

DATED 6th of July 2023

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| MID SUFFOLK DISTRICT COUNCIL | (1) |
| SUFFOLK COUNTY COUNCIL | (2) |
| GLADMAN DEVELOPMENTS LIMITED | (3) |
| JONATHAN JOSEPH BROWN, PATRICIA BROWN AND STEPHEN JOSEPH BROWN T/A JIM BROWN & SON | (4) |

S106 AGREEMENT

Relating to land off Ixworth Road, Thurston

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This Deed is made the 12 day of July 2023

Between:

- (1) **MID SUFFOLK DISTRICT COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, Suffolk IP1 2BX ("the District Council") and
- (2) **SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, Suffolk IP1 2BX ("the County Council") and
- (3) **JONATHAN JOSEPH BROWN, PATRICIA BROWN and STEPHEN JOSEPH BROWN** all of Grange Farm, Thurston Road, Great Barton, Bury St Edmunds, Suffolk IP31 2PS trading in partnership as Jim Brown and Son ("the Owner") and
- (4) **GLADMAN DEVELOPMENTS LIMITED** (Co Registration No. 03441567) of Gladman House, Alexandria Way, Congleton, Cheshire CW12 1LB ("the Promoter")

Together "the Parties"

INTRODUCTION

1. The District Council is the local planning authority for the purposes of the Act for the area in which the Site is situated and by whom the obligations contained in this deed are enforceable.
2. The County Council is the local highway authority (except for trunk roads) and is the local education authority and is also a local planning authority for the purposes of the Act for the area in which the Site is situated and by whom the obligations contained in this deed are enforceable.
3. The ownership and other interests in the Site are as set out in the First Schedule.
4. The Owner and the Promoter have entered into the Promotion Agreement

5. The Promoter submitted the Application to the District Council for the Development and the District Council failed to determine it within the statutory time period and the Promoter has submitted the Appeal for determination by the Secretary of State
6. The Owner is prepared to enter into this deed in order to secure the planning obligations it creates in the event that Planning Permission is granted pursuant to the Appeal.

**NOW THIS DEED WITNESSES AS FOLLOWS:
OPERATIVE PART**

1. DEFINITIONS

For the purposes of this deed the following expressions shall have the following meanings and shall be read in conjunction with the definitions set out in the Second Schedule:

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| "Act" | the Town and Country Planning Act 1990 (as amended) |
| "Affordable Housing" | subsidised housing that will be available to persons who cannot afford to rent or buy housing generally available on the open market in accordance with annexe 2 of the National Planning Policy Framework of July 2021 |
| "Affordable Housing Contribution" | means the sum calculated in accordance with the District Council's approved affordable housing policies in place at the time to be paid to the District Council to spend on Affordable Housing within the administrative district of the District Council in the event that the Owner is unable to dispose of the Affordable Housing in accordance with the Second Schedule Part 2 |
| "Affordable Housing Nomination Agreement" | an agreement substantially in the form set out in the Sixth Schedule (subject to such amendments as may be reasonably required by the Registered Provider with a view to ensuring that the objectives of that agreement are met) dealing with the allocation of the Affordable Housing by a Registered Provider which shall apply to all of the Affordable Housing Units and "Nomination Agreement" shall have the same meaning |

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| “Affordable Housing Scheme” | a written scheme approved by the District Council as part of the reserved matters application or the written approval of the District Council identifying the location number of bedrooms, mix and tenure of each Affordable housing Unit (unless otherwise agreed in writing with the District Council) |
| “Affordable Housing Units” | means thirty-five per cent (35%) (rounded to the nearest whole number) of the total Dwellings to be provided on the Site pursuant to the Affordable Housing Scheme and the Planning Permission to be Occupied as Affordable Housing in accordance with the Affordable Housing Scheme which for the avoidance of doubt and unless otherwise agreed in writing with the District Council shall comprise thirty percent (30%) Shared Ownership Dwellings occupied in accordance with the Help to Buy Agents’ procedures’ or any that shall replace them and seventy per cent (70%) Affordable Rent Dwellings allocated in accordance with the Council’s Choice Based Letting Scheme or such other affordable products as defined in the NPPF and agreed in writing with the District Council |
| “Affordable Rent” | means housing made available by a Registered Provider as low-cost rental accommodation (as defined by section 69 of the Housing and Regeneration Act 2000) with a rent charged at a level up to 80% of the equivalent market rent including any service charges applicable |
| “Annual Infrastructure Funding Statement” | means an annual infrastructure funding statement as required by Regulation 121A of the CIL Regulations |
| “Appeal” | means the appeal to the Secretary of State following the non-determination of the Application by the District Council given the appeal reference APP/W3520/W/23/3317494 |
| “Application” | the application for outline planning permission for the Development validated by the District Council |

on 1 May 2019 and allocated reference DC/19/02090

"Approval"

the reserved matters approval which first establishes the Composition of the Development PROVIDED THAT where more than one reserved matter approval is obtained in respect of the Development for the purposes of calculating liability for the contributions comprising planning obligations in this Agreement shall mean the reserved matter approval which is implemented for the purposes of section 56(4) of the Act

"Car Club"

means a pay-as-you-drive car club offering members access to a vehicle without ownership and which is designed to reduce the levels of car ownership by residents and occupiers of the Development and in the vicinity of the Development;

"Chargee of the Registered Provider"

any mortgagee or chargee of the Registered Provider or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 or housing administrator pursuant to section 101 of the Housing and Planning Act 2016

"Chargee's Duty"

the tasks and duties set out in paragraph 1.9 of Part 2 of the Second Schedule hereto

"Choice Based Lettings Scheme"

an integrated electronic and manual information system which enables members of the public who have made or potentially might make an application for housing in the area to which the Choice Based Letting Scheme relates to apply for a selection of suitable property or be supplied with details of housing available throughout the relevant area operated pursuant to any agreement to which the District Council is a party

"CIL"

means Community Infrastructure Levy as defined in Regulation 3 of the CIL Regulations

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| "CIL Regulations" | means the Community Infrastructure Levy Regulations 2010 (as amended) |
| "Commencement of Development" | 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, construction of access road; construction of temporary site compound and temporary marketing suite; erection of any temporary means of enclosure and the temporary display of site notices or advertisements and "Commence" and "Commenced" shall be construed accordingly |
| "Completion of the Development" | the date that the last Dwelling is first Occupied |
| "Composition of the Development" | means the total number of Dwellings comprised in the Approval |
| "Cycle Scheme Contribution" | means the sum to be calculated on a per Dwelling basis as: £150 (one hundred and fifty pounds) x total number of Dwellings (Index Linked) to be paid to the District Council in accordance with the Second Schedule to be spent on the provision of a voucher to be supplied to each Dwelling prior to first Occupation for the Occupier to spend on a bicycle |
| "Decision Letter" | means the decision letter issued by the Planning Inspector or the Secretary of State confirming whether or not the Appeal is allowed |
| "Development" | the outline planning application for the erection of up to two hundred and ten (210) Dwellings and new vehicular access to include planting and |

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| | | | | landscaping, natural and semi natural green space including community growing space(s), children's play area and sustainable drainage system (SuDS) to include 35% affordable dwellings as set out in the Application |
| | "Dog Bins Contribution" | | | shall mean the sum of £3,713 (three thousand seven hundred and thirteen pounds) (Index Linked) to be paid to the District Council in accordance with the Second Schedule towards the provision of 5 (five) dog bins within the Site and regular emptying and maintenance of the dog bins over 10 (ten) years |
| | "Dwelling" | | | any dwelling (including a house bungalow flat or maisonette) to be constructed pursuant to the Planning Permission and "Dwellings" shall be construed accordingly |
| | "Early Years Contribution" | | | means the sum to be calculated on a per Dwelling basis as : £1,619.40 (one thousand six hundred and nineteen pounds and forty pence) x total number of Dwellings (Index Linked) to be paid to the County Council in accordance with the Third Schedule towards the Education Purposes |
| | "Education Purposes" | | | means build costs calculated at £4167.15 per Dwelling towards a new Primary School Facility and build costs calculated at £1619.40 per Dwelling towards a new Preschool Facility on land to the north of Norton Road Thurston (in either case whether previously forward funded or not) |
| | "Electric Vehicle Charging Point Contribution" | | | the sum of £3,000 (three thousand pounds) (Index Linked) to be paid to the District Council for the provision of an electric vehicle charging point within the Village of Thurston in the event that a public charging point is not provided by the Owner within the Site |
| | "HE" | | | means Homes England or such other organisation as may from time to time be the Regulator of Social |

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| | Housing or such other body with statutory force charged with regulating Registered Providers |
| "Highway Works" | <p>A new shared cycleway on the east side of Ixworth Road and controlled crossing point linking the Site to existing footway network</p> <p>Tabletop traffic calming at Norton Road/Ixworth Road junction with controlled crossings</p> <p>Controlled pedestrian crossing on Barton Road near junction with Heath Road.</p> |
| "Highways Contribution" | shall mean the sum of £45,000 (forty five thousand pounds) Index Linked to be expended on the Microprocessor Optimised Vehicle Actuation (MOVA) improvement works at the Bunbury Arms Junction, Thurston. |
| "Highways Works Phasing Plan" | shall mean a plan showing all the Highway Works that are to be carried out and shall identify when each of the works is to have been provided prior to occupational Triggers within the Development |
| "Index" | All In Tender Price Index published by the Building Cost Information Service or any successor organisation |
| "Index Linked" | the increase in any sum referred to in the Second and Third Schedules by an amount equivalent to the increase in the Index or (where the context indicates) the RPI Index to be calculated in accordance with Clause 12 of this deed |
| "Late Payment Interest" | interest at 4 per cent above the minimum lending rate of the Bank of England from time to time |
| "Management Company" | a company or body who may take over responsibility for the future maintenance of the Open Space which definition may include a resident's association established for this purpose |

