breach by or on behalf of the Proprietors to implement its obligations under the [] Transfer Terms on time; or
 - 1.4.3.2 by the Council, if the delay in settlement is due to any failure or breach by or on behalf of the Council to implement its obligations under the [] Transfer Terms on time.
- 1.5 The Proprietors shall deliver to the Council, on demand from time to time and at the Seller's expense, such documents and evidence as the Keeper may require to enable the Keeper to update or create (as the case may be) the Title Sheet of the [] to disclose the Council (or its nominees) as the registered proprietor of the whole of the []. Such documents will include:
- 1.5.1 a plan or bounding description sufficient to enable the [] to be identified on the cadastral map; and
 - 1.5.2 evidence (such as a plans report) that:
 - 1.5.2.1 the description of the [] in the title deeds of [] is habile to include the whole of the occupied extent; and
 - 1.5.2.2 there is no conflict between the extent of the [] and any registered cadastral units.

- 1.5.3 After Completion, the Proprietors shall deliver such documents and evidence as are specified in Clause 1.5.4.2.3 only if the [] Disposition is presented for registration not later than 10 Working Days after Completion.
- 1.5.4 If the application for registration of the [] Disposition is rejected by the Keeper, then Proprietors shall:
- 1.5.4.1 co-operate with the Council; and
 - 1.5.4.2 at the Council's expense (provided that the Proprietors have delivered to the Council all items specified in Clause 1.5 hereof, failing which it will be at the Proprietors' own expense):
 - 1.5.4.2.1 do such acts and things (including obtaining a further Advance Notice);
 - 1.5.4.2.2 execute such deeds and documents; and
 - 1.5.4.2.3 deliver such documents and evidence as may be required
- to enable the Keeper to update or create (as the case may be) the Title Sheet of the [] to disclose the Council (or its nominees) as the registered proprietor of the whole of the Off-site Affordable Housing Subjects.
- 1.6 At Completion the Proprietors shall deliver to the Council:
- 1.6.1 the [] Disposition duly executed by the Seller.
 - 1.6.2 the title deeds to the [] and all necessary links in title evidencing the Proprietor's exclusive ownership of the [] .
 - 1.6.3 a legal report brought down to a date as near as practicable to Completion, which report will show:
 - 1.6.3.1 no entries adverse to the Proprietors' interest in the [] ;
 - 1.6.3.2 the Advance Notice for the [] Disposition; and
 - 1.6.3.3 no other Advance Notices other than those submitted by the Council;

the cost of the legal report being the responsibility of the Proprietors.
 - 1.6.4 searches in the Register of Charges and Company File of the Proprietors (including a Search to identify the directors and the secretary of the Proprietors as at the date of signing the [] Disposition) from the date of its incorporation or the date of inception of the Register (whichever is the later) brought down:
 - 1.6.4.1 as near as practicable to Completion; and
 - 1.6.4.2 within 3 months following Completion, to a date at least twenty six Working Days after Completion

in both cases disclosing no entry prejudicial to the Council's or its nominees' interest.
 - 1.6.5 a discharge/deed of restriction duly executed by the heritable creditor in any standard security affecting the [] together with completed and signed application forms for recording/registration and payment for the correct amount of recording/registration dues.
 - 1.6.6 a letter of consent and non-crystallisation in the holder's usual form (releasing the [] from any charge or otherwise in terms that confer a valid title on the Council or its nominees subject to compliance with any time limit for registration of the Council's title) in respect of the transaction

- envisaged by the [] Transfer Terms from each holder of a floating charge granted by the Proprietors.
- 1.6.7 any other deeds and documents to be delivered to the Council on or before Completion in terms of the [] Transfer Terms.
- 1.7 Provided that the [] Disposition is presented for registration prior to the earlier of 10 Working Days after Completion and the date of expiry of the last Advance Notice registered in relation to the [] Disposition in terms of Clause 3, the updated or newly created Title Sheet of the [] will:
- 1.7.1 contain no exclusion or limitation of warranty in terms of Section 75 of the Land Registration etc. (Scotland) Act 2012; and
- 1.7.2 disclose no entry, deed or diligence (including any charging order under the Buildings (Recovery of Expenses) (Scotland) Act 2014 or any notice of potential liability for costs registered under the Tenements (Scotland) Act 2004 or the Title Conditions (Scotland) Act 2003) prejudicial to the interest of the Council or its nominees other than such as are created by or against the Council or its nominees or have been disclosed to, and accepted in writing by, the Council or its nominees prior to Completion.

