

DATED 12th September

2023

**Agreement pursuant to Section 106 and 106A of the
Town and Country Planning Act 1990 (as amended)**

BABERGH DISTRICT COUNCIL (1)

and

SUFFOLK COUNTY COUNCIL (2)

and

TAYLOR WIMPEY DEVELOPMENTS LIMITED (3)

and

TAYLOR WIMPEY UK LIMITED (4)

Relating to

**Land North Of The A1071, Ipswich (Wolsey Grange)
(Planning Reference: DC/21/02671)**

Shared Legal Services
Babergh District Council
Council Offices
Endeavour House
8 Russell Road
Ipswich IP1 2BX

This Agreement is made the 12th day of September 2023

Between:

- (1) **BABERGH 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) **TAYLOR WIMPEY DEVELOPMENTS LIMITED** (Company Registration No. 00643420) of Gate House, Turnpike Road, High Wycombe, Buckinghamshire, HP12 3NR ("Taylor Wimpey Developments") and
- (4) **TAYLOR WIMPEY UK LIMITED** (Company Registration No. 01392762) of Gate House, Turnpike Road, High Wycombe, Buckinghamshire, HP12 3NR ("Taylor Wimpey UK")

Both Taylor Wimpey Developments and Taylor Wimpey UK "the Owners"

Together "the Parties"

INTRODUCTION

1. The District Council is the local planning authority for the purposes of the 1990 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 1990 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. Taylor Wimpey UK Limited submitted the Application to the District Council for the Development with the consent of Taylor Wimpey Developments Limited, and on 25 January 2023 the District Council resolved to grant the Planning Permission for the Development pursuant to the Application subject to the prior completion of this Deed

to regulate the Development and to secure the planning obligations contained in this Deed.

5. The District Council enters into this Deed content that the requirements of the District Council's policies are met and that any objections by the District Council to the grant of planning permission on the basis of those policies are overcome.
6. The District Council and the County Council consider and the Owners acknowledge that the Development should not proceed unless certain restrictions regulating the use of the Site are imposed in the manner hereinafter appearing and pursuant to Section 106 and 106A of the 1990 Act the Parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.
7. The District 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 (as amended).
8. The Parties agree to enter into this Deed to vary the Phase 1 Agreement in the manner hereinafter appearing.

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

1. DEFINITIONS

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

"1980 Act"	the Highways Act 1980 (as amended)
"1990 Act"	the Town and Country Planning Act 1990 (as amended)
"1996 Act"	the Housing Act 1996 (as amended)
"2008 Act"	the Housing and Regeneration Act 2008
"Additional Education Land"	means a fully serviced freehold site of up to 0.8-hectares (such precise area to be at the discretion of the County Council) as indicated on the attached Parameters Plan striped purple and orange or a location as otherwise

	may be agreed between the Owner and the County Council compliant with the Education Land Specification for the purpose of primary school education which may include early years provision
"Affordable Housing"	subsidised housing that will be available to persons who cannot afford to rent or buy housing generally available on the open market as defined in Annex 2 of the NPPF (as may be amended and replaced from time to time)
"Affordable Housing Contribution"	the sum calculated in accordance with the District Council's affordable housing policies in place at the time to be paid to the District Council to spend on the provision of off-site Affordable Housing in the district of Babergh in the event that the Owners are unable to dispose of the Affordable Housing to a Registered Provider
"Affordable Housing Nomination Agreement"	an agreement substantially in the form set out in the Sixth Schedule dealing with the allocation of the Affordable Housing by a Registered Provider which shall apply to all the Affordable Housing Units and "Nomination Agreement" shall have the same meaning
"Affordable Housing Scheme"	written schemes submitted to the District Council as part of each Reserved Matters Application containing residential development for the written approval of the District Council identifying the location, number of bedrooms, gross internal area, mix and tenure of each Affordable Housing Unit within the phase in accordance with the

	<p>Framework Affordable Housing Scheme and the provisions of the Second Schedule (unless otherwise agreed in writing with the District Council)</p>
<p>"Affordable Housing Units"</p>	<p>means 35 % (thirty-five per cent) of the Dwellings that are to be provided as Affordable Housing in accordance with the tenure mix and the provisions of the Second Schedule comprising 71 % (seventy-one per cent) of the Affordable Housing Units to be occupied as Affordable Rent in accordance with a Choice Based Letting Scheme to which the District Council is a party or otherwise nominated by the District Council pursuant to the Affordable Housing Nomination Agreement as varied from time to time, and 29 % (twenty-nine per cent) of the Affordable Housing Units to be occupied as Shared Ownership and, in accordance with the Affordable Housing Nomination Agreement, to be Occupied by persons with a local connection to the District of Babergh and on a lease in a form set out in Homes England's Capital Funding Guide (or any subsequent scheme), or such other tenure if agreed in writing by the District Council</p>
<p>"Affordable Rent"</p>	<p>housing made available by a Registered Provider as low-cost rental accommodation (as defined by section 69 of the 2008 Act) with a rent charged at a level up to 80% of the equivalent market rent including any service charges applicable or the local housing rate allowance and "Affordable Rented" shall be construed accordingly</p>

"Application"	the application for outline planning permission for the Development validated by the District Council on 24 May 2021 and allocated reference DC/21/02671
"Bus Service Improvements"	means the sum of £500,000.00 (Five Hundred Thousand Pounds) Index Linked (to the Consumer Prices Index) to be used to improve and enhance bus services serving the residents of the Site
"Chargee"	means any mortgagee or chargee of the Registered Provider who is in possession, or any receiver or manager (including an administrative receiver) appointed by such a mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator
"Chargee's Duty"	the tasks and duties set out in paragraph 1.8.1 in Part 2 of the Second Schedule
"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 properties 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
"Commencement of Development"	the date on which any material operation (as defined in Section 56(4) of the 1990 Act) forming part of the Development begins to be carried out other than (for the purposes of this Agreement 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, any underground works, construction of access road (whether temporary or permanent), construction of temporary site compound and temporary marketing suite, erection of any temporary means of enclosure/ site security and the temporary display of site notices or advertisements and any other preparatory works as may be agreed with the District Council and "Commence", "Commenced" and "Commencement" shall be construed accordingly
"Completion of Development"	the date the final Dwelling is first Occupied
"County Contributions"	means the Early Years Contribution; the Modal Shift Contribution; the Primary School Contribution; the PROW Contribution; the SEND Contribution; the Sustainable Travel Contribution; Traffic Calming Contribution; and the Traffic Order Contribution
"Development"	the residential development of erection of up to 750 No dwellings, and up to 3ha of primary education land, public open space, Sustainable Drainage Systems (SuDS), landscaping and highway improvements (accompanied by EIA Statement) as set out in the Application
"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"	the sum of £2,362,437.00 (Two Million Three Hundred And Sixty-Two Thousand Four Hundred And Thirty-Seven Pounds) Index Linked to be used towards the provision of a new early years setting either on the Site or serving the Site in the locality of Wolsey Grange or the sum of £3,150 x (multiplied by) the total number of new Dwellings proposed pursuant to the Application as informed by any Reserved Matters approval (Index Linked)
"Education Land"	means a fully serviced freehold site of minimum 2.2-hectares as indicated on the attached Parameters Plan edged shaded and hatched purple or a location as otherwise may be agreed between the Owners and the County Council compliant with the Education Land Specification for the purpose of primary school education which may include early years provision and other ancillary community uses falling within use classes F1 and F2
"Education Land Specification"	means the specification for the Education Land and Additional Education Land set out in the Appendix attached to this Agreement, unless otherwise agreed in writing with the Council or the County Council
"Framework Affordable Housing Scheme"	a written framework scheme submitted to the District Council for its approval alongside the first Reserved Matters application identifying the anticipated number of Affordable Housing Units, number of bedrooms, mix and tenure on each Phase in accordance with the provisions in the Second Schedule in order

	that the intended Affordable Housing mix is effectively distributed across the entirety of the Development. The Framework Affordable Housing Scheme may be amended if agreed in writing by the District Council
"Habitats Sites"	means those sites on the Suffolk Coast which would be included within the definition of regulation 8 of the Conservation of Habitats and Species Regulations 2017 for the purpose of those regulations
"Habitats Sites Mitigation Contribution"	means the sum of up to £91,417.50 (Ninety-One Thousand Four Hundred and Seventeen Pounds and Fifty Pence) Index Linked calculated using the Habitat Mitigation Contribution Calculation
"Habitats Sites Mitigation Contribution Calculation"	the sum of £121.89 (One Hundred and Twenty-One Pounds and Eighty-Nine Pence) x (multiplied by) the total number of new Dwellings proposed pursuant to the Application as informed by any Reserved Matters approval
"HE"	'Homes England' means the non-departmental public body known as Homes England or any successor organisation who is charged with the function of investing in the provision of Affordable Housing
"HRA"	Habitats Regulations Assessment record and Addendum dated 25 November 2022 submitted with the Application
"HRA Chantry Park Mitigation Contribution"	means the sum of £20,000.00 (Twenty Thousand Pounds) Index Linked in respect of contribution to compost toilets plus £1,950.00 (One Thousand Nine Hundred and Fifty

	Pounds) Index Linked in respect of dog waste bins
"Index"	means either the All In Tender Price Index published by the Building Cost Information Service or any successor organisation or (where indicated) the Retail Prices Index or (where indicated) the Consumer Prices Index published by the Office for National Statistics
"Index Linked"	the increase in any sum referred to in the Second and Fourth Schedules by an amount equivalent to the increase in the Index to be calculated in accordance with clause 11 of this Agreement
"Late Payment Interest"	interest at 4 per cent above the minimum lending rate of the Bank of England from time to time
"LEMP"	Landscape and Ecological Management Plan as specified in Part 6 in the Second Schedule
"Management Company"	a company or body which subject to the District Council's written agreement, and provided that the Public Open Space is not transferred to the District Council, will take over responsibility for the future maintenance of the Public Open Space which definition may include a resident's association established for this purpose or a private limited company
"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
"Modal Shift Contribution"	£347,500.00 (Three Hundred and Forty-Seven Thousand, Five Hundred Pounds)

	<p>Index Linked to be used to undertake research, produce reports, fund incentives including infrastructure and associated measures by working with residents and businesses in the locality of the Development to encourage travel in more sustainable ways in particular but not limited to pedestrian, cycling and public transport; including all ancillary officer time and consultant costs relating to the aforementioned</p>
"Nominated Body"	<p>one or any of the following as agreed in writing with the District Council, provided that the Public Open Space is not transferred to the District Council:</p> <ul style="list-style-type: none"> a) the Management Company; or b) such other body as the District Council may elect <p>and "Nominated Bodies" shall be construed accordingly</p>
"NPPF"	<p>means the National Planning Policy Framework (as amended)</p>
"Northern Parcel"	<p>means the northern area of Public Open Space identified in plan DG 401 rev 8 above Church Lane submitted with the Application or any other replacement plan if agreed in writing by the District Council</p>
"Notice of Actual Commencement"	<p>notice in writing to advise of the actual date of Commencement of Development</p>
"Notice of Expected Commencement"	<p>notice in writing to advise of the expected date of Commencement of Development</p>

