

THIS DEED is made the day of Two Thousand and Twenty
Five

B E T W E E N

(1) NEWPORT CITY COUNCIL of the Civic Centre, Newport, South Wales ("**the Council**")

(2) E J L PROPERTIES LLP (Co. Regn. No OC337613) registered at Churchfield House, 36
Vicar Street, Dudley, DY2 8RG ("**the Owner**")

(3) MVR SOLUTIONS LIMITED incorporated and registered in England and Wales with
Company Number 07911495 whose registered office is at Unit 4 Mariner Way, Felnax
Industrial Estate, Newport, Gwent, NP19 4PQ ("**The First Beneficiary**")

(4) BRON AFON COMMUNITY HOUSING LIMITED a registered society under the Co-
operative and Community Benefit Societies Act 2014 (registered number IP30235R)
whose registered office is at Ty Bron Afon, William Brown Close, Cwmbran, NP44 3AB
("**The Second Beneficiary**")

1 Definitions and Interpretation

1.1 In and for the purposes of this Deed the following words phrases and
expressions shall have the following meanings ascribed to them unless the
context otherwise requires:-

1.1.1 "the Act" means the Town and Country Planning Act 1990

1.1.2 "BCIS" means the Building Cost Information Service All In Tender Price
Index published by the Royal Institute of Chartered Surveyors or its
successor body to reflect changes in the cost of living in the United
Kingdom

1.1.3 "Commencement of Development" means carrying out in relation to the
Development of any material operation as defined by section 56(4) of
the Act but disregarding for the purposes of this deed, and for no other
purpose, the following operations:

- a) diversion and laying of services;
- b) demolition works;

- c) site clearance;
- d) ground investigations;
- e) site survey works;
- f) temporary access construction works;
- g) remedial work in respect of any contamination or other adverse ground conditions;
- h) construction of site compounds and security measures;
- i) ecological mitigation;
- j) archaeological investigation; and
- k) erection of any fences, enclosures and hoardings around or on the Land.

Commenced and **Commences** shall be construed accordingly.

1.1.4 “Commencement Date” means the date on which the Commencement of Development happens.

1.1.5 “the Development” means the development of the Land in accordance with the plans and particulars as described in the Planning Application as varied, substituted or amended from time to time.

1.1.6 “Dwellings” means any residential units constructed on the Land pursuant to the Planning Permission and “Dwelling” shall be construed accordingly.

1.1.7 “Index Linked” means linked to RPI or BCIS so that the relevant contributions due shall be uplifted or decreased in accordance with the difference between the relevant index last published immediately prior to the date of this Deed and the last index published prior to the date the financial sum is due.

1.1.8 “the Land” means the freehold land known as land at 21 Kelvedon Street, Newport NP19 0DW registered at the Land Registry under title numbers WA34087 and CYM71821 shown edged red on the plan attached hereto

1.1.9 “Occupation” means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel

engaged in construction, fitting out, decoration or occupation for marketing or display or occupation in relation to security operations and “Occupies” and “Occupied” shall be construed accordingly.

1.1.10 “Open Market Dwellings” means all those Dwellings which are not Affordable Housing and are constructed as part of the Development intended for sale in the private housing market at open market value.

1.1.11 “the Planning Application” means the application submitted to the Council for planning permission to develop the Land by the construction of 30 no. affordable housing apartments and associated external works and parking which application was allocated reference number 24/0756 by the Council

1.1.12 “Planning Permission” means the planning permission granted pursuant to the Planning Application

1.1.13 “RPI” means the Retail Price Index or such similar index as may from time to time be published to replace such index published by the Office for National Statistics or its successor body

1.2 References to clauses and parts of schedules are (unless the context requires otherwise) to clauses schedules and parts of schedules (as appropriate) in this Deed

1.3 Words importing the singular meaning where the context so admits include the plural meaning and vice versa

1.4 References to statutes or to provisions of statutes shall include any statute or provision of any statute amending consolidating or replacing them for the time being in force

1.5 References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Council the successors to its respective statutory functions.

- 1.6** A reference to writing or written excludes faxes and email.
- 1.7** A reference to this Deed or to any other deed or document referred to in this Deed is a reference to this Deed or such other deed or document as varied or novated (in each case, other than in breach of the provisions of this Deed) from time to time.

