

dated 2010

[name]

and

Barnet Homes Limited

Board member agreement for services

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Barnet Homes Board – 19 May 2010

Board Remuneration and Service Contracts

Agreement

Dated this day of 2010

Parties

- (1) Barnet Homes Limited (“**the Company**”) of Barnet House, 1255 High Road, Whetstone, London N20 0EJ
- (2) **[insert name]** (“**you**”) of **[insert address]**

1 **Definitions**

It is agreed as follows.

Act means the Companies Act 2006, including any statutory modification or re-enactment thereof for the time being in force.

Constitution means the articles of association or such other governing instrument which governs the Company (as the case may be) adopted and amended by the Company from time to time.

Board means the board of directors from time to time of the Company.

Board Member means a member of the Board.

Chair means the chair of the Board.

Code of Conduct means the Company's code of conduct for directors as varied from time to time by the Company a copy of which may be obtained from the Company's Company Secretary or the Chief Executive's Personal Assistant.

Committee means any committee or sub-group of the Company to which a Board Member may be appointed in accordance with the Constitution and the Code of Conduct. **Committees** shall be construed accordingly.

End Date means to expiry of this Agreement as determined in accordance with clauses 1, 8 and 9 below.

Scheme of Delegation – means the Company's scheme of delegation incorporating powers delegated to it under the management agreement with the London Borough of Barnet, the Constitution, Standing Orders, Terms of Reference, financial procedures, contract procedure rules and powers delegated to the Board, the Chair and to officers of the Company.

1 **Appointment**

- 1.1 Your appointment as a Board Member was approved at the meeting of the Board /Annual General Meeting **[as applicable] on [date] and [will take effect from]/[took effect on] [date].** Your appointment will continue until the End Date

unless otherwise extended in accordance with clause 8 below or terminated in accordance with clause 9 below.

1.2 Nothing contained in this Agreement shall be construed or have effect as constituting any relationship of employer and employee between the Company and you.

2 **Time commitment**

2.1 By entering into this Agreement you confirm that you will devote such of your time, attention and skill as may be necessary for the proper discharge of the requirements of your role.

3 **Role/duties**

3.1 You will perform those duties normally associated with the office of a Board Member including, without limitation, those duties set out in this clause 3, any role, description or other guidance as issued to you from time to time. You are expected to work with and through the Board, you are not expected to undertake executive duties or to assume executive responsibilities.

3.2 You will comply with the statutory statement of duties imposed on you as a director set out in the Act including:

- (a) the duty to act within the powers of the Company,
- (b) the duty to exercise independent judgement,
- (c) the duty to promote the success of the Company,
- (d) the duty to exercise reasonable skill, care and diligence,
- (e) to avoid conflicts of interest, and
- (f) any other directors' duties set out in the Act as in force from time to time.

3.3 You acknowledge that you have the same general legal responsibilities to the Company as any other Board Member.

3.4 You will be expected to:

3.4.1 comply with the Company's policies, procedures and standing orders as set and amended from time to time by the Board,

3.4.2 act in accordance the Constitution,

3.4.3 uphold and promote the core policies, purpose, values and objectives of the Company (including its commitment to equal opportunities),

