

DATED

11 December

2025

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

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**MID SUFFOLK DISTRICT COUNCIL (1)**

and

**SUFFOLK COUNTY COUNCIL (2)**

and

**M & D DEVELOPMENTS LIMITED (3)**

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**Relating to**

**Land at Grove Farm, Queen Street, Stradbroke, Suffolk  
IP21 5HH  
(Planning Reference: DC/21/04377)**

Legal Services

West Suffolk House

Western Way

Bury St Edmunds

Suffolk IP33 3YU

Ref: LC 4178000

This Agreement is made the 11<sup>th</sup> day of December 2025

**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) **M & D DEVELOPMENTS LIMITED** (Company registration number: 01538311) whose registered office is at The Foundry, 9 Park Lane, Puckeridge, Ware, Hertfordshire, SG11 1RL ("the Owner")

**Together "the Parties"**

**INTRODUCTION**

1. The District Council is the local planning authority for the purposes of the 1990 Act for the area in which the Site is situated and by whom the obligations contained in this Agreement are enforceable.
2. The County Council is the local highway authority (except for trunk roads) and is the local education authority and is also a local planning authority for the purposes of the 1990 Act for the area in which the Site is situated and by whom the obligations contained in this Agreement are enforceable.
3. The ownership and other interests in the Site are as set out in the First Schedule.
4. M & D Developments Limited submitted the Application to the District Council for the Development, and on 23<sup>rd</sup> April 2025 the District Council resolved to grant the Planning Permission for the Development pursuant to the Application subject to the prior completion of this Agreement to regulate the Development and to secure the planning obligations contained in this Agreement.
5. The District Council enters into this Agreement content that the requirements of the District Council's policies are met and that any objections by the District Council to the grant of planning permission on the basis of those policies are overcome.

6. The District Council and the County Council consider and the Owner acknowledges that the Development should not proceed unless certain restrictions regulating the use of the Site are imposed in the manner hereinafter appearing and pursuant to Section 106 and 106A of the 1990 Act the Parties have agreed to enter into this Agreement in order to secure the planning obligations contained in this Agreement.
7. The District Council in resolving to approve the Application is satisfied that the planning obligations sought under the provisions of this Agreement meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

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

**1. DEFINITIONS**

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

"1980 Act"	the Highways Act 1980 (as amended)
"1990 Act"	the Town and Country Planning Act 1990 (as amended)
"1996 Act"	the Housing Act 1996 (as amended)
"2008 Act"	the Housing and Regeneration Act 2008
"Affordable Housing"	subsidised housing that will be available to persons who cannot afford to rent or buy housing generally available on the open market as defined in Annex 2 of the NPPF (as may be amended and replaced from time to time)
"Affordable Housing Nomination Agreement"	an agreement substantially in the form set out in the Sixth Schedule dealing with the allocation of the Affordable Housing by a Registered Provider which shall apply to all the Affordable Housing Units unless otherwise agreed with the District Council in

	writing and "Nomination Agreement" shall have the same meaning
"Affordable Housing Units"	means fifteen (15) of the Dwellings on the Site to be provided as Affordable Housing in accordance with the Planning Permission and the provisions of the Second Schedule, of which ten (10) Dwellings to be occupied as Affordable Rent in accordance with a Choice Based Letting Scheme to which the District Council is a party or otherwise nominated by the District Council pursuant to the Affordable Housing Nomination Agreement as varied from time to time, and five (5) of the Affordable Housing Units to be Occupied as Shared Ownership and, in accordance with the Affordable Housing Nomination Agreement, to be Occupied by persons with a local connection to the District of Mid Suffolk and on a lease in a form set out in Homes England's Capital Funding Guide (or any subsequent scheme), or such other tenure if agreed in writing by the District Council
"Affordable Rent"	housing made available by a Registered Provider as low-cost rental accommodation (as defined by section 69 of the 2008 Act) with a rent charged at a level up to 80% of the equivalent market rent including any service charges applicable or the local housing rate allowance and "Affordable Rented" shall be construed accordingly

<p>“Application”</p>	<p>the application for full planning permission for the Development validated by the District Council on 13<sup>th</sup> March 2024 and allocated reference DC/21/04377</p>
<p>“Chargee”</p>	<p>means any mortgagee or chargee of the Registered Provider who is in possession, or any receiver or manager (including an administrative receiver) appointed by such a mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator</p>
<p>“Chargee’s Duty”</p>	<p>the tasks and duties set out in paragraph 6.1 in Part 2 of the Second Schedule</p>
<p>“Choice Based Lettings Scheme”</p>	<p>an integrated electronic and manual information system which enables members of the public who have made or potentially might make an application for housing in the area to which the Choice Based Letting Scheme relates to apply for a selection of suitable properties or be supplied with details of housing available throughout the relevant area operated pursuant to any agreement to which the District Council is a party or any allocation process which may succeed it</p>
<p>“Commencement of Development”</p>	<p>the date on which any material operation (as defined in Section 56(4) of the 1990 Act) forming part of the Development begins to be carried out other than (for the purposes of this Agreement and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other</p>

	adverse ground conditions, diversion and laying of services, any underground works, construction of access road (whether temporary or permanent), construction of temporary site compound and temporary marketing suite, erection of any temporary means of enclosure/ site security and the temporary display of site notices or advertisements and any other preparatory works as may be agreed with the District Council and "Commence", "Commenced" and "Commencement" shall be construed accordingly
"Completion of Development"	the date the final Dwelling is first Occupied
"County Contributions"	means the Early Years Contribution;
"Development"	the residential development of erection of 42 (forty two) new homes and 2 (two) barn conversions together with all associated garages roads drainage and infrastructure as set out in the Application
"Dwelling"	any dwelling (including a house bungalow flat or maisonette) to be constructed pursuant to the Planning Permission and "Dwellings" shall be construed accordingly
"Early Years Contribution"	the sum of £176,132.00 (One Hundred and Seventy Six Thousand One Hundred and Thirty Two Pounds) Index Linked to BCIS to be used towards improving enhancing and providing including the forward funding of additional early years places serving the Development
"HE"	'Homes England' means the non-departmental public body known as Homes