Recitals

- (A)** The Council is the Local Planning Authority for the purposes of this Deed for the area within which the Land is situated and by whom the obligations contained in this Deed are enforceable
- (B)** The Owner is the freehold owner of the Land and so far as its aware save for those contained, mentioned or referred to on title numbers WA34087 and CYM71821 is free from incumbrances .
- (C)** The First Beneficiary is the beneficiary of the Contract dated 16 August 2024 and made between the First Beneficiary and the Owner. The Second Beneficiary is the beneficiary of the Contract dated 23 September 2025 and made between the First Beneficiary and the Second Beneficiary. The First and Second Beneficiary enter into this Deed in order to consent to its terms.
- (D)** The Council has resolved to grant the Planning Permission for the Development subject to the making of this Deed without which planning permission for the Development would not have been granted

N O W THIS DEED is made in pursuance of Section 106 of the Act and is a planning obligation for the purposes of that section and **WITNESSES** as follows:-

1. The Owner covenants with the Council to perform the obligations and observe the restrictions specified in the Schedules hereto
2. It is agreed and declared as follows:-

- 2.1** The expressions "the Council" and "the Owner", "The First Beneficiary" and "the Second Beneficiary" shall include their successors in title and assigns
- 2.2** No person shall be liable for breach of any covenants contained in this Deed or any of the planning obligations after he shall have parted with his entire interest in the Land or the part of the Land in respect of which such breach relates but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest PROVIDED THAT the reservation of any rights including but not limited to rights of access and/or to lay or maintain equipment shall not constitute an interest in the Land for the purpose of this Clause 2.2.
- 2.3** For the purposes of this Deed Section 56 (2) of the Act shall determine the date upon which the Development is begun
- 2.4** The obligations in this Deed (save for Clauses 2.6 of these recitals which shall come into effect on the date of completion of this Deed) shall come into effect upon the date the Planning Permission is implemented.
- 2.5** This Deed is a Local Land Charge and shall be registered as such
- 2.6** Upon completion of this Deed the Owner hereby agrees to pay a contribution towards the reasonable and properly incurred legal costs incurred by the Council in the preparation and completion of this Deed of the sum of £700
- 2.7** Prior to Commencement of Development the Owner shall pay an administration fee to the Council for the monitoring of this Deed. The fee shall be calculated on the basis of 2% of the total financial contribution being sought under this Deed, or 20% of the planning application fee, whichever is the greater, subject to a minimum fee of £200.
- 2.8** The Council shall issue the Planning Permission within 5 days of the date of this Deed.
- 2.9** The Council will upon the written request of the Owner any time after the obligations of the Owner under this Deed have been fulfilled issue written confirmation and discharge thereof

- 2.10** Unless the right of enforcement is expressly provided it is not intended that a third party should have the right to enforce a provision of this Deed pursuant to the Contracts (Rights of Third Parties) Act 1999
- 2.11** Without prejudice to the Council's rights to enforce any breaches of this Deed (including by way of injunction) if any sum due to the Council under this Deed is not paid on or before the date upon which it is due then in addition to such sum there shall be paid to the Council interest at two per cent (2%) per annum above the base rate for the time being of the National Westminster Bank Plc from the due date of payment until the actual date of payment
- 2.12** All sums payable by the Owner under the Schedule to this Deed shall be Index Linked in accordance with the terms of this Deed.
- 2.13** The Council will repay to the Owner such amount of the financial contributions made to it under the terms of this Deed which have not been expended in accordance with the provisions of this Deed or have not been committed to be so spent within five (5) years of the date of receipt by the Council of such contributions together with interest accrued for the period from the date of payment to the date of refund.
- 2.14** The obligations in this Deed (with the exception of Clause 2.6) shall cease to have effect if before the Commencement of Development the Planning Permission:
- (a) expires;
 - (b) is varied or revoked other than at the request of the Owner; or
 - (c) is quashed following a successful legal challenge.
- 2.15** Any notice or other communication required to be given under this Deed shall be in writing and shall be delivered personally or sent by pre-paid first class post or recorded delivery or by commercial courier to any person required to receive the notice or communication at its address as set out at the start of this Deed or as otherwise specified by the relevant person by notice in writing to

each other person.

2.16 Any notice shall be deemed to have been duly received:

(a) if delivered personally when left at the address and an acknowledgement receipt is signed and for the contact referred to in this Deed or as any alternative address as notified in writing by one party to the other party;

(b) if sent by pre-paid first class post or recorded delivery at 9.00 am on the second working day after posting; or

(c) if delivered by commercial courier on the date and at the time that the courier's delivery receipt is signed.

2.17 If any court or competent authority finds that any provision of this Deed (or part of any provision) is invalid illegal or unenforceable that provision or part-provision shall to the extent required be deemed to be deleted and the validity and enforceability of the other provisions of this Deed shall not be affected.

