

DATED 11th May 2026

(1) EAST SUFFOLK COUNCIL

-and-

(2) SUFFOLK COUNTY COUNCIL

-and-

(3) MAURICE PETER HOWLAND

AGREEMENT UNDER SECTION 106 OF THE

TOWN AND COUNTRY PLANNING ACT 1990

relating to the development of Land West of Locks Road, Westhall

THIS AGREEMENT is made this 11th day of May 2026

- (1) **EAST SUFFOLK COUNCIL** of East Suffolk House, Station Road, Melton, Woodbridge IP12 1RT ("the Council"); and
- (2) **SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, IP1 2BX ("the County Council"); and
- (3) **MAURICE PETER HOWLAND** of 135 Kingswood Avenue, Taverham, Norwich NR8 6UW ("the Owner")

BETWEEN

RECITALS

1. The Council is the local planning authority for the purposes of the Act for the area in which the Site is situated and the authority who is entitled to enforce the obligations contained in this Deed.
2. The County Council is the local highway authority 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.
3. The Owner is the freehold owner of the Site which is part of the land registered at the Land Registry with title number SK414768.
4. The Application has been made to the Council.
5. The Council in resolving to approve the Application is satisfied that the planning obligations sought under the provisions of this deed meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended)
6. The Owner and the Council have agreed to enter into this Deed in order to secure the planning obligations and other covenants contained in this Deed in the event the Planning Permission is granted.

NOW THIS DEED WITNESSES AS FOLLOWS:

DEED PROVISIONS

DEFINITIONS

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

- “100% Staircaser” means a lessee of a Shared Ownership Dwelling under a Shared Ownership Lease who has exercised their right under that lease to purchase 100% of the equity in the Shared Ownership Dwelling or the owner of a Shared Equity Dwelling who has exercised their right to purchase the remaining equity.
- “Act” the Town and Country Planning Act 1990 (as amended).
- “Additional First Homes Contribution” means in circumstances where a sale of a First Home other than as a First Home has taken place in accordance with paragraphs 1.21, 1.22 or 1.39 of the Second Schedule, the lower of the following two amounts:
- 30% of the proceeds of sale; and
 - the proceeds of sale less the amount due and outstanding to any Mortgagee of the relevant First Home under relevant security documentation which for this purpose shall include all accrued principal monies, interest and reasonable costs and expenses that are payable by the First Homes Owner to the Mortgagee under the terms of any mortgage but for the avoidance of doubt shall not include other costs or expenses incurred by the First Homes Owner in connection with the sale of the First Home
- and which for the avoidance of doubt shall in each case be paid following the deduction of any SDLT payable by the First Homes Owner as a result of the disposal of the First Home other than as a First Home.
- “Affordable Housing Contribution” means the sum of £50,000 BCIS Index Linked provided as a proportionate contribution in lieu of the deficiency of

Affordable Housing Units being provided as part of the Development against the requirements of the Council's development plan Policy WLP8.2 (East Suffolk Council – Waveney Local Plan (March 2019))

- “Affordable Housing Scheme” means a scheme to be submitted for the provision of the Affordable Dwellings generally in accordance with the Affordable Housing Table unless otherwise agreed with the Council such Affordable Housing Scheme shall include details of:
- the name and registration number of the Registered Provider or such details as the Council reasonably requires to satisfy itself that the Affordable Housing Units will be secured as Affordable Housing in perpetuity;
 - such other information as the Council may reasonably require to enable approval of the Affordable Housing Scheme.
- “Affordable Housing Table” means the table at the eighth schedule indicating the house types and tenure types of the Affordable Dwellings unless otherwise agreed in writing with the Council.
- “Affordable Housing Units” means five (5) of the Dwellings to be provided on the Site pursuant to the Planning Permission to be Occupied as Affordable Housing.
- “Affordable Housing” subsidised housing that will be available to persons who cannot afford to rent or buy housing generally available on the open market in accordance with and defined in Annex 2 of the NPPF.
- “Affordable Rental Units” means those Affordable Housing Units to be let by a Registered Provider with an appropriate agreement with Homes England for the provision of affordable rents being controls that limit the rent to no more than 80 per cent of local market rents including any service charges that does not exceed the local housing allowance or as otherwise agreed with the Council in writing.

“Allocation Policy”	means the policy and procedure adopted by the Council to determine the eligibility and priority for allocation of the Affordable Rental Units.
“Application”	the application for the Development submitted on 12 May 2023 to the Council for the Development and allocated reference number DC/23/1913/FUL .
“Armed Services Member”	means a member of the Royal Navy the Royal Marines the British Army or the Royal Air Force or a former member who was a member within the five (5) years prior to the purchase of the First Home, a divorced or separated spouse or civil partner of a member or a spouse or civil partner of a deceased member or former member whose death was caused wholly or partly by their service
“BCIS Index Linked”	the increase in any sum referred to in this Deed by an amount equivalent to the increase in the BCIS Index calculated in accordance with Clause 11 of this Deed
“BCIS Index”	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 Council and the Owner.
“Chargee”	any mortgagee or chargee of the Registered Provider or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925.
“Commencement of Development”	the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions,

diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Commence" shall be construed accordingly.

"Completion of Development"	The date the last Dwelling is first occupied
"Compliance Certificate"	means the certificate issued by the Council confirming that a Dwelling is being disposed of as a First Home to a purchaser meeting the Eligibility Criteria (National) and unless paragraph 1.15 of the Second Schedule applies the Eligibility Criteria (Local)
"Default Interest Rate"	4% per annum above the base lending rate of the Bank of England from time to time unless otherwise provided by this Deed.
"Development"	the development of the Site for the construction of 18 dwellings together with associated garaging, vehicular and pedestrian access, drainage infrastructure and landscaping pursuant to the Planning Permission.
"Discount Market Price"	means a sum which is the Market Value discounted by at least 30%.
"Disposal"	means a transfer of the freehold or (in the case of a flat only) the grant or assignment of a leasehold interest other than: (a) a letting or sub-letting of a First Home in accordance with paragraphs 1.26 to 1.30 of the Second Schedule (b) a transfer of the freehold interest in a First Home or land on which a First Home is to be provided before that First Home is made available for occupation except where the transfer is to a First Homes Owner (c) an Exempt Disposal and "Dispose" "Disposed" and "Disposing" shall be construed accordingly

“Dwelling”	any dwelling (including a house flat maisonette or bungalow and including both Affordable Housing Units and Open Market Dwellings) to be constructed in accordance with the Planning Permission.
“Eligibility Criteria (Local)”	<p>means local criteria met in respect of a purchase of a first Home if:</p> <ul style="list-style-type: none"> (a) the purchaser meets the criteria in the Local Connections Cascade (or in the case of a joint purchase at least one of the joint purchasers meets the Local Connections Cascade); and (b) the purchaser meets any further local criteria in effect at the date of the relevant disposal of a First Home <p>it being acknowledged that at the date of this Deed the Council has only prescribed Eligibility Criteria (Local) in respect of (a).</p>
“Eligibility Criteria (National)”	<p>means criteria which are met in respect of a purchase of a First Home if:</p> <ul style="list-style-type: none"> (a) the purchaser is a First Time Buyer (or in the case of a joint purchase each joint purchaser is a First Time Buyer); and (b) the purchaser’s annual gross income (or in the case of a joint purchase, the joint purchasers’ joint annual gross income) does not exceed £80,000 or such other sum as may be published for this purpose from time to time by the Secretary of State and is in force at the time of the relevant disposal of the First Home
“Eligible Person”	a person or persons on the housing waiting list maintained by the Council or who is otherwise approved by the Council as being in need of separate or alternative accommodation and unable to buy housing generally available on the open market.

“Exempt Disposal”

means the Disposal of a First Home in one of the following circumstances:

- (a) a Disposal to a spouse or civil partner upon the death of the First Homes Owner
- (b) a Disposal to a named beneficiary under the terms of a will or under the rules of intestacy following the death of the First Homes Owner
- (c) a Disposal to a former spouse or former civil partner of a First Homes Owner in accordance with the terms of a court order, divorce settlement or other legal agreement or order upon divorce, annulment or dissolution of the marriage or civil partnership or the making of a nullity, separation or presumption of death order
- (d) a Disposal to a trustee in bankruptcy prior to sale of the relevant Dwelling (and for the avoidance of doubt paragraph 1.39 shall apply to such sale)

provided that in each case other than (d) the person to whom the disposal is made complies with the terms of paragraph 1.26 of the Second Schedule

“First Homes Owner”

means the person or persons having the freehold or leasehold interest (as applicable) in a First Home other than:

- (a) a developer or other entity to which the freehold interest or leasehold interest in a First Home or in the land on which a First Home is to be provided has been transferred before that First Home is made available and is disposed of for occupation as a First Home; or
- (b) the freehold a tenant or sub-tenant of a permitted letting under paragraph 1.26 of the Second Schedule

“First Homes”

means Dwellings which may be disposed of as a freehold or (in the case of flats only) as a leasehold property to a

First Time Buyer at the Discount Market Price and which on its first Disposal does not exceed £250,000

“First Time Buyer”	means a first time buyer as defined by paragraph 6 of Schedule 6ZA to the Finance Act 2003
“Homes England”	The non-departmental public body responsible for creating thriving communities and affordable homes in England and which is the Regulator of Social Housing within the meaning of section 81 of the Housing and Regeneration Act 2008 or such other body that may replace it in either function;
“Intermediate Dwellings”	means Dwellings to be made available as Affordable Housing Units which will take the form of the following (unless otherwise agreed in writing with the Council): a) 1 Shared Ownership Dwelling or Shared Equity Dwelling (as determined by the Owner and if provided)
“Local Connections Cascade”	The local connections criteria to be applied to each and every let or sale of an Affordable Housing Unit as set out in the Seventh Schedule
“Management Company”	means a company or body who may take over responsibility for the future maintenance of the Open Space and which may include a residents association established for this purpose or a private limited company
“Market Value”	means the open market value as assessed by a Valuer of a Dwelling and assessed in accordance with the RICS Valuation Standards (January 2014 or any such replacement guidance issued by RICS) and for the avoidance of doubt shall not take into account any discount in the valuation;
“Mortgagee”	means any financial institution or other entity regulated by the Prudential Regulation Authority and the Financial Conduct Authority to provide facilities to a person to enable that person to acquire an Affordable Housing Unit

including all such regulated entities which provide Shari'ah compliant finance for the purpose of acquiring an Affordable Housing Unit.

“Nomination Agreement” means an agreement substantially in accordance with the nomination agreement at the Sixth Schedule

“NPPF” means the National Planning Policy Framework (December 2024) as amended or any successor document

“Occupation” “Occupy” and “Occupied” 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.

“Open Market Dwelling” means any Dwelling other than an Affordable Housing Unit.

“Plan” the plan attached to this Deed at the First Schedule marked “Location Plan” and referenced ‘3902-LP01’

“Planning Permission” the full planning permission granted by the Council for the Development pursuant to the Application.

“Practical Completion” means the completion of a Dwelling to a standard which is wind and watertight and fit for habitation in terms of heating, plumbing, electrics and sanitation and “Practically Complete” shall be construed accordingly.

“Primary School Transport Contribution” means the sum of £59,535 RPI Index Linked payable to the County Council to be used towards the provision of school transport for primary aged children from the Development

“Protected Person” means any person who:
a) has exercised the right to acquire pursuant to the Housing and Regeneration Act 2008 or any statutory provision for the time being in force (or any

equivalent contractual right) in respect of a particular Affordable Housing Unit;

- b) has exercised any statutory right to buy or preserved right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit;
- c) a 100% Staircaser;
- d) any successor in title to a chargee or mortgagee of the persons named in a) – c) above;
- e) any mortgagee of a Shared Ownership Dwelling lawfully exercising the mortgagee protection provisions within that Shared Ownership Lease.

“Qualifying Persons”

means a person or persons unable to buy housing generally available on the open market and whose household income is below £80,000 (or such other amount agreed in writing with the Council in accordance with government policy);

“RAMS Mitigation Contribution”

the sum of £396.01 BCIS Index Linked per Dwelling payable to the Council towards the cost of mitigating the impact of additional visitors upon European Protected Sites as a result of the Development pursuant to the Local Plan Policies and the Appropriate Assessments of the Local Plans, and the Recreational Disturbance Avoidance and Mitigation Strategy Supplementary Planning Document;

“Reasonable Consideration”

offer prices from Registered Providers which give the Owner a reasonable consideration having regard to current market conditions in the disposal of Affordable Housing of a similar type and location by Registered Providers on a grant free basis via Section 106 Agreements.

“Registered Provider” or “RP”

For the purposes of this deed means either: -

- a) a body registered as a social landlord pursuant to the provisions of the Housing Act 1996 or a housing

association within the meaning of the Housing Associations Act 1985 or;

- b) any person or body or entity which is registered as a provider or social housing in accordance with Section 80(2) and Chapter 3 of the Housing and Regeneration Act 2008 or;
- c) any body, organisation or company which is registered charity with the Charity Commissioners for England and Wales and approved by Homes England or any other body organisation or company approved by the Council and which has objects demonstrably similar to or compatible with or promoting those of a registered social landlord

“RPI Index Linked”

the increase in any sum referred to in this Deed by an amount equivalent to the increase in the RPI Index calculated in accordance with Clause 11 of this Deed

“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 Owner and the Council or County Council (as relevant)

“SDLT”

means Stamp Duty Land Tax as defined by the Finance Act 2003 or any tax replacing it of like effect

“Secondary School Transport Contribution”

means the sum of £25,515 RPI Index Linked payable to the County Council to be used towards the provision of school transport for secondary aged children from the Development

“Secretary of State”

means the Secretary of State for Housing, Communities and Local Government from time to time appointed and includes any successor in function;

“Section 106 Officer”	the officer so designated by the Council and any notice required to be served on the Section 106 Officer must be sent or delivered to the Council at the address aforesaid marked for the attention of the Section 106 Officer.
“Shared Equity Dwellings”	means (unless otherwise agreed in writing) Affordable Housing Units to be purchased at no more than 75% Market Value on a freehold basis with a second charge (“the Second Charge”) for the remaining 25% in favour of the RP by persons 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. The Second Charge shall have no interest payable in relation to it and shall not involve any consideration being due on initial sale. The Second Charge shall not be redeemed or removed by the purchaser otherwise than on or after the second anniversary of the first Occupation of the Shared Equity Dwelling and only for consideration the equivalent of 25% of the Market Value at that time, or, if at any point during the term the Shared Equity Dwelling is sold, then the proceeds of sale shall be divided on the basis of 75% of the proceeds to the vendor and 25% to the Registered Provider or Council and the Second Charge shall thereafter be redeemed and removed from the title on completion of the sale.
“Shared Equity Sales Procedure”	means the procedure approved in writing by the Council to verify the Market Value of the Shared Equity Dwellings and eligibility of purchasers which may include engagement with the local help to buy agent or the Registered Provider that will hold the Second Charge in relation to the Shared Equity Dwellings
“Shared Ownership Dwellings”	dwellings to be let on a Shared Ownership Lease to a household for which the household income does not exceed eighty thousand pounds (£80,000) per annum or such other household income for the time in force in

accordance with the terms as set out in Homes England's capital funding guide.

"Shared Ownership Lease"

means a lease in a form approved by Homes England or where there is no such form in a form approved by the Council, such lease to provide for the following:

- i. not more than 75% and not less than 10% of the equity (or such other percentages the Council may agree) shall be initially sold to the purchaser by the Registered Provider;
- ii. power to the purchaser to increase their ownership up to 100%;

an initial rent not exceeding 2.75% of the value of the equity retained by the Registered Provider subject to annual increases not exceeding Consumer Prices Index (CPI) published by the Office for National Statistics (or if such index ceases to be published such other index the Council shall reasonably determine) plus 1% or such other rent as complies with the requirements from time to time of Homes England

"Site"

means the Land West of Locks Road, Westhall against which this Deed may be enforced and shown for identification purposes only edged red on the Plan to the extent such land is registered at the Land Registry under title number SK414768.

"Valuer"

means a Member or Fellow of the Royal Institution of Chartered Surveyors being a Registered Valuer acting in an independent capacity;

"Working Day(s)"

Mondays to Fridays (excluding days that in England and Wales are public holidays or on which the Council offices are closed) inclusive.

2 CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed 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 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 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 severally unless there is an express provision otherwise.
- 2.5 Unless stated otherwise in this Deed any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.6 References to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council the successor to its statutory functions.
- 2.7 The headings are for reference only and shall not affect construction.

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 Council in the case of covenants made with it as local planning authority against the Owner and their successors in title.
- 3.3 This deed shall only be capable of being varied by a supplemental deed between the Parties hereto or their respective successors in title or assigns made under s106A of the Act.

4 CONDITIONALITY

The obligations set out in the Second and Third Schedule are conditional upon:

- (i) the grant of the Planning Permission; and
- (ii) the Commencement of Development

and the rest of the provisions set out in this Deed shall take effect immediately upon completion of this Deed.

5 THE OWNER'S COVENANTS

- 5.1 The Owner covenants with the Council as set out in the Second Schedule.
- 5.2 The Owner covenants with the County Council as set out in the Third Schedule.

6 THE COUNCIL'S AND COUNTY COUNCIL'S COVENANTS

- 6.1 The Council covenants with the Owner as set out in the Second and Fourth Schedule.
- 6.2 The County Council covenants with the Owner as set out in the Fifth Schedule.

7 LEGAL AND MONITORING FEES

- 7.1 Immediately prior to the completion of this Deed the Owner shall pay the Council's and the County Council's reasonable legal costs properly incurred in connection with the negotiation preparation and execution of this Deed.
- 7.2 Within 14 days of the completion of this Deed the Owner shall pay the Council £2080 towards the monitoring of the performance of the planning obligations that the Owner is required to observe and perform to the Council.
- 7.3 **Immediately prior to completion of this Deed, the Owner shall pay the County Council £577 towards the monitoring of the performance of the planning obligations that the Owner is required to observe and perform to the County Council.**

8 INTEREST ON LATE PAYMENT

If any sum or amount has not been paid to the Council or County Council by the date it is due, the Owner shall pay interest on that amount at the Default Interest Rate (both before and after

any judgment). Such interest shall accrue on a daily basis for the period from the due date to and including the date of payment.

9 MISCELLANEOUS

- 9.1 The Owner covenants and warrants to the Council and the County Council that they are the freehold owner of the Site and have full power and capacity to enter into this Deed and that there is no other person having a charge over or any other interest in the Site whose consent is necessary to make this Deed binding on the Site and all estates and interests therein.
- 9.2 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 9.3 This Deed shall be registered as a local land charge by the Council.
- 9.4 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council or the County Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed.
- 9.5 Any notice or written communication to be served or given by one party to any other party under the terms of this Deed shall be deemed to have been properly served or given if delivered by hand or sent by first class post or registered or recorded delivery to the following addresses:
- 9.5.1 Owner: at the address at the beginning of this Deed; and
- 9.5.2 Council: shall be addressed to the Section 106 Officer at the address set out aforesaid;
- 9.5.3 County Council: at the address at the beginning of this Deed and marked for the attention of the Executive Director of Growth Highways and Infrastructure; or
- 9.5.4 such other address as may be notified in writing from time to time.
- 9.6 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.
- 9.7 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.

- 9.8 Subject to clause 9.7 and clause 17 of this Deed, this Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 9.9 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest PROVIDED THAT neither the reservation of rights or the inclusion of any covenants or restrictions over the Site in any transfer of the Site (or part of the Site) shall constitute an interest for the purposes of this Clause.
- 9.10 This Deed shall not be enforceable against owner-occupiers or tenants of Dwellings constructed pursuant to the Planning Permission nor against those deriving title from them.
- 9.11 The obligations in this Deed shall not be enforceable against a statutory undertaker after the transfer of statutory apparatus (and any land upon or in which the statutory apparatus is situated) by the Owner to that statutory undertaker.
- 9.12 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.
- 9.13 Nothing contained or implied in this Deed shall prejudice or affect the rights discretions powers duties and obligations of the Council or the County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.
- 9.14 The Owner covenants from the date that this Deed takes effect to allow the Council and the County Council, and their duly authorised officers or agents at all reasonable times on reasonable notice to enter into and upon the Site for the purposes of monitoring compliance with the provisions of this Deed and in doing so the Council or the County Council shall have regard to all health and safety requirements when visiting the Site.
- 9.15 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 Deed are hereby waived.

10 WAIVER

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

11 INDEXATION

Any sum referred to in the Second Schedule or the Third Schedule (unless the context reads otherwise) shall be increased by an amount equivalent to the increase in the BCIS Index or the RPI Index (as applicable) 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:

A is the sum payable under this Deed;

B is the original sum calculated as the sum payable;

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

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

C/D is equal to or greater than 1.

12 VAT

12.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly payable.

12.2 If at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this Deed, then to the extent that VAT has not previously been charged in respect of that supply the person making the supply shall have the right to issue a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly.

13 DISPUTE PROVISIONS

13.1 In the event of any dispute or difference arising between any of the parties to this Deed in respect of any matter contained in this Deed such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be

appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties to the dispute in equal shares.

- 13.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 13.1 or as to the appropriateness of the professional body then such question may be referred by either part to the president for the time being of the Law Society for him to appoint a solicitor (or suitable person holding appropriate professional qualifications) to determine the dispute such solicitor or other person acting as an expert and his decision shall be final and binding on all parties to the dispute in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties to the dispute in equal shares.
- 13.3 Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight working days after the conclusion of any hearing that takes place or twenty-eight working days after he has received any file or written representation.
- 13.4 The expert shall be required to give notice to each of the said parties to the dispute requiring them to submit to him within ten working days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten working days.

14 CHANGES IN OWNERSHIP OF THE SITE

The Owner shall give the Section 106 Officer within 10 Working Days written notice quoting the Council's reference DC/23/1913/FUL of any change in ownership of his freehold interest in the Site or of any other disposal of any part of the Site occurring before all the obligations under this Deed have been discharged such notice 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 save that this requirement shall not apply to any such disposals to individual Dwelling purchasers.

15 NOTICES

The Owner covenants to inform the Council and the County Council by way of written notice within fourteen (14) Working Days following:

- (i) Commencement of Development;
- (ii) Occupation of the first (1st) Dwelling;
- (iii) Occupation of 50% of the Dwellings; and
- (iv) Completion of Development.

16 JURISDICTION

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

17 FUTURE PERMISSIONS

17.1 Nothing in this agreement shall prohibit or limit the right to develop any part of the Site in accordance with any planning permission (other than the Planning Permission or modification, variation or amendment thereof) granted after the date of the Planning Permission.

17.2 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 such new planning permission is granted pursuant to section 73 of the Act:

17.2.1 the obligations in this Deed shall in addition to binding the Site in respect of the Planning Permission relate to and bind the Site in respect of any planning permission granted pursuant to Section 73 of the Act; and

17.2.2 the definitions of Development Application 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 shall fetter the discretion of the Council in determining any applications under section 73 of the Act and the appropriate nature and/or quantum of section 106 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 supplemental deed pursuant to section 106 of the Act or a modification pursuant to section 106A of the Act.

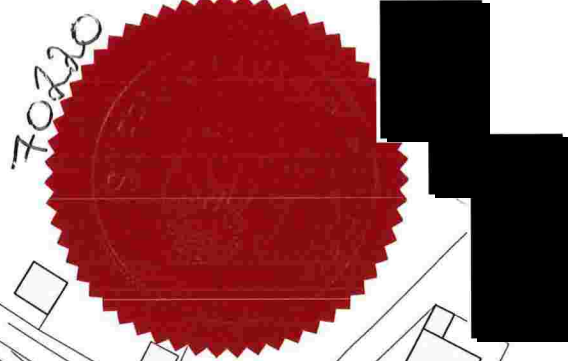
18 DELIVERY

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

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

FIRST SCHEDULE

The Plan



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SCALES:

1:1250



PROJECT: RESIDENTIAL DEVELOPMENT
LAND OFF LOCKS ROAD,
WESTHALL

CLIENT: HERITAGE DEVELOPMENTS

DRAWING TITLE: LOCATION PLAN

SCALE: 1:1250

Studio | 35

PLANNING

PAPER SIZE: A4

DATE: APRIL 2023

DRAWN BY: [Redacted]

JOB: 3902

DRG NO: LP01

REV:

SECOND SCHEDULE

The Owner's Covenants with the Council

The Owner hereby covenants with the Council as follows (unless otherwise agreed in writing by the Owner and the Council):

1 Affordable Housing

- 1.1 Unless otherwise agreed in writing by the Council not to Commence Development or allow the Commencement of Development unless or until an Affordable Housing Scheme has been submitted to and approved by the Council.
- 1.2 Subject to the provisions of this paragraph 1 the Owner covenants to transfer all of the Affordable Housing Units to a Registered Provider SAVE FOR the First Homes AND SAVE FOR the Shared Equity Dwellings (if provided) in the event they are sold directly by the Owner in which case the Owner shall agree the Shared Equity Sales Procedure with the Council for approval in writing prior to marketing the Shared Equity Dwellings in the event they are sold directly by the Owner.
- 1.3 Subject to the provisions of this paragraph 1 from the date of Practical Completion of the Affordable Housing Units they shall not be used other than for the purposes of Affordable Housing for Eligible Persons or Qualifying Persons or First Time Buyers (in the case of First Homes) in accordance with the Affordable Housing Scheme subject however to the provisions herein.
- 1.4 The Owner covenants not to Occupy or allow Occupation of more than 7 of the Open Market Dwellings until the Affordable Housing Contribution has been paid to the Council.
- 1.5 otherwise agreed in writing by the Council the Owner covenants not to Occupy or allow Occupation of more than 8 of the Open Market Dwellings until a contract has been entered into with a Registered Provider for transfer of all the Affordable Housing Units (save for any dwellings to be sold directly by the Owner subject to the Shared Equity Sales Procedure and save for any First Homes) has been and the Owner has notified the Council as to the Registered Provider and the plot numbers to be transferred.
- 1.6 Unless otherwise agreed in writing by the Council the Owner covenants not to Occupy or allow Occupation of more than 9 of the Open Market Dwellings unless and until all of the Affordable Housing Units are Practically Complete and either transferred to a Registered Provider (and

for the avoidance of doubt the term "transferred" in this Second Schedule shall mean transfer of the freehold interest) or marketed for sale to Qualifying Persons or First Time Buyers (in the case of First Homes) in accordance with paragraphs 1.14 to 1.15 of this Second Schedule in accordance with the terms of this Deed.

- 1.7 The Owner will notify the Council within 28 days of the transfer of any Affordable Housing Units to a Registered Provider of the plot number, street address, house type, size and tenure of each dwelling and date of transfer.
- 1.8 The Registered Provider shall enter into a Nomination Agreement with the Council and shall not let dispose or otherwise permit Occupation of any of the Affordable Rental Units until such Nomination Agreement has been entered into on terms acceptable to the Council in respect of the Affordable Rental Unit unless otherwise agreed in writing with the Council.
- 1.9 On the first and any subsequent letting of an Affordable Rental Unit the Council will (unless otherwise agreed in writing) nominate eligible applicants in accordance with the Allocation Policy and Nomination Agreement (and priority will go to applicants who have a local connection in accordance with the Local Connections Cascade provided at the Seventh Schedule).
- 1.10 If a Registered Provider cannot be found for any of the Affordable Housing Units (with the exception of the First Homes) throughout England within six months despite the Owner's reasonable endeavours to do so the Owner will provide written notification of such to the Council's satisfaction (the Council at all times acting reasonably) that demand from Registered Provider has not been forthcoming for Reasonable Consideration.
- 1.11 If the Council is satisfied that demand from Registered Providers has not been forthcoming for Reasonable Consideration the Council will enter into written negotiations with the Owner to seek an agreed way forward that does not disadvantage or fetter the Owner's ability to continue construction or occupation of the Development whilst maximising the provision of Affordable Housing
- 1.12 If after three calendar months of handover of the Affordable Housing Units to the Registered Provider there remains any Affordable Housing Units not leased or sold the Registered Provider shall be free to seek written agreement of the Council to convert those Affordable Housing Units to an alternative form of affordable housing as defined within the NPPF.
- 1.13 In the event 100% of a Shared Ownership Dwelling is purchased:

- 1.13.1 the proceeds from the final sale of the Shared Ownership Dwelling are to be ringfenced by the RP for 5 years for the provision of Affordable Housing within the East Suffolk District, and should the owner of the Shared Ownership Dwelling wish to sell it he must notify the RP and allow the RP to purchase the Shared Ownership Dwelling back in the first instance at Market Value;
 - 1.13.2 in the event the RP purchases the Shared Ownership Dwelling in accordance with this clause at 1.13.1 the Shared Ownership Dwelling will be marketed as such subject to the terms of this deed; and
 - 1.13.3 in the event the RP declines to purchase the Shared Ownership Dwelling or fails to notify the owner of the Shared Ownership Dwelling of its intention to make an offer to purchase the dwelling within twenty-eight days of the notification as specified in this clause at 1.13.1, then the owner of the Shared Ownership Dwelling may sell it on the open market from the terms of this deed.
- 1.14 The First Home shall be marketed for sale and shall only be sold (whether on a first or any subsequent sale) as First Homes to a person or person(s) meeting:
- a. the Eligibility Criteria (National); and
 - b. the Eligibility Criteria (Local).
- 1.15 If after a First Home has been actively marketed for 3 months (such period to expire no earlier than three (3) months prior to Practical Completion) it has not been possible to find a willing purchaser who meets the Eligibility Criteria (Local), paragraph 1.14 b shall cease to apply.
- 1.16 Subject to paragraphs 1.19 to 1.23, no First Home shall be Disposed of (whether on a first or any subsequent sale) unless not less than 50% of the purchase price is funded by a first mortgage or other home purchase plan with a Mortgagee
- 1.17 No First Home shall be Disposed of (whether on a first or any subsequent sale) unless and until the Council has been provided with evidence that:
- 1.17.1 the intended purchaser meets the Eligibility Criteria (National) and unless paragraph 1.15 applies meets the Eligibility Criteria (Local) (if any)
 - 1.17.2 the Dwelling is being Disposed of as a First Home at the Discount Market Price and
 - 1.17.3 the transfer of the First Home includes:

months shall be calculated from a date no earlier than six (6) months prior to Practical Completion) and all reasonable endeavours have been made to Dispose of the Dwelling as a First Home but it has not been possible to Dispose of that Dwelling as a First Home in accordance with paragraphs 1.16 and 1.17.1; or

1.19.2 requiring the First Homes Owner to undertake active marketing for the period specified in paragraph 1.19.1 before being able to Dispose of the Dwelling other than as a First Home would be likely to cause the First Homes Owner undue hardship

1.20 Upon receipt of an application served in accordance with paragraph 1.19 the Council shall have the right (but shall not be required) to direct that the relevant Dwelling is disposed of to it at the Discount Market Price

1.21 If the Council is satisfied that either of the grounds in paragraph 1.19 above have been made out it shall confirm in writing within twenty eight (28) days of receipt of the written request made in accordance with paragraph 1.19 that the relevant Dwelling may be Disposed of:

1.21.1 to the Council at the Discount Market Price; or

1.21.2 (if the Council confirms that it does not wish to acquire the relevant Dwelling) other than as a First Home

and on the issue of that written confirmation the obligations in this Deed which apply to First Homes shall cease to bind and shall no longer affect that Dwelling apart from paragraph 1.23 which shall cease to apply on receipt of payment by the Council where the relevant Dwelling is disposed of other than as a First Home

1.22 If the Council does not wish to acquire the relevant Dwelling itself and is not satisfied that either of the grounds in paragraph 1.19 above have been made out then it shall within twenty eight (28) days of receipt of the written request made in accordance with paragraph 1.19 serve notice on the owner setting out the further steps it requires the owner to take to secure the Disposal of a Dwelling as a First Home and the timescale (which shall be no longer than six (6) months). If at the end of that period the owner has been unable to Dispose of the Dwelling as a First Home he may serve notice on the Council in accordance with paragraph 1.19 following which the Council must within 28 days issue confirmation in writing that the Dwelling may be Disposed of other than as a First Home

1.23 Where a Dwelling is Disposed of other than as a First Home or to the Council at the Discount Market Price in accordance with paragraphs 1.21 or 1.22 above the Owner of the First Home

shall pay to the Council forthwith upon receipt of the proceeds of sale the Additional First Homes Contribution

1.24 Upon receipt of the Additional First Homes Contribution the Council shall:

1.24.1 within 28 days of such receipt, provide a completed application to enable the removal of the restriction on the title set out in paragraph 1.18 where such restriction has previously been registered against the relevant title

1.24.2 apply all monies received towards the provision of Affordable Housing

1.25 Any person who purchases a First Home free of the restrictions in the Second Schedule of this Deed pursuant to the provisions in paragraphs 1.22 and 1.23 shall not be liable to pay the Additional First Homes Contribution to the Council

1.26 Each First Home shall be used only as the main residence of the First Homes Owner and shall not be let, sub-let or otherwise Disposed of other than in accordance with the terms of this Deed PROVIDED THAT letting or sub-letting shall be permitted in accordance with paragraphs 1.27 – 1.30 below.

1.27 A First Homes Owner may let or sub-let their First Home for a fixed term of no more than two (2) years, provided that the First Homes Owner notifies the Council in writing before the First Home is Occupied by the prospective tenant or sub-tenant. A First Homes Owner may let or sub-let their First Home pursuant to this paragraph more than once during that First Homes Owner's period of ownership, but the aggregate of such lettings or sub-lettings during a First Homes Owner's period of ownership may not exceed two (2) years.

1.28 A First Homes Owner may let or sub-let their First Home for any period provided that the First Homes Owner notifies the Council and the Council consents in writing to the proposed letting or sub-letting. The Council covenants not to unreasonably withhold or delay giving such consent and not to withhold such consent in any of circumstances (a) – (f) below:

- a. the First Homes Owner is required to live in accommodation other than their First Home for the duration of the letting or sub-letting for the purposes of employment;
- b. the First Homes Owner is an active Armed Services Member and is to be deployed elsewhere for the duration of the letting or sub-letting;
- c. the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to escape a risk of harm;

- d. the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of relationship breakdown;
 - e. the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of redundancy; and
 - f. the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to provide care or assistance to any person.
- 1.29 A letting or sub-letting permitted pursuant to paragraph 1.27 or 1.28 must be by way of a written lease or sub-lease (as the case may be) of the whole of the First Home on terms which expressly prohibit any further sub-letting.
- 1.30 Nothing in this Second Schedule prevents a First Homes Owner from renting a room within their First Home or from renting their First Home as temporary sleeping accommodation provided that the First Home remains at all times the First Home Owner's main residence.
- 1.31 Nothing in this Second Schedule shall be binding on a Protected Person or any mortgagee or chargee of a Protected Person or any receiver appointed by such mortgagee or chargee or any person deriving title from any such person.
- 1.32 An application fee will be payable on each and every application for a First Home in line with the Councils set charges for such applications.
- 1.33 The maximum price payable in respect of the Disposal of a Shared Equity Dwelling (if provided) shall not exceed 75% of the Market Value (for sale or leasehold purposes) as certified by a Valuer.
- 1.34 The Shared Equity Dwellings shall only be Disposed of (which term shall include a freehold sale or sale of a registrable lease) to a Qualifying Person in accordance with the Local Connections Cascade and on the terms specified herein PROVIDING THAT in the event they are transferred to a RP clauses 1.35 to of this Schedule shall not apply:
- 1.35 The Owner covenants to agree the Shared Equity Sales Procedure with the Council no less than 8 weeks prior to marketing a Shared Equity Dwelling for its first sale.
- 1.36 Any dispute over the Market Value is to be determined by an independent expert who is a chartered surveyor of not less than 10 years standing who is experienced in the field of valuing and selling residential property such as the Shared Equity Dwellings.

1.37 No purchaser of a Shared Equity Dwelling shall sub-let or otherwise rent out such Shared Equity Dwelling (unless approved in writing by the Council).

1.38 In the event 100% of the Shared Equity Dwelling is purchased:

1.38.1 the net proceeds from the sale of the Second Charge of the Shared Equity Dwelling are to be ring-fenced by the Registered Provider for 5 years for the provision of Affordable Housing within the East Suffolk District; and

1.38.2 the owner of the Shared Equity Dwelling may sell it on the open market free from the terms of this Deed.

Mortgagee Protection

1.39 The Affordable Housing obligations in this Second Schedule shall not apply to any Mortgagee or Chargee (or any receiver (including an administrative receiver appointed by such Mortgagee or Chargee) or any other person appointed under any security documentation to enable such Mortgagee or Chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver)) of the whole or any part of the Affordable Housing Units or any individual First Home or any persons or bodies deriving title through such Chargee, Mortgagee or Receiver PROVIDED THAT:

1.39.1 such Chargee or Receiver of an Affordable Rental Unit or Shared Ownership Dwelling or a Shared Equity Dwelling shall first give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Units to another registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and

1.39.2 if such disposal of the Affordable Rental Units or Shared Ownership Dwellings or a Shared Equity Dwellings has not completed within the three month period, the Chargee or Receiver shall be entitled to dispose of the Affordable Rental Units or Shared Ownership Dwellings or a Shared Equity Dwellings free from the Affordable Housing provisions in this Agreement which provisions shall determine absolutely

- 1.39.3 such Mortgagee or Receiver of a First Home shall first give written notice to the Council of its intention to Dispose of the relevant Dwelling; and
- 1.39.4 once notice of intention to Dispose of the relevant First Home has been given by the Mortgagee or Receiver to the Council the Mortgagee or Receiver shall be free to sell that First Home subject only to paragraph 1.39.5 at its full Market Value
- 1.39.5 following the Disposal of the relevant First Home the Mortgagee or Receiver shall following the deduction of the amount due and outstanding under the relevant security documentation including all accrued principal monies, interest and reasonable costs and expenses pay to the Council the Additional First Homes Contribution.
- 1.39.6 following receipt of notification of the Disposal of the relevant First Home the Council shall:
- i. forthwith issue a completed application to the purchaser of that Dwelling to enable the removal of the restriction on the title set out in paragraph 1.18; and
 - ii. apply all such monies received towards the provision of Affordable Housing

2 RAMS Mitigation Contribution

The Owner covenants not to Commence Development or allow the Commencement of Development until the RAMS Mitigation Contribution has been paid to the Council.

THIRD SCHEDULE

The Owner's Covenants with the County Council

The Owner hereby covenants with the County Council as follows (unless otherwise agreed in writing by the Owner and the County Council):

1 Primary School Transport Contribution

1.1 To pay the Primary School Transport Contribution to the County Council in a single lump sum payment prior to the Occupation of the 1st (first) Dwelling

1.2 Not to Occupy or allow the Occupation of any Dwelling unless or until the Primary School Transport Contribution has been paid to the County Council

2 Secondary School Transport Contribution

2.1 To pay the Secondary School Transport Contribution to the County Council in a single lump sum payment prior to the Occupation of the 1st (first) Dwelling

2.2 Not to Occupy or allow the Occupation of any Dwelling unless or until the Secondary School Transport Contribution has been paid to the County Council

FOURTH SCHEDULE

The Council's Covenants

The Council hereby covenants with the Owner as follows:

- 1 The Council shall provide written confirmation of the discharge of the obligations contained in this Deed on written request to the Owner when satisfied that such obligations have been performed and shall cancel all entries made in the Register of Local Land Charges on written request in respect of this Deed when all the obligations have been performed.
- 2 The Council covenants with the Owner that it shall apply the RAMS Mitigation Contribution and any Affordable Housing Contribution paid to the Council solely towards the purposes specified in this Deed.
- 3 The Council shall ensure that any monies paid to them under this Deed are paid into an interest bearing account or accounts and at the end of 10 (ten) years from the date of receiving the final payment of a contribution the Council shall return or procure the return to the Owner all money in that account which has not been spent or committed to be spent on the intended purposes as specified in this Deed.
- 4 From time to time if reasonably requested by the Owner in writing (but not more than once in each year) the Council shall provide to the Owner returns showing:-
 - 4.1 the total amounts that it has received from the Owner under this Deed up to the reporting date; and
 - 4.2 the amounts of expenditure it has incurred to which those payments relate and the purposes for which it has so incurred the expenditure.

FIFTH SCHEDULE

The County Council's Covenants

The County Council hereby covenants with the Owner as follows:

1. The County Council shall provide written confirmation of the discharge of the obligations contained in this Deed on written request to the Owner when satisfied that such obligations have been performed.
2. The County Council covenants with the Owner that it shall apply the Primary School Transport Contribution and Secondary School Transport Contribution paid to the County Council solely towards the purposes specified in this Deed.
3. **In the event that the Primary School Transport Contribution and/or Secondary School Transport Contribution has not been committed (by way of contract or otherwise) to the purposes for which it was paid if requested to do so in writing after the expiry of 10 years of Completion of the Development the County Council shall within a further period of (1) year repay to the person that paid the sum to the Council so much of the Primary School Transport Contribution and/or Secondary School Transport Contribution as shall remain uncommitted together with any interest accrued at the Bank of England's Base Rate minus two basis points compounding annually at financial year end provided that if for any period the Bank of England Base Rate is at or below 0.002% then no interest shall be payable.**
4. **When the Primary School Transport Contribution and Secondary School Transport Contributions paid to the County Council pursuant to this deed has been spent or committed the County Council shall upon written request by the Owner after the expiry of ten (10) years from the Completion of Development within a further period of (1) year notify the Owner that such monies have been spent or committed such notice to include full notice of what the said monies were spent on or committed to.**

SIXTH SCHEDULE

Nominations Agreement

DATED 20

(name) (1)

And

EAST SUFFOLK COUNCIL (2)

NOMINATION AGREEMENT

Relating to Affordable Dwelling(s) for Rent

At

(name of scheme)

THIS NOMINATION AGREEMENT is made the day of 20

BETWEEN:

1) of registered in England by the Financial Conduct Authority under the Co-operative and Community Benefit Societies Act 2014 (Register Number XXX) (the Registered provider) [or such other Registered Provider as may be approved by East Suffolk Council]

And

2) **EAST SUFFOLK COUNCIL** of East Suffolk House, Riduna Park, Station Road, Melton, Woodbridge, IP12 1RT ("the Council")

1 Definitions

In this Deed:

"Affordable Dwelling(s) for Rent" means (Number) Dwellings (shown edged colour) on the Development to be made available as Affordable Housing where the rent level is capped at 80% of the local market rent (including any service charges, where applicable) and within local housing allowance rates or as otherwise agreed with the Council in writing

"Affordable Housing" means housing that will be available to eligible households whose needs are not met by the market and eligibility is determined with regard to local incomes and local house prices

"Allocation Policy" means the policy and procedure that the council has adopted to determine eligibility and priority for Affordable Dwellings for Rent

"Chargee" means any mortgagee or chargee of a Registered provider or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 by such mortgagee or chargee or any other person appointed by a mortgagee or chargee under its security documentation for the purpose of enforcing its mortgage or charge or any administrator (whosoever appointed) including a housing administrator

"Choice Based Lettings" means the process used to advertise Affordable Dwellings for Rent in the Council area or any system that replaces it

"Development" means the Development as defined in the Section 106 Agreement to which this Nominations Agreement is appended

“Effective Date” means the date that the application form is received by the Partner Organisation (PO), except in situations as explained within and working conjointly with the Allocation Policy and Procedures

“Initial Let” means the first tenancy or lease of a newly constructed and previously unoccupied Affordable Dwelling(s) for Rent in accordance with Section 199 of the Housing Act 1996 as amended by Section 315 of the Housing and Regeneration Act 2008

“Landlord(s)” means a person or persons who are required to use the Council’s Choice Base Lettings Process

“Nominee” or “Nominees” means a person(s) named in a Shortlist (as may be updated from time to time) and nominated by the Council to the Registered Provider, in line with the Allocation Policy and Procedures, who the Council considers to be eligible and qualify for a tenancy relating to the appropriate sized Affordable Dwelling(s) for rent, and have a current local connection as set out in the Section 106 Agreement (details of which have been provided to the Council prior to the date of such nominations)

“Partner Organisation” or “PO” means each of the seven District and Borough Councils participating in the current Choice Based Lettings scheme

“Property” means the land [] shown edged red on the plan attached hereto

“Registered Provider” or “RP” means either:

- a body registered as social landlord pursuant to the provisions of the Housing Act 1996 or a housing association within the meaning of the Housing Associations Act 1995; or
- any person or body or entity which is registered as a provider or social housing in accordance with Section 80(2) and Chapter 3 of the Housing and Regeneration Act 2008; or
- any body, organisation or company which is a registered charity with the Charity Commissioners for England and Wales and approved by Homes England or any other body organisation or company approved by the Council and which has objects demonstrably similar to or compatible with or promoting those of a registered social landlord

“Regulator” means The Regulator of Social Housing or any body that replaces its role as regulator of Registered Providers

“Section 106 Agreement” means the Section 106 Agreement to which this Nominations Agreement is appended

“Shortlist” means a list of nominees

“Tenancy Agreement” means an introductory/probationary tenancy, assured shorthold, assured or secure tenancy agreement in a form prepared by the Registered Provider and in line with an approved policy that meets the requirements of the Regulator

“Void” means an Affordable Dwelling(s) for Rent which is vacant otherwise than as a result of the tenant having

(a) Moved to other accommodation either by transfer or decant provided by the Registered Provider; or

(b) Moved to other accommodation under a reciprocal arrangement provided by another Registered Provider registered with the Regulator under the Housing Act 1996 or Housing and Regeneration Act 2008

2 Enabling Provision

This Nomination Agreement is made pursuant to Section 111 of the Local Government Act 1972 Section 33 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1982 and Section 1 of the Localism Act 2011 and all other enabling powers

3 Procedure

The parties agree that the Registered Provider shall give the Council nomination rights for each and every Initial Let and Void and the following procedure shall apply to the nomination of person in respect of the Affordable Dwelling(s) for Rent

3.1 Initial Lets

3.1.1 The Registered Provider shall give the Council not less than 4 months’ written notice of the date when the Affordable Dwelling(s) for Rent will be ready for Occupation

3.1.2 The Registered Provider shall serve a notice on the Choice Based Lettings system detailing the date available for Occupation in respect of the Affordable Dwelling(s) for Rent at the point when it wishes the Affordable Dwelling(s) for Rent to be advertised. This will be in line with agreed advertising cycles which form part of the

Allocation Policy

- 3.1.3** The Council shall arrange for the Affordable Dwelling(s) for Rent to be advertised. Within 2 working days of the bidding cycle closing the Council shall serve upon the Registered Provider a Shortlist. The Nominees will be prioritised in line with their housing need and banding priority and effective date. The Council may agree to delegate the shortlisting to the Registered Provider and as required, verification of relevant application information
- 3.1.4** The Shortlist to be served by the Council under clause 3.1.3 shall:
- i. Specify the appropriate category of Affordable Dwelling(s) for Rent, and
 - ii. Indicate the priority for the housing of the persons named and any other relevant information using a standard pro-forma document via a generic e-mail address to the Council's Choice Based Lettings scheme
- 3.1.5** Upon the properties being ready to let the Registered Provider shall within five (5) working days of the date of receipt of the Shortlist select a Nominee from the Shortlist considering the priority in the order given for housing indicated by the Council and shall use its reasonable endeavours to arrange a viewing of the Affordable Dwelling(s) for Rent and offer a Tenancy Agreement to such selected Nominee subject to any final checks as agreed in line with the Council's Allocation Policy and the Registered provider's letting criteria
- 3.1.6** If each selected concurrent Nominee fails to accept the offer of a tenancy within one (1) working day of receipt of the Registered Provider's offer such selected Nominee shall be deemed to have rejected the Registered Provider's offer and the Registered Provider shall select and make an offer to another Nominee by repeating the procedure set out in clause 3.1.5
- 3.1.7** If the Council is unable to supply any further Nominees the Registered Provider will request that the Affordable Dwelling(s) for Rent is re-advertised and that procedures set out in 3.1.3–3.1.16 are completed with

4 Voids

- 4.1** Should a New Affordable Dwelling(s) for Rent become a Void after the initial Let or the Registered Provider has reasonable cause to believe it will become a Void then and in

each case the procedures set out in 3.1.2 –3.1.7 shall apply except 3.1.2 which shall refer to Void Notice.

4.2 The Registered Provider shall give the Council not less than 14 Working Days written notice of the date when the Affordable Dwelling(s) for Rent will be ready of Occupation

5 Provision of information and alteration of lists

5.1 The Registered Provider shall give notification to the Council of the following events within (2) Working Days of their occurrence:

- i. a Nominee failing to view an Affordable Dwelling(s) for Rent when a viewing has been arranged
- ii. a Nominee failing to accept the offer of a Tenancy Agreement within the time prescribed by this Nomination Agreement
- iii. a Nominee accepting an offer of a Tenancy Agreement
- iv. Registered Provider rejecting a Nominee in accordance with Clause 5.3

5.2 Arrangements for notification to the Council will be set out in the Council's approved Allocation Policy

5.3 The Registered Provider shall have the right to interview and make enquiries of each Nominee and by serving written notice upon the Council to that effect to reject any Nominee if in the opinion of the Registered Provider the grant of an appropriate tenancy type to such Nominee would be in contravention of the Registered Provider's registered rules or its letting criteria. The Registered Provider is required to make decisions without influence from third parties

5.4 The Registered Provider must ensure that they handle all information in line with the current Data Protection Act 2018 and future general data protection regulations and procedures and the requirements of the Council's Allocation Policy

5.5 The Council and the Registered Provider agree that the nominations rights contained in this Nomination Agreement may be varied from time to time by agreement in writing by the parties

6 Notices

Any notice required to be served hereunder shall be sufficiently served on the parties at the address indicated above, or such other address notified by one party to the other and

any notice shall be deemed to have been served 2 Working Days after posting

7 Chargee

Provisions

The provisions in this Nomination Agreement shall not be binding on a Chargee

PROVIDED THAT:

- a) The Chargee shall first give written notice to the Council of its intention to dispose of the Affordable Dwelling(s) for Rent (“the RP Notice”); and
 - b) If the Council provides written notice to the Chargee, within four (4) weeks of receipt of the RP Notice, that acceptable arrangements can be made for the transfer of the Affordable Dwelling(s) for Rent to either the Council or another Registered Provider. Within three (3) calendar months of the date of the RP Notice the Chargee shall use reasonable endeavours over that period to complete a disposal of the Affordable Dwelling(s) for Rent to another Registered Provider or to the Council for a Consideration not less than the amount due and outstanding under the terms of the Relevant security documentation including all accrued principal monies interest and costs and expenses
 - c) If the Council does not serve the notice referred to in paragraph b) within the four (4) week period referred to or if such disposal has not completed within the three (3) month period the Chargee shall be entitled to dispose of the Affordable Dwelling(s) for Rent free of the restrictions set out in this Nomination Agreement
- PROVIDED THAT at all times the rights and obligations in this clause shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council shall consider protecting the interest of the Chargee in respect of monies outstanding under the charge or mortgage

8 Transfer to other Registered Providers

- 8.1** The Registered Provider shall provide notice to the Council within five (5) Working days of any transfer of the Affordable Dwelling(s) for Rent to a Registered Provider
- 8.2** The Registered Provider shall use its reasonable endeavours to procure that any Registered Provider to which the Affordable Dwelling(s) for Rent erected thereon are transferred otherwise than by direction of the Regulator under its statutory powers shall enter into a similar agreement mutatis mutandis with the Council simultaneously on

completing the transfer of the Property

9 Disputes

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

10 Costs

The Registered Provider agrees with the Council to pay the reasonable legal costs which the Council incurs in preparing and entering into this Nomination Agreement and the Council's reasonable costs to cover the nominations procedure. Any changes to current charges will be negotiated with all landlords who are required to let their properties in line with the Council's allocation and letting policy and procedures

11 Agreements and Declarations

- 11.1** Nothing in this Nomination Agreement fetters or restricts the exercise by the Council of any of its powers
- 11.2** The obligations contained in this Nomination Agreement are covenants for the purpose of the Local Government (Miscellaneous Provisions) Act 1982 Section 33

12 Third Party Rights

No provisions of this Nomination Agreement shall be enforceable under the Contracts (Rights if Third Parties) Act 1999

In witness whereof the parties have executed this Nomination Agreement on the day and year first before written

THE COMMON SEAL of

Was affixed in the presence of:

Director

Secretary

THE COMMON SEAL of EAST SUFFOLK COUNCIL

Was affixed

In the presence of:

Authorised signatory

SEVENTH SCHEDULE

Local Connections Cascade

1. **Affordable Rental Units**

1.1 The Affordable Rental Units are to be allocated to a person nominated by the Council in line with its Allocation Policy who is considered by them or it to be in need of such accommodation and unable to compete in the normal open market for property. Before nominating an applicant the Council will be satisfied that the applicant

- a) Has continuously lived in Westhall for the preceding 5 years, OR
- b) Has continuously had a principal place of work in Westhall for the preceding 5 years OR
- c) Has parents or close family (i.e. mother, father, son or daughter) who are over 18 and who have lived in Westhall for the preceding 5 years

1.2 If there are no persons who qualify under paragraph 1.1 above the Affordable Rental Units shall be allocated to person nominated by the Council who

- a) Has continuously lived within 10 miles of the Site for the preceding 5 years, OR
- b) Has continuously had a principal place of work within 10 miles of the Site for the preceding 5 years OR
- c) Has parents or close family (i.e. mother, father, son or daughter) who are over 18 and who have lived within 10 miles of the Site for the preceding 5 years, OR

1.3 If there are no persons who qualify under paragraphs 1.1 and 1.2 above the Affordable Housing Unit shall be re-advertised to the district of East Suffolk and where after re-advertising there are no persons who qualify under the paragraphs above the Affordable Rental Units shall be allocated to a person nominated by the Council who is considered by it to be in need of such accommodation and who is unable to compete in the normal open market for property in East Suffolk

1.4 Where there is a mutual exchange the Registered Provider may let the Affordable Rental Units to any incoming tenant who satisfies the local connection criteria at paragraphs 1.1 to 1.3 above

2. Intermediate Dwellings and First Homes

2.1 On advertising the first Disposal of an Intermediate Dwelling or First Home the Dwelling shall be marketed for sale for the first 3 months to persons who:

- a) Has continuously lived within 10 miles of the Site for the preceding 5 years, OR
- b) Has continuously had a principal place of work within 10 miles of the Site for the preceding 5 years OR
- c) Has parents or close family (i.e. mother, father, son or daughter) who are over 18 and who have lived within 10 miles of the Site for the preceding 5 years

PROVIDING THAT if after 2 months of marketing no offer has been received from persons who comply with 2.1 a-c the dwelling may be sold to persons who comply with 2.2 a-c.

2.2 On advertising subsequent Disposals of an Intermediate Dwelling or First Home the Dwelling shall be marketed for sale for the first 3 months to persons who:

- a) Have continuously lived within the District of East Suffolk for the preceding 5 years, OR
- b) Have continuously had a principal place of work within the District of East Suffolk for the preceding 5 years OR
- c) Have parents or close family (i.e. mother, father, son or daughter) who are over 18 and who have lived within the District of East Suffolk for the preceding 5 years

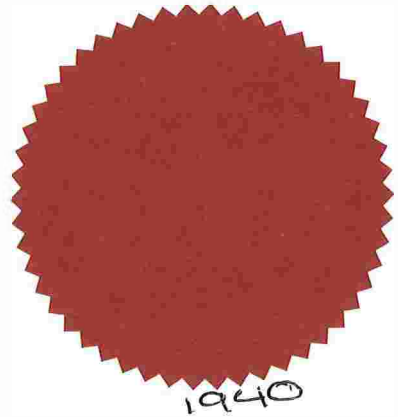
2.3 If there are no purchasers who qualify under paragraph 2.1 and 2.2 above within 3 months of marketing the Affordable Housing Unit it may be sold free of any local connection restrictions.

EIGHTH SCHEDULE

Affordable Housing Mix Table

<u>House Type</u>	<u>Tenure</u>	<u>Number</u>	<u>Plot Number</u>
2 bed 4 person house	Affordable Rent	3	7, 8, 9
3 bed 6 person house	First Home	1	10
3 bed 6 person house	Intermediate Dwelling or First Home (as determined by the Owner)	1	11

THE COMMON SEAL of)
EAST SUFFOLK COUNCIL)
was hereunto affixed to this)
Deed in the presence of:)



Authorised Officer



THE COMMON SEAL of)
SUFFOLK COUNTY COUNCIL)
was hereunto affixed to this)
Deed in the presence of:)



Authorised Officer



SIGNED and DELIVERED as)
a deed by MAURICE PETER)
HOWLAND in the presence of:)



Witness Signature

Witness Name

Witness Address:

Witness Occupation:

ATKINS DELLOW LLP, SOLICITORS
LOW GREEN BARN, LOW GREEN
NOWTON, BURY ST EDMUNDS
SUFFOLK, IP29 5ND