- 3.4.4 contribute to and share responsibility for decisions of the Board and/or any Committee of which you are from time to time a member,
 - 3.4.5 attend induction, training and performance review sessions and other such sessions or events as are reasonably required by the Company,
 - 3.4.6 read Board and/or Committee papers (as applicable) before meetings,
 - 3.4.7 represent the Company when requested,
 - 3.4.8 act in the best interest of the Company at all times.
- 3.5 In addition you are expected to fulfil the role and duties set out in the Company's specification of the roles and responsibilities of directors (the current form of which is attached to this Agreement in schedule 1) as amended by the Board from time to time.
- 3.6 If, at any time during your appointment as a Board Member, you are appointed as Chair you will also be expected to fulfil the role and duties and display the attributes set out in the Chair's description, (the current form of which is set out in Schedule 2), as amended by the Board from time to time.
- 3.7 The Board as a whole is collectively responsible for ensuring the success of the Company and ensuring its compliance with all legal and regulatory obligations by directing and supervising the Company's affairs. The Board:
- 3.7.1 provides leadership of the Company,
 - 3.7.2 sets the Company's strategic aims, ensures that the necessary financial and human resources are in place for the Company to meet its objectives, and reviews management performance, and
 - 3.7.3 sets the Company's values and standards and ensures that its legal and regulatory obligations are understood and met.
- 3.8 You will be expected to attend all meetings of:
- 3.8.1 the Board, and
 - 3.8.2 all Committees of which you are a member,
- unless you are prevented from doing so as a result of any provision in the Constitution, the Act or the Code of Conduct in which case you are required to give apologies either to the Chair of the Board or to the Company Secretary in advance.
- 3.9 You will be expected to familiarise yourself efficiently with all matters relevant to the work undertaken by the Board, including any relevant regulatory and statutory provisions.
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3.10 As an individual non-executive board member you will not have any automatic, formal delegated authority and you will be expected before entering into any commitment on behalf of the Company to ensure you have the necessary Board authority and/ or that the necessary authority is already contained within the Scheme of Delegation.

3.11 You may be a member of Committees of the Board on such terms as the Board may determine and will undertake those additional duties applicable to such role as set out in the role description issued to you from time to time.

4 **Fees**

4.1 [You will not be paid for your services as a Board Member.]

OR

4.2 You will be paid a fee of £[amount] gross per annum which will be paid monthly in arrears after deduction for PAYE and Class 1 national insurance deductions (**the Fee**).

4.3 The Fee will be subject to review from time to time by the Board.

4.4 Your first payment of £..... gross will be made onto cover the period fromtoThereafter payments will be made monthly.

4.5 The Company will reimburse you for all reasonable and properly authorised and documented expenses you actually incur in performing the duties of your office subject to such deductions as are lawfully required and to the Company's policies dealing with expenses from time to time in force. A copy of the current guidance on expenses is attached as Schedule 3.

4.6 You agree that 10.7% of the Fee constitutes an amount payable for any annual leave taken during the same calendar year in respect of which the Fee is paid.

4.7 You may choose to decline payment or pay it to a charity of your choice. However, you must be aware that where you have done either you may face tax liabilities and/or loss of entitlement to state benefits. This is a matter between you and the relevant authorities, although the Company may be able to give you further general advice on the position.

5 **Outside interests**

5.1 You undertake that you will declare any relevant direct or indirect interests whenever required by the Constitution, the Act, or the Code of Conduct.

5.2 You agree that you will not (except with the prior sanction of a resolution of the Board) be directly or indirectly employed, engaged, concerned or interested in, or hold any office in, any business which undertakes similar services to those of the Company or which is a customer or supplier of services to the Company.

5.3 It is accepted and acknowledged that you have business interests other than those of the Company. You agree that you have declared any conflicts that are apparent at present. In the event that you become aware of any actual or potential conflicts of interest, you agree that these will be disclosed to the Chair (or in the event that you are, or are acting as Chair, to the Board) as soon as one becomes apparent.

6 **Confidentiality**

6.1 All information not already in the public domain acquired during your appointment is confidential to the Company and should not be released, either during your appointment or following termination (by whatever means), to third parties without prior clearance from the Chair (or of the Board in the event that you are appointed or acting as the Chair at the time you are proposing to release the information).

6.2 On the termination or expiry of your appointment for whatever reason you will be required to return all documentation provided or prepared by Barnet Homes and all copies prepared by or for you in respect of the same, and to ensure that all confidential material is removed from any computer storage under your control; or written confirmation that all such confidential material has been destroyed.

7 **Review process**

7.1 Your performance as an individual Board Member and the performance of the whole Board and its Committees will be evaluated annually [by the Chair]. You are required to attend and participate in all performance reviews related to your individual performance as a Board Member and the performance of the Board as a whole.

8 **Renewal of term of office**

8.1 Your appointment may be renewed and you may be reappointed as a Board Member in accordance with the Constitution. In this event of reappointment the terms of this Agreement will continue unless the Company asks you within one month of reappointment to sign a new Board Member Services Agreement.

