



Registration of a Charge

Company name: **KEEPMOAT HOMES LIMITED**

Company number: **02207338**



X6HPC2AI

Received for Electronic Filing: **24/10/2017**

Details of Charge

Date of creation: **13/10/2017**

Charge code: **0220 7338 0156**

Persons entitled: **THE COUNCIL OF THE CITY OF NEWCASTLE UPON TYNE**

Brief description: **THE FREEHOLD PROPERTY AT LAND AT PHASE 2, ETAL LANE,
NEWCASTLE UPON TYNE SHOWN EDGED RED ON PLAN 3 ATTACHED
TO THE INSTRUMENT**

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **WARD HADAWAY**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2207338

Charge code: 0220 7338 0156

The Registrar of Companies for England and Wales hereby certifies that a charge dated 13th October 2017 and created by KEEPMOAT HOMES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 24th October 2017 .

Given at Companies House, Cardiff on 26th October 2017

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

Dated 13 October **2017**

The Council of the City of Newcastle upon Tyne

and

Keepmoat Homes Limited

**Deed of Covenant and Grant of Perpetual Yearly
Estate Rentcharge in respect of land at Phase 2 Etal
Lane, Newcastle upon Tyne**

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The Land Registry:

County and District: NEWCASTLE UPON TYNE

Title Number: [to be allocated]

Property: The residential development site at Etal Lane, Newcastle upon Tyne

This Deed is made [13] day of [October] 2017

Between

- (1) **The Council of the City of Newcastle upon Tyne** whose address is PO Box 690, Newcastle upon Tyne, NE1 8QH ("the Council")
- (2) **Keepmoat Homes Limited** (Company No. 02207338) whose registered office is at The Waterfront, Lakeside Boulevard, Doncaster DN4 5PL ("the Owner")

1. **Definitions and Interpretations**

In this Deed the following words shall have the following meanings:

"Address for Service"	As defined in clause 5.7.2;
"Annual Payment"	the amount being the total cost across the whole Development to be incurred by the Council in each calendar year in complying with its obligations in this Deed;
"Charge"	as defined in clause 5.7.2;
"Chargee"	as defined in clause 5.7.2;
"Deed of Apportionment"	a deed of apportionment with each purchaser or tenant of a residential unit on the Development in the form annexed
"Development"	the land and buildings at Etal Lane, Newcastle upon Tyne now known as Metropolitan the extent of which is for the purposes of identification only shown edged red on Plan 1;
"Estate Rentcharge"	as set out at clause 3;
"Event of Default"	as defined in clause 5.7.1;
"Licence Agreement"	a Licence Agreement in respect of the Open Space dated 3 July 2015 and made between (1) the Council and (2) Keepmoat Homes Limited
"Management Plan"	the plans for the management and

	maintenance of the Open Space and the SUDS as attached to the SUDS Agreement
"Open Space"	the open space areas and the SUDS and the landscaped areas forming part of the Development and for the purposes of identification only shown orange on Plan 2;
"Plan 1"	the plan attached hereto being drawing number (90)343 Rev H;
"Plan 2"	the plan attached hereto being drawing number 69/25345;
"Plan 3"	the plan attached hereto being drawing number Phase 2 (Keepmoat) KEE041.1910 Revision 2 15/09/17 CS;
"Planning Permission"	Reference 2015/0308/01/DET;
"Property"	the land at Etal Lane, Newcastle upon Tyne shown edged red on Plan 3;
"Relevant Date"	as defined in clause 5.7.2;
"SUDS"	the sustainable urban drainage system serving the Development comprising all treatment and drainage systems including any pipework swales reed beds ponds filter trenches attenuation pond detention basins and associated structures and which the Owner is required by the Council to provide for the Development and more particularly defined in the SUDS Agreement;
"SUDS Agreement"	a SUDS Maintenance Framework Agreement for Etal Lane dated 3 July 2015 between (1) Keepmoat Homes Limited (2) the Council and (3) Northumbrian Water Limited relating to an attenuation pond and associated structures which the Owner is required by the Council to provide for the Development.

1.1. Interpretation

- 1.1.1. Words importing the singular include the plural, words importing any gender include every gender and words importing persons include bodies corporate and unincorporated and (in each case) vice versa.



THE COMMON SEAL OF THE COUNCIL
OF THE CITY OF NEWCASTLE
UPON TYNE was hereunto affixed
in the presence of:

John Wright
LEIGH WRIGHT
SENIOR SOLICITOR
ROUCHESONS
Chas G Wright



THIS PLAN IS SUBJECT TO ALL CONDITIONS OF CARRIAGE AND FREIGHT, WHICH, INCLUDING CARRIAGE OF RISK OF LOSS, DAMAGE AND CONTAMINATION, SHALL BE THE RESPONSIBILITY OF THE CARRIAGEE. THE CARRIAGEE SHALL BE RESPONSIBLE FOR ALL DAMAGE AND LOSS OF OR TO THE GOODS, INCLUDING CARRIAGE OF RISK OF LOSS, DAMAGE AND CONTAMINATION, WHICH SHALL BE THE RESPONSIBILITY OF THE CARRIAGEE. THE CARRIAGEE SHALL BE RESPONSIBLE FOR ALL DAMAGE AND LOSS OF OR TO THE GOODS, INCLUDING CARRIAGE OF RISK OF LOSS, DAMAGE AND CONTAMINATION, WHICH SHALL BE THE RESPONSIBILITY OF THE CARRIAGEE.

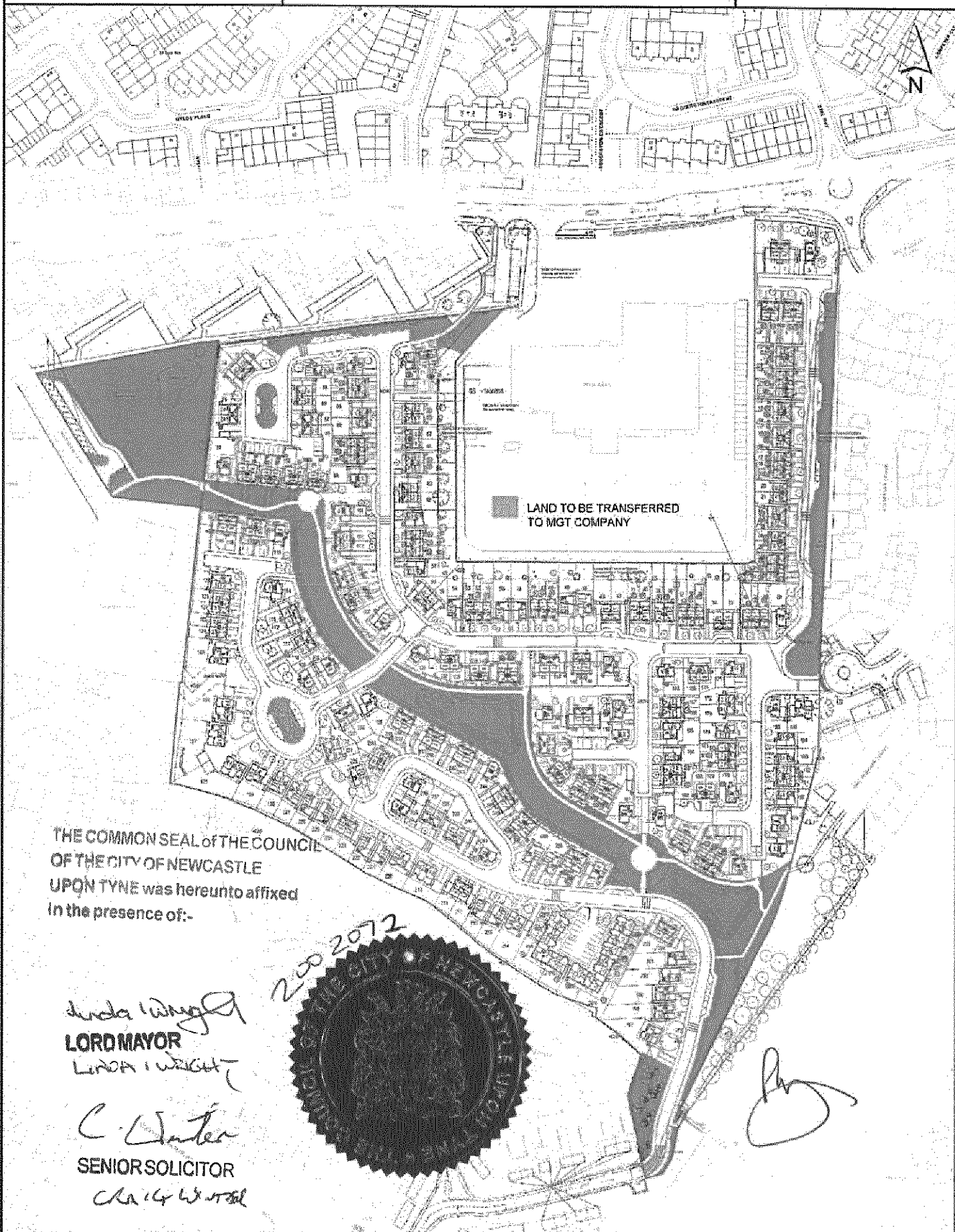
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COMMENT	
Project/Client:	ETAL LANE FOR KEEP MOAT
Project No:	IANCT30084
Drawn By:	901343
Scale:	1:1000 @A1
Drawn:	10.04.15
Checked By:	10.04.15
Drawn:	10.04.15

ARCHIAL | NORR

8th Floor, Penny House, Penny Street, Newcastle, NE1 4PL
T: +44 (0)191 222 1110 F: +44 (0)191 222 1110
www.archial-norr.com

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THE COMMON SEAL OF THE COUNCIL
OF THE CITY OF NEWCASTLE
UPON TYNE was hereunto affixed
in the presence of:-

Linda Wright
LORD MAYOR
Linda Wright

C. Winter
SENIOR SOLICITOR
Cheryl Winter



[Signature]

A3

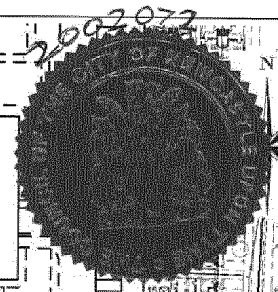
THE COMMON SEAL OF THE COUNCIL
OF THE CITY OF NEWCASTLE
UPON TYNE was hereunto affixed
in the presence of:

Ward Hadaway

SENIOR SOLICITOR

JORD MAYOR

SENIOR SOLICITOR



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Client: Keepmoat		Title: Phase 2 with Layout (Keepmoat)	
File: KEE041.1910	Rev: 2	Land at Etal Lane Newcastle upon Tyne	
wardhadaway Sandgate House, 102 Quayside Newcastle upon Tyne Tel: 0191 2044000 Fax: 0191 2044110		Scale: 1:1250 @A3	Date 15/09/17 Drawn By: CS

- 1.1.3. Unless otherwise stated a reference to a clause, sub-clause or Schedule is a reference to a clause, sub-clause or Schedule of this deed.
- 1.1.4. The headings in this deed are for ease of reference only and do not affect its interpretation.
- 1.1.5. Where a party consists of two or more persons every agreement by or with such persons shall be deemed to be made by or with them jointly and severally and service of a notice on any such person shall be deemed to be service on that party.

2. Recitals

- 2.1. Subject to the terms of the SUDS Agreement and the Licence Agreement the Council has agreed to be responsible for the management, maintenance and ownership of the Open Space.
- 2.2. The parties have agreed to enter into this Deed for:
 - 2.2.1. the entering into of covenants by the Council for the benefit of the Property in relation to the management and maintenance of the Open Space; and
 - 2.2.2. to reserve to the Council out of the Property an Estate Rentcharge to cover the cost to be incurred by the Council in relation to the performance of the covenants and obligations as hereinafter contained.

3. Grant of Estate Rentcharge

The Owner with full title guarantee hereby grants and reserves to the Council out of the Property a perpetual yearly estate rentcharge ("the Estate Rentcharge") to be forever charged on and issuing out of the Property for the amount of the Annual Payment and to be paid on the dates as hereinafter provided without any deduction and together with the powers and remedies for securing and compelling payment thereof conferred by section 121 of the Law of Property Act 1925.

4. Grant of Right of Access

The Owner with full title guarantee hereby grants to the Council and the tenant of the Open Space and all others authorised by the Council for the benefit of the Estate Rentcharge and the Development and the Open Space the right to enter upon any unbuilt upon part of the Property (with or without vehicles, machinery or other equipment) and (except in case of emergency) at all reasonable times and upon reasonable prior notice so far as is reasonably necessary for the performance by the Council of the obligations contained herein.

5. Covenant and Provisions relating to the payment of the yearly Estate Rentcharge

- 5.1. The Owner covenants to pay to the Council the Estate Rentcharge which is to be equal to the Annual Payment. The Annual Payment shall include :
 - 5.1.1. the reasonable and proper costs and expenses of complying with the covenants on the part of the Council set out in clause 6 hereof;

- 5.1.2. the reasonable and proper costs and expenses of any agents of the Council employed by the Council for the management and for the maintenance of the Open Space;
- 5.1.3. such reasonable provision on account of expenses, outgoings and other expenditure not as an annually recurring nature (whether non-recurring by regular or regular periods of more than one year) whenever to be dispersed or incurred or made to the Council and as the Council may in its reasonable discretion allocate to the year in question as being fair and reasonably foreseeable (acting reasonably in accordance with generally accepted principles of good estate management);
- 5.1.4. all rates, community charge, taxes and outgoings in respect of the Open Space including any imposed or becoming payable after the date hereof and whether or not of a novel nature;
- 5.1.5. all value added tax (if any) payable in respect of the Annual Payment and its constituent items (save where the same can be recovered as an input tax credit);
- 5.1.6. the reasonable and proper costs incurred by the Council in relation to such policies of insurance as it shall reasonably consider appropriate whether in relation to the Open Space or the Council its officers or otherwise;
- 5.1.7. all professional fees and expenses as shall be incurred from time to time by the Council in relation to the proper performance of its duties and obligations or in compliance with statutory requirements;
- 5.1.8. all such other reasonable and proper expenditure as may be incurred from time to time by the Council in relation to such further actions or arrangements it shall reasonably consider appropriate for the benefit of the Open Space including the entering into of any lease of or other deed affecting the Open Space.

Provided always that the Council may withhold, add to, extend, vary or make any alterations in relation to the services and obligations that it is obliged to supply under the provisions hereof as it may reasonably deem desirable or expedient to do so for the more efficient conduct and management of the Open Space or generally for improving the quality and standard thereof And Provided Further that where the Council grants a lease of the Open Space any cost and expense incurred in relation to the matters referred to in this clause 5.1 by its lessee pursuant to the obligations on its part contained in the lease shall be deemed for the purposes of this clause 5.1 to have been incurred by the Council.

- 5.2. The Annual Payment is payable annually in advance and in perpetuity and shall be equal to such amount as the Council may consider reasonably necessary to meet anticipated expenditures in each 12 month period in respect of the matters referred to in clause 5.1. The Council shall notify the Owner in writing of the anticipated Annual Payment payable on or about the first day of July in every year (or on such other dates in the relevant years the Council shall reasonably consider appropriate) following upon the date hereof.

- 5.3. Payment of the amount specified in the said notice shall be payable upon the first day of July in every year (provided that in the relevant year notice has been served by the Council prior to that date) or otherwise within the period of 14 (fourteen) days of the serving by the Council of the said notice or upon such other dates throughout the relevant year as the Council shall notify to the Owner.
- 5.4. In calculating the amount of the Annual Payment from time to time the Council shall take into account any past efficiency and any future expenditure (whether annual or recurring or not) which may be likely to be incurred by the Council so as to enable the Council to meet such expenditure out of funds in the hands of the Council as and when such expenditure shall be incurred and shall also take into account and give due allowance for any surplus or shortfall arising out of payments of the Annual Payment previously collected.
- 5.5. The initial payment of the Annual Payment (or any apportionment) shall be payable on the date hereof (or subsequently if the Council shall consider appropriate and having regard at all times to the provisions contained in the SUDS Agreement) and being such sum (if any) which the Council reasonably estimates in relation to its initial expenditure in complying with its obligations contained or referred to in this Deed.
- 5.6. The Council shall keep proper audited accounts in relation to the affairs of the Council in relation to this Deed and the Owner shall be entitled from time to time to call at the office of the Council or of the agent (if agents are still employed) upon first giving reasonable prior notice of intention and to inspect such accounts and to be provided with copies of the same and satisfy itself from the information supplied as to the due amount of the Annual Payment.

Provided that:

- 5.6.1. the Owner shall not be entitled to withhold payment of the Annual Payment as is then due until it has made such inspection of accounts or satisfied itself of the aforesaid; and
- 5.6.2. the Council or such agents shall not (in any event or on inspection) so far as it has acted reasonably and in accordance with generally accepted principles of estate management or Council administration be required to provide or justify any amount charged in the Annual Payment to meet anticipated expenditure .
- 5.7. It is hereby provided that (in addition to the statutory and other powers and remedies aforesaid) if at any time hereafter the Annual Payment secured by this Estate Rentcharge hereby reserved is in arrears and unpaid in whole or in part for six calendar months next after any of the days hereby appointed for payments thereof or if there is any other breach of the terms of this deed by the Owner then notwithstanding the waiver of any previous default it shall be lawful for the Council or its successors in title, owner or owners of the Estate Rentcharge at any time thereafter to enter into upon the Property or any part thereof in the name of the whole and henceforth to have hold enjoy the same and the rents profits thereof as the owner thereof in fee simple and the same shall be held in trust for or vested in it or them accordingly provided always that if:
- 5.7.1. at any time or an event occurs which gives rise to the right of re-entry in accordance with the above provision ("Event of Default") and

- 5.7.2. at the date of occurrence of the Event of Default ("Relevant Date") there is subsisting any mortgage or charge over or affecting the whole or any part of the Property ("the Charge") and on or behalf the Relevant Date the Council or its solicitors have received written notification (expressly given for the purposes of this provision) of the name of the persons entitled to the benefit of the Charge ("the Chargee") and if the address for service of the Chargee for the purposes of this proviso ("Address for Service")

then unless the Council has first given to the Chargee at its Address for Service not less than 90 days notice of its intention to do so the Council transferor shall not be entitled to exercise any of its rights of re-entry in respect of the Event of Default nor shall the Council exercise such right until the date of expiry of such notice during which period the Owner from time to time of the Property (or relevant part thereof) or the Chargee shall be at liberty to remedy any alleged Event of Default.

6. The Council's Covenants

The Council covenants with the Owner and its successors in title to each and every part of the Property:

- 6.1. to procure the maintenance of the Open Space in accordance with and to no less a standard as required by the Licence Agreement; and
- 6.2. to maintain the SUDS and in accordance with and to no less a standard as required by the SUDS Agreement.

7. Legal Apportionment of Estate Rentcharge

- 7.1. Subject to complying with the provisions of clause 7.2 the Council hereby consents to the Owner effecting a formal apportionment of the Estate Rentcharge in respect of each and any individual residential unit constructed on the Development such formal deed of apportionment of the Annual Payment in respect of each residential unit to be calculated on the basis of $1/X \times Y$ where:

"X" = the number of residential units to be constructed on the Development in accordance with the Planning Permission; and

"Y" = the Annual Payment.

Worked Example for illustrative purposes only

Where

X = 253 number of units

Y = the anticipated Annual Payment of £37,790.00

Apportioned Annual Payment per residential unit = £149.36 per unit.