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| | or a private limited company whether already in existence or formed for the purposes of managing the Open Space |
| "Market Housing Units" | those Dwellings which are general market housing for sale or rent on the open market and which are not Affordable Housing Units |
| "Nominated Body" | means one or any of the following in the following order: a) the District Council; or b) such other body as the District Council may nominate; or c) a Management Company and "Nominated Bodies" shall be construed accordingly |
| "Notice of Actual Commencement" | notice in writing to advise of the actual date of Commencement of Development |
| "Notice of Expected Commencement" | notice in writing to advise of the expected date of Commencement of Development |
| "Occupation" | 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 "Occupied" and "Occupy" shall be construed accordingly |
| "Open Space" | the open space and landscaping and onsite play area to be provided on the Site for use by the general public in accordance with the Planning Permission and the Open Space Specification |
| "Open Space Maintenance Sum" | shall mean the commuted sum of £4.59 (four pounds and 59 pence) per sqm per annum of Open Space (that comprises equipped play space) plus £0.62 (sixty two pence) per sqm per annum of Open Space (including any areas of Open Space that does not include equipped play space) payable to the District Council for a period of 10 (ten) years to |

spend on the maintenance and management of the Open Space in the event the Open Space is to be managed by the District Council or their nominee

"Open Space Plan"

a plan to be submitted to the District Council for approval indicating the location of the Open Space

"Open Space Specification"

means the specification for delivery of the Open Space including (1) the specifications plans and drawings showing but not limited to the layout and design of the Open Space, (2) the phasing and timing of the delivery of the Open Space including details of landscaping, paths, play equipment, the provision and location of dog bins urban gym trail facilities and access arrangements (3) the identity of the Nominated Body if already known or if not known to include an offer to transfer the Open Space to the District Council or such other body as the District Council may nominate and (4) details of the proposed future management regime for the Open Space in the event that such offer is not accepted and the Open Space is to be transferred to the Management Company

to be agreed in writing with the District Council in accordance with Part 3 of the Second Schedule

"Open Space Transfer"

a transfer of the Open Space and which inter alia shall contain the following provisions:

- a) The Owner shall transfer the fee simple estate free from encumbrances save for those set out in the title;
- b) All easements and rights necessary in relation to access for the benefit of the Open Space;
- c) Any exceptions and reservations in relation to drainage and services, support and access of light and air for the benefit of the Development;

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| | <p>d) Restrictive covenants by the Nominated Body or the Nominated Bodies:</p> <p>(i) Not to use or permit the Open Space to be used for any purpose other than for the provision of recreational facilities or amenity land for use by the general public as open space as defined in this deed and shown on the Open Space Plan;</p> <p>(ii) Not to use or permit the Open Space to be used in a manner which may be or become a nuisance annoyance, disturbance to the Development;</p> <p>(e) A requirement that the Nominated Body's reasonable conveyancing fees and disbursements are paid by the Owner</p> |
| "Plan" | the plan attached to this deed and numbered 2018-139/101 rev B |
| "Planning Inspector" | means the inspector appointed by the Secretary of State to preside over the public hearing in relation to the Appeal |
| "Planning Permission" | any outline planning permission subject to conditions issued by the Secretary of State or the Planning Inspector in determining the Appeal |
| "Play Equipment Contribution" | the sum of £200,000 (two hundred thousand pounds) (Index Linked) towards the provision and/or management and maintenance of new play equipment within the Open Space and for the avoidance of doubt could be used to provide a skate park or other forms of wheel play |
| "Practical Completion" | issue of a certificate of practical completion by the Owner's architect or project manager or in the event that the Development is constructed by a party other than the Owner the issue of a certificate of practical completion by that other party's architect or project manager |

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| "Preschool Facility" | means new indoor and outdoor facilities for the education and care of preschool children serving the Development and in the vicinity of Thurston |
| "Primary School Contribution" | means the sum to be calculated on a per Dwelling basis as ; £4,167.15 (four thousand one hundred and sixty-seven pounds and fifteen pence) x total number of Dwellings (Index Linked) to be paid to the County Council in accordance with the Third Schedule towards the Education Purposes |
| "Primary School Facility" | means new indoor and outdoor facilities for the education and/or care of children between the ages of 4 to 11 (both inclusive) including those with special educational needs in the vicinity of Thurston and serving the Development |
| "Primary School Land Contribution" | the sum of no more than £67,288 (sixty-seven thousand, two hundred and eighty-eight pounds) calculated by multiplying the number of Dwellings by £320.42 (Index Linked to the RPI Index) and payable towards the total primary school land acquisition cost for the land to the north of Norton Road, Thurston (whether previously forward funded or not) |
| "Priority Farmland Birds Mitigation Strategy" | a strategy which provides for the provision of mitigation measures to include: <ul style="list-style-type: none"> a) Evidenced number of Skylark nest plots b) Purpose and conservation objectives for the proposed Skylark nest plots c) Locations of the Skylark nest plots following Agri-Environment Scheme option AB4 Skylark Plots d) Locations of the Skylark plots in nearby agricultural land by appropriate maps and/or plans e) Details of persons responsible for implementing the compensation measures |

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| "Promotion Agreement" | means a promotion agreement relating to the Site dated 29 th October 2019 made between Jonathan Joseph Brown and Patricia Brown (1) and the Promoter (2) and a supplemental deed dated 1 June 2021 made between Jonathan Joseph Brown and Patricia Brown (1) Jonathan Joseph Brown, Patricia Brown and Stephen Joseph Brown (2) and the Promoter (3) |
| "Protected Tenant" | means any tenant who has exercised the right to acquire pursuant to the Housing and Regeneration Act 2008 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit; has exercised any statutory right to buy or preserved right to buy (or any contractual right) in respect of an Affordable Housing Unit; or any person who has staircased the equity in their Shared Ownership Unit to 100% |
| "Registered Provider" | means a registered provider of social housing as defined in section 80(2) of the Housing and Regeneration Act 2008 and listed in the registers kept by HE pursuant to Chapter 3 of that Act or any other body who may lawfully provide or fund affordable housing from time to time |
| "RPI Index" | means the "All Items" index figure of the Index of Retail Prices published by the Office for National Statistics from time to time or any successor organisation or (if that index shall cease to be published or is otherwise unavailable) such alternative basis of indexation as may be reasonably agreed between the Parties; |
| "RTA Purchaser" | shall mean a right to acquire purchaser pursuant to the provisions in the Housing and Regeneration Act 2008 |
| "Secretary of State" | means the Secretary of State for Levelling Up, Housing and Communities or any other minister or authority for the time being entitled to exercise the |

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| | powers under sections 77,78 and 79 of the Act and includes any successor in function |
| “Shared Ownership” | dwellings to be let on a Shared Ownership Lease to a household for which the household income does not exceed eighty thousand pounds (£80,000) per annum or such other household income for the time in force in accordance with the terms as set out in HE’s capital funding guide and ‘Shared Ownership Unit’ shall be construed accordingly |
| “Shared Ownership Lease” | a long lease (over 99 years) of an Affordable Housing Unit granted at a premium whereby no less than ten percent (10%) and no more than seventy percent (70%) on first purchase of the equitable interest in the Shared Ownership dwelling is paid by a lessee upon completion of such lease and/or raised by mortgage or charge from a bank or building society and which lease shall include arrangements enabling the lessee to acquire up to one hundred percent (100%) of the legal and equitable interest in the Shared Ownership dwelling at some future date or dates |
| “Site” | the land described in the First Schedule against which this deed may be enforced as shown edged red for identification purposes only on the Plan |
| “Sustainable Transport Contribution” | the sum of £50,000 (fifty thousand pounds) (Index Linked) payable to the District Council towards a sustainable transport project in the event that the Car Club is not established as part of the Development |
| “Travel Plan” | means the travel plan submitted and approved pursuant to the Planning Permission |
| “Travel Plan Evaluation and Support Contribution” | the sum of £1,000 (one thousand pounds) subject to BCIS Index per annum payable in accordance with part 3 of the Third Schedule of this Deed towards |

| | |
|-------------------------|--|
| | the monitoring and support by the County Council of the Travel Plan. |
| "Trigger" | shall mean the date of Commencement and any trigger or threshold in this deed linked to the taking of specified steps or the prohibition of a specified action or payment of money |
| "Village Notice Boards" | shall mean two new notice boards to be provided within the Site |
| "Working Days" | Monday to Friday (inclusive) except Good Friday, Christmas Day and public or bank holidays from time to time in England |

2. CONSTRUCTION OF THIS DEED

- 2.1 Where in this deed 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 deed
- 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 interchangeably in that manner
- 2.4 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 severally unless there is an express provision otherwise
- 2.5 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 Directive or deriving validity from it
- 2.6 Any references to any party to this deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the District Council and the County Council any successors to its statutory functions
- 2.7 The headings and contents list are for reference only and shall not affect construction

2.8 References to a "Plan" or "Drawing" in this deed shall be reference to the plans attached to this deed bearing the relevant plan number or any amended plans as shall be agreed in writing between the Owner the District Council and the County Council

2.9 None of the covenants contained in this deed on the part of the Owner shall be enforceable against:-

(a) those persons who purchase (including purchasers by way of long lease) any Dwelling for occupation by themselves or their lessees tenants or individuals of the Dwellings, nor against those deriving title from such owner-occupiers or their mortgagees or

(b) any statutory undertaker who acquires any part of the Site or interest therein for the purposes of the supply of electricity gas water drainage telecommunication services or public transport services.

2.10 Any covenant by the Owner not to do an act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done by another person

3. **LEGAL BASIS**

3.1 This deed is made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all other enabling powers

3.2 The covenants, restrictions and requirements imposed upon the Owner under this deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the District Council and the County Council as appropriate as local planning authorities against the Owner or their successors in title

3.3 This deed is a deed and may be modified or discharged in part or in total at any time after the date of this deed by deed between the Parties in the form of a deed

3.4 This deed is a local land charge and upon completion shall be registered by the District Council as such

4. **CONDITIONALITY**

4.1 The obligations set out in the Second and Third Schedules are conditional upon:

(i) the grant of the Planning Permission; and

(ii) the Commencement of the Development

save for the provisions of Clauses 3.4, 4.1, 4.2, 4.3, 4.4, 8.3, 8.4, 8.5, 8.6, 8.9, 8.14, 8.15, 10, 16, 19, 20 and 21 and any other relevant provisions which shall come into effect immediately upon completion of this deed

4.2 Where the Planning Permission is the subject of any judicial review proceedings or other legal challenge:

4.2.1 until such time as such proceedings or challenge including any appeal have been finally resolved the terms and provisions of this deed will remain without operative effect notwithstanding the issue of the Planning Permission and the Commencement of Development PROVIDED THAT the Owner shall not undertake any further works to implement the Planning Permission following the issue of such proceedings;

4.2.2 if following the conclusion of such proceedings or challenge the Planning Permission is quashed and is not superseded by a subsequent planning permission accepted by the Owner this deed will cease to have any further effect; and

4.2.3 if following the conclusion of such proceedings or challenge the Planning Permission remains valid and fully enforceable all of the terms and provisions of this deed will apply in full.

4.3 Wherever in this deed reference is made to a date on which "legal proceedings or challenge in relation to the Planning Permission are concluded" (or cognate expressions are used), the following provisions will apply:

(a) when permission to apply has been refused and no further application can be made;

(b) when the court has given judgment in the matter and the time for making an appeal expires without any appeal having been made or permission to appeal is refused; or

(c) when any appeal(s) is or are finally determined.

4.4 CIL Regulations

4.4.1 If in determining the Appeal the Secretary of State or the Planning Inspector expressly states in the Decision Letter that any planning obligation contained in this deed:

(a) is not a material planning consideration; or

(b) can be given no or little weight; or

(c) does not constitute a reason for granting Planning Permission in accordance with Regulation 122 of the CIL Regulations

then subject to clause 8.10 of this deed such planning obligation shall not be enforceable pursuant to this deed and shall cease to have effect within this deed save as set out in the Decision Letter

4.4.2 In the event that the Secretary of State or the Planning Inspector grants the Planning Permission for the Development then if at the date of the grant of the Planning Permission an Annual Infrastructure Funding Statement has been published by the Council any contribution payable under the terms of this deed which is for an infrastructure project or a type of infrastructure which is identified in the Annual Infrastructure Funding Statement as an infrastructure project or infrastructure to be funded wholly or partly by CIL shall cease to be payable.

5. THE OWNER'S COVENANTS

5.1 The Owner hereby covenants with the District Council as set out in the Second Schedule so as to bind the Site and each and every part thereof

5.2 The Owner hereby covenants with the County Council as set out in the Third Schedule so as to bind the Site and every part thereof

6. THE DISTRICT COUNCIL'S AND THE COUNTY COUNCIL'S COVENANTS

6.1 The District Council hereby covenants with the Owner as set out in the Fourth Schedule

6.2 The County Council hereby covenants with the Owner as set out in the Fifth Schedule

7. PROMOTER'S CONSENT

7.1 The Promoter acknowledges and declares that it has entered into this Agreement with the consent of the Owner with intention that the Site shall be bound and subject to the terms of this Agreement and that it consents to this Agreement being entered into by the Owner

7.2 For the avoidance of doubt in the event that the Promoter acquires ownership of the Site (or part thereof) after the date of this Agreement the Promoter shall be a successor in title to the Owner and shall be bound by this Agreement as if references to the Owner were references to the Promoter in respect of the Site (or relevant part thereof)

8. MISCELLANEOUS

- 8.1 The Owner shall act in good faith and shall co-operate both with the District Council and the County Council to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests of the District Council and or the County Council and their duly authorised officers or agents to any requests to provide documentation within the Owner's possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein
- 8.2 The Owner agrees declares and covenants both with the District Council and County Council that they shall observe and perform the conditions restrictions and other matters mentioned herein
- 8.3 The Promoter agrees to pay to the District Council on completion of this deed the proper and reasonable legal costs of the District Council incurred in the negotiation preparation and execution and completion of this deed
- 8.4 The Owner agrees to pay to the District Council on Commencement of Development its monitoring fee in the sum of £10,350.
- 8.5 The Promoter agrees to pay to the County Council on completion of this deed the proper and reasonable legal costs of the County Council incurred in the negotiation preparation and execution and completion of this deed
- 8.6 The Owner agrees to pay the County Council on completion of this deed its monitoring fee to the value of £1,428 (which may include any sums previously paid by the Owner for this purpose)]
- 8.7 No provisions of this deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 8.8 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the District Council or the County Council under the terms of this deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the District Council by the Chief Planning Officer or officer acting under his hand and on behalf of the County Council by the Executive Director of Growth Highways and Infrastructure or an officer acting under his hand 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
- 8.9 Following the performance and satisfaction of all the obligations contained in this deed the District Council shall forthwith on the written request of the Owner mark accordingly all entries made in the Register of Local Land Charges in respect of this deed

- 8.10 Insofar as any clause or clauses or paragraphs of this deed 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 deed
- 8.11 This deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of the Development and the District Council will effect cancellation of all entries in the Register of Local Land Charges in respect of this deed
- 8.12 No person shall be liable for any breach of any of the planning obligations or other provisions of this deed after it shall have parted with its entire interest in the Site (or part where such breach occurs) but without prejudice to liability for any subsisting breach arising prior to parting with such interest and for the purposes of this clause a person parts with an interest in the Site notwithstanding the retention of easements or the benefit of covenants, restrictions or reservations in respect of it
- 8.13 Nothing in this deed 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 deed
- 8.14 Nothing contained or implied in this deed shall prejudice or affect the rights, discretions, functions, powers, duties and obligations of the District Council or the County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of its functions as local authorities
- 8.15 The Owner hereby agrees that any rights to claim compensation arising from any limitations or restrictions on the planning use of the Site under the terms of this deed are hereby waived unless the Planning Permission is modified by any statutory procedure without the consent of the Owner
- 8.16 The Owner covenants and warrants to the District Council and the County Council that they have full power to enter into this deed and there is no other person having a charge over or any other interest in the Site whose consent is necessary to make this deed binding on the Site and all estates and interests therein
- 8.17 Unless otherwise agreed in writing by the Council and the Owner in the event that the Owner (or any successor in title) obtains planning permission pursuant to an application under section 73 of the Act to vary any condition of the Planning Permission then this deed shall be binding upon any planning permission granted pursuant to such application as if it were the Planning Permission

9. **WAIVER**

No waiver (whether expressed or implied) by the District Council the County Council or the Owner of any breach or default in performing or observing any of the covenants terms or conditions of this deed shall constitute a continuing waiver and no such waiver shall prevent the District Council County Council or the Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default

10. **CHANGE IN OWNERSHIP**

The Owner agrees with the District Council and the County Council to give each of them independently written notice of any transfer in ownership of its freehold interest in the Site (save for disposals of individual Dwellings or to any statutory undertaker) occurring before all the obligations under this deed have been discharged such notice to be served within twenty (20) Working Days of such transfer quoting the District Council's reference DC/19/02090 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 purchased by reference to a plan and a copy of the registered title and plan thereto.

11. **RIGHTS OF ENTRY**

11.1 During the construction of the Development on not less than twenty-four (24) hours written notice except in case of emergency the Owner shall allow any employee or agent of the District Council or the County Council entry to the Site for the purposes of inspection and monitoring compliance with the provisions of this deed PROVIDED THAT:

11.1.1 such employee or agent on arrival at the Site shall if requested by any person present who appears to be the Owner the manager or person in charge thereof produce evidence of identity;

11.1.2 such entry shall be effected between 08:00 and 17:00 on any Working Day;

11.1.3 such employee or agent may be accompanied by such other persons as may be reasonably necessary for the purposes of the inspection;

11.1.4 such employee or agent may take photographs measurements and levels;

11.1.5 such employee or agent may not remain on the Site for any longer than is reasonably necessary for carrying out a proper inspection;

11.1.6 such employee or agent and any other accompanying persons shall comply with the Owner or the Owner's representatives reasonable directions and precautions in the interests of safety and the Owner may refuse entry if such employee or agent fails to do so;

11.1.7 such employee or agent shall not be entitled to access any Dwellings that have been sold.

12. INDEXATION

Any sum referred to in the Second or Third Schedules (unless the context reads otherwise) shall be increased by an amount equivalent to the increase in the Index or RPI Index (as the context dictates and unless the context reads otherwise) from the date hereof until the date on which such sum is payable using the application of the formula $A = B \times (C/D)$ where:

12.1 A is the sum payable under this deed;

12.2 B is the original sum calculated as the sum payable;

12.3 C is the Index or RPI Index (as applicable) for the month 2 months before the date on which the sum is payable;

12.4 D is the Index or RPI Index (as applicable) for the month 2 months before the date of this deed; and

12.5 C/D is greater than 1

13. INTEREST

If any payment due under this deed is paid late Late Payment Interest will be payable from the date payment is due to the actual date of payment

14. VAT

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

15. NOTICES

15.1 Any notices or other written communication to be served or given by one party upon or to any other party under the terms of this deed shall be deemed to have been validly served or given if delivered by hand or sent by first class recorded delivery post to the party upon whom it is to be served or to whom it is to be given or as otherwise notified for the purpose by notice in writing PROVIDED THAT the notice or other written communication is addressed and delivered or sent by first class recorded delivery post to the address of the party concerned as nominated in clause 15.2

15.2 The address for any notice or other written communication in the case of each party to this deed shall be as follows:-

| | |
|----------------------|--|
| The District Council | The Chief Planning Officer, Mid Suffolk District Council, Endeavour House, 8 Russell Road, Ipswich, IP1 2BX |
| The County Council | The Executive Director of Growth, Highways and Infrastructure, Suffolk County Council, Endeavour House, 8 Russell Road, Ipswich, IP1 2BX |
| The Owner | Grange Farm, Thurston Road, Great Barton, Bury St Edmunds, Suffolk IP31 2PS |
| The Promoter | Gladman Developments Limited, Gladman House, Alexandria Way, Congleton, Cheshire CW12 1LB |

16. DISPUTE PROVISIONS

16.1 Any dispute or difference of any kind whatsoever arising between any or all of the Parties out of or in connection with this deed (including without limitation any question regarding its existence validity or termination) shall be referred to arbitration before a single Expert ("the Expert")

16.2 The Parties to the dispute shall jointly appoint the Expert not later than twenty (20) Working Days after service of a request in writing by any Party to the dispute to do so

16.3 If the Parties to the dispute are unable to agree within twenty (20) Working Days' as to the appointment of such Expert then the Expert shall be appointed on the application of either of the Parties to the dispute as follows:

16.3.1 difference or question relates to the rights and liabilities of either Party to the dispute or to the terms or conditions to be embodied in the deed or document appertaining to the deed it shall be referred to a solicitor or barrister notified by or on behalf of the President for the time being of the Law Society; or

16.3.2 difference or question relates to highway works engineering demolition building or construction works it shall be referred to a chartered civil engineer notified by or on behalf of the President for the time being of the Institution of Civil Engineers; or

16.3.3 difference or question relates to the value of any interest in property it shall be referred to a chartered surveyor agreed upon by the Parties but in default of agreement appointed by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors; or

- 16.3.4 if such difference of question relates to planning and related matters it shall be referred to a chartered town planner agreed upon by the Parties but in default of agreement by or on behalf of the President for the time being of the Royal Town Planning Institute.
- 16.4 In the event of a reference to arbitration the Parties to the dispute agree to:
- 16.4.1 prosecute any such reference expeditiously; and
- 16.4.2 do all things or take all steps reasonably necessary in order to enable the Expert to deliver any award (interim, final or otherwise) as soon as reasonably practicable
- 16.5 The Expert will have the power to consolidate proceedings or hold concurrent proceedings and to order on a provisional basis any relief which he would have power to grant on a final award
- 16.6 The award shall be in writing signed by the Expert and shall be finalised within ten (10) Working Days' of the hearing
- 16.7 The award shall be final and binding both on the Parties to the dispute and on any persons claiming through or under them and judgment upon the award may be entered in any court having judicial acceptance of the award and an order of enforcement as the case may be
- 16.8 Unless this deed has already been terminated each of the Parties to the dispute shall in every case continue to comply with its obligations under this deed regardless of the nature of the dispute and notwithstanding the referral of the dispute for resolution pursuant to this clause 16 but without prejudice to the rights and obligations of the Parties to the dispute in relation to the termination of the deed
- 16.9 The provisions of this clause 16 shall not affect the ability of the District Council and/ or County Council to apply for and be granted any of the following: declaratory relief injunction specific performance payment of any sum damages any other means of enforcing this deed and consequential and interim orders and relief

17. SATISFACTION OF ANY OF THE PROVISIONS OF THIS AGREEMENT

- 17.1 Where in the opinion of the Owner any of the provisions of this deed have been satisfied the Owner shall be entitled to apply to the District Council or the County Council for a certificate to that effect and upon the District Council or the County Council being satisfied that the relevant agreement obligation and covenant as the case may be has been satisfied the District Council or County Council shall forthwith issue a certificate to such effect

18. APPROVALS

18.1 Where any details, programmes, plans, strategies, reports, matters or materials are approved by the District Council or the County Council under the terms of this deed further or amended details programmes plans strategies reports matters or materials may be submitted from time to time and if approved by the District Council or County Council shall replace those previously approved

19. COMMUNITY INFRASTRUCTURE LEVY

19.1 The Parties to this deed agree that for the purposes of the CIL Regulations the obligations imposed in this deed are

- 19.1.1 necessary to make the Development permitted pursuant to the Application acceptable in planning terms;
- 19.1.2 directly relate to the Development permitted pursuant to the Application; and
- 19.1.3 fairly and reasonably relate in scale and kind to the Development permitted pursuant to the Application.

20. JURISDICTION

This deed is governed by and interpreted in accordance with English law and shall be determined in the courts of England

21. DELIVERY

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

22. MORTGAGEE IN POSSESSION

A subsequent mortgagee of all or any part of the Site will not incur any liability for any breach of the obligations contained in this deed unless and until it becomes a mortgagee in possession of the Site or appoints a receiver or administrative receiver under a security

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

PROVIDED THAT

- (i) any mortgagee, receiver or administrative receiver shall only be liable for any breach that itself has caused whilst mortgagee in possession and shall not be liable for any pre-existing breach; but
- (ii) any sale by any mortgagee, receiver or administrative receiver shall itself be subject to any pre existing breach and such breach shall subject to the other provisions of this clause be binding on any successor in title to the relevant mortgagee, receiver or administrative receiver.



The COMMON SEAL of
MID SUFFOLK DISTRICT COUNCIL
was affixed in the presence of:



12776



Authorised Signatory

THE COMMON SEAL of
SUFFOLK COUNTY COUNCIL
was affixed in the presence of:



EMILY
SPRINGFORD

65844



Authorised Officer

EXECUTED AS A DEED
by JONATHAN JOSEPH BROWN
in the presence of -



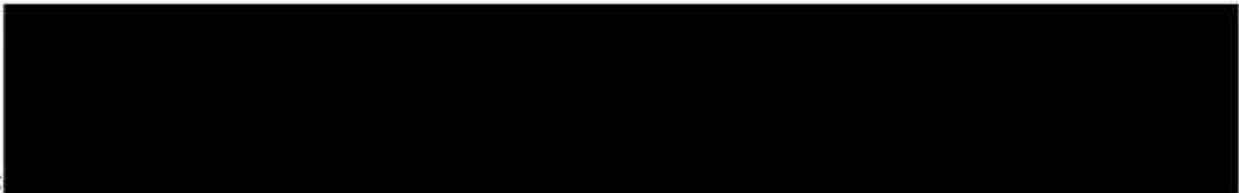
Jonathan J. Brown.

Witness Signature:

Full Name:

Address:

Witness Occ



EXECUTED AS A DEED
by PATRICIA BROWN
in the presence of -



Patricia Brown

Witness Signature:

Full Name: ALEXANDER GEORGE TURNER

Address: ROSE COTTAGE, HIGH STREET, RATTLESDEN, SUFFOLK IP300RA

Witness Occupation: CHARTERED SURVEYOR

EXECUTED AS A DEED
 by **STEPHEN JOSEPH BROWN**
 in the presence of:-

)
) *Stephen Brown*
)

[Signature]

Witness Signature:

Full Name [Redacted]
 Address: [Redacted]
 Witness [Redacted]

EXECUTED AS A DEED)
 By **GLADMAN DEVELOPMENTS LIMITED**)
 Acting by *Victoria Ann* a director)
 in the presence of: *MEISSON*)

[Redacted]

Witness' signature..... [Redacted]

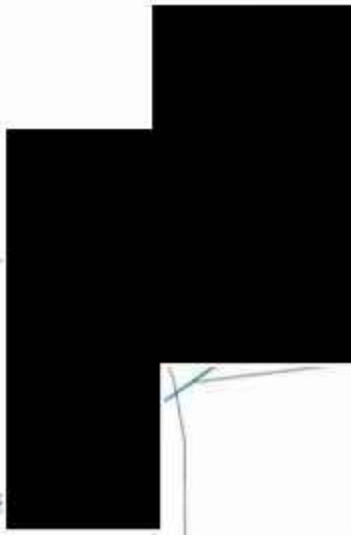
Full Name.....
 Address.....
 Witness occupation

Name *RACHEL GODDARD*
Solicitor
 Gladman Legal Department
 Gladman House Alexandria Way
 Congleton Cheshire CW12 1LB

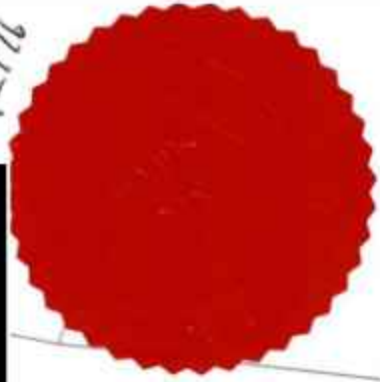
FIRST SCHEDULE

Details of the Owner's Title, and description of the Site

The freehold land shown edged red on the Plan consisting of the land known as land lying to the east side of Ixworth Road, Thurston, Bury St Edmunds, Suffolk registered with the Land Registry under Title Number SK390163



12771



659844



SECOND SCHEDULE

OWNER'S COVENANTS WITH THE DISTRICT COUNCIL

PART 1

- 1 The Owner shall give the District Council Notice of Expected Commencement not less than five (5) Working Days before the date that the Owner expects Commencement of Development to occur and (ii) within fifteen (15) Working Days of Commencement of Development Notice of Actual Commencement in order to confirm that Commencement of Development has occurred
- 2 The Owner shall give the District Council no less than one (1) months' written notice of the anticipated date for the first Occupation of the first Dwelling
- 3 The Owner shall within five (5) Working Days give written notice to the District Council following
 - 3.1 the date of Occupation of the first Dwelling
 - 3.2 the date of Occupation of the final Dwelling

PART 2

AFFORDABLE HOUSING

- 1.1 The Development shall consist of up to seventy-four (74) Affordable Housing Units comprising indicatively as follows unless otherwise agreed in writing with the District Council:

Affordable Rented – 52 Dwellings

12 x 1 bedroom 2 person semi-detached houses@ minimum of 58 sqm (to be provided in minimum of 2 clusters of 6)

4 x 2 bedroom 4 person bungalows@ 70 sqm

26 x 2 bedroom 4 person houses@ minimum of 79 sqm

8 x 3 bedroom 5 person houses@ minimum of 93 sqm

2 x 3 bedroom 6 person houses @ minimum of 102 sqm

Shared Ownership Dwellings – 22 Dwellings

17 x 2 bedroom 4 person houses @ minimum of 79 sqm

5 x 3 bedroom 5 person houses @ minimum of 93 sqm

For the avoidance of doubt if the Approval includes fewer than 210 Dwellings the number and types of Affordable Units shall be reduced proportionately by agreement in writing with the District Council

- 1.2 The Owner covenants not to Commence Development until the Affordable Housing Scheme has been submitted to and approved by the District Council in writing PROVIDED THAT an amended, revised or substituted Affordable Housing Scheme may be approved by the District Council in writing following the Commencement of Development and once approved by the District Council such scheme will form part of this deed as if the same had been fully set out herein
- 1.3 Having given notice under paragraph 1 of this Schedule 2 Part 1 above the Owner shall use reasonable endeavours to agree with the Council within 2 months of said notice the identity of the Registered Provider or other body to which the Affordable Housing Units are to be transferred such agreement not to be unreasonably withheld or delayed.
- 1.4 Following the Commencement of Development the Owner shall construct the Affordable Housing Units in accordance with the Planning Permission and the Affordable Housing Scheme and shall meet the Nationally Described Space Standards Technical Guidance March 2015 or any that supersede them
- 1.5 Subject to paragraph 1.10 to 1.13 inclusive below the Owner shall not
 - 1.5.1 Occupy or permit Occupation of more than 50% (fifty per cent) (rounded up to the nearest whole number) of the Market Housing Units until 50% (fifty per cent) (rounded up to the nearest whole number) of the Affordable Housing Units have been constructed and are ready for Occupation and in the case of the Affordable Housing Units that are either Affordable Rented Housing Units or Shared Ownership Dwellings that those units have been transferred to the Registered Provider
 - 1.5.2 Occupy or permit Occupation of more than 80% (eighty per cent) (rounded up to the nearest whole number) of the Market Housing Units until all of the Affordable Housing Units have been constructed and are ready for Occupation and in the case of the

Affordable Housing Units that are either Affordable Rented Housing Units or Shared Ownership Dwellings that those units have been transferred to the Registered Provider

1.6 Any transfer to a Registered Provider of the land on which the Affordable Housing Units will be constructed shall be:

1.6.1 with vacant possession;

1.6.2 free from any encumbrance other than existing at the time of the disposition (save for any financial charge or the transfer of statutory apparatus by the Owner to any statutory undertaker);

1.6.3 subject to grant by the Owner to the Registered Provider of all rights of access and passage of services and other rights reasonably necessary for the beneficial enjoyment of the Affordable Housing Units;

1.6.4 subject to a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the purpose of the construction, operation, use, maintenance and management of the Development;

1.6.5 subject to a requirement to enter into the Affordable Housing Nomination Agreement with the District Council

1.7 The Affordable Housing Units shall be Occupied for no other purpose than as Affordable Housing save where provided otherwise in paragraphs 1.8, 1.9 and 1.12 below

1.8 The District Council and the Owner agree that the obligations and restrictions contained in this Second Schedule Part 2 paragraph 1 shall not bind:

1.8.1 a mortgagee, chargee or receiver of any Affordable Housing Unit(s) who has complied with the provisions of paragraph 1.9 of this part of this Schedule;

1.8.2 any RTA Purchaser;

1.8.3 any Affordable Housing Unit where a Registered Provider sells to a tenant through Social Homebuy funded pursuant to section 19(3) of the Housing and Regeneration Act 2008, a voluntary grant scheme under section 21 of the Housing Act 1996 or any amendment or replacement thereof;

1.8.4 a leaseholder of a Shared Ownership Dwelling who is entitled to exercise their right under a Shared Ownership Lease to acquire 100% of the equity of their property; or

1.8.5 a Protected Tenant; or

1.8.6 any person or body deriving title through or from any of the parties mentioned in this paragraph 1.8.

1.9 Any Chargee of the Registered Provider shall prior to seeking to dispose of the Affordable Housing Unit(s) or any identified Affordable Housing Unit(s) (as identified on a plan to be provided to the District Council) pursuant to any default under the terms of its mortgage or charge give prior written notice to the District Council of its intention to dispose:

1.9.1 in the event that the District Council responds within 1 month from receipt of a notice indicating that

1.9.1.1 reasonable arrangements for the transfer of the Affordable Housing Unit(s) can be made in such a way as to safeguard it/them as Affordable Housing Unit(s); and

1.9.1.2 that such a transfer would take place within two (2) months from receipt of the notice

then the Chargee of the Registered Provider shall cooperate with such reasonable arrangements and use reasonable endeavours to secure such transfer for a consideration not less than the amount due and outstanding under the terms of the relevant charge or mortgage documentation including all accrued principal monies interest and costs

1.9.2 if the District Council does not serve its response to the notice served under paragraph 1.9 within one (1) month then the Chargee of a Registered Provider shall be entitled to dispose of the Affordable Housing Units free of the restrictions set out in this Second Schedule Part 2 paragraph 1 which shall from the time of the completion of the disposal cease to apply

1.9.3 if the District Council cannot within two (2) months' of the date of service of its response under paragraph 1.9.1 secure such transfer then provided that the Chargee of the Registered Provider shall have complied with its obligations under paragraph 1.9 the Chargee of the Registered Provider shall be entitled to dispose of the Affordable Housing Units free of the restrictions set out in this Second Schedule part 2 paragraph 1 which shall from the time of the completion of the disposal cease to apply

PROVIDED THAT at all times the rights and obligations in this paragraph 1.9 shall not require the Chargee of the Registered Provider to act contrary to its duties and rights under the charge or mortgage and that the District Council must give consideration to protect the interest of the Chargee of the Registered Provider in respect of monies outstanding under the charge or mortgage.

1.10 In the event that the Registered Provider (within two (2) months' of written invitation) is unable to make an acceptable offer to purchase the Affordable Housing Units or no longer wants to purchase the Affordable Housing Units the Owner shall:

1.10.1 notify the District Council three (3) months prior to the Practical Completion of the Affordable Housing Units;

1.10.2 set out the reasons (together with any supporting evidence) in writing why a transfer to the Registered Provider has not been entered into pursuant to paragraph 1.6 of this part of this Schedule

1.10.3 submit any other information reasonably requested by the District Council to satisfy why the Owner has not been able to enter into a transfer with the Registered Provider pursuant to paragraph 1.6 of this part of this Schedule

1.10.4 offer the seventy four (74) Affordable Housing Units to the District Council to be purchased by the District Council as Affordable Housing

1.11 In the event the District Council make an acceptable offer to the Owner (within two (2) months' of written invitation) for the Affordable Housing Units then the Owner shall not Occupy or permit Occupation of more than eighty per cent (80%) of the Market Housing Units until the Owner has provided the District Council with a freehold transfer document unconditionally released for completion for the transfer of the Affordable Housing Units

1.12 In the event the District Council does not make an acceptable offer to the Owner (within two (2) months' of written invitation) to purchase all of the Affordable Housing Units or the District Council indicates that they do not want to purchase the Affordable Housing Units the Affordable Housing Units shall be free of the provisions of this Second Schedule Part 2 and the Owner shall be able to sell the Affordable Housing Units as Market Housing Units subject to:

1.12.1 paying twenty per cent (20%) of the Affordable Housing Contribution to the District Council after the eleventh (11th) Affordable Housing Unit has been sold

1.12.2 paying a further twenty per cent (20%) of the Affordable Housing Contribution to the District Council after the twenty-second (22nd) Affordable Housing Unit has been sold

1.12.3 paying a further twenty per cent (20%) of the Affordable Housing Contribution to the District Council after the thirty-third (33rd) Affordable Housing Unit has been sold

1.12.4 paying a further twenty per cent (20%) of the Affordable Housing Contribution to the District Council after the forty-fourth (44th) Affordable Housing Unit has been sold

1.12.5 paying the final twenty per cent (20%) of the Affordable Housing Contribution to the District Council after the fifty-fifth (55th) Affordable Housing Unit has been sold

PROVIDED THAT where paragraphs 1.10–1.12 hereof apply the Owner shall have paid the full Affordable Housing Contribution to the District Council prior to Occupation of the 110th Market Housing Unit and shall not permit Occupation of the 110th Market Housing Unit unless and until the Affordable Housing Contribution has been paid to the District Council following which the provisions of this paragraph 1 of part 2 of this Schedule shall no longer be applicable in respect of the Affordable Housing Units and the Owner shall be free to dispose of said seventy four (74) Affordable Housing Units as Market Housing Units

PART 3

OPEN SPACE

- 1.1 The Owner hereby covenants with the District Council that prior to Commencement of Development to submit the Open Space Plan and the Open Space Specification to the District Council for approval
- 1.2 The Owner hereby covenants to pay the Play Equipment Contribution in accordance with Part 4 of this Second Schedule
- 1.3 The Owner covenants not to Commence the Development unless and until the Open Space Plan and the Open Space Specification have been approved by the District Council in writing such approval not to be unreasonably withheld or delayed
- 1.4 If the District Council fails within thirty (30) Working Days of submission of the Open Space Plan and Open Space Specification to notify the Owner of its approval of the Open Space Plan and the Open Space Specification the Owner shall be entitled to assume (1) deemed approval of the Open Space Plan and Open Space Specification and (2) that the offer to transfer the Open Space to the District Council or such body as the District Council may nominate has not been accepted
- 1.5 Prior to implementing the Open Space Specification (and subject to paragraph 1.4 above) the Owner will agree with the District Council which Nominated Body will take on the Open Space and for the avoidance of doubt there may be more than one Nominated Body
- 1.6 The Owner hereby covenants with the District Council not to permit the Occupation of any more than 75% of the Dwellings until the Open Space has been provided in accordance with the approved Open Space Plan and the Open Space Specification and for the avoidance of doubt in the event the Development is a phased development the Owner covenants with the

District Council not to permit the Occupation of any more than 75% of the Dwellings in each phase unless and until the Open Space within that phase has been provided in accordance with the approved Open Space Plan and the Open Space Specification unless otherwise agreed in writing with the District Council and for the avoidance of doubt could be an earlier date as may be agreed.

- 1.7 The Owner further covenants with the District Council at their own cost to maintain and manage the Open Space strictly in accordance with the Open Space Plan the Open Space Specification and the Planning Permission until the date of the Open Space Transfer described in paragraph 1.9 of this Part 3 of this Second Schedule has been completed and for the avoidance of doubt the Open Space can be transferred in full to the Nominated Body or if the Parties (acting reasonably) so agree in part to different Nominated Bodies
- 1.8 The Owner covenants that following the District Council's written confirmation that the Open Space has been laid out in accordance with the Open Space Plan and Open Space Specification to transfer it by way of a transfer or part thereof to the appropriate Nominated Body and such transfer to include such items as necessary and outlined in the Open Space Transfer and shall for the avoidance of doubt include a covenant that the Open Space shall thereafter be retained and maintained in accordance with the Open Space Plan the Open Space Specification and the Planning Permission for the benefit of the public
- 1.9 The Open Space is to be transferred to the Nominated Body or Nominated Bodies for the sum of one pound (£1) within twelve months (12 months) of Occupation of the last Dwelling in accordance with the Open Space Transfer or such earlier date as may be agreed in writing with the District Council and in the event that the Nominated Body is the District Council or their nominee the Owner shall pay the Open Space Maintenance Sum to the District Council on the date of the Open Space Transfer

PART 4

CONTRIBUTIONS

1. Play Equipment Contribution
 - 1.1 The Owner covenants to pay 25% of the Play Equipment Contribution to the District Council prior to Occupation of the first Dwelling or such earlier date as agreed in writing with the District Council;
 - 1.2 The Owner covenants not to Occupy or cause or permit Occupation of the first Dwelling unless and until 25% of the Play Equipment Contribution has been paid to the District Council (of such earlier date as agreed in writing with the District Council);

- 1.3 The Owner covenants to pay a further 25% of the Play Equipment Contribution to the District Council prior to Occupation of 25% of the Dwellings or such earlier date as agreed in writing with the District Council;
- 1.4 The Owner covenants not to Occupy or cause or permit Occupation of 25% of the Dwellings unless and until 50% of the total Play Equipment Contribution has been paid to the District Council (or such earlier date as agreed in writing with the District Council);
- 1.5 The Owner covenants to pay a further 25% of the Play Equipment Contribution to the District Council prior to Occupation of 50% of the Dwellings or such earlier date as agreed in writing with the District Council;
- 1.6 The Owner covenants not to Occupy or cause or permit Occupation of 50% of the Dwellings unless and until 75% of the total Play Equipment Contribution has been paid to the District Council (or such earlier date as agreed in writing with the District Council);
- 1.7 The Owner covenants to pay the final 25% of the Play Equipment Contribution to the District Council prior to Occupation of 75% of the Dwellings or such earlier date as agreed in writing with the District Council;
- 1.8 The Owner covenants not to Occupy or cause or permit Occupation of 75% of the Dwellings unless and until all the Play Equipment Contribution has been paid to the District Council (or such earlier date as agreed in writing with the District Council);

2. Cycle Scheme Contribution

- 2.1 The Owner covenants to pay 25% of the Cycle Scheme Contribution to the District Council prior to Occupation of the first Dwelling;
- 2.2 The Owner covenants not to Occupy or cause or permit Occupation of the first Dwelling unless and until 25% of the Cycle Scheme Contribution has been paid to the District Council;
- 2.3 The Owner covenants to pay a further 25% of the Cycle Scheme Contribution to the District Council prior to 25 % of the Dwellings being Occupied;
- 2.4 The Owner covenants not to Occupy or cause or permit Occupation of more than 25% of the Dwellings unless and until 50% of the Cycle Scheme Contribution has been paid to the District Council;
- 2.5 The Owner covenants to pay a further 25% of the Cycle Scheme Contribution to the District Council prior to 50% of the Dwellings being Occupied;

- 2.6 The Owner covenants not to Occupy or cause or permit Occupation of more than 50% of the Dwellings unless and until 75% of the Cycle Scheme Contribution has been paid to the District Council;
- 2.7 The Owner covenants to pay the final 25% of the Cycle Scheme Contribution to the District Council prior to 75% of the Dwellings being Occupied;
- 2.8 The Owner covenants not to Occupy or cause or permit Occupation of more than 75% of the Dwellings unless and until the Cycle Scheme Contribution has been paid to the District Council;

3. Dog Bins Contribution

- 3.1 The Owner covenants to pay to the District Council the Dog Bins Collection Contribution prior to first Occupation.
- 3.2 The Owner covenants not to Occupy or cause or permit Occupation of any of the Dwellings unless and until the Dog Bins Contribution has been paid to the District Council.

PART 5

CAR CLUB

1. The Owner shall prior to Occupation of any Dwelling notify the District Council of the identity of the accredited Car Club operator which will operate the Car Club and shall submit to the District Council a copy of such parts of the contract between itself and the Car Club operator as necessary (and for the avoidance of doubt shall include as a minimum the proposed date of commencement of the Car Club, the duration of the contract and how the Car Club will operate in respect of the Site) to show that a legally binding contract has been entered into.
2. The Owner shall procure that at least two (2) vehicles shall be provided by the Car Club for use of the residents of Thurston.

3. The Owner shall ensure that once provided the Car Club is not managed and operated other than by a Car Club operator accredited by CoMoUK.
4. The Car Club shall be implemented from the date of Occupation of the 70th Residential Dwelling for so long as the car club provider (or any other such accredited Car Club operator) is ready and willing to implement, manage or operate the Car Club.
5. If eighteen (18) months after Occupation of the first Dwelling no Car Club provider is ready, willing and able to implement a Car Club after the Owner shall have used reasonable endeavours to procure the same then the Owner shall provide to the District Council evidence of their endeavours (such evidence shall include which Car Clubs have been approached, when they were approached and copies of correspondence from each of the Car Clubs confirming why they are not willing to operate a Car Club from the Site together with any further information the District Council may reasonably require) and subject to the District Council being reasonably satisfied that there would be no reasonable prospect of a Car Club being implemented then the Owner shall pay the Sustainable Transport Contribution to the District Council within 20 (twenty) Working Days of request by the District Council.
6. Upon payment of the Sustainable Transport Contribution to the District Council the terms of this Part 5 shall cease to be of any further force and effect.

PART 6

ELECTRIC VEHICLE CHARGING POINT

1. The Owner covenants that prior to Commencement of the Development they will agree with the District Council either:
 - 1.1 Prior to the Occupation of the 40th Dwelling to provide at its own cost at an agreed location within the Site an electrical vehicle charging point (comprised of no less than one dedicated parking space together with charging apparatus) for use by the public; or
 - 1.2 Prior to the Occupation of the 40th Dwelling to pay to the District Council the Electric Vehicle Charging Point Contribution to be applied by the District Council towards the provision of an electric vehicle charging point within the Parish of Thurston for use by the public

2. The Owner covenants not to cause permit or allow Occupation of the 40th Dwelling unless the electric vehicle charging point, apparatus and designated space has been provided within the Site or has paid the Electric Vehicle Charging Point Contribution to the District Council.

PART 7

PRIORITY FARMLAND BIRDS MITIGATION

1. In the event that an up to date breeding bird survey submitted for the approval of the District Council pursuant to the relevant condition to the Planning Permission indicates that priority farmland birds are found to be present and will be affected by Development on the Site, the Owner covenants to prepare the Priority Farmland Birds Mitigation Strategy.
2. The Priority Farmland Birds Mitigation Strategy shall be submitted to the District Council for their written approval prior to Commencement of Development.
3. The Owner covenants with the District Council not to commence Development until the written approval of the District Council has been received and until such time as the owners of the land on which the replacement Skylark plots as set out in the Priority Birds Mitigation Strategy approved by the District Council have entered into a legal agreement with the District Council to secure the provisions of the Priority Farmland Birds Mitigation Strategy.
4. The Priority Farmland Birds Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained for a minimum period of 10 (ten) years.
5. In the event that the survey described in paragraph 1 indicates that no priority farmland birds are found to be present or any such birds that are found to be present will not be affected by the Development then paragraphs 1 to 4 inclusive of this Part 7 of the Second Schedule shall not apply

PART 8

VILLAGE NOTICE BOARDS

1. Prior to Commencement of Development the Owner shall agree with the District Council the design and the locations of the two Village Notice Boards to be erected within the Site.
2. Prior to Occupation of 90% of the Dwellings the Owner shall at their own cost pay for the Village Notice Boards to be constructed in accordance with the design specification and erected in the two locations approved by the District Council in accordance with paragraph 1 of this Part 8 above.
3. Not to allow permit or cause Occupation of 90% of the Dwellings unless and until the Village Notice Boards have been erected in the agreed locations within the Site.

PART 9

HIGHWAYS WORKS PHASING PLAN

1. The Owner covenants not to Commence the Development unless and until the Highways Works Phasing Plan has been submitted to the District Council for its written approval.
2. The Owner covenants not to Commence the Development unless and until the written approval of the District Council to the Highways Works Phasing Plan has been received.
3. The Owner covenants to deliver the Highway Works in accordance with the Highway Works Phasing Plan (unless otherwise agreed in writing accordance with the District Council).

THIRD SCHEDULE

OWNER'S COVENANTS WITH THE COUNTY COUNCIL

PART 1

EDUCATION

1. The Owner shall give the County Council no less than one (1) months' written notice of the anticipated date for

- 1.1. Commencement of Development
 - 1.2. the first Occupation of the first Dwelling
2. The Owner shall within five (5) Working Days give written notice to the County Council following
- 2.1 the date of Occupation of the first Dwelling
 - 2.2 the date of Occupation of the 75th Dwelling
 - 2.3 the date of Completion of the Development
3. The Owner covenants to pay the Early Years Contribution and Primary School Contribution to the County Council in the following instalments:
- 3.1 50% prior to Occupation of the first Dwelling
 - 3.2 the remaining 50% prior to Occupation of the 75th Dwelling
4. The Owner covenants not to cause or allow the Occupation of the first Dwelling until 50% of the Early Years Contribution and 50% of the Primary School Contribution has been paid to the County Council.
5. The Owner covenants not to cause or allow the Occupation of any more than 74 Dwellings unless and until the Early Years Contribution and Primary School Contribution have been paid in full to the County Council.
6. The Owner covenants to pay the Primary School Land Contribution to the County Council prior to the Occupation of the first Dwelling.
7. The Owner covenants not to Occupy or permit Occupation of any Dwelling unless and until the Primary School Land Contribution has been paid to the County Council.

PART 2

HIGHWAYS

1. The Owner covenants to pay the Highways Contribution to the County Council prior to the Commencement of Development.

2. The Owner covenants not to Commence Development unless and until the Highways Contribution has been paid to the County Council.

