

DATED

21st September

2023

MID SUFFOLK DISTRICT COUNCIL (1)

- and -

SUFFOLK COUNTY COUNCIL (2)

- and -

FREETHS TRUSTEES LIMITED (3)

- and -

ST PHILIPS LAND LIMITED (4)

SECTION 106 AGREEMENT

relating to land at Ashes Farm, Newton Road, Stowmarket, Suffolk,

IP14 5AD

THIS AGREEMENT is made on this 21st day of September 2023

BETWEEN:

- (1) MID SUFFOLK DISTRICT COUNCIL of Endeavour House, 8 Russell Road, Ipswich, Suffolk, IP1 2BX ("the District Council"); and
- (2) SUFFOLK COUNTY COUNCIL of Endeavour House, 8 Russell Road, Ipswich, Suffolk, IP1 2BX ("the County Council"); and
- (3) FREETHS TRUSTEES LIMITED (as trustee of the 1986 JGM Wilson Settlement) incorporated and registered in England and Wales with company number 10006663 whose registered office is at Cumberland Court, 80 Mount Street, Nottingham NG1 5HH ("the Owners"); and
- (4) ST PHILIPS LAND LIMITED (Co. Regn. No. 10775662) whose registered office is at Brook House, Moss Grove, Kingswinford, West Midlands, DY6 9HS ("SPLL").

BACKGROUND

- (A) For the purposes of the 1990 Act (as defined herein), the District Council and the County Council are the local planning authorities for the area within which the Site (as defined herein) is located and are the authorities entitled to enforce the obligations set out in this Agreement. The County Council is also the authority responsible for: (a) the delivery of state funded education for the County of Suffolk; and (b) the upkeep of highways (except for trunk roads) in the County of Suffolk, and (c) the upkeep of libraries in the County of Suffolk, and (d) the disposal of household waste in the County of Suffolk.
- (B) The Owners are the freehold owners of the Site and which ownership is registered at HM Land Registry with the Title Number SK329856.
- (C) SPLL submitted the Planning Application (as defined herein) to the District Council and the District Council has resolved to grant the Planning Permission (as defined herein) subject to the Owners first entering into this Agreement. SPLL is referred to in the entry numbered 4 in the Proprietorship Register for the Title Number SK329856 and has entered into this Agreement in connection with the Restriction referred to therein and to acknowledge that the Development (as defined herein) will be subject to the planning obligations referred to herein.

- (D) The District Council is satisfied that the planning obligations contained in this Agreement comply with Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended) in that they:
- (i) are necessary to make the Development acceptable in planning terms;
 - (ii) are directly related to the Development; and
 - (iii) fairly and reasonable relate in scale and kind to the Development.
- (E) The Parties (as defined herein) have entered into this Agreement with the intention that the obligations contained in this Agreement may be enforced by the District Council and the County Council (where appropriate) against the Owners and their successors in title.

1. OPERATIVE PROVISIONS

1.1 In this Agreement, the following words and expressions have the following meanings:

"1990 Act"	means the Town and Country Planning Act 1990, as amended;
"BCIS Index"	means the All in Tender Price Index published by the Building Cost Information Service from time to time or any successor organisation or (if that index shall cease to be published or is otherwise unavailable) such alternative basis of indexation as may be reasonably agreed between the Parties;
"BCIS Index Linked "	means the increase in any sum referred to in Schedule 1 (except for the Household Waste Contribution) by an amount equivalent to the increase in the BCIS index to be calculated in accordance with Clause 12 of this Agreement;
"Commencement Date"	means the date that Commencement of Development occurs;

"Commencement of Development"	means, subject to clause 3.2 herein, the carrying out pursuant to the Planning Permission of a material operation as specified in section 56(4) of the 1990 Act and the use in this Agreement of the terms "Commence the Development" or "Commence Development" or "Commenced" shall be construed accordingly;
"Development"	means the erection of up to three hundred (300) dwellings along with new vehicular access, landscaping, open space and drainage infrastructure;
"Dwellings"	means the residential dwellings (within use class C3) constructed as part of the Development and the use in this Agreement of the term "Dwelling" shall be construed accordingly;
"Market Dwellings"	means all Dwellings to be constructed as part of the Development which are not Affordable Housing Dwellings defined in Schedule 2 hereof;
"NPPF"	means the National Planning Policy Framework first published in March 2012 and last updated in July 2021;
"Notice A"	means a written notice confirming the proposed Commencement Date;
"Notice B"	means a written notice confirming that Commencement of Development has taken place;

"Occupation"	<p>means beneficial occupation for the purposes permitted by the Planning Permission and shall not include:</p> <p>(a) any occupation associated with the construction of the Development including daytime occupation by workmen involved in the construction of the Development; and</p> <p>(b) in so far as such uses are ancillary to the construction of the Development the use of finished buildings for sales purposes for use as temporary offices or for show homes or for the storage of plant and materials or in relation to security operations</p> <p>and the use in this Agreement of the terms "Occupy" or "Occupied" or "Occupancy" shall be construed accordingly;</p>
"Parties"	<p>means together the District Council, the County Council, the Owners and SPILL;</p>
"Planning Application"	<p>means the planning application (to which application the District Council applied the reference DC/20/01036) seeking:(a) OUTLINE planning permission for the majority of the Development (all except for the means of access); and</p> <p>(b) FULL planning permission for the means of access;</p>
"Planning Permission"	<p>means the planning permission granted by the District Council for the Development and which planning permission is subject to conditions;</p>
"RPI Index"	<p>means the "All Items" index figure of the index of Retail Prices published by the Office for National Statistics from time to time or any</p>

successor organisation or (if that index shall cease to be published or is otherwise unavailable) such alternative basis of indexation as may be reasonably agreed between the Parties;

"RPI Index Linked"

means the increase in any sum referred to in Schedules 3 and 5 and the Household Waste Contribution in Schedule 1 by an amount equivalent to the increase in the RPI index to be calculated in accordance with Clause 12 of this Agreement;

"Site"

means the land upon which the Development is to be carried out and which land is: (a) located at Ashes Farm, Newton Road, Stowmarket, Suffolk, IP14 5AD; and (b) identified as being the land shown edged in red on the Site Plan;

"Site Plan"

means the drawing titled 'Location Plan' and created on 16/01/2019, a copy of which drawing is attached hereto;

"Site Layout Plan"

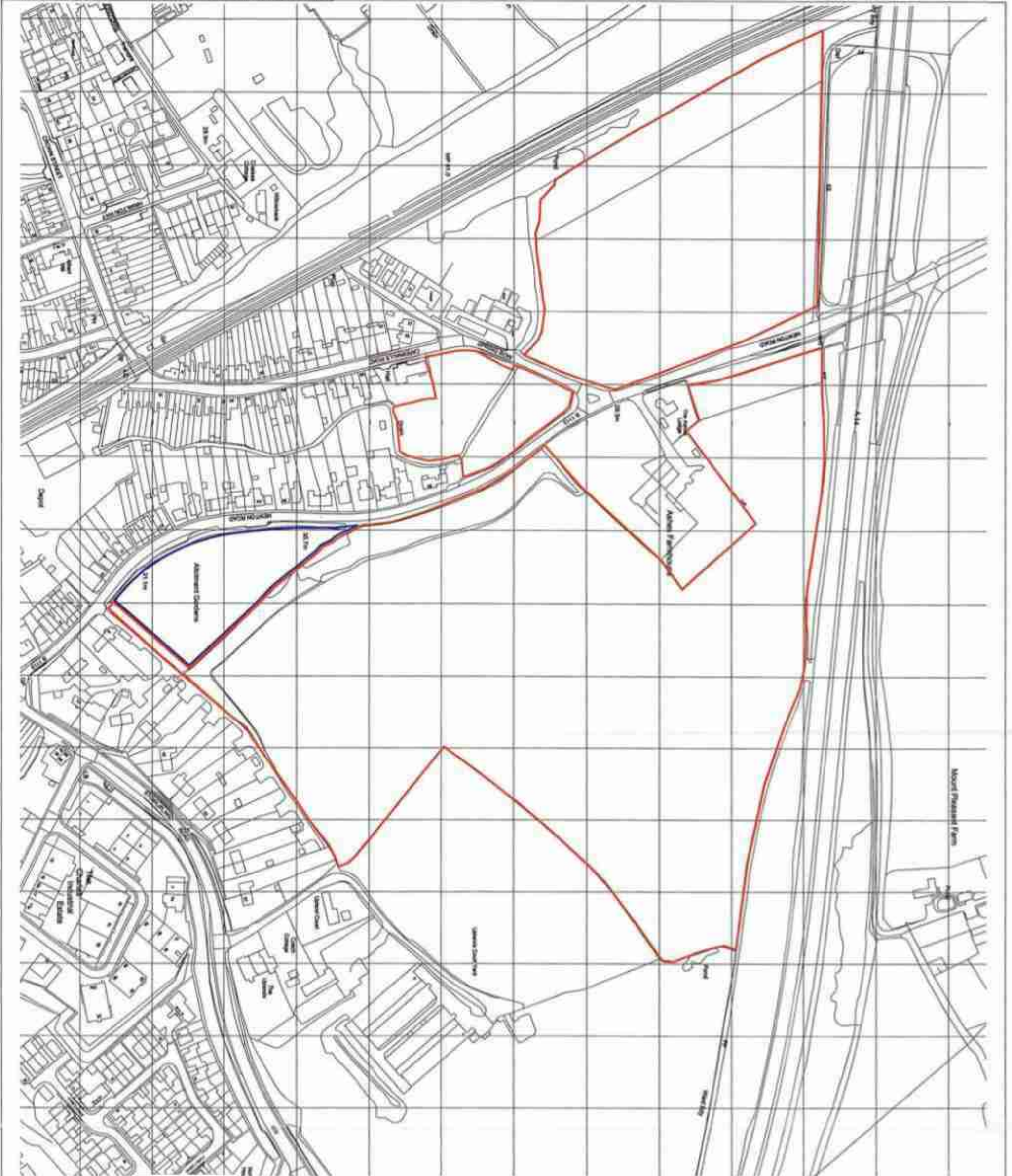
means the drawing titled 'Masterplan', a copy of which drawing is attached hereto;

"Working Days"

means any day which is not a Saturday, a Sunday, a bank or public holiday in England.

1.2 In this Agreement:

- 1.2.1 the clause or Schedule headings do not affect its interpretation;
- 1.2.2 unless otherwise indicated, references to clauses and Schedules are to clauses of and Schedules to this Agreement and references in a Schedule to a part or paragraph are to a part or paragraph of that Schedule;
- 1.2.3 references to any statute or statutory provision include references to:



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- Notes:**
1. City Planning has been provided a copy of this plan for review of 09/19/2019. Approval is not guaranteed. All rights reserved. No part of this plan may be reproduced without the prior written permission of WPS Group. All rights reserved. No part of this plan may be reproduced without the prior written permission of WPS Group.
 2. Easement boundaries are shown in red. The easement boundaries are shown in red. Only the easement boundaries are shown in red.
 3. The owner's responsibility is to provide all other necessary drawings and information.

Apparent boundary
 Actual line with adjacent owner's

Point	Description	By	Date
P01.04	Red boundary line updated to match approved	AH1	20.11.19
P01.05	Green boundary line updated to match approved	AH1	20.12.19
P01.02	Abatement lines removed from topography	AH1	19.08.19
P01.01	Boundary to Atlas Farm updated	MJG	11.08.18



Boundary lines, 2A Technical Report
 Writings on the subject of the subject, WPI 404
 11.08.2019 E: spack@tpsgroup.com

F
 C
 Slowmarket

Task Name: [Redacted]
 Designer: DJJ
 Checker: NG
 Date: [Redacted]
 Drawing Number: ACM51A-RPS-XX-XX-DR-A-0006
 Project Number: ACM51A
 Scale: 50
 Revision: P01.04



Legend

- Existing Buildings
- Proposed Buildings
- Proposed Roads
- Proposed Paths
- Proposed Green Spaces
- Proposed Water Features
- Proposed Landscaping
- Proposed Fencing
- Proposed Site Services
- Proposed Site Amenities
- Proposed Site Infrastructure
- Proposed Site Utilities
- Proposed Site Security
- Proposed Site Safety
- Proposed Site Sustainability
- Proposed Site Resilience
- Proposed Site Accessibility
- Proposed Site Inclusivity
- Proposed Site Quality
- Proposed Site Value
- Proposed Site Reputation
- Proposed Site Image
- Proposed Site Brand
- Proposed Site Identity
- Proposed Site Culture
- Proposed Site Community
- Proposed Site Stakeholders
- Proposed Site Partners
- Proposed Site Suppliers
- Proposed Site Customers
- Proposed Site Competitors
- Proposed Site Regulators
- Proposed Site Government
- Proposed Site Industry
- Proposed Site Academia
- Proposed Site Media
- Proposed Site Public
- Proposed Site Private
- Proposed Site Non-Profit
- Proposed Site For-Profit
- Proposed Site Social Enterprise
- Proposed Site Impact
- Proposed Site Contribution
- Proposed Site Legacy
- Proposed Site Future
- Proposed Site Vision
- Proposed Site Mission
- Proposed Site Values
- Proposed Site Principles
- Proposed Site Standards
- Proposed Site Guidelines
- Proposed Site Policies
- Proposed Site Procedures
- Proposed Site Processes
- Proposed Site Systems
- Proposed Site Structures
- Proposed Site Mechanisms
- Proposed Site Instruments
- Proposed Site Tools
- Proposed Site Methods
- Proposed Site Techniques
- Proposed Site Approaches
- Proposed Site Frameworks
- Proposed Site Models
- Proposed Site Templates
- Proposed Site Examples
- Proposed Site Case Studies
- Proposed Site Best Practices
- Proposed Site Lessons Learned
- Proposed Site Insights
- Proposed Site Discoveries
- Proposed Site Innovations
- Proposed Site Breakthroughs
- Proposed Site Achievements
- Proposed Site Milestones
- Proposed Site Landmarks
- Proposed Site Monuments
- Proposed Site Memorials
- Proposed Site Landmarks
- Proposed Site Monuments
- Proposed Site Memorials

Scale

North Arrow

Project Information

Client

Project Name

Project Location

Project Start Date

Project End Date

Project Status

Project Manager

Project Team

Project Budget

Project Risk

Project Compliance

Project Sustainability

Project Resilience

Project Accessibility

Project Inclusivity

Project Quality

Project Value

Project Reputation

Project Image

Project Brand

Project Identity

Project Culture

Project Community

Project Stakeholders

Project Partners

Project Suppliers

Project Customers

Project Competitors

Project Regulators

Project Government

Project Industry

Project Academia

Project Media

Project Public

Project Private

Project Non-Profit

Project For-Profit

Project Social Enterprise

Project Impact

Project Contribution

Project Legacy

Project Vision

Project Mission

Project Values

Project Principles

Project Standards

Project Guidelines

Project Policies

Project Procedures

Project Processes

Project Systems

Project Structures

Project Mechanisms

Project Instruments

Project Tools

Project Methods

Project Techniques

Project Approaches

Project Frameworks

Project Models

Project Templates

Project Examples

Project Case Studies

Project Best Practices

Project Lessons Learned

Project Insights

Project Discoveries

Project Innovations

Project Breakthroughs

Project Achievements

Project Milestones

Project Landmarks

Project Monuments

Project Memorials

- 1.2.3.1 all Acts of Parliament and all other legislation having legal effect in England as enacted at the date of this Agreement as directly or indirectly amended, consolidated, extended, replaced or re-enacted by any subsequent legislation; and
- 1.2.3.2 any orders, regulations, instruments or other subordinate legislation made under that statute or statutory provision;
- 1.2.4 references to the Site include any part of it;
- 1.2.5 references to any party in this Agreement include the successors in title of that party. In addition, references to the District Council and the County Council includes any successor local planning authority exercising planning powers under the 1990 Act or any successor authority exercising statutory powers in respect of matters concerning education and/or highways and/or transportation;
- 1.2.6 "including" means "including, without limitation";
- 1.2.7 any covenant by the Owners not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing;
- 1.2.8 words importing the singular meaning where the context so admits shall include the plural meaning and vice versa;
- 1.2.9 words of the masculine gender include the feminine and neuter genders and words denoting natural persons include companies, corporations and firms and all such words shall be construed interchangeably in that manner;
- 1.2.10 words denoting an obligation on a party to do any act, matter or thing shall include an obligation to procure that it be done and words placing a party under a restriction shall include an obligation not to cause, permit or allow infringement of the restriction;
- 1.3 The Parties do not intend that any of the terms of this Agreement will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

2. EFFECT OF THIS AGREEMENT

- 2.1 This Agreement is a Deed and is made pursuant to the provisions of Section 108 of the 1990 Act. To the extent that they fall within the terms of Section 106 of the 1990 Act, the covenants contained in the Schedules to this Agreement are planning obligations for the purposes of Section 106 of the 1990 Act and are enforceable by the District Council and (where appropriate) the County Council.
- 2.2 To the extent that any of the covenants contained in this Agreement are not planning obligations within the meaning of the 1990 Act, they are entered into pursuant to the powers contained in Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers.
- 2.3 Nothing in this Agreement restricts or is intended to restrict the proper exercise at any time by the District Council and/or the County Council of any of their statutory powers, functions or discretions in relation to the Site or otherwise.
- 2.4 The covenants in this Agreement will not be enforceable against a statutory undertaker after the transfer of statutory apparatus (and any land upon or in which the statutory apparatus is situated) by the Owners to that statutory undertaker.
- 2.5 The covenants in this Agreement will not be enforceable against individual purchasers or lessees or Occupiers of the individual Dwellings or their mortgagees or successors in title to either the purchaser or lessee or Occupier or mortgagee, save in respect of the restriction on occupation in paragraphs 2.9 and 2.10 of Schedule 2 which shall apply to the Affordable Housing Dwellings.
- 2.6 The covenants in this Agreement will not be enforceable against any Approved Body (as defined in Schedule 2) or their mortgagee, chargee (including any receivers appointed by a mortgagee who are not in possession) save for the obligations in Schedule 2 which shall remain binding.
- 2.7 Nothing in this Agreement prohibits or limits the right to develop any part of the Site in accordance with a planning permission, other than the Planning Permission, granted after the date of this Agreement, whether or not pursuant to an appeal PROVIDED THAT this clause 2.7 does not apply to or in any way affect the operation of clause 10.

3. COMMENCEMENT DATE

3.1 The obligations set out in this Agreement are conditional upon:

3.1.1 the grant of the Planning Permission; and

3.1.2 the Commencement of the Development

save for the provisions of clauses 2.1 to 2.7 (inclusive), 3.1, 3.2, 4.1 – 4.17 (inclusive), and clauses 5 – 13 (inclusive) within this Agreement which shall take effect on the date of this Agreement.

3.2 For the purposes of this Agreement only the Commencement Date and Commencement of Development will not be triggered by any of the following operations:

3.2.1 archaeological or site investigations or surveys;

3.2.2 site or soil surveys or site decontamination;

3.2.3 the clearance of the Site including any works of demolition;

3.2.4 works connected with groundworks;

3.2.5 works for the provision of drainage or mains services to prepare the Site for development;

3.2.6 erection of fencing or boarding;

3.2.7 erection of boards advertising the Development (including the erection of advertising hoardings);

3.2.8 the construction of a temporary site compound or temporary marketing suite that does not form a structure or part of a structure that will become a Dwelling after its use as a temporary marketing suite;

3.2.9 construction of temporary access roads.

4. OBLIGATIONS OF THE PARTIES

4.1 The Owners so as to bind the Site hereby covenant with the District Council and the County Council to comply with the obligations set out in the Schedules to this Agreement.

- 4.2 The Owners hereby covenant with the District Council and the County Council to provide the District Council and the County Council with: (a) a Notice A not less than twenty (20) Working Days before the expected Commencement Date, and (b) a Notice B not more than five (5) Working Days after the Commencement Date.
- 4.3 The District Council and the County Council hereby covenant with the Owners to comply with their obligations set out in the Schedules to this Agreement.
- 4.4 The District Council and the County Council hereby covenant with the Owners to act reasonably, properly and diligently in exercising any discretion and in discharging their respective functions under this Agreement. In particular, where any agreement, approval, authorisation, consent or other similar affirmation is required from the District Council or the County Council under the terms of the Agreement, the District Council and the County Council will not unreasonably withhold or delay such agreement, approval, authorisation, consent or other similar affirmation PROVIDED ALWAYS that such agreement, approval, authorisation, consent or other similar affirmation may only be given in writing and only prior to the act or event to which it applies (unless otherwise agreed by the District Council or the County Council as appropriate).
- 4.5 Any covenant by the Owners not to do an act or thing shall be deemed to include an obligation to use reasonable endeavours not to permit or suffer such act or thing to be done by another person where knowledge of the actions of the other person is reasonably to be inferred.
- 4.6 Any obligation that prohibits the Owners from allowing or limiting Occupation of the Site until certain events occur shall also be an obligation on the Owners to positively carry out those certain events by no later than the number of Occupations set out therein unless the context otherwise requires.
- 4.7 No person will be liable for any breach of the terms of this Agreement occurring after the date on which they part with their interest in the Site or the part of the Site in respect of which such breach occurs except to the extent that they have caused or contributed to that breach, but they will remain liable for any breaches of this Agreement occurring before that date. Neither the reservation of any rights or the inclusion of any covenants or restrictions over the Site in any transfer of the Site will constitute an interest for the purposes of this Clause 4.7.

- 4.8 No compensation shall be payable by the District Council or the County Council to any party to this Agreement or their successors in title and assigns arising from the terms of this Agreement and unless specified otherwise in this Agreement all works and activities to be executed hereunder (including such as are of a preparatory ancillary or maintenance nature) are (save where expressly provided otherwise) to be at the sole expense of the Owners and at no cost to the District Council or the County Council.
- 4.9 Representatives of the District Council and/or the County Council may enter upon the Site at any reasonable time upon reasonable written notice (and immediately in the event of an emergency) to ascertain whether the terms of this Agreement and of the Planning Permission are or have been complied with subject to complying with all health and safety and security requirements required by the Owners as appropriate. Provided That this right shall cease and determine in relation to any Dwelling on first Occupation of that Dwelling.
- 4.10 Any agreement, covenant or obligation contained herein by any of the Parties which comprise more than one person or entity shall be joint and several and where any agreement, covenant or obligation is made with or undertaken towards more than one person it shall be construed as having been made with or undertaken towards each such person separately.
- 4.11 If any provision of this Agreement is declared by any judicial or other competent authority to be void voidable illegal or otherwise unenforceable the remaining provisions of this Agreement shall continue in full force and effect and the Parties shall amend that provision in such reasonable manner as achieves the intention of this Agreement without illegality provided that any party may seek the consent of the other or others to the termination of this Agreement on such terms as may in all the circumstances be reasonable if the effect of the foregoing provisions would be to defeat the original intention of this Agreement.
- 4.12 No variation to this Agreement shall be effective unless made by deed and for the avoidance of doubt the consent seal signature execution or approval of the owner, lessee or occupier of any Dwelling or their mortgagee or chargee or any person deriving title from them shall not be required to vary any part of this Agreement.
- 4.13 The failure by any party to enforce at any time or for any period any one or more of the terms or conditions of this Agreement shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of this Agreement.

- 4.14 If at any time Value Added Tax ("VAT") is or becomes chargeable in respect of any supply made in accordance with the provisions of this Agreement then to the extent that VAT had not previously been charged in respect of that supply the person making the supply shall issue a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly.
- 4.15 This Agreement shall be enforceable as a local land charge and shall be registered immediately by the District Council as such and the District Council covenants with the Owners that it will note on the local land charges register when compliance with all of the said obligations has occurred.
- 4.16 That in the event that the Owners fail to serve any of the notices that they are required by the provisions of this Agreement to serve then the District Council and/or the County Council (as appropriate) shall be entitled to payment of the various financial contributions contained in this Agreement at any time following them becoming aware that an event or a level of Occupancy of Dwellings has occurred that would trigger the payment of a financial contribution and the time period for the return of any unspent financial contribution shall be extended accordingly.
- 4.17 Any of the financial contributions that are paid late will attract a daily interest rate of four percent (4%) above the Bank of England base rate on the amount due from the day that it is due until the day that it is paid.

5. TERMINATION OF THIS AGREEMENT

- 5.1 This Agreement will come to an end if:
- 5.1.1 the Planning Permission is quashed, revoked or otherwise withdrawn or otherwise modified without the consent of the Owners before the Commencement Date so as to render this Agreement or any part of it irrelevant, impractical or unviable; or
- 5.1.2 the Planning Permission expires.
- 5.2 Where the Agreement comes to an end under Clause 5.1 above the District Council shall, on the written request of the Owners vacate or cancel the entry made in the local land charges register in relation to this Agreement or otherwise to record the fact that it has come to an end and no longer affects the Site.

6. **NOTICES**

6.1 Any notice, demand or any other communication served under this Agreement will be effective only if delivered by electronic mail (save in the case of the County Council) by hand or sent by first class post, pre-paid or recorded delivery and is to be sent to the following address (or to such other address as one party may notify in writing to the others at any time as its address for service):

6.1.1 for the Owners to Freeths LLP (Solicitors) for the attention of Mr Patrick Adie (Patrick.Adie@freeths.co.uk);

6.1.2 for SPLL to Lisa McGinn (lisa@stphilips.co.uk) Unit 3, Hagley Mews, Hall Drive, Hagley DY9 9LQ;

6.1.3 for the District Council as set out above and all notices shall: (a) be marked to the attention of the Head of Development Management; and (b) quote the planning application reference **DC/20/01036**;

6.1.4 for the County Council as set out above and all notices shall: (a) be marked for the attention of the Executive Director of Growth, Highways and Infrastructure; and (b) quote the planning application reference **DC/20/01036**.

6.2 Unless the time of actual receipt is proved, a notice, demand or communication sent by the following means is to be treated as having been served:

6.2.1 if delivered by hand, at the time of delivery;

6.2.2 if sent by post, on the second Working Day after posting; or

6.2.3 if sent by recorded delivery, at the time delivery was signed for.

6.3 If a notice, demand or any other communication is served after 4.00 pm on a Working Day, or on a day that is not a Working Day, it is to be treated as having been served on the next Working Day.

6.4 Otherwise than in relation to individual purchasers of Dwellings the Owners shall give to the District Council and the County Council within one month of the Owners disposing of any part of the Site written notice of the name and address of the person or persons to whom the Site or part thereof has been transferred.

