

DATED 29 AUGUST 2023

MID SUFFOLK DISTRICT COUNCIL (1)

and

SUFFOLK COUNTY COUNCIL (2)

and

JUDITH EVELINE JOHNSTON (3)

and

MARGARET KATHLEEN WOODE (4)

and

PHILIP WALTER STEARN (5)

Planning Obligation by Deed of Agreement under
Section 106 of the Town and Country Planning Act 1990
relating to land at
Moat Meadow, Finningham Road, Old Newton, Suffolk
DC/21/03874

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Winckworth
Sherwood

Solicitors and
Parliamentary Agents

THIS AGREEMENT IS MADE

29 AUGUST

2023

BETWEEN:

- (1) **MID SUFFOLK DISTRICT COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, Suffolk IP1 2BX ("the Council"); and
 - (2) **SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, Suffolk, IP1 2BX ("the County Council"); and
 - (3) **JUDITH EVELINE JOHNSTON** of Finningham Road, Walsham-Le-Willows, Bury St. Edmunds, IP31 3BJ; and
 - (4) **MARGARET KATHLEEN WOODE** of 7 Norton Hill, Snettisham, King's Lynn PE31 7LZ; and
 - (5) **PHILIP WALTER STEARN** of 2 New Bells Cottages, Haughley, Stowmarket IP14 3RN,
- (3), (4) and (5) together "the Owner"**

INTRODUCTION

- (A) The 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.
- (B) The County Council is the local highway authority for the area which the Site is situated and by whom the obligations contained in this Deed are enforceable.
- (C) The Owner is the freehold owner of the Site which is registered at the Land Registry under title number SK310072.
- (D) On 1 July 2021 Keepmoat Homes Limited submitted the Application to the Council for the Development and the Council has resolved to grant planning permission for the Development subject to the prior completion of this Deed.
- (E) The Council considers and the Owner acknowledges that the Development should not take place until certain restrictions regulating the use of the Site are imposed in the manner hereafter appearing and pursuant to Section 106 of the Act the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.
- (F) The Council in resolving to approve the Application is satisfied that the planning obligations sought under the provisions of this Deed meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010.

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1. DEFINITIONS

- 1.1. For the purposes of this Deed the following expressions shall have the following meanings:

"Act" means the Town and Country Planning Act 1990 as amended

"Affordable Housing" means subsidised housing made available to persons who cannot afford to buy or rent housing generally available on the open market in accordance with Annex 2 of the National Planning Policy Framework

2021

"Affordable Housing Contribution"	means the sum of £34,171 (Thirty Four Thousand One Hundred and Seventy One Pounds) towards the provision of off-site Affordable Housing in the Council's administrative area payable in accordance with Part 1 of Schedule 2
"Affordable Housing Nominations Agreement"	means an agreement substantially in the form set out in Schedule 4 (subject to such amendments as may be reasonably required by the Registered Provider) dealing with the allocation of the Affordable Housing by a Registered Provider and "Nominations Agreement" shall have the same meaning
"Affordable Housing Table"	means the table at Part 3 of Schedule 2 setting out the type and tenure mix of the Affordable Housing Units
"Affordable Housing Units"	<p>means the 16 Dwellings to be provided as Affordable Housing on the Site which shall comprise:</p> <p>(a) 4 Shared Ownership Dwellings; and</p> <p>(b) 12 Rental Dwellings,</p> <p>or such other split as is agreed in writing by the Council to be delivered in accordance with Schedule 2 and the Affordable Housing Table</p>
"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 2008) with an initial rent charged at a level up to 80% of the equivalent market rent including any service charges applicable or otherwise in accordance with the Rent Guidance and in the event that the Rent Guidance is not published increased annually by CPI +1% and shall be occupied by persons allocated in accordance with a Choice Based Letting Scheme to which the Council is a party or otherwise nominated by the Council pursuant to the Affordable Housing Nomination Agreement as varied from time to time
"Application"	means the application for Planning Permission for the Development submitted to the Council by Keepmoat Homes Limited and allocated reference number DC/21/03874
"BCIS Index"	means the All In Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation
"Chargee"	means any mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any

other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a **Receiver**)) of the whole or any part of the Affordable Housing Units

"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 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 Council is a party
"Commencement of Development"	means 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 on the Site other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure and the temporary display of site notices or advertisements and "Commence Development" and "Commencement Date" shall be construed accordingly
"Completion Date"	means the date that the last Dwelling at the Development is first Occupied
"Development"	means the construction of 47 dwellings together with open space, landscaping, earthworks and drainage
"Dwelling"	means any dwelling (including a house flat maisonette or bungalow and including the Market Housing Units and Affordable Housing Units) to be constructed pursuant to the Planning Permission and "Dwellings" shall be construed accordingly
"Highways Contribution"	means the sum of £11,500 (Eleven Thousand Five Hundred Pounds) Index Linked to the BCIS Index towards the costs of design, consultation, legal order making and other administrative processes associated with relocating the speed limit on Finningham Road which is payable by the Owner to the County Council in accordance with Part 1 of Schedule 2
"Homes England"	means the non-departmental public body responsible for creating thriving communities and affordable homes in England and which is the Regulator of Social Housing within the meaning of Section 81 of the Housing and Regeneration Act 2008 or such other body that may replace it in either function

“Index“	means the Consumer Price Index published by the Office for National Statistics 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 agreed between the Council and the Owner
“Index Linked“	means the increase in any sum referred to in Schedule 2 by an amount equivalent to the increase or decrease in the Index or BCIS Index (as the context makes clear) to be calculated in accordance with Clause 11 of this Deed
“Interest”	means interest at four (4) per cent above the base lending rate of the Bank of England from time to time
“Landscape Management Company“	means a company or body who may take over responsibility for the future maintenance of the landscaping of the Public Open Space which definition may include a resident's association established for this purpose or a private limited company whether already in existence or formed for the purposes of managing the landscaping of the Public Open Space and FOR THE AVOIDANCE OF DOUBT the Landscape Management Company may be the Owner
“Landscape Management Plan“	means the Landscape and Ecological Management Plan submitted and approved under condition 3 of the Planning Permission (subject to such amendments as may be agreed between the Council and Owner)
“Market Housing Unit“	means any Dwelling which is for general market housing for sale on the open market and which is not an Affordable Housing Unit
“Notice of Actual Commencement“	means notice in writing to advise of the actual Commencement Date
“Notice of Expected Commencement“	means notice in writing to advise of the expected Commencement Date
“Occupation“ and “Occupied“	means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations
“Plan”	means the site plan attached to this Deed at Schedule 1
“Planning Permission”	means a planning permission subject to conditions which may be granted pursuant to the Application
“Practical	means the completion of a Dwelling to a standard which is wind and watertight and fit for habitation in terms of heating, plumbing, electrics

Completion"		and sanitation and "Practically Complete" shall be construed accordingly
"Protected Person"		means any person who: <ul style="list-style-type: none"> a) 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; b) has exercised any statutory right to buy or preserved right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit; c) any person who has staircased the equity in their Shared Ownership Dwelling to 100%, and any successor in title, mortgagees or chargees to the persons referred to at paragraphs a) to c) above
"Public Space"	Open	means the area of public open space at the Development which shall be delivered in accordance with the Landscape Management Plan and the provisions of Part 4 of Schedule 2
"Public Space Transfer"	Open	a transfer of the Public Open Space and which inter alia shall contain the provisions set out at Part 4 of Schedule 2
"Reasonable Consideration"		means offer prices from Registered Providers which give the Owner a reasonable consideration having regard to current market conditions in the disposal of Affordable Housing of a similar type and location by Registered Providers via Section 106 agreements
"Registered Provider" or "RP"		means an organisation which is a Registered Provider of social housing or other provider registered in accordance with the provisions of Chapter 3 of the Housing and Regeneration Act 2008 and whom has been approved by the Council in writing
"Rental Dwelling"		means the minimum of 12 Affordable Housing Units which are to be let at an Affordable Rent or Social Rent and are let by a Registered Provider on its standard form of letting in accordance with the terms of this Deed
"Rent Guidance"		means the Guidance on Rents for Social Housing and the Direction on the Rent Standard 2014 issued by the Department of Communities and Local Government in May 2014 or such other replacement guidance or direction or legislation

“Rent Standard“	means the standard relating to rent set by the Regulator of Social Housing from time to time having regard to the Welfare Reform and Work Act 2016, the Rent Guidance and the Direction on the Rent Standard 2014 issued by the Department for Communities and Local Government in May 2014 together with the Rent Standard Guidance published by the Department for Communities and Local Government in April 2015 or such other replacement guidance or direction or legislation
“Shared Ownership Dwellings“	means the minimum of 4 Affordable Housing Units 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 Homes England’s capital funding guide
“Shared Ownership Lease“	<p>means a lease in a substantially in the 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:</p> <ol style="list-style-type: none"> not more than 75% 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; power to the purchaser to increase their ownership up to 100% if they so wish; 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
“Social Rent“	means housing made available by a Registered Provider as low cost rental accommodation at Target Rents
“Site“	means the land at Moat Meadow, Finningham Road, Old Newton, Suffolk shown edged red on the Plan attached to this Deed at Schedule 1
“Target Rents“	means rents for Social Rent conforming with the pattern produced by the rents formula set out in the Rent Guidance and subject to the limit on rent changes and rent caps set out therein and subject to indexation as permitted by the Rent Standard or Rent Guidance (as applicable) from time to time or where there is no such guidance at a rent determined by the Council

“Working Days“

means any day Monday to Friday inclusive except bank or public holidays in England.

2. CONSTRUCTION OF THIS DEED

- 2.1. Where in this Deed reference is made to any clause sub-clause paragraph sub- paragraph schedule or recital such reference (unless the context otherwise requires) is a reference to a clause sub-clause paragraph sub-paragraph 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 deriving validity from it.
- 2.6. 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 Council its successor or successor in title to its relevant statutory functions.
- 2.7. The headings are for reference only and shall not affect construction.
- 2.8. Any covenant 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 its employees, agents or assigns.

3. LEGAL BASIS

- 3.1. This agreement is a Deed 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 in favour of the Council under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as the local planning authority against the Owner and its successors in title.
- 3.3. The covenants, restrictions and requirements imposed upon the Owner in favour of the County Council under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the County Council against the Owner and its successors in title.

4. CONDITIONALITY

- 4.1. The planning obligations contained in the Schedules to this Deed are conditional upon:
 - 4.1.1. the grant of the Planning Permission; and

4.1.2. the Commencement of Development.

4.2. The remainder of this Deed and paragraph 1 of Part 1 Schedule 2 shall come into effect immediately upon completion of this Deed.

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

4.3.1. 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 this Deed will continue to have operative effect if the Owner undertakes any further works to implement the Planning Permission following the issue of such proceedings;

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

4.3.3. 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.

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

4.4.1. proceedings by way of judicial review or under Section 288 of the Act are concluded:

4.4.1.1. when permission to apply for judicial review has been refused and no further application can be made;

4.4.1.2. 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

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

5. THE OWNER'S COVENANTS

5.1. The Owner covenants with the Council as set out in Parts 1 to 4 of Schedule 2 and with the County Council as set out in Part 5 of Schedule 2 so as to bind the Site and each and every part thereof as set out in Schedule 2.

6. COUNCIL AND COUNTY COUNCIL COVENANTS

6.1. The Council covenants with the Owner as set out in Part 1 of Schedule 3 and the County Council covenant with the Owner as set out in Part 2 of Schedule 3.

7. MISCELLANEOUS

- 7.1. The Owner shall pay to the Council on completion of this Deed its reasonable legal costs incurred in the negotiation, preparation and execution of this Deed.
- 7.2. The Owner shall pay to the County Council on completion of this Deed:
- 7.2.1. its reasonable legal costs incurred in the negotiation, preparation and execution of this Deed; and
- 7.2.2. a monitoring fee of £476 (Four Hundred and Seventy-Six Pounds) towards costs of monitoring the Owner's compliance with the planning obligations contained in this Deed.
- 7.3. No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 7.4. This Deed shall be registered as a local land charge by the Council.
- 7.5. Where the agreement, approval, consent or expression of satisfaction is required by the Owners from the 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 (if given by the Council) shall be given on behalf of the Council by the Chief Planning Officer (or the equivalent officer of the Council fulfilling such functions).
- 7.6. 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.
- 7.7. Insofar as any clause or clauses 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.
- 7.8. 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 Development.
- 7.9. 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.
- 7.10. This Deed shall not be binding on:
- 7.10.1. any statutory undertaker or other person who acquires any part of the Site or an interest in it for the purposes of the supply of electricity gas water telecommunications or highways in connection with the Development of the Site; or
- 7.10.2. a Registered Provider or its Chargee in relation to its interest in the Affordable Housing Units SAVE FOR the obligations at Part 2 and Part 3 of Schedule 2; or

7.10.3. owner-occupiers or tenants of Dwellings constructed pursuant to the Planning Permission and their successors in title, mortgagees or chargees; or

7.10.4. Chargees, and any successors in title to such Chargee, unless it takes possession of the Site

- 7.11. 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.
- 7.12. Nothing contained or implied in this Deed shall prejudice or affect the rights, discretions, functions, powers, duties and obligations of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.
- 7.13. The Owner covenants from the date that this Deed takes effect to allow the Council and its respectively duly authorised officers or agents at all reasonable times to enter into and upon the Site for the purposes of monitoring compliance with the provisions of this Deed.
- 7.14. The Owner agrees that any rights to claim compensation arising for any limitations or restrictions on the planning use of the Site under the terms of the Deed are hereby waived.
- 7.15. Save as otherwise provided in this Deed all works and activities to be carried out under the terms of this Deed (including for the avoidance of doubt such works as are of a preparatory ancillary or of a maintenance nature) are (save where expressly provided otherwise) to be at the sole expense of the Owner and at no cost to the Council or the County Council.
- 7.16. Nothing contained or implied in this Deed shall prejudice or affect the rights, discretions functions powers, duties and obligations of the Council or County Council under all statutes by-laws statutory instruments orders and regulations in their exercise of their functions as a local authority.
- 7.17. If the Owner implements the Planning Permission, the Council and the County Council agree that the obligations in the Section 106 Agreement dated 22nd October 2019 made pursuant to permission granted under application DC/1866/17 made between the parties to this Agreement shall be hereby discharged and have no continuing force and effect PROVIDED THAT if the Owner implements the Planning Permission it shall not be permitted to develop the site pursuant to the permission granted under application DC/1866/17.

8. WAIVER

- 8.1. No waiver (whether expressed or implied) by the Council or the County Council 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 Council from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

9. CHANGE IN OWNERSHIP

- 9.1. As qualified by the following sub-clause the Owner agrees with the Council and County Council to give it written notice within 14 Working Days of any change in ownership in the Site occurring before all the obligations under this Deed have been discharged such notice quoting the Council's reference DC/21/03874 and giving 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 the title number or numbers thereof.
- 9.2. The Owner shall not be obliged to notify the Council of every plot or Dwelling disposal.

10. DISPUTE PROVISIONS

- 10.1. In the event of any dispute or difference arising between any of the parties in respect of any matter contained in this Deed such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert ("**the Expert**") whose decision shall be final and binding on the parties to the dispute in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the Expert shall determine and failing such determination shall be borne by the parties to the dispute in equal shares.
- 10.2. In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 10.1 or as to the appropriateness of the professional body then such question may be referred by either part to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties to the dispute in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties to the dispute in equal shares.
- 10.3. Any Expert howsoever appointed shall be subject to the express requirement that a decision is reached and communicated to the relevant parties to the dispute within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight (28) Working Days after the conclusion of any hearing that takes place or twenty-eight (28) Working Days after he has received any file or written representation.
- 10.4. The Expert shall be required to give notice to each of the said parties to the dispute requiring them to submit to him within ten (10) Working Days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten (10) Working Days.
- 10.5. The provisions of this clause shall not affect the ability of the parties 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.

11. INDEXATION

- 11.1. Any sum referred to in Schedule 2 shall be increased by an amount equivalent to the increase in the Index or BCIS Index (as the context make clear) 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:

11.1.1. A is the sum payable under this Deed;

11.1.2. B is the original sum calculated as the sum payable;

11.1.3. C is the Index or BCIS Index (as appropriate) for the month before the date on which the sum is payable;

11.1.4. D is the Index or BCIS Index (as appropriate) for the month before the date of this Deed; and

11.1.5. C/D is Not less than 1.

12. SECTION 73 PLANNING PERMISSIONS

- 12.1. In the event that any new planning permission(s) are granted by the Council pursuant to Section 73 of the Act:-

12.1.1. The obligations in this Deed shall relate to and bind any subsequent planning permission(s) in respect of the Site granted pursuant to Section 73 of the 1990 Act and the Site itself; and

12.1.2. The definitions of Application, Development and Planning Permission in this Deed shall be construed to include reference to any such application under Section 73 of the Act the planning permission(s) granted thereunder and the development permitted by such subsequent planning permission(s),

PROVIDED THAT nothing in this clause shall restrict or fetter the discretion of the Council when determining such application submitted under Section 73 of the Act relating to the Site from requiring any consequential obligations of an appropriate nature and/or quantum (so far as they are materially different to those contained in this Deed) be secured by way of a new deed, supplemental deed or deed of modification as the case may be pursuant to Section 106 (or Section 106A) of the Act.

13. INTEREST ON PAYMENTS

- 13.1. If any payment due under this Deed is paid late Interest will be payable from the date payment is due to the date of payment.

14. VAT

- 14.1. 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:-

Council	The Chief Planning Officer, Mid Suffolk District Council, Endeavour House, 8 Russell Road, Ipswich, IP1 2BX
County Council	At its address above marked for the attention of the Executive Director of Growth, Highways and Infrastructure
Owner	At their addresses above

16. JURISDICTION

- 16.1. This Deed is governed by and interpreted in accordance with the law of England and the parties submit to the non-exclusive jurisdiction of the courts of England.

17. DELIVERY

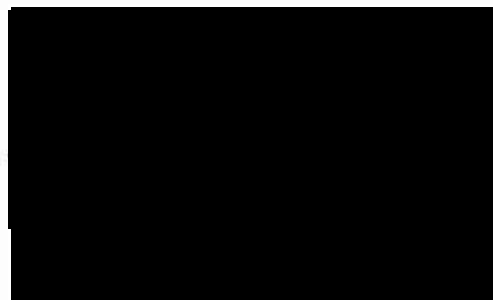
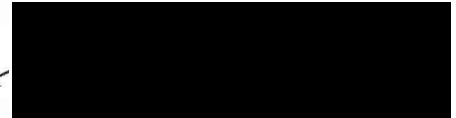
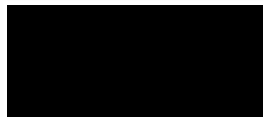
- 17.1. The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated

SCHEDULE 1

PLANS

1. Site Plan

- All rights described in chapter IV of the copyright, designs and patents act 1988 have been generally asserted
- Where any drawing is to be read in conjunction with another, including specifications, the two drawings shall be cross-checked and any discrepancies reported to the architect before the work is put in hand
- All dimensions are in millimetres, all levels are in metres, unless shown otherwise
- Any discrepancies in dimensions or details on a between these drawings/specifications should be down to the attention of the person shown and of the engineer, in writing for clarification
- Drawing prepared solely for the use of client, or detailed in text box, and not to be copied, lent, or used by any third party without written permission



A	SOUTHERN BOUNDARY ALTERED	10/21
Rev		

CJA architect Ltd

a farleigh, wyke road, gillingham, sp8 4tg
m 07771 526144
e craig@cja-ltd.co.uk

land off FINNINGHAM ROAD
OLD NEWTON
SUFFOLK

KEEPMOAT HOMES

SITE LOCATION PLAN

1:1000@A1 june '21

DWG REF.	Rev
21.012-cja-xx-dr-A-01-site location	A

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SCHEDULE 2

OWNER COVENANTS

Part 1

Notices and Contributions

1. The Owner shall give the Council Notice of Expected Commencement not less than seven (7) days before the date that the Owners expect Commencement of the Development to occur and (ii) within twenty-one (21) days of Commencement of Development Notice of Actual Commencement in order to confirm Commencement has occurred.
2. The Owner shall give the Council and the County Council no less than two (2) months' written notice of the anticipated date for the first Occupation of the first Dwelling to be Occupied.
3. The Owner shall within five (5) Working Days' give written notice to the Council of the following:
 - 3.1. The date of first Occupation of the first Dwelling;
 - 3.2. The date of first Occupation of 50% rounded down to the nearest whole number of the Market Housing Units;
 - 3.3. The date of first Occupation of 80% rounded down to the nearest whole number of the Market Housing Units ;
 - 3.4. The date of first Occupation of the final Dwelling;
 - 3.5. Completion of the Development.
4. The Owner shall within five (5) Working Days' give written notice to the County Council of the date of first Occupation of the first Dwelling.
5. The Owner shall pay the Affordable Housing Contribution to the Council prior to first Occupation and shall not permit first Occupation unless it has paid the Affordable Housing Contribution to the Council.

Part 2

Affordable Housing

1. Having given notice under paragraph 1 of Part 1 of this Schedule 2 above the Owner shall endeavour to agree with the Council on the identity of the Registered Provider or other body to which the Affordable Housing Units are to be transferred.
2. For the avoidance of doubt, the Owner may Commence the Development whilst the process set out at paragraph 1 is ongoing but if no agreement has been reached at the expiration of the period of six (6) months following the Commencement of the Development the Council shall be entitled to nominate a Registered Provider or other appropriate body for the purpose.
3. The Owner shall not Occupy or permit Occupation of more than 50% rounded down to the nearest whole number of the Market Housing Units unless and until 43% rounded down to the nearest whole number of the Affordable Housing Units have been:
 - 3.1. made ready for residential Occupation;
 - 3.2. transferred to the approved Registered Provider and written notification of such transfer has been provided to the Council by the Owner.
4. The Owner shall not Occupy or permit Occupation of more than 80% Market Housing Units unless and until all of the Affordable Housing Units have been:
 - 4.1. made ready for residential Occupation; and
 - 4.2. transferred to the approved Registered Provider and written notification of such transfer has been received by the Council.
5. The Owner shall procure that the transfer(s) of the Affordable Housing Units contain, subject to paragraph 8 below, covenants that the Registered Provider will use reasonable endeavours to enter into an Affordable Housing Nominations Agreement substantially in the form contained in Schedule 4 with the Council prior to first Occupation of the Affordable Housing Units.
6. Any transfer to a Registered Provider of the Affordable Housing Units shall be:
 - 6.1. with vacant possession;
 - 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);
 - 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;
 - 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;

7. The Affordable Housing Nominations Agreement shall be subject to such amendments as may be reasonably required by the Registered Provider and agreed and approved with the Council with a view to ensuring that the objectives of this Deed are met.
8. The Rental Dwellings shall only be Occupied by persons allocated in accordance with a Choice Based Lettings Scheme to which the Council is a party or chosen pursuant to the Affordable Housing Nominations Agreement made pursuant to Paragraph 6.1 of this Part 2 of Schedule 2 which confers nomination rights on the Council unless otherwise agreed by the Council in writing.
9. The Shared Ownership Dwellings shall be Occupied by persons allocated in accordance with the Government's Help to Buy Scheme (or any subsequent scheme) or where no applicants are available at the time of marketing the Shared Ownership Dwellings the Registered Provider's own marketing process or such other marketing route agreed by the Registered Provider and the District Council in writing.
10. From the date of Practical Completion the Affordable Housing Units shall not be used other than for Affordable Housing save that this obligation shall not be binding on:
 - 10.1. any Protected Person or any mortgagee or chargee of the Protected Person or any person deriving title from a Protected Person or any successor in title thereto and their respective mortgagees and chargees; or
 - 10.2. any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor
 - 10.3. any successor in title of the persons at paragraphs 11.1 to 11.3 above.
11. The provisions in this Part 2 of Schedule 2 shall not apply to a Chargee or any successors in title of persons or bodies deriving title through the Chargee PROVIDED THAT the Chargee shall prior to seeking to dispose of the Affordable Housing Units:
 - 11.1. give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Units to another registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and
 - 11.2. if such disposal has not completed within the three month period, the Chargee shall be entitled to dispose of the Affordable Housing Units free from the affordable housing provisions in this Agreement which provisions shall determine absolutely
12. If a Registered Provider cannot be found for any of the Affordable Housing Units within six months from the date of Practical Completion of the Affordable Housing Units despite the Owner's reasonable endeavours to do so the Owner will be required to provide notification to the Council's satisfaction (the Council at all times acting reasonably) that demand from a Registered Provider has not been forthcoming for a Reasonable Consideration.

13. If the Council is satisfied following service of the notice pursuant to paragraph 13 above that demand from Registered Providers has not been forthcoming for Reasonable Consideration the Owner shall upon written confirmation from the Council be permitted to sell the Affordable Housing Units on the open market and shall pay an affordable housing commuted sum to the Council within 14 (fourteen) days of the completion of the sale of the relevant Affordable Housing Unit (such sum to be confirmed by the Council calculated in accordance with the Council's policies as are applicable at the time of the calculation) in lieu of the provision of Affordable Housing on the Site and in event of dispute on the quantum of the affordable housing commuted sum either party can refer the matter to an expert under Clause 10 and the sum payable will be determined by the expert under the provisions of Clause 10.

Part 3

Affordable Housing Table

Affordable Housing unit size	Number of Dwellings
Affordable Rent	
2-bedroom 4-person	8
3-bedroom 4-person	4
Shared Ownership	
2-bedroom 4-person	2
3-bedroom 4-person	2

Part 4

Public Open Space

1. The Owner shall deliver the Public Open Space in accordance with the Landscape Management Plan prior to Occupation of the Fortieth (40th) Dwelling and shall not Occupy any more than the Fortieth (40th) Dwelling unless the Public Open Space has been so delivered to the satisfaction of the Council.
2. The Owner shall maintain the Public Open Space in accordance with the Landscape Management Plan (subject to such reasonable amendments as may be agreed with the Council) until such time as the Public Open Space Transfer has taken place to the Landscape Management Company subject to paragraph 5 below.
3. The Owner shall provide details of the Landscape Management Company to the Council for their written approval such details shall include satisfactory memorandum and articles of association and agreement of the form of transfer of the Public Open Space Transfer subject to paragraph 5 below.
4. Following notification pursuant to paragraph 3 and subject to paragraph 5 below, the Public Open Space is to be transferred to the Landscape Management Company for the sum of one pound (£1) within twelve months (12 months) of Occupation of the last Dwelling in accordance with the Public Open Space Transfer or such later date as may be agreed in writing with the Council.
5. The Public Open Space Transfer shall not be required if the Owner has notified the Council pursuant to paragraph 3 that it will be the Landscape Management Company.
6. The Public Open Space Transfer (if required) shall contain the following provisions:
 - 6.1. The Owner shall transfer the fee simple estate free from encumbrances save for those set out in the title;
 - 6.2. All easements and rights necessary in relation to access for the benefit of the Public Open Space;
 - 6.3. Any exceptions and reservations in relation to drainage and services, support and access of light and air for the benefit of the Development;
 - 6.4. Restrictive covenants by the Landscape Management Company:
 - 6.4.1. Not to use or permit the Public 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;
 - 6.4.2. Not to use or permit the Public Open Space to be used in a manner which may be or become a nuisance annoyance, disturbance to the Development;
 - 6.5. A requirement that the Landscape Management Company's reasonable conveyancing fees and disbursements are paid by the Owner

Part 5

Highways

1. The Owner shall no later than fourteen (14) Working Days' beforehand give written notice to the County Council of the intended date of Commencement.
2. The Owner shall pay the Highways Contribution to the County Council prior to Commencement and shall not Commence Development unless it has paid the Highways Contribution to the County Council.

SCHEDULE 3

COUNCIL AND COUNTY COUNCIL COVENANTS

Part 1 – Council Covenants

1. At the written request of the Owner the Council shall provide written confirmation of the discharge of the obligations contained in this Deed in favour of the Council when it is satisfied that such obligations have been performed.
2. Following the performance and satisfaction of all the obligations contained in this Deed the 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.
3. The Council shall hold any sums payable to it under this Deed in an interest-bearing account and at the end of five years from the date of receiving the payment the Council shall return to the party who made the payment all money in that account (including for the avoidance of doubt interest accrued) which has not been spent or committed to be spent on the intended purpose as specified in this Deed.
4. The Council shall spend all the financial contributions paid to it by the Owner under this Deed for the purposes specified in this Deed for which each of the contribution was paid.

Part 2 – County Council Covenants

1. At the written request of the Owner the County Council shall provide written confirmation of the discharge of the obligations contained in this Deed in favour of the County Council when it is satisfied that such obligations have been performed.
2. In the event that any of the financial contributions paid to the County Council under this Deed or any part of them have not been committed (by an unconditional contract or by the expenditure of the monies) for the purposes for which they were paid under the terms of this Deed the County Council shall after the expiry of five (5) years from the date such contributions were paid repay any unspent balance to the person who made such payments together with any interest accrued at the Bank of England Base Rate minus 2 basis points compounding annually at financial year end. If for any period the Bank of England Base Rate is at or below 0.02% then no interest shall be payable for that period.
3. The County Council shall spend all the financial contributions paid to it by the Owner under this Deed for the purposes specified in this Deed for which each of the contribution was paid.

SCHEDULE 4

DRAFT AFFORDABLE HOUSING NOMINATIONS AGREEMENT

DRAFT DEED OF NOMINATION RIGHTS

is made the day of 20

BETWEEN:

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

Relating to land at

Moat Meadow, Finningham Road, Old Newton, Suffolk

DC/21/03874

DRAFT

THIS DEED OF NOMINATION RIGHTS

is made the day of 2020

BETWEEN:

- (1) **XXXXXXX** whose registered address is **XXXXXXXXXXXXXXXXXX**
(‘the RP’) and
- (2) **MID SUFFOLK DISTRICT COUNCIL (delete as appropriate)** 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 16 Dwellings (35% of the consented Dwellings) all of which shall be Affordable Housing to be provided on the Property in accordance with the Section 106 Agreement.
- 1.3 ‘Affordable Housing Scheme’ means the affordable housing scheme to be submitted to the District 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 and capable of being increased annually by CPI +1% or such other rate in accordance with the prevailing Rent Standard or Rent Guidance (as applicable) from time to time.
- 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) let at an Affordable Rent 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.
- 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 under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) 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 'Mutual Exchange' means the procedure by which a tenant may exchange their house with another council or housing association tenant.
- 1.15 'Nomination List' means the Gateway to Homechoice Short List produced in accordance with the Gateway to Homechoice SLA.
- 1.16 'Nominee' means a person named on the Gateway to Homechoice Short List who satisfies the Local Connection Criteria and is verified by the RP as best meeting the criteria for the category of Affordable Rent Dwelling in respect of which the RP is to select a person from the Nomination List and offer a Tenancy Agreement.
- 1.17 'Practical Completion' means issue of a certificate of practical completion by the RP's surveyor or in the event that the Affordable Housing Units are constructed by a party other than the RP the issue of a certificate of practical completion by that other party's surveyor.
- 1.18 'Property' means the land and dwellings at Moat Meadow, Finningham Road, Old Newton, Suffolk shown edged red on the plan annexed.
- 1.19 'Protected Tenant' means any Nominee who has exercised the right to acquire pursuant to the Housing and Regeneration Act 2008, right to buy (including preserved right to buy) or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit.
- 1.20 '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.
- 1.21 'Rental Dwelling' means the minimum of 12 Affordable Housing Units which are to be let at an Affordable Rent or Social Rent and are let by a Registered Provider on its standard form of letting in accordance with the terms of this Deed.

- 1.22 'Rent Guidance' means the Guidance on Rents for Social Housing and the Direction on the Rent Standard 2014 issued by the Department of Communities and Local Government in May 2014 or such other replacement guidance or direction or legislation.
- 1.23 'Rent Standard' means the standard relating to rent set by the Regulator of Social Housing from time to time having regard to the Welfare Reform and Work Act 2016, the Rent Guidance and the Direction on the Rent Standard 2014 issued by the Department for Communities and Local Government in May 2014 together with the Rent Standard Guidance published by the Department for Communities and Local Government in April 2015 or such other replacement guidance or direction or legislation.
- 1.24 '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 the Capital Funding Guide published by Homes England and any other publication that supersedes it.
- 1.25 '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 75% 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.
- 1.26 '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).

- 1.27 'Social Rent' means housing made available by a Registered Provider as low cost rental accommodation at Target Rents.
- 1.28 '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.
- 1.29 'Target Rents' means rents for Social Rent conforming with the pattern produced by the rents formula set out in the Rent Guidance and subject to the limit on rent changes and rent caps set out therein and subject to indexation as permitted by the Rent Standard or Rent Guidance (as applicable) from time to time or where there is no such guidance at a rent determined by the Council.
- 1.30 'Tenancy Agreement' means an assured tenancy agreement in a form prepared by the RP and containing terms which accord with the form of tenancy agreement being used by the RP from time to time for its general lettings.
- 1.31 'Vacancy Notice' means a written notice (in a form to be agreed between the RP and given by the RP 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 RP of the expected date on which the construction and fitting out of the Affordable Rented Dwellings will be complete.
- 1.32 'Void' means an Affordable Rent Dwelling which is vacant otherwise than as a result of the tenant having:
- 1.32.1 moved to other accommodation either by transfer or decant provided by the RP
 - 1.32.2 moved to other accommodation under a reciprocal arrangement provided by another Registered Provider
 - 1.32.3 vacated and moved to other accommodation as a consequence of the tenant having accepted a mutual exchange which provides such tenant with accommodation elsewhere

- 1.33 'Void Notice' means a written notice given by the RP to the Council (in a form to be agreed between the RP 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 shall apply to the nomination of persons in respect of the Affordable Housing Units

4 Initial Lets/Initial Purchase

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

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

4.1.2 The RP shall serve a Vacancy Notice upon the Council in respect of a Rental Dwelling not earlier than four (4) weeks prior to a Rental Dwelling becoming available for occupation

5 Voids

then the Gateway to Homechoice SLA procedure shall apply into 75% of the Rental Dwellings which become Void after the Initial Let or the RP has reasonable cause to believe it will become a Void

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 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 RP covenants

Subject always to Clause 12.3 and 12.4 the RP 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

8 Alteration of lists

- 8.1 The Council and the RP 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 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 provisions of this Agreement shall not be binding on a Chargee or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT
 - 12.4.1 the Chargee shall first give written notice to the Council of its intention to dispose of the Affordable Housing Unit and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Unit to another registered provider or to the Council for a consideration not less than

the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses ; and

12.4.2 if such disposal has not completed within the three month period, the Chargee shall be entitled to dispose of the Affordable Housing Units free from the provisions in this Agreement which provisions shall determine absolutely

13 Mutual Exchanges

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

AS 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

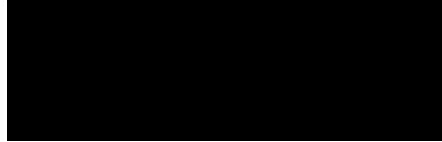
IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written

The Common Seal of

MID SUFFOLK DISTRICT COUNCIL

was hereto affixed

in the presence of:



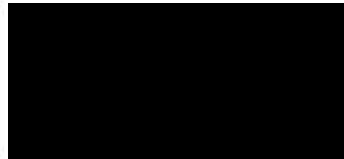
Authorised Signatory

The Common Seal of

SUFFOLK COUNTY COUNCIL

was hereto affixed

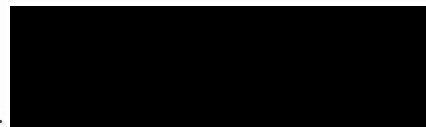
in the presence of:



Authorised Signatory

Executed as a Deed by

JUDITH EVELINE JOHNSTON in the presence of:



Judith Eveline Johnston

Witness signature:



Witness name:

Rebecca Godens

Witness address:

Ash tons Legal
The Long Barn
Fornham Business Court
Fornham St Martin
Bury St Edmunds
Suffolk IP31 1SL

Executed as a Deed by

MARGARET KATHLEEN WOODE in the
presence of:

.....
[Redacted Signature]

Margaret Kathleen Woode

Witness signature:

.....
[Redacted Signature]

Witness name:

.....
Rebecca Godens

Witness address:

.....
Ashtons Legal
The Long Barn
Fornham Business Court
Fornham St. Martin
Bury St Edmunds
Suffolk IP31 1SL

Executed as a Deed by

PHILIP WALTER STEARN in the presence
of:

.....
[Redacted Signature]

Philip Walter Stearn

Witness signature:

.....
[Redacted Signature]

Witness name:

.....
Rebecca Godens

Witness address:

.....
Ashtons Legal
The Long Barn
Fornham Business Court
Fornham St. Martin
Bury St Edmunds
Suffolk IP31 1SL