PART 3

TRAVEL PLAN EVALUATION AND SUPPORT CONTRIBUTION

1. The Owner covenants to pay the Travel Plan Evaluation and Support Contribution prior to the Occupation of the 100th Dwelling.
2. The Owner hereby covenants not to Occupy, allow or permit the Occupation of more than 99 Dwellings unless and until the Travel Plan and Evaluation Support Contribution has been paid to the County Council.
3. The Owner covenants to pay further instalments of the Travel Plan Evaluation and Support Contribution to the County Council annually prior to the anniversary of the date of first Occupation of the 100th Dwelling SAVE THAT no further instalments of the Travel Plan Evaluation and Support Contribution shall be payable by the Owner after five (5) years from the first Occupation of the 100th Dwelling or after one year following Occupation of the final Dwelling, whichever is the later

FOURTH SCHEDULE

DISTRICT COUNCIL'S COVENANTS

- 1.1 At the written request of the Owner the District Council shall provide written confirmation of the discharge of the obligations contained in this deed when satisfied that such obligations have been performed

PART 1

AFFORDABLE HOUSING

- 1.1 In the event an Affordable Housing Contribution is paid to the District Council to use the Affordable Housing Contribution for the provision of Affordable Housing within the administrative area of the District Council and for no other purpose whatsoever
- 1.2 The District Council shall if requested to do so in writing after the expiry of ten (10) years of the date that the last instalment of the Affordable Housing Contribution was paid pay to any person such amount of the Affordable Housing Contribution paid by that person in accordance with the provisions of this deed which has not been committed or expended by the District Council in accordance with the provisions of this deed together with any Late Payment Interest due thereon such payment to be made within twenty (20) Working Days of such request
- 1.3 If the Affordable Housing Contribution paid to the District Council pursuant to this deed has been spent or committed the District Council shall upon written request by the Owner after the expiry of ten (10) years of payment of the Affordable Housing Contribution within a further period of one (1) month notify the Owner that such monies have been spent or committed such notice to include details of what the said monies were spent on or committed to

PART 2

OPEN SPACE

- 1.1 In the event that the Open Space Maintenance Contribution is paid to the District Council pursuant to paragraph 1.9 of the Second Schedule Part 3 the District Council shall either (i) pay the Open Space Maintenance Contribution into an interest bearing account and use the Open

Space Maintenance Contribution for the maintenance of the Open Space or (ii) transfer the Open Space Maintenance Contribution to the Nominated Body for the maintenance of the Open Space.

PART 3

PLAY EQUIPMENT

- 1.1 Upon payment of the Play Equipment Contribution pursuant to paragraph 1 of the Second Schedule Part 4 the District Council shall either (i) pay the Play Equipment Contribution into an interest bearing account and use the Play Equipment Contribution for the provision of play equipment within the Open Space or (ii) transfer the Play Equipment Contribution to the Nominated Body to provide play equipment in the Open Space.
- 1.2 The District Council shall if requested to do so in writing after the expiry of five (5) years from the date of receipt of final payment and in the event the Play Equipment Contribution has not been transferred to the Nominated Body, pay to any person such amount of the Play Equipment Contribution paid by that person in accordance with the provisions of this deed which has not been committed or expended by the District Council in accordance with the provisions of this deed such payment to be made within twenty (20) Working Days of such request.
- 1.3 If the Play Equipment Contribution paid to the District Council pursuant to this deed has been spent or committed the District Council shall upon written request by the Owner after the expiry of five (5) years of receipt of final payment of the Play Equipment Contribution within a further period of twenty (20) Working Days notify the Owner the Contribution has been spent or committed.

PART 4

CONTRIBUTIONS

1. The District Council covenants to use the Cycle Scheme Contribution and the Dog Bins Contribution when received from the Owner solely for the purposes as defined in this deed.
2. The District Council shall if requested to do so in writing after the expiry of five (5) years from the date of receipt of final payment pay to any person such amount of the Cycle Scheme Contribution and the Dog Bins Contribution paid by that person in accordance with the provisions of this deed which has not been committed or expended by the District Council in accordance with the provisions of this deed such payment to be made within twenty (20) Working Days of such request.
3. If the Cycle Scheme Contribution and the Dog Bins Contribution paid to the District Council pursuant to this deed has been spent or committed the District Council shall upon written request by the Owner after the expiry of five (5) years of the Completion of Development within a further period of twenty (20) Working Days notify the Owner

FIFTH SCHEDULE

COUNTY COUNCIL'S COVENANTS

PART 1

EDUCATION

- 1.1 The County Council covenants to use the Early Years Contribution and Primary School Contribution when received from the Owner solely for the purposes as defined in this deed.

- 1.2 The County Council shall if requested to do so in writing after the expiry of ten (10) years from the date of Completion of the Development pay to any person such amount of the Early Years Contribution and Primary School Contribution paid by that person in accordance with the provisions of this deed which has not been committed or expended by the County Council in accordance with the provisions of this deed such payment to be made within twenty (20) Working Days of such request.
- 1.3 If the Early Years Contribution or Primary School Contribution paid to the County Council pursuant to this deed has been spent or committed the County Council shall upon written request by the Owner after the expiry of ten (10) years of the Completion of Development within a further period of twenty (20) Working Days notify the Owner that such monies have been spent or committed such notice to include details of what the said monies were spent on or committed to.
- 1.4 If requested to do so in writing by the Owner after the expiry of ten (10) years from the date of Completion of the Development pay to any person such amount of the Primary School Land Contribution paid by that person in accordance with the provisions of this deed which has not been committed or expended by the County Council in accordance with the provisions of this deed such payment to be made within twenty (20) Working Days of such request.
- 1.5 If the Primary School Land Contribution paid to the County Council pursuant to this deed has been spent or committed the County Council shall upon written request by the Owner after the expiry of ten (10) years of the Completion of Development within a further period of twenty (20) Working Days notify the Owner that such monies have been spent or committed such notice to include details of what the said monies were spent on or committed to.

PART 2

TRAVEL PLAN EVALUATION AND SUPPORT CONTRIBUTION FEE

- 1.1 If requested to do so in writing by the Owner after the expiry of ten (10) years from the date of Completion of the Development pay to any person such amount of the Travel Plan

Evaluation and Support Contribution Fee paid by that person in accordance with the provisions of this deed which has not been committed or expended by the County Council in accordance with the provisions of this deed such payment to be made within twenty (20) Working Days of such request.

- 1.2 If the Travel Plan Evaluation and Support Contribution Fee paid to the County Council pursuant to this deed has been spent or committed the County Council shall upon written request by the Owner after the expiry of ten (10) years of the Completion of Development within a further period of twenty (20) Working Days notify the Owner that such monies have been spent or committed such notice to include details of what the said monies were spent on or committed to.

SIXTH SCHEDULE

NOMINATIONS AGREEMENT

DRAFT

THIS DEED OF NOMINATION RIGHTS

is made the _____ day of _____ 202x

BETWEEN:

- (1) **XXXXXXX** whose registered address is **XXXXXXXXXXXXXXXXXXXX** ('the RP')
and
- (2) **MID SUFFOLK DISTRICT COUNCIL** of Endeavour House, 1 Russell Road Ipswich Suffolk, IP1
2BX ('the Council')

1. Definitions

In this Deed:

- 1.1 'Affordable Housing' has the meaning given to it in Annex 2 of the National Planning Policy Framework published in February 2019 (as may be amended from time to time or such other national policy that may from time to time replace or update this framework) or any successor policy thereto issued by HM Government
- 1.2 'Affordable Housing Unit' means the [] Dwellings (35% of the consented Dwellings) all of which shall be Affordable Housing to be provided on the Property of which 70% of the Dwellings shall be Affordable Rent Dwellings (unless otherwise agreed by the Council as part of the Affordable Housing Scheme) which shall be let at an Affordable Rent and shall be occupied by persons allocated in accordance with a Choice Based Lettings Scheme to which the Council is a party or otherwise nominated by the Council pursuant to this Deed as varied from time to time and 30% of the Dwellings shall be Shared Ownership Dwellings and shall be occupied by persons in accordance with the Government's Help to Buy Scheme (or other subsequent scheme) and Affordable Housing Units shall be construed accordingly.
- 1.3 'Affordable Housing Scheme' means the affordable housing scheme to be submitted to the _____ Council for its written approval for the provision of Affordable Housing as part of the _____ Development detailing:

- i) the plots and location;
- ii) bedroom numbers per Dwelling;
- iii) Dwelling size; and
- iv) tenure

- 1.4 'Affordable Rent' means rent charged at a level up to 80% of the equivalent Market Rent including any service charges applicable.
- 1.5 'Affordable Rent Dwelling' means an Affordable Housing Unit made available by a Registered Provider as low-cost rent accommodation (as defined by the Housing and Regeneration Act 2008 Section 69) with a rent charged at a level up to 80% of the equivalent market rent (inclusive of any service charges applicable) for a dwelling of comparable size in the same location.
- 1.6 'Chargee' means any mortgagee or chargee of the RP who is in possession or any receiver or manager (including an administrative receiver) appointed by such a mortgagee or charge to realise its security or any administrator (howsoever appointed) including a housing administrator.
- 1.7 'Chargee's Duties' means the tasks and duties set out in Clause 12.4 of this deed.
- 1.8 'Choice Based Lettings Scheme' means an integrated electronic and manual information system which enables members of the public who have made or potentially might make an application for housing in the area to which the Choice Based Lettings Scheme relates to apply for a selection of suitable property or be supplied with details of housing available throughout the relevant area operated pursuant to any agreement to which the Council is a party.
- 1.9 'Dwelling' means a dwelling (including a house flat or bungalow and including both Market Housing Units and Affordable Housing Units) to be constructed pursuant to the Planning Permission and "Dwellings" shall be construed accordingly
- 1.10 'Gateway to Homechoice' means the Greater Haven Gateway sub-regional Choice Based Lettings Scheme (or any replacement or similar system in place at the time
- 1.11 'Homes England' means Homes England or such other organisation as may from time to time be the Regulator of Social Housing within the meaning of section 81 of the Housing and

Regeneration Act 2008 or such other body with statutory force charged with regulating Registered Providers

1.12 'Initial Let' means the first tenancy of such newly constructed and previously unoccupied Affordable Rent dwelling

1.13 'Initial Purchase' means the first purchase of such newly constructed and previously unoccupied Shared Ownership Dwelling

1.14 'Local Connection Criteria' means an individual who immediately before taking up occupation of an Affordable Housing Unit

1.14.1 had his only or principal home in the district of Mid Suffolk for a continuous period of not less than two (2) years and in the event that there are no or insufficient individuals qualifying under this sub-paragraph then the choice of person shall default to (but with no preference in ranking order) to those individuals fulfilling the criteria set out in the following sub-paragraphs 1.14.2 to 1.14.4 inclusive.

