

DATED THIS 21st DAY OF March 2019

BELLIS BROTHERS LIMITED

- and -

TRUSTEES OF THE BELLIS FAMILY SIPP

- TO -

WREXHAM COUNTY BOROUGH COUNCIL

UNILATERAL UNDERTAKING

Pursuant to Section 106 of the Town and Country Planning Act 1990

Relating to
Land to the North and South of Lane Farm, Rossett Road, Trevalyn,
Rossett, Wrexham, LL12 0DS



Aaron & Partners
Solicitors

THIS DEED is dated the 21st day of March Two Thousand and Nineteen

PARTIES

- (1) **BELLIS BROTHERS LIMITED** (Company Registered No. 100274) of Wrexham Road Farm, Wrexham Road, Holt, Wrexham, LL13 9YU ("the First Owner")
- (2) **ROGER EDWARD BELLIS, JOAN BELLIS AND ELIZABETH JANE BELLIS MARKS AND PAL TRUSTEES LIMITED** both of Wrexham Road Farm, Wrexham Road, Holt, Wrexham LL13 9YU and of Queen Square House, 18-21 Queen Square, Bristol, BS1 4HH, the **TRUSTEES of the BELLIS FAMILY SIPP** ("the Second Owner")

TO

- (3) **WREXHAM COUNTY BOROUGH COUNCIL** ("the Council") of Guildhall, Wrexham, LL1 1AY

RECITAL

- a) The Council is the local housing authority and the Local Planning Authority for the purposes of Section 106 of the 1990 Act for the area in which the Site is situated and by whom the obligations contained within this Undertaking are enforceable
- b) The First Owner is the Freehold owner in that part of the Site shown coloured blue on the Plan ("the Southern Site") and the Second Owner is the Freehold owner of that part of the Site shown coloured red on the Plan (the Northern Site), and the Southern Site and the Northern Site constitute "the Site"
- c) The First Owner and the Second Owner own the Site under two titles namely CYM478468 (the Southern Site) and CYM 536981 (the Northern Site).
- d) The Owner has by the Planning Application applied to the Council to carry out the Development on the Site.
- e) The Council refused the Planning Application ("the Planning Refusal") and the First Owner and Second Owner have jointly submitted an Appeal under section 78 of the 1990 Act to the Welsh Government.
- f) The First Owner and the Second Owner have agreed to enter into this Undertaking so as to create planning obligations in favour of the Council pursuant to Section 106(3) of the Act and to be bound by and observe and perform the covenants hereinafter contained should the Minister determine to grant Planning Permission.

NOW THIS DEED WITNESSES as follows:-

1. DEFINITIONS

In this Undertaking unless the contrary intention appears the following terms shall have the following meanings:-

Words and Expressions**Meanings**

"Act"	the Town and Country Planning Act 1990
"Affordable Housing"	subsidised housing which will be available to Eligible Persons including (without limitation) Intermediate Rented Housing, Shared Equity Housing, Shared Ownership Housing and Social Rented Housing and which shall comprise 25% of the Dwellings to be built on the Site (rounded down to the nearest whole number)
"Affordable Housing Contribution"	the sum calculated in accordance with Part 8 of the Third Schedule and due to the Council
"Affordable Housing Disposal"	a transfer or lease of one or more of the Affordable Housing Units by the Owner to an RSL
"Affordable Housing Units"	the dwellings provided as Affordable Housing as part of the Development
"Appeal"	the appeal against the Council's refusal of the Planning Application
"Close Family Connection"	members of family as described in Section 113 of the Housing Act 1985
"Commencement of Development"	the carrying out on the Site of any Material Operation
"Commencement of Development of a Dwelling Phase"	the carrying out of a Material Operation within a Dwelling Phase notwithstanding that the Planning Permission may have been implemented
"Development"	the development of the Site in accordance with the Planning Permission
"Dwelling"	any residential unit (including a house flat or maisonette) constructed on the Site pursuant to the Planning Permission which shall include for the avoidance of doubt Market Housing Units and Affordable Housing Units
Dwelling Phase	Any Phase of the Development that comprises a Dwelling
"Education Contribution"	such sums indexed in accordance with the provisions of this Undertaking shall be paid by the First Owner and Second Owner to the

	Council in accordance with the provisions of Schedule 4.
"Eligible Person"	a person as defined in Part 7 of Schedule 3 hereto
"Equity Price"	70% of the Market Value of a Shared Equity Unit
"First Charge"	a legal charge entered into between the Shared Equity Owner and a mortgagee and which shall secure against a Shared Equity Unit any mortgagees lending (of up to the Equity Price) together with any interest on the debt owed to any mortgagee by the Shared Equity Owner at the time that any mortgagee shall enter into possession together with the costs of enforcing the First Charge and the reasonable costs of marketing and disposal of the Shared Equity Unit by any mortgagee
"Freeholder RSL"	the RSL that owns the freehold of a Shared Ownership Unit
"Implementation Notice"	the notice to be served in writing by the Owner upon the Council when Commencement of Development is intended
"Index"	the All Items of Retail prices issued by the Office for National Statistics or any successor organisation
"Interest"	interest at 4% (four percent) above the base lending rate of the Bank of England from time to time
"Intermediate Rented Housing"	housing units let by an RSL at a rent equal to or less than 80% of the open market rental (being the rent which that unit would secure in the open market as between a willing lessor and a willing lessee acting at arm's length)
"Low Cost Home Ownership Register"	the register maintained by the Council or its nominated agent for the purpose of providing access to properties at less than market value for persons who cannot afford to buy housing generally on the open market
"Public Open Space Management Entity"	such body or bodies that is nominated or established by the First Owner and the Second Owner for the long term maintenance and

	management of the Public Open Space in accordance with the Second Schedule and the Management Plan
"Public Open Space Management Entity Details"	the Public Open Space Management Entity's corporate structure details of its directors and officers and the mechanism for ensuring that it has sufficient funds to enable it to carry out the Public Open Space Management Plan
"Public Open Space Management Plan"	the management plan to be submitted to the Council for approval in respect of the management and maintenance of the Public Open Space in which Dwelling Phase by the Public Open Space Management Entity which shall include details as to the timing and terms of which the Public Open Space in each Dwelling Phase shall be transferred to the Public Open Space Management Entity
"Marketing Housing Units"	those Dwellings which are general market housing for sale on the open market and which are not Affording Housing
"Market Value"	(in respect of any Affordable Housing Units other than the Social Rented Housing and Intermediate Rented Housing) the price at which the Affordable Housing Unit might reasonably be expected to be sold at arm's length by a willing seller to a willing buyer with vacant possession
"Material Operation"	a material operation as defined in Section 56 subsection 4(a) to (e) of the Act to implement the Planning Permission PROVIDED THAT any works of or associated with demolition site clearance remediation works environmental or archaeological investigations site and soil surveys and any work necessary and related thereto including the erection of a contractors work compound and site office erection of temporary fencing to site boundaries and the laying out of services shall for the purposes of the Undertaking and for no other purpose be deemed not to be material operations
"Nominated RSL"	an RSL that hold a Second Charge
"Occupation"	use of a Dwelling for a residential purpose but not including 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.
"Person in Housing Need"	a person who cannot afford to rent or buy a home suitable for their needs on the open market
"Phase"	a phase of the Development being an area of the Site for which an application is made to the Council for a Reserved Matters Approval pursuant to the Planning Permission which allows Development to commence
"Plan"	the Plan attached to this Undertaking
"Planning Application"	the application for Planning Permission for the Development of the Site submitted to the Council and given reference number ROSP/2018/0560
"Planning Inspector"	the planning inspector appointed by the Minister to prepare a report which will be forwarded to the Minister for decision
"Planning Permission"	the planning permission issued by the Minister pursuant to the Appeal and any associated Reserved Matters Approval to include any applications made under Section 73 of the Act
"Public Open Space"	the areas of public open space to be provided within the Site, a scheme for which is to be submitted to and approved in writing by the Council in accordance with the conditions of the Planning Permission
"Redemption Money"	the sum required to discharge the Second Charge
"Reserved Matters Approval"	the grant of any application for reserved matters approval required pursuant to the Planning Permission
"RSL"	a registered social landlord as defined in Part 1 of the Housing Act 1996
"Second Charge"	a legal charge to be entered into by the Shared Equity Owner for the time being in favour of the Council or a Nominated RSL in respect of up to

	30% of the Market Value of a Shared Equity Unit, subject always to the Second Charge ranking second in the priority to any First Charge
"Shared Equity Disposal"	a disposal to an Eligible Person by a freehold transfer or by a lease for a term of not less than one hundred and twenty five (125) years (or an assignment thereof) of a Shared Equity Unit
"Shared Equity Housing"	a form of affordable housing whereby the purchaser acquires a 100% equity share in an Affordable Housing Unit subject to a Second Charge and with a restriction in perpetuity upon the future sale price of it
"Shared Equity Owner"	a freeholder or a leaseholder (as appropriate) of a Shared Equity Unit
"Shared Equity Unit"	An Affordable Housing Unit sold or available for sale as Shared Equity Housing on the Development
"Shared Owner"	A leaseholder of a Shared Ownership Unit
"Shared Ownership Disposal"	a disposal by the RSL by way of: a) Lease for a term of not less than one hundred and twenty-five (125) years; - or b) transfer or assignment of a Shared Ownership unit
"Shared Ownership Housing"	a form of Affordable Housing which is provided by an RSL on the basis of part rent and part sale
"Shared Ownership Interest"	the specific equity share in the Shared Ownership Unit held by the Shared Owner
"Shared Ownership Unit"	an Affordable Housing Unit sold or available for sale as Shared Ownership Housing
"Site"	the land subject to this Undertaking as shown edged red on the Plan A and more particularly described in the First Schedule
"Social Rented Housing"	affordable Housing Units let by an RSL to be occupied by Eligible Persons at a rental level which complies with the rent benchmarking guidance (from time to time) published by the

Welsh Government

“Staircase”

in respect of Shared Ownership Housing to acquire pursuant to the provisions of the Shared Ownership Disposal a share of the equity in the relevant Shared Ownership Unit in addition to the Shared Owner’s Shared Ownership Interest and staircasing and Staircased shall be construed accordingly

“Working Days”

any day falling between Monday and Friday (both days inclusive) upon which the clearing banks in the city of London are open for normal business which is not Good Friday or a statutory bank holiday.

2. CONSTRUCTION OF THE UNDERTAKING

- 2.1. Where in this Undertaking reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Undertaking
- 2.2. Words importing the singular meaning where the context so admits include the plural meaning and vice versa
- 2.3. Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner
- 2.4. The Headings of this Undertaking are for convenience only and shall not affect its interpretation
- 2.5. Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise
- 2.6. Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it
- 2.7. References to any party to this Undertaking 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.

3. LEGAL BASIS

- 3.1. This Undertaking is made pursuant to Section 106 of the Act Section 2 of the Local Government Act 2000 and Section 111 of the Local Government Act 1972 and all other enabling powers
- 3.2. The covenants restrictions and requirements imposed upon the Owner under this Undertaking create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Owner and to the extent that any of the obligations are not planning obligations within the Act they are entered into pursuant to the powers contained in Section 111 of the Local Government Act 1972 and all other enabling powers
- 3.3. The Undertaking is a Local Land Charge for the purposes of the Local Land Charges Act 1975 and will be registered as such.

4. **CONDITIONALITY**

This Undertaking is conditional upon:

- 4.1. the grant of Planning Permission; and
- 4.2. the Commencement of Development;

save for the provisions of clauses 5.3, 6.1, 8, 12 and 13.

5. **THE OWNER'S COVENANTS**

- 5.1. The Owner covenants with the Council as set out in this Undertaking PROVIDED ALWAYS that the Owner shall not be obliged to comply with an obligation set out in this Undertaking if in determining the Appeal the Minister expressly states in their decision letter or by reference to the report prepared by the Planning Inspector that the obligation either:-
 - a) is not necessary to make the Development acceptable in planning terms; or
 - b) is not directly related to the Development; or
 - c) it is not fairly and reasonably related in scale and kind to the Development; or
 - d) is an immaterial planning consideration; or
 - e) has no weight attached to it in determining the Appeal
- 5.2. The Owner hereby covenants with the Council as set out in the Second Schedule, the Third Schedule and the Fourth Schedule.
- 5.3. The Owner shall serve on the Council (addressed to the Council's Head of Environment and Planning) the Implementation Notice not less than two (2) Working Days before Commencement of Development

6. **MISCELLANEOUS**

- 6.1. The First Owner and the Second Owner shall pay the Council on completion of this Undertaking the reasonable legal costs of the Council incurred in the approval of this Undertaking in the sum of £400 (four hundred pounds)
- 6.2. No provisions of this Undertaking shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 6.3. The obligations given by the First Owner and the Second Owner in this Undertaking are given on the condition that where the agreement, approval, consent or expression or satisfaction is required by the First Owner and the Second Owner from the Council under the terms of this Undertaking such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such the agreement, consent approval or expression of satisfaction shall be given on behalf of the Council by an officer or duly authorised signatory and any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party
- 6.4. Insofar as any clause or clauses of this Undertaking are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not effect the validity or enforceability of the remaining provisions of this Undertaking
- 6.5. This Undertaking shall cease to have effect (insofar only as it has not already been complied with) if:-
 - a) the Planning Permission shall be quashed revoked or otherwise withdrawn or (without the consent of the First Owner and the Second Owner) is modified by any statutory procedure:
 - b) the Planning Permission shall expire prior to the Commencement of Development; or
 - c) the Site is developed under a new planning permission (other than one issued under Section 73 of the Act for variation or discharge of a condition of the Planning Permission) granted after the Planning Permission by the Council or any other competent authority and there has been no Commencement of Development
- 6.6. No person shall be liable for any breach of any of the planning obligations or other provisions of this Undertaking after it shall have parted with its entire interest in the Southern Site or the Northern Site or the part of the Site in respect of which such obligation relates or such breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest
- 6.7. This Undertaking (other than the Third Schedule) shall not be enforceable against owner-occupiers or tenants of the Dwellings constructed pursuant to the Planning Permission nor against those deriving title from them

- 6.8. The covenants contained in this Undertaking shall not be enforceable against statutory undertakers in relation to any parts of the Site acquired by them for electricity sub-stations, electricity poles, gas governor stations or pumping stations or ancillary equipment or against anyone whose only interest in the Site or any part of it is in the nature of the benefit of an easement or covenant
- 6.9. Nothing in this Undertaking shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Undertaking
- 6.10. The provisions of Third Schedule (except for paragraph 5 of Part 5 and Part 6 thereof) shall not be binding on a mortgagee in possession of an Affordable Housing Unit or a bona fide purchaser for value thereof from such a mortgagee in possession or any receiver (or administrative receiver) appointed by such mortgagee (except a purchaser which is a RSL)

Provided that:

- a) such mortgagee or receiver shall first have used reasonable endeavours over a period of three months in consultation with the Council's Head of Housing and Public Protection Officer to dispose of the Affordable Housing to an RSL or otherwise in accordance with the Third Schedule; and
 - b) such mortgagee or receiver shall have provided such evidence to the Council of such reasonable endeavours
- 6.11. The provisions of the Third Schedule (except for paragraph 5 of Part 5 and Part 6 thereof) shall not be binding on either:
- a) any successors in title to the First Owner and the Second Owner as owners or occupiers of the Market Housing Units on the Site and any mortgagee or chargee (or receiver or administrative receiver) appointed and their successor in title;
 - b) any leaseholder of a Shared Ownership Unit who has Staircased out to 100% or their mortgagee or chargee (or receiver or administrative receiver) or successor in title; or
 - c) any occupier of any other Affordable Housing Unit who have acquired 100% of the relevant Affordable Housing Unit under a statutory right to buy or acquire and their mortgagees and successors in title

7. WAIVER

No waiver (whether expressed or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this Undertaking shall constitute a continuing waiver and no such waiver shall prevent the Council from

enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default

8. **CHANGE IN OWNERSHIP**

The First Owner and the Second Owner agree with the Council to give immediate written notice of any change in ownership of any of their interest in the Site occurring before all the obligations under this Undertaking have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan

9. **INDEXATION**

The Education Contribution shall be increased by an amount equivalent to the increase in the Index from the date of the Planning Permission until the date on which sum is paid

10. **INTEREST**

If any payment due under this Undertaking is paid late, Interest will be payable from the date payment is due to the date of payment

11. **VAT**

All consideration given in accordance with the terms of this Undertaking shall be exclusive of any value added tax properly payable

12. **JURISDICTION**

This Undertaking is governed by and interpreted in accordance with the law of England and Wales

13. **DELIVERY**

The provisions of this Undertaking (other than this clause which shall be of immediate effect) shall be of no effect until this Undertaking has been dated.

IN WITNESS whereof the parties hereto have executed this Undertaking on the day and year first before written.

FIRST SCHEDULE

DESCRIPTION OF THE SITE

The Southern Site being land on the south side of Rossett Road, Trevalyn, Rossett, Wrexham registered at HM Land Registry under Title No. CYM478468 and the Northern Site being land on the north side of Rossett Road, Trevalyn, Rossett, Wrexham registered under Title No. CYM 536981

SECOND SCHEDULE

Public Open Space

1. Not to allow the carrying out of any works within a Dwelling Phase until the proposed Public Open Space Management Plan for that Dwelling Phase has been submitted to and approved in writing by the Council
2. Not to allow any of the Dwellings within the first Dwelling Phase to be Occupied until the Public Open Space Management Entity Details have been submitted to and approved in writing by the Council
3. To procure that the Public Open Space within each Dwelling Phase is transferred to and subsequently managed and maintained in perpetuity by the Public Open Space Management Entity in accordance with the approved Public Open Space Management Plan
4. Not to allow the Occupation of more than (fifty percent) 50% of the Dwellings in each Dwelling Phase until the Public Open Space for that Dwelling Phase is transferred to the Public Open Space Management Entity

THIRD SCHEDULE

Part 1 – General Obligations

1. To design and construct the Affordable Housing Units (to comprise 25% (rounded down to the nearest whole number) of the total number of Dwellings on Site) in accordance with the Planning Permission.
2. Not to dispose of the Affordable Housing Units other than to an RSL by way of the Affordable Housing Disposal or to an Eligible Person by way of a Shared Ownership Disposal or a Shared Equity Disposal (as set out in paragraph 1 of Parts 2, 3, 4, 5 and 6 hereof) Provided That the Council and the owners of the Affordable Housing Units may by agreement prescribe terms for the disposal of different types of Affordable Housing not detailed in this Undertaking (both parties acting reasonably and without delay in agreeing such terms) Provided That such agreement is legally secured by way of a supplemental agreement made under Section 106 of the Act.
3. Give to the Council notice in writing of a disposal of its interest in any Affordable Housing Unit and its interest in any part of the Site (excluding Market Housing Units) occurring before all the obligations in this Undertaking have been discharged such notice to be given within ten (10) Working Days of such transfer and giving details of the transferee's full name and usual address (registered office if a company) together with a plan showing the area of the Site transferred.
4. Prior to Commencement of Development of a Dwelling Phase to provide the Council's Head of Housing and Economy the following details in so far as they are known for each Affordable Housing Unit within such Dwelling Phase:
 - 4.1 postal address;
 - 4.2 gross and net floor area;
 - 4.3 anticipated practical completion date (subject to market conditions); and
 - 4.4 plans indicating location, elevations and internal layout.
5. Following receipt of the decision letter confirming the grant of the Planning Permission to approach an RSL as soon as reasonably practicable and to pursue negotiations with all due diligence in order to comply with the obligations contained in this Undertaking and to offer the Affordable Housing Units (other than those designated as Shared Equity Units) for sale to an RSL on terms that have due regard to the restrictions affecting such Affordable Housing Units contained in this Undertaking.
6. Following a written request from the Council, to provide to the Council such information concerning the progress of negotiations for Affordable Housing Disposals with an RSL or Shared Equity Disposals to Eligible Persons (as appropriate) as shall reasonably be required by the Council.

7. Not to use any part of the Site on which the Affordable Housing Units are to be constructed for any purpose other than the provision of Affordable Housing in accordance with this Undertaking.
8. Not to use the Affordable Housing Units for any purpose other than for the provision of Social Rented Housing, Shared Ownership Housing, Shared Equity Housing and Intermediate Rented Housing (subject to the proviso set out in paragraph 2 of this Part) and to respond to any request from the Council for information as to the tenure of each Affordable Housing Unit within ten (10) Working Days such request to be made on no more frequent a basis than once every six (6) months.
9. To keep such full and proper records as are reasonably required to demonstrate to the Council strict compliance with the affordable housing obligations contained in this Undertaking and any supplementary agreement thereto.
10. Not to allow the Occupation of more than 50% (fifty percent) of the Market Housing Units within any Dwelling Phase until the Affordable Housing Units within that Dwelling Phase have been constructed, are ready for Occupation and have been disposed of (or evidence has been provided to the Council that the Owner is actively marketing and has used reasonable endeavours to procure such disposals) by way of an Affordable Housing Disposal to an RSL and/or Shared Equity Disposals to Eligible Persons.
11. On each Shared Equity Disposal and Shared Ownership Disposal the owner thereof shall pay to the Council or the RSL nominated by the Council a sum equivalent to 0.50% of the Market Value of the percentage share purchased by an Eligible Person on completion of that sale, to cover the costs of the Council or the RSL nominated by the Council in administering the Low Cost Home Ownership Register.

Part 2 – Social Rented Housing

1. Not to dispose of the Affordable Housing Units which are provided as Social Rented Housing other than by way of an Affordable Housing Disposal in accordance with the provisions of this Part of this Schedule
2. No Social Rented Housing shall be:
 - 2.1 let to or occupied by persons other than Eligible Persons; and
 - 2.2 let other than as Social Rented Housing by way of an assured or assured short hold tenancy (or such statutory form of tenancy as may replace such forms of tenancies from time to time) (subject to the proviso set out in paragraph 2 of Part 1 of this Schedule)

Part 3 – Intermediate Rented Housing

1. Not to dispose of any Affordable Housing Units which are provided as Intermediate Rented Housing other than by way of an Affordable Housing Disposal in accordance with the provisions of this Part of this Schedule
2. No Intermediate Rented Housing shall be:

- 2.1 let to or occupied by persons other than Eligible Persons; and
- 2.2 let other than as Intermediate Rented Housing by way of an assured or assured short hold tenancy (or such statutory form of tenancy as may replace such forms of tenancies from time to time) (subject to the proviso set out in paragraph 2 of Part 1 of this Schedule)

Part 4 - Shared Ownership Housing

1. Not to dispose of any Affordable Housing Unit which is provided as Shared Ownership Housing other than by way of Shared Ownership Disposal to an Eligible Person.
2. To procure that each Shared Ownership Disposal shall incorporate the following terms:
 - 2.1 a right of pre-emption in favour of the Freeholder RSL; and
 - 2.2 a covenant whereby a Shared Owner who wishes to dispose of their interest in the Shared Ownership Unit (and where the Freeholder RSL does not wish to exercise the right of pre-emption referred to in paragraph 2.1 of this Part) shall be prevented from disposing of their interest in the Shared Ownership Unit other than to an Eligible Person at no more than Market Value of their Shared Ownership Interest.
3. Not to sub-let or let (other than in accordance with this Part of this Schedule) any Shared Ownership Unit.
4. Shared Owners wishing to dispose of their interest in a Shared Ownership Unit shall comply with any reasonable procedure adopted by the Council (or its nominated agent) from time to time for arranging and administering the disposal to Eligible Persons of interests in affordable housing units such as the Shared Ownership Units.
5. In the event that a Shared Owner wishes to dispose of their interest in a Shared Ownership Unit and such unit has been actively marketed for sale for a period of twenty (20) weeks and no Eligible Person has exchanged unconditional contracts for the purchase of the said unit within that period Provided That:
 - 5.1 such unit has been offered for sale pursuant to paragraph 2.1 above and to an RSL or RSLs nominated by the Council and such RSLs have not exchanged unconditional contracts to buy such unit within such period;
 - 5.2 the price at which the Shared Ownership Unit has been offered for sale to Eligible Persons is no greater than the Market Value of the Shared Ownership Interest ascertained by agreement between the Shared Owner, any mortgagee of the Shared Owner and the Freeholder RSL (**Parties**) or failing agreement at the expense of the Shared Owner by an independent qualified valuer appointed by agreement between the Parties or failing agreement by or on behalf of the president for the time being of the Royal Institution of Chartered Surveyors on the application of any party and the decision of such valuer shall be final; and

- 5.3 the Shared Owner has reasonably demonstrated to the Council and the Freeholder RSL that it has acted in good faith in considering any offers from Eligible Persons

Then the Shared Ownership Unit may be sold in the open market at Market Value (provided the Freeholder RSL consents to such sale) free from the affordable housing restrictions contained in this Undertaking Provided Further That where an Eligible Person or RSL has been identified as a potential purchaser of the Shared Ownership Unit within the said twenty (20) week period the Shared Owner shall use reasonable endeavours to progress such sale and shall not dispose of the Shared Ownership Unit in the open market unless such potential sale is not completed within a further twenty (20) weeks.

6. Following the sale of a Shared Ownership Unit on the open market pursuant to paragraph 5 above, the Shared Owner will remove the restriction set out at paragraph 11 of Part 1 above from the title of the Shared Ownership Unit at the Land Registry.

Part 5 – Shared Equity Housing Initial Sales

1. Not to dispose of the Affordable Housing Units provided as Shared Equity Housing other than by way of a Shared Equity Disposal to an Eligible Person at a price no greater than the Equity Price.
2. No Shared Equity Disposal shall be completed without the new Shared Equity Owner simultaneously entering into a Second Charge.
3. That upon first acquiring an interest in a Shared Equity Unit the Shared Equity Owner shall not borrow from any mortgagee nor charge a Shared Equity Unit under a First Charge for a sum in excess of 70% of the Market Value of the Shared Equity Unit without the consent of the Council or the Nominated RSL (as appropriate) providing that nothing in this paragraph shall prevent or prohibit a Shared Equity Owner from later increasing its borrowings from any mortgagee in order to discharge and secure release from the Second Charge.
4. Each Shared Equity Disposal shall contain a restriction whereby the Shared Equity Owner who wishes to dispose of their interest in the Shared Equity Unit shall be prevented from making that disposition other than in accordance with Part 6 of this Schedule.
5. In the event that the Shared Equity Unit is sold by a mortgagee in possession without the provisions of this Undertaking being binding upon it (pursuant to clause 6.10 hereof), the mortgagee shall, in so far as it is able to from the proceeds of sale of the Shared Equity Unit and in any event only after deduction of any monies owing to the mortgagee pursuant to the First Charge, pay to the Council or Nominated RSL as the Council may determine, the Redemption Money within one week of completion of the sale of the Shared Equity Unit and provide the Council's Head of Housing and Economy (or such other officer undertaking the duties of a chief housing officer) with an account of the amount due pursuant to this paragraph.

6. Not to let (other than by way of a Shared Equity Disposal) or sub-let the Shared Equity Unit.
7. The provisions of this Part of the Third Schedule shall only apply to the initial sale of Shared Equity which means the first disposal of the Shared Equity Housing Unit.
8. In the event that a Shared Equity Unit has been actively marketed for sale for a period of six (6) months and no Eligible Person has exchanged unconditional contracts for the Shared Equity Unit within that period and no RSL has conditionally contracted to buy such units within such period then the Shared Equity Unit may be sold in the open market at Market Value free from the affordable housing restrictions contained in Schedule 3 of this Undertaking Provided That within two working days of legal completion of such sale, a payment of 30% of the sale proceeds (**Commuted Sum**) is paid to the Council by the Owner to be used for the provision of Affordable Housing within the Wrexham County Borough Council administrative area within five (5) years of receipt Provided Further That where an Eligible Person or RSL has been identified as a potential purchaser of the Shared Equity Unit within the said six (6) month period the Owners shall use reasonable endeavours to progress such sale and shall not dispose of the Shared Equity Unit in the open market unless such potential sale is not completed within a further twenty (20) weeks.
9. The payment of the Commuted Sum is conditional upon that if at any time after the fifth anniversary of the receipt by the Council of the Commuted Sum at the First Owner and the Owner acting jointly or separately request then the Council will provide (subject to the Owner making the request paying the Council's reasonable and proper expenses in connection with providing the same) written confirmation as to whether the whole or any part of the Commuted Sum has been expended or committed for expenditure in accordance with paragraph 8 above and in the event that the Council fails within three (3) calendar months of such request to provide written confirmation that the whole of the Commuted Sum paid by the First Owner and the Second Owner to the Council pursuant to paragraph 8 above has been expended by the Council or committed towards the designated purposes within five (5) years from the receipt by the Council of the Commuted Sum then the Council shall repay all or part of the Commuted Sum for which that written confirmation has not been given to the person or persons who actually paid the Commuted Sum together with all interest accrued thereon

Part 6 – Shared Equity Housing Subsequent Sale

1. Not to dispose of the Affordable Housing Units provided as Shared Equity Housing other than by way of a Shared Equity Disposal to an Eligible Person at a price no greater than the Equity Price.
2. That no Shared Equity Disposal shall be completed without the new Shared Equity Owner simultaneously entering into a Second Charge.
3. That upon first acquiring an interest in a Shared Equity Unit the Shared Equity Owner shall not borrow from any mortgagee nor charge a Shared Equity Unit under a First Charge for a sum in excess of 70% of the Market Value of the Shared Equity Unit without the consent of the Council or the Nominated RSL (as appropriate) providing

that nothing in this paragraph shall prevent or prohibit a Shared Equity Owner from later increasing its borrowing from any mortgagee in order to discharge and secure release from the Second Charge.

4. No Shared Equity Owner shall transfer the Shared Equity Unit without first having notified the Council or its Nominated RSL (as appropriate) in writing of their intention to dispose of the Shared Equity Unit.
5. In the event that the Shared Equity Housing Unit is sold by a mortgagee in possession without the provisions of this Undertaking being binding upon it (pursuant to clause 6.10 hereof), the mortgagee shall, in so far as it is able to from the proceeds of sale of the Shared Equity Unit and in any event only after deduction of any monies owing to the mortgagee pursuant to the First Charge, pay to the Council or Nominated RSL (as appropriate), the Redemption Money within one week of completion of the sale of the Shared Equity Unit and provide the Council's Head of Housing and Public Protection (or such other officer undertaking the duties of a chief housing officer) with an account of the amount due pursuant to this paragraph.
6. Not to let (other than by way of a Shared Equity Disposal) or sub-let the Shared Equity Unit.
7. In the event that a Shared Equity Unit has been actively marketed for sale for a period of twenty (20) weeks and no Eligible Person has exchanged unconditional contracts for the purchase of the Shared Equity Housing Unit within that period Provided That:
 - 7.1 the price at which the Shared Equity Housing Unit has been offered for sale to Eligible Persons is no greater than its Market Value ascertained by agreement between the Shared Owner, any mortgagee of the Shared Owner, and the Nominated RSL (**Parties**) or failing agreement at the expense of the Shared Owner by an independent qualified valuer appointed by agreement between the Parties or failing agreement by or on behalf of the president for the time being of the Royal Institution of Chartered Surveyors on the application of any party and the decision of such valuer shall be final;
 - 7.2 the Shared Equity Owner has reasonably demonstrated to the Council that it has acted in good faith in considering any offers from Eligible Persons; and
 - 7.3 such unit has also been offered for sale to the Nominated RSL and any other RSL or RSLs put forward by the Council and that such RSL(s) have not exchanged unconditional contracts to buy such unit within such period

then the Shared Equity Unit may be sold in the open market at Market Value free from affordable housing restrictions contained in this Undertaking Provided Further That where an Eligible Person or RSL has been identified as a potential purchaser of the Shared Equity Housing Unit within the said twenty (20) week period the Shared Equity Owner shall use reasonable endeavours to progress such sale and shall not dispose of the Shared Equity Unit in the open market unless such potential sale is not completed within a further twenty (20) weeks.

8. In the event that the Shared Equity Unit is sold on the open market pursuant to paragraph 7 the Shared Equity Owner shall pay the Redemption Money to the Council of the Nominated RSL (as appropriate) to redeem the Second Charge within two (2) days of legal completion Provided That such funds received by the Council or the Nominated RSL (as appropriate) shall be used for the provision of Affordable Housing within the Council's administrative area as agreed between the Council and the nominated RSL within five (5) years of receipt.
9. Following receipt by the Council or Nominated RSL of the Redemption Money in the circumstances set out in paragraphs 5, 7 or 10 hereof the owner of the Shared Equity Unit will remove the restriction set out at paragraph 11 of Part 1 above from the title of the Shared Equity Unit at the Land Registry.
10. Nothing in this Part shall prevent or prohibit a Shared Equity Owner from paying the Redemption Money to the Council or the Nominated RSL (as appropriate) in order to discharge the Second Charge Provided That the Redemption Money received by the Council or the Nominated RSL (as appropriate) shall be applied for the provision of Affordable Housing within the administrative area of the Council as agreed between the Council and the nominated RSL within five (5) years of receipt.
11. It is acknowledged that where a Shared Equity Owner disposes of a Shared Equity Unit to an RSL pursuant to paragraph 7 above the RSL shall not be required to enter into a Second Charge and may use or dispose of such unit (as appropriate) to provide Affordable Housing in accordance with any of the methods of doing so permitted by this Undertaking.
12. The provisions of this Part of the Third Schedule shall only apply to the sale of Shared Equity Housing after the initial sale.

Part 7 – Definition of an "Eligible Person"

1. An Eligible Person means a Person in Housing Need identified from the Low Cost Homes Ownership Register or the Council's housing waiting list (as appropriate) who:
 - 1.1 has resided personally or who has had a Close Family Association in the Rossett Community Council Area for a continuous period of one year immediately preceding the proposed Occupation of an Affordable Housing Unit; or
 - 1.2 is in permanent full time employment at a location within the Rossett Community Council Area and has been in such employment for a period of six months immediately preceding the proposed occupation of an Affordable Housing Unit; or
 - 1.3 has previously resided in the Rossett Community Council Area for a continuous period of five (5) years; or
 - 1.4 has previously had a Close Family Association in the Rossett Community Council Area for a continuous period of five (5) years; or

- 1.5 has previously been in employment in the Rossett Community Council Area for a continuous period of five (5) years.
2. Provided That if:
 - 2.1 no person meeting the requirements in paragraph 1 above can be identified from the Low Cost Homes Ownership Register or the Council's housing waiting list (as appropriate); and
 - 2.2 a period of not less than four (4) weeks has elapsed after an advertisement seeking a person who meets the requirements of paragraph 1 has been placed in a newspaper circulating in the Wrexham locality

then the references in paragraph 1 of this Part to the Rossett Community Council Area shall be treated as if they included references to the Gwersyllt, Rosset and Gresford Community Council Areas and any person who satisfies one of the said criteria by virtue of such treatment shall be regarded as an Eligible Person for the purposes of this Undertaking.
3. Provided Further That where no person who qualifies or who can be regarded as qualifying as an Eligible Person pursuant to paragraph 2 of this Part can be identified from the sources mentioned therein after at least one advertisement has been placed in a newspaper circulating in the locality then after a period of not less than eight (8) weeks the references in paragraph 1 of this Part to the Rossett Community Council Area shall be treated as if they included reference to the Council Area and any person who satisfies the said criteria by virtue of such treatment shall be regarded as an Eligible Person for the purposes of this Undertaking.
4. Provided Further That if no applicant qualifies under paragraph 3 above within twelve (12) weeks, then any other person who in the opinion of the RSL or Council (as appropriate) is a Person in Housing Need shall be treated as an Eligible Person.

Part 8 – Calculation of “Affordable Housing Contribution”

1. Should the number of Affordable Housing Units provided within each Dwelling Phase result in a fraction of an Affordable Housing Unit then within thirty (30) days of the date of first Occupation of the last Affordable Housing Unit within each Dwelling Phase the Affordable Housing Contribution for that Dwelling Phase shall be calculated by the Owner and notified in writing to the Council in accordance with the following formula:

$$D/N \times Y = \text{Affordable Housing Contribution}$$

Where

D = total value of discount for Affordable Housing Units in each Dwelling Phase

N= total number of Affordable Housing Units in each Dwelling Phase

Y = The fraction of an Affordable Housing Unit which may occur as a result of the requirement for 25% of the Dwellings on Site to be Affordable Housing

2. Within twenty-one (21) days of the amount of the Affordable Housing Contribution within each Dwelling Phase being notified to the Council the Owner shall pay the Affordable Housing Contribution to the Council PROVIDED THAT it is a condition of the payment of the Affordable Housing Contribution that such funds shall be used by the Council for the provision of Affordable Housing within the Council's administrative area within five (5) years of receipt and FURTHER PROVIDED THAT any part of the Affordable Housing Contribution that remains unspent by the Council after the period of five (5) years from the date of receipt shall be refunded to the person that made the payment.

FOURTH SCHEDULE

THE EDUCATION CONTRIBUTION

1. To pay to the Council the Education Contribution for each Dwelling Phase to be used by the Council for the provision of additional primary school spaces. Such Education Contribution shall be used for the provision of additional primary school space at The Rofft County Primary School, Wynnstay Lane, Marford arising from the Development.

To pay the Council the Education Contribution for each Dwelling Phase to be used by the Council for the provision of additional secondary school spaces at Darland High School, Chester Road, Rossett arising from the Development.

PROVIDED THAT it is a condition of the payment of the Education Contribution that such funds shall be used by the Council for the provision of additional primary school spaces at the Rofft County Primary School, Wynnstay Lane, Marford and for the provision of secondary school spaces at Darland High School, Chester Road, Rossett (in accordance with this paragraph of the Fourth Schedule) within ten (10) years of receipt and FURTHER PROVIDED THAT any part of the Education Contribution that remains unspent by the Council after the period of ten (10) years from the date of receipt shall be refunded to the person that made the payment

2. Not to allow the Commencement of any Dwelling Phase until the Education Contribution for that Dwelling Phase has been calculated by the First Owner and the Second Owner and notified in writing to the Council in accordance with the following sums stipulated in the Council's Local Planning Guidance Note No.27 (annexed at Appendix 1 of this Deed):

Primary

£858 for each apartment with 2+ bedrooms

£1,471 for each Dwelling with 2 bedrooms

£2,819 for each Dwelling with 3 bedrooms

£3,800 for each Dwelling with 4+ bedrooms

Secondary

£739 for each apartment with 2+ bedrooms

£1,239 for each Dwelling with 2 bedrooms

£3,694 for each Dwelling with 3 bedrooms

£5,725 for each Dwelling with 4+ bedrooms

Once the Education Contribution has been calculated for each Dwelling Phase it shall be paid to the Council in the following instalments:

Not to allow the Occupation of more than 25% of the Dwellings in any Dwelling Phase until 25% of the Education Contribution for that Dwelling Phase has been paid to the Council;

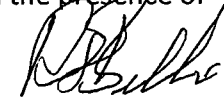
Not to allow the Occupation of more than 50% of the Dwellings in any Dwelling Phase until a further 25% of the Education Contribution for that Dwelling Phase has been paid to the Council;

Not to allow Occupation of more than 75% of the Dwellings in any Dwelling Phase until a further 25% of the Education Contribution for that Dwelling Phase has been paid to the Council;

Not to allow the Occupation of more than 90% of the Dwellings in any Dwelling Phase until the balance of the Education Contribution for that Dwelling Phase has been paid to the Council.

Appendix 1 – Council’s Local Planning Guidance Note No.27

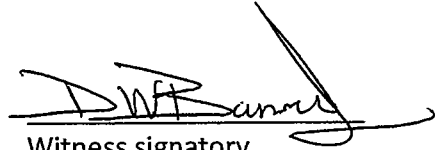
SIGNED AS A DEED
FOR BELLIS BROTHERS LIMITED
in the presence of



Joan Bellis

E.J. Bellis marks

)
)
)



Witness signatory

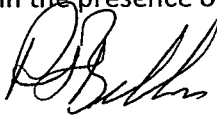
DALE COTTAGE

ANDG LANE HOLT

WREXHAM LL13 9SA

Witness name and address

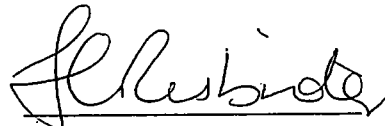
SIGNED AS A DEED
FOR TRUSTEES OF THE BELLIS FAMILY SIPP
in the presence of:



Joan Bellis

E.J. Bellis marks

)
)
)



Witness signatory

16 BIRCH COURT

LLAN WREXHAM

LL12 0TY

Witness name and address