2.18 If any invalid unenforceable or illegal provision of this Deed would be valid enforceable and legal if some part of it were deleted the parties shall amend such provision so that as amended it is legal valid and enforceable and to the greatest extent possible achieves the parties' original commercial intention.

2.19 This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

2.20 The obligations set out in this Deed shall not be enforceable against individual owner-occupiers or tenants of the Dwellings nor against those deriving title from them.

2.21 The First Beneficiary and Second Beneficiary hereby consent to the terms of this Deed and acknowledge that they bind the Land.

2.22 This Deed shall not be enforceable against:

a) any owner or occupier or tenant of the Open Market Dwellings nor any

mortgagee or chargee (including their receiver) of the Land nor any successor in title of the Land or any of the foregoing (save for those provisions of this Deed that prohibit Occupation of a specified number of dwellings until specific planning obligations have been discharged);

- b)** any statutory undertaker or service company who acquires an interest in the Land for the purposes of its undertaking.

2.23 Dispute Resolution

2.23.1 In the event of any dispute or difference relating to any matter contained in this Deed any party to the dispute (including successors in title to the parties to this Deed) may by serving written notice of the same on the other party or parties require it to be referred for determination by an Expert (who will act as an expert not an arbitrator) appointed under clause 2.23.2 below acting in accordance with clauses 2.23.3 to 2.23.9

2.23.2 If the parties do not make the appointment of the Expert by agreement within 14 days of service requiring reference of the dispute the Expert shall be nominated upon the application of either party by the President (or other officer to whom the making of such appointment is for the time being delegated) of the Law Society and the Expert shall be an independent person who has been professionally qualified in respect of the subject matter of the dispute or difference for not less than 10 years

2.23.3 Unless the Expert shall direct to the contrary not more than 28 days after his appointment the parties shall exchange and copy to the Expert written summaries of their cases together with a bundle of key documents relied upon

2.23.4 The Expert shall be at liberty to visit the Land relevant to the dispute unaccompanied and to call for such written evidence from the parties as he may require

2.23.5 The Expert shall not unless he directs to the contrary hear oral representations

from any party to the dispute

2.23.6 The Expert shall fully consider all submissions and evidence when making his decision.

2.23.7 The Expert shall give his decision in writing and shall give reasons.

2.23.8 The Expert shall use reasonable endeavours to give his decision and the reason for it as speedily as possible and in any event within forty-two (42) days of his appointment

2.23.9 The Expert's decision (save in the case of manifest or legal error) including his decision as to costs shall be final and binding. The Expert's fees shall be payable by the parties in such proportions as he shall determine and in default of such determination equally between them.

2.24 At the written request of the Owners the Council shall provide written confirmation of the discharge of the obligations (or any individual obligation) contained in this Deed Provided That the Council (acting reasonably) is satisfied that such obligations have been performed, such confirmation not to be unreasonably withheld or delayed.

IN WITNESS whereof these presents have been duly executed as a Deed by the parties hereto the day and year first before written

THE FIRST SCHEDULE

Part 1

1. DEFINITIONS

In this Schedule the following words and expressions have the following meaning:

“ACG”	means the highest acceptable scheme costs as provided in the appropriate band in the Acceptable Cost Guidance produced by the Welsh Government as at the date that a binding contract is entered into between the Owner and the RSL.
"Affordable Housing"	means housing where there are mechanisms in place to ensure that it is accessible to those who cannot afford market housing, both on first Occupation and for subsequent occupiers as defined in the Welsh Government's Technical Advice Note 2 or any successor document, the said housing being made available with neutral tenure to applicants through the Council's Common Housing Register.
“Affordable Housing Contribution”	means a sum of money paid to the Council in lieu of the provision of Affordable Housing Units (as required by Part 2 of this Schedule) and to be used by the Council in the provision of Affordable Housing in the City of Newport
"the Affordable Housing Units"	means the units consisting of at least 20% of the Dwellings to be constructed pursuant to the Planning Permission the type and mix to be agreed with the Council (such approval not to be unreasonably withheld or delayed) prior to Commencement of Development and “Affordable Housing Unit” shall be construed accordingly

"Open Market Dwellings"	means all Dwellings except the Affordable Housing Units constructed as part of the Development intended for sale in the private housing market at open market value.
"Preferred RSL"	means The RSL that as appears on a list (if any) prepared and published from time to time by the Council as a preferred provider of the Affordable Housing Units on the Land.
"Alternative RSL"	means an RSL which shall be different to the Preferred RSL to which the first offer is made pursuant to paragraph 2.8 below as shall be approved in writing by the Council acting reasonably.
"Registered Social Landlord (RSL)"	means a social housing landlord registered with the Welsh Government as defined in the Housing Act 1996 or such other body as is capable of managing Affordable Housing and receiving grant from the Welsh Government and is approved to operate in Newport.
"the SPG"	means The Council's Supplementary Planning Guidance for Affordable Housing

Part 2. Affordable Housing

2.1 At least one month prior to Commencement of the Development the Owner shall notify the Council of:

2.1.1 the intended Commencement Date; and

2.1.2 confirm the number and type of Dwellings which are to be Open Market Dwellings (if any).