For the avoidance of doubt and by way of background

- 7.1.1. It is acknowledged by the parties that this Deed will be entered onto on completion of the purchase by the Owner of the Property. The Development is intended to be divided into phases, of which the

Property forms part of phase 1(a). Phase 1(a) comprises 46 residential units and 42 of those residential units are located on the Property.

- 7.1.2. In the event that future phases of the Development are developed the Estate Rentcharge shall be apportioned to the relevant number of residential units in the Development. The Owner shall notify the Council of any increase in the number of residential units on the Development and the same shall be reflected in the Deed of Covenant and Grant of Perpetual Yearly Estate Rentcharge entered into on completion of the future phases of the Development and any Deeds of Apportionment entered into.
- 7.2. A copy of the completed formal apportionment referred to in clause 7.1 shall be provided to the Council as soon as reasonably practicable following the date of completion of the freehold sale of the relevant residential unit.
- 7.3. Following disposal by freehold sale of all residential units on the Development and provided it has complied with its obligations in this Deed the Owner shall have no further liability pursuant to this Deed and the Council shall provide the Owner with a DS1 releasing the Owner from the charge as registered pursuant to clause 7.5.1.
- 7.4. On each disposal by freehold sale of each residential unit on the Property the Owner and its successors in title shall ensure that the purchaser enters into a Deed of Apportionment in which it covenants with the Council to observe and perform the provisions of this deed. The parties agree that the restriction referred to at clause 7.5.4 below is only intended to relate to disposals by sale or letting of residential units and will not relate to any other disposal.
- 7.5. Within 14 days following the date of this Deed the Owner shall at its own cost:-
- 7.5.1. apply to register this deed against the Owner at Companies House (in the event that this deed is capable of registration at Companies House) the Council will release this deed in accordance with clause 7.3);
- 7.5.2. apply to the Land Registry to register the Estate Rentcharge created by this Deed with its own title number and do all things necessary to ensure the successful completion of such application; and
- 7.5.3. apply to the Land Registry to register the burden of the Estate Rentcharge against the title numbers of the Property and do all things necessary to ensure the successful completion of such application
- 7.5.4. The parties hereby apply to the Chief Land Registrar for an entry of a restriction on the register of the Property/Development.
- "No disposition of the registered estate by the proprietor of the registered estate or the proprietor of any registered charge is to be registered without a certificate signed on behalf of Keepmoat Homes Limited or its conveyancers that the provisions of a Deed of Covenant and Grant of Perpetual Yearly Rentcharge dated [13 October] 2017 and made between the Council of the City of Newcastle upon Tyne (1) and Keepmoat Homes Limited have been complied with or do not apply".

8. **Agreements and Declarations**

It is hereby agreed and declared by and between the parties:

- 8.1. the Council shall be entitled to employ and pay either directly or indirectly such persons, firms, or Council whether whole or part time as may be reasonably necessary to carry out any duties which may be required in the performance of its obligations contained herein or for the general conduct, management and security of the Open Space or otherwise the conduct, management and security of the Open Space or otherwise in relation to the affairs (including the employment of managing agents, solicitors, accountants or such other professional persons as the Council shall from time to time deem appropriate);
- 8.2. the Council shall be entitled to enter into any arrangements (including a lease) which it reasonably deems necessary or appropriate for the efficient and proper organisation and running of the Open Space by the Council;

9. **Execution**

- 9.1. The parties have executed this Deed as a deed and it is delivered on the date set out on Page 1.

THE

COMMON SEAL OF THE COUNCIL OF
THE CITY OF NEWCASTLE UPON TYNE

was hereunto affixed

in the presence of:



Linda Wright
LORD MAYOR
LINDA WRIGHT

C L Smith
SENIOR SOLICITOR
CHRISTOPHER W. SMITH

EXECUTED AS A DEED by

KEEPMOAT HOMES LIMITED

acting by

[Signature]
P. ANDREY

Director

In the presence of

Witness Signature *[Signature]*

Witness name

GMCMAHON

Witness address

*KEEPMOAT, THE WATERFRONT
LAKESIDE, PONCASTER, DN4 5PL*

Witness occupation

ADMINISTRATOR