1.14.2 has or a member of whose household has a parent adult child brother or sister whose only or principal home is and has been for a continuous period of not less than two (2) years in the district of Mid Suffolk and wishes to be near that relative; or

1.14.3 is employed in the district of Mid Suffolk on the date of the consideration of the individual's entitlement for an Affordable Housing Unit and has been continuously so employed for two (2) years

1.14.4 who during the period commencing from the date on which an Affordable Housing Unit to which such individual is eligible pursuant to this sub-paragraph becomes available (for the purposes of this sub-paragraph called the "Availability Date") can provide satisfactory written evidence to the Council of his or her former residency in the district of Mid Suffolk for either (i) six (6) months out of the preceding twelve (12) months or (ii) three (3) years out of the preceding five years and in either case such period of former residency shall end with the Availability Date

1.15 'Mutual Exchange' means the procedure by which a tenant may exchange their house with another council or housing association tenant

- 1.16 'Nomination List' means the Gateway to Homechoice Short List produced in accordance with the Gateway to Homechoice SLA
- 1.17 'Nominee' means a person named on the Gateway to Homechoice Short List who satisfies the Local Connection Criteria and is verified by the Registered Provider as best meeting the criteria for the category of Affordable Rent Dwelling in respect of which the Registered Provider is to select a person from the Nomination List and offer a Tenancy Agreement
- 1.18 'Practical Completion' means issue of a certificate of practical completion by the Registered Provider's surveyor or in the event that the Affordable Housing Units are constructed by a party other than the Registered Provider the issue of a certificate of practical completion by that other party's surveyor
- 1.19 'Property' means the land and dwellings east of Ixworth Road, Thurston Suffolk shown edged red on the plan annexed
- 1.20 'Protected Tenant' means any Nominee who has exercised the right to acquire pursuant to the Housing and Regeneration Act 2008 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit
- 1.21 'Registered Provider' means a registered provider of social housing as defined in section 80(2) of the Housing and Regeneration Act 2008 and listed in the register kept by Homes England under Chapter III of that Act and for the avoidance of doubt this could include the Council
- 1.22 'Shared Ownership Dwelling' means an Affordable Housing Unit to be let on a Shared Ownership Lease in accordance with the terms as set out in the Capital Funding Guide published by Homes England and any other publication that supersedes it
- 1.23 'Shared Ownership Lease' means a lease in a form approved by Homes England or where there is no such form in a form approved by the Council such lease to provide for the following:
- (a) not more than 70% and not less than 10% of the equity (or such other percentages the Council may agree) shall be initially sold to the purchaser by the Registered Provider;
 - (b) power to the purchaser to increase their ownership up to 100% if they so wish;
 - (c) an initial rent not exceeding 2.75% of the value of the equity retained by the Registered Provider subject to annual increases not exceeding Retail Price Index (All Items) published by the Office for National Statistics (or if such index ceases to be published such

other index as the Council shall reasonably determine) plus 0.5% or such other rent as complies with the requirements from time to time of Homes England

- 1.24 'Service Level Agreement' or 'SLA' means the Gateway to Homechoice service level agreement or such other service level agreement for the time being in force made between the Registered Provider (1) and the Council (2)
- 1.25 'Staircasing' means the acquisition after the date of the Initial Purchase of additional tranches of equity in the Shared Ownership Dwelling as set out in the Shared Ownership Lease for that Affordable Housing Unit and as detailed in the Capital Funding Guide published by Homes England and any other publication that supersedes it
- 1.26 'Tenancy Agreement' means an assured tenancy agreement in a form prepared by the Registered Provider and containing terms which accord with the form of tenancy agreement being used by the Registered Provider from time to time for its general lettings
- 1.27 'Vacancy Notice' means a written notice (in a form to be agreed between the Registered Provider and given by the Registered Provider to the Council within five (5) weeks from the date of this Deed) the function of such notice being the notification to the Council by the Registered Provider of the expected date on which the construction and fitting out of the Affordable Rented Dwellings will be complete
- 1.28 'Void' means an Affordable Rent Dwelling which is vacant otherwise than as a result of the tenant having:
- 1.28.1 moved to other accommodation either by transfer or decant provided by the Registered Provider
 - 1.28.2 moved to other accommodation under a reciprocal arrangement provided by another Registered Provider
 - 1.28.3 vacated and moved to other accommodation as a consequence of the tenant having accepted a mutual exchange which provides such tenant with accommodation elsewhere

1.29 'Void Notice' means a written notice given by the Registered Provider to the Council (in a form to be agreed between the Registered Provider and the Council within five (5) weeks from the date of this Deed) the function of such a notice being the notification to the Council of a void in respect of an Affordable Rent Dwelling

2 Enabling Provisions

This Deed is made pursuant to the Local Government Act 1972 Section 111, Section 1 of the Localism Act 2011 as amended and all other enabling powers

3 Procedure

The parties agree that the Service Level Agreement procedure to which they are signatories, and the Local Connection Criteria shall apply to the nomination of persons in respect of the Affordable Housing Units

4 Initial Lets/Initial Purchase

In relation to the Initial Lets and Initial Purchase of any Affordable Housing Units the following provisions shall apply:

4.1.1 The Registered Provider shall give the Council not less than four (4) months' written notice of the date when all the Affordable Housing Units will be ready for occupation

4.1.2 The Registered Provider shall serve a Vacancy Notice upon the Council in respect of an Affordable Rent Dwelling not earlier than ten (10) weeks prior to an Affordable Rent Dwelling becoming available for occupation

5. Voids

Should any Affordable Rent Dwelling become a Void after the Initial Let or the Registered Provider has reasonable cause to believe it will become a Void then the Gateway to Homechoice SLA procedure shall apply in each case

6. Supplemental provisions relating to allocating Initial Lets and Voids

6.1 Where there are two (2) or more applicants applying to occupy one of the Affordable Housing Units the Local Connection Criteria set out in clause 1.14 of this Deed and thereafter subject to clauses 6.2 and 6.3 of this Deed, preference must be given to the applicant/s who have the highest housing need according to the Council's current allocations policy

6.2 If any of the Affordable Housing Units are designed or adapted for people with disabilities or in need of level access then any such dwelling may be first offered to a person or persons with disabilities or level access needs who require such accommodation even where such person(s) have a lesser local connection under clause 1.14 of this Deed than someone who does not have disabilities or level access need

7. Registered Provider Covenants

The Registered Provider covenants with the Council to the intent that the Local Government (Miscellaneous Provisions) Act 1982 applies

7.1 To ensure the Affordable Housing Units comprised within the Property are used as Affordable Housing Units

7.2 To ensure that the Affordable Housing Units are let on the basis of a Tenancy Agreement at an Affordable Rent or as low-cost home ownership and they are all retained and managed by a Registered Provider in accordance with the objectives of such Registered Provider

7.3 To construct the Affordable Housing Units in accordance with Homes England requirements and the Affordable Housing Scheme

8. Alteration of lists

8.1 The Council and the Registered Provider agree that the nomination rights contained in this Deed may be varied from time to time by agreement in writing by the parties

9. Notices

Any notice required to be served hereunder shall be sufficiently served on the parties at the address indicated above or such other address notified by one party to the other and any notice shall be deemed to have been served two (2) working days after posting or in the case of electronic mailing the day such notice was transmitted by the party serving the notice

10. Transfer to other Registered Provider

The RP shall use reasonable endeavours to ensure that any Registered Provider to which the Property and Affordable Housing Units erected thereon are transferred otherwise than by

direction of Homes England under its statutory powers shall enter into a similar deed mutatis mutandis with the Council and Gateway to Homechoice simultaneously on completing the transfer of the Property

11 Disputes

Where any matters fail to be agreed between the parties or any dispute or difference occurs the question shall be referred on the application of either party for the determination of a single expert to be agreed between the parties or in default of agreement to be nominated by or on behalf of the President for the time being of the Chartered Institute of Housing on the application of either party

12 Agreements and declarations

The parties agree:

- 12.1 Nothing in this Deed fetters or restricts the exercise by the Council of any of its powers
- 12.2 The obligations and covenants contained in this Deed are covenants for the purpose of the Local Government (Miscellaneous Provisions) Act 1982 Section 33
- 12.3 From the date of Practical Completion the Affordable Housing Units shall be let or purchased in accordance with the terms of this Deed save that the obligations and restrictions contained in this Deed shall not be binding on:
 - 12.3.1 any Protected Tenant or any mortgagee or Chargee of the Protected Tenant or any person deriving title from a Protected Tenant or any successor in title thereto and their respective mortgagees and Chargees; or
 - 12.3.2 any chargee and any successor in title to the Chargee PROVIDED THAT the Chargee shall have first complied with the Chargee's Duties; or
 - 12.3.3 any mortgagee and any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor and any successor in title to either of them.
- 12.4 The Chargee shall prior to seeking to dispose of the Affordable Housing Unit(s) pursuant to any default under the terms of its mortgage or charge give not less than two (2) months' prior notice to the Council of its intention to dispose and:

- 12.4.1 in the event that the Council responds within one (1) month from receipt of the notice indicating that arrangements for the transfer of the Affordable Housing Unit(s) can be made in such a way as to safeguard them as Affordable Housing then the Chargee shall co-operate with such arrangements and use its reasonable endeavours to secure such transfer at a price and upon such terms as are reasonably acceptable to the Chargee
- 12.4.2 if the Council does not serve its response to the notice within the said period of one (1) month contained in clause 12.4.1 then the Chargee shall be entitled to dispose free of the restrictions set out in this Deed
- 12.4.3 if the Council or any other person cannot within two (2) months of the date of service of its response under clause 12.4.1 secure such transfer then provided that the Chargee shall have complied with its obligations under clause 12.4 the Chargee shall be entitled to dispose free of the restrictions set out in this deed PROVIDED THAT at all times the rights and obligations in this clause shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council shall give full consideration to protecting the interest of the Chargee in respect of moneys outstanding under the charge or mortgage

13. Mutual Exchanges

The requirements of this Deed shall apply to all requests for Mutual Exchanges

14. Shared Ownership Dwellings - Capital Receipts from Staircasing

Capital receipts received by the RP for shares sold between 81% and 100% must be recycled and reinvested in new Affordable Housing within the District of Mid Suffolk

IN WITNESS whereof the parties have executed this instrument as a Deed hereto the day and year first above written

Signatories:

Mid Suffolk District Council

Registered Provider