2.2 On 1st March every year the Owner shall inform the Council's Housing Department of the number of Affordable Housing Units that have been completed during the calendar year ending on that date.

2.3 Where the Owner pursuant to paragraph 2.1.2 above confirms that a number of the Dwellings will be Open Market Dwellings, it shall provide the Affordable Housing Units.

2.4 The Owner shall prior to the Commencement of Development submit to the Council for its approval (such approval not to be unreasonably withheld or delayed):

2.4.1 details of the siting (including the extent of the proposed gardens or amenity land) design and materials in relation to the Affordable Housing Units at the same time as such details are submitted in relation to the Open Market Dwellings (if any) and

2.4.2 details of specifications, level of servicing and programme for the construction of the Affordable Housing Units in accordance with the Welsh Housing Quality Standards and Design Quality Requirements principles published by the Welsh Government

2.5 The Affordable Housing Units shall be constructed to at least the same specification and all internal and external fittings, finishes, kitchen and bathroom units and sanitary ware shall be of equivalent quality as those in the Open Market Dwellings (if any)

2.6 The Development shall not be commenced until such time as the details required by clause 2.1.1 and 2.1.2 above have been approved in writing by the Council such approval not to be unreasonably withheld or delayed.

2.7 The Owner covenants with the Council to not Commence the Development or cause or permit Commencement of Development until the Council has approved the details as specified in Paragraphs 2.4.1 and 2.4.2 of Schedule 1, Part 2.

2.8 No Open Market Dwellings shall be occupied until such time as the Owner (save to the extent it is the Preferred RSL) has made an offer in writing to the Preferred RSL to build and transfer the Affordable Housing Units to the Preferred RSL in accordance with:

2.8.1 the Planning Permission

2.8.2 the details and specification approved pursuant to paragraph 2.4 above and

- 2.8.3 Building Regulations and other statutory consents required and the Owner has provided evidence to the Council of this offer in writing.
- 2.9 The Owner covenants with the Council to not Occupy or cause or permit Occupation of the Development until the Owner has made an offer in writing to the Preferred RSL and has provided evidence of the offer to the Council in writing, in accordance with Paragraph 2.8 of Schedule 1, Part 2. The Owner must notify the Council in writing if it is the Preferred RSL.
- 2.10 The Owner shall (save to the extent it is the Preferred RSL) use reasonable endeavours to enter into a binding unconditional contract in accordance with Paragraph 2.4 above with the Preferred RSL but in the event that the Preferred RSL fails to enter into such a contract within three months from the date the draft contract is submitted to the Preferred RSL (or longer by agreement of the Owner and the Preferred RSL) then the Owner shall use reasonable endeavours to enter into a binding unconditional contract in accordance with Paragraph 2.8 above with the Alternative RSL.
- 2.11 No more than 50% of the Open Market Dwellings shall be occupied until such time as the Affordable Housing Units and amenity/garden land have been transferred to the Preferred RSL or the Alternative RSL.
- 2.12 The Owner covenants with the Council to not Occupy or cause or permit Occupation of more than 50% of the Open Market Dwellings until the Affordable Housing Units and amenity/garden land has been transferred to the Preferred RSL or the Alternative RSL in accordance with Paragraph 2.11 of Schedule 1, Part 2.
- 2.13. The Owner hereby undertakes to the Council not to use the Affordable Housing Units, or permit the Affordable Housing Units to be occupied, for any purpose other than as Affordable Housing PROVIDED ALWAYS that:

2.13.1 The provisions of this Schedule shall not be binding upon:

2.13.1.1 a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a receiver)) of the whole or any part of the Affordable Housing or any persons or bodies

deriving title through such mortgagee or chargee or receiver PROVIDED THAT:

- (a) such mortgagee or chargee or receiver shall first give written notice to the Council of its intention to dispose of the Affordable Housing and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing to another registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and
- (b) if such disposal has not completed within the three month period, the mortgagee, chargee or receiver shall be entitled to dispose of the Affordable Housing free from the provisions of this Deed which provisions shall determine absolutely; and

2.13.2 this covenant shall not bind the owner of an Affordable Housing Unit who has staircased to 100% ownership, or the owner's mortgagee, a tenant who has exercised the statutory right to acquire, or the tenant's mortgagee, or the successors in title to the owner, tenant or mortgagee, and the Affordable Housing Unit shall thereafter absolutely cease to be subject to the provisions of this Deed.