	England or any successor organisation who is charged with the function of investing in the provision of Affordable Housing
"Index"	means either the All In Tender Price Index published by the Building Cost Information Service ("BCIS") or any successor organisation or (where indicated) the Retail Prices Index ("RPI") or (where indicated) the Consumer Prices Index ("CPI") published by the Office for National Statistics
"Index Linked"	the increase in any sum referred to in the Second and Fourth Schedules by an amount equivalent to the increase in the Index to be calculated in accordance with clause 11 of this Agreement
"Late Payment Interest"	interest at 4 (four) percent above the minimum lending rate of the Bank of England from time to time
"LAP"	a Local Area of Play, which: <ul style="list-style-type: none"> <li>(a) Is located in the Public Open Space in such position as is approved by the District Council; and</li> <li>(b) Is accessible at all times by members of the public in perpetuity; and</li> <li>(c) is equipped and for use primarily by children aged 6 years and under as specified in Part 4 in the Second Schedule</li> </ul>
"Management Company"	a company or body which subject to the District Council's written agreement , will take

	over responsibility for the future maintenance of the Public Open Space in perpetuity including the LAP which definition may include a resident's association established for this purpose or a private limited company and "Management Companies" will be construed accordingly
"Market Housing Units"	those Dwellings which are general market housing for sale or rent on the open market and which are not Affordable Housing Units
"NPPF"	means the National Planning Policy Framework (as amended)
"Notice of Actual Commencement"	notice in writing to advise of the actual date of Commencement of Development
"Notice of Expected Commencement"	notice in writing to advise of the expected date of Commencement of Development
"Occupation"	occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and "Occupied" and "Occupy" shall be construed accordingly
"Off-Site Affordable Housing Contribution"	£30,421.00 (Thirty Thousand and Four Hundred and Twenty One Pounds) Index Linked to be used by the District Council for the purpose of providing Affordable Housing to be provided off-site in the District of Mid Suffolk

"Plan"	the Site Location Plan attached to this Agreement
"Planning Permission"	the full planning permission subject to conditions which may be granted by the District Council pursuant to the Application
"Practical Completion"	the issue of a certificate of practical completion by the Owner's architect or project manager or in the event that the Development is constructed by a party other than the Owner the issue of a certificate of practical completion by that other party's architect or project manager
"Protected Tenant"	<p>any person who:</p> <ul style="list-style-type: none"> <li>a) Has exercised the right to acquire pursuant to the 1996 Act, the 2008 Act or any statutory provision for the time being in force (or any equivalent contractual right) in respect of an Affordable Housing Unit;</li> <li>b) Has exercised any statutory right to buy (or an equivalent contractual right) in respect of an Affordable Housing Unit;</li> <li>c) Has acquired 100% of the equity in an Affordable Housing Dwelling through staircasing or otherwise</li> <li>d) Any person or body deriving title through or from any of the parties mentioned in a) to c) inclusive</li> </ul>
"Public Open Space"	means an area of public open space to be provided within the Site and shown indicatively hatched black on the Site Layout Plan comprising the public open space (including the LAP) which shall be laid out in

	<p>accordance with the approved Public Open Space Specification and the approved Public Open Space Plan in accordance with the Planning Permission (unless otherwise agreed in writing with the District Council) to enable the Public Open Space to be used by all members of the public for informal and casual recreational use and play and is accessible at all times by members of the public in perpetuity and for the avoidance of doubt does not include (a) the Dwellings and parking areas and garden space associated with the Dwellings (b) the estate roads and (c) any land to be used for highway purposes including highway verges</p>
<p>"Public Open Space Plan"</p>	<p>a HM Land Registry compliant plan to be submitted to the District Council for approval indicating the areas of Public Open Space including the LAP within the Site in accordance with the Public Open Space Specification</p>
<p>"Public Open Space Specification"</p>	<p>means the specification for delivery of the Public Open Space and the LAP including the specifications plans and drawings showing but not limited to the layout and design of the Public Open Space, the timing of the delivery of the Public Open Space including details of any landscaping, paths and access arrangements together with details of the proposed future management regime for the Public Open Space and LAP to be agreed in writing with the District Council in line with the District Council's current policies and requirements</p>

<p>“Public Open Space Transfer”</p>	<p>transfer of the Public Open Space including the LAP in a form approved in writing by the District Council and to be agreed by the Owner and the Management Company (both acting reasonably) and which inter alia shall contain the following provisions:</p> <ul style="list-style-type: none"> <li>a) The Owner shall transfer the fee simple estate free from encumbrances save those set out in the title at the date of the transfer;</li> <li>b) All easements and rights necessary in relation to access for the benefit of the Public Open Space and LAP;</li> <li>c) Any exceptions and reservations in relation to drainage and services, support and access of light and air for the benefit of the Development;</li> <li>d) Restrictive covenants by the Management Company: <ul style="list-style-type: none"> <li>(i) Not to use or permit the Public Open Space and LAP to be used for any purpose other than for the provision of recreational facilities or amenity land for use by the general public as open and play space, except where restricted (if applicable) for ecological, environmental or habitats reasons, as defined in this Agreement and identified in the Public Open Space Specification;</li> <li>(ii) Not to use or permit the Public Open Space and LAP in a manner which may be or become a nuisance</li> </ul> </li> </ul>
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	(whether or not amounting to a legal nuisance), annoyance, disturbance or cause damage to the rest of the Development;
“Registered Provider”	a registered provider of social housing as defined in section 80(2) of the 2008 Act and listed in the register kept by the Regulator of Social Housing under Chapter III of that Act or such similar legislation as may replace it from time to time. For the avoidance of doubt this could also include the District Council under the Housing Act 1985
“Shared Ownership Dwelling”	dwellings to be let on a Shared Ownership Lease to a household for which the household income does not exceed £80,000 (eighty thousand pounds) per annum (or such other household income for the time in force in accordance with the terms as set out in HE’s capital funding guide or any similar guide or legislation as may replace it) and Shared Ownership Dwellings shall be construed accordingly
“Shared Ownership Lease”	means a lease in a form approved by Homes England or where there is no such lease in a form approved by the District Council to provide:  a) not more than 75% and not less than 10% of the equity (or such other percentages the District Council may agree) shall be sold to the purchaser on an Initial Purchase;

	<p>b) an option for the purchaser to increase their ownership up to 100% by Staircasing;</p> <p>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 District Council shall reasonably determine) plus 0.5% or such other rent as complies with the requirements from time to time of Homes England</p>
"Site"	the land described in the First Schedule against which this Agreement may be enforced as shown edged red for identification purposes only on the Plan
"Site Layout Plan"	The site layout plan annexed to this Agreement numbered 8835-02L dated 26.7.2022
"Staircasing"	means the acquisition after the date of the initial purchase of a Shared Ownership Dwelling of additional tranches of equity as set out in the Shared Ownership Lease for that Shared Ownership Dwelling and as detailed in the Capital Funding Guide published by Homes England and any other publication that supersedes it
"Working Days"	any day which is not a Saturday or Sunday, a bank holiday or a public holiday in England

## 2. CONSTRUCTION OF THIS AGREEMENT

- 2.1 Where in this Agreement reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Agreement.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeably in that manner.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.
- 2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that act or Directive for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that act or deriving validity from it.
- 2.6 Any references to any party to this Agreement shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the District Council and the County Council any successors to its statutory functions.
- 2.7 The headings and contents list are for reference only and shall not affect construction.
- 2.8 References to a "Plan" "Site Layout Plan" or "Drawing" in this Agreement shall be reference to the plans attached to this Agreement bearing the relevant plan number or any amended plans as shall be agreed in writing between the Owner the District Council and the County Council.
- 2.9 None of the covenants contained in this Agreement on the part of the Owner shall be enforceable against: -
- 2.9.1 those persons who purchase (including purchasers by way of long lease) any Dwelling for Occupation by themselves or their lessees tenants or individuals of the Dwellings or any mortgagee of such Dwelling; or

- 2.9.2 any statutory undertaker who acquires any part of the Site or interest therein for the purposes of the supply of electricity gas water drainage telecommunication services or public transport services; or
  - 2.9.3 any person to whom the Registered Provider grants a Shared Ownership Lease or any successor in title to any such person and who has acquired all of the beneficial interest in their Dwelling a tenant exercising any right to acquire under a purchase grant scheme or right to buy or similar right conferred by statute or any successor in title to such person; or
  - 2.9.4 any mortgagee of a tenant or person to whom the Registered Provider has granted a Shared Ownership Lease or any receiver appointed by such mortgagee or any person deriving title through any such mortgage or receiver; or
  - 2.9.5 save for Part 2 of the Second Schedule, any Registered Provider who acquires an interest in the Affordable Housing Units;
  - 2.9.6 any person who has an interest in the Site only by way of an easement
- 2.10 Any covenant by the Owner not to do an act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done by another person.

### 3. **LEGAL BASIS**

- 3.1 This Agreement is made pursuant to Section 106 and Section 106A of the Act Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all other enabling powers.
- 3.2 The covenants, restrictions and requirements imposed upon the Owner under this Agreement create planning obligations pursuant to Section 106 and 106A of the Act and are enforceable by the District Council and the County Council as appropriate as local planning authorities against the Owner or their successor in title.
- 3.3 This Agreement is a Deed and may be modified or discharged in part or in total at any time after the date of this Agreement by Deed between the Parties in the form of a Deed.
- 3.4 This Agreement is a local land charge and upon completion shall be registered by the District Council as such.

#### 4. CONDITIONALITY

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

4.1.1 the grant of the Planning Permission; and

4.1.2 the Commencement of Development

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

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

4.2.1 until such time as such proceedings or challenge including any appeal have been finally resolved the terms and provisions of this Agreement will remain without operative effect notwithstanding the issue of the Planning Permission and the Commencement of Development;

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

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

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

4.3.1 proceedings by way of judicial review are concluded:

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

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

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

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

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

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

**5. THE OWNER'S COVENANTS**

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

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

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

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

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

**7. MISCELLANEOUS**

7.1 The Parties shall act in good faith and shall co-operate with one another to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests of the District Council and or the County Council and their duly authorised officers or agents to have access to any part or all of the Site (provided that at all times they comply with the requirements set out in clause 10) or any requests to provide documentation within the Owner's possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein.

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

- 7.3 The Owner agrees to pay to the District Council on completion of this Agreement the proper and reasonable legal costs of the District Council incurred in the negotiation preparation and execution and completion of this Agreement.
- 7.4 The Owner agrees to pay to the County Council on completion of this Agreement the proper and reasonable legal costs of the County Council incurred in the negotiation preparation and execution and completion of this Agreement.
- 7.5 The Owner agrees to pay to the District Council on completion of this Agreement the monitoring fee of £900.00 (Nine Hundred Pounds).
- 7.6 The Owner agrees to pay to the County Council on completion of this Agreement the monitoring fee of £1,038.00 (one thousand and thirty eight pounds Pounds).
- 7.7 No provisions of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 7.8 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the District Council or the County Council under the terms of this Agreement such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the District Council by the Professional Lead or officer acting under his hand and on behalf of the County Council by the Executive Director of Growth Highways and Infrastructure or officer acting under his hand and any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.
- 7.9 Following the performance and satisfaction of all the obligations contained in this Agreement the District Council shall forthwith on the written request of the Owner mark accordingly all entries made in the Register of Local Land Charges in respect of this Agreement.
- 7.10 Insofar as any clause or clauses or paragraphs of this Agreement are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement.
- 7.11 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development and the District Council will effect cancellation of all entries in the Register of Local Land Charges in respect of this Agreement.

- 7.12 No person shall be liable for any breach of any of the planning obligations or other provisions of this Agreement after it shall have parted with its entire interest in the Site (or part where such breach occurs) but without prejudice to liability for any subsisting breach arising prior to parting with such interest and for the purposes of this clause a person parts with an interest in the Site notwithstanding the retention of easements or the benefit of covenants, restrictions or reservations in respect of it.
- 7.13 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Agreement.
- 7.14 In the event that any new planning applications are made in respect of the Development pursuant to Section 73 of the 1990 Act then with effect from the date that the new planning permission is granted pursuant to Section 73 of the 1990 Act:
- 7.14.1 unless the local planning authority requires otherwise the planning obligations in this Agreement shall in addition to binding the Site in respect of the Planning Permission shall also bind the Site in respect of any planning permission granted pursuant to Section 73 of the 1990 Act; and
- 7.14.2 the definitions of "Application", "Development" and "Planning Permission" shall be assumed to include references to any applications under Section 73 of the 1990 Act, the planning permissions granted thereunder and the development permitted by such subsequent planning permissions PROVIDED THAT nothing in this clause 7.14 shall fetter the discretion of the District Council in determining any applications under Section 73 of the 1990 Act and the appropriate nature and/or quantum of planning obligations in so far as they are materially different to those contained in this Agreement and required pursuant to a determination under Section 73 of the 1990 Act (whether by way of a new Deed or supplemental Deed pursuant to Section 106 of the 1990 Act or a modification pursuant to Section 106A of the 1990 Act).
- 7.15 Nothing contained or implied in this Agreement shall prejudice or affect the rights, discretions, functions, powers, duties and obligations of the District Council or the County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of its functions as local authorities.
- 7.16 The Owner hereby agrees that any rights to claim compensation arising from any limitations or restrictions on the planning use of the Site under the terms of this Agreement are hereby waived.

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

**8. WAIVER**

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

**9. CHANGE IN OWNERSHIP**

The Owner agrees with the District Council and the County Council to give each of them independently written notice of any transfer in ownership of its freehold interest in the Site (save for disposals of individual Dwellings or to any statutory undertaker) occurring before all the obligations under this Agreement have been discharged such notice to be served within twenty (20) Working Days' of such transfer quoting the District Council's reference DC/21/04779 to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site purchased by reference to a plan and a copy of the registered title and plan thereto.

**10. RIGHTS OF ENTRY**

10.1 At all times on not less than forty-eight (48) hours written notice except in case of emergency with or without notice the Owner shall allow any employee or agent of the District Council or the County Council entry to the Site for the purposes of inspection and monitoring compliance with the provisions of this Agreement PROVIDED THAT:

10.1.1 such employee or agent on arrival at the Site shall if requested by any person present who appears to be the Owner the manager or person in charge thereof produce evidence of identity (but entry may be made if there is or appears to be no such person on the Site);

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

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

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

## 11. INDEXATION

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

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

## 12. INTEREST

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

## 13. VAT

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

## 14. NOTICES

- 14.1 Any notices or other written communication to be served or given by one party upon or to any other party under the terms of this Agreement shall be deemed to have been validly served or given if delivered by hand or sent by first class recorded delivery post to the party upon whom it is to be served or to whom it is to be given or as otherwise notified for the purpose by notice in writing PROVIDED THAT the notice or other written communication is addressed and delivered or sent by first class recorded delivery post to the address of the party concerned as nominated in clause 14.2.
- 14.2 The address for any notice or other written communication in the case of each party to this Agreement shall be as follows:

The District Council	The Chief Planning Officer, Mid Suffolk District Council, Endeavour House, 8 Russell Road, Ipswich, IP1 2BX – Email: <a href="mailto:planning@babergmidsuffolk.gov.uk">planning@babergmidsuffolk.gov.uk</a>
The County Council	The Executive Director of Growth, Highways and Infrastructure, Suffolk County Council, Endeavour House, 8 Russell Road, Ipswich, IP1 2BX
The Owner	At the address specified above