Schedule Part 4
Green Infrastructure Land Transfer Terms

- 1.1 The Proprietors shall:
- 1.1.1 transfer the Green Infrastructure Land to the Council for nil consideration;
 - 1.1.2 pay the cost of all Land and Buildings Transaction Tax due in respect of the sale of the Green Infrastructure Land to the Council;
- 1.2 Entry to and vacant possession of the Green Infrastructure Land will be given on the [] Date of Entry.
- 1.3 The Proprietors shall exhibit to the Council prior to the [] Date of Entry the [] title deeds to the [] which will demonstrate that the Proprietors have a valid and marketable title to the whole of the Green Infrastructure Land.
- 1.4 The Proprietors shall apply to the Keeper for an Advance Notice for the [] Disposition, in the form adjusted with the Council, to be either:
- 1.4.1 entered on the application record for the []; or
 - 1.4.2 recorded in the Register of Sasines,
no earlier than 5 Working Days prior to the [] Date of Entry. The cost of the Advance Notice for the [] Disposition will be met by the Proprietors.
 - 1.4.3 If Completion is likely to occur after the [] Date of Entry, the Proprietors, if requested to do so by the Council, shall apply for a further Advance Notice for the [] Disposition, in the form adjusted with the Council, and the cost of any additional Advance Notices will be met:
 - 1.4.3.1 by the Proprietors, if the delay in settlement is due to any failure or breach by or on behalf of the Proprietors to implement its obligations under the Transfer Provisions on time; or
 - 1.4.3.2 by the Council, if the delay in settlement is due to any failure or breach by or on behalf of the Council to implement its obligations under the Transfer Provisions on time.
- 1.5 The Proprietors shall deliver to the Council, on demand from time to time and at the Seller's expense, such documents and evidence as the Keeper may require to enable the Keeper to update or create (as the case may be) the Title Sheet of the [] to disclose the Council (or its nominees) as the registered proprietor of the whole of the []. Such documents will include:
- 1.5.1 a plan or bounding description sufficient to enable the [] to be identified on the cadastral map; and
 - 1.5.2 evidence (such as a plans report) that:
 - 1.5.2.1 the description of the [] in the title deeds of [] is habile to include the whole of the occupied extent; and
 - 1.5.2.2 there is no conflict between the extent of the [] and any registered cadastral units.
 - 1.5.3 After Completion, the Proprietors will deliver such documents and evidence as are specified in Clause [] only if the [] Disposition is presented for registration not later than 10 Working Days after Completion.

- 1.5.4 If the application for registration of the [] Disposition is rejected by the Keeper, then Proprietors shall:
 - 1.5.4.1 co-operate with the Council; and
 - 1.5.4.2 at the Council's expense (provided that the Proprietors have delivered to the Council all items specified in Clause 1.5 hereof, failing which it will be at the Proprietors own expense):
 - 1.5.4.2.1 do such acts and things (including obtaining a further Advance Notice);
 - 1.5.4.2.2 execute such deeds and documents; and
 - 1.5.4.2.3 deliver such documents and evidence as may be required

to enable the Keeper to update or create (as the case may be) the Title Sheet of the [] to disclose the Council (or its nominees) as the registered proprietor of the whole of the Green Infrastructure Land.

- 1.6 At Completion the Proprietors shall deliver to the Council:
 - 1.6.1 the [] Disposition duly executed by the Seller.
 - 1.6.2 the title deeds to the [] and all necessary links in title evidencing the Proprietor's exclusive ownership of the [].
 - 1.6.3 a legal report brought down to a date as near as practicable to Completion, which report will show:
 - 1.6.3.1 no entries adverse to the Proprietors' interest in the [];
 - 1.6.3.2 the Advance Notice for the [] Disposition; and
 - 1.6.3.3 no other Advance Notices other than those submitted by the Council;

the cost of the legal report being the responsibility of the Proprietors.
 - 1.6.4 searches in the Register of Charges and Company File of the Proprietors (including a Search to identify the directors and the secretary of the Proprietors as at the date of signing the [] Disposition) from the date of its incorporation or the date of inception of the Register (whichever is the later) brought down:
 - 1.6.4.1 as near as practicable to Completion; and
 - 1.6.4.2 within 3 months following Completion, to a date at least twenty six Working Days after Completion

in both cases disclosing no entry prejudicial to the Council's or its nominees' interest.
 - 1.6.5 a discharge/deed of restriction duly executed by the heritable creditor in any standard security affecting the [] together with completed and signed application forms for recording/registration and payment for the correct amount of recording/registration dues.
 - 1.6.6 a letter of consent and non-crystallisation in the holder's usual form (releasing the [] from charge or otherwise in terms that confer a valid title on the Council or its nominees subject to compliance with any time limit for registration of the Council's title) in respect of the transaction envisaged by the Transfer Provisions from each holder of a floating charge granted by the Proprietors.

- 1.6.7 any other deeds and documents to be delivered to the Council on or before Completion in terms of the Transfer Provisions.
- 1.7 Provided that the [] Disposition is presented for registration prior to the earlier of 10 Working Days after Completion and the date of expiry of the last Advance Notice registered in relation to the [] Disposition in terms of Clause 3, the updated or newly created Title Sheet of the [] will:
- 1.7.1 contain no exclusion or limitation of warranty in terms of Section 75 of the Land Registration etc. (Scotland) Act 2012; and
 - 1.7.2 disclose no entry, deed or diligence (including any charging order under the Buildings (Recovery of Expenses (Scotland) Act 2014 or any notice of potential liability for costs registered under the Tenements (Scotland) Act 2004 or the Title Conditions (Scotland) Act 2003) prejudicial to the interest of the Council or its nominees other than such as are created by or against the Council or its nominees or have been disclosed to, and accepted in writing by, the Council or its nominees prior to Completion.

MINUTE OF AGREEMENT

under Section 75 of the Town and Country
Planning (Scotland) Act 1997

between

THE CITY OF EDINBURGH COUNCIL

and

[insert details]

Subjects:- [], Edinburgh

Legal & Risk
Corporate Services
City of Edinburgh Council
Waverley Court 2:1
4 East Market Street
Edinburgh
EH8 8BG