

DATED 8th July 2019

**Deed pursuant to Section 106 of the Town and
Country Planning Act 1990**

MID SUFFOLK DISTRICT COUNCIL (1)

and

SUFFOLK COUNTY COUNCIL (2)

and

CEMEX UK OPERATIONS LIMITED (3)

Relating to

Land on the East side of The Street, Bramford, Ipswich, Suffolk

Birketts

This Deed is made the 8th day of July 2019

Between:

- (1) **MID SUFFOLK DISTRICT COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, Suffolk IP1 2BX ("the District Council") and
- (2) **SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, Suffolk IP1 2BX ("the County Council") and
- (3) **CEMEX UK OPERATIONS LIMITED** (Company Registration No. 00658390) of Cemex House, Evreux Way, Rugby CV21 2DT ("the Owner")

Together "the Parties"

INTRODUCTION

1. 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.
2. The County Council is the local highway authority (except for trunk roads) and is the local education authority and is also a local planning authority for the purposes of the Act for the area in which the Site is situated and by whom the obligations contained in this Deed are enforceable.
3. The ownership and other interests in the Site are as set out in the First Schedule.
4. The Owner submitted the Application to the District Council for the Development and on 27 March 2019 the District Council resolved to grant the Planning Permission for the Development pursuant to the Application subject to the prior completion of this Deed to regulate the Development and to secure the planning obligations contained in this Deed.
5. The District Council enters into this Deed content that the requirements of the District Council's policies are met and that any objections by the District Council to the grant of planning permission on the basis of those policies are overcome.
6. The District Council and the County Council consider and the Owner acknowledges that the Development should not proceed unless certain restrictions regulating the use of the Site are imposed in the manner hereinafter appearing and pursuant to

Section 106 of the Act the Parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.

7. The District Council in resolving to approve the Application is satisfied that the planning obligations sought under the provisions of this Deed meet the tests set out in Regulation 122 and Regulation 123 of the Community Infrastructure Levy Regulations 2010 (as amended).

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

1. DEFINITIONS

For the purposes of this Deed the following expressions shall have the following meanings and shall be read in conjunction with the definitions set out in the Second Schedule:

“Act”	the Town and Country Planning Act 1990 (as amended)
“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 Annexe 2 of the National Planning Policy Framework 2019
“Affordable Housing Contribution”	the sum calculated in accordance with the District Council's affordable housing policies in place at the time to be paid to the District Council to spend on Affordable Housing within the administrative district of the District Council in the event that the Owner is unable to dispose of the Affordable Housing in accordance with the Second Schedule
“Affordable Housing Nomination Agreement”	an agreement substantially in the form set out in the Sixth Schedule (subject to such amendments as may be reasonably required by the Registered Provider 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 Housing Units and “Nomination Agreement”

"Affordable Housing Scheme"	<p>shall have the same meaning</p> <p>a written scheme approved by the District Council as part of the reserved matters application for the written approval of the District Council identifying the location number of bedrooms, mix and tenure of each Affordable Housing Unit (unless otherwise agreed in writing with the District Council)</p>
"Affordable Housing Units"	<p>the Dwellings identified in Paragraph 1.1 of Part 2 of the Second Schedule to this Deed all of which shall be provided on the Site pursuant to the Planning Permission to be Occupied as Affordable Housing in accordance with the Affordable Housing Scheme and for the avoidance of doubt and unless otherwise agreed in writing with the District Council will have a tenancy split of seventy-five per cent (75%) Affordable Rent and shall be Occupied by persons allocated 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 deed of nomination rights as varied from time to time and twenty-five per cent (25%) Shared Ownership and shall be Occupied by persons in accordance with the Government's Help to Buy Scheme (or any subsequent scheme)</p>
"Affordable Rent"	<p>housing made available by a Registered Provider as low-cost rental accommodation (as defined by section 69 of the Housing and Regeneration Act 2008) with a rent charged at a level up to 80% of the equivalent market rent including any service charges applicable or the local housing rate allowance</p>
"Application"	<p>the application for outline planning permission for the Development validated by the District Council on 18 January 2018 and allocated reference DC/18/00233</p>

“Chargee of the Registered Provider”	any mortgagee or chargee of a 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 or housing administrator pursuant to section 101 of the Housing and Planning Act 2016
“Chargee’s Duty”	the tasks and duties set out in paragraph 1.9 of part 2 of the Second Schedule
“Choice Based Lettings Scheme”	an integrated electronic and manual information system which enables members of the public who have made or potentially might make an application for housing in the area to which the Choice Based Letting Scheme relates to apply for a selection of suitable 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”	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, any underground works, construction of access road (whether temporary or permanent), construction of temporary site compound and temporary marketing suite, erection of any temporary means of enclosure/ site security and the temporary display of site notices or advertisements and any other preparatory works as may be agreed with the District Council and “Commence”, “Commenced” and “Commencement” shall be construed

	accordingly
“Completion of the Development”	the date that the last Dwelling is first Occupied
“County Council Nominee”	any person company body or organisation that the County Council shall employ fund or work in partnership with in connection with the design construction commissioning running or maintenance of the Pre-school Facility AND FOR THE AVOIDANCE OF DOUBT the County Council’s Nominee may include any providers of free state education or childcare of any type
“Development”	the residential development of up to one hundred and ninety (190) Dwellings including affordable homes, a site for the pre-school facility, with areas of landscaping and public open space, new access from Loraine Way and pedestrian and cycle links as set out in the Application
“Dwelling”	any dwelling (including a house bungalow flat or maisonette) to be constructed pursuant to the Planning Permission and “Dwellings” shall be construed accordingly
“Footpath improvements Contribution”	the sum of £21,750 (twenty-one thousand seven hundred and fifty pounds) to be paid to the County Council to fund upgrading resurfacing and widening to Bramford FP11 (approximately 340 metres in length)
“Habitats Sites”	those sites on the Suffolk Coast which will be included within the definition of “European site” provided in regulation 8 of the Conservation of Habitats and Species Regulations 2017 (as amended) for the purpose of those regulations
“Habitats Sites Mitigation Contribution”	the sum of up to £38,000 (thirty eight thousand pounds) to be calculated using the Habitat Mitigation Contribution Calculation to be paid to the District Council as a contribution towards the impact of development on the Habitats Sites

“Habitats Sites Mitigation Contribution Calculation”	the sum of £200 (two hundred pounds) multiplied by the total number of Dwellings proposed pursuant to the Planning Permission to calculate the Habitats Sites Mitigation Contribution
“HE”	Homes England or such other organisation as may from time to time be the Regulator of Social Housing within the meaning of section 81 of the Housing and Regeneration Act 2008 or such other body with statutory force charged with regulating Registered Providers
“Index”	All In Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation
“Index Linked”	the increase in any sum referred to in the Second and Third Schedules by an amount equivalent to the increase in the Index to be calculated in accordance with Clause 11 of this Deed
“Late Payment Interest”	interest at 4 per cent above the minimum lending rate of the Bank of England from time to time
“Management Company”	a company or body who will take over responsibility for the future maintenance of the Open Space and which definition may include a resident’s association established for this purpose or a private limited company
“Market Housing Units”	those Dwellings which are general market housing for sale or rent on the open market and which are not Affordable Housing Units
“Nominated Body”	one or any of the following as determined by the District Council: a) Bramford Parish Council; b) the Management Company; or c) such other body as the District Council or Bramford Parish Council may elect and “Nominated Bodies” shall be construed

	accordingly
"Notice of Actual Commencement"	notice in writing to advise of the actual date of Commencement
"Notice of Expected Commencement"	notice in writing to advise of the expected date of Commencement
"Occupation"	occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and "Occupied" and "Occupy" shall be construed accordingly
"Off-Site Highway Works Contribution"	<p>the sum of £184,610 (one hundred and eighty-four thousand six hundred and ten pounds) Indexed Linked to be paid to the County Council to be used for the following purposes only:</p> <ul style="list-style-type: none"> i) to fund junction improvements at the A1071/ B1113 Beagle Roundabout; ii) to fund a new zebra crossing on the B1113 north of the Wild Man access; iii) to fund pedestrian safety on the B1113/ Burstall Lane; and iv) to fund a new cycle link between Sproughton and Bramford;
"Open and Play Space"	the areas of open and play space shown indicatively on the Open and Play Space Plan
"Open and Play Space Plan"	a plan to be submitted to the District Council for approval indicating the location of the Open and Play Space
"Open and Play Space Specification"	the specification for delivery of the Open and Play Space including the specifications plans and drawings showing but not limited to the layout and design of the Open and Play Space,

the phasing and timing of the delivery of the Open and Play Space including details of any landscaping, paths and access arrangements together with details of the proposed future management regime for the Open and Play Space to be agreed in writing with the District Council in accordance with Part 3 of the Second Schedule

“Open and Play Space Transfer”

a transfer of the Open and Play Space to be approved in writing by the District Council and which inter alia shall contain the following provisions:

- 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 and Play Space;
- c) Any exceptions and reservations in relation to drainage and services, support and access of light and air for the benefit of the Development;
- d) Restrictive covenants by the Nominated Body or the Nominated Bodies:
 - (i) Not to use or permit the Open and Play Space to be used for any purpose other than for the provision of recreational facilities or amenity land for use by the general public as open and play space as defined in this Deed and shown on the Open and Play Space Plan;
 - (ii) Not to use or permit the Open and Play 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;

“Plan 1”	the plan attached to this Deed Drawing Number J0010676_507_REV2
“Plan 2”	the plan attached to this Deed Drawing Number J0010676_508_REV6
“Planning Permission”	the outline planning permission subject to conditions which may be granted by District Council pursuant to the Application
“Practical Completion”	the issue of a certificate of practical completion by the Owner’s architect or project manager or in the event that the Development is constructed by a party other than the Owner the issue of a certificate of practical completion by that other party’s architect or project manager
“Pre-school Contribution”	the sum of £281,293 (two hundred and eighty one thousand two hundred and ninety three pounds) (Index Linked) to be paid to the County Council in accordance with the Third Schedule
“Pre-school Facility”	indoor and outdoor facilities for the education and care of pre-school children
“Pre-school Land”	the area of land shown coloured orange for indicative purposes only on Plan 2 for the provision of Pre-school Facility
“Pre-school Land Notice”	the written notice served by the County Council on the Owner: <ul style="list-style-type: none"> (i) affirming the need for the Pre-school Facility; and (ii) requiring transfer of the Pre-school Land to the County Council or if so directed to by the County Council to the County Council’s Nominee;
“Pre-school Land Transfer”	a transfer of the Pre-school Land to be approved in writing by the County Council and which inter alia shall contain the following provisions:

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 pedestrian and vehicular access via a road which is constructed and thereafter maintained by the Owner or a person so authorised by them to the highway adoption standard at the cost of the Owner for the benefit of the Pre-school Land

c) clauses providing that the Pre-school Land shall be fully serviced with full and free rights to the land boundary for the purposes of installing, providing and maintaining utility services including surface water drainage, foul sewer, water, electricity, gas, telephone, and superfast broadband for a pre-school of a stated capacity (provided that such superfast broadband is available within the locality at the time of installation of the services or such other broadband as is available in the event that it is not) and for the avoidance of doubt the Owner will bear the full costs of the installation of the above services;

d) A planning obligations indemnity in respect of the Development from the Owner to the County Council in respect of any breach by the Owner or any obligation contained herein save to the extent that any act or omission of the County Council, its employees or agents has caused or contributed to such expenses or liability;

e) Any exceptions and reservations in relation to drainage and services, support and access of light and air for the benefit of the Development;

f) Restrictive covenants by the County Council or the County Council's Nominee:

i) Not to use or permit the Pre-school Land to

be used for any purpose other than for the provision of the Pre-school Facility as defined in this Deed and as shown on Plan 2 for a period of 25 years from the date of the Pre-school Land Transfer;

(ii) Not to use or permit the Pre-school Land 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 or any individual Dwelling SAVE THAT any ordinary use as a pre-school does not and will not be a breach of this clause;

“Protected Tenant”

any tenant or nominee who has exercised the right to acquire pursuant to the Housing and Regeneration Act 2008 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit

“Registered Provider”

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 HE pursuant to Chapter 3 of that Act

“Shared Ownership”

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 HE's capital funding guide and Shared Ownership Dwellings shall be construed accordingly

“Shared Ownership Lease”

a long lease (over 99 years) of a dwelling granted at a premium whereby no less than 25% and no more than up to seventy percent (70%) on first purchase of the equitable interest in the Shared Ownership Dwelling is paid by a lessee upon 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 lessee to acquire up to one hundred percent (100%) of the legal and equitable interest in the Shared Ownership Dwelling at some future date or dates
“Site”	the land described in the First Schedule against which this Deed may be enforced as shown edged red for identification purposes only on the Plan 1;
“Travel Plan Implementation Figure”	the sum of seventy three thousand six hundred and twenty five pounds (£73,625) Indexed Linked to be paid to the County Council and to be used in accordance with Part 3 of the Fifth Schedule;
“Travel Plan”	a long-term management strategy that seeks to deliver sustainable transport objectives that is regularly monitored, reviewed and updated;
“Working Days”	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, 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 the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeably in that manner.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.
- 2.5 Any reference to an Act of Parliament or Directive of the European Union shall include any modification, extension or re-enactment of that act or Directive for the time being in force and shall include all instruments, orders, plans regulations,

permissions and directions for the time being made, issued or given under that act or Directive or deriving validity from it.

- 2.6 Any 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 District Council and the County Council any successors to its statutory functions.
- 2.7 The headings and contents list are for reference only and shall not affect construction.
- 2.8 References to a "Plan" or "Drawing" in this Deed shall be reference to the plans attached to this Deed bearing the relevant plan number or any amended plans as shall be agreed in writing between the Owner the District Council and the County Council.
- 2.9 None of the covenants contained in this Deed on the part of the Owner shall be enforceable against:-
- (a) those persons who purchase (including purchasers by way of long lease) any Dwelling for occupation by themselves or their lessees tenants or individuals of the Dwellings; or
 - (b) 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.
- 2.10 Any covenant by the Owner not to do an act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done by another person.

3. LEGAL BASIS

- 3.1 This 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 their 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**

The obligations set out in this Deed are conditional upon:

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

save for the provisions of **Clauses 3.4, 7.3, 7.4, 7.5, 7.8, 7.13, 7.14, 9, 15, 18, 21, 22, paragraph 1 of Part 1 of the Second Schedule and paragraph 4 of part 2 of the Third Schedule** and any other relevant provisions which shall come into effect immediately upon completion of this Deed.

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

4.2.1 until such time as such proceedings or challenge including any appeal have been finally resolved the terms and provisions of this Deed will remain without operative effect notwithstanding the issue of the Planning Permission and the Commencement of Development PROVIDED THAT the Owner shall not undertake any further works to implement the Planning Permission following the issue of such proceedings;

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

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

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

4.3.1 proceedings by way of judicial review are concluded:

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

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

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

4.3.2 proceedings under Section 288 of the Act are concluded:

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

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

5. **THE OWNER'S COVENANTS**

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

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

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

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

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

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

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

- 7.3 The Owner agrees to pay to the District Council on completion of this Deed the proper and reasonable legal costs of the District Council incurred in the negotiation preparation and execution and completion of this Deed.
- 7.4 The Owner agrees to pay to the County Council on completion of this Deed the proper and reasonable legal costs of the County Council incurred in the negotiation preparation and execution and completion of this Deed.
- 7.5 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 7.6 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the District Council or the County Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the District Council by the Professional Lead or officer acting under his hand and on behalf of the County Council by the Director of Resource Management or officer acting under his hand and any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.
- 7.7 Following the performance and satisfaction of all the obligations contained in this Deed the District Council shall forthwith on the written request of the Owner mark accordingly all entries made in the Register of Local Land Charges in respect of this Deed.
- 7.8 Insofar as any clause or clauses or paragraphs 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.
- 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 (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of the Development 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 where such breach occurs) but without prejudice to liability for any subsisting breach arising prior to parting with such interest and for the purposes of this clause a person parts with an interest in the Site notwithstanding the retention of easements or the benefit of covenants, restrictions or reservations in respect of it.

- 7.11 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 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 its functions as local authorities.
- 7.13 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.
- 7.14 The Owner covenants and warrants to the District Council and the County Council that they have full power to enter into this Deed and 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.

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 (save for disposals of individual Dwellings or to any statutory undertaker) occurring before all the obligations under this Deed have been discharged such notice to be served within twenty (20) Working Days' of such transfer quoting the District Council's reference DC/18/00233 to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site purchased by reference to a plan and a copy of the registered title and plan thereto.

10. RIGHTS OF ENTRY

- 10.1 At all times on not less than forty eight (48) hours written notice except in case of emergency with or without notice the Owner shall allow any employee or agent of the District Council or the County Council entry to the Site for the purposes of inspection and monitoring compliance with the provisions of this 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 18:00 on any Working Day;
- 10.1.3 such employee or agent may be accompanied by such other persons as may be reasonably necessary;
- 10.1.4 such employee or agent may take photographs measurements and levels;
- 10.1.5 such employee or agent may not remain on the Site for any longer than is reasonably necessary for carrying out a proper inspection;
- 10.1.6 such employee or agent and any other accompanying persons shall comply with the Owner or the Owner's representatives, reasonable directions and all the Owner's compliance precautions, procedures and measures in place for the Site at such time in the interests of health and safety;
- 10.1.7 such employee or agent shall not be entitled to access any Dwellings that have been sold;
- 10.1.8 such employee or agent shall be accompanied at all times by the Owner's manager or person in charge at the Site or such other employee or agent of the Owner in the interests of health and safety except in the event that no such person is available (in accordance with clause 10.1.1).

11. INDEXATION

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

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

11.5 C/D is greater than 1

12. INTEREST

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

13. VAT

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

14. NOTICES

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

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

The District Council	The Acting Chief Planning Officer, Mid Suffolk District Council, Endeavour House, 8 Russell Road, Ipswich, IP1 2BX
The County Council	The Interim Director of Growth, Highways and Infrastructure, Suffolk County Council, Endeavour House, 8 Russell Road, Ipswich, IP1 2BX
The Owner	Cemex UK Operations Limited, Cemex House, Evreux Way, Rugby CV21 2DT

15. DISPUTE RESOLUTION PROVISIONS

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

- 15.2 The Expert shall have no less than ten (10) years' experience of resolving disputes similar in nature to the one that is proposed to be referred pursuant under clause 15.1.
- 15.3 The Parties to the dispute shall jointly appoint the Expert not later than twenty (20) Working Days' after service of a request in writing by any Party to the dispute to do so.
- 15.4 If the Parties to the dispute are unable to agree within twenty (20) Working Days' as to the appointment of such Expert then the Expert shall be appointed on the application of either of the Parties to the dispute as follows:
- 15.4.1 difference or question relates to the rights and liabilities of either Party to the dispute or to the terms or conditions to be embodied in the Deed or document appertaining to the Deed it shall be referred to a solicitor or barrister notified by or on behalf of the President for the time being of the Law Society; or
- 15.4.2 difference or question relates to highway works engineering demolition building or construction works it shall be referred to a chartered civil engineer notified by or on behalf of the President for the time being of the Institution of Civil Engineers; or
- 15.4.3 difference or question relates to the value of any interest in property it shall be referred to a chartered surveyor agreed upon by the Parties but in default of agreement appointed by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors; or
- 15.4.4 if such difference of question relates to planning and related matters it shall be referred to a chartered town planner agreed upon by the Parties but in default of agreement by or on behalf of the President for the time being of the Royal Town Planning Institute.
- 15.5 In the event of a reference to an Expert the Parties to the dispute agree to:
- 15.5.1 prosecute any such reference expeditiously; and
- 15.5.2 do all things or take all steps reasonably necessary in order to enable the Expert to make a final determination as soon as reasonably practicable and in any event within one (1) month of his appointment Provided That if the Expert fails to do so either Party to the dispute may apply to the President for the time being of the Institution of Law Society, Civil Engineers, Royal Institute of Chartered Surveyors or Royal Town Planning Institute (as appropriate) for a substitute to be appointed in which case the same procedure shall be repeated.
- 15.6 The Expert shall invite written representations from each of the Parties.

- 15.7 The Expert will have the power to consolidate proceedings or hold concurrent proceedings.
- 15.8 The findings of the Expert shall be in writing signed by the Expert.
- 15.9 The findings of the Expert shall be final and binding both on the Parties to the dispute except in the case of manifest, material error.
- 15.10 The Expert shall act as an expert and not as an arbitrator.
- 15.11 The costs of the Expert shall be payable by the Parties in such proportion as may be determined by the Expert and failing such determination to be borne in equal shares by the Parties.
- 15.12 Unless this Deed has already been terminated each of the Parties to the dispute shall in every case continue to comply with its obligations under this Deed regardless of the nature of the dispute and notwithstanding the referral of the dispute for resolution pursuant to this clause 15 but without prejudice to the rights and obligations of the Parties to the dispute in relation to the termination of the Deed.
- 15.13 Nothing in the provisions of this clause 15 shall be construed as removing the jurisdiction of the courts to enforce the provisions of this Deed.

16. SATISFACTION OF ANY OF THE PROVISIONS OF THIS AGREEMENT

- 16.1 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 the County Council for a certificate to that effect and upon the District Council or the County Council (acting reasonably) being satisfied that the relevant agreement obligation and covenant as the case may be has been satisfied the District Council or County Council shall forthwith issue a certificate to such effect.

17. APPROVALS

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

18. COMMUNITY INFRASTRUCTURE LEVY

- 18.1 The Parties to this Deed agree that for the purposes of the Community Infrastructure Levy Regulations 2010 (as amended) the obligations imposed in this Deed are:
- 18.1.1 necessary to make the Development permitted pursuant to the Application acceptable in planning terms;

18.1.2 directly related to the Development permitted pursuant to the Application; and

18.1.3 fairly and reasonably related in scale and kind to the Development permitted pursuant to the Application.

19. LAND OUTSIDE THE OWNER'S CONTROL

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

20. FUTURE MORTGAGEES

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

21. JURISDICTION

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

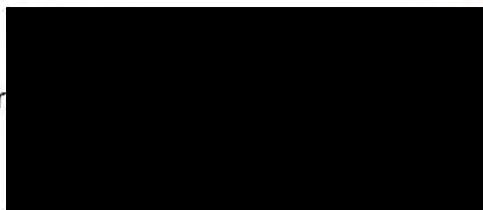
22. DELIVERY

The provisions of this 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

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

Authorised Signator



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

)
)
)



[Redacted]

Authorised Officer

EXECUTED by
**CEMEX UK OPERATIONS
LIMITED** acting by
a director in the presence of:

)
)
)
)

[Redacted]
Director

[Redacted]

Witness Signature:

Full Name: M

Address: c/

Witness Occ

[Redacted]

FIRST SCHEDULE

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

The Freehold land shown edged red on the Plan 1 consisting of the land known as land lying to the east side of The Street, Bramford, Ipswich, Suffolk registered with the Land Registry under Title Numbers SK352907 and SK384543

SECOND SCHEDULE

OWNER'S COVENANTS WITH THE DISTRICT COUNCIL

PART 1

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

PART 2

AFFORDABLE HOUSING

- 1.1 The Development shall consist of up to sixty-seven (67) Affordable Housing Units comprising 8 x 1 bedroom 2 person flats, 10 x 2 bedroom 4 person flats, 4 x 2 bedroom 3 person bungalows, 28 x 2 bedroom 4 person houses, 15 x 3 bedroom 5 person houses and 2 x 3 bedroom 6 person houses and shall be made available as Affordable Rented Housing/Shared Ownership as follows unless otherwise agreed in writing with the District Council:

Affordable Rented – 50 Dwellings

8 x 1 bedroom 2 person flats

6 x 2 bedroom 4 person flats

4 x 2 bedroom 3 person bungalows

19 x 2 bedroom 4 person houses

11 x 3 bedroom 5 person houses

2 x 3 bedroom 6 person houses

Shared Ownership Dwellings – 17 Dwellings

4 x 2 bedroom 4 person flats

9 x 2 bedroom 4 person houses

4 x 3 bedroom 5 person houses

- 1.2 The Owner covenants not to Commence the Development until the Affordable Housing Scheme has been submitted to and approved by the District Council in writing PROVIDED THAT an amended, revised or substituted Affordable Housing Scheme may be approved by the District Council following the Commencement of the Development and once approved by the District Council such scheme will form part of this Deed as if the same had been fully set out herein.
- 1.3 Having given notice under paragraph 1 of the Second Schedule Part 1 above the Owner shall endeavour to agree with the District Council on the identity of the Registered Provider or other body to which the Affordable Housing Units are to be transferred such agreement not to be unreasonably withheld or delayed. The Owner may Commence the Development whilst that process is ongoing but if no agreement has been reached at the expiration of the period of six (6) months' following the Commencement of the Development the District Council shall be entitled to nominate a Registered Provider or other appropriate body for the purpose.
- 1.4 The Owner shall construct the Affordable Housing Units in accordance with the Planning Permission and the Affordable Housing Scheme to a standard of construction which meets the Nationally described Space Standard in place at that time.
- 1.5 Subject to paragraph 1.10 to 1.12 inclusive below the Owner shall not:
- 1.5.1 Occupy or permit Occupation of more than 50% (fifty per cent) of the Market Housing Units until 50% (fifty per cent) of the Affordable Housing Units have been constructed and are ready for Occupation and in the case of the Affordable Housing Units that are either Affordable Rented Housing Units or

Shared Ownership Dwellings that those units have been transferred to the Registered Provider.

- 1.5.2 Occupy or permit Occupation of more than 80% (eighty per cent) of the Market Housing Units until all of the Affordable Housing Units have been constructed and are ready for Occupation and in the case of the Affordable Housing Units that are either Affordable Rented Housing Units or Shared Ownership Dwellings that those units have been transferred to the Registered Provider.
- 1.6 Any transfer to a Registered Provider of the land on which the Affordable Housing Units will be constructed shall be:
 - 1.6.1 with vacant possession;
 - 1.6.2 free from any encumbrance other than those existing as set out in the title at the time of the disposition (save for any financial charge or the transfer of statutory apparatus by the Owner to any statutory undertaker);
 - 1.6.3 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;
 - 1.6.4 subject to a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the purpose of the construction, operation, use, maintenance and management of the Development;
 - 1.6.6 subject to a requirement to enter into the Affordable Housing Nomination Agreement with the District Council.
- 1.7 The Affordable Housing Units shall be Occupied for no other purpose than as Affordable Housing save where provided otherwise in paragraphs 1.8 and 1.9 below.
- 1.8 The District Council and the Owner agree that the obligations and restrictions contained in paragraph 1 of Part 2 of this Second Schedule shall not bind:
 - 1.8.1 a mortgagee, chargee or receiver who has complied with the provisions of paragraph 1.9 of this part of this Schedule below;
 - 1.8.2 any right to acquire purchaser;
 - 1.8.3 any Affordable Housing Unit where a Registered Provider sells to a tenant through Social Homebuy funded pursuant to section 19(3) of the Housing and Regeneration Act 2008, a voluntary grant scheme under section 21 of the Housing Act 1996 or any amendment or replacement thereof;
 - 1.8.4 a leaseholder of a Shared Ownership Dwelling who is entitled to exercise their right under a shared ownership lease to acquire 100% of the equity of their property; or

1.8.5 any person or body deriving title through or from any of the parties mentioned in this paragraph 1.8.

1.9 Any Chargee of a Registered Provider shall prior to seeking to dispose of the Affordable Housing Unit(s) pursuant to any default under the terms of its mortgage or charge give prior written notice to the District Council of its intention to dispose:

1.9.1 in the event that the District Council responds within twenty (20) Working Days' from receipt of a notice indicating that:

- (a) reasonable arrangements for the transfer of the Affordable Housing Unit(s) can be made in such a way as to safeguard it/them as Affordable Housing Unit(s); and
- (b) that such a transfer would take place within two (2) months' from receipt of the notice,

then the Chargee of a Registered Provider shall cooperate with such reasonable arrangements and use reasonable endeavours to secure such transfer.

1.9.2 if the District Council does not serve its response to the notice served under paragraph 1.9 within twenty (20) Working Days' then the Chargee of a Registered Provider shall be entitled to dispose free of the restrictions set out in paragraph 1 of Part 2 of this Second Schedule which shall from the time of the completion of the disposal cease to apply.

1.9.3 if the District Council cannot within two (2) months' of the date of service of its response under paragraph 1.9.1 secure such transfer then provided that the Chargee of a Registered Provider shall have complied with its obligations under paragraph 1.9 the Chargee of a Registered Provider shall be entitled to dispose free of the restrictions set out in paragraph 1 of Part 2 of this Second Schedule which shall from the time of the completion of the disposal cease to apply.

PROVIDED THAT at all times the rights and obligations in this paragraph 1.9 shall not require the Chargee of a Registered Provider to act contrary to its duties and rights under the charge or mortgage and that the District Council must give consideration to protect the interest of the Chargee of a Registered Provider in respect of monies outstanding under the charge or mortgage.

1.10 In the event that the Registered Provider (within two (2) months' of written invitation) is unable to make an acceptable offer to purchase the Affordable Housing Units or no longer wants to purchase the Affordable Housing Units to enable the Owner to transfer the Affordable Housing Units to the Registered Provider pursuant to paragraph 1.6 of this part of this Schedule the Owner shall:