## 15. DISPUTE RESOLUTION PROVISIONS

- 15.1 Any dispute or difference of any kind whatsoever arising between any or all of the Parties out of or in connection with this Agreement (including without limitation any question regarding its existence validity or termination) shall be referred to an independent single Expert (“the Expert”).
- 15.2 The Expert shall have no less than ten (10) years’ experience of resolving disputes similar in nature to the one that is proposed to be referred pursuant to clause 15.1.
- 15.3 The parties to the dispute shall jointly appoint the Expert not later than twenty (20) Working Days’ after service of a request in writing by any party to the dispute to do so
- 15.4 If the parties to the dispute are unable to agree within twenty (20) Working Days’ as to the appointment of such Expert then the Expert shall be appointed on the application of any of the parties to the dispute as follows:

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

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

16. **SATISFACTION OF ANY OF THE PROVISIONS OF THIS AGREEMENT**

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

17. **APPROVALS**

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

18. **COMMUNITY INFRASTRUCTURE LEVY**

- 18.1 The Parties to this Agreement agree that for the purposes of the Community Infrastructure Levy Regulations 2010 (as amended) the obligations imposed in this Agreement are:

- 18.1.1 necessary to make the Development permitted pursuant to the Application acceptable in planning terms;
- 18.1.2 directly related to the Development permitted pursuant to the Application; and
- 18.1.3 fairly and reasonably related in scale and kind to the Development permitted pursuant to the Application.

19. **LAND OUTSIDE THE OWNER'S CONTROL**

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

20. **FUTURE MORTGAGEES**

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

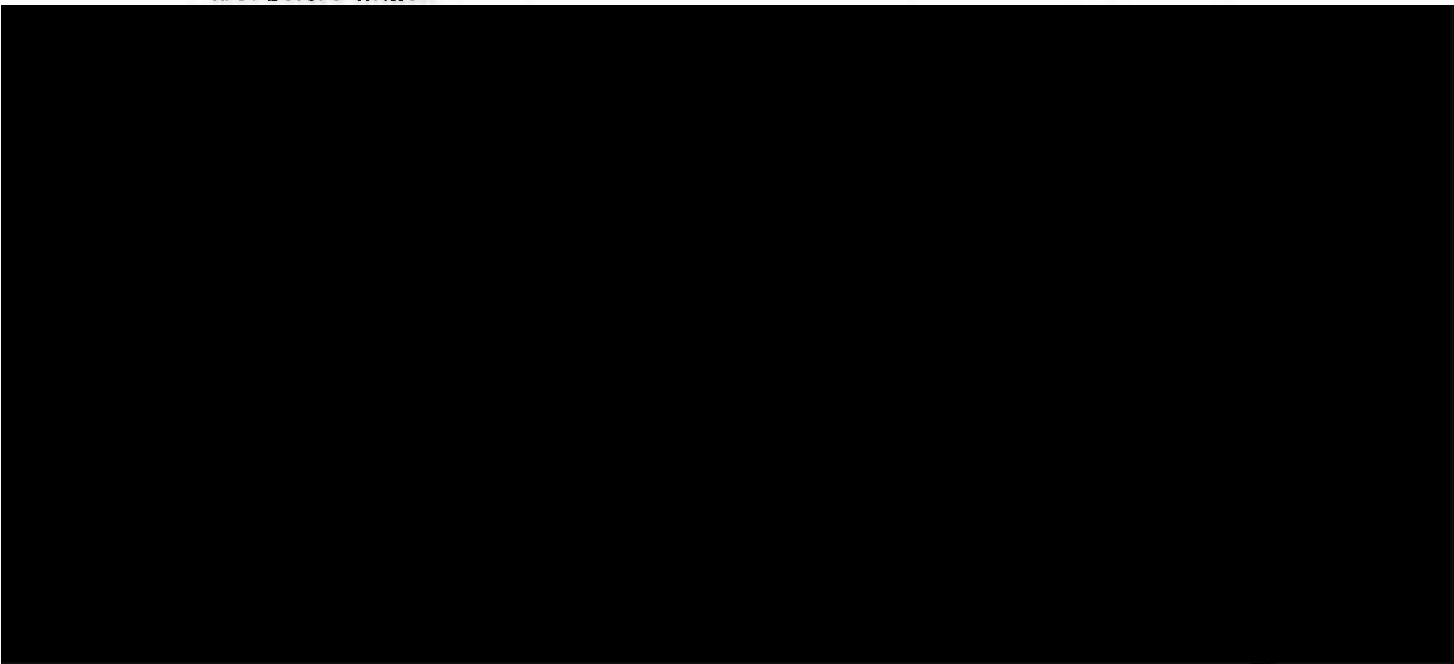
21. **JURISDICTION**

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

22. **DELIVERY**

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

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





## **FIRST SCHEDULE**

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

The Owner is the freehold owner of land being land at Grove Farm, Queen Street, Stradbroke, Eye, IP21 5HH registered under title number SK403048, as shown edged red for identification purposes only on the Plan.

## **SECOND SCHEDULE**

### **OWNER'S COVENANTS WITH THE DISTRICT COUNCIL**

#### **PART1**

1. The Owner shall serve the District Council with: (i) the Notice of Expected Commencement not less than 5 (five) Working Days' before the date that the Owner expects Commencement of Development to occur; and (ii) within 15 (fifteen) Working Days' of Commencement of Development having occurred, the Notice of Actual Commencement in order to confirm that Commencement has occurred.
2. The Owner shall give the District Council no less than 1 (one) months' written notice of the anticipated date for the Occupation of the first Dwelling.
3. The Owner shall within 15 (fifteen) Working Days' give written notice to the District Council following:
  - 3.1 the date of Occupation of the first Dwelling;
  - 3.2 the date of Occupation of 13 (thirteen) of the Market Housing Units;
  - 3.3 the date of Occupation of 21 (twenty one) of the Market Housing Units; and
  - 3.4 Completion of Development.

#### **PART2**

### **AFFORDABLE HOUSING**

1. The Owner covenants with the District Council that 15 (fifteen) Dwellings are to be constructed as part of the Development as Affordable Housing Units with the following house mix, number and tenure unless otherwise agreed in writing with the District Council:

**AFFORDABLE  
HOUSING  
TABLE**

<b>Tenure</b>	<b>Number</b>	<b>Size (Bedrooms and Persons)</b>	<b>Type</b>	<b>Minimum GIA (m2)</b>
<b>Affordable Rent</b>  (10 Total)	4	1 bedroom 2 person	Maisonettes	50sqm
	3	2 bedroom 4 person	Houses	79sqm
	3	3 bedroom 5 person	Houses	93sqm
<b>Shared Ownership</b> ( 5 Total)	2	2 bedroom 4 person	Houses	79sqm
	3	3 bedroom 5 person	Houses	93sqm

- 2 The Owner shall construct the Affordable Housing Units in accordance with the Affordable Housing Table as detailed in this Part 2 of the Second Schedule, the Site Layout Plan and the Planning Permission to a standard of construction which meets the Nationally Described Space Standards and Part M4(2) of the Building Regulations, and also the Affordable Housing Units and the Market Housing Units should share the same palette of materials, colours, densities and design features across the Development
  
- 3 Subject to paragraph 9 to 11 inclusive below the Owner shall not:
  - 3.1 Occupy or permit Occupation of more than fourteen (14) of the Market Housing Units until at least six (6) of the Affordable Housing Units have been constructed and are ready for Occupation and are transferred to the Registered Provider.
  
  - 3.2 Occupy or permit Occupation of more than twenty two (22) of the Market Housing Units until all of the Affordable Housing Units have been constructed and are ready for Occupation and have been transferred to the Registered Provider.
  
- 4 Having given notice under paragraph 1(ii) of the Second Schedule Part 1 above the Owner, prior to Commencement, shall endeavour to agree with the District Council on the identity of the Registered Provider or other body to which the Affordable Housing Units are to be transferred such agreement not to be unreasonably withheld or delayed. The Owner may Commence the Development whilst that process is ongoing but if no agreement has been reached at the expiration of the period of 6 (six) months' following the Commencement of

Development the District Council shall be entitled to nominate a Registered Provider or other appropriate body for the purpose who is prepared to purchase the Affordable Housing Units at an acceptable value. Any transfer to a Registered Provider of the land on which the Affordable Housing Units will be constructed shall be:

- 4.1 with vacant possession;
  - 4.2 free from any encumbrance other than those existing as set out in the title at the time of the disposition (save for any financial charge or the transfer of statutory apparatus by the Owner to any statutory undertaker);
  - 4.3 subject to grant by the Owner to the Registered Provider of all rights of access and passage of services and other rights reasonably necessary for the beneficial enjoyment of the Affordable Housing Units;
  - 4.4 subject to a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the purpose of the construction, operation, use, maintenance and management of the Development;
  - 4.5 subject to a requirement to enter into an Affordable Housing Nomination Agreement with the District Council.
- 5 The Affordable Housing Units shall be Occupied for no other purpose than as Affordable Housing save where provided otherwise in paragraph 6.
- 6 The District Council and the Owner agrees that the obligations and restrictions contained in Part 2 of this Second Schedule shall not bind:
- 6.1 a mortgagee or chargee or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT (1) such mortgagee or chargee or receiver shall first give written notice to the District Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of 3 (three) months from the date of the written notice to complete a disposal of the Affordable Housing Units to another Registered Provider or to the District Council for a consideration not less than the amount due and outstanding under

the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and (ii) if such disposal has not completed within the 3 (three) month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Housing Units free from the provisions Part 2 of this Second Schedule in this Agreement which provisions shall determine absolutely.

- 6.2 any Protected Tenant;
  - 6.3 any Affordable Housing Unit where a Registered Provider sells to a tenant through Social Homebuy funded pursuant to section 19(3) of the 2008 Act, a voluntary grant scheme under section 21 of the 1996 Act or any amendment or replacement thereof;
  - 6.4 a lessee who has acquired up to one hundred percent (100%) of the legal and equitable interest in the Shared Ownership Dwelling; or
  - 6.5 any person or body deriving title through or from any of the parties mentioned in this paragraph 6.
- 7 In the event that the Registered Provider (within 2 (two) months' of written invitation) is unable to make a reasonable offer to purchase the Affordable Housing Units or no longer wants to purchase the Affordable Housing Units the Owner shall:
- 7.1 notify the District Council 2 (two) months' prior to the Practical Completion of the first Affordable Housing Unit; and
  - 7.2 set out the reasons (together with any supporting evidence) in writing why a transfer to the Registered Provider has not been entered into pursuant to paragraph 3 of this part of this Schedule; and
  - 7.3 submit any other information reasonably requested by the District Council to satisfy why the Owner has not been able to enter into a transfer with the Registered Provider pursuant to paragraph 3 of this part of this Schedule; and
  - 7.4 nominate an alternative Registered Provider for the District Council's approval; or
  - 7.5 offer the relevant Affordable Housing Units to the District Council to be purchased by the District Council as Affordable Housing.
- 8 In the event the District Council make an acceptable offer to the Owner to purchase the Affordable Housing Units (within 2 (two) months' of notice under paragraph 7.5), the Owner shall transfer the Affordable Housing Units to the District Council on the

terms as those specified in paragraphs 5.1 to 5.6, the restrictions in paragraph 4.1 of this Schedule shall not apply and the Owner shall not Occupy or permit Occupation of more than 80% (eighty percent) of the Market Housing Units until the Owner has provided the District Council with a freehold transfer document unconditionally released for completion.

- 9 In the event the Owner nominates an alternative Registered Provider for the District Council's approval under paragraph 7.4 above and the District Council approves the same, the Owner shall offer to transfer the Affordable Housing Units on the same terms as those specified in paragraphs 4.1-4.5 to that Registered Provider. The restrictions in paragraph 4 of this Schedule shall not apply and the Owner shall not Occupy or permit Occupation of more than 80% (eighty percent) of the Market Housing Units until the Owner has transferred the Affordable Housing Units to the alternative Registered Provider.

### **PART 3**

#### **OFF-SITE AFFORDABLE HOUSING CONTRIBUTION**

- 1 The Owner covenants within 14 (fourteen) days Occupation of the sixteenth (16<sup>th</sup>) Open Market Dwelling to pay to the District Council the Off-Site Affordable Housing Contribution.
- 2 The Owner covenants not to Occupy or permit Occupation of the seventeenth (17<sup>th</sup>) Open Market Dwelling ready for residential Occupation until such time as the Owner has paid to the District Council the Off-Site Affordable Housing Contribution plus any Late Payment Interest on the Off-Site Affordable Housing Contribution due to the District Council under this Agreement but not paid in accordance with the provision of clause 1 of Part 3 of this Second Schedule.

### **PART 4**

#### **PUBLIC OPEN SPACE**

- 1 The Owner covenants not to Commence Development on the Site until the Public Open Space Plan and the Public Open Space Specification has been provided to the District Council and approved in writing by the District Council and such approval not to be unreasonably withheld or delayed.

- 2 If the District Council fails within 40 (forty) Working Days of submission of the Public Open Space Plan and Public Open Space Specification to notify the Owner of its approval of the Public Open Space Plan and the Public Open Space Specification the Owner shall be entitled to assume deemed approval of the Public Open Space Plan and Public Open Space Specification.
- 3 The Owner hereby covenants with the District Council to provide Public Open Space in accordance with the Planning Permission and the Public Open Space Specification and Public Open Space Plan to include public access and the LAP in perpetuity.
- 4 The Owner covenants not to Occupy the 21<sup>st</sup> (twenty first) Dwelling ready for residential Occupation until the Public Open Space and the LAP in accordance with both the approved Public Open Space Plan and the approved Public Open Space Specification have been delivered.
- 5 The Owner covenants (1) to arrange a meeting with the District Council's Public Realm Department to establish any necessary works to the Public Open Space and the LAP and laying out access and equipment has been satisfactorily installed, and (2) to carry out remedial works to the satisfaction of the Public Realm
- 6 The Owner covenants with the District Council at their own cost to maintain and manage the Public Open Space and the LAP strictly in accordance with the Public Open Space Plan, the Public Open Space Specification and the Planning Permission until the date the Public Open Space Transfer described in paragraphs 7 and 8 of this Part 4 of this Second Schedule has been completed.
- 7 The Owner covenants that following the District Council's written confirmation that the Public Open Space and the LAP have been laid out in accordance with the Public Open Space Plan and Public Open Space Specification to transfer the Public Open Space to a Management Company and such transfer to include such items as necessary and outlined in the Public Open Space Transfer and shall for the avoidance of doubt include a covenant that the Public Open Space including the LAP shall thereafter be retained and maintained in accordance with the Public Open Space Plan, the Public Open Space Specification and the Planning Permission for the benefit of the general public in perpetuity.

- 8 The Owner shall transfer the Public Open Space including the LAP to a Management Company, within 12 (twelve) months of Occupation of the last Dwelling ready for residential Occupation in accordance with the Public Open Space Transfer.
- 9 The Owner covenants to ensure the maintenance of the Public Open Space including the LAP in perpetuity if the Management Company becomes insolvent or unable to perform its duties for reasons beyond their control.

### **THIRD SCHEDULE**

#### **DISTRICT COUNCIL'S COVENANTS**

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

6. The District Council shall use the Off-Site Affordable Housing Contribution solely for the provision of Affordable Housing within the administrative area of Mid Suffolk District Council.

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

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

#### **FOURTH SCHEDULE**

#### **OWNER'S COVENANTS WITH THE COUNTY COUNCIL**

##### **PART 1**

- 1 The Owner shall serve the County Council with: (i) the Notice of Expected Commencement not less than 5 (five) Working Days' before the date that the Owner expects Commencement of Development to occur; and (ii) within 15 (fifteen) Working Days' of Commencement of Development having occurred, the Notice of Actual Commencement in order to confirm that Commencement has occurred.
- 2 The Owner shall give the County Council no less than 1 (one) months' prior written notice of the anticipated date for the Occupation of the first Dwelling.
- 3 The Owner shall give the County Council no less than 1 (one) months' prior written notice of the anticipated date of the Completion of the Development.
- 4 The Owner shall within 15 (fifteen) Working Days' give written notice to the County Council following:
  - 4.1 the date of Occupation of the 9<sup>th</sup> (ninth) Dwelling;
  - 4.2 the date of Occupation of the 29<sup>th</sup> (twenty ninth) Dwelling; and
  - 4.3 the date of Completion of Development

## **PART 2**

### **EARLY YEARS CONTRIBUTION**

- 1 The Owner covenants to pay to the County Council:
  - 1.1 50% (fifty percent) of the Early Years Contribution prior to Occupation of the 10<sup>th</sup> (tenth) Dwelling;
  - 1.2 A further 50% (fifty percent) of the Early Years Contribution prior to Occupation of the 30<sup>th</sup> (thirtieth) Dwelling;
- 2 The Owner covenants not to Occupy or permit Occupation of:
  - 2.1 The 10<sup>th</sup> (tenth) Dwelling prior to payment of 50% (fifty percent) of the Early Years Contribution to the County Council
  - 2.2 The 30<sup>th</sup> (thirtieth) Dwelling prior to payment of a further 50% (fifty percent) of the Early Years Contribution to the County Council

## **FIFTH SCHEDULE**

### **COUNTY COUNCIL'S COVENANTS**

- 1 To use the County Contributions for their intended purposes under this Agreement and for no other purpose.
- 2 To provide to the Owner, on the Owner's written request, information regarding the expenditure of the County Contributions PROVIDED THAT such request is made within eleven (11) years of Completion of Development.
- 3 The County Council shall if requested to do so in writing after the expiry of ten (10) years of the date of Completion of Development, within a further period of one (1) year, either confirm that the County Contributions were committed or expended by the County Council in accordance with the provisions of this Agreement or if they were not so committed or expended in that period pay the County Contributions (or any part not committed or expended) back to the person who paid it, such payment to be made within twenty (20) Working Days' of such request.

**SIXTH SCHEDULE**  
**DRAFT DEED OF NOMINATION RIGHTS**

is made [enter date at completion]

**BETWEEN**

(1) [ENTER NAME OF RP]

and

(2) **MID SUFFOLK DISTRICT COUNCIL**

Relating to

**Land at Grove Farm, Queen Street, Stradbroke, Suffolk  
IP21 5HH  
(Planning Reference: DC/21/04377)**

[Enter Date of S106 Agreement: .....]

**Shared Legal Services  
Mid Suffolk District Council  
Council Offices  
Endeavour House  
8 Russell Road  
Ipswich IP1 2BX**

Legal Ref: LC 4178000

**Part I**

**Provisions relating to Affordable Rent Units – Pages 3 to 11**

**Part II**

**Provisions relating to Shared Ownership Units – Pages 11 to 19**

**(Delete this page if only one part is used)**

**DRAFT**

**THIS DEED OF NOMINATION RIGHTS**

is made [enter date at completion]

**BETWEEN:**

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

(‘the RP’) and

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

(‘the Council’)

‘the Parties’

**Part I - Provisions relating to Affordable Rent Units**

**1. Definitions**

1.1. ‘Affordable Housing’ has the meaning given to it in Annex 2 of the National Planning Policy Framework published in December 2024 (as may be amended from time to time or such other national policy that may from time to time replace or update this framework) or any successor policy thereto issued by HM Government.

1.2. ‘Affordable Housing Location Plan’ means a document consistent with the provision of Affordable Housing Units pursuant to the Planning Permission detailing the following:

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

1.3. 'Affordable Housing Unit' means 10 (ten) Dwellings which shall be Affordable Rent Units (unless otherwise agreed by the Council) and 'Affordable Housing Units' shall be construed accordingly.

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

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

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

1.7. 'Chargee' means any mortgagee or chargee of the RP or any receiver or manager (including an administrative receiver) appointed by such a mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator.

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

1.9. 'Dwelling' means a dwelling (including a house flat maisonette or bungalow and including both Market Housing Units and Affordable Housing Units) to be constructed pursuant the Planning Permission and 'Dwellings' shall be construed accordingly.

1.10. 'Gateway to Homechoice' means the Greater Haven Gateway sub-regional Choice Based Lettings Scheme (or any replacement or similar system in place at the time).

1.11. 'Homes England' means the non-departmental public body known as Homes England or any successor organisation who is charged with the function of investing in the provision of Affordable Housing.

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

1.13. 'Local Connection' means a connection to the District of Mid Suffolk and as defined in the Allocations Policy.

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

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

1.16. 'Notice of Practical Completion' means a written notice (in a form to be agreed between the RP and the Council) to be given to the Council within two (2) weeks from the issue date of the certificate of Practical Completion. The function of such notice being the notification to the Council by the RP of the expected date on which the construction and fitting out of the Affordable Rented Units will be complete and ready to let.

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

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

1.19. 'Planning Permission' means the planning permission which may be granted pursuant to the planning application reference number DC/21/04377 subject to conditions, and also to obligations in the section 106 (Town and Country Planning Act 1990) agreement dated [insert date].

1.20. 'Practical Completion' means issue of a certificate of practical completion by the RP's surveyor or, if the Affordable Housing Units are constructed by a party other than the RP, the issue of a certificate of practical completion by that other party's surveyor.

1.21. 'Property' means the land at Grove Farm Queen Street Stradbroke Eye IP21 5HH shown edged red on the Plan.

1.22. 'Registered Provider' or 'RP' means a registered provider of social housing as defined in section 80(2) of the Housing and Regeneration Act 2008 and listed in the register kept by the Regulator of Social Housing under Chapter III of that Act. For the avoidance of doubt this could also include the Council under the Housing Act 1985.

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

1.24. 'Service Level Agreement' or 'SLA' means the Gateway to Homechoice service level agreement or such other service level agreement for the time being in force made between the RP and the Council.

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

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

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

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

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

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

## **2. Enabling Provisions**

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

## **3. Procedure**

The Parties agree that the Service Level Agreement procedure to which they are signatories as part of the Gateway to Homechoice, Choice Based Lettings Scheme (or any such successor) and the Local Connection Criteria therein shall apply to the nomination of persons in respect of the Affordable Rent Units.

## **4. Initial Let**

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

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