2.14. The Owner covenants with the Council as follows:

2.14.1 The offer referred to in paragraph 2.8 above shall be made on the following basis:

- 2.14.1.1 with full title guarantee;
- 2.14.1.2 with vacant possession;
- 2.14.1.3 free of financial encumbrance;
- 2.14.1.4 with the benefit of all rights of access and passage of services as are reasonably necessary to service the Affordable Housing Units through on over and under the remainder of the Land;
- 2.14.1.5 with such other terms as may be agreed between the parties thereto;

- 2.14.1.6 subject to each party bearing its own costs in relation to such transfer;
- 2.14.1.7 with a price of not more than 50% ACG;
- 2.14.1.8 the Standard Conditions of Sale (Fifth Edition) or any modification or subsequent re-issue thereof shall apply to the transfer in so far as the same are not inconsistent with the express terms of this Deed; and
- 2.14.1.9 subject to the Owner procuring the issue of an insurance certificate from the NHBC (or other warranty provider approved by the Council of Mortgage Lenders) in relation to the Affordable Housing Units.

Part 3 Affordable Housing Contribution

1. If prior to Commencement of Development the Owner approaches the Council and provides sufficient evidence to satisfy the Council (with the Council acting reasonably) that exceptional circumstances exist which justify the payment of an Affordable Housing Contribution (and for the avoidance of doubt, in lieu of the provision of Affordable Housing Units) and such a Contribution is agreed then it shall be calculated in accordance with the provisions of the SPG and paid to the Council Index Linked to the RPI prior to Occupation of 50% of the Dwellings comprised in the Development
2. If Paragraph 1 of Schedule 1, Part 3 applies, the Owner covenants with the Council not to Occupy or cause or permit Occupation of the Development until the Affordable Housing Contribution is paid to the Council.

THE SECOND SCHEDULE

- 1 The provisions of this Second Schedule shall apply if the Owner decides that any of the Dwellings comprised in the Development are to be sold or rented on the open market. The following paragraphs of this Second Schedule shall apply only to Open Market Dwellings and not to any dwellings forming part of Affordable Housing.
- 2 Prior to Commencement of Development the Owner shall notify the Council in writing of the number and size of Dwellings which are to be Open Market Dwellings.
3. The Owner covenants with the Council not to Commence the Development or cause or permit Commencement of Development until the Owner has notified the Council in writing of the number and size of Dwellings which are to be Open Market Dwellings.
- 4 If the Owner decides that any of the Dwellings comprised in the Development are to be sold or rented on the open market, then prior to Occupation of no more than 50% of the Dwellings comprised in the Development the Owner will pay to the Council:
 - 4.1. a contribution towards the provision of education consisting of the total sum resulting from calculations made under the following formulae;
 - (a) the number of secondary school pupils projected to be generated from the Open Market Dwellings which is in excess of available capacity at Lliswerry High School (as assessed at the date of Commencement of Development) multiplied by £29,741, plus
 - (b) the number of primary school pupils projected to be generated from the Open Market Dwellings which is in excess of available capacity at St Andrews Primary School (as assessed at the date of Commencement of Development) multiplied by £19,034.and all education contributions shall be Index Linked to BCIS.
 - 4.2 a leisure contribution consisting of the total sum resulting from calculations made under the following formulae:
 - (a) number of one bed Open Market Dwellings x £2,218, plus
 - (b) number of two bed Open Market Dwellings x £4,345.

and all leisure contributions shall be Index Linked to RPI and be used by the Council to maintain and improve outdoor play space at Lysaght Park.

THE SEAL of NEWPORT CITY COUNCIL)
was hereunto affixed in the presence of:)

Head of Law and Standards

EXECUTED as a DEED by EJP)
PROPERTIES LLP acting by)
one of its directors in the presence of:)

Director.....

Witness signature

Witness name

Witness address

.....

EXECUTED as a DEED by MVR)
SOLUTIONS LTD acting by)
one of its directors in the presence of:)

Director.....

Witness signature

Witness name

Witness address

.....

EXECUTED as a **DEED** by **BRON AFON**
COMMUNITY HOUSING LIMITED acting by)
Two of its Authorised Signatories :)

Authorised Signatory.....

Authorised Signatory.....