

**DATED**

**2018**

**JUBILEE PARK (ROGERSTONE) MANAGEMENT COMPANY LIMITED**

and

[

]

**DEED OF COVENANT**

[ Relating to  
Jubilee Park  
Rogerstone ]

**THIS DEED OF COVENANT** is made the

2018

**BETWEEN:**

1. **JUBILEE PARK (ROGERSTONE) MANAGEMENT COMPANY LIMITED** whose registered office is situate at Tydu Community Hall Welfare Grounds Tregwilym Road, Rogerstone, Newport, South Wales, United Kingdom, NP10 9EQ (Company Registration Number 8678710) (“the Management Company”) and
2. [ ] of [ ] (“the Transferee”)

## **BACKGROUND**

1. The Transferee has agreed to purchase property at Jubilee Park (otherwise known as [ ], Rogerstone, Newport NP10 9NX (“the Property”) Together with and Subject to the covenants in respect of the Community Facilities and Open Spaces (as defined below) set out in the transfer of [insert details of original transfer between house builder and original plot purchaser]
2. The Transferee has agreed to enter into this Deed in the manner appearing below
3. The Community Facilities and Open Spaces were transferred to the Management Company in accordance with the obligations contained in the Section 106 Agreement (as defined below)

## **OPERATIVE PROVISIONS**

4. In this Deed the following expressions shall unless the context requires have the following meanings
  - 4.1 “Base RPI Figure” shall mean the All Items index figure of the Retail Price Index last published prior to 27<sup>th</sup> August 2015
  - 4.2 “Community Facilities” means the community facilities as more particularly described in the Section 106 Agreement which the Management Company takes over or takes responsibility for
  - 4.3 “Development” means the whole of the site at Jubilee Park, Rogerstone, now or formerly comprised in title numbers WA915530, CYM641726, CYM94747 and CYM431473, of which the Property forms part
  - 4.4 “the Initial Deposit” means the sum of two hundred pounds (£200.00) plus Value Added Tax per annum increased annually (but not decreased) by the amount which bears the same proportion to the sum of £200.00 as the Uplifted RPI Figure bears to the Base RPI Figure being the first year’s payment of the Maintenance Contribution.

- 4.5 “Open Spaces” means the areas of open spaces (of whatever sort including any hard surfaced areas of any variety and including any structure or structures upon those areas) and includes the Recreation Areas as more particularly described in the Section 106 Agreement within the Development
- 4.6 “the Maintenance Contribution” means the sum of two hundred pounds (£200.00) plus Value Added Tax per annum increased annually (but not decreased) by the amount which bears the same proportion to the sum of £200.00 as the Uplifted RPI Figure bears to the Base RPI Figure
- 4.7 “the Prescribed Rate” means five per centum per annum over the Base Rate (or its equivalent) of Barclays Bank plc or any successor to the business of that bank subsisting at the date upon which any interest payable under this Deed becomes due
- 4.8 “Retail Price Index” shall mean the Index of Retail Prices published by the Office of National Statistics or its successor body to reflect changes in the cost of living in the United Kingdom PROVIDED THAT if the Retail Price Index is no longer published or if the basis of that Index has changed between the date of this Deed and the date that any financial contribution is made then any replacement for the Retail Price Index shall apply or such adjustments shall be made in the Retail Price Index as shall be specified by its publishing body
- 4.9 “the Scheduled Services” means the services set out in the Schedule
- 4.10 “the Section 106 Agreement” means the agreement dated 6<sup>th</sup> August 2013 and made between Newport City Council (1) and Walters Land (Rogerstone) Limited (2)
- 4.11 “the Transferee” includes where the context so admits the successors in title of the Transferee and also where the context so admits any mortgagee disposing of the Property under any power vested in such mortgagee and the expression “Transferee” also refers to a transferee of either a freehold or a leasehold interest in the Property
- 4.12 “Uplifted RPI Figure” shall mean the All Items index figure of the Retail Price Index last published prior to the date that any financial contribution is paid
5. The Management Company hereby covenants with the Transferee that it will:
- 5.1 Provide procure and perform in relation to the Community Facilities and the Open Spaces the Scheduled Services
- 5.2 Enter into a Deed of Covenant with any intended transferee of the Property in the terms of this Deed (but in the form reasonably prescribed from time to time by the Management Company) and will give any consent required to the Land Registry in order to allow registration of any proposed dealing in the Property (but so that any consent will ensure that the then incoming transferee’s title shall continue to be subject to the Restriction on the title to the Property, referred to in clause 6.5) Provided That the Transferee shall have observed and performed the covenants on his part contained in this Deed
6. The Transferee hereby covenants with the Management Company as follows:

- 6.1 The Transferee will pay to the Management Company the Maintenance Contribution
- 6.2 (in any case where the Maintenance Contribution remains unpaid for more than 28 days after the date of the posting of any invoice in respect of such sums) the Transferee shall pay to the Management Company
- 6.2.1 interest on such sums at the Prescribed Rate until such sums shall have been paid, and
- 6.2.2 such sum being not less than one hundred pounds (£100.00) plus Value Added Tax on such sum (if chargeable) as represents a reasonable payment for additional administration and/or all time expended (after the expiry of the 28 day period set out above) in relation to and/or in pursuing the sum remaining unpaid together with any disbursements so incurred Provided That any forbearance by the Management Company in pursuing any unpaid sums shall not operate as a waiver (in whole or part) of any unpaid sums and in such case the Transferee shall pay interest to the Management Company at the prescribed rate of all sums referred to in this clause 6.2 for the whole period from the date or dates upon which sums ought to have been paid until the date of payment
- 6.3 The payments due from the Transferee to the Management Company shall be paid on 31<sup>st</sup> January in each and every year, or such other date as the Management Company may determine, Provided always that the Initial Deposit shall be paid on the dates or events set out in clause 7.1.
- 6.4 the Transferee will include in any contract for the transfer or lease of the Property a condition precedent that the intending Transferee shall enter into a Deed of Covenant (in the terms of this Deed) with the Management Company and will not dispose of the Property of any part thereof until the Deed of Covenant has been executed and delivered to the Management Company and all sums then due to the Management Company are paid in full up to and including the date of the proposed disposition and that the intending transferee shall bear all costs of and incidental to the preparation and execution of such Deed including any Stamp Duty payable on it (if any)
- 6.5 The Transferee will ensure that a restriction in favour of the Management Company ("the Restriction") is entered onto the Transferee's title and remains on that title after the completion of the registration of the sale or other transmission of the Property by the Transferee in the following terms:
- "No disposition of the registered estate (other than a charge) by the proprietor or the registered estate or by the proprietor of any registered charge is to be registered without a certificate signed by Jubilee Park (Rogerstone) Management Company Limited or their conveyancer that the provisions of clause 6.4 and 6.5 of a Deed of Covenant dated [ ] and made between Jubilee Park (Rogerstone) Management Company Limited (1) and [*insert names of purchasers*] (2) have been complied with"
- 6.6 Where the Transferee is more than one person all covenants and agreements on the part of the Transferee contained in this Deed shall be deemed to have been made jointly and severally by all such persons constituting the Transferee

- 6.7 To notify the Management Company in writing if the address for service on the Transferee is at any time different from the address previously notified to the Management Company
- 6.8 The Transferee covenants with the Management Company to provide the Management Company within 14 days following registration at the Land Registry of the transfer lease or other disposition of the Property (i) an original of the Deed of Covenant signed by all parties (ii) a copy of the title information document showing the Restriction registered against the title of the Property and the Management Company named as the beneficiary of such Restriction and (iii) a reasonable fee, determined from time to time by the Management Company, in connection with the administration of the Deed of Covenant.
- 7.1 On the date of completion of the transfer or lease of each dwelling unit or if earlier the date on which each dwelling unit is beneficially occupied, the Transferee will pay the Initial Deposit to the Management Company unless already paid.
8. It is agreed between the parties to this Deed that:
- 8.1 If there are any Housing Association units or any other form of subsidised units on the Development the Management Company does not guarantee that they will be taking part in the management scheme
- 8.2 The Management Company will be entitled to take over management by phases in which case the Management Company shall be entitled to calculate the Maintenance Contribution by reference to the number of dwelling units constructed in connection with each phase.
- 8.3 The Management Company acting reasonably shall have power to discontinue any of the Scheduled Services which in its reasonable opinion shall have become impracticable or obsolete.
- 8.4 The Management Company (acting reasonably) shall have authority to make and at any time vary such regulations as it may think fit for the proper management and use of the Community Facilities and the Transferee will comply with any such regulations from time to time in force
- 8.5 Nothing in this Deed shall prejudice the Management Company's ability to recover from the Transferee the cost of remedying any damage caused to the Community Facilities or the Open Spaces by the negligence or wrongful act or default of the Transferee
- 8.6 The Management Company shall not be liable for any failure to provide employees and/or workmen necessary in connection with the Scheduled Services if it shall have used reasonable endeavours to obtain them
- 8.7 Subject to any contrary statutory right the Transferee shall not exercise any legal or equitable rights of set off deduction or counterclaim which it may have to reduce its liability for the Maintenance Contribution.

