



DATED 23 FEBRUARY 2012

Ref: LS/2051/RM

LIVERPOOL CITY COUNCIL

And

PEEL INVESTMENTS (NORTH) LIMITED

And

BDW TRADING LIMITED

---

S.106 Agreement

RE: Planning Application Ref: 11F/1890  
relating to land off Speke Hall Avenue, Liverpool, L24 1YD

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J McLoughlin  
Interim City Solicitor  
Liverpool City Council

THIS DEED is made the 23 day of FEBRUARY

2012

BETWEEN

Parties

1. Liverpool City Council of Municipal Buildings, Dale Street, Liverpool, L2 2DH ("The Council"); and
2. Peel Investments (North) Limited (Company Registration Number: 187724) whose registered office is at Peel Dome, The Trafford Centre, Manchester, M17 8PL ("The Owner"); and
3. BDW Trading Limited (Company Registration Number: 03018193) whose registered office is at Barratt House, Cartwright Way, Forest Business Park, Bardon Hill, Coalville, Leicestershire, England, LE67 1UF ("The Developer").

RECITALS

- 1 The Council is the Local Planning Authority for the purposes of this Deed for the area in which the land described in the First Schedule ("the Land") is situated and by whom the obligations contained in this Deed are enforceable.
- 2 The Owner is the owner in fee simple in possession of the Land.
- 3 The Developer has entered into a Building Licence with the Owner dated 30 June 2011.
- 4 Barratt Homes (Manchester) have by the Planning Application applied to the Council for permission to develop the Land in the manner and for the uses set out in the Planning Application.
- 5 The Council has decided to grant permission for the Development in accordance with the Planning Application subject to the making of this Agreement without which Planning Permission for the Development would not have been granted.
- 6 The Owner and the Developer have agreed to enter into this Agreement with the intention that the obligations contained in this Agreement may be enforced by the Council and its successors in title.



**Now this Deed witnesses as follows:**

**Definitions:**

For the purposes of this Agreement the following expressions shall have the following meanings:

<b>"Act"</b>	the Town and Country Planning Act 1990;
<b>"Commencement of Development"</b>	the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Commence Development" shall be construed accordingly;
<b>"Development"</b>	the Development of the Land for the construction of 268 dwelling houses with associated parking and landscaping, new access roads from Speke Hall Avenue and Cartswright Farm Road; pedestrian linkages to Sandgate Close, Colworth Road and Speke Hall Avenue; laying out of internal highways and public open space together with associated works as set out in the Planning Application;

**"Dwelling"**

a unit of residential accommodation to be constructed pursuant to the Planning Permission;

**"Highways Contribution"**

means the amount of £25,000 (twenty five thousand pounds) to be used towards junction improvements at Speke Hall Avenue/ Speke Road if paid within one year after the date of this Agreement or the amount as calculated in accordance with the following formula:  
$$\text{£25,000 multiplied by the Index for the month immediately preceding the date of payment and divided by the Index for the month immediately preceding the date of this Agreement;}$$

**"Index"**

means the All Items index figure of the Index of Retail Prices published by the Office for National Statistics or any successor, Ministry or Department;

**"Instalment 1"**

means the amount of £27,160 (twenty-seven thousand one hundred and sixty pounds) if paid within one year after the date of this Agreement or the amount as calculated in accordance with the following formula:

$$\text{£27,160 multiplied by the Index for the month immediately preceding the date of payment and divided by the Index for the month immediately preceding the date of this Agreement}$$

**"Instalment 2"**

means the amount of £72,944 (seventy-two thousand nine hundred and forty-



four pounds) if paid within one year after the date of this Agreement or the amount as calculated in accordance with the following formula:

£72,944 multiplied by the Index for the month immediately preceding the date of payment and divided by the Index for the month immediately preceding the date of this Agreement

**"Instalment 3"**

means the amount of £40,352 (forty thousand three hundred and fifty-two pounds) if paid within one year after the date of this Agreement or the amount as calculated in accordance with the following formula:

£40,352 multiplied by the Index for the month immediately preceding the date of payment and divided by the Index for the month immediately preceding the date of this Agreement

**"Instalment 4"**

means the amount of £41,128 (forty-one thousand one hundred and twenty-eight pounds) if paid within one year after the date of this Agreement or the amount as calculated in accordance with the following formula:

£41,128 multiplied by the Index for the month immediately preceding the date of payment and divided by the Index for the month immediately preceding the date of this Agreement

**"Instalment 5"**

means the amount of £26,416 (twenty-six thousand four hundred and sixteen pounds) if paid within one year after the date of this Agreement or the amount as calculated in accordance with the following formula:

£26,416 multiplied by the Index for the month immediately preceding the date of payment and divided by the Index for the month immediately preceding the date of this Agreement

**"Employment and Training Strategy"**

the employment and training strategy set out in Appendix 1;

**"Occupied" and "Occupation"**

means occupation for the purposes permitted by the Planning Permission 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 "Occupy and Occupied" shall be construed accordingly;

**"Open Space Improvement Contribution"**

means the amount of £208,000 (two hundred and eight thousand pounds)

**"Phase 1"**

the areas of the Development referred to as Phase 1 on the Phasing Plan;

**"Phase 2"**

the areas of the Development referred to as Phase 2 on the Phasing Plan;

**"Phase 3"**

the area of the Development referred to as Phase 3 on the Phasing Plan;

**"Phase 4"**

the area of the Development referred to as Phase 4 on the Phasing Plan;

**"Phase 5"**

the area of the Development referred to



**"Phasing Plan"**

as Phase 5 on the Phasing Plan;  
the plan attached to this Agreement  
illustrating the proposed phasing of the  
Development subject to such  
amendments which may be agreed  
between the Council and the

**"Plan"**

Owner/Developer acting reasonably;  
the plan attached to this Agreement;

**"Planning Application"**

the application for planning permission  
submitted to the Council for the  
Development and allocated reference  
number 11F/1890;

**"Planning Permission"**

the planning permission subject to  
conditions proposed to be granted by the  
Council pursuant to the Planning  
Application

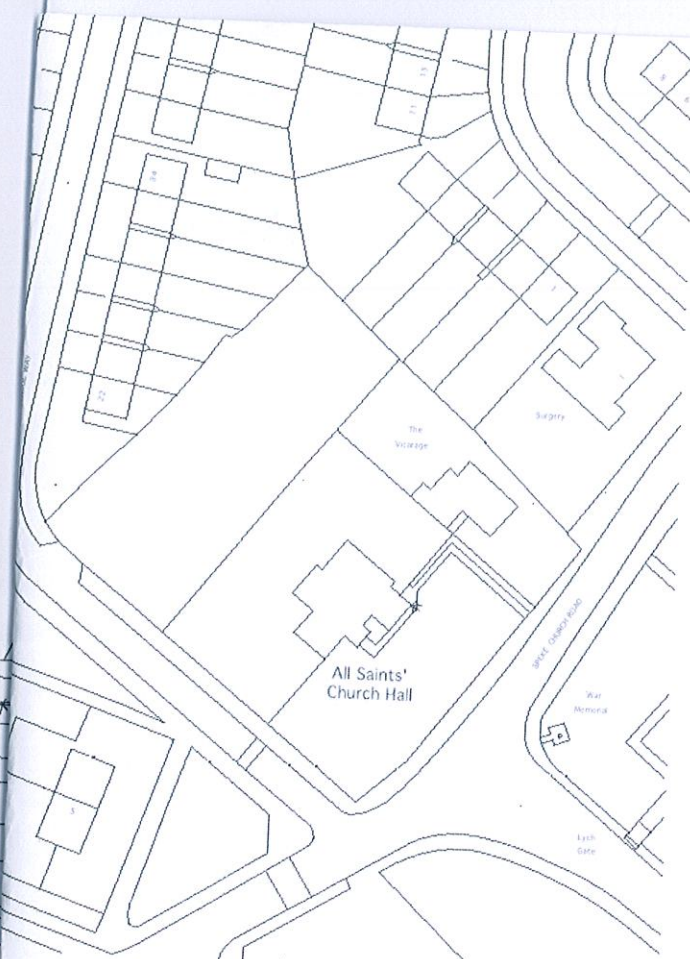
**"Public Art Strategy"**

a strategy for on-site public art to include  
the identification of a location for the art  
and a timescale for construction with a  
minimum budget of £25,000 to be  
provided by the Owner/Developer;

1. The Owner and Developer covenants with the Council to observe and perform the obligations specified in the Second Schedule.
2. The Council covenants with the Owner and Developer to observe and perform the obligations set out in the Third Schedule.
3. It is agreed and declared as follows:
  - 3.1. The expression "the Council", "the Owner" and "the Developer" shall include their successors in title and assigns.
  - 3.2. No person shall be liable for breach of a covenant contained in this Agreement after he shall have parted with all interest in the Land or the part



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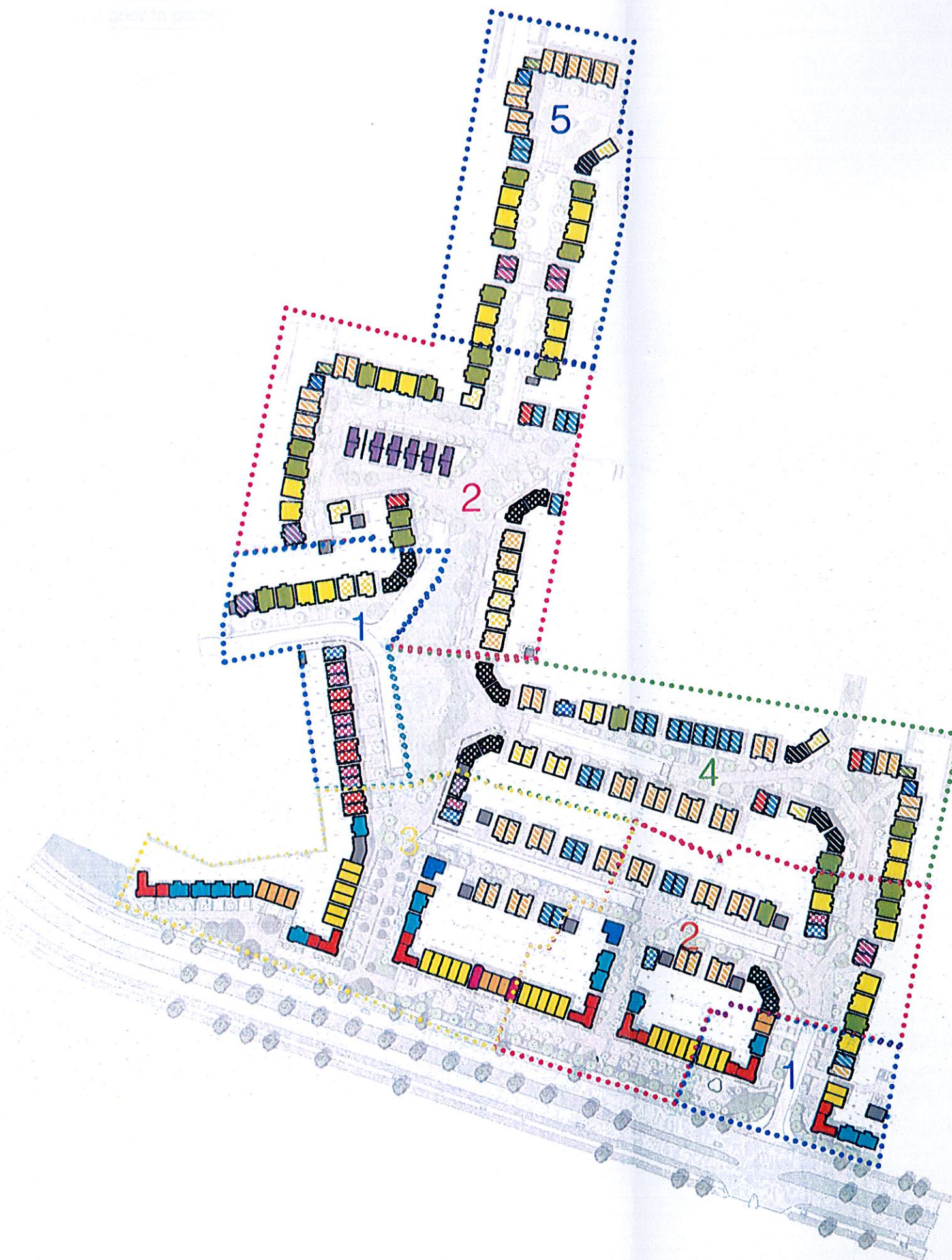
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- Key:
- Housetype 1
  - Housetype 2
  - Housetype 3
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  - Housetype 5
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  - Housetype 23
  - Housetype 24
  - Housetype 25
  - Housetype 26
  - Housetype 27
  - Housetype 28
  - Housetype 29
  - Garage etc



### Unit Mix

It is proposed to be a development of 268 no. family houses of the following breakdown:

1 Bedroom // 2 Person:	15 units
2 Bedroom // 4 Person:	13 units
3 Bedroom // 5 Person:	86 units
2 Bedroom // 4 Person:	118 units
4 Bedroom // 7 Person:	11 units
4 Bedroom // 8 Person:	25 units

Total Number 268 units

### Indicative Phasing Plan

Phasing shown in five stages starting near the vehicular access, spreading along the frontage and then working rearward to the north of the site.

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with



in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest.

- 3.3. No purchaser, lessee or tenant of any Dwelling to be constructed on the Land or mortgagee thereof or statutory undertaker after the transfer of statutory apparatus by the Owner to the statutory undertaker shall be liable for any of the covenants in this Agreement.
- 3.4. This Agreement is conditional upon the grant of planning permission pursuant to the Planning Application save for the provisions of clauses 3.17 to 3.20, 3.21 and 3.22 to and paragraph 4 and 5 of the Second Schedule which shall come into effect immediately upon the completion of this Agreement.
- 3.5. Words denoting an obligation on the Owner and/or Developer to do any act, matter or thing include an obligation to procure that it be done and words placing the Owner under a restriction include an obligation not to cause or permit or suffer any infringement of the restriction.
- 3.6. References to any party to this Agreement shall include 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 their respective statutory function.
- 3.7. Insofar as any clause or clauses of this Agreement are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement.
- 3.8. This Agreement is made pursuant to Section 106 of the Town and Country Planning Act 1990, Section 111 of the Local Government Act 1972 and Section 2 of the Local Government Act 2000.
- 3.9. The covenants, restrictions and requirements imposed upon the Owner and Developer under this Agreement create planning obligations pursuant to Section 106 of the Town and Country Planning Act 1990 and are enforceable by the Council as local planning authority against the Owner and Developer.



- 3.10. The Developer shall not be liable for obligations 2 and 3 contained in the Second Schedule unless and until it has triggered Commencement of Development.
- 3.11. If the permission granted pursuant to the Planning Application is modified by any statutory procedure or shall expire before the development is begun or shall at any time be revoked, quashed or otherwise withdrawn (without the consent of the Owner and the Developer) this Agreement shall forthwith determine and cease to have effect.
- 3.12. Nothing in this Agreement shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than one relating to the Development as specified in the Planning Application) granted (whether or not on appeal) after the date of this Agreement.
- 3.13. The Council will upon the written request of the Owner or Developer at any time after the obligations of the Owner and Developer under the Agreement have been fulfilled issue written confirmation thereof and thereafter cancel all related entries in the Register of Local Land Charges.
- 3.14. This Agreement is a local land charge and shall be registered as such.
- 3.15. Save as provided in respect of successors in title to the Land or any successor to the relevant statutory function of the Council this Agreement shall not be enforceable by any third party pursuant to the Contracts (Rights of Third Parties) Act 1999 and no third party shall acquire any benefits, rights or claims whatsoever thereto.
- 3.16. No waiver (whether express or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing the relevant terms or conditions or from acting upon any subsequent breach or default.
- 3.17. In the event of any dispute or difference arising between the parties to this Agreement in respect of any matter contained in this Agreement such dispute or difference shall be referred to an independent and suitable person



holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.

3.18. In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 3.17 or as to the appropriateness of the professional body then such question may be referred by either part to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.

3.19. Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight working days after the conclusion of any hearing that takes place or twenty-eight working days after he has received any file or written representation.

3.20. The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten working days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten working days.

3.21. This Agreement is governed by and interpreted in accordance with the law of England and Wales.



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

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

## FIRST SCHEDULE

### "The Land"

Land and buildings on the south side of Speke Boulevard, Liverpool registered at the Land Registry with title number MS458857 and shown edged in red on the Plan.



## **SECONDSCHEDULE**

### **Owner and Developer's Obligations**

1. The Owner and the Developer covenant to pay to the Council the Highways Contribution prior to the Commencement of Development.
2. The Owner and the Developer covenant to pay the Council the Open Space Improvement Contribution in the following instalments:
  - 2.1 Instalment 1 prior to the Commencement of Development of Phase 1;
  - 2.2 Instalment 2 prior to the Commencement of Development of Phase 2;
  - 2.3 Instalment 3 prior to the Commencement of Development of Phase 3;
  - 2.4 Instalment 4 prior to the Commencement of Development of Phase 4;
  - 2.5 Instalment 5 prior to the Commencement of Development of Phase 5.
- 3 The Owner/Developer shall submit the Public Art Strategy to the Council for approval (such approval not to be unreasonably withheld) prior to the commencement of the first Dwelling to be constructed on the Development and shall carry out the agreed strategy in accordance with the agreed timescale
- 4 The Owner shall pay to the Council upon the signing of this agreement the sum of £1000 (one thousand pounds) for the Council's Legal Department's costs in preparation, execution and monitoring thereof.
- 5 The Owner shall pay to the Council upon the signing of this agreement the sum of £5754.00 (five thousand seven hundred and fifty four pounds) for the Council's Planning Department's costs in preparation, execution and monitoring thereof.

- 6 The Owner and Developer covenant with the Council to implement the Employment and Training Strategy to the extent it is not prevented from doing so by any rule of law whether domestic or international, or doing anything which would put the Owner or Developer in breach of any pre-existing contractual arrangements.
- 7 Prior to the Occupation of the first Dwelling constructed pursuant to the Development the Owner and Developer shall submit to the Council for approval in writing (such approval not to be unreasonably withheld) and implement a scheme for the future maintenance of the trees to be planted on the public highway or within the areas of open space and incidental landscaping. The approved strategy shall be implemented in perpetuity at nil cost to the Council.
- 8 Prior to the Occupation of the first Dwelling constructed pursuant to the Development, the Owner and Developer shall submit to the Council for approval in writing (such approval not to be unreasonably withheld) and implement a strategy for species monitoring within the areas of open space. The approved strategy shall be implemented for an agreed time period at nil cost to the Council.
- 9 For the avoidance of doubt, the species monitoring to be undertaken in paragraph 7 above shall be done in accordance with the Phasing Plan and at the end of each phase a report shall be submitted to the ecologist (for approval).



### **THIRD SCHEDULE**

#### **Council's Obligations**

1. The Council shall utilise the Highways Contribution and the Open Space Improvement Contribution for the purposes specified in their respective definitions only.
2. The Council covenants that it will return all sums to the person who made the payments referred to in paragraph 1 above which have not been expended in accordance with the provisions of this Agreement within 5 years from the date of receipt by the Council of such payment together with any interest accrued from the date of payment to the date of refund.
3. The Council shall provide such evidence, as the person who made the payment under this Agreement shall reasonably require in order to confirm the expenditure of the sums paid under this Deed.
4. At the written request of the Owner or the Developer, the Council shall provide written confirmation of the discharge of the obligations in this Agreement when satisfied that such obligations have been performed.

## **Appendix 1**

### **Employment and Training Strategy**



**SPEKE HALL AVENUE, SPEKE**  
**EMPLOYMENT & TRAINING STRATEGY**

<b>1.00</b>	<b>TRAINING STRATEGY</b>
1.01	<p>Barratt is committed to working with local schools and colleges to provide training opportunities for young people.</p> <p>Our development at 'Heritage Park' Silverdale, sets the standard for our 'Legacy' programme and with the assistance of Liverpool in Work, a similar programme will be rolled-out in relation to the Speke site.</p>
1.02	<p><b>Training Partnership Arrangement</b></p> <p>Barratt has formed close links with a technical college in Newcastle-under-Lyme. Barratt will work towards forming similar links in the Liverpool/Speke area within 1 year of Commencement of Development;</p> <ul style="list-style-type: none"> <li>i A presentation is held for building-related NVQ students at NULC by Neil Goodwin (MD), John McNulty (Construction Director), Phil Torr (Contracts Manager), Martin McVarnock (Safety, Health and Environment Manager) and Mark Donlan (NHBC Area Manager). This introduces Barratt to the students and fields expressions of interest.</li> <li>ii A schedule of site visits by NVQ students is agreed. Students visit the site in groups of 20-25, whereupon they will be inducted and given a talk regarding the development process and the build programme. The group splits into trades and then tours the site with a representative of the site management team and a relevant tradesman. Each visit lasts a day and lunch is provided.</li> <li>iii A schedule of visits by HNC/Technical students is agreed. These visits are specifically targeted at a module within the course and, in most cases, must coincide with a particular site activity. A specialist in each field will give a talk on the subject before touring the site to see the activity in action. This can include ground improvement techniques, CDM, surveying, site investigations, foundation techniques etc. This provides invaluable site experience in such modules as geotechnics, Health and Safety, Materials and Construction Technology. Again, each visit lasts one day, with lunch being provided on site.</li> <li>iv The 'Barratt Challenge' is targeted at NVQ students. Barratt supplies materials, drawings and a written specification so NVLC students can build three small demo pods using real construction techniques. This will involve a range of skills and different trades. The pods are to be built at the college and marked for quality by John McNulty, Phil Torr and college lecturers.</li> </ul> <p>The model used at Heritage Park is to be used as a basis for training in Liverpool, with close co-ordination with Liverpool in Work.</p>
1.03	<p><b>Barratt in the Community</b></p> <p>Barratt has formed close links with schools in Newcastle-under-Lyme. We will work</p>



	<p>to form similar links in the Liverpool/Speke area within 1 year of Commencement of Development;</p> <ol style="list-style-type: none"> <li>Students of St Luke's Primary School, Silverdale, were treated to a talk by Martin McVarnock on the dangers of construction sites. The fun 'SPLAAT' presentation was a great success and students painted their own safety posters, which have been turned into boards for use on site.</li> <li>St Luke's students also participated in a competition to design the show-area landscaping. A combination of entries was used and the children received a prize for their efforts.</li> <li>A new play house was built by Barratt for students of Silverdale Primary School, which was specifically designed as a mini Barratt house.</li> </ol> <p>Further details of our commitment to local communities can be found on our 'Barratt Legacy' website (<a href="http://barrattlegacy.co.uk">barrattlegacy.co.uk</a>). This has been specifically designed by the Manchester division to draw attention to our good work in the community. We've already made contact with Oakmere College, Liverpool regarding working with them on projects associated with our 'Tower Gardens' site.</p>
<b>2.00</b>	<b>EMPLOYMENT STRATEGY</b>
<b>2.01</b>	<p><b>Apprentices</b></p> <p>Barratt is to shortly take on two apprentices and the posts will be advertised on the Barratt 'Building Careers' website. Liverpool in Work will be notified of this so they can encourage local candidates to apply.</p> <p>Furthermore, Barratt commit to working with Liverpool in Work to market these posts locally.</p>
<b>2.02</b>	<p><b>Local Trades</b></p> <p>Barratt commits to adding local firms to its tender list. Access to these firms will be through liaison with Liverpool in Work. All firms must comply with our internal safety and insurance requirements to be successful.</p> <p>Barratt will monitor and disclose value of contracts awarded to local companies (Liverpool City Council boundaries and Merseyside).</p>
<b>2.03</b>	<p><b>Meet the Buyer</b></p> <p>At the earliest opportunity following the grant of Planning Permission Barratt commits to working with Liverpool in Work to hold a 'Meet the Buyer' event where local trades can meet members of the Construction and Commercial teams. At this event, awareness of the site can be raised thereby giving further employment opportunities to local trades.</p>
<b>2.04</b>	<p><b>Vacancies</b></p> <p>All vacancies are advertised via the Barratt 'Building Careers' website and are not targeted at local press. However, we commit to making Liverpool in Work aware of</p>



	<p>all vacancies so candidates can be informed.</p> <p>Barratt commits to encouraging all sub-contractors working on site to advertise posts locally and contact Liverpool in Work. Notification of this will be sent to each sub-contractor on appointment.</p>
2.05	<p><b>Monitoring</b></p> <p>As Barratt does not directly employ trades but, rather, several small sub-contractors, it is not possible to make monitoring of individual's addresses mandatory. However, every operative must sign-in each day and it is our intention to add an optional 'postcode' box to the signing-in sheet. All visitors will be encouraged to populate this box to enable ongoing monitoring. Sheets will be collated and sent to Liverpool in Work on a six monthly basis. Monitoring will begin on the commencement of site works</p> <p>Monitoring of tendering to local trades and advertising of vacancies will also be monitored on an ongoing basis with records sent to Liverpool in Work on a six monthly basis.</p>
3.00	<p><b>SUMMARY</b></p>
3.01	<p>Barratt is firm in its commitment to providing training and employment opportunities. Through our work in Silverdale, this division has demonstrated how we can work with local schools and colleges to give community benefit from the development process. This work goes beyond financial contributions of the Section 106 Agreement as it builds personal links between the site and the community.</p> <p>We believe we can successfully work with Liverpool in Work to provide strong training and employment opportunities.</p>



THE COMMON SEAL of the  
LIVERPOOL CITY COUNCIL  
was hereunto affixed:-



Seal No.  
17.12

*Assistant* City Solicitor

Executed by  
PEEL INVESTMENTS (NORTH)  
LIMITED  
in the presence of two directors  
or a director and the secretary

*John Whitaker*  
*NL*

Director

Director/Secretary

Executed as a Deed on behalf of  
BDW Trading Limited

By .....

And .....

in exercise of the powers conferred on them by  
a Power of Attorney dated 30.06.11 who have  
hereunto set the name of  
BDW TRADING LIMITED

*/*

*I HILLIER*

*LG* mike cleary

in the presence of:

Signed by witness: *J. Bate*

Name: *Janette Bate*

Address: *4 Dixon Close*

*Sale*

*Cheshire*

*M33 3JU*

Occupation: *Secretary*

DATED 23 FEBRUARY 2012

Ref: LS/2051/RM

LIVERPOOL CITY COUNCIL

And

PEEL INVESTMENTS (NORTH)  
LIMITED

And

BDW TRADING LIMITED

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S.106 Agreement

RE: Planning Application Ref:  
11F/1890

relating to land off Speke Hall  
Avenue, Liverpool, L24 1YD

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J McLoughlin  
Interim City Solicitor  
Liverpool City Council