9 **Termination**

9.1 Your appointment will terminate forthwith without any entitlement to compensation in respect of your removal if:

9.1.1 you are removed as a member of the Board for whatever reason whether by special resolution passed at a general meeting of the Company held in accordance with the Constitution or otherwise,

9.1.2 you cease to be a member of the Board whether by reason of your vacating office or otherwise pursuant to any provision of the Constitution,

- 9.1.3 you become bankrupt or subject to an agreement with your creditors,
 - 9.1.4 you are convicted of any indictable offence or any other offence involving any act of fraud or dishonesty,
 - 9.1.5 you act in any way which in the opinion of a three-quarter majority of the Board brings the Company into disrepute or in a way which is considered to be unbecoming to the role of the Board Member.
 - 9.1.6 you have been absent from meetings of the Board or Committees for 4 consecutive months or from 33% of meetings during the course of 12 months without special leave of absence or other reasonable explanation and the Board resolves for your office to be vacated
 - 9.1.7 a Company with the statutory authority to regulate the activities of the Company requires or orders your removal,
 - 9.1.8 the Chair notifies you that they consider there has been material underperformance at any time in the performance of your duties under this Agreement or that you have been in breach of clause 5 of this Agreement or the Code of Conduct, or
 - 9.1.9 any other provision of the Constitution relating to the disqualification and removal of Board Members applies.
- 9.2 The proper exercise by the Company of the right of termination under this clause 9 shall be without prejudice to any other rights or remedies which the Company may have or be entitled to exercise against you.
- 9.3 Upon termination of this Agreement you will not be entitled to payment of all or any part of the Fee unpaid at the date of termination unless the Chair shall, at his/her absolute discretion, determine that you shall be paid all or a proportion of the Fee.
- 10 **Position on termination**
- 10.1 Upon the termination of your appointment by whatever means:
- 10.1.1 you shall at the request of the Company immediately resign from all offices that you hold pursuant to the terms of this Agreement. In each case, you agree to do so without claim for compensation, and
 - 10.1.2 you shall not represent yourself as being in any way connected with the Company.
- 10.2 In the event of your failure to comply with clause 10.1.1 above, you hereby irrevocably authorise the Company Secretary to appoint someone in your name and on your behalf to sign and deliver such resignation or resignations to the Company.
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11 **Status**

11.1 It is agreed and recognised between the parties that you are and will remain at all times during the period of this Agreement, a member of the Board and that there will be no employment relationship between the parties and that there is no one working for the Company that has a comparable full time position.

11.2 This Agreement shall not be construed so as to create a partnership or joint venture between the parties. Nothing in this Agreement shall be construed so as to constitute either party as the agent of the other party or the agent of any third party.

12 **General**

12.1 This Agreement and any documents referred to in it embody and set out the entire agreement and understanding of the parties and supersedes all prior oral or written agreements, understandings or arrangements relating to the subject matter of this Agreement. Neither party shall be entitled to rely on any agreement, understanding or arrangement which is not expressly set out in this Agreement.

12.2 This Agreement shall not be amended, or modified, varied or supplemented except as agreed in writing and signed by the parties.

12.3 No failure or delay on the part of either party to exercise any right or remedy under this Agreement shall be construed or operate as a waiver nor shall any single or partial exercise of any right or remedy as the case may be. The rights and remedies provided in this Agreement are cumulative and are not exclusive of any rights or remedies provided by law.

13 **Insurance and Indemnity**

13.1 The parties acknowledge their intention that, in the performance of your duties under this appointment, your duties and responsibilities shall be owed exclusively to the Company, and that it is not intended that any act or omission on the part of you (save to the extent that the same amounts to wilful fraud, wrongdoing or wrongful omission or gross negligence or unauthorised conduct) shall give rise to any personal liability on the part of you to the Company, or to any third party.