"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
"Off-Site Affordable Housing Contribution"	£37,968.00 (Thirty-Seven Thousand Nine Hundred and Sixty-Eight Pounds) Index Linked to be used by the District Council for the purpose of providing Affordable Housing to be provided off-site in the District of Babergh
"Outline Phase"	means a phase approved in outline only and in relation to which approval of Reserved Matters is required
"Parameters Plan"	means the parameter / land use plan attached to this Deed indicating the proposed location of the Education Land
"Phase"	means a part of the Development including the Public Open Space as identified on the Phasing Plan, and where followed by a number or description, means the Phase bearing that number or description and "Phases" shall be construed accordingly
"Phase 1 Agreement"	means an agreement dated 24 August 2018 entered into by the parties to this agreement and other owners pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) in respect of a planning application for land adjoining the Site with number B/15/00993

"Phasing Plan"	means the plan showing the Phases of the Development approved
"Plan"	the site plan attached to this Agreement
"Planning Permission"	the outline planning permission subject to conditions which may be granted by the District Council pursuant to the Application
"Practical Completion"	the issue of a certificate of practical completion by the Owners' architect or project manager or in the event that the Development is constructed by a party other than the Owners the issue of a certificate of practical completion by that other party's architect or project manager
"Primary School Contribution"	the sum of £4,006,416.00 (Four Million Six Thousand Four Hundred And Sixteen Pounds) Index Linked to be used towards the provision of a new primary school either on the Site or serving the Site in the locality of Wolsey Grange or the sum of £5,342.00 x (multiplied by) the total number of new Dwellings proposed pursuant to the Application as informed by any Reserved Matters approval (Index Linked)
"Protected Tenant"	any person who: <ul style="list-style-type: none"> a) Has exercised the right to acquire pursuant to the 1996 Act, the 2008 Act or any statutory provision for the time being in force (or any equivalent contractual right) in respect of an Affordable Housing Unit; b) Has exercised any statutory right to buy (or an equivalent contractual right) in respect of an Affordable Housing Unit;

	c) Has acquired 100% of the equity in an Affordable Housing Dwelling through staircasing or otherwise
"PROW Contribution"	<p>£375,000.00 (Three Hundred and Seventy-Five Thousand Pounds) Index Linked to be used towards the following:</p> <ul style="list-style-type: none"> • The upgrading of Sproughton Public Footpath 24 to bridleway status; • The improvement of Sproughton to and through the underpass; • The improvement of Sproughton Public Footpaths 11 and 12 onto Church Lane; • The improvement of access along Sproughton Public Footpath 11; • The provision of a bridge over the River Gipping; • All works costs ancillary to the above; • All ancillary Council officer time and all legal and administrative costs related to the above; • All other costs arising out of the above provision;
"Public Open Space"	means an area of public open space to be provided within the Site in accordance with the Planning Permission (unless otherwise agreed in writing with the District Council) including public access, local areas for play, local equipped areas for play and play on the way and trim trail

"Public Open Space Commuted Sum"	means £2,515,996.94 (Two Million Five Hundred and Fifteen Thousand Nine Hundred and Ninety-Six Pounds and Ninety-Four Pence) Index Linked in accordance with the provisions in Part 4 of the Second Schedule, Annex 1 (attached to the Second Schedule), subject to change in line with approved plans and the unit costs as shown at Annex 1, and subject to the provisions in the Third Schedule
"Public Open Space Plan"	a plan to be submitted to the District Council for approval (such approval not to be unreasonably delayed or withheld) indicating the location of the Public Open Space
"Public Open Space Scheme"	means the specification for delivery of the Public Open Space including the specifications plans and drawings showing but not limited to the layout and design of the Public Open Space, the phasing and timing of the delivery of the Public Open Space including details of any landscaping, paths and access arrangements together with details of the proposed future management regime for the Public Open Space (not including the identity of the Management Body) to be agreed in writing with the District Council in line with the District Council's current policies and requirements
"Public Open Space Transfer"	transfer of the Public Open Space in a form to be agreed by the Owners and the District Council (both acting reasonably) and which inter alia shall contain the following

	<p>provisions:</p> <ul style="list-style-type: none">a) The Owners shall transfer the fee simple estate free from encumbrances save those set out in the title at the date of the transfer;b) All easements and rights necessary in relation to access for the benefit of the Public 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;d) Restrictive covenants by the Nominated Body or the Nominated Bodies:<ul style="list-style-type: none">(i) 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 and play space, except where restricted (if applicable) for ecological, environmental or habitats reasons, as defined in this Agreement and identified in the Public Open Space Scheme;(ii) Not to use or permit the Public Open Space to be used in a manner which may be or become a nuisance (whether or not amounting to a legal nuisance), annoyance, disturbance or cause damage to the rest of the Development;
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"Registered Provider"	a registered provider of social housing as defined in section 80(2) of the 2008 Act and listed in the register kept by the Regulator of Social Housing under Chapter III of that Act. For the avoidance of doubt this could also include the District Council under the Housing Act 1985
"Reserved Matter"	means any one of those matters reserved under the terms of the Planning Permission for subsequent approval and "Reserved Matters" shall be construed accordingly
"Reserved Matters Application"	an application for the approval of Reserved Matters (within the meaning of the Town and Country Planning (Development Management Procedure) Order 2015) pursuant to the Planning Permission
"SEND Contribution"	the sum of £392,490.00 (Three Hundred and Ninety-Two Thousand Four Hundred and Ninety Pounds) Index Linked to be used towards the provision of special educational needs (whether forward funded or not) serving the Site
"Shared Ownership Dwelling"	dwellings to be let on a Shared Ownership Lease to a household for which the household income does not exceed £80,000 (eighty thousand pounds) 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 Dwellings shall be construed accordingly
"Shared Ownership Lease"	means a lease in a form approved by Homes England or where there is no such lease in a

	<p>form approved by the District Council to provide:</p> <ul style="list-style-type: none"> a) not more than 75% and not less than 10% of the equity (or such other percentages the Council may agree) shall be sold to the purchaser on an Initial Purchase; b) an option for the purchaser to increase their ownership up to 100% by Staircasing; 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
<p>"Site"</p>	<p>the land described in the First Schedule against which this Agreement may be enforced as shown edged red for identification purposes only on the Plan</p>
<p>"Staircasing"</p>	<p>means the acquisition after the date of the initial purchase of a Shared Ownership Dwelling additional tranches of equity 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</p>

"Sustainable Travel Contribution"	means the sum of £375,000.00 (Three Hundred and Seventy-Five Thousand Pounds) Index Linked towards the provision of sustainable travel improvements on the A1214 London Road corridor and adjacent roads
"Traffic Calming Contribution"	means the sum of £40,000.00 (Forty Thousand Pounds) Index Linked towards the provision of traffic calming measures on Hadleigh Road
"Traffic Order Contribution"	means the sum of £11,500.00 (Eleven Thousand Five Hundred Pounds) Index Linked towards the extension of the speed limit on Hadleigh Road including all ancillary officer time and legal and administrative costs
"Travel Plan Monitoring Fee"	means the sum of £1,000.00 (One Thousand Pounds) (Index Linked to the Consumer Prices Index) to be paid per annum in accordance with Schedule 4 of this deed towards the monitoring by the County Council of the application by the Owners of the travel plan conditioned in accordance with the Planning Permission
"Tree Survey"	a full survey of all existing trees in the Public Open Space providing a full health and safety report including likely future one-off and ongoing maintenance to existing trees with recommendations for urgent, immediate and ongoing regular work required or other necessary work within the next few years
"Working Days"	any day which is not a Saturday or Sunday, a bank holiday or a public holiday in England

2. CONSTRUCTION OF THIS AGREEMENT

- 2.1 Where in this Agreement 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 Agreement.
- 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 or Directive 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 Any references to any party to this Agreement 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 Agreement shall be reference to the plans attached to this Agreement bearing the relevant plan number or any amended plans as shall be agreed in writing between the Owners the District Council and the County Council.
- 2.9 None of the covenants contained in this Agreement on the part of the Owners shall be enforceable against: -
- 2.9.1 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 or any mortgagee of such Dwelling; or

- 2.9.2 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; or
 - 2.9.3 any person to whom the Registered Provider grants a Shared Ownership Lease or any successor in title to any such person and who has acquired all of the beneficial interest in their Dwelling a tenant exercising any right to acquire under a purchase grant scheme or right to buy or similar right conferred by statute or any successor in title to such person; or
 - 2.9.4 any mortgagee of a tenant or person to whom the Registered Provider has granted a Shared Ownership Lease or any receiver appointed by such mortgagee or any person deriving title through any such mortgage or receiver; or
 - 2.9.5 save for Part 2 of the Second Schedule, any Registered Provider who acquires an interest in the Affordable Housing Units;
 - 2.9.6 any person who has an interest in the Site only by way of an easement
- 2.10 Any covenant by the Owners 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 Agreement is made pursuant to Section 106 and Section 106A 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 Owners under this Agreement create planning obligations pursuant to Section 106 and 106A of the Act and are enforceable by the District Council and the County Council as appropriate as local planning authorities against the Owners or their successors in title.
- 3.3 This Agreement is a Deed and may be modified or discharged in part or in total at any time after the date of this Agreement by Deed between the Parties in the form of a Deed.
- 3.4 This Agreement 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 this Agreement are conditional upon:

4.1.1 the grant of the Planning Permission; and

4.1.2 the Commencement of Development

save for the provisions of clauses 3.3, 3.4, 7.3, 7.4, 7.5, 7.6, 7.7, 7.8, 7.10, 7.12, 7.13, 7.14, 7.15, 9, 15, 18, 19, 21 and 22 and any other relevant provisions which shall come into effect immediately upon completion of this Agreement.

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 Agreement will remain without operative effect notwithstanding the issue of the Planning Permission and the Commencement of Development;

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 Owners this Agreement 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 Agreement will apply in full.

4.3 Wherever in this Agreement 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:

4.3.1 proceedings by way of judicial review are concluded:

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

4.3.1.2 (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

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

4.3.2 proceedings under Section 288 of the 1990 Act are concluded:

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

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

5. THE OWNERS' COVENANTS

5.1 The Owners hereby covenant 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 Owners hereby covenant 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 Owners as set out in the Fourth Schedule.

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

7. MISCELLANEOUS

7.1 The Owners 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 Owners shall comply with any reasonable requests of the District Council and or the County Council and their duly authorised officers or agents to have access to any part or all of the Site (provided that at all times they comply with the requirements set out in clause 10) or any requests to provide documentation within the Owners' possession (at the Owners' expense) for the purposes of monitoring compliance with the obligations contained herein.

7.2 The Owners agree declare and covenant both with the District Council and County Council that they shall observe and perform the conditions restrictions and other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision imposed by this Agreement and further shall indemnify the District Council and/or the County Council (as appropriate) for any expenses or liability arising to the District Council and/or the County Council in respect of breach by the Owners of any obligation contained herein save to the extent that any act or omission of the District Council and/or the County Council its employees or agents has caused or contributed to such expenses or liability.

- 7.3 The Owners agree to pay to the District Council on completion of this Agreement the proper and reasonable legal costs of the District Council incurred in the negotiation preparation and execution and completion of this Agreement.
- 7.4 The Owners agree to pay to the County Council on completion of this Agreement the proper and reasonable legal costs of the County Council incurred in the negotiation preparation and execution and completion of this Agreement.
- 7.5 The Owners agree to pay to the District Council on completion of this Agreement the monitoring fee of £900 (Nine Hundred Pounds) and, further, £900 (Nine Hundred Pounds) on any individual Phase.
- 7.6 The Owners agree to pay to the County Council on completion of this Agreement the monitoring fee of £4,760 (Four Thousand Seven Hundred and Sixty Pounds).
- 7.7 No provisions of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 7.8 Where the agreement, approval, consent or expression of satisfaction is required by the Owners from the District Council or the County Council under the terms of this Agreement 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 Professional Lead or officer acting under his hand and on behalf of the County Council by the Executive Director of Growth Highways and Infrastructure or 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.
- 7.9 Following the performance and satisfaction of all the obligations contained in this Agreement the District Council shall forthwith on the written request of the Owners mark accordingly all entries made in the Register of Local Land Charges in respect of this Agreement.
- 7.10 Insofar as any clause or clauses or paragraphs of this Agreement are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement.
- 7.11 This Agreement 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 Owners) it is modified by any statutory procedure or expires prior to the Commencement of Development and the District Council will effect cancellation of all entries in the Register of Local Land Charges in respect of this Agreement.

- 7.12 No person shall be liable for any breach of any of the planning obligations or other provisions of this Agreement 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.
- 7.13 Nothing in this Agreement 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 Agreement.
- 7.14 In the event that any new planning applications are made in respect of the Development pursuant to Section 73 of the 1990 Act then with effect from the date that the new planning permission is granted pursuant to Section 73 of the 1990 Act:
- 7.14.1 unless the local planning authority requires otherwise the planning obligations in this Agreement shall in addition to binding the Site in respect of the Planning Permission shall also bind the Site in respect of any planning permission granted pursuant to Section 73 of the 1990 Act; and
- 7.14.2 the definitions of "Application", "Development" and "Planning Permission" shall be assumed to include references to any applications under Section 73 of the 1990 Act, the planning permissions granted thereunder and the development permitted by such subsequent planning permissions PROVIDED THAT nothing in this clause 7.14 shall fetter the discretion of the District Council in determining any applications under Section 73 of the 1990 Act and the appropriate nature and/or quantum of planning obligations in so far as they are materially different to those contained in this Agreement and required pursuant to a determination under Section 73 of the 1990 Act (whether by way of a new Deed or supplemental Deed pursuant to Section 106 of the 1990 Act or a modification pursuant to Section 106A of the 1990 Act).
- 7.15 Nothing contained or implied in this Agreement 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.
- 7.16 The Owners hereby agree that any rights to claim compensation arising from any limitations or restrictions on the planning use of the Site under the terms of this Agreement are hereby waived.

- 7.17 The Owners covenant and warrant to the District Council and the County Council that they have full power to enter into this Agreement and there is no other person having a charge over or any other interest in the Site whose consent is necessary to make this Agreement binding on the Site and all estates and interests therein.

8. WAIVER

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

9. CHANGE IN OWNERSHIP

The Owners agree 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 Agreement have been discharged such notice to be served within twenty (20) Working Days' of such transfer quoting the District Council's reference DC/21/02671 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.

10. RIGHTS OF ENTRY

- 10.1 At all times on not less than forty-eight (48) hours written notice except in case of emergency with or without notice the Owners 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 Agreement PROVIDED THAT:

10.1.1 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 (but entry may be made if there is or appears to be no such person on the Site);

10.1.2 such entry shall be effected between 08:00 and 18:00 on any Working Day;

10.1.3 such employee or agent may be accompanied by such other persons as may be reasonably necessary;

- 10.1.4 such employee or agent may take photographs measurements and levels;
- 10.1.5 such employee or agent may not remain on the Site for any longer than is reasonably necessary for carrying out a proper inspection;
- 10.1.6 such employee or agent and any other accompanying persons shall comply with the Owners or the Owners' representatives, reasonable directions and all the Owners' compliance precautions, procedures and measures in place for the Site at such time in the interests of health and safety;
- 10.1.7 such employee or agent shall not be entitled to access any Dwellings that have been sold;
- 10.1.8 such employee or agent shall be accompanied at all times by the Owners' manager or person in charge at the Site or such other employee or agent of the Owners in the interests of health and safety except in the event that no such person is available (in accordance with clause 10.1.1).

11. **INDEXATION**

Any sum referred to in this Agreement (unless the context reads otherwise) shall be increased by an amount equivalent to the increase in the Index (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:

- 11.1 A is the sum payable under this Agreement;
- 11.2 B is the original sum calculated as the sum payable;
- 11.3 C is the Index for the month 2 months before the date on which the sum is payable;
- 11.4 D is the Index for the month 2 months before the date of this Agreement; and
- 11.5 C/D is greater than 1

12. **INTEREST**

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

13. **VAT**

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

14. NOTICES

14.1 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 Agreement 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 14.2.

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

The District Council	The Chief Planning Officer, Babergh District Council, Endeavour House, 8 Russell Road, Ipswich, IP1 2BX – Email: planning@baberghmidsuffolk.gov.uk
The County Council	The Executive Director of Growth, Highways and Infrastructure, Suffolk County Council, Endeavour House, 8 Russell Road, Ipswich, IP1 2BX
The Owners	At the address specified above and to

*Wheep, Grop General Council, Second floor
Fore 2, Fore Business Park, Hockley Way
Shirley, Solihull, West Midlands B90 4SS*

15. DISPUTE RESOLUTION PROVISIONS

15.1 Any dispute or difference of any kind whatsoever arising between any or all of the Parties out of or in connection with this Agreement (including without limitation any question regarding its existence validity or termination) shall be referred to an independent single Expert ("the Expert").

15.2 The Expert shall have no less than ten (10) years' experience of resolving disputes similar in nature to the one that is proposed to be referred pursuant to clause 15.1.

15.3 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

15.4 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 any of the parties to the dispute as follows:

- 15.4.1 difference or question relates to the rights and liabilities of any party to the dispute or to the terms or conditions to be embodied in the Agreement or document appertaining to the Agreement 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
 - 15.4.2 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
 - 15.4.3 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
 - 15.4.4 if such difference or 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.
- 15.5 In the event of a reference to an Expert the parties to the dispute agree to:
- 15.5.1 prosecute any such reference expeditiously; and
 - 15.5.2 do all things or take all steps reasonably necessary in order to enable the Expert to make a final determination as soon² as reasonably practicable and in any event within one (1) month of his appointment PROVIDED THAT if the Expert fails to do so any party to the dispute may apply to the President for the time being of the Institution of Law Society, Civil Engineers, Royal Institution of Chartered Surveyors or Royal Town Planning Institute (as appropriate) for a substitute to be appointed in which case the same procedure shall be repeated.
- 15.6 The Expert shall invite written representations from any of the parties.
- 15.7 The Expert will have the power to consolidate proceedings or hold concurrent proceedings.
- 15.8 The findings of the Expert shall be in writing signed by the Expert.
- 15.9 The findings of the Expert shall be final and binding on all of the parties to the dispute except in the case of manifest, material error.
- 15.10 The Expert shall act as an expert and not as an arbitrator.

- 15.11 The costs of the Expert shall be payable by the parties in such proportion as may be determined by the Expert and failing such determination to be borne in equal shares by the parties.
- 15.12 Unless this Agreement has already been terminated any of the parties to the dispute shall in every case continue to comply with its obligations under this Agreement regardless of the nature of the dispute and notwithstanding the referral of the dispute for resolution pursuant to this clause 15 but without prejudice to the rights and obligations of the parties to the dispute in relation to the termination of the Agreement.
- 15.13 Nothing in the provisions of this clause 15 shall be construed as removing the jurisdiction of the courts to enforce the provisions of this Agreement.

16. SATISFACTION OF ANY OF THE PROVISIONS OF THIS AGREEMENT

Where in the opinion of the Owners any of the provisions of this Agreement have been satisfied the Owners 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 (acting reasonably) 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.

17. APPROVALS

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 Agreement 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 (acting reasonably) shall replace those previously approved.

18. COMMUNITY INFRASTRUCTURE LEVY

- 18.1 The Parties to this Agreement agree that for the purposes of the Community Infrastructure Levy Regulations 2010 (as amended) the obligations imposed in this Agreement are:
- 18.1.1 necessary to make the Development permitted pursuant to the Application acceptable in planning terms;
- 18.1.2 directly related to the Development permitted pursuant to the Application; and
- 18.1.3 fairly and reasonably related in scale and kind to the Development permitted pursuant to the Application.

19. **LAND OUTSIDE THE OWNERS' CONTROL**

Nothing in this Agreement shall require the performance of any obligation whatsoever in, over or under land outside the ownership or control of any Party to this Agreement.

20. **FUTURE MORTGAGEES**

The obligations in this Agreement shall not be enforceable against any mortgagee or chargee of the whole or any part of the Site from time to time or any person deriving title from such mortgagee or chargee unless and until any such party takes possession of the Site (or any part of it to which such obligation relates) in which case it shall be liable as if it were a successor in title to the Owners in relation to the Site (or the relevant part of it) PROVIDED THAT neither any mortgagee nor chargee nor person deriving title from such mortgagee or chargee shall be liable for any breach of the obligations contained in this Agreement unless committed at a time when that person is in possession of the Site (or any part of the Site to which such obligation relates).

21. **VARIATION OF PHASE 1 AGREEMENT**

21.1 The Parties agree that the Phase 1 Agreement will be varied as follows:

21.1.1 A new definition shall be inserted at paragraph 1:

"Phase 2 Agreement" means the Section 106 Agreement entered into between Babergh District Council, Suffolk County Council, Taylor Wimpey Developments Limited, Taylor Wimpey UK Limited in relation to planning application reference DC/21/02671 in relation to the development at the adjacent site entitled Wolsey Grange Phase 2

21.1.2 A new Paragraph 9.8 shall be inserted into Part 2 of the Second Schedule:

9.8 The Parties agree that should notice be served under paragraph 3 of Part 2 of the Fourth Schedule of the Phase 2 Agreement the obligations in this paragraph 9 will fall away and will no longer bind the Owner and for the avoidance of doubt the Owner may submit a planning application for development of the Primary School Site

21.1.3 Paragraph 1 of Part 1 of the Fourth Schedule shall be varied such that the words "...new early years setting on the Development..." in the second line shall be replaced with the words "...new early years setting serving the Development..."

22. **JURISDICTION**

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

in the presence of:-
Signature of witness.....
Name (in BLOCK CAPITALS)
Address:

[Redacted]

Kim Teague
Taylor Wimpey UK Ltd
Rapier House
Colima Avenue
Sunderland
SR5 3XB

[Redacted]

Georgina Dowson

in the presence of:-
Signature of witness.....
Name (in BLOCK CAPITALS)
Address:

[Redacted]

oy Wi mpey

Kim Teague
Taylor Wimpey UK Ltd
Rapier House
Colima Avenue
Sunderland
SR5 3XB

EXECUTED AS A DEED by [Full name]

as attorney for

TAYLOR WIMPEY D

D in the presence of:

Attorney's signature:

[Redacted]

Georgina Dowson

[Redacted]

~~Designated Member of~~ as attorney for

Witness signat

[Redacted]

Michelle Cave

[Redacted]

Witness name:

Kim Teague
Taylor Wimpey UK Ltd
Rapier House
Colima Avenue
Sunderland
SR5 3XB

Kim Teague
Taylor Wimpey UK Ltd
Rapier House
Colima Avenue
Sunderland
SR5 3XB

Witness address:

Witness Occupation

FIRST SCHEDULE

Details of the Owners' Title, and description of the Site

Taylor Wimpey Developments is the freehold owner of land at Hadleigh Road, Sproughton and land at Poplar Road, Copdock under LR title number SK293863, and Taylor Wimpey UK is the freehold owner of land at London Road, Ipswich, under LR title number SK400292 as shown edged red for identification purposes only on the Plan.

SECOND SCHEDULE

OWNER'S COVENANTS WITH THE DISTRICT COUNCIL

PART 1

1. The Owners shall serve the District Council with: (i) the Notice of Expected Commencement not less than 5 (five) Working Days' before the date that the Owners expect Commencement of Development to occur; and (ii) within 15 (fifteen) Working Days' of Commencement of Development having occurred, the Notice of Actual Commencement in order to confirm that Commencement has occurred.
2. The Owners shall give the District Council no less than 1 (one) months' written notice of the anticipated date for the Occupation of the first Dwelling.
3. The Owners shall within 15 (fifteen) 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 30% of the Market Housing Units on any individual Phase;
 - 3.3 the date of Occupation of 80% of the Market Housing Units on any individual Phase;and
 - 3.4 Completion of Development.

PART2

AFFORDABLE HOUSING

- 1.1 The Owners covenant with the District Council that 262 (two hundred and sixty-two) Dwellings are to be constructed as part of the Development as Affordable Housing Units in the following percentages, housing mix as follows unless otherwise agreed in writing with the District Council:

71% (seventy-one percent) of the Affordable Housing Units - **Affordable Rented Dwellings**

and

29% (twenty-nine percent) of the Affordable Housing Units - **Shared Ownership Dwellings**

Tenure	Number	Percentage (of tenure)	Size (Bedrooms and Persons)	Type	Minimum GIA (m2)
Affordable Rent (187 Total)	28	15%	1b2p	Flat	50
	11	6%	2b4p	Flat	70
	11	6%	2b4p	Bungalow	70
	4	2%	3b5p	Bungalow	86
	64	34%	2b4p	House	79
	65	35%	3b5p	House	93
	4	2%	4b7p	House	115
Shared Ownership (75 Total)	4	5%	2b4p	Bungalow	70
	4	5%	3b5p	Bungalow	86
	28	37%	2b4p	House	79
	39	52%	3b5p	House	93

- 1.2 The Owners covenant to submit a Framework Affordable Housing Scheme for the approval of the District Council as part of the first Reserved Matters Application in order to deliver the provisions of this Second Schedule (unless otherwise agreed in writing with the District Council) and the Owners covenant not to cause permit or allow Commencement of Development until an Affordable Housing Scheme pertaining to that phase has been submitted to and approved by the District Council in writing.
- 1.3 The Owners covenant that each Phase will be made up of 35% (thirty-five per cent) Affordable Housing, and the Owners covenant not to cause permit or allow Commencement on any individual Phase until an Affordable Housing Scheme pertaining to that Phase has been submitted to and approved by the District Council in writing as part of the Reserved Matters Application.
- 1.4 The Owners shall construct the Affordable Housing Units in groups of no more than 15 (fifteen) Dwellings in accordance with the Planning Permission and the Affordable Housing Schemes to a standard of construction which meets the Nationally Described Space Standards and Part M4(2) of the Building Regulations, with adequate parking, cycle storage and shed provision, accessed via a highway network and visually similar, and not separated from, the Market Housing Units.
- 1.5 Subject to paragraph 1.9 to 1.11 inclusive below the Owners shall not in respect of each Phase:
- 1.5.1 Occupy or permit Occupation of more than 30% (thirty per cent) of the Market Housing Units until 50% (fifty per cent) 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 Dwellings 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) 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 Dwellings or Shared Ownership Dwellings that those Affordable Housing Units have been transferred to the Registered Provider.

1.6 Having given notice under paragraph 1(ii) of the Second Schedule Part 1 above the Owners, prior to Commencement of each Phase, shall endeavour to agree with the District Council on the identity of the Registered Provider or other body to which the Affordable Housing Units within that Phase are to be transferred such agreement not to be unreasonably withheld or delayed. The Owners may Commence the Development on that Phase whilst that process is ongoing but if no agreement has been reached at the expiration of the period of 6 (six) months' following the Commencement of Development on that Phase the District Council shall be entitled to nominate a Registered Provider or other appropriate body for the purpose. 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 those existing as set out in the title at the time of the disposition (save for any financial charge or the transfer of statutory apparatus by the Owners to any statutory undertaker);

1.6.3 subject to grant by the Owners 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;

1.6.6 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 paragraph 1.8.

- 1.8 The District Council and the Owners agree that the obligations and restrictions contained in paragraph 1 of Part 2 of this Second Schedule shall not bind:
- 1.8.1 a 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 of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT (1) such mortgagee or chargee or receiver shall first give written notice to the District 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 District 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 (ii) if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Housing Units free from the provisions in paragraph 1 of Part 2 of this Second Schedule in this Agreement which provisions shall determine absolutely.
 - 1.8.2 any Protected Tenant;
 - 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 2008 Act, a voluntary grant scheme under section 21 of the 1996 Act or any amendment or replacement thereof;
 - 1.8.4 a lessee who has acquired up to one hundred percent (100%) of the legal and equitable interest in the Shared Ownership Dwelling; or
 - 1.8.5 any person or body deriving title through or from any of the parties mentioned in this paragraph 1.8.
- 1.9 In respect of each Phase, in the event that the Registered Provider (within 2 (two) months' of written invitation) is unable to make a reasonable offer to purchase the Affordable Housing Units or no longer wants to purchase the Affordable Housing Units the Owners shall:

- 1.9.1 notify the District Council 3 (three) months' prior to the Practical Completion of the first Affordable Housing Unit; and
 - 1.9.2 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; and
 - 1.9.3 submit any other information reasonably requested by the District Council to satisfy why the Owners have not been able to enter into a transfer with the Registered Provider pursuant to paragraph 1.6 of this part of this Schedule; and
 - 1.9.4 nominate an alternative Registered Provider for the District Council's approval; or
 - 1.9.5 offer the relevant Affordable Housing Units to the District Council to be purchased by the District Council as Affordable Housing.
- 1.10 In the event the District Council make a reasonable offer to the Owners (within 2 (two) months' of notice under paragraph 1.9.5), the Owners shall transfer the Affordable Housing Units to the District Council on the terms as those specified in paragraphs 1.6.1 to 1.6.6, the restrictions in paragraph 1.5.1 of this Schedule shall not apply and the Owners shall not Occupy or permit Occupation of more than 80% (eighty per cent) of the Market Housing Units until the Owners have provided the District Council with a freehold transfer document unconditionally released for completion.
- 1.11 In the event the Owners nominate an alternative Registered Provider for the District Council's approval under paragraph 1.9.4 above and the District Council approves the same, the Owners shall offer to transfer the Affordable Housing Units on the same terms as those specified in paragraphs 1.6.1 to 1.6.6 to that Registered Provider. The restrictions in paragraph 1.5 of this Schedule shall not apply and the Owner shall not Occupy or permit Occupation of more than 80% (eighty per cent) of the Market Housing Units until the Owner has transferred the Affordable Housing Units to the alternative Registered Provider.
- 1.12 In the event the District Council does not make a reasonable offer to the Owners (within 2 (two) months' of written invitation) to purchase all of the relevant Affordable Housing Units or the District Council indicates that they do not want to purchase the relevant Affordable Housing Units, or the alternative Registered Provider under paragraphs 1.10 to 1.11 does not complete a transfer within 3 (three) months of offer, the District Council shall serve on the Owners written confirmation that the Owners shall be permitted to sell the relevant Affordable Housing Units on the open market (such written confirmation not to be unreasonably withheld or delayed) and shall pay the Affordable Housing Contribution to the District Council within 2 (two) months of receipt of that

written confirmation (such sum to be calculated in accordance with the District Council's policies as are applicable at the time of calculation) in lieu of the provision of Affordable Housing on the Site.

- 1.13 Upon the payment of the Affordable Housing Contribution to the District Council the provisions of this Paragraph 1 of Part 2 of this Second Schedule shall no longer be applicable in respect of the relevant Affordable Housing Units and the Owners shall be free to dispose of the said Affordable Housing Units as Market Housing Units.

PART 3

OFF-SITE AFFORDABLE HOUSING CONTRIBUTION

- 1 The Owners covenant within 14 (fourteen) days of Commencement of Development to pay to the District Council the Off-Site Affordable Housing Contribution.
- 2 The Owners covenant not to Commence or permit Occupation of the first Dwelling ready for residential Occupation until such time as the Owners have paid to the District Council the Off-Site Affordable Housing Contribution plus any Late Payment Interest on the Off-Site Affordable Housing Contribution due to the District Council under this Agreement but not paid in accordance with the provision of clause 1 of Part 3 of this Second Schedule.

PART 4

PUBLIC OPEN SPACE

- 1.1 The Owners hereby covenant with the District Council to provide Public Open Space in accordance with the HRA to include public access, local areas for play, local equipped areas for play and play on the way and trim trail.
- 1.2 The Owners covenant not to Occupy the first Dwelling ready for residential Occupation on each Phase unless and until the Public Open Space Plan and the Public Open Space Scheme for that specific Phase have been provided and approved by the District Council in writing such approval not to be unreasonably withheld or delayed. The Owners also covenant not to Occupy the first Dwelling ready for residential Occupation of Phase 1 until the Northern Parcel has been delivered.

- 1.3 If the District Council fails within 40 (forty) Working Days of submission of the Public Open Space Plan and Public Open Space Scheme on a specific Phase to notify the Owners of its approval of the Public Open Space Plan and the Public Open Space Scheme the Owners shall be entitled to assume deemed approval of the Public Open Space Plan and Public Open Space Scheme on that specific Phase.
- 1.4 The Owners covenant, prior to Commencement of Development, to pay for a Tree Survey and provide the Tree Survey to the District Council, and that any costs for works required as specified in the Tree Survey are to be assessed.
- 1.5 The Owners covenant to undertake all immediate and urgent works specified in the Tree Survey prior to the Public Open Space Transfer referred to in paragraphs 1.7 and 1.8 of this Part 4 of the Second Schedule. In the event that the Public Open Space is transferred to the District Council the Owners further covenant that all other costs for works in the Tree Survey are to be assessed and to pay a commuted sum to cover these costs upon the Public Open Space Transfer pursuant to paragraph 1.9 in this Part 4 of the Second Schedule.
- 1.6 The Owners covenant with the District Council at their own cost to maintain and manage the Public Open Space strictly in accordance with the Public Open Space Plan, the Public Open Space Scheme and the Planning Permission until the date the Public Open Space Transfer described in paragraphs 1.7 and 1.8 of this Part 4 of this Second Schedule has been completed. It is preferred that the Public Open Space is transferred to the District Council. The Owners covenant, if the Public Open Space is transferred to a Nominated Body, to explain in writing any reasons for not transferring the Public Open Space to the District Council.
- 1.7 The Owners covenant that following the District Council's written confirmation that the Public Open Space (or part thereof) within each Phase has been laid out in accordance with the Public Open Space Plan and Public Open Space Scheme to transfer the Public Open Space within each Phase preferably to the District Council or to a Nominated Body and such transfer to include such items as necessary and outlined in the Public Open Space Transfer and shall for the avoidance of doubt include a covenant that the Public Open Space shall thereafter be retained and maintained in accordance with the Public Open Space Plan, the Public Open Space Scheme and the Planning Permission for the benefit of the general public. The Owners covenant, if the Public Open Space is transferred to a Nominated Body, to

explain in writing any reasons for not transferring the Public Open Space to the District Council.

- 1.8 The Owners shall transfer the Public Open Space preferably to the District Council, or to a Nominated Body, within 12 (twelve) months of Occupation of the last Dwelling on the relevant Phase ready for residential Occupation in accordance with the Public Open Space Transfer. The Owners covenant, if the Public Open Space is transferred to a Nominated Body, to explain in writing any reasons for not transferring the Public Open Space to the District Council.
- 1.9 If the Public Open Space is transferred to the District Council, the Owners covenant to pay the Public Open Space Commuted Sum to the District Council upon the transfer of the Public Open Space, and the commuted sum referred to at paragraph 1.5 in this Part 4 of the Second Schedule and any added sum following adjustment (if applicable) in accordance with the Third Schedule. The Owners also covenant (1) to arrange a meeting with the District Council's Public Realm Department to establish any necessary works including landscaping laying out and equipment have been satisfactorily carried out, and (2) to carry out remedial works and to maintain to the satisfaction of the Public Realm Department for a period of 18 (eighteen) months commencing 28 (twenty-eight) days following the date of written approval by the Public Realm Department that the said landscaping laying out and equipment have been satisfactorily completed.
- 1.10 If the Public Open Space is transferred to a Nominated Body, the Owners covenant to ensure the maintenance of the Public Open Space in perpetuity if the Nominated Body becomes insolvent or unable to perform its duties for reasons beyond their control.

PART 5

HABITATS SITES MITIGATION CONTRIBUTION

1. The Owners covenant, within 14 (fourteen) days of Commencement of Development pursuant to Planning Permission, to pay to the District Council the Habitats Sites Mitigation Contribution and, if no payment is made after the sum falls due, to pay the Habitats Sites Mitigation Contribution together with Late Payment Interest after the sum falls due until the date of actual payment.
2. The Owners covenant not to cause or permit Occupation of the first Dwelling of Phase 1 until the Habitats Sites Mitigation Contribution has been paid to the District Council.

PART 6

LANDSCAPE ECOLOGICAL MANAGEMENT PLAN

1. The Owners covenant that, prior to the Occupation of the first Dwelling ready for residential Occupation, a LEMP shall be submitted to and be approved in writing by the District Council including:
 - 1.1. Description and evaluation of features to be managed for biodiversity and people.
 - 1.2. Ecological trends and constraints on site that might influence management.
 - 1.3. Aims and objectives of management.
 - 1.4. Appropriate management options for achieving aims and objectives.
 - 1.5. Prescriptions for management actions.
 - 1.6. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period to ensure management will be in perpetuity).
 - 1.7. Details of the body or organisation responsible for implementation of the plan.
 - 1.8. Ongoing monitoring and remedial measures.
 - 1.9. The legal and funding mechanism(s) by which the long-term implementation of the LEMP will be secured by the Owners.
 - 1.10. Identification of contingencies and/ or remedial action if the aims and objectives of the LEMP are not met.
2. The Owners further covenants to implement the LEMP as agreed with the District Council.

PART 7

HRA CHANTRY PARK MITIGATION CONTRIBUTION

1. The Owners covenants with the District Council as follows:
 - 1.1 To pay the HRA Chantry Park Mitigation Contribution to the District Council prior to Commencement of Phase 1; and
 - 1.2 Not to allow or permit Commencement of Phase 1 until the HRA Chantry Park Mitigation Contribution has been paid to the District Council.

ave inflation over ten years

(See below summary of BCIS ALL IN TPI) – 4.32%*

yr 1	yr 2	yr 3	yr 4	yr 5
£	£	£	£	£
122,892.99	127,993.33	133,572.64	139,290.82	145,308.19
yr 6	yr 7	yr 8	yr 9	yr 10
£	£	£	£	£
151,585.50	159,133.99	164,965.38	172,091.89	179,526.25
yr 11	yr 12	yr 13	yr 14	yr 15
£	£	£	£	£
187,281.79	195,372.36	203,812.45	212,617.15	221,802.21

BCIS All-in tender price index

2012	223		0.90%
2013	235		5.40%
2014	256		8.90%
2015	270		5.50%
2016	282		4.40%
2017	308		9.20%
2018	327		6.20%
2019	334		2.10%
2020	332	Provisional	-0.60%
2021	336	Provisional	1.20%
		ave for ten years	4.32%*
2022 November	371	inflation for 2022	10%

for fifteen years

€ 2,515,996.94

THIRD SCHEDULE

DISTRICT COUNCIL'S COVENANTS

1. At the written request of the Owners the District Council shall provide written confirmation of the discharge of one or more of the obligations contained within this Agreement when satisfied (acting reasonably) that such obligations have been performed.
2. To use all sums received from the Owners under the terms of this Agreement for the purposes specified in this Agreement for which they are to be paid and to use reasonable endeavours to ensure any sums received from the Owners under the terms of this Agreement which are to be transferred to a third party are used by that third party for the purposes specified in this Agreement for which they are to be paid.
3. If requested to do so in writing to pay to the Owners such amount of any payment made by the Owners to the District Council under this Agreement which has not been expended or committed for expenditure (whether by contract or otherwise) or transferred to a third party in accordance with the provisions of this Agreement within 10 (ten) years of the date of receipt by the District Council of such payment.
4. If requested to do so in writing to use reasonable endeavours to ensure that where any sum received from the Owners under the terms of this Agreement is paid to a third party that third party will pay to the Owners such amount of the relevant payment made by the Owners under this Agreement which has not been expended or committed for expenditure (whether by contract or otherwise) in accordance with the provisions of this Agreement within 10 (ten) years of the date of receipt by the District Council.
5. The District Council shall within 3 (three) months of written request provide written confirmation to the Owners of the extent to which any of the contributions payable to the District Council have been spent or committed and details of what the said monies have been spent on or committed to.
6. The District Council covenants to use the HRA Chantry Park Mitigation Contribution to deliver the measures identified in the HRA Report and Addendum.

7. In the event that an Affordable Housing Contribution is paid to the District Council the District Council shall use the monies solely for the provision of Affordable Housing within the administrative area of Babergh District Council.

8. In the event that the Affordable Housing Contribution is paid to the District Council pursuant to this Agreement was spent or committed by the District Council it shall upon written request after the expiry of ten (10) years of the payment of that sum notify the Owners (or such other person who made the payment) that such monies have been spent or committed within a further period of 3 (three) months such notice to include full details of what the said monies were spent on or committed to.

9. The District Council shall upon written request after the expiry of ten (10) years of the payment of the Off-Site Affordable Housing Contribution notify the Owners (or such other person who made the payment) that such monies have been spent or committed within a further period of 3 (three) months such notice to include full details of what the said monies were spent on or committed to.

10. The District Council shall provide updated costs assessments within 50 (fifty) days of approval of the Public Open Space Scheme, and adjust the Public Open Space Commuted Sum including additional provision for the maintenance of newly planted trees. The District Council further covenants to return any amount due (if applicable) to the Owners within 3 (three) months.

FOURTH SCHEDULE
OWNER'S COVENANTS WITH THE COUNTY COUNCIL

PART 1

- 1 The Owners shall serve the County Council with: (i) the Notice of Expected Commencement not less than 5 (five) Working Days' before the date that the Owners expect Commencement of Development to occur; and (ii) within 15 (fifteen) Working Days' of Commencement of Development having occurred, the Notice of Actual Commencement in order to confirm that Commencement has occurred.
- 2 The Owners shall give the County Council no less than 1 (one) months' prior written notice of the anticipated date for the Occupation of the first Dwelling.
- 3 The Owners shall give the County Council no less than 1 (one) months' prior written notice of the anticipated date of the Completion of the Development.
- 4 The Owners shall within 15 (fifteen) Working Days' give written notice to the County Council following:
 - 4.1 the date of Occupation of the first Dwelling;
 - 4.2 the date of Occupation of the forty-ninth Dwelling;
 - 4.3 the date of Occupation of the fiftieth Dwelling;
 - 4.4 the date of Occupation of the ninety-ninth Dwelling;
 - 4.5 the date of Occupation of the one hundred and seventy-fourth Dwelling;
 - 4.6 the date of Occupation of the one hundred and ninety-ninth Dwelling;
 - 4.7 the date of Occupation of the two hundred and ninety-ninth Dwelling;
 - 4.8 the date of Occupation of the three hundred and seventy-fourth Dwelling;
 - 4.9 the date of Occupation of the four hundred and twenty-fourth Dwelling;
 - 4.10 the date of Occupation of the four hundred and ninety-ninth Dwelling;
 - 4.11 the date of Occupation of the five hundred and ninety-ninth Dwelling;
 - 4.12 the date of Completion of Development; and

4.13 the approval of any Reserved Matters by the District Council

PART 2

EDUCATION CONTRIBUTIONS

- 1 The Owners covenant to pay to the County Council:
 - 1.1 20% (twenty percent) of the Primary School Contribution and Early Years Contribution prior to Occupation of the 50th (fiftieth) Dwelling;
 - 1.2 a further 20% (twenty percent) of the Primary School Contribution and Early Years Contribution prior to Occupation of the 175th (one hundred and seventy-fifth) Dwelling;
 - 1.3 the SEND Contribution prior to Occupation of the 200th (two hundredth) Dwelling;
 - 1.4 a further 20% (twenty percent) of the Primary School Contribution and Early Years Contribution prior to Occupation of the 300th (three hundredth) Dwelling;
 - 1.5 a further 20% (twenty percent) of the Primary School Contribution and Early Years Contribution prior to Occupation of the 425th (four hundred and twenty-fifth) Dwelling;
 - 1.6 the final 20% (twenty percent) of the Primary School Contribution and Early Years Contribution prior to Occupation of the 600th(six hundredth) Dwelling;
 - 1.7 For the avoidance of doubt the sum to be paid at paragraph 1.6 above and paragraph 2.6 below will be the balance of the Primary School Contribution and Early Years Contribution recalculated and adjusted in accordance with the number of Dwellings permitted pursuant to any Reserved Matters approvals in effect at the time the payment is due.
- 2 The Owners covenant not to Occupy or permit Occupation of:
 - 2.1 More than 49 Dwellings prior to payment of 20% (twenty percent) of the Primary School Contribution and Early Years Contribution to the County Council
 - 2.2 More than 174 Dwellings prior to payment of a further 20% (twenty percent) Primary School Contribution and Early Years Contribution to the County Council

- 2.3 More than 199 Dwellings prior to payment of the SEND Contribution to the County Council
- 2.4 More than 299 Dwellings prior to payment of a further 20% (twenty percent) Primary School Contribution and Early Years Contribution to the County Council
- 2.5 More than 424 Dwellings prior to payment of a further 20% (twenty percent) Primary School Contribution and Early Years Contribution to the County Council
- 2.6 More than 599 Dwellings prior to payment of the full Primary School Contribution and Early Years Contribution to the County Council

PART 3

EDUCATION LAND

- 1 Prior to the submission of the first Reserved Matters Application, the Owners and the County Council will agree the location of the Education Land as indicated on the Parameters Plan or as may otherwise be agreed between the parties PROVIDED THAT in the event such agreement has not been reached within six weeks of the submission of such details by the Owners to the County Council in writing, the Owners may submit the first Reserved Matters Application but shall not Commence Development until the location of the Education Land has been agreed.
- 2 In the event that the County Council serves written notice on the Owners requesting a transfer of the Education Land within a period of 10 years from the date the Owners first notify the County Council in writing of the first Occupation of the 50th (fiftieth) Dwelling ("**the Option Period**") the Owners shall transfer without unreasonable delay the freehold estate of the Education Land to the County Council or a third party if nominated in writing by the County Council such transfer shall be in such final form as may be agreed by the Owners and the County Council (both acting reasonably) and in accordance with those terms below (unless otherwise agreed in writing between the Owners and the County Council):
 - 2.1 for consideration of £1;
 - 2.2 with vacant possession and clear of rubbish building materials soil compaction and encampments (unless it is agreed that site compounds or equivalent

provision reasonably required for the construction of the Development may remain for a temporary period as may be agreed);

- 2.3 unencumbered of any covenants easements exceptions restrictions and charges;
 - 2.4 any remediation identified in reports or surveys as part of the Application or submitted pursuant to the Planning Permission in respect of contamination having been carried out in accordance with the recommendations in those reports;
 - 2.5 fully serviced up to the boundary of the Education Land (being electricity water supply foul and surface water discharge telecommunications and broadband);
 - 2.6 with the benefit of all highway visibility requirements having been fulfilled on the Development;
 - 2.7 with the benefit of highway access to adoption standard having been constructed by the Owners entirely at the Owners' expense and including easements over such access where not yet adopted;
 - 2.8 with the benefit of an archaeological investigation having been completed (in respect of the Education Land only) by the Owners entirely at the Owners' expense the results of which will have been shared with the County Council;
 - 2.9 without prejudice to the above with full compliance with the Education Land Specification
- 3 In the event that the County Council does not serve notice on the Owners requiring transfer of the Education Land to the County Council or its nominated third party in accordance with the provisions of this Part 3 of the Fourth Schedule during the Option Period then all of the Owners' obligations in this Deed concerning the Education Land in paragraphs 1, 2 and 4 of this Part 3 of the Fourth Schedule shall cease and have no further force nor effect (unless otherwise agreed in writing between the Owners and the County Council) and for the avoidance of doubt the Owner may submit a planning application for development of the Education Land.
- 4 In the event that notice has been served by the County Council on the Owners during the Option Period then the Owners and the County Council shall use reasonable endeavours to transfer the Education Land without unreasonable delay thereafter (any

disputes as to the use of reasonable endeavours or unreasonable delay (or otherwise) shall be determined pursuant to clause 15) (unless otherwise agreed in writing between the Owners and the County Council). If the transfer is not completed within 5 years of the date of the notice in paragraph 2 of this Part 3 of the Fourth Schedule after reasonable endeavours by both the Owners and County Council the obligations in this Part 3 shall cease and have no further force nor effect and the Owners may submit a planning application for development of the Education Land.

- 5 In the event that the County Council determines it requires the Additional Education Land:
 - 5.1 it may serve a single notice requesting transfer of both the Additional Education Land and the Education Land provided such notice is otherwise in accordance with the provisions of Parts 3 and 3A of the Fourth Schedule; and
 - 5.2 Irrespective of whether separate or combined notices are served in respect of the Additional Education Land and the Education Land requesting transfer of these areas the combined area of land shall be treated as one for the purposes of any subsequent transfer.
- 6 The Owners and the County Council will agree the location of the Additional Education Land as indicated on the Parameters Plan or as may otherwise be agreed between the parties PROVIDED THAT in the event such agreement has not been reached within 20 Working Days of the submission of such details by the Owners to the County Council in writing, the Owners may submit the first Reserved Matters Application but shall not Commence Development until the location of the Additional Education Land has been agreed and further PROVIDED THAT the site of the Additional Education Land will be contiguous with that of the Education Land and that the precise area of the Additional Education Land shall be up to 0.8 hectares at the County Council's absolute discretion.
- 7 In the event that the County Council serves written notice on the Owners requesting a transfer of the Additional Education Land within a period of 15 years from the date the Owners first notify the County Council in writing of the first Occupation of the 50th (fiftieth) Dwelling ("**the Additional Option Period**") the Owners shall transfer without unreasonable delay the freehold estate of the Additional Education Land to the County Council or a third party if nominated in writing by the County Council such transfer shall be in such final form as may be agreed by the Owners and the County Council (both

acting reasonably) and in accordance with those terms below (unless otherwise agreed in writing between the Owners and the County Council):

- 7.1 for consideration of £1;
- 7.2 with vacant possession and clear of rubbish building materials soil compaction and encampments (unless it is agreed that site compounds or equivalent provision reasonably required for the construction of the Development may remain for a temporary period as may be agreed);
- 7.3 unencumbered of any covenants easements exceptions restrictions and charges
- 7.4 any remediation identified in reports or surveys as part of the Application or submitted pursuant to the Planning Permission in respect of contamination having been carried out in accordance with the recommendations in those reports;
- 7.5 fully serviced up to the boundary of the Education Land (being electricity water supply foul and surface water discharge telecommunications and broadband);
- 7.6 with the benefit of all highway visibility requirements having been fulfilled on the Development;
- 7.7 with the benefit of highway access to adoption standard having been constructed by the Owners entirely at the Owners' expense and including easements over such access where not yet adopted;
- 7.8 with the benefit of an archaeological investigation having been completed (in respect of the Additional Education Land only) by the Owners entirely at the Owners' expense the results of which will have been shared with the County Council;
- 7.9 without prejudice to the above with full compliance with the Education Land Specification

- 8 In the event that the County Council does not serve notice on the Owners requiring transfer of the Additional Education Land to the County Council or its nominated third party in accordance with the provisions of this Part 3A of the Fourth Schedule during the Additional Option Period then all of the Owners' obligations in this Deed concerning the Additional Education Land in paragraphs 1, 2 and 4 of this Part 3A of the Fourth Schedule shall cease and have no further force nor effect (unless otherwise agreed in writing between the Owners and the County Council) and for the avoidance of doubt the Owner may submit a planning application for development of the Additional Education Land.

- 9 In the event that notice has been served by the County Council on the Owner during the Additional Option Period then the Owners and the County Council shall use reasonable endeavours to transfer the Additional Education Land without unreasonable delay thereafter (any disputes as to the use of reasonable endeavours or unreasonable delay (or otherwise) shall be determined pursuant to clause 15) (unless otherwise agreed in writing between the Owners and the County Council). If the transfer is not completed within 5 years of the date of the notice in paragraph 2 of this Part 3A of the Fourth Schedule the obligations in this Part 3A shall cease and have no further force nor effect and for the avoidance of doubt the Owners may submit a planning application for development of the Additional Education Land.

- 10 In the event that the County Council determines it requires the Additional School Land:
 - 10.1 it may serve a single notice requesting transfer of both the Additional Education Land and the Education Land provided such notice is otherwise in accordance with the provisions of Parts 3 and 3A of the Fourth Schedule; and

 - 10.2 irrespective of whether separate or combined notices are served in respect of the Additional Education Land and the Education Land requesting transfer of these areas of land the combined area of land shall be treated as one for the purposes of any subsequent transfer.

PART 4

HIGHWAYS CONTRIBUTIONS

- 1 The Owners covenant to pay to the County Council:
 - 1.1. The Speed Limit Contribution and Traffic Calming Contribution prior to Commencement of Development;
 - 1.2. 50% (fifty percent) of the Sustainable Travel Contribution and 50% (fifty percent) of the Modal Shift Contribution prior to first Occupation of the 100th (hundredth) Dwelling;
 - 1.3. A further 50% (fifty percent) of the Sustainable Travel Contribution prior to first Occupation of the 375th (three hundred and seventy-fifth) Dwelling;
 - 1.4. A further 50% (fifty percent) of the Modal Shift Contribution prior to first Occupation of the 500th (five hundredth) Dwelling.
- 2 The Owners covenant not to Commence Development prior to payment of the Speed Limit Contribution and Traffic Calming Contribution to the County Council.
- 3 The Owners covenant not to Occupy or permit Occupation of:
 - 3.1. More than 99 Dwellings prior to payment of 50% (fifty percent) of the Sustainable Travel Contribution and 50% (fifty percent) of the Modal Shift Contribution to the County Council;
 - 3.2. More than 374 Dwellings prior to payment of a further 50% (fifty percent) of the Sustainable Travel Contribution to the County Council;
 - 3.3. More than 499 Dwellings prior to payment of a further 50% (fifty percent) of the Modal Shift Contribution to the County Council.

PART 5

PUBLIC RIGHTS OF WAY CONTRIBUTION

- 1 The Owners covenant to pay to the County Council:

- 1.1 50% (fifty percent) of the PROW Contribution prior to first Occupation of the 100th (hundredth) Dwelling; and
 - 1.2 A further 50% (fifty percent) of the PROW Contribution prior to first Occupation of the 500th (hundredth) Dwelling.
- 2 The Owners covenant not to Occupy or permit Occupation of:
 - 2.1 More than 99 Dwellings prior to payment of a 50% (fifty percent) of the PROW Contribution to the County Council; and
 - 2.2 More than 499 Dwellings prior to payment of a further 50% (fifty percent) of the PROW Contribution to the County Council.

PART 6

TRAVEL PLAN MONITORING FEE

- 1 The Owners covenant to pay the Travel Plan Monitoring Fee to the County Council prior to first Occupation of the hundredth (100th) Dwelling and then a further Travel Plan Monitoring Fee to the County Council on each subsequent anniversary (or earlier) thereafter until the fifth anniversary of the Completion of Development.
- 2 The Owners covenant not to Occupy or permit Occupation of more than 99 (ninety-nine) Dwellings until the Owners have paid the first instalment of the Travel Plan Monitoring Fee to the County Council.

PART 7

BUS SERVICE

- 1 The Owners covenant to pay the Bus Service Contribution to the County Council prior to first Occupation of the hundredth (100th) Dwelling.
- 2 The Owners covenant not to Occupy or permit Occupation of more than 99 (ninety-nine) Dwellings until the Owners have paid the Bus Service Contribution to the County Council.

FIFTH SCHEDULE
COUNTY COUNCIL'S COVENANTS

- 1 To use the County Contributions and the Travel Plan Monitoring Fee for their intended purposes under this Deed and for no other purpose
- 2 To provide to the Owners, on the Owners' written request, information regarding the expenditure of the County Contributions PROVIDED THAT such request is made within eleven (11) years of Completion of Development.
- 3 The County Council shall if requested to do so in writing after the expiry of ten (10) years of the date of Completion of Development, within a further period of one (1) year, either confirm that the County Contributions were committed or expended by the County Council in accordance with the provisions of this Deed or if they were not so committed or expended in that period pay the County Contributions (or any part not committed or expended) back to the person who paid it, such payment to be made within twenty (20) Working Days' of such request.
- 4 The County Council shall if requested to do so in writing after Reserved Matters have been approved in respect of the total number of Dwellings to be constructed on the Site refund without unreasonable delay to the person who paid it any amount by which the Primary School Contribution received thus far by the County Council exceeds the sum of £5,342.00 x (multiplied by) the total number of new Dwellings proposed pursuant to the Application as informed by any Reserved Matters approval (Index Linked)
- 5 The County Council shall if requested to do so in writing after Reserved Matters have been approved in respect of the total number of Dwellings to be constructed on the Site refund without unreasonable delay to the person who paid it any amount by which the Early Years Contribution received thus far by the County Council exceeds the sum of £3,150 x (multiplied by) the total number of new Dwellings proposed pursuant to the Application as informed by any Reserved Matters approval (Index Linked)

SIXTH SCHEDULE
DRAFT DEED OF NOMINATION RIGHTS

is made [enter date at completion]

BETWEEN

(1) [ENTER NAME OF RP]

and

(2) **BABERGH DISTRICT COUNCIL/MID SUFFOLK DISTRICT COUNCIL (delete as appropriate)**

Relating to

[Enter name and address as set out in Section 106. If new or different address, enter
"and also known as"]

[Enter Planning Application reference]

[Enter Date of S106 Agreement:]

Shared Legal Services

Babergh District Council/Mid Suffolk District Council (delete as appropriate)

Council Offices

Endeavour House

8 Russell Road

Ipswich IP1 2BX

Part I

Provisions relating to Affordable Rent Units – Pages 3 to 11

Part II

Provisions relating to Shared Ownership Units – Pages 11 to 19

(Delete this page if only one part is used)

DRAFT

THIS DEED OF NOMINATION RIGHTS

is made [enter date at completion]

BETWEEN:

(1) **[Enter name of RP]** whose registered address is **[enter RP'S address]**

(the RP) and

(2) **BABERGH DISTRICT COUNCIL/MID SUFFOLK DISTRICT COUNCIL (delete as appropriate)** of Endeavour House, 8 Russell Road Ipswich Suffolk, IP1 2BX

(the Council)

'the Parties'

Part I - Provisions relating to Affordable Rent Units

1. Definitions

1.1. 'Affordable Housing' has the meaning given to it in Annex 2 of the National Planning Policy Framework published in July 2021 (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 Location Plan' means a document consistent with the provision of Affordable Housing Units pursuant to the Planning Permission detailing the following:

- i) the Affordable Housing Units and their location;
- ii) the number of bedrooms per Dwelling;
- iii) street name and postal address; and
- iv) tenure.

1.3. 'Affordable Housing Unit' means [enter number] Dwellings ([enter percentage number] % of the Dwellings) which shall be Affordable Rent Units (unless otherwise agreed by the Council) and 'Affordable Housing Units' shall be construed accordingly.

1.4. 'Affordable Rent' means rent charged at a level up to 80% of the equivalent Market Rent including any service charges applicable. Rents will be set, and may be adjusted over time, in accordance with the Government's policy for Affordable Rents as set out in the Rent Standard of April 2023 and any subsequent update or such Government policy which may succeed it.

1.5. 'Affordable Rent Unit' means an Affordable Housing Unit made available by a RP as low cost rental accommodation (as defined in Section 69 of the Housing and Regeneration Act 2008).

1.6. 'Allocations Policy' means the policy adopted by the Council which governs households that are eligible to Occupy Affordable Housing, in line with its statutory duties.

1.7. 'Chargee' means any mortgagee or chargee of the RP or any receiver or manager (including an administrative receiver) appointed by such a 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.

1.8. 'Choice Based Lettings Scheme' means the allocation process that the Council has adopted for allocating social housing or any allocation process which may succeed it.

1.9. 'Dwelling' means a dwelling (including a house flat maisonette or bungalow and including both market housing units and Affordable Housing Units) to be constructed pursuant 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 the non-departmental public body known as Homes England or any successor organisation who is charged with the function of investing in the provision of Affordable Housing.

1.12. 'Initial Let' means the first tenancy of a newly constructed and previously unoccupied Affordable Rent Unit.

1.13. 'Local Connection' means a connection to the District of [enter name] and as defined in the Allocations Policy.

1.14. 'Local Connection Criteria' means the requirements that need to be met for a Local Connection as set out in the Allocations Policy.

1.15. 'Market Rent' means, in relation to accommodation, an estimate of its market rent inclusive of all service charges at the time the tenancy is granted that is based on a valuation in accordance with a method recognised by the Royal Institution of Chartered Surveyors.

1.16. 'Notice of Practical Completion' means a written notice (in a form to be agreed between the RP and the Council) to be given to the Council within two (2) weeks from the issue date of the certificate of Practical Completion. 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 Units will be complete and ready to let.

1.17. 'Occupation' means the action of living in or using an Affordable Housing Unit as an only and principal home, for the purposes permitted by the Planning Permission, not including occupation by personnel engaged in construction, fitting out, decoration, marketing or display; or occupation in relation to security operations and 'Occupy' and 'Occupied' shall be construed accordingly.

1.18. 'Plan' means the location plan bearing drawing number [insert number] annexed to this deed.

1.19. 'Planning Permission' means the planning permission which may be granted pursuant to the planning application reference number [insert number] subject to conditions, and also to

obligations in the section 106 (Town and Country Planning Act 1990) agreement dated [insert date].

1.20. 'Practical Completion' means issue of a certificate of practical completion by the RP's surveyor or, if 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.

1.21. 'Property' means the land at [enter full address of land] shown edged red on the Plan.

1.22. 'Registered Provider' or 'RP' 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 the Regulator of Social Housing under Chapter III of that Act. For the avoidance of doubt this could also include the Council under the Housing Act 1985.

1.23. 'Rent Standard' means the Government's Policy Statement on rents for social housing updated in April 2023, and any subsequent update or policy which may succeed it.

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 RP and the Council.

1.25. 'Tenancy Agreement' means a contract in a form prepared by the RP which sets out the legal terms and conditions of the tenancy, and which conforms with the requirements of the Tenancy Standard.

1.26. 'Tenancy Standard' means the Government's standards in respect of the letting of Affordable Housing published on 1 April 2012, as updated, and any such Government policy which may succeed it.

1.27. 'Void' means an Affordable Rent Unit which is vacant, otherwise than as a result of the tenant having:

- 1) moved to other accommodation due to a temporary decant provided by the RP;

- 2) moved to other accommodation under a reciprocal arrangement between the Council or RP and another Council or RP; or
- 3) moved to other accommodation by way of a mutual exchange.

and any void period shall be measured in calendar days between the date of termination of the previous tenancy, or repossession, and the start date of the new tenancy.

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 as part of the Gateway to Homechoice, Choice Based Lettings Scheme (or any such successor) and the Local Connection Criteria therein shall apply to the nomination of persons in respect of the Affordable Rent Units.

4. Initial Let

In relation to the Initial Let of any Affordable Rent Unit, the following provisions will apply:

- 1) the RP shall give the Council not less than twelve (12) weeks' written notice of the date when the Affordable Rent Units will be ready for occupation; and
- 2) the RP shall serve Notice of Practical Completion upon the Council within two (2) weeks of the date of a certificate of Practical Completion being issued; and
- 3) the Initial Let will be let in accordance with the SLA.

5. Voids

Should any Affordable Rent Unit become a Void after the Initial Let, or the RP has reasonable cause to believe it will become a Void, then it will be let in accordance with the SLA.

6. RP covenants

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

- 1) To ensure that each of the Affordable Rent Units that are acquired by the RP are Occupied as Affordable Housing Units.
- 2) To ensure that each of the Affordable Rent Units that are acquired by the RP are let to households with a Local Connection (unless otherwise agreed in writing with the Council and subject to the remaining terms of this deed).
- 3) To ensure that a Tenancy Agreement at an Affordable Rent is retained and managed by the RP.
- 4) To submit an Affordable Housing Location Plan to the Council not less than one (1) month in advance of the date when the first of the Affordable Rent Units will be ready for Occupation.

7. Variation of nomination rights

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.

8. Notices

Any notice required to be served hereunder shall be sufficiently served on the Parties at the address indicated below or such other address notified by one party to the other in writing 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 on which such notice was

transmitted by the party serving the notice or, if served after 4.30 pm, one (1) working day after electronic mailing.

The Council	Director for Housing, Babergh / Mid Suffolk District Council, Endeavour House, 8 Russell Road, Ipswich IP1 2BX or by email: [enter email address]
The Registered Provider	As per the address provided at the beginning of this deed or by email: [enter email address]

9. Transfer to other RPs

The RP shall use reasonable endeavours to ensure that any RP to which the Property and Affordable Housing Units erected thereon are transferred (other 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 (or other such successor scheme) simultaneously on completing the transfer of the Property.

10. 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 or relevant body on the application of either party.

11. Agreements and declarations

The Parties agree:

11.1. Nothing in this deed fetters or restricts the exercise by the Council of any of its powers.

11.2. The obligations and covenants contained in this deed are covenants for the purpose of Section 33 of the Local Government (Miscellaneous Provisions) Act 1982.

11.3. From the issue date of a certificate of Practical Completion of each of the Affordable Rent Units acquired by the RP, the Affordable Rent Units shall be let in accordance with the terms of this deed, save that the obligations and restrictions contained in this deed shall not be binding on:

11.3.1 any Chargee of the whole or any part of the Affordable Rent Units or any persons or bodies deriving title through such Chargee PROVIDED THAT:

11.3.1.1. Such Chargee shall first give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall use reasonable endeavours over a period of three (3) months beginning on the date of the written notice to complete a disposal of the Affordable Housing Units to another RP or to the Council for a consideration of not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest, costs and expenses; and

11.3.1.2. if such disposal has not completed within the three (3) month period and the Chargee has met its obligations in clause 11.3.1.1, the Chargee shall be entitled to dispose of the Affordable Housing Units free from the restrictions in this deed which provisions shall determine absolutely.

11.3.2 Any tenant that:

11.3.2.1 has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit; or

11.3.2.2 is a successor in title to the above; or any person or body deriving title through or from any of the parties mentioned in this clause 11.3.

(delete execution section below if both Part I and Part II are used)

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

Signatories:

Babergh District Council/ Mid Suffolk District Council (delete as appropriate)

Registered Provider

Part II – Provisions relating to Shared Ownership Units

1. Definitions

- 1.1 'Affordable Housing' has the meaning given to it in Annex 2 of the National Planning Policy Framework published in July 2021 (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 Location Plan' means a document consistent with the provision of Affordable Housing Units pursuant to the Planning Permission detailing the following:
- i) the Affordable Housing Units and their location;
 - ii) the number of bedrooms per Dwelling;
 - iii) street name and postal address; and
 - iv) tenure.
- 1.3 'Affordable Housing Unit' means [enter number] Dwellings ([enter percentage number] % of the Dwellings) which shall be Shared Ownership Units (unless otherwise agreed by the Council) and 'Affordable Housing Units' shall be construed accordingly.

- 1.4 'Capital Funding Guide' means the rules and procedures for all providers delivering Affordable Housing through one of Homes England's affordable homes programmes and any successor guidance fulfilling the same function.
- 1.5 'Chargee' means any mortgagee or chargee of the RP, or any receiver or manager (including an administrative receiver) appointed by such a 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.
- 1.6 'Dwelling' means a dwelling (including a house flat maisonette or bungalow and including both market housing units and Affordable Housing Units) to be constructed pursuant the Planning Permission and 'Dwellings' shall be construed accordingly.
- 1.7 'Homes England' means the non-departmental public body known as Homes England or any successor organisation who is charged with the function of investing in the provision of Affordable Housing.
- 1.8 'Initial Purchase' means the initial equity purchase representing the first sale of the Shared Ownership Unit.
- 1.9 'Local Connection' means a connection to the District of [enter name] and as defined in the Local Connection Criteria.
- 1.10 'Local Connection Criteria' means the requirements that need to be met by an individual for a Local Connection as follows (for the avoidance of doubt, this is not in priority order):
- (i) Their only or principal home is within the administrative boundaries of the District in which the property is located; or
 - (ii) They were placed in specialised housing which is not available in the relevant District but had a local connection to the relevant District previously through residence; or
 - (iii) They (not a member of their household) are in permanent paid work within the District in which the property is located; or

- (iv) They have a son, daughter, brother, sister, mother or father, who is aged 18 or over and lives in the administrative area of the District and has done so for at least five years; or
- (v) They are a homeless care leaver aged 18 – 20 who have been looked after by Suffolk County Council and were looked after within the District in which the property is located; or
- (vi) They are serving in the regular armed forces of the Crown or who has served in the regular armed forces of the Crown within five years of the date of the purchase of the Shared Ownership Unit; or
- (vii) The main or joint applicant has recently ceased or will cease to be entitled to reside in accommodation provided by the Ministry of Defence following the death of that person's spouse or civil partner, where the spouse or civil partner has served in the regular forces and their death was attributable (wholly or partly) to that service; or
- (viii) The main or joint applicant is serving or has served in the reserve forces and is suffering from a serious injury, illness or disability which is attributable whether wholly or partly to that service; or
- (ix) Spouses and civil partners who are required to leave accommodation provided by the Ministry of Defence following a breakdown in their relationship with their Service spouse or partner.

1.11 'Occupation' means the action of living in or using an Affordable Housing Unit as an only and principal home, for the purposes permitted by the Planning Permission, not including occupation by personnel engaged in construction, fitting out, decoration, marketing or display; or occupation in relation to security operations and 'Occupy' and 'Occupied' shall be construed accordingly.

1.12 'Plan' means the location plan bearing drawing number [insert number] annexed to this deed.

1.13 'Planning Permission' means the planning permission which may be granted pursuant to the planning application reference number [insert number] subject to conditions, and also to obligations in the section 106 (Town and Country Planning Act 1990) agreement dated [insert date].

- 1.14 'Practical Completion' means issue of a certificate of practical completion by the RP's surveyor or, if 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.
- 1.15 'Property' means the land at [enter full address of land] shown edged red on the Plan.
- 1.16 'Registered Provider' or 'RP' 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 the Regulator of Social Housing under Chapter III of that Act. For the avoidance of doubt this could also include the Council under the Housing Act 1985.
- 1.17 'Shared Ownership Lease' means a lease in a form approved by Homes England or where there is no such lease in a form approved by the Council to provide:
- (a) not more than 75% and not less than 10% of the equity (or such other percentages the Council may agree) shall be sold to the purchaser on an Initial Purchase;
 - (b) an option for the purchaser to increase their ownership up to 100% by Staircasing if they so wish;
 - (c) an initial rent not exceeding 2.75% of the value of the equity retained by the RP 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.
- 1.18 'Shared Ownership Unit' means an Affordable Housing Unit sold subject to a Shared Ownership Lease and in accordance with the procedure set out in this deed to an individual who meets the Local Connection Criteria, and 'Shared Ownership Units' shall be construed accordingly.
- 1.9 'Staircasing' means the acquisition after the date of the Initial Purchase of additional tranches of equity in the Shared Ownership Unit, 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.

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:

- (i) The Shared Ownership Units shall be sold subject to a Shared Ownership Lease.
- (ii) The RP shall be responsible for assessing potential purchasers.
- (iii) The Shared Ownership Units shall only be sold to applicants with a gross household income of less than £80,000 and otherwise unable to purchase a suitable property for their housing needs on the open market, along with any other eligibility restrictions set out in the Capital Funding Guide (as amended).
- (iv) In respect of the Initial Purchase, each Shared Ownership Unit will, for a period of eight (8) weeks, only be available to purchase by individuals who meet the Local Connection Criteria. If a sale has not been agreed following eight (8) weeks of marketing, the Local Connection Criteria (only) can be waived.
- (v) In respect of future re-sales, each Shared Ownership Unit will, for a period of four (4) weeks, only be available to purchase by individuals who meet the Local Connection Criteria. If a sale has not been agreed following four (4) weeks of marketing, the Local Connection Criteria (only) can be waived.

4. RP covenants

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

1) To ensure that each of the Affordable Shared Ownership Units that are acquired by the RP are Occupied as Affordable Housing Units.

2) To submit an Affordable Housing Location Plan to the Council not less than one (1) month in advance of the date when the first of the Affordable Shared Ownership Units will be ready for Occupation.

3) To conduct an assessment of potential Shared Ownership purchasers, prior to purchase and in line with the Capital Funding Guide, to ensure that they meet all eligibility criteria, to assess what share they can afford and to ensure that the purchase is affordable and sustainable for the purchaser.

5. Variation of nomination rights

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.

6. Notices

Any notice required to be served hereunder shall be sufficiently served on the Parties at the address indicated below or such other address notified by one party to the other in writing 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 on which such notice was transmitted by the party serving the notice or, if served after 4.30 pm, one (1) working day after electronic mailing.

The Council	Director for Housing, Babergh / Mid Suffolk District Council, Endeavour House, 8 Russell Road, Ipswich IP1 2BX or by email: [enter email address]
The Registered Provider	As per the address provided at the beginning of this deed or by email: [enter email address]

7. Transfer to other RPs

The RP shall use reasonable endeavours to ensure that any RP to which the Property and Affordable Housing Units erected thereon are transferred (other than by direction of Homes England under its statutory powers) shall enter into a similar deed mutatis mutandis with the Council on completing the transfer of the Property.

8. 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 or relevant body on the application of either party.

9. Agreements and declarations

The Parties agree:

9.1 Nothing in this deed fetters or restricts the exercise by the Council of any of its powers.

9.2 The obligations and covenants contained in this deed are covenants for the purpose of Section 33 of the Local Government (Miscellaneous Provisions) Act 1982.

9.3 From the issue date of a certificate of Practical Completion of each of the Affordable Housing Units acquired by the RP, the Affordable Housing Units shall be purchased in accordance with the terms of this deed, save that the obligations and restrictions contained in this deed shall not be binding on:

9.3.1 any Chargee of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such Chargee PROVIDED THAT:

9.3.1.1 Such Chargee shall first give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall use reasonable endeavours over a period of three (3) months beginning on the date of the written notice to complete a disposal of the Affordable Housing Units to another RP or to the Council for a consideration of not less than the amount due and outstanding under

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

9.3.1.2 if such disposal has not completed within the three (3) month period and the Chargee has met its obligations in clause 9.3.1.1, the Chargee shall be entitled to dispose of the Affordable Housing Units free from the restrictions in this deed which provisions shall determine absolutely.

9.3.2 Any tenant that:

9.3.2.1 has been granted a Shared Ownership Lease by a RP (or similar arrangement where a share of the Affordable Housing Unit is owned by the tenant and a share is owned by the RP) in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the RP all remaining shares so that the tenant owns the Affordable Housing Unit outright.

9.3.2.2 is a successor in title to the above; or any person or body deriving title through or from any of the parties mentioned in this clause 9.3.

10. Capital Receipts from Staircasing

Subject to Homes England funding requirements, any capital receipts received by the RP for shares sold between 81% and 100% must be reinvested in additional Affordable Housing Units within the District of [enter name] within five (5) years of receipt. Any capital receipts not reinvested within five years may be spent on Affordable Housing outside of the District of [enter name].

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

Signatories:

Babergh District Council/ Mid Suffolk District Council (delete as appropriate)

Registered Provider

Appendix 1: Education Land Specification

The Education Land and Additional Education Land shall be...

- suitable for the construction of high quality education buildings and outside spaces
- contamination free and covered with at least 30cm of clean free draining topsoil
- accessible from suitable public Highways
- served by safe direct walking & cycling routes
- protected from flooding and incorporated into a suitable SUDS system serving the Site
- outside the cordon sanitaire of any sewage plant
- suitably fenced including gates at all proposed access points

The Education Land and Additional Education Land shall be free of/from...

- encumbrances
- items or structures of archaeological interest subject however to the findings of an archaeological investigation carried out by the Owners prior to the transfer of the Primary School Site
- protected species or habitats of special interest
- soil and water table contamination
- radiation or potential sources thereof
- Invasive plants such as Japanese Knotweed
- buildings and other surface structures
- pipes, conduits, chambers and or cables (including any high pressure pipes or high voltage cables within ten meters of the Education Land or Additional Education Land) subject to those services that are required to serve the Education Land.
- ponds, ditches or water courses
- foundations, fuel tanks and other buried structures
- spoil and fly tipping
- void spaces including wells, sumps and pits
- any material that could negatively impact on the buildings and or their occupants

The Education Land and Additional Education Land shall not be crossed or affected by

- public rights of way or access wayleaves
- power-lines
- gas mains
- water or sewage pipes
- ground gasses and or vapours
- light pollution