- 8.8 The Developer and Management Company will ensure performance of the Scheduled Services irrespective of any shortfall in the Maintenance Contributions collected by the Management Company from the Transferee

## **THE SCHEDULE**

### **(The Scheduled Services)**

1. Keeping the Community Facilities generally in a neat and tidy condition and inspecting tending maintaining and renewing any garden areas play areas (including equipment) shrubs and trees forming part thereof as necessary and mowing all grassed areas and maintaining repairing and where necessary reinstating any boundary wall hedge or fence (if any) on or relating thereto including any benches seats or other furniture or structures (including any buildings) or the like to such standard and level of maintenance as the Management Company considers appropriate
2. Repairing maintaining inspecting and as necessary operating reinstating or renewing the service installations (if any) forming part of the Community Facilities or Open Spaces and maintained by the Management Company and providing such additional service installations as the Management Company may reasonably think fit
3. The provision of lighting within the Community Facilities and Open Spaces (including the cost of replacement and the supply of electricity) if such lighting is already installed when the Management Company takes a transfer of the Community Facilities or later if it is deemed expedient by the Management Company to install such lighting Provided that the same is not the responsibility of any local or other authority
4. The establishment of any reserve funds for anticipated future expenditure which may be required as part of the Management Company's commitment to long term maintenance contained in this Deed) but so that the Management Company is to act reasonably in all cases.
5. The taking out of any insurances as the Management Company reasonably considers necessary or expedient in such amount as the Management Company reasonably shall think fit
6. The payment of all taxes rates outgoings and other charges of a like nature which may be charged upon or incurred in relation to the Community Facilities and Open Spaces
7. The employment and/or engagement of all such agents managers contractors or other persons (directly or indirectly) as shall in the opinion of the Management Company be necessary in connection with the management and/or upkeep of the Community Facilities and Open Spaces together with all ancillary expenses
8. The payment of any value added tax chargeable in respect of any of the matters referred to in this Schedule
9. The payment of all costs and expenses incurred by the Management Company in complying with the requirements and directions of any relevant authority and with the provisions of all statutes and all regulations orders and bye-laws relating to the Community Facilities and the Open Spaces and in making such applications and representations and taking such action as the Management Company shall reasonably think necessary in respect of any notice or order or proposal for a notice or order served

on the Management Company in respect of the Community Facilities and the Open Spaces

10. All other reasonable and proper expenses (if any) incurred by the Management Company in and about the maintenance and proper and convenient management and running of the Community Facilities and the Open Spaces and acting in accordance with good estate management including but not limited to
  - 10.1 any expenses incurred in rectifying or making good any inherent defect (except in so far as the cost thereof is recoverable from a third party)
  - 10.2 any legal or other costs reasonably and properly incurred by the Management Company and otherwise not recovered in taking or defending proceedings (including any arbitration) arising out of any claim by any third party against the Management Company as owner or operator of the Community Facilities and Open Spaces
  - 10.3 any expenses or other costs reasonably and properly incurred by the Management Company in preparing and certifying the payments to be made by the Transferee pursuant to this Deed
11. Providing inspecting maintaining repairing reinstating and renewing any other equipment and providing any other service or facility in connection with the Community Facilities and Open Spaces which in the reasonable opinion of the Management Company it is reasonable to provide
12. Any other works or things required in connection with the management and maintenance of the Community Facilities and Open Spaces whatever its features may be together with any further works which may be considered by the Management Company to be appropriate and/or necessary in under upon and over the Community Facilities and the Open Spaces

**IN WITNESS** whereof the parties to this deed have executed it



**SIGNED** as a Deed by )  
**JUBILEE PARK (ROGERSTONE** )  
**MANAGEMENT COMPANY** )  
**LIMITED** )  
Acting by its Attorneys )

**SIGNED** as a Deed by )  
[ ] )  
In the presence of: )

Witness Name:

Witness Address:

Witness Signature: