**DATED**

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Deed of covenant

relating to

Land Development Agreement dated 18 December 2015 (as varied)

between

Alpraham Parish Council

and

Blueoak Estates (Cheshire) Limited And

The Wellcome Trust limited (as trustee of the Wellcome Trust)

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This deed is dated 2021

Parties

1. **Alpraham Parish Council** of 75 Hilbre Bank, Alpraham, Tarporley, CW6 9JG (Council)
2. BLUEOAK ESTATES (CHESHIRE) LIMITED incorporated and registered in England and Wales with company number 09243354 whose registered office is at 20 Grosvenor Street Chester CH1 2ND (Assignee)
3. The Wellcome Trust Limited (as trustee of the Wellcome Trust a registered charity with number 210183) registered in England and Wales with company number 02711000 and whose registered office is at Gibbs Building, 215 Euston Road, London, NW1 2BE (Wellcome)

BACKGROUND

1. This deed is supplemental to the Agreement.
2. The Agreement contains a covenant by Wellcome that upon a sale it will require a purchaser to enter into a direct deed of covenant with the Council to comply with clause 19.2.1 and clause 19.2.2 of the Agreement.

Agreed terms

1. Interpretation

The following definitions and rules of interpretation apply in this deed.

* 1. Definitions:

1. Additional Parking: 6 additional car parking spaces to be constructed on land belonging to the Council subject to clauses 5.1 and 6.2 of this Deed
2. Agreement: the land development agreement dated 18 December 2015 and entered into by the Council (1) and Wellcome (2) as varied by a deed of variations dated 23 October 2018 and [ ] 2021 made between the same parties.
3. Development: has the meaning set out in clause 1.1 of the Agreement.
4. Development Start Date: means the date on which works commence in respect of the Development.
5. Play Area: means the play zone to be constructed as part of the Development.
6. Play Area Contribution: £20,604.00.
7. Planning Permission: as defined in the Agreement
8. Wickstead’s Quotation: the quotation provided by Wickstead dated 21 May 2020 in respect of the Play Area to include a ‘Cyclone Spiral’ multiplay unit, wet pour and ‘rock ‘n’ bowl’ play unit.
9. VAT: value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax.
   1. Clause headings shall not affect the interpretation of this deed.
   2. A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
   3. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
   4. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
   5. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
   6. A reference to **writing** or **written** includes fax but not email.
   7. Except where a contrary intention appears, references to clauses are to the clauses of this deed.
   8. Except to the extent that they are inconsistent with the definitions and interpretations in clause 1 of this deed, the definitions and interpretations in clause 1 of the Agreement shall apply to this deed.
10. Assignee's covenant

The Assignee covenants with the Council to comply with clause 19.2 of the Agreement and in particular:

* + 1. to build the Pavilion and Car Park in a good and workmanlike manner; and
    2. to hand over the Pavilion and Car Park to the Council no later than completion of the sale or first rental of the Trigger Dwelling.

1. Notices

Any notice given under or in connection with this deed shall be in writing and shall be delivered by hand, or sent by pre-paid first class post or other next day delivery service or by any other means permitted by the Agreement. A correctly addressed notice shall be deemed to have been received:

* + 1. if delivered by hand, at the time the notice is left at that address; or
    2. if sent by pre-paid first class post or other next working day delivery service, on the second working day after posting.

1. Release
   1. The Council releases Wellcome from all obligations to comply with clause 19 of the Agreement from the date of this Deed.
2. Assignee Covenants
   1. Additional Parking

The Assignee covenants that in the event the Council is successful in obtaining planning permission for the Additional Parking (subject to clause 6.2 of this Deed) within six months of the Development Start Date, the Assignee will construct the Additional Parking on behalf of the Council in accordance with the permission granted in respect of the same. PROVIDED THAT on expiry of this period if permission is not granted for the Additional parking this covenant will no longer apply

* 1. Play Area

In the event the Council provides an alternative design and specification for the Play Area (**New Play Area Design)**, the Assignee covenants with the Council to install the play equipment in accordance with the New Play Area Design subject to the following;

the Assignee shall not be required to contribute more than the Play Area Contribution to the New Play Area Design; and

the Council provides the Assignee with the New Play Area Design within six months of the Development Start Date.

PROVIDED THAT on expiry of this period if no New Play Area Design is provided to the Assignee this covenant will no longer apply and the timing for delivery of the Play area is not affected by the revised scheme; and the Assignee will deliver the Play Area in accordance with the Wickstead’s Quotation

1. Council Covenants
   1. The Council covenant with Assignees
      1. to provide all reasonable assistance to the Assignee to achieve the discharge of planning conditions in the Planning Permission; and
      2. on handover of the pavilion (to be constructed as part of the Development) the Council will be responsible for any future maintenance of Council’s land pursuant to any maintained agreements in place from time to time including but not limited to those required under the Planning Permission.
   2. The Council may serve written notice on the Assignee between legal completion and commencement of work for the Development on site for the of its intention to submit a planning application for an Additional Parking PROVIDED THAT the Council Covenants with the Assignee that:

the spaces are in a location to be agreed by Assignee acting reasonably;

the application must be determined within a three-month period from the Assignee commencing work on site for the Development , if this date is note achieved then the original layout as per the Planning permission will be delivered

The Council’s application must not affect or alter the position of the village hall/pavillion or the setting out of the roads and sewers for the Development .

Any additional costs in relation to this application, including direct or indirect (with exception of the costs of constructing the additional six car parking spaces) will be borne by the Council

6.3 If the Council elect to opt for a New Play Area Design and this is delivered by the Assignee pursuant to clause 5.2, the Council will pay any additional costs of materials and labour (including VAT) over and above the Play Area Contribution, within 3 working days of receipt of an invoice from the Assignee

1. Release of Covenants

Save for the covenant in clause 6.1 (a) it is agreed by the parties that the relevant party to this Deed will be released from their obligations in clause 5 and clause 6 on the earlier of compliance with the relevant covenant (s) or a disposal of their relevant property subject to the successors entering into a Deed of covenants to perform the relevant outstanding obligations. PROVDIED THAT no such deed of covenant is required for a disposal of the substation land at the Development nor any residential unit

1. Third party rights

A person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

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|  | | |
| Signed as a deed by Blueoak Estates (Cheshire) Limited acting by a director  In the presence of  ………………………..  Witness signature  …………………………  Witness Name  ………………………….  …………………………  Witness Address  …………………………  Witness Occupation |  | ....................  Director |
|  |  |  |
|  |
|  | | |

EXECUTED as a deed by ALPRAHAM PARISH COUNCIL acting by:

………………………………………………

Councillor

……………………………………………..

Councillor

……………………………………………..

In the presence of:

…………………………………………….

Clerk/Proper Officer

…………………………………………….