13.2 Accordingly, in the event of any claim being made against you in respect of any alleged act or omission committed in the course of your appointment by the Company (not amounting to wilful fraud, wrongdoing or wrongful omission or gross negligence or unauthorised conduct), the Company, will indemnify you against all sums which you may be legally liable to pay to the claimant, whether by way of damages, interest or costs, including any excess payable as a term of any directors and officers' liability insurance policy as referred to below. In addition the Company will indemnify you against any excess payable on any additional professional indemnity insurance cover which may

be required in circumstances as set out in paragraph 13.5. The Company will also indemnify you in respect of reasonable costs and expenses incurred in the defence of any such claim, provided that the same shall have been incurred with the prior written consent of the Company or its insurers.

- 13.3 The Company undertakes not to claim against you any indemnity, contribution or damages in respect of any liability which it may incur by reason of any claim against you arising out of any alleged act or omission committed in the course of your appointment (not amounting to wilful fraud, wrongdoing or wrongful omission or gross negligence or unauthorised conduct).
- 13.4 The following are conditions precedent to your entitlement to indemnity under this clause and to the undertaking of the Company under 13.3 above:
- 13.5 You will notify Barnet Homes immediately of any claim being made or intimated against you and of any circumstance arising which may give rise to a claim.
- 13.6 You will not make any admission to or negotiate or agree any settlement with any third party without the prior written consent of Barnet Homes or its insurers.
- 13.7 You will fully co-operate with Barnet Homes and its insurers in the investigation, defence and settlement of any claim or potential claim: such co-operation will be given without charge, save that Barnet Homes will pay all reasonable expenses actually incurred.
- 13.8 Barnet Homes or its insurers will be entitled to take over and conduct in your name the defence of any proceedings brought against you.
- 13.9 The Company will ensure that, during the full term of your appointment and for a period of at least six years following termination of your appointment, and to the extent that such insurance is available at reasonable rates, for a minimum of six years after the Company ceases to exist, you will be insured under the Company's directors and officers' liability insurance on an each and every claim basis against any claim arising from acting in the course of your appointment by the Company, except to the extent that the claim arises from wilful fraud, wrongdoing or wrongful omission or gross negligence or unauthorised conduct. To the extent available to the Company at commercially reasonable rates, and to the extent applicable, such insurance will comply in all respects with the provisions of compulsory professional indemnity insurance regulations of the Royal Institution of Chartered Surveyors or any other professional body of which you are a member for the time being in force. To the extent that you arrange additional professional indemnity insurance to comply with such regulations for the time being in force, The Company will reimburse premiums paid or, as appropriate, additional premiums paid in respect of an existing policy.
- 13.10 The directors and officers' liability insurance arranged by the Company shall be in a minimum aggregate annual insured sum of £2 million, shall include
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cover for legal defence costs, and shall be subject to such reasonable qualifications and exclusions as shall be imposed by the insurers. A copy of the policy documents is available on request from the Director of Financial Services or his Personal Assistant.

14 **Personal Details**

14.1 The Company may be required to use various of your personal details from time to time to comply with government, regulatory or other requirements.

15 **Notices**

15.1 Any notice to be given hereunder shall be in writing and be sufficiently served:

15.2 in your case by being delivered either personally to you or sent by registered post addressed to you at your usual or last known place of abode, or

15.1.2 in the case of the Company by being delivered at or sent by registered post or recorded delivery addressed to its registered office marked for the attention of the secretary.

15.2 Any such notice if so posted shall be deemed to be served on the second day following that on which it was posted.

16 **Declaration**

16.1 By signing this document you are agreeing and declaring that you are not aware of any reasons that would or would be likely to make you ineligible to serve as a Board Member of the Company and in particular that:

16.1.1 you are not bankrupt or subject to any agreement with your creditors,

16.1.2 you are not disqualified for any reason from acting as a company director or charity trustee,

16.1.3 you have not been convicted of any indictable offence that would be likely to bring the company into disrepute, and

16.1.4 you have made a full declaration to the Company of any actual or potential conflicts of interest affecting you, members of your family and businesses or other companies with which you are associated.

Law and jurisdiction

16.2 The terms of this Agreement shall be governed by the Laws of England and the parties

signed by [name of authorised signatory])
for and on behalf of Barnet Homes Limited)

signed by [name])
