

DATED

17th December

2024

MID SUFFOLK DISTRICT COUNCIL (1)

and

SUFFOLK COUNTY COUNCIL (2)

and

ADRIAN JOHN NICE and PAULINE JEAN NICE (3)

and

PERSIMMON HOMES LIMITED (4)

**AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY
PLANNING ACT 1990**

relating to land to the west of Ixworth Road, Thurston
(planning application reference: DC/24/02330)



Ref: JZM/227801.0045

Council ref: 2464388

THIS DEED is made this 17th day of December 2024

BETWEEN

- (1) **MID SUFFOLK DISTRICT COUNCIL** of Endeavour House, 8 Russell Road, Ipswich IP1 2BX ("District Council");
- (2) **SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, Suffolk, IP1 2BX ("County Council");
- (3) **ADRIAN JOHN NICE** and **PAULINE JEAN NICE** of Tewksbury Place, Great Barton, Bury St Edmunds, Suffolk, IP31 2TP ("First Owner")
- (4) **PERSIMMON HOMES LIMITED** (company registration number 04108747) whose registered office is at Persimmon House, Fulford, York YO19 4FE ("Second Owner")

together referred to as 'the Parties'

INTRODUCTION

- (A) The District Council is the local planning authority for the purposes of the Act for the area in which the Site is situated and by whom the obligations contained in this Deed are enforceable
- (B) The County Council is the local highway authority (except for trunk roads) the local education authority and is also a local planning authority for the purposes of the Act for the area in which the Site is situated and by whom the obligations contained in this Deed are enforceable
- (C) The ownership and other interests in the Site are as set out in Schedule 1 and the Parties agree that this Deed is only intended to bind the interest of the Owner and no other party, plot purchasers or otherwise, and therefore no other person or entity is required to be a party to this Deed.
- (D) The Second Owner has submitted the Application to the District Council for the Development and the District Council has resolved to grant planning permission for the Development pursuant to the Application subject to the prior completion of this Deed to regulate the Development and to secure the planning obligations contained in this Deed
- (E) The District Council enters into this Deed to the intent 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
- (F) The District Council and the County Council consider and the Owner acknowledges that the Development should not take place until certain restrictions regulating the use of the Site are

imposed in the manner hereafter appearing and pursuant to Section 106 of the Act the Parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed

- (G) The District Council in resolving to approve the Application is satisfied that the planning obligations sought under the provisions of this Deed meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) to ensure that the development to be undertaken under the Planning Permission are made acceptable in planning terms.

1 DEFINITIONS

1.1 In this Deed the following expressions have the following meanings:

“Act”	means the Town and Country Planning Act 1990 (as amended)
“Affordable Housing”	means subsidised housing that will be available to persons whose housing needs are not met by the market in accordance with and defined in Annex 2 of the NPPF
“Affordable Housing Contribution”	means a sum of fifty-four thousand six hundred and twenty-four pounds (£54,624.00) BCIS Indexed to be paid to the District Council in lieu of 0.65 of the Affordable Housing Units
“Affordable Housing Layout Plan”	means the plan attached to this Deed at Appendix 1 and marked “Affordable Housing Layout” with reference 982-P-101
“Affordable Housing Nomination Agreement”	means an agreement substantially in the form set out in Schedule 6 (subject to such amendments as may be reasonably required by the Registered Provider and the District Council with a view to ensuring that the objectives of that agreement are met) dealing with the allocation of the Affordable Housing by a Registered Provider which shall apply to all of the Affordable Rented Housing Units and Shared Ownership Dwellings and “Nomination Agreement” shall have the same meaning
“Affordable Housing Scheme”	means the written scheme approved by the District Council as detailed in this Deed identifying the location of each Affordable Housing Unit as shown on the Affordable Housing Layout Plan and the number and tenure of the Affordable Housing Units as

set out in the Affordable Housing Table (unless otherwise agreed in writing with the District Council)

“Affordable Housing Table” means the table at Part 2 of Schedule 2 setting out the number type tenure and mix of the Affordable Housing Units

“Affordable Housing Units” means the Dwellings to be provided and Occupied as Affordable Housing on the Site in accordance with the Affordable Housing Scheme and the provisions of Schedule 2 of this Deed pursuant to the Planning Permission and unless otherwise agreed in writing with the District Council the Affordable Rented Housing Units are to be Occupied 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 the Shared Ownership Dwellings, to be Occupied in accordance with the Affordable Housing Nomination Agreement as varied from time to time, and on a Shared Ownership Lease or such other tenure if agreed by the District Council subject to an Alternative Affordable Housing Scheme

“Affordable Rented Housing Units” means housing made available by a Registered Provider as low-cost rental 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 including any service charges applicable and increased in line with government policy and “Affordable Rent” shall be construed accordingly

“Alternative Affordable Housing Scheme” means an alternative Affordable Housing Scheme which may be agreed by the District Council in writing including a tenure of Discounted Market Housing Units and Temporary Accommodation

“Application” means the application for full planning permission to develop the Site in accordance with the application plans and other materials deposited with the District Council and validated on 21 May 2024 and bearing the District Council’s reference number DC/24/02330

"BCIS Index"	means the All In Tender Price Index published by the Building Cost Information Service or any successor organisation or (if that index shall cease to be published or is otherwise unavailable) such alternative basis of indexation as may be agreed between the District Council the County Council and the Owner
"BCIS Indexed"	means the increase in any sum referred to in Schedules 2 and 3 by an amount equivalent to the increase in the BCIS Index from the date hereof until the date on which such sum is payable to be calculated in accordance with Clause 12 of this Deed
"Chargee"	Means 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 (each a Receiver)) of the whole or any part of the Affordable Housing Units
"Choice Based Lettings Scheme"	means an integrated electronic and manual information system which enables members of the public who have made or potentially might make an application for housing in the area to which the Choice Based Letting Scheme relates to apply for a selection of suitable property or be supplied with details of housing available throughout the relevant area operated pursuant to any agreement to which the District Council is a party
"Commencement of Development"	means the first carrying out of a material operation (as defined in Section 56(4) of the Act) in relation to the Development other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and lay of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Commence" and "Commencement" and "Commence Development" shall be construed accordingly