7. COSTS OF THIS AGREEMENT

- 7.1 Upon completion of this Agreement SPLL covenant to pay to the District Council its reasonable and proper legal costs in connection with the preparation, negotiation and completion of this Agreement.
- 7.2 Upon completion of this Agreement SPLL covenant to pay to the District Council a contribution of five thousand three hundred and forty pounds (£5340.00) (no VAT) towards the District Council's reasonable and proper administration costs of monitoring the performance of the planning obligations that the Owners are required to observe and perform pursuant to the terms of this Agreement.
- 7.3 Upon completion of this Agreement SPLL covenant to pay to the County Council its reasonable and proper legal costs in connection with the negotiation and completion of this Agreement.
- 7.4 Upon completion of this Agreement SPLL covenant to pay to the County Council a contribution of two thousand three hundred and eighty pounds (£2,380.00) (no VAT) towards the County Council's reasonable and proper administration costs of monitoring the performance of the planning obligations that the Owners are required to observe and perform pursuant to the terms of this Agreement.

8. DETERMINATION OF DISPUTES

- 8.1 Subject to Clause 8.7 herein, if any dispute arises relating to or arising out of the terms of this Agreement (except for any dispute between the Owners and SPLL); either party may give to the other written notice requiring the dispute to be determined under this Clause 8. The notice is to propose an appropriate Specialist and specify the nature and substance of the dispute and the relief sought in relation to the dispute.
- 8.2 For the purposes of this Clause 8 a "Specialist" is a person qualified to act as an expert in relation to the dispute having not less than ten years' professional experience in relation to developments in the nature of the Development and property in the same locality as the Site.
- 8.3 Any dispute over the type of Specialist appropriate to resolve the dispute may be referred at the request of either party to the President for the time being of the Chartered Institute of Arbitrators (or other appropriate President of a professional institute with expertise in the relevant discipline as agreed between the parties in dispute) who will have the power, with the right to take such further advice as he may

require, to determine the appropriate type of Specialist and to arrange his nomination under clause 8.4.

8.4 Any dispute over the identity of the Specialist is to be referred at the request of either party to the President or other most senior available officer of the organisation generally recognised as being responsible for the relevant type of Specialist who will have the power, with the right to take such further advice as he may require, to determine and nominate the appropriate Specialist or to arrange his nomination. If no such organisation exists, or the parties cannot agree the identity of the organisation, then the Specialist is to be nominated by the President for the time being of the Chartered Institute of Arbitrators (or other appropriate President of a professional institute with expertise in the relevant discipline as agreed between the parties in dispute).

8.5 The Specialist is to act as an independent expert and

8.5.1 each party may make written representations within ten (10) Working Days of his appointment and will copy the written representations to the other party;

8.5.2 each party is to have a further ten (10) Working Days to make written comments on the other's representations and will copy the written comments to the other party;

8.5.3 the Specialist is to be at liberty to call for such written evidence from the parties and to seek such legal or other expert assistance as he or she may reasonably require;

8.5.4 the Specialist is not to take oral representations from the parties without giving both parties the opportunity to be present and to give evidence and to cross examine each other;

8.5.5 the Specialist is to have regard to all representations and evidence before him when making his decision, which is to be in writing, and is to give reasons for his decision; and

8.5.6 the Specialist is to use all reasonable endeavours to publish his decision within thirty (30) Working Days of his appointment.

- 8.6 Responsibility for the costs of referring a dispute to a Specialist under this Clause 8, including costs connected with the appointment of the Specialist and the Specialist's own costs, but not the legal and other professional costs of any party in relation to a dispute, will be decided by the Specialist.
- 8.7 This Clause 8 does not apply to disputes in relation to matters of law or the construction or interpretation of this Agreement which will be subject to the jurisdiction of the courts of England.

9. **JURISDICTION**

- 9.1 This Agreement is to be governed by and interpreted in accordance with the law of England; and the courts of England are to have jurisdiction in relation to any disputes between the parties arising out of or related to this Agreement.

10. **SECTION 73**

- 10.1 In the event that any new planning permission is granted by the District Council (or granted on appeal) pursuant to a Section 73 (of the 1990 Act) application relating to the Planning Permission and unless otherwise agreed between the parties:
- 10.1.1 the obligations in this Agreement shall relate to and bind any subsequent planning permission in respect of the Site granted pursuant to Section 73 of the 1990 Act; and
- 10.1.2 the definitions of Development, Planning Application and Planning Permission in this Agreement shall be construed to include reference to any application under Section 73 of the 1990 Act, the planning permission granted thereunder and the development permitted by such subsequent planning permission; and
- 10.1.3 this Agreement shall be endorsed with the following words in respect of any future Section 73 application:

"The obligations in this Agreement relate to and bind the Site in respect of which a new planning permission referenced has been granted pursuant to Section 73 of the Town and Country Planning Act 1990 (as amended)"

PROVIDED THAT nothing in this clause shall fetter the discretion of the District Council in determining any application under Section 73 of the 1990 Act or the appropriate nature and/or quantum of Section 106 obligations in so far as they are 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 agreement/deed or supplemental agreement/deed pursuant to Section 106 or Section 106A of the 1990 Act.

11. **SPLL CONSENT**

11.1 SPLL hereby confirms that it consents to the Owners binding the Site by the giving of the covenants herein and acknowledges that the Site is bound by those covenants.

12. **INDEXATION**

12.1 Any sum referred to in Schedules 1, 3, and 5 of this Agreement (unless the context reads otherwise) shall be increased by an amount equivalent to the increase in the BCIS Index or RPI Index (as appropriate) and (unless the context reads otherwise) from the date hereof until the date on which such sum is payable using the application of the formula $A = B \times (C/D)$ where:

12.1.1 A is the sum payable under this Agreement;

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

12.1.3 C is the BCIS Index or RPI Index as appropriate for the month 2 months before the date on which the sum is payable;

12.1.4 D is the BCIS Index or RPI Index as appropriate for the month 2 months before the date of this Deed; and

12.1.5 C/D is greater than 1

13. **EXECUTION**

IN WITNESS whereof the Parties hereto have executed this Agreement as a Deed on the day and year first before written.

SCHEDULE 1

EDUCATION, LIBRARIES AND WASTE

1. In this Schedule 1 unless the context requires otherwise the following words and expressions shall have the following meanings:

"Early Years & Childcare Contribution" means the sum of One Thousand Eight Hundred and Forty-Five Pounds and Seventy-Two Pence (£1,845.72) BCIS Index Linked per Dwelling to be provided by the Development;

"Early Years & Childcare Land" means an area of land located within the Site to be agreed between the Owner and the County Council (both parties to agree acting reasonably and without unreasonable delay) and which land shall have an area of not less than 0.1 hectares;

"Early Years & Childcare Land Specification" means a specification in accordance with "Early Years Education Site Specification" at Annex 5 to this Agreement and otherwise on the following terms:

1. 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. unencumbered of any covenants easements exceptions restrictions and charges (which would prevent

or unreasonably impact the use of the Early Years & Childcare Land as an educational facility);

3. any remediation identified in reports or surveys as part of the Planning Application (or any subsequent application for full planning permission) or submitted pursuant to the Planning Permission in respect of contamination having been carried out in accordance with the recommendations in those reports;
4. fully serviced up to the boundary of the Early Years & Childcare Land (being gas (if gas is required) electricity water supply foul and surface water discharge (including right and ability to fully and freely connect to any wider surface water infrastructure forming part of and serving the Site) telecommunications and broadband);
5. with the benefit of all highway visibility requirements having been fulfilled on the Development;
6. 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 with the benefit of an archaeological investigation having been completed (in respect of the Early Years & Childcare Land only) by the Owners entirely at the Owners' expense the results of which will have been shared with the County Council;
- 8 free of any utilities (including gas electricity water supply foul and surface water discharge) crossing or otherwise laid within the boundaries of the Early Years & Childcare Land only

"Early Years & Childcare Purposes"

means the use of the Early Years & Childcare Contribution towards the cost of building of a new facility within the Early Years & Childcare Land or alternative provision serving the Development for the education of children up to age 5 including those with special educational needs and including the reimbursement of capital funding made by the County Council in anticipation of payment of the Early Years & Childcare Contribution;

"Education Contribution"

means together the Early Years & Childcare Contribution, the Primary School Contribution, the Secondary School Contribution and the Sixth Form Contribution;

"Household Waste Contribution"

means the sum of One Hundred and Thirteen Pounds (£113.00) RPI Index Linked per Dwelling to be provided by the Development;

"Household Waste Purposes"	means the use of the Household Waste Contribution towards new, enhanced or improved provision serving the Development;
"Libraries Contribution"	means the sum of Two Hundred and Sixteen Pounds (£216.00) BCIS Index Linked per Dwelling to be delivered by the Development;
"Libraries Purposes"	means the use of the Libraries Contribution towards the enhancement and improvement of Stowmarket Library serving the Development;
"Primary School Contribution"	means the sum of Five Thousand, One Hundred and Twenty-Seven Pounds (£5,127.00) BCIS Index Linked per Dwelling to be provided by the Development;
"Primary School Purposes"	means the use of the Primary School Contribution for the provision of primary school places serving the Development (whether previously forward funded or not) and, in particular, for provision at Grace Cook Primary School;
"Secondary School Contribution"	means the sum of Four Thousand Two Hundred and Seventy-Nine Pounds and Fifty Pence (£4,279.50) BCIS Index Linked per Dwelling to be provided by the Development;
"Secondary School Purposes"	means the use of the Secondary School Contribution for the provision of secondary school places serving the Development (whether previously forward funded or not) and, in particular, for provision at Stowmarket High School as already agreed with the Department for Education (including

reimbursing the Department for such forward funding) and/or Stowupland High School.

"Sixth Form Contribution" means the sum of Nine Hundred and Fifty-One Pounds (£951.00) BCIS Index Linked per Dwelling to be provided by the Development;

"Sixth Form Purposes" means the use of the Sixth Form Contribution for the provision of sixth form places serving the Development (whether previously forward funded or not) and, in particular, for provision at Stowupland High School and/or Stowmarket High School;

2. The Owners hereby covenant with the District Council and the County Council, as follows:

2.1 Not to Commence the Development unless or until:

2.1.1 at least forty percent (40%) of the Education Contribution has been paid to the County Council; and

2.1.2 a HM Land Registry compliant plan showing the precise extent and location of the Early Years & Childcare Land has been provided to the County Council and the County Council has approved the plan in writing; and

2.1.3 the Early Years & Childcare Land Specification has been provided to the County Council and the County Council has approved the specification in writing.

2.2 To pay at least forty percent (40%) of the Education Contribution to the County Council before Commencement of the Development.

2.3 Not to Occupy (or allow cause or permit the Occupation of) any of the Dwellings unless and until:

2.3.1 a further forty percent (40%) of the Education Contribution has been paid to the County Council; and

2.3.2 the Household Waste Contribution has been paid to the County Council; and

- 2.3.3 the Libraries Contribution has been paid to the County Council.
- 2.4 To pay the following to the County Council before any of the Dwellings are Occupied:
- 2.4.1 a further forty percent (40%) of the Education Contribution; and
- 2.4.2 the Household Waste Contribution; and
- 2.4.3 the Libraries Contribution.
- 2.5 Not to Occupy (or allow, cause or permit the Occupation of) any more than fifty (50) of the Dwellings unless and until:
- 2.5.1 a further (and final) twenty percent (20%) of the Education Contribution has been paid to the County Council; and
- 2.5.2 the Early Years & Childcare Land has been laid out in accordance with the Early Years & Childcare Land Specification; and
- 2.5.3 the freehold title to the Early Years & Childcare Land has been transferred to the County Council for One Pound (£1.00) on terms in accordance with Early Years & Childcare Land Specification (or such varied terms as may be agreed between the County Council and Owners) PROVIDED THAT for the avoidance of any doubt the County Council shall not be obliged to accept the transfer of the Early Years & Childcare Land until the land has been laid out entirely in accordance with the Early Years & Childcare Land Specification.
- 2.6 To pay a further (and final) twenty percent (20%) of the Education Contribution to the County Council before any more than fifty (50) of the Dwellings have been Occupied.
3. The County Council hereby covenants with the Owners, as follows:
- 3.1 To provide a written form of receipt for payment of each tranche of the Education Contribution.
- 3.2 To place each tranche of the Education Contribution when received into an interest-bearing account with a clearing bank and to ensure that Education Contribution is applied exclusively towards the Early Years & Childcare Purposes and the Primary School Purposes and the Secondary School Purposes and the Sixth Form Purposes, as appropriate.
- 3.3 To provide a written form of receipt for payment of the Household Waste Contribution.

- 3.4 To place the Household Waste Contribution when received into an interest-bearing account with a clearing bank and to ensure that the Household Waste Contribution is applied exclusively towards the Household Waste Purposes.
- 3.5 To provide a written form of receipt for payment of the Libraries Contribution.
- 3.6 To place the Libraries Contribution when received into an interest-bearing account with a clearing bank and to ensure that the Libraries Contribution is applied exclusively towards the Libraries Purposes.
- 3.7 To pay any part of the Education Contribution, Household Waste Contribution, Libraries Contribution, remaining unspent or uncommitted after ten years from the date of first Occupation of the final Dwelling (including interest applied at the Bank of England base rate minus two basis points compounding annually at financial year end) to the party who paid such contribution within 28 Working Days of receipt of a written request made within one year of the tenth anniversary of the date of first Occupation of the final Dwelling for the repayment of any such unspent monies.
- 3.8 If the County Council has not begun construction of the new facility pursuant to the Early Years & Childcare Purposes on the Early Years & Childcare Land within 10 years of the date of the transfer pursuant to paragraph 2.5.3 then the County Council shall transfer the Early Years & Childcare Land to the party who transferred the Early Years & Childcare Land or such other person as they may direct on the same terms specified in paragraph 2.5.3.

SCHEDULE 2

AFFORDABLE HOUSING

1. In this Schedule 2 unless the context requires otherwise the following words and expressions shall have the following meanings:

"Affordable Housing Construction Standard"	means the construction standard to be applied to the Affordable Housing Dwellings, and which construction standard shall be either Category M4(2) or Category M4(3)(2)(a) or Category M4(3)(2)(b) as appropriate and as set out within the Affordable Housing Plan;
"Affordable Housing Contribution"	means a financial contribution in lieu of on Site Affordable Housing Dwellings such financial contribution to be agreed between the Owners and the District Council both acting reasonably and in the absence of such agreement to be independently assessed by the district valuer (or such other independent assessor as the Owners and the District Council agree) and calculated on the basis of the costs to construct the same number and size of Affordable Housing Dwellings elsewhere in the District Council's area provided that the contribution is not more than the difference between the value of the Affordable Housing Dwellings and their value if they were to be sold on the open market by a willing seller to a prudent purchaser acting reasonably in all the circumstances;
"Affordable Housing Dwellings"	means together the Affordable Rented Dwellings, the Discounted Market Dwellings and the Shared Ownership Dwellings, and the use in this Schedule 2 of the term "Affordable

Housing Dwelling shall be construed accordingly;

"Affordable Rented Dwellings" means those Affordable Housing Dwellings to be used exclusively for the purposes of Affordable Rented Housing, subject to the terms of this Schedule 2, and the use in this Schedule 2 of the term **"Affordable Rented Dwelling"** shall be construed accordingly;

"Affordable Rented Housing" means housing that is: (a) let at a rent that is at least twenty percent (20%) below the local market rent for similar housing in the same location; and (b) owned and managed by an Approved Body; and (c) let to Persons in Housing Need;

"Affordable Housing Plan" means a plan that shows: (a) the precise location of the Affordable Housing Dwellings; and (b) the type of the Affordable Housing Dwellings, i.e. if they are Affordable Rented Dwellings or Discounted Market Dwellings or Shared Ownership Dwellings; and (c) the size of each of the Affordable Housing Dwellings; and (d) the Affordable Housing Construction Standard to be applied to each of the Affordable Housing Dwellings; and (e) confirmation that the Affordable Housing Dwellings comply with the current nationally described space standards;

"Approved Body" means any registered provider of social housing as defined in Section 80 of the Housing and Regeneration Act 2008 and which registered provider is:

- (a) approved by the District Council; and
- (b) regulated by Homes England;

	and the use in this Schedule 2 of the term "Approved Bodies" shall be construed accordingly;
"Building Regulations"	means the Building Regulations 2010, as amended;
"Category M4(2)"	means category M4(2) of the Building Regulations;
"Category M4(3)(2)(a)"	means category M4(3)(2)(a) of the Building Regulations;
"Category M4(3)(2)(b)"	means category M4(3)(2)(b) of the Building Regulations;
"Chargee"	means any mortgagee or chargee or any manager or 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 Dwellings that have been transferred to an Approved Body or any persons or bodies deriving title through such mortgagee or chargee;
"Choice Based Lettings Scheme"	means an integrated electronic and manual information system which enable members of the public who have made or potentially might make an application for housing in the area to which the Choice Based Letting Scheme relates to apply for a selection of suitable property or be supplied with details of housing available throughout the relevant area operated pursuant

to any agreement to which the District Council is a party;

"Discounted Market Dwellings" means those Affordable Housing Dwellings to be used exclusively for the purposes of Discounted Market Housing, subject to the terms of this Schedule 2, and the use in this Schedule 2 of the term **"Discounted Market Dwelling"** shall be construed accordingly;

"Discounted Market Housing" means housing that: (a) is sold at the Discounted Price; and (b) is available exclusively to Qualifying Persons; and (c) is subject to the Discounted Market Sale Restriction;

"Discounted Market Sale Restriction" means a restriction on the sale of each Discounted Market Dwelling to ensure that the property is only sold to Qualifying Persons at the Discounted Price in perpetuity and such restriction shall be placed on the registered title for the property in the following terms:

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of a registered charge is to be registered without a certificate signed by the solicitor/conveyancer for the disponee that the provisions of paragraph [] of Schedule [] within a Section 106 (Town and Country Planning Act 1990) Agreement dated [] containing planning obligations relating the development of land at Ashes Farm, Stowmarket, Suffolk have been complied with";

"Discounted Price" means eighty percent (80%) of the Open Market Value of the Discounted Market Dwelling as at

the date of any proposed sale as determined in writing by an independent chartered surveyor of not less than ten years standing having experience of residential property prices within the area of the Site.

"Homes England"

means the public body set up to fund and regulate the provision of Affordable Housing (as described in Annex 2 (Glossary) of the NPPF) in England and any successor body.

"Housing Administrator"

has the meaning ascribed to it in Section 101 of the Housing and Planning Act 2016.

"Locally Connected Person"

means an individual who:

1. currently has their only or principal home in the administrative district of the District Council; or
2. has a member of their household who has a parent, adult child, brother or sister whose only or principal home is in the administrative district of the District Council and has been for at least two (2) years; or
3. is employed in the administrative district of the District Council at the date of purchase of the property; or
4. prior to the date of the Discounted Market Dwelling being purchased, were resident in the administrative district of the District Council for either: a) six (6) of the previous twelve (12) months; or b) three (3) of the previous five (5) years.

"Marketing & Notification Procedure"

means the marketing and notification provisions set out in Annex 1 hereto.

"Nominations Agreement"

means an agreement (or agreements) entered into by the District Council and the Approved Body to:

(i) regulate the initial letting and subsequent letting of the Affordable Rented Dwellings and for the avoidance of any doubt the Nominations Agreement must provide that: (a) the District Council is to have 100% nomination rights for all initial lets; and (b) all subsequent lets are via the Choice Based Letting Scheme; and (c) all initial and subsequent lets shall be subject to a local connection criteria.

(ii) regulate the initial purchases and subsequent purchases of the Shared Ownership Dwellings and for the avoidance of any doubt the Nominations Agreement must provide that: (a) the District Council is to have 100% nomination rights for all initial purchases; and (b) all initial and subsequent purchases shall be subject to a local connection criteria.

And for the further avoidance of any doubt, the Nominations Agreement for the Affordable Rented Dwellings and/or the Shared Ownership Dwellings shall be in accordance with the District Council's standard template included hereto at Annex 4 unless: (a) the District Council notifies the Owner or the Approved Body that the standard template has been updated; or (b) the District Council agrees in writing to amendments to the standard template;

"Open Market Value"

means the best price at which the sale of an interest in a Dwelling (other than an Affordable Housing Dwelling) would reasonably have been completed unconditionally for cash consideration on the date of valuation assuming: (i) a willing buyer and a willing seller; and (ii) any restrictions imposed on a Dwelling by this Agreement are disregarded; and (iii) there has been a reasonable period within which to negotiate the sale; and (iv) the Dwelling has been freely exposed to the market; and (v) both the buyer and the seller acted knowledgeably prudently and without compulsion;

"Persons in Housing Need"

means a person or persons registered on the District Council's Choice Based Lettings Scheme and the use in this Agreement of the term "Person in Housing Need" shall be construed accordingly;

"Protected Tenant"

means any tenant who has:

- (a) exercised the right to acquire pursuant to the Housing and Regeneration Act 2008 Act or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Rented Dwelling; or
- (b) exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Rented Dwelling; or
- (c) exercised a contractual right to acquire a one hundred percent (100%) interest in the lease of a Shared Ownership Dwelling

and for the avoidance of any doubt the term "Protected Tenants" shall include successors in title to the tenant referred to above;

"Qualifying Persons"

means anyone who

(a) is a Locally Connected Person (unless agreed in writing with the District Council); and

(b) has no other interest legally or equitably in other property including via a trust; and

(c) can provide evidence from an independent financial advisor (who is regulated by the Financial Conduct Authority) that he/she/they are unable to afford a suitably sized open market property in the administrative area of the District Council as measured by multiplying their gross income by 4 (or 3.5 for joint applicants) plus deposit. The results must be less than the Open Market Value of the discounted property or a suitable property in the same area as the affordable housing (unless agreed in writing with the District Council); and

(d) does not have a deposit for the Discounted Market Dwelling of more than sixty five percent (65%) of the Discounted Price in equity/savings/gifted deposit unless otherwise agreed in writing with the District Council; and

(e) whose household income does not exceed eighty thousand pounds (£80,000) per annum or such other household income for the time in force as of the date of this Agreement adjusted in line with Office for National Statistics (ONS) data with regard to average salaries (which uses data from the Annual Survey for Hours and Earnings (ASHE));

and the use in this Agreement of the term **"Qualifying Person"** shall be construed accordingly;

- "Reasonable Consideration"** means offer prices from an Approved Body which gives the Owners a reasonable consideration having regard to current market conditions in the disposal of the Affordable Housing Dwellings of a similar type and location by Approved Bodies on a grant free basis via Section 106 Agreements;
- "Regulator of Social Housing"** means the public body set up to fund and regulate the provision of Affordable Housing (as defined in the NPPF) in England and any successor body;
- "Shared Ownership Dwellings"** means those Affordable Housing Dwellings to be used exclusively for the purposes of Shared Ownership Housing, subject to the terms of this Schedule 2, and the use in this Schedule 2 of the term **"Shared Ownership Dwelling"** shall be construed accordingly;
- "Shared Ownership Housing"** means housing let on a Shared Ownership Lease to a household for which the household income does not exceed eighty thousand pounds (£80,000) per annum or such other household income for the time being in force in accordance with terms in the Homes England capital funding guide;
- "Shared Ownership Lease"** means a lease of over 125 years substantially in the form of the Regulator of Social Housing model lease from time to time where:
- (a) an initial purchase shall range from 10% to 70% of the equity dependent on the ability of the lessee to obtain finance;

- (b) there is the ability for the lessee to acquire increased levels of equity (up to 100%) in the Shared Ownership Dwelling at some time in the future;
- (c) the initial rent charged by the Approved Body shall not exceed 2.75% of the value of the equity retained by the Approved Body 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 District Council shall reasonably determine) plus 0.5% or such other rent as complies with the requirements from time to time of Homes England;
- (d) capital receipts received from increased equity acquisitions (referred to in 'b)' above) is to be retained by the Approved Body and the Approved Body shall use reasonable endeavours to re-invest such capital receipts in Affordable Housing (as defined in the NPPF) within the administrative district of the District Council subject to any contrary requirements within the Regulator of Social Housing capital funding guide.

Part One

- 2. The Owners hereby covenant with the District Council, as follows:
 - 2.1 That 22% of the Dwellings on the Site shall be provided as Affordable Housing Dwellings in the following proportions:

- (i) 50% Affordable Rented Dwellings;
- (ii) 25% Discounted Market Dwellings; and
- (iii) 25% Shared Ownership Dwellings;

PROVIDED THAT if the 22% provision does not result in an even number of Affordable Housing Dwellings then the number of Affordable Housing Dwellings provided shall be rounded up to the nearest whole number with the additional Affordable Housing Dwelling provided as either an Affordable Rented Dwelling, Discounted Market Dwelling or Shared Ownership Dwelling in agreement with the District Council.

- 2.2 That at least ten percent (10%) of the Affordable Housing Dwellings shall be constructed to Category M4(3)(2)(a) or Category M4(3)(2)(b) standards and the remainder of the Affordable Housing Dwellings shall be constructed to Category M4(2) standard.
- 2.3 Not to Commence the Development unless and until the Affordable Housing Plan has been submitted to the District Council for approval and the District Council has approved the Affordable Housing Plan in writing.
- 2.4 To provide the Affordable Housing Dwellings entirely in accordance with the approved Affordable Housing Plan.
- 2.5 Subject to paragraph 2.7 not to Occupy (or allow, cause or permit the Occupation of) any more than fifty percent (50%) of the Market Dwellings unless and until at least fifty percent (50%) of the Affordable Housing Dwellings have been:
 - 2.5.1 constructed and are capable of being Occupied for their intended purpose; and
 - 2.5.2 transferred to the Approved Body for a Reasonable Consideration and for the purposes of this Schedule 2 only the expression "transferred" shall mean a transfer of the freehold interest or leasehold interest that comprises the relevant Affordable Housing Dwellings or an agreement for sale or lease agreed with the Approved Body that has been unconditionally released for completion by the Owners PROVIDED ALWAYS THAT: (a) any transfer of the relevant Affordable Housing Dwellings to the Approved Body shall include the provisions contained in paragraphs 1 and 2 at Part Two of this Schedule 2, and (b) this paragraph 2.5.2 does not apply to the Discounted Market Dwellings.

- 2.6 Subject to paragraph 2.7 not to Occupy (or allow, cause or permit the Occupation of) any more than seventy five percent (75%) of the Market Dwellings unless and until one hundred percent (100%) of the Affordable Housing Dwellings have been
- 2.6.1 constructed and are capable of being Occupied for their intended purpose; and
- 2.6.2 transferred to the Approved Body for a Reasonable Consideration and for the purposes of this Schedule 2 only the expression "transferred" shall mean a transfer of the freehold interest or leasehold interest that comprises the relevant Affordable Housing Dwellings or an agreement for sale or lease agreed with the Approved Body that has been unconditionally released for completion by the Owners PROVIDED ALWAYS THAT: (a) any transfer of the relevant Affordable Housing Dwellings to the Approved Body shall include the provisions contained in paragraphs 1 and 2 at Part Two of this Schedule 2, and (b) this paragraph 2.6.2 does not apply to the Discounted Market Dwellings.
- 2.7 In the event the Owners are unable to transfer the Affordable Housing Dwellings (except for the Discounted Market Dwellings) or any number of them to an Approved Body;
- 2.7.1 then in respect of those Affordable Housing Dwellings the Owner shall notify the District Council accordingly providing such evidence as it reasonably can to demonstrate that no Approved Body is willing to agree a transfer of the relevant Affordable Housing Dwellings; and
- 2.7.2 if the District Council is satisfied that no Approved Body is willing to agree a transfer of the relevant Affordable Housing Dwellings the Owners may pay the Affordable Housing Contribution in lieu of delivering the relevant Affordable Housing Dwellings on the Site and following receipt of the Affordable Housing Contribution such Affordable Housing Dwellings will thereafter be available to be sold on the open market free from the obligations in this Agreement;
- 2.7.3 if the District Council does not agree that there is not or is not likely to be an Approved Body willing to agree a transfer of the relevant Affordable Housing Dwellings then it may require the Owners to market the Affordable Housing Dwellings for a further three months (provided that if the Owners do not agree they may refer the matter to the Specialist in accordance with clause 8 of this Agreement); and

- 2.7.4 if after the three month period in paragraph 2.7.3 above the Owners are still unable to transfer the relevant Affordable Housing Dwellings to an Approved Body then they shall provide such further evidence to the District Council following which the Affordable Housing Contribution in respect of those Affordable Housing Dwellings shall be payable and following receipt of the Affordable Housing Contribution such Affordable Housing Dwellings will thereafter be available to be sold on the open market free from the obligations in this Agreement.
- 2.7.5 for the avoidance of any doubt, in the event that the District Council is of the opinion that the Owners are seeking to sell the Affordable Housing Dwellings to the Approved Body at an unreasonable price then the issue of the price will be referred to the Specialist in accordance with clause 8 of this Agreement and in the event that the Specialist determines that the Owners have been seeking to sell the Affordable Housing Dwellings to the Approved Body at an unreasonable price then the provisions within this paragraph 2.7 of this Schedule 2 that enable the Owners to sell the Affordable Housing Dwellings on the open market are null and void.
- 2.8 Not to Occupy (or allow, cause or permit the Occupation of) any of the Affordable Rented Dwellings unless and until the Approved Body has entered into a Nominations Agreement with the District Council in respect of the Affordable Rented Dwellings.
- 2.9 Not to Occupy (or allow, cause or permit the Occupation of) any of the Shared Ownership Dwellings unless and until the Approved Body has entered into a Nominations Agreement with the District Council in respect of the Shared Ownership Dwellings.
- 2.10 Not to Occupy (or allow, cause or permit the Occupation of) any of the Affordable Rented Dwellings or the Shared Ownership Dwellings unless and until the District Council has been provided with a plan that gives the postal addresses (including postcodes) of all of the Affordable Housing Dwellings.
- 2.11 Subject always to paragraph 2.15 of this Schedule 2:
- 2.11.1 the Affordable Rented Dwellings transferred to the Approved Body shall be Occupied for no purpose other than as Affordable Rented Housing; and

- 2.11.2 the Shared Ownership Dwellings shall be Occupied for no purpose other than as Shared Ownership Housing.
- 2.12 the Discounted Market Dwellings shall be Occupied for no purpose other than as Discounted Market Housing and the transfer of each Discounted Market Dwelling shall include the Discounted Market Sale Restriction to ensure that the property remains available in perpetuity as a Discounted Market Dwelling to future eligible households.
- 2.13 Not to sell, transfer or otherwise dispose of any Discounted Market Dwelling to anyone other than a Qualifying Person and for any price other than the Discounted Price PROVIDED THAT if following eight (8) weeks of marketing no Locally Connected Person has agreed to purchase a Discounted Market Dwelling, then the requirement for a Qualifying Person to be a Locally Connected Person shall no longer apply if agreed in writing with the District Council.
- 2.14 To comply with the Marketing & Notification Procedure in respect of the Discounted Market Dwellings at all times.
- 2.15 It is Hereby Agreed and Declared.
- 2.15.1 the obligations and restrictions contained in this Schedule 2 shall not bind:
- 2.15.1.1 a Protected Tenant and their mortgagees and/or chargees and any receiver appointed by such mortgagees and/or chargees;
- 2.15.1.2 any person or body deriving title through or from a Protected Tenant (including any sub-tenant lender chargee or mortgagee);
- 2.15.1.3 a Chargee of the Approved Body with a charge over the whole or part of the Affordable Housing Dwellings PROVIDED THAT the Chargee has first provided the District Council with notice in writing that they intend to dispose of the Affordable Housing Dwelling (or Affordable Housing Dwellings) and have given the District Council at least twelve (12) weeks from the date of that notice to put forward a proposal to purchase the Affordable Housing Dwelling (or Affordable Housing Dwellings) at a fair price which at least covers the financial extent of the Chargee's charge, interest, costs and expenses AND if such disposal has not taken place within twelve (12) weeks from the date of that notice the Chargee shall be entitled to dispose of the Affordable Housing Dwellings free from the obligations in Schedule 2.

Part Two

1. The transfer of the Affordable Housing Dwellings to the Approved Body shall be with vacant possession.
2. The transfer deed shall contain:
 - (a) a grant by the Owners of all rights of access and passage of services and all other rights reasonably necessary for the beneficial use and enjoyment of the Affordable Housing Dwellings;
 - (b) a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the purpose of the Development; and
 - (c) such other covenants and reservations as the Owners may reasonably require including but not limited to the maintenance of the Development once it is completed and the preservation of the appearance thereof.

SCHEDULE 3

HEALTHCARE

1. In this Schedule 3 unless the context requires otherwise the following words and expressions shall have the following meanings:

"Combs Ford Contribution" means the sum of Eighty-Six Thousand Four Hundred Pounds (£86,400.00), and which sum shall be RPI Index Linked PROVIDED THAT this contribution has been calculated on the basis that the Development will provide 300 dwellings and for every dwelling below 300 the contribution shall be reduced by £576.00;

"Combs Ford Contribution Purposes" means the use of the Combs Ford Contribution towards the provision of additional primary healthcare services at the Combs Ford Surgery, Combs Lane, Combs Ford, Stowmarket, Suffolk, IP14 2SY;

"NHS England" means the national commissioning authority for health services in England (or its successor body from time to time);

"Stowhealth Contribution" means the sum of Eighty Six Thousand Four Hundred Pounds (£86,400.00), and which sum shall be RPI Index Linked PROVIDED THAT this contribution has been calculated on the basis that the Development will provide 300 dwellings and for every dwelling below 300 the contribution shall be reduced by £576.00;

"Stowhealth Contribution Purposes" means the use of the Stowhealth Contribution towards the provision of additional primary healthcare services at the Stowhealth Surgery, Violet Hill House, Violet Hill Road, Stowmarket, Suffolk, IP14 1NL.

2. The Owners hereby covenant with the District Council, as follows:
 - 2.1 Not to Commence the Development unless and until the Combs Ford Contribution and the Stowhealth Contribution have been paid to the District Council.
 - 2.2 To pay the Combs Ford Contribution and the Stowhealth Contribution to the District Council before Commencement of Development.
3. The District Council hereby covenants with the Owners, as follows:
 - 3.1 To provide a written form of receipt for payment of the Combs Ford Contribution;
 - 3.2 To pay the Combs Ford Contribution to NHS England upon receipt of a document from NHS England confirming that they will:
 - 3.2.1 apply the Combs Ford Contribution exclusively towards the Combs Ford Contribution Purposes;
 - 3.2.2 provide full details of the expenditure of the Combs Ford Contribution on demand to the District Council or the Owners;
 - 3.2.3 return any unspent part of the Combs Ford Contribution together with interest accrued to the District Council after the expiry of seven (7) years from the date of receipt by the District Council of the Combs Ford Contribution.
 - 3.3 To keep an up to date record of all payments from the Combs Ford Contribution transferred by the District Council to NHS England;
 - 3.4 Following receipt of a written request (such request not to be made prior to the expiration of seven (7) years from the date of receipt by the District Council of the Combs Ford Contribution) to repay to the party who paid the Combs Ford Contribution any unspent monies of the Combs Ford Contribution held by the District Council or received by the District Council pursuant to paragraph 3.2.3 of this Schedule 3 together with interest accrued within twenty (20) Working Days of receipt of the aforementioned written request;

- 3.5 In the event that the document in the form required by paragraph 3.2 of this Schedule 3 is not received following the expiry of seven (7) years from the date of receipt of the Combs Ford Contribution by the District Council then the District Council's obligation to pay the Combs Ford Contribution to NHS England shall cease absolutely and the District Council shall refund to the party who paid the Combs Ford Contribution the unexpended contribution within twenty (20) Working Days of receipt of a written request from the party who paid the Combs Ford Contribution to do so.
4. The Owners hereby acknowledge that the District Council shall not be responsible for how the Combs Ford Contribution is utilised or in the event that NHS England does not comply with paragraph 3.2.3 of this Schedule 3 for its return above once it has transferred the Combs Ford Contribution to NHS England but without prejudice to the rights of the Owners to seek to enforce the obligations in paragraph 3.2 directly against NHS England and in which case the District Council shall provide to the Owners such assistance as it reasonably can to enforce those obligations.
- 5.1 To provide a written form of receipt for payment of the Stowhealth Contribution;
- 5.2 To pay the Stowhealth Contribution to NHS England upon receipt of a document from NHS England confirming that they will:
- 5.2.1 apply the Stowhealth Contribution exclusively towards the Stowhealth Contribution Purposes;
- 5.2.2 provide full details of the expenditure of the Stowhealth Contribution on demand to the District Council or the Owners;
- 5.2.3 return any unspent part of the Stowhealth Contribution together with interest accrued to the District Council after the expiry of seven (7) years from the date of receipt by the District Council of the Stowhealth Contribution.
- 5.3 To keep an up to date record of all payments from the Stowhealth Contribution transferred by the District Council to NHS England;
- 5.4 Following receipt of a written request (such request not to be made prior to the expiration of seven (7) years from the date of receipt by the District Council of the Stowhealth) to repay to the party who paid the Stowhealth Contribution any unspent monies of the Stowhealth Contribution held by the District Council or received by the District Council pursuant to paragraph 5.2.3 of this Schedule 3 together with interest

accrued within twenty (20) Working Days of receipt of the aforementioned written request;

- 5.5 In the event that the document in the form required by paragraph 5.2 of this Schedule 3 is not received following the expiry of seven (7) years from the date of receipt of the Stowhealth Contribution by the District Council then the District Council's obligation to pay the Stowhealth Contribution to NHS England shall cease absolutely and the District Council shall refund to the party who paid the Stowhealth Contribution the unexpended contribution within twenty (20) Working Days of receipt of a written request from the party who paid the Stowhealth Contribution to do so.
6. The Owners hereby acknowledge that the District Council shall not be responsible for how the Stowhealth Contribution is utilised or in the event that NHS England does not comply with paragraph 5.2.3 of this Schedule 3 for its return above once it has transferred the Stowhealth Contribution to NHS England but without prejudice to the rights of the Owners to seek to enforce the obligations in paragraph 5.2 directly against NHS England and in which case the District Council shall provide to the Owners such assistance as it reasonably can to enforce those obligations.

SCHEDULE 4

OPEN SPACE

1. In this Schedule 4 the following words and expressions shall have the following meanings:

- "Chartered Landscape Architect"** means a chartered member of the Landscape Institute appointed by the Owners;
- "District Council's Nominee"** means a third party nominated by the District Council including a relevant parish council;
- "Landscape Institute"** means the Landscape Institute (charity registered in England and Wales with the number 1073396) of 85 Tottenham Court Road, London W1T 4TQ.
- "LAP"** means a Local Area for Play, which if required by the District Council: (a) is located within an area of open space; and (b) is in a safe position and not hidden away; and (c) is equipped and for use primarily by children aged 6 years and under;
- "Management Company"** means:
- (i) a private limited company established or appointed for inter alia the purpose of managing and maintaining the Open Space; and/or
 - (ii) any statutory undertakers which are to take on the management of any areas of the Open Space in accordance with their statutory functions; and/or
 - (iii) any Approved Body (as defined in Schedule 2) in relation to any areas of Open Space to be provided in areas marked for affordable housing on the Affordable Housing Plan (as defined in Schedule 2);

"Open Space"	means the areas of land within the Site and shown for illustrative purposes only on the Site Layout Plan (i.e. the areas of "Designated Public Open Space" and "Informal Open Space") which shall be laid out in accordance with the approved Open Space Specification to enable the Open Space to be used by all members of the public for informal and casual recreational use PROVIDED THAT for the avoidance of any doubt the Open Space does not include (a) the Dwellings and parking areas and garden space associated with those Dwellings; (b) the estate roads; and (c) any land to be used for highway purposes including highway verges;
"Open Space Completion Certificate"	means a certificate or certificates in writing relating to the Open Space issued by the District Council that confirms that the Open Space has been laid out in accordance with the approved Open Space Specification;
"Open Space Final Certificate"	means a certificate or certificates in writing issued by the District Council that confirms that the Open Space has been maintained and remedial works completed to the reasonable satisfaction of the District Council;
"Open Space Plan"	means a HM Land Registry compliant plan that precisely identifies the areas of Open Space within the Site;
"Open Space Management Plan"	means a management plan prepared by the Owners to be approved in writing by the District Council for the ongoing management and maintenance of the Open Space (including any LAP required to be located within the Open Space) including for the avoidance of doubt provisions for the rectification of any defects in any area of the Open Space until the completion of the relevant transfer of the Open Space to either the District Council, the Management Company, or the District Council's Nominee in accordance with this Agreement;

"Open Maintenance Contribution"	Space	means a sum to be agreed between the Owners and the District Council and which sum shall in all the circumstances accurately reflect the amount required for the purposes of maintenance of the Open Space;
"Open Specification"	Space	means a specification (to be approved by the District Council in writing) prepared by or in association with a Chartered Landscape Architect for the provision of the Open Space (including any LAP that is required by the District Council) to include the clearing, decontamination (if necessary), fencing (if necessary), levelling/profiling (as appropriate), laying out, planting and seeding of the Open Space to enable the Open Space to be used by all members of the public for recreational activities at all times without cost, exclusion or hindrance;
"Relevant Documents"		means the Open Space Plan, the Open Space Specification and the Open Space Management Plan;

2. The Owners hereby covenant with the District Council, as follows:

- 2.1 to submit the Relevant Documents to the District Council before Commencement of the Development;
- 2.2 not to Commence the Development prior to submitting the Relevant Documents to the District Council for approval;
- 2.3 to transfer the Open Space to the Management Company in accordance with the provisions of this Schedule unless the District Council serves the written notice referred to in paragraph 3.3 below on the Owners;
- 2.4 in the event that the District Council serves a written notice on the Owners pursuant to paragraph 3.3 below requesting the transfer of the Open Space to the District Council or the District Council's Nominee, the Owners will transfer the Open Space to the District Council or the District Council's Nominee in accordance with the provisions of this Schedule.

3. The District Council hereby covenants with the Owners that the District Council will:

- 3.1 use reasonable endeavours to provide approval in writing of the Relevant Documents within three months of receipt; and
- 3.2 in the event the District Council has not provided approval in writing of the Relevant Documents within three months of receipt then the Relevant Documents are deemed to have been approved by the District Council;
- 3.3 in the event that the District Council elects to accept the transfer of the Open Space or requires the Open Space to be transferred to the District Council's Nominee, it shall serve a written notice to this effect upon the Owners no later than six weeks from the date of the final approval of reserved matters (such reserved matters being those referred to in the Planning Permission) and such notice shall be accompanied by a written statement advising of the Open Space Maintenance Contribution payable to the District Council or the District Council's Nominee (as appropriate) upon transfer of the Open Space (including a detailed calculation of such sum).

4. The Owners hereby covenant with the District Council, as follows:

- 4.1 Not to Occupy (or allow, cause or permit the Occupation of) any of the Dwellings unless and until the Relevant Documents have been approved by the District Council in writing or are deemed to have been approved pursuant to paragraph 3.2 of this Schedule 4.
- 4.2 Not to Occupy (or allow, cause or permit the Occupation of) more than fifty percent (50%) of the Dwellings unless and until:
 - 4.2.1 at least fifty percent (50%) of the Open Space has been provided in accordance with the approved Open Space Plan and the approved Open Space Specification; and
 - 4.2.2 the District Council has issued an Open Space Completion Certificate for the Open Space provided.
- 4.3 Not to Occupy (or allow, cause or permit the Occupation of) more than seventy five percent (75%) of the Dwellings unless and until:
 - 4.3.1 one hundred percent (100%) of the Open Space (including any LAP that is required by the District Council) has been provided in accordance with the approved Open Space Plan and the approved Open Space Specification;

- 4.3.2 and the District Council has issued an Open Space Completion Certificate for all of the Open Space (including any LAP that is required by the District Council).
- 4.4 To:
- 4.4.1 maintain the Open Space in accordance with the approved Open Space Management Plan following the issue of the Open Space Completion Certificate and until such time as the transfer described in paragraph 4.7 of this Schedule 4 (below) have been completed, and
- 4.4.2 carry out and complete any remedial works to the Open Space as identified by the District Council pursuant to paragraph 4.5 of this Schedule 4 (below),
- 4.5 Upon the expiry of one (1) year from the issue of an Open Space Completion Certificate the Owners shall invite the District Council in writing to inspect the Open Space and identify any remedial works required to be carried out on the Open Space.
- 4.6 Within three (3) months of receipt of any list of remedial works required to be carried out on the Open Space (or within the next planting season where this is later and appropriate) the Owners shall complete the said remedial works and invite the District Council in writing to re-inspect the Open Space and issue the Open Space Final Certificate.
- 4.7 That once the District Council has issued one hundred percent (100%) of the Open Space with an Open Space Final Certificate the Owners shall transfer the Open Space to: (a) the District Council or the District Council's Nominee (but only in the event that the District Council has provided the confirmation referred to in paragraph 3.3 of this Schedule 4); or (b) the Management Company PROVIDED THAT before the transfer of the Open Space to the Management Company takes place the Owners may still offer to transfer the Open Space to the District Council or the District Council's Nominee and in the event that the offer is accepted then the Open Space shall be transferred to either the District Council or the District Council's nominee as appropriate PROVIDED FURTHER THAT for the avoidance of any doubt:
- 4.7.1 the transfer of the Open Space to the District Council or the District Council's Nominee or the Management Company shall be for the nominal consideration of One Pound (£1.00), and

- 4.7.2 the Open Space shall be transferred free of encumbrances and with all necessary easements and vacant possession and with the reasonable legal fees for such transfer being the responsibility of the Owners; and
- 4.7.3 in the event that the Open Space is transferred to the District Council or the District Council's Nominee the Owners shall pay the Open Space Maintenance Contribution to the District Council or the District Council's Nominee (as appropriate) at the same time as the transfer of the Open Space has been completed.
- 4.8 To include the following provisions in any transfer of the Open Space:
- 4.8.1 covenants to commit the transferee to permit the Open Space to be used exclusively by all members of the public for the purposes of recreation without cost, exclusion or hindrance; and
- 4.8.2 covenants to commit the transferee to maintain the Open Space in accordance with the Open Space Management Plan; and
- 4.8.3 covenants that the transferee will not transfer any part of the Open Space into the individual ownership of the owners of the Dwellings; and
- 4.8.4 covenants that the transferee will comply with the provisions of this Agreement; and
- 4.8.5 obligations that the transferee will (if the District Council so requires) enter into a direct covenant with the District Council to perform the obligations set out in paragraphs 4.8.1, 4.8.2, 4.8.3 and 4.8.4 of this Schedule 4 PROVIDED THAT this paragraph 4.8.5 does not apply in the event that the Open Space is transferred to the District Council.
- 4.9 To provide a copy of the completed transfer (as referred to in paragraph 4.7 of this Schedule 4) to the District Council in relation to the Open Space and to inform the District Council in writing of the contact details of any Management Company PROVIDED THAT this paragraph 4.9 does not apply in the event that the Open Space is transferred to the District Council.
- 4.10 In the event that the Open Space is transferred to a Management Company, to include in each transfer or lease of a Dwelling (including for the avoidance of doubt an Affordable Housing Dwelling) an obligation to contribute an annual amount to the

Management Company which together with fair contributions from other purchasers or lessees of the Dwellings shall be sufficient to enable the Management Company to discharge its obligations under this Agreement in relation to the Open Space.

SCHEDULE 5

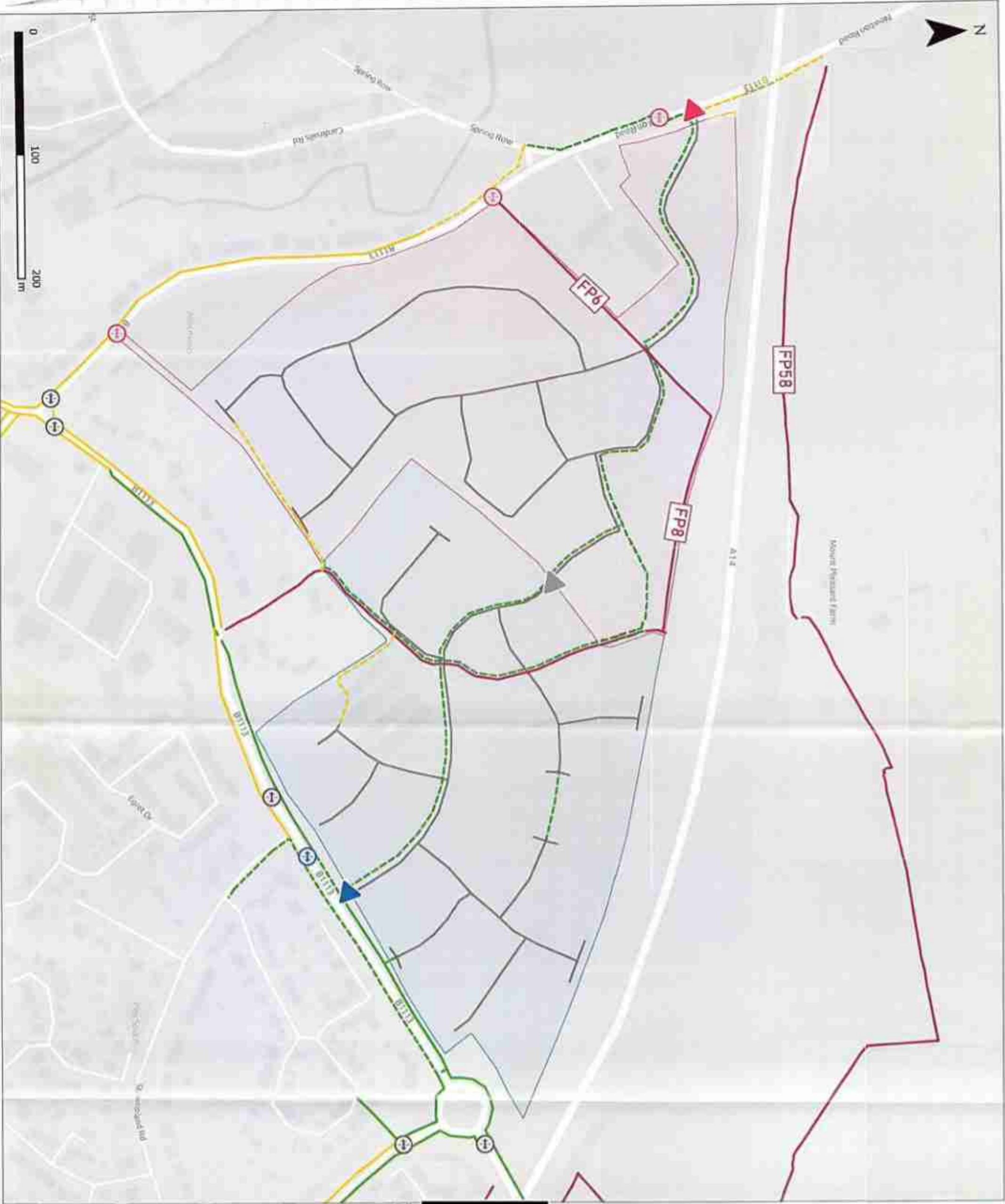
BUS SERVICES, HIGHWAYS AND TRAVEL PLAN

1. In this Schedule 5 the following words and expressions shall have the following meanings:

“Bus Service Contribution”	Service	means the sum of Two Hundred and Sixty Eight Thousand Eight Hundred and Seventeen Pounds and Twenty Pence (£268,817.20), and which sum shall be RPI Index Linked;
“Bus Service Contribution Purposes”		means the use of the Bus Service Contribution towards the provision of bus services to serve this Development and the Diapers Farm Development which may be new services or extensions to existing services;
“Connectivity”		means full cycling, pedestrian and vehicular connections between the Site and the neighbouring Diapers Farm Development, and which connections are shown indicatively on the Connectivity Plan;
“Connectivity Plan”		means the drawing titled ‘Connectivity Plan’ and dated 25 August 2022, a copy of which drawing is attached hereto;
“Diapers Farm Development”	Farm	means the development of land to the north west of Stowupland Road, Stowmarket (known as Diapers Farm) pursuant to the planning permission DC/21/03287 or any subsequent planning permission granted for that land pursuant to an application made under Section 73 of the 1990 Act or otherwise;
“Footpath Contribution”		means the sum of Ten Thousand Pounds (£10,000), and which sum shall be RPI Index Linked;

"Footpath Purposes"	Contribution	means the use of the Footpath Contribution towards the legal and administrative costs together with ancillary officer time incurred by the County Council for putting in place any statutory order(s) or agreements for any proposed alterations to the legal status of Stowmarket Public Footpath 8 (which may also include Stowmarket Public Footpath 6);
"Highway Agreement"	Works	means an agreement entered into: <ul style="list-style-type: none"> a) for the construction and completion of the Improvement Scheme; and b) by the County Council and one or more of the parties who signed the Memorandum of Understanding; and c) pursuant to the provisions of Sections 38 and 278 of the Highways Act 1980;
"Improvement Scheme"		means the Stowupland Road B1115/A1120 Improvement Scheme that is necessary to mitigate the impact of the Development and other nearby developments and which improvement scheme is shown indicatively in the Improvement Scheme Plan;
"Improvement Plan"	Scheme	means the drawing numbered Z301-PL-SK-007 (a copy of which is attached hereto) which identifies the location and extent of the Improvement Scheme;
"LA078 Development"		means the development of the land identified in the District Council's draft Joint Local Plan as site LA078 (being land to the south of Stowmarket Road, Stowupland) pursuant to a planning permission granted by the District Council or by the Secretary of State (for Levelling Up, Housing and Communities) on appeal;

"Memorandum Understanding"	<p>of means the memorandum of understanding annexed hereto and which memorandum of understanding:</p> <ul style="list-style-type: none"> a) relates to Improvement Scheme; and b) has been signed on behalf of Crest Nicholson Operations Limited and dated by them on 25 May 2022; and c) has been signed on behalf of SPLL and dated by them on 25 May 2022; and d) has been signed on behalf of Taylor Wimpey UK Limited and dated by them on 24 May 2022; and e) commits Crest Nicholson Limited, SPLL, and Taylor Wimpey UK Limited to cooperating to ensure timely delivery of the Improvement Scheme;
"Spine Road"	<p>means the main distributor road that runs through the Site from Newton Road (at the point marked with a pink triangle on the Connectivity Plan) up to the boundary of the neighbouring Diapers Farm Development (at the point marked with a grey triangle on the Connectivity Plan);</p>
"Travel Plan Monitoring Fee"	<p>means the sum of One Thousand Pounds (£1,000.00) RPI Index Linked per annum for at least 5 years to be applied by the County Council solely towards the Travel Plan Monitoring Fee Purposes;</p>
"Travel Plan Monitoring Fee Purposes"	<p>means the use of the Travel Plan Monitoring Fee towards the monitoring of the Travel Plan submitted as part of the Planning Application and approved by the County Council.</p>
"TRO Contribution"	<p>means the sum of Ten Thousand Pounds (£10,000), and which sum shall be RPI Index Linked;</p>
"TRO Contribution Purposes"	<p>means the use of the TRO Contribution towards the cost of creating a traffic regulation order to extend the 30mph speed limit within Newton Road including all ancillary expenses legal costs and officer time.</p>



St Philips Site Boundary
 Crest Nicholson Site Boundary
 Internal Road Network
Pedestrian Crossings
↔ Existing Pedestrian Crossing
↔ Proposed Pedestrian Crossing (St Philips)
↔ Proposed Toucan Crossing (Crest Nicholson)
Vehicular Access Point
▲ Newton Road
▲ Connection Between Development Parcels
▲ Stowupland Road
Pedestrian Connections
 Existing Footway
 Existing Public Right of Way
 Proposed Footway/Footpath Connection
Pedestrian and Cycle Connections
 Existing Shared Footway/Cycleway
 Proposed Pedestrian and Cycle Connection

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PJA
 Part 20
 17 High Street
 Leobridge, Shropshire,
 ST13 0JQ
 T: 0121 475 0234

ST PHILIPS LAND LTD
CREST NICHOLSON

Ashes Farm Stowmarket
 [Redacted]

Connectivity Plan

PROJECT NUMBER: 01
 DATE: 25/06/2022
 DRAWN BY: DB
 CHECKED BY: SB



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PROJECT TITLE		CLIENT		DATE		 CANNON CONSULTING ENGINEERS <small>Highways, Transport & Infrastructure Planning</small>	Cannon Consulting Engineers Cambridge House, Kentford, Newmarket, Cambs, CB8 7PN Tel: +44 (0)1638 555 107 info@cannonce.co.uk www.cannonce.co.uk
STOWMARKET ROAD STOWUPLAND		TAYLOR WIMPEY		Nov 20			
DRAWING TITLE		DESIGNED DRAWN	CHECKED (MARBED)	SCALE (S.A)	ISSUE STATUS	DRAWING NUMBER	REV
JUNCTION IMPROVEMENT WORKS		DS DS	-	1:500	PRELIMINARY	Z301_PL_SK_007	A
REV DESCRIPTION	CH	PA	DATE				
A 100% SURVEY ADDED			02.08.22				

NOTE THE PROPERTY OF THIS DRAWING AND DESIGN IS VESTED IN CANNON CONSULTING ENGINEERS AND MUST NOT BE COPIED OR REPRODUCED IN ANY WAY WITHOUT THEIR WRITTEN CONSENT

- 2 The Owners hereby covenant with the District Council and the County Council, as follows:
- 2.1 Not to Commence the Development unless and until the TRO Contribution and the Footpath Contribution have been paid to the County Council.
- 2.2 To pay the TRO Contribution and the Footpath Contribution to the County Council before Commencement of Development.
- 2.3 Not to Occupy (or allow, cause or permit the Occupation of) more than fifty (50) of the Dwellings unless and until the Bus Service Contribution has been paid to the County Council.
- 2.4 To pay the Bus Service Contribution to the County Council before any more than fifty (50) of the Dwellings are Occupied.
- 2.6 Not to Occupy (or allow, cause or permit the Occupation of) any more than seventy five (75) of the Dwellings unless and until the Highway Works Agreement has been entered into and the Improvement Scheme has been completed in accordance with the Highway Works Agreement PROVIDED THAT for the purposes of this paragraph 2.6 of this Schedule 5 only the term "Dwellings" includes any residential dwellings located within the Site, the Diapers Farm Development and the LA078 Development.
- 2.7 Not to Occupy (or allow, cause or permit the Occupation of) any more than one hundred and twenty five (125) of the Dwellings unless and until the Spine Road has been completed to a standard such that it is capable of being adopted by the County Council as highway maintainable at public expense PROVIDED THAT for the avoidance of any doubt the Spine Road has not been completed unless it has been constructed up to the point where it abuts the neighbouring Diapers Farm Development PROVIDED FURTHER THAT for the avoidance of any doubt the Owners are not required to carry out any works within the Diapers Farm Development.
- 2.8.1 To allow all cycleways, footpaths and vehicular roads from the neighbouring Diapers Farm Development to connect to the Site (which connections are shown indicatively on the Connectivity Plan) such that all cyclists, pedestrians and road users may cycle, walk or drive from and to the neighbouring Diapers Farm Development without any impediment.

- 2.8.2 Not to prevent by means of any physical barrier or otherwise (including any financial ransom) full Connectivity between the Site and the neighbouring Diapers Farm Development.
- 2.9 To pay One Thousand Pounds (£1000) of the Travel Plan Monitoring Fee to the County Council before first Occupation of the fiftieth (50th) Dwelling and thereafter to pay a further One Thousand Pounds (£1000) of the Travel Plan Monitoring Fee to the County Council no later than each subsequent anniversary thereafter for a minimum period of five years or until the first Occupation of the final Dwelling whichever is the longer.
- 2.10 Not to Occupy (or allow, cause or permit the Occupation of) the fiftieth (50th) Dwelling unless and until One Thousand Pounds (£1000) RPI Index Linked of the Travel Plan Monitoring Fee has been paid to the County Council.
- 2.11 To cooperate with the County Council so far as is reasonably practical and is within the Owners' legal ability or powers to do so to facilitate any change in legal status of Stowmarket Public Footpath 8 to either a bridleway or cycle track and to widen it as necessary to provide a minimum width of 3 metres such cooperation to include:
- 2.11.1 not unreasonably objecting to or seeking compensation in respect of any order that seeks to upgrade the status of the public footpath to a bridleway or cycle track and to widen such;
- 2.11.2 if requested by the County Council to do so to enter into an agreement pursuant to the Highways Act 1980 or the Cycle Tracks Act 1984 (as the case may be) to upgrade the status of the public footpath to a bridleway or cycle track and to widen such as set out above and without request for compensation and for the avoidance of doubt each party shall bear its own legal costs in respect of entering into such an agreement; and
- 2.11.3 subject to the County Council providing all necessary and relevant information to the Owners beforehand not unreasonably withholding or delaying any response to a request from the County Council in respect of the above change in status and not unreasonably withholding or delaying any agreement that may be required pursuant to para 2.11.2 of this Schedule 5.

- 3 The County Council hereby covenants with the Owners, as follows:

- 3.1 To provide a written form of receipt for payment of the Bus Service Contribution and the TRO Contribution.
- 3.2 To place the Bus Service Contribution when received into an interest-bearing account with a clearing bank and to ensure that Bus Service Contribution is applied exclusively towards the Bus Service Contribution Purposes.
- 3.3 To place the TRO Contribution when received into an interest-bearing account with a clearing bank and to ensure that TRO Contribution is applied exclusively towards the TRO Contribution Purposes.
- 3.4 To pay any part of the Bus Service Contribution and TRO Contribution remaining unspent or uncommitted after ten (10) years from the date of first Occupation of the final Dwelling (including interest applied at the Bank of England base rate minus two basis points compounding annually at financial year end) to the party who paid such contribution within 28 Working Days of receipt of a written request made within one year of the tenth anniversary of the date of first Occupation of the final Dwelling for the repayment of any such unspent monies.

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



Authorised Signatory

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

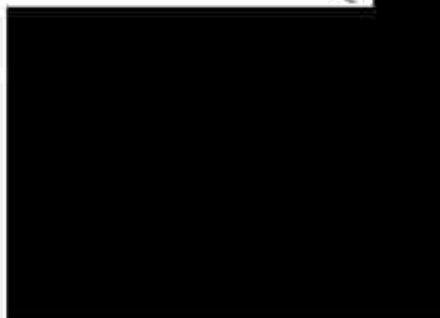


Authorised Signatory

EXECUTED as a DEED by
FREETHS TRUSTEES LIMITED (as
trustee of the 1986 JGM Wilson
Settlement) acting by a director in the
presence of.



Witness' Signature:
Witness' Name:
Witness' Address:



EXECUTED AS A DEED BY
ST PHILIPS LAND LIMITED
acting by two Directors or one
Director and Secretary or by
one Director and a witness

)
)
)
)
)



Director

Director/Secretary

Witness: CHRIS WARREN

Witness Signature:



Witness Address:

ANNEX 1 Discounted Market Dwellings – Marketing & Notification Procedure

A. Obligations in relation to the sale of the Discounted Market Dwellings

In order for the District Council to be satisfied that the obligations in this Agreement relating to the sale of the Discounted Market Dwellings have been met:

the certificate in Annex 2 must be completed by a conveyancer or lawyer on behalf of the Owners and sent to the District Council; and

the certificate in Annex 3 must be completed by the conveyancer or lawyer on behalf of the purchaser and sent to the District Council.

B. Obligations prior to any marketing of the Discounted Market Dwellings:

The Owners shall notify the District Council in writing of the proposed Discounted Price of the Discounted Market Dwellings and provide reasonable evidence demonstrating the Open Market Value before the marketing of any of the Discounted Market Housing Dwellings takes place; and

The Owners shall not advertise or begin marketing any of the Discounted Market Dwellings until the District Council has confirmed in writing that they are content with the Discounted Price of the Discounted Market Dwellings and that they have received the evidence relating to the Open Market Value.

C. Obligations prior to any exchange of contract and/or sale of the Discounted Market Dwellings:

The Owners shall confirm in writing to the District Council that the purchaser of each of the Discounted Market Dwellings are Qualifying Persons and provide reasonable evidence demonstrating this; and

The Owners shall not exchange contracts on any of the Discounted Market Dwellings until the District Council has confirmed in writing that they are content that the purchasers of any of the Discounted Market Dwellings are Qualifying Persons; and

The Owners shall not exchange contracts on any of the Discounted Market Dwellings until the District Council has confirmed in writing that they are content with the Discounted Price of the Discounted Market Dwellings.

D. Obligations prior to any sale of the Discounted Market Dwellings:

Prior to any sale of the Discounted Market Dwellings the Owners shall give notice in writing to the District Council of the proposed sale.

E. Obligations post-sale of the Discounted Market Dwellings:

Within 14 (fourteen) days of completion of the transfer of any of the Discounted Market Dwellings, the Owners shall serve to the District Council a notice (or ensure that a notice is served to the District Council) stating the total consideration (which, for the avoidance of any doubt, must be the Discounted Price) and also provide a certified copy of the completed transfer (or ensure that a certified copy of the completed transfer is provided to the District Council).

F. Obligations post-sale of the Discounted Market Dwellings – The Discounted Market Sale Restriction:

As soon as reasonably practicable after the completion of the sale of any of the Discounted Market Dwellings, arrangements must be put in place to ensure that the Discounted Market Sale Restriction shall be promptly registered regarding the relevant Discounted Market Dwelling.

ANNEX 2

Discounted Market Dwellings – Buyer's Certificate

CERTIFICATION
PURCHASE OF DISCOUNTED MARKET DWELLING
For completion by a Conveyancer

To: Strategic Housing (strategic.housing@baberghmidsuffolk.gov.uk)
Planning application reference: DC/20/01036

On behalf of my client ("the Buyer"), we hereby certify that the property known as *[insert full address*
.....] "the Property" (Land Registry Title Number SK.....) has been purchased on (insert date) and I hereby certify to Babergh/Mid Suffolk* District Council "the Council" that the planning obligations relating to the sale of the Discounted Market Dwelling as detailed in the S106 Agreement dated ("the S106") And/or* the Deed of Variation dated ("the DoV") have been complied with:

Post-sale

1. Within 14 days of completion of the sale of the Property a notice was sent to the Council on (insert date) stating the purchase price of the Property enclosing a copy of the transfer

Signed by Buyer's Conveyancer :

Title/Position:

Full name of Conveyancer :

Date:

[Please print on headed paper or insert details below:]

Firm Name & Address:

Contact details: Telephone number: Email address:

*Delete as appropriate

ANNEX 3

Discounted Market Dwellings – Seller's Certificate

CERTIFICATION
SALE OF DISCOUNTED MARKET DWELLING
For completion by a Conveyancer

To: Strategic Housing (strategic.housing@baberghmidsuffolk.gov.uk)
Planning application reference: DC/20/01036

On behalf of my client ("the Seller"), we hereby certify that the property known as [*insert full address*] "the Property" (Land Registry Title Number SK.....) has been sold on (insert date) to (the Buyer") and I hereby certify to Babergh/Mid Suffolk* District Council "the Council" that the planning obligations relating to the sale of the Discounted Market Dwelling as detailed in the S106 Agreement dated ("the S106") And/or* the Deed of Variation dated ("the DoV") have been complied with:

Pre-sale

1. Prior to marketing and to the sale of the Property the Council were notified on (insert date) of the proposed Discounted Price (as defined in the S106 and/or* the DoV) and that the Discounted Price was at least 20% below the Open Market Value (as defined in the S106 and/or* the DoV);
2. Prior to the sale of the Property the Council were given notice of the proposed sale on(insert date);

Post-sale

3. The Buyer is a Qualifying Person as defined in the S106 and/or* the DoV;
4. The purchase price of the Property was for no more than 80% of the Open Market Value (as defined in the S106 and/or* the DoV) including any rent or interest.

Signed by Seller's Conveyancer :
Title/Position :

Full name of Conveyancer :

Date:

[Please print on headed paper or insert details below:]

Firm Name & Address:
Contact details: Telephone number: Email address:

*Delete as appropriate

ANNEX 4

Nominations Agreement - Standard Template

DRAFT DEED OF NOMINATION RIGHTS

is made the

day of

20

BETWEEN:

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

Relating to

DRAFT

THIS DEED OF NOMINATION RIGHTS

is made the

day of

2020

BETWEEN:

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

1. Definitions

In this Deed:

- 1.1 'Affordable Housing' has the meaning given to it in Annex 2 of the National Planning Policy Framework published in February 2019 (as may be amended from time to time or such other national policy that may from time to time replace or update this framework) or any successor policy thereto issued by HM Government
- 1.2 'Affordable Housing Unit' means the XX Dwellings (35% of the consented Dwellings) all of which shall be Affordable Housing to be provided on the Property of which XX Dwellings shall be Affordable Rent Dwellings (unless otherwise agreed by the Council as part of the Affordable Housing Scheme) which shall be let at an Affordable Rent and shall be occupied by persons allocated in accordance with a Choice Based Lettings Scheme to which the Council is a party or

otherwise nominated by the Council pursuant to this Deed as varied from time to time and XX Dwellings shall be Shared Ownership Dwellings and shall be occupied by persons who meet the local connection criteria and otherwise in accordance with the Government's Help to Buy Scheme (or other subsequent scheme) and Affordable Housing Units shall be construed accordingly.

- 1.3 'Affordable Housing Scheme' means the affordable housing scheme to be submitted to the District Council for its written approval for the provision of Affordable Housing as part of the Development detailing:
- i) the plots and location;
 - ii) bedroom numbers per Dwelling;
 - iii) Dwelling size; and
 - iv) tenure
- 1.4 'Affordable Rent' means rent charged at a level up to 80% of the equivalent Market Rent including any service charges applicable
- 1.5 'Affordable Rent Dwelling' means an Affordable Housing Unit made available by a Registered Provider as low-cost rent accommodation (as defined by the Housing and Regeneration Act 2008 Section 69) with a rent charged at a level up to 80% of the equivalent market rent (inclusive of any service charges applicable) for a dwelling of comparable size in the same location.
- 1.6 'Allocations Policy' means the policy adopted by the Council which governs which households are eligible to occupy Affordable Housing, in line with relevant statutory duties. It also includes the relative priority applicants are awarded to reflect their need for housing under the policy.

- 1.7 'Chargee' means any mortgagee or chargee of the RP who is in possession or any receiver or manager (including an administrative receiver) appointed by such a mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator.
- 1.8 'Chargee's Duties' means the tasks and duties set out in Clause 12.4 of this deed.
- 1.9 'Choice Based Lettings Scheme' means an integrated electronic and manual information system which enables members of the public who have made or potentially might make an application for housing in the area to which the Choice Based Lettings Scheme relates to apply for a selection of suitable property or be supplied with details of housing available throughout the relevant area operated pursuant to any agreement to which the Council is a party.
- 1.10 'Dwelling' means a dwelling (including a house flat or bungalow and including both Market Housing Units and Affordable Housing Units) to be constructed pursuant to the Planning Permission and "Dwellings" shall be construed accordingly
- 1.11 '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
- 1.12 'Homes England' means Homes England or such other organisation as may from time to time be the Regulator of Social Housing within the meaning of section 81 of the Housing and Regeneration Act 2008 or such other body with statutory force charged with regulating Registered Providers

- 1.13 'Initial Let' means the first tenancy of such newly constructed and previously unoccupied Affordable Rent dwelling
- 1.14 'Initial Purchase' means the first purchase of such newly constructed and previously unoccupied Shared Ownership Dwelling
- 1.15 'Local Connection Criteria' means an individual who immediately before taking up occupation of an Affordable Housing Unit meets the criteria for a local connection to the District of XXXX as defined in the relevant District's Allocations Policy or successor documents.
- 1.16 'Mutual Exchange' means the procedure by which a tenant may exchange their house with another council or housing association tenant
- 1.17 'Nomination List' means the Gateway to Homechoice Short List produced in accordance with the Gateway to Homechoice SLA
- 1.18 'Nominee' means a person named on the Gateway to Homechoice Short List who satisfies the Local Connection Criteria and is verified by the RP as best meeting the criteria for the category of Affordable Rent Dwelling in respect of which the RP is to select a person from the Nomination List and offer a Tenancy Agreement
- 1.19 'Practical Completion' means issue of a certificate of practical completion by the RP's surveyor or in the event that the Affordable Housing Units are constructed by a party other than the RP the issue of a certificate of practical completion by that other party's surveyor
- 1.20 'Property' means the land and dwellings at XXXX Suffolk shown edged red on the plan annexed
- 1.21 'Protected Tenant' means any Nominee who has exercised the right to acquire pursuant to the Housing and Regeneration Act 2008 or any

statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit

- 1.22 'Registered Provider' means a registered provider of social housing as defined in section 80(2) of the Housing and Regeneration Act 2008 and listed in the register kept by Homes England under Chapter III of that Act and for the avoidance of doubt this could include the Council.
- 1.23 'Shared Ownership Dwelling' means an Affordable Housing Unit to be advertised via the Help to Buy Agent and let to an individual who meets the Local Connection Criteria and other Homes England eligibility criteria on a Shared Ownership Lease in accordance with the terms as set out in the Capital Funding Guide published by Homes England and any other publication that supercedes it and 'Shared Ownership Dwellings' shall be construed accordingly.
- 1.24 'Shared Ownership Lease' means a lease in a form approved by Homes England or where there is no such form in a form approved by the Council such lease to provide for the following:
- (a) not more than 70% and not less than 10% of the equity (or such other percentages the Council may agree) shall be initially sold to the purchaser by the Registered Provider;
 - (b) power to the purchaser to increase their ownership up to 100% if they so wish;
 - (c) an initial rent not exceeding 2.75% of the value of the equity retained by the Registered Provider subject to annual increases not exceeding Retail Price Index (All Items) published by the Office for

National Statistics (or if such index ceases to be published such other index as the Council shall reasonably determine) plus 0.5% or such other rent as complies with the requirements from time to time of Homes England.

- 1.25 'Service Level Agreement' or 'SLA' means the Gateway to Homechoice service level agreement or such other service level agreement for the time being in force made between the Registered Provider (1) and the Council (2)
- 1.26 'Staircasing' means the acquisition after the date of the Initial Purchase of additional tranches of equity in the Shared Ownership Dwelling as set out in the Shared Ownership Lease for that Affordable Housing Unit and as detailed in the Capital Funding Guide published by Homes England and any other publication that supercedes it.
- 1.27 'Tenancy Agreement' means an assured tenancy agreement in a form prepared by the RP and containing terms which accord with the form of tenancy agreement being used by the RP from time to time for its general lettings
- 1.28 'Vacancy Notice' means a written notice (in a form to be agreed between the RP and given by the RP to the Council within five (5) weeks from the date of this Deed) the function of such notice being the notification to the Council by the RP of the expected date on which the construction and fitting out of the Affordable Rented Dwellings will be complete

1.29 'Void' means an Affordable Rent Dwelling which is vacant otherwise than as a result of the tenant having:

1.29.1 moved to other accommodation either by transfer or decant provided by the RP

1.29.2 moved to other accommodation under a reciprocal arrangement provided by another Registered Provider

1.29.3 vacated and moved to other accommodation as a consequence of the tenant having accepted a mutual exchange which provides such tenant with accommodation elsewhere

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

2 Enabling Provisions

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

3 Procedure

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

4 Initial Lets/Initial Purchase

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

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

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

5. Voids

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

6. Supplemental provisions relating to allocating Initial Lets and Voids

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

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

7. RP covenants

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

- 7.1 To ensure the Affordable Housing Units comprised within the Property are used as Affordable Housing Units
- 7.2 To ensure that the Affordable Housing Units are let on the basis of a Tenancy Agreement at an Affordable Rent or as low-cost home ownership and they are all retained and managed by a Registered Provider in accordance with the objectives of such Registered Provider
- 7.3 To construct the Affordable Housing Units in accordance with Homes England requirements and the Affordable Housing Scheme

8. Alteration of lists

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

9. Notices

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

10. Transfer to other Registered Provider

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

11. Disputes

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

12. Agreements and declarations

The parties agree:

- 12.1 Nothing in this Deed fetters or restricts the exercise by the Council of any of its powers

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

12.3 From the date of Practical Completion the Affordable Housing Units shall be let or purchased in accordance with the terms of this Deed save that the obligations and restrictions contained in this Deed shall not be binding on:

12.3.1 any Protected Tenant or any mortgagee or Chargee of the Protected Tenant or any person deriving title from a Protected Tenant or any successor in title thereto and their respective mortgagees and Chargees; or

12.3.2 any chargee and any successor in title to the Chargee PROVIDED THAT the Chargee shall have first complied with the Chargee's Duties; or

12.3.3 any mortgagee and any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor and any successor in title to either of them.

12.4 The Chargee shall prior to seeking to dispose of the Affordable Housing Unit(s) pursuant to any default under the terms of its mortgage or charge give not less than two (2) months' prior notice to the Council of its intention to dispose and:

12.4.1 in the event that the Council responds within one (1) month from receipt of the notice indicating that arrangements for the transfer of the Affordable Housing Unit(s) can be made in such a way as to safeguard them as Affordable Housing then the Chargee shall co-operate with such arrangements and use its

reasonable endeavours to secure such transfer at a price and upon such terms as are reasonably acceptable to the Chargee

12.4.2 if the Council does not serve its response to the notice within the said period of one (1) month contained in clause 12.4.1 then the Chargee shall be entitled to dispose free of the restrictions set out in this Deed.

12.4.3 if the Council or any other person cannot within two (2) months of the date of service of its response under clause 12.4.1 secure such transfer then provided that the Chargee shall have complied with its obligations under clause 12.4 the Chargee shall be entitled to dispose free of the restrictions set out in this deed PROVIDED THAT at all times the rights and obligations in this clause shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council shall give full consideration to protecting the interest of the Chargee in respect of moneys outstanding under the charge or mortgage

13. Mutual Exchanges

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

14. Shared Ownership Dwellings - Capital Receipts from Staircasing

Capital receipts received by the RP for shares sold between 81% and 100% must be recycled and reinvested in new Affordable Housing within the District of Babergh/Mid Suffolk District Council (*delete as appropriate*).

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

Signatories:

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

Registered Provider

ANNEX 5: Early Years Education Site Specification

The Early Years & Childcare 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
- outside the cordon sanitaire of any sewage plant
- suitably fenced including gates at all proposed access points

The Early Years & Childcare 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 Owner prior to the transfer of the Early Years & Childcare Land
- 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 Early Years & Childcare Land) subject to those services that are required to serve the Early Years & Childcare 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 Early Years & Childcare 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