“Community Facilities Contribution“ means:

the sum of eighty nine thousand four hundred and sixty nine pounds (£89,469.00) BCIS Indexed to be paid to the District Council towards the provision of new expanded and/or upgraded community recreation, sport, leisure facilities excluding provision of the LEAP under Part 5 of Schedule 2 of this Deed and does not include any remedial works to the existing play areas within the Phase 1 College Park POS Areas as identified on the Phase 1 POS Plan

And the District Council may at any time, transfer all or part of the Community Facilities Contribution to a nominee or nominees of its choosing where that nominee or nominees are to use such contribution for a community facilities purpose approved by the District Council

“Completion of Development“ means the date that the last Dwelling is first Occupied

“Development“ means the development of the Site pursuant to the Application for the erection of fifty-nine (59) dwellings, open space and associated infrastructure pursuant to the Planning Permission

“Discounted Market Housing Certificates“ means the three draft template certificates annexed to this Deed substantially in the form set out (subject to such amendments as may be reasonably required by the District Council) to be used to certify to the District Council that the Eligibility Criteria and sale requirements for the Discounted Market Housing Units have been met

“Discounted Market Housing Unit“ means Affordable Housing Units to be constructed or provided as part of the Development as Dwellings for sale to a Qualifying Person at the Discounted Market Price and which sale will be subject to a covenant imposed by the seller to restrict the resale price of the said Discounted Market Housing Unit to a price which is at least 20% (twenty per cent) below the Open Market Value to a Qualifying Person in perpetuity and Discounted Market Housing Units shall be construed accordingly;

“Discounted Market Price“ means a sum which is the Open Market Value of the Affordable Housing Unit discounted by at least twenty per cent (20%)

	determined in writing by an independent chartered surveyor as at the date of any proposed sale;
"Discounted Market Sales Restriction"	means the restriction on title to be registered at HM Land Registry on the sale of a Discounted Market Housing Unit in the following form: 'No disposition of the registered estate (other than a charge) by the proprietor of the registered estate is to be registered without a certificate signed by a conveyancer for the disponor or disponent that the provisions of paragraph 1.9 of Part 2 of Schedule 2 to the Section 106 Agreement dated [2024] and made between Mid Suffolk District Council (1); Suffolk County Council (2); Adrian John Nice and Pauline Jean Nice (3); and Persimmon Homes Limited (4); have been complied with'
"Dwelling"	Means a dwelling (including a house flat or bungalow and including Market Housing Units and Affordable Housing Units) to be constructed pursuant to the Planning Permission and "Dwellings" shall be construed accordingly
"Early Years Education Contribution"	means the sum of one hundred and twenty six thousand two hundred and eighty pounds £126,280 BCIS Indexed to be used towards the provision of new pre-school facilities in Thurston including the enlargement of existing provision (including any costs previously forward funded by the County Council) or such other sum as may be agreed with the County Council in writing
"Education Land Contribution"	means the sum of twenty-one thousand nine hundred and ninety-eight pounds £21,998 to be paid to the County Council to be used towards the land acquisition and associated costs of the Primary School (including any costs previously forward funded by the County Council) or such other sum as may be agreed with the County Council in writing
"Eligibility Criteria"	means a person who (unless otherwise agreed in writing with the District Council): (i) currently has their only or principal home in the district of Mid Suffolk and has lived there for at least two (2) years, or

(ii) Has a member of their household who has a parent, adult child, brother or sister whose only or principal home has been in the district of Mid Suffolk and has been for at least two (2) years, or

(iii) Is employed in the district of Mid Suffolk at the date of the purchase and has been continuously so employed for two (2) years, or;

(iv) requires substantial care from a relative who has lived in the district of Mid Suffolk for at least the last six (6) months, or

(v) needs to provide substantial care to a relative who has lived in the district of Mid Suffolk for at least the last six (6) months, or

(vi) Prior to the date of the property being purchased, were resident in the district of Mid Suffolk for either:

a) Six (6) of the previous twelve (12) months or

b) three (3) of the previous five (5) years.

AND

c) 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 Deed 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))

d) Who has no other interest legally or equitably in other property including via trust

e) Who can supply evidence from an Independent Financial Advisor that they are unable to afford a suitably sized market property in the area of Mid Suffolk District Council as measured by multiplying gross income by four (4) (or three and a half (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 Unit (unless agreed in writing with the District Council)

f) Who does not have a deposit for the Discounted Market Housing Unit of more than 65% of the Discounted Market Price in equity/savings/gifted deposit unless otherwise agreed in writing with the District Council

however, if following eight (8) weeks of marketing no person who is a Qualifying Person has agreed to purchase the Discounted Market Housing Unit then the criteria from (i) to (vi) inclusive will not apply if agreed in writing with the District Council, and for the avoidance of doubt only the criteria (c) to (f) inclusive would apply;

“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

“Highway Agreement”

means an agreement entered into with the County Council pursuant to Section 278 of the Highways Act 1980 and all other relevant provisions to secure and regulate the delivery of works within the highway

“Highways Contribution”

means Forty-five thousand, five hundred and forty -eight pounds (£45,548) BCIS Indexed to be used by the County Council towards highway improvements to the Bunbury Arms junction

“Independent Financial Advisor”

means an independent financial advisor who is regulated by the Financial Conduct Authority (FCA), and is listed as an independent financial advisor on the Financial Services Register

“Interest”

Means interest at four (4) per cent above the base lending rate of the Bank of England from time to time

“LEAP”

means a Locally Equipped Area for Play to a specification agreed in writing by the District Council and for use by the general public in perpetuity and shall comprise of additional facilities on the Phase 1 College Park POS Areas as identified shaded yellow on the Phase 1 POS Plan and not be used to remediate deficiencies already identified by the District Council and for the avoidance of doubt, the existing facilities will need to be reconfigured and some of the existing equipment replaced to

ensure there is a wide variety of the type of equipment in order to provide better play value and offset the impact of the Development and if the LEAP cannot be provided on the Phase 1 College Park POS Areas as identified shaded yellow on the Phase 1 POS Plan for it to be provided on:

- i) an alternative location as agreed in writing with the District Council within the Phase 1 College Park POS Areas as identified shaded green on the Phase 1 POS Plan; or
- ii) an alternative location on the Site as agreed in writing with the District Council within the Phase 1 College Park POS Areas as identified shaded blue on the Phase 1 POS Plan.

“LEAP Specification“

means a specification including the equipment, type, location, plan, details of the reconfiguration, detailed timetable for delivery and a comprehensive maintenance regime as approved in writing by the District Council

“Management Company“

means a company or body which subject to the District Council's written agreement, is set up for the purposes of managing and maintaining the Open Space in perpetuity and which definition may include a resident's association established for this purpose or a private limited company

“Market Housing Units“

Means those Dwellings which are general market housing for sale or rent on the open market and which are not Affordable Housing Units

“Market Rent“

means market rent as defined in the latest edition of the Red Book and certified by a member of the Royal Institution of Chartered Surveyors

“Notice of Actual Commencement“

means notice in writing to advise of the actual date of Commencement

“NPPF“

means the National Planning Policy Framework December 2023 as amended or replaced

“Occupation“	Means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and “Occupied“ and “Occupy“ shall be construed accordingly
“Open Market Value“	means the best price at which the interest of a Dwelling would have been completed unconditionally for cash consideration on the date of valuation assuming (i) a willing buyer and a willing seller, (ii) any restrictions imposed on a Dwelling by this Deed are disregarded (iii) there has been a reasonable period within which to negotiate the sale (iv) the Dwelling has been freely exposed to the market (v) and both the buyer and the seller acted knowledgeably prudently and without compulsion
“Open Space“	Means the areas of open space to be provided on the Site for use by the general public in perpetuity in accordance with the Planning Permission and the Open Space Scheme (unless otherwise agreed in writing with the District Council) and as shown shaded green on the Open Space Plan
“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 Scheme
“Open Space Final 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 and maintained in accordance with the approved Open Space Scheme
“Open Space Plan“	means the plan appended hereto at Appendix 1 and titled “Adoption Plan” with reference 982-P-110 Rev D
“Open Space Scheme“	means the specification for delivery of the Open Space including the specifications plans and drawings showing but not limited to the location, layout and design of the Open Space including details of any proposed play areas and equipment landscaping, paths and access arrangements, street furniture and fencing (unless otherwise agreed in writing with the District Council and

to the extent such details have not already been approved through the Application and secured pursuant to the Planning Permission)

“Open Space Transfer“

Means a transfer of the Open Space which inter alia shall contain the following provisions (and such other terms as may reasonably be agreed):

- a) The Owner shall transfer the fee simple estate free from encumbrances save those set out in the title;
- b) All easements and rights necessary in relation to access for the benefit of the Open Space;
- c) Any exceptions and reservations in relation to drainage and services and access, support and access of light and air for the benefit of the Development;
- d) Restrictive covenants
 - (i) Not to use or permit the Open Space to be used for any purpose other than for the provision of recreational facilities or amenity land for use by the general public in perpetuity as Open Space;
 - (ii) Not to use or permit the Open Space to be used in a manner which may be or become a nuisance (whether or not amounting to a legal nuisance), annoyance, disturbance or cause damage to the rest of the Development

“Outdoor Gym“

means a gym consisting of a path or course containing outdoor exercise equipment and/or obstacles

“Outdoor Gym Specification“

means the full details and specification of the Outdoor Gym equipment being provided within the Open Space including the type, location and timetable for delivery

“Owner“

means the First Owner and the Second Owner

“Parish Council“

means Thurston Parish Council

"Parish Liaison Scheme"	means a scheme to secure formal and regular liaison between the Owner and Thurston Parish Council to enable updates reporting and representations to be made in relation to the Development and post-completion maintenance on behalf of the Parish Council and the local community and for feedback and discussion to be undertaken concerning key aspects of the Development including the LEAP playground design and open space such liaison to include a meeting every two (2) months and between those meetings telephone communications sufficient to feedback or raise any matters of concern (unless otherwise agreed in writing)
"Parish Newsletter Contribution"	means one thousand and fifty-four pounds (£1,054) BCIS Indexed to be paid to the Parish Council towards the cost of producing eleven (11) editions of the Parish Newsletter for fifty-seven (57) dwellings
"Phase 1 College Park POS Areas"	means the land identified shaded yellow, green and blue on the Phase 1 POS Plan
"Phase 1 POS Plan"	means the plan attached to this Deed at Appendix 1 titled "College Park POS Areas" with reference 982-E-SK190 Rev A
"Plan"	means the plan attached to this Deed at Appendix 1 and marked "Location Plan" with reference 982-LP-001
"Planning Permission"	means the planning permission subject to conditions which may be granted by the District Council pursuant to the Application
"Practical Completion"	means 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
"Primary School"	means a new primary school on land north of Norton Road the first phase of 420 places having already been constructed under planning permission SCC/0073/19MS
"Primary Education Contribution"	Means four hundred and twenty-nine thousand, three hundred and fifty-two pounds (£429,352) BCIS Indexed to be paid to the County Council to be used towards the costs of building the

Primary School including the expansion of the new Primary School (which may include recovery of costs which have been previously forward funded by the County Council) or such other sum as may be agreed with the County Council in writing

“PROW Contribution“

Means the sum of twenty thousand pounds (£20,000.00) BCIS Indexed to be paid to the County Council towards or to cover the costs of both the County Council and/or the District Council of processing the necessary and various Orders and/or agreements as below plus including but not limited to all ancillary officer time legal costs and administrative costs and costs as may be incurred should such Orders be opposed for the following works:

- a) a public path diversion order in respect of Thurston public footpath No 18;
- b) a cycle track conversion order in respect of Thurston public footpath No 18;
- c) a public path creation agreement or order or any other available order or agreement sufficient to enable the widening of Thurston public footpath No 18 to 3 metres;
- d) works to improve Thurston public footpath No 18 where it lies outside of the Site;

“Qualifying Person“

means a person or persons in need of accommodation who are unable to buy on the local open market in accordance with the Eligibility Criteria to whom a Discounted Market Housing Unit is sold or as otherwise approved by District Council and “Qualifying Persons“ shall be construed accordingly

“Red Book“

means the RICS Valuation – Global Standards 2017 (the Red Book) or such other document amending, consolidating or replacing it

“Registered Provider“

means a registered provider of social housing as defined in Section 80(2) of the Housing and Regeneration Act 2008 and listed in the registers kept by the Regulator of Social Housing under Chapter 3 of that act and for the avoidance of doubt this includes the District Council.

“RPI Index“

means the “All Items“ index figure of the Index of Retail Prices published by the Office for National Statistics from time to time or

	any successor organisation or (if that index shall cease to be published or is otherwise unavailable) such alternative basis of indexation as may be reasonably agreed between the Parties;
"RPI Indexed"	means the increase in any sum referred to in Schedules 2 and 3 by an amount equivalent to the increase in the RPI Index from the date hereof until the date on which such sum is payable to be calculated in accordance with Clause 11 of this Deed
"RTA Purchaser"	means a former tenant of an Affordable Housing Unit who purchases the Affordable Housing Unit under a right to buy under Part V of the Housing Act 1985 (including a preserved right to buy) or pursuant to the right to acquire under the Housing and Regeneration Act 2008 or any similar or substitute statutory rights in force from time to time
"Sale Price"	means the actual value of the transaction agreed between the Owner and the Qualifying Person up to a maximum equivalent to the Discounted Market Price
"School Access Land"	means the three areas of land for the School Access Works within the Site as indicatively shown on the plan attached to this Deed at Appendix 1 and marked "Planning Layout" with reference 982-P-100 to be precisely agreed between the Owner and the County Council
"School Access Works"	means the works to be undertaken by the County Council on the School Access Land which shall be in accordance with an approved construction management plan and the Planning Permission to be agreed between the Owner and the County Council to provide footpath/cycle links to any new or existing educational facility
"Shared Ownership Dwellings"	means dwellings to be let on a Shared Ownership Lease in line with the Nomination Agreement to a household for which the household income does not exceed eighty thousand pounds (£80,000) per annum or such other household income for the time in force in accordance with the terms as set out in Homes England's Capital Funding Guide and "Shared Ownership" shall be construed accordingly

“Shared Ownership Lease”	means a lease or sub-lease of a Shared Ownership Dwelling in a form prescribed by Homes England granted at a premium whereby not less than 10% (ten percent) and not more than up to 75% (seventy five percent) on first purchase of the equitable interest is paid by the tenant on completion of such lease and/or raised by mortgage or charge from a bank or building society and which lease shall include arrangements enabling the tenant to acquire up to 100% (one hundred percent) of the legal and equitable interest in the Shared Ownership Dwelling at some future date or dates and which lease shall allow a rent to be charged on the remainder of the equitable interest not purchased, such rent not to exceed an annual sum calculated at 2.75% of the value of the equity retained by the Registered Provider at the date of the grant of the Shared Ownership Lease or such other figure permitted by Homes England from time to time and capable of being increased by the rate as set out in the prevailing government rent guidance
“Site“	means the land described in Schedule 1 against which this Deed may be enforced as shown edged red for identification purposes only on the Plan
“Temporary Accommodation”	means accommodation provided by the District Council under its interim accommodation duties to persons entitled to accommodation pursuant to Section 188 and Section 193 of Part 7 of the Housing Act 1996
“Travel Plan Evaluation & Support Contribution“	means the sum of one thousand two hundred pounds (£1,200) RPI Indexed per annum for the duration determined by paragraph 1 of Part 3 of Schedule 3 to be applied by the County Council solely towards the monitoring of the Travel Plans
“Travel Plans”	means the travel plans submitted and approved in accordance with of the relevant conditions in the Planning Permission
“TRO Contribution”	means fifteen thousand pounds (£15,000) RPI Indexed to be used by the County Council for the progression, design, consultation, and making of a 20mph speed limit order for Ixworth Road, Thurston including but not limited to all ancillary officer time legal costs and administrative costs

“Working Days” means Monday to Friday (inclusive) except Good Friday, Christmas Day and public or bank holidays from time to time in England

2 CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause, sub-clause, schedule, paragraph, sub-paragraph or recital such reference (unless the context otherwise requires) is a reference to a clause, sub-clause, schedule, paragraph, sub-paragraph or recital in this Deed
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa
- 2.3 Words of any gender include any other genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed as interchangeable 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 against each individually insofar as such obligation relates to land within such party’s ownership unless there is an express provision otherwise
- 2.5 Any reference to an act of Parliament shall include any modification, extension or re-enactment of that act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that act or deriving validity from it
- 2.6 References to any party to this Deed shall include the successors in title to that party and to any party deriving title through or under that party and in the case of the District Council and the County Council the successors to their respective statutory functions
- 2.7 References to the Owner shall include the First Owner and the Second Owner collectively
- 2.8 Where this Deed requires a plan or strategy or other document to be submitted to the District Council for approval or agreement then upon approval of the same it shall be deemed to have been incorporated into this Deed and the same shall apply to any provision requiring a review of any such plan or strategy or other document
- 2.9 References to a “Plan” or “Drawing” in this Deed shall be reference to the plans attached to this Deed bearing the relevant plan number or any amended plans as shall be agreed between the Owner, the District Council and the County Council as relevant

2.10 None of the covenants contained in this Deed on the part of the Owner shall be enforceable against:

2.10.1 those persons who purchase (including purchasers by way of long lease) any Dwelling for occupation by themselves or their lessees or tenants of the Dwellings (save that the restrictions relating to Occupation of the Affordable Housing Units set out in paragraph 1.7 of Part 2 of Schedule 2 shall be enforceable against the owners and occupiers of such units); or

2.10.2 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

2.10.3 The Registered Provider and its Chargee save for the provisions in respect of the Affordable Housing Units set out in paragraph 1 of Part 2 of Schedule 2

2.11 The headings are for reference only and shall not affect construction

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

3 LEGAL BASIS

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

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

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

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

4 CONDITIONALITY

4.1 This Deed is conditional upon:

4.1.1 the grant of the Planning Permission; and

4.1.2 the Commencement of Development

save for the provisions of this Clause and Clauses 3, 7, 10, and 14 to 21 and any other relevant provisions which shall come into effect immediately upon completion of this Deed

5 THE OWNER'S COVENANTS

5.1 The Owner covenants with the District Council as set out in Schedule 2

5.2 The Owner covenants with the County Council as set out in Schedule 3

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

6.1 The District Council covenants with the Owner as set out in Schedule 4

6.2 The County Council covenants with the Owner as set out in Schedule 5

7 MISCELLANEOUS

7.1 The Owner shall act in good faith and shall co-operate both with the District Council and the County Council to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests of the District Council and or the County Council to have access to any part of the Site 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 agrees declares and covenants both with the District Council and County Council to observe and perform the conditions restrictions and other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision imposed by this Deed

7.3 The Owner covenants to pay to the District Council prior to completion of this Deed the proper and reasonable legal costs of the District Council incurred in the negotiation preparation execution and completion of this Deed in addition to a monitoring fee of £1,800 (£450 per trigger) for the monitoring of the obligations within this Deed

7.4 The Owner covenants to pay to the County Council the proper and reasonable legal costs of the County Council incurred in the negotiation preparation and execution and completion of this Deed prior to the completion of this Deed in addition to a monitoring fee of £476 per trigger on completion of this Deed for the monitoring of the obligations within this Deed totalling £1,904.00

7.5 No provision of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999

7.6 Where an approval consent or expression of satisfaction or a subsequent deed is required in writing by the Owner from either the District Council or the County Council under the terms of

this Deed such approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such consent approval or expression of satisfaction shall be given on behalf of the District Council by the Chief Planning Officer and on behalf of the County Council by the Executive Director of Growth, Highways and Infrastructure or officer acting under his hand

- 7.7 Following the performance and satisfaction of all the obligations contained in this Deed the District Council shall, on application by the Owner, forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed
- 7.8 Insofar as any clause or other provision of this Deed is found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed
- 7.9 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed revoked or otherwise withdrawn or expires by effluxion of time for the Commencement of the Development or is modified (without the consent of the Owner) and the District Council will effect cancellation of all entries in the Register of Local Land Charges in respect of this Deed
- 7.10 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site or part of the Site to which the breach relates save for an interest arising only from the grant or reservation of an easement or similar right or the benefit of any restrictive covenant in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest
- 7.11 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed
- 7.12 The Owner agrees that any rights to claim compensation arising from any limitations or restrictions on the planning use of the Site under the terms of the Deed are hereby waived
- 7.13 Save as otherwise provided in this Deed all works and activities to be carried out under the terms of this Deed (including for the avoidance of doubt such works as are of a preparatory ancillary or of a maintenance nature) are (save where expressly provided otherwise) to be at the sole expense of the Owner and at no cost to the District Council or the County Council
- 7.14 Nothing contained or implied in this Deed shall prejudice or affect the rights, discretions, functions, powers, duties and obligations of the District Council or the County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as local authorities

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 Deed shall constitute a continuing waiver and no such waiver shall prevent the District Council, County Council or the Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default

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 occurring before all the positive obligations under this Deed have been discharged such notice to be served within twenty-one (21) days of such transfer and 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 or unit of occupation purchased by reference to a plan PROVIDED THAT this obligation shall not apply to transfers of individual Dwellings within the Development or the transfer or grant of leases of electricity sub-stations or gas governors or the like

10 RIGHT OF ENTRY

10.1 Without prejudice to the District Council's statutory rights of access and entry, at all times on not less than twenty-four (24) 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 Deed 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 17.00 on any 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 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's or the Owner's representative's reasonable directions and precautions in the interests of safety

11 INDEXATION

11.1 Any sum referred to in Schedules 2 and 3 (unless the context reads otherwise and save for the Education Land Contribution) 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:

11.1.1 A is the sum payable under this Deed;

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

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

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

11.1.5 C/D is greater than 1.

12 VAT

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

13 INTEREST

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

14 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 Deed shall be deemed to have been validly served or given if delivered by hand or sent by first class recorded delivery post or e-mail 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 and for the avoidance of doubt, any reference to 'in writing' or 'written' excludes e-mail

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

The District Council	The Chief Planning Officer, Mid Suffolk District Council, Endeavour House, 8 Russell Road, Ipswich, Suffolk IP1 2BX
The County Council	The Executive Director of Growth, Highways and Infrastructure, Suffolk County Council, Endeavour House 8 Russell Road Ipswich Suffolk IP1 2BX
The First Owner	Tewksbury Place, Great Barton, Bury St Edmunds, Suffolk, IP31 2TP
The Second Owner	Radio House, Orion Avenue, Great Blakenham, Suffolk, IP6 0LW

- 14.3 Any notice or other written communication to be given by either the District Council or the County Council shall be deemed to be valid and effective if on its face it is signed on behalf of the District Council or the County Council by a duly authorised officer of the District Council or the County Council as appropriate

15 DISPUTE RESOLUTION

- 15.1 The parties will attempt in good faith to resolve any dispute or claim arising out of or relating to this Deed promptly through negotiations between the respective senior executives of the parties who have authority to settle the same.
- 15.2 If the matter is not resolved through negotiation within forty (40) Working Days the parties will attempt in good faith to resolve the dispute or claim through an Alternative Dispute Resolution ("ADR") procedure as recommended to the parties by the Centre for Effective Dispute Resolution.
- 15.3 If the matter has not been resolved by an ADR procedure within twenty (20) Working Days of the initiation of such procedure or if any party will not participate in an ADR procedure the dispute may be referred by any party to arbitration for decision by a person appointed by agreement between the parties or in default of agreement by the President for the time being of the Institute of Civil Engineers who shall act as an expert and not as an arbitrator and whose decision shall be final and binding upon the parties.
- 15.4 Nothing in Clauses 15.1 and 15.2 shall apply to the recovery of ascertained or ascertainable sums or prevent the parties from commencing or continuing court proceedings.

16 SATISFACTION OF ANY OF THE TERMS OF THIS DEED

Where in the opinion of the Owner any of the provisions of this Deed have been satisfied the Owner shall be entitled to apply to the District Council (or County Council in respect of an obligations enforceable by it) for a certificate to that effect and upon the District Council (or County Council as appropriate) being satisfied that the relevant agreement obligation and covenant as the case may be has been satisfied and upon the payment by the Owner of the District Council's (or County Council's as appropriate) reasonable costs in issuing the certificate, the District Council (or County Council as appropriate) shall forthwith issue a certificate to such effect

17 COMMUNITY INFRASTRUCTURE LEVY

The Parties to this Deed agree that for the purposes of the Community Infrastructure Levy Regulations 2010 (as amended) the obligations imposed in this Deed are (a) necessary to make the Development permitted pursuant to the Application acceptable in planning terms (b) directly relate to the Development permitted pursuant to the Application and (c) fairly and reasonably relate in scale and kind to the Development permitted pursuant to the Application

18 NOTIFICATION OF PROGRESS

18.1 The Owner covenants to inform the District Council and the County Council by way of written notice ten (10) Working Days prior to:

18.1.1 Commencement of Development;

18.1.2 Occupation of the first (1st) Dwelling;

18.1.3 Occupation of the thirtieth (30th) Dwelling;

18.1.4 Occupation of the fortieth (40th) Dwelling; and

18.1.5 Completion of the Development.

19 FUTURE PERMISSIONS

19.1 Subject to the remainder of this Clause 19 nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission other than the Planning Permission granted (whether or not on appeal) after the date of this Deed.

19.2 In the event that any new planning applications are made in respect of the Development pursuant to Section 73 of the Act then with effect from the date that the new planning permission is granted pursuant to Section 73 of the Act:

19.2.1 The planning obligations in this Deed 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 Act unless the LPA requires otherwise; and

19.2.2 the definitions of "Planning Application", "Development" and "Planning Permission" shall be assumed to include references to any applications under Section 73 of the Act, the planning permissions granted thereunder and the development permitted by such subsequent planning permissions PROVIDED THAT nothing in this Clause 19 shall fetter the discretion of the District Council in determining any applications under Section 73 of the Act and the appropriate nature and/or quantum of planning obligations in so far as they are materially different to those contained in this Deed and required pursuant to a determination under Section 73 of the Act (whether by way of a new Deed or Deed pursuant to Section 106 of the Act or a modification pursuant to Section 106A of the Act).

20 JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England

21 DELIVERY

The provisions of this Deed (other than Clauses 7.3, 7.4 and this Clause 21 which shall be of immediate effect) shall be of no effect until this Deed has been dated

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

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



Authorised Signatory

Name of Authorised Signatory:

Position of Authorised Signatory:

69485

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



Authorised Officer

SIGNED AS A DEED BY ADRIAN JOHN
NICE in the presence of:

Witness Signature:

Witness Name:

CATHARINE ABBOTT

Witness Address:

BARKER & TEELE
SOLICITORS
41 Barrack Square
Martlesham Heath
IPSWICH IP5 3RF
01473 611211

SIGNED AS A DEED BY PAULINE JEAN)

NICE in the presence of:)

P J NICE

Witness Signature:)

Catherine Abbott

Witness Name:)

CATHERINE ABBOTT

Witness Address:)

BARKER GOTELEE

41 Barrack Square

Maresham Heath

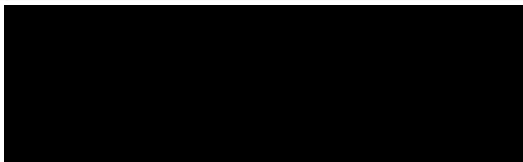
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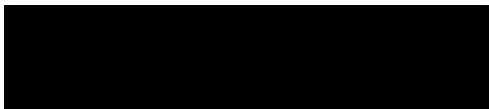
**EXECUTED AS A DEED by
PERSIMMON HOMES LIMITED**

Acting by its Attorneys

[ALEX COX]



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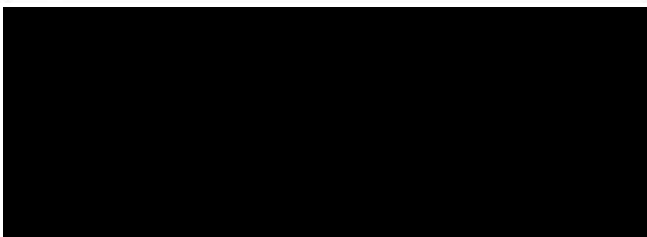


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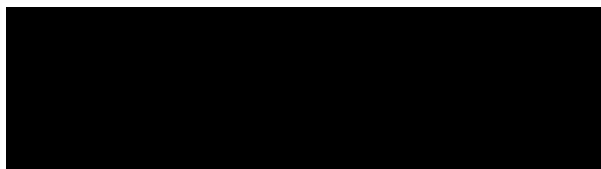


Addre



And

[GARY LEE]



In the presence of:

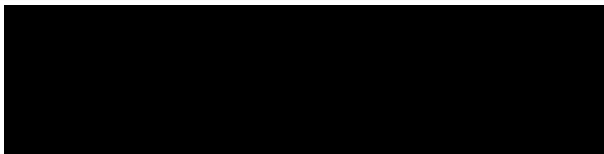


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Address



SCHEDULE 1

Part 1

Freehold Interests

The First Owner is the ~~freehold~~ ^{registered} owner of the part of the Site the title to which is registered at the Land Registry with title absolute under title number SK139008 and the Second Owner is the freehold owner of the part of the Site the title to which is registered at the Land Registry with title absolute under title number SK398253

The Second Owner has an interest in the First Owner's Land by way of an option agreement regarding title number SK139008 and acquired part of the Site on 13th December 2024, which is pending registration at the Land Registry

Part 2

Description of the Site

Freehold land to the west of Ixworth Road, Thurston, registered with title numbers SK139008 and SK398253 shown edged red for identification only on the Plan

PART 3

THE LEAS

freehold land to the west of Ixworth Road Thurston registered with title number SK398253 shown shaded yellow and green on the Phase 1 POS Plan

freehold land to the west of Ixworth Road Thurston registered with title number SK139008 shaded blue on the Phase 1 POS Plan

SCHEDULE 2

THE OWNER'S COVENANTS WITH THE DISTRICT COUNCIL

Part 1

Notices

- 1 The Owner covenants to give the District Council Notice of Actual Commencement not less than ten (10) Working Days following Commencement of the Development.

Part 2

Affordable Housing

- 1 The Owner covenants with the District Council as follows (unless otherwise agreed in writing):
 - 1.1 The Affordable Housing Units shall be provided as set out in the Affordable Housing Scheme unless otherwise agreed in writing with the District Council.
 - 1.2 Prior to Commencement of Development (or such other time when the identity of the Registered Provider is able to be determined in accordance with paragraph 1.3 of this Part 2 of Schedule 2) to notify, if known, the District Council of the identity of the Registered Provider or other body to which the Affordable Housing Units (excluding any Discounted Market Housing Units and Temporary Accommodation) are to be transferred.
 - 1.3 Prior to Occupation of any Dwelling to agree with the District Council the identity of the Registered Provider or other body to which the Affordable Housing Units (excluding any Discounted Market Housing Units and Temporary Accommodation) are to be transferred and such agreement not to be unreasonably withheld or delayed. The Owner may Commence the Development whilst that process is ongoing.
 - 1.4 If no agreement to transfer the Affordable Housing Units has been reached with a Registered Provider or other body at the expiration of the period of four (4) months following the Commencement of the Development, the Owner shall:
 - 1.4.1 notify the District Council in writing setting out the reasons (together with supporting evidence) in writing why a transfer to a Registered Provider has not been entered into pursuant to paragraphs 1.2 and 1.3 of this Part 2 of Schedule 2;
 - 1.4.2 submit any other information reasonably requested by the District Council to satisfy why the Owner has not been able to enter into a transfer of the Affordable

Housing Units (excluding any Discounted Market Housing Units and Temporary Accommodation) with the Registered Provider pursuant to paragraph 1.2 and 1.3 of this Part 2 of Schedule 2;

- 1.4.3 the District Council shall then be entitled to nominate a Registered Provider or other appropriate body for the Owner to transfer the Affordable Housing Units to and if the District Council are unable to nominate a Registered Provider or other appropriate body at this stage, the District Council will consider an Alternative Affordable Housing Scheme.
- 1.5 To construct the Affordable Housing Units in accordance with the Planning Permission and the Affordable Housing Scheme.
- 1.6 To pay the Affordable Housing Contribution to the District Council prior to the Occupation of more than twenty (20) of the Market Housing Units.
- 1.7 Subject to paragraphs 1.8 to 1.9 of this Part 2 of Schedule 2 below the Owner covenants with the District Council:
 - 1.7.1 not to Occupy or permit Occupation of more than twenty (20) of the Market Housing Units until six (6) of the Affordable Housing Units have been constructed and are ready for Occupation and have been transferred to the Registered Provider or, in the case of the Discounted Market Housing Units, offered for sale to Qualifying Persons;
 - 1.7.2 not to Occupy or permit Occupation of more than twenty (20) of the Market Housing Units until the Affordable Housing Contribution has been paid to the District Council; and
 - 1.7.3 not to Occupy or permit Occupation of more than thirty (30) 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, or, in the case of the Discounted Market Housing Units, offered for sale to Qualifying Persons.
- 1.8 Any transfer to a Registered Provider of the land on which the Affordable Housing Units will be constructed shall be:
 - 1.8.1 with vacant possession;

- 1.8.2 free from any encumbrance other than existing at the time of the disposition (save for any financial charge or the transfer of statutory apparatus by the Owner to any statutory undertaker);
 - 1.8.3 subject to grant by the Owner to the Registered Provider of all rights of access and passage of services and other rights reasonably necessary for the beneficial enjoyment of the Affordable Housing Units;
 - 1.8.4 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; and
 - 1.8.5 subject to a covenant to enter into the Affordable Housing Nomination Agreement with the District Council prior to Occupation of any of the Affordable Housing Units.
- 1.9 The Affordable Housing Units shall be Occupied for no other purpose than as Affordable Housing save where provided otherwise in paragraphs 1.10 and 1.11 of this Part 2 of Schedule 2 below and if an Alternative Affordable Housing Scheme is agreed by the District Council, any Discounted Market Housing Units shall only be transferred at the Discounted Market Price and subject to the Discounted Market Sales Restriction and the following Discounted Market Housing covenants:
- 1.9.1 Pre-sale Covenants for Discounted Market Housing Units
 - 1.9.1.1 The Owner may only transfer a Discounted Market Housing Unit to a Qualifying Person.
 - 1.9.1.2 All initial and subsequent transfers or dispositions of the Discounted Market Housing Units will be in accordance with paragraph 1.9 of Part 2 of Schedule 2 (and for the avoidance of doubt the provisions of this clause shall apply mutatis mutandis to any proposed disposition and reference to “transfer” shall be deemed to include “lease”).
 - 1.9.1.3 The Discounted Market Price and total consideration required for the transfer of the Discounted Market Housing Unit shall be for no more than 80% of the Open Market Value of the said Affordable Housing Unit (including any rent or interest).
 - 1.9.1.4 In order for the District Council to be satisfied that the Discounted Market Housing covenants in paragraph 1.9 of Part 2 of Schedule 2 have been

met, the District Council have provided the Discounted Market Housing Certificates annexed to this Deed to be completed by a conveyancer or lawyer on behalf of the Owner (or the purchaser) and submitted to the District Council and which may be varied if agreed in writing with the District Council.

1.9.1.5 Prior to any marketing of the Discounted Market Housing Units taking place the Owner shall:

1.9.1.5.1 notify the District Council in writing of the proposed Discounted Market Price of the Discounted Market Housing Units and provide reasonable evidence demonstrating the Open Market Value; and

1.9.1.5.2 not advertise or begin marketing any of the Discounted Market Housing Units until the District Council have confirmed in writing that they are content with the Discounted Market Price of the Discounted Market Housing Units and that they have received the evidence relating to the Open Market Value.

1.9.1.6 If the Owner has not been able to dispose of a Discounted Market Housing Unit to a Qualifying Person satisfying the Eligibility Criteria within eight (8) weeks of marketing of the Discounted Market Housing Unit, if agreed in writing with the District Council, provisions (i) to (vi) of the Eligibility Criteria will not apply to the relevant Discounted Market Housing Unit AND for the avoidance of doubt, provisions (c) to (f) of the Eligibility Criteria will continue to apply to the relevant Discounted Market Housing Unit AND all Eligibility Criteria will apply for future resales.

1.9.1.7 Prior to any exchange of contract and/or sale the Owner shall:

1.9.1.7.1 confirm in writing to the District Council that the purchaser of each of the Discounted Market Housing Units are Qualifying Persons and provide reasonable evidence demonstrating this together with full details of the Sale Price; and

1.9.1.7.2 not exchange contracts on any of the Discounted Market Housing Units until the District Council have confirmed in writing that they are content that the purchasers of any of the Discounted Market Housing Units are Qualifying Persons, who meet the Eligibility Criteria and are content with the Sale Price.

1.9.1.8 Prior to any transfer of the Discounted Market Housing Unit the Owner shall give notice in writing to the District Council of the proposed sale including details of the Sale Price but will otherwise be free to dispose of such Discounted Market Housing Unit to a Qualifying Person.

1.9.2 Post-sale covenants for Discounted Market Housing Units

1.9.2.1 Within 14 (fourteen) days of completion of the transfer of any of the Discounted Market Housing Units, the Owner shall serve notice or ensure that a notice is served on the District Council stating the total consideration (including the Discounted Market Price) and also provide a certified copy of the completed transfer or ensure that a certified copy of the completed transfer is served to the District Council

1.9.2.2 Upon the transfer of any Discounted Market Housing Unit, the Discounted Market Sales Restriction shall be promptly registered at HM Land Registry and will apply in relation to all subsequent dispositions

1.9.3 Chargee Provisions – Discounted Market Housing Units Only

1.9.3.1 The Affordable Housing provisions in this Schedule insofar as they relate to the Discounted Market Housing Units only shall not be binding on any mortgagee or chargee of an owner of a Discounted Market Housing Unit or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a '**DMS Receiver**') or any persons or bodies deriving title through such mortgagee or chargee or DMS Receiver **PROVIDED THAT** any such mortgagee or chargee or DMS Receiver shall be obliged to pay to the District Council the surplus (if any) from the sale proceeds of the relevant Discounted Market Housing Unit once the amount due and outstanding under the terms of the relevant security documentation has been deducted to be spent on Affordable Housing AND for the avoidance of doubt paragraph 1.10, 1.11 and 1.12 of this Schedule shall not apply to Discounted Market Housing Units

- 1.10 The District Council and the Owner agree that the obligations and restrictions contained in this Part 2 of Schedule 2 shall not bind:
- 1.10.1 a mortgagee, chargee or receiver who has complied with the provisions of paragraph 1.11 of this Part 2 of Schedule 2;
 - 1.10.2 any RTA Purchaser or purchaser under a Preserved Right to Buy;
 - 1.10.3 any Affordable Housing Unit where a Registered Provider sells to a tenant through Social Homebuy funded pursuant to section 19(3) of the Housing and Regeneration Act 2008, a voluntary grant scheme under section 21 of the Housing Act 1996 or any amendment or replacement thereof;
 - 1.10.4 a leaseholder of a Shared Ownership Dwelling who has exercised their right under a shared ownership lease to acquire 100% of the equity of their property; or
 - 1.10.5 a Chargee of the persons in paragraphs 1.10.2 to 1.10.4 inclusive of this Part 2 of Schedule 2; or
 - 1.10.6 any person or body deriving title through or from any of the Parties mentioned in this paragraph 1.10.1 to 1.10.5 inclusive of this Part 2 of Schedule 2
- 1.11 The obligations in this Schedule shall not be binding upon a Chargee seeking to dispose of any or part of an Affordable Housing Unit or any persons or bodies deriving title through a Chargee PROVIDED THAT:
- 1.11.1 Such Chargee shall first give notice to the District Council of its intention to dispose of the Affordable Housing Unit(s) and shall have used reasonable endeavours over a period of three (3) months from the date of the written notice to complete a disposal of the Affordable Housing Unit(s) 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, costs and expenses; and
 - 1.11.2 if such disposal has not completed within the three (3) month period, the Chargee shall be entitled to dispose of the Affordable Housing Unit(s) free from the obligations contained in this Schedule which provisions shall determine absolutely in relation to the affected Affordable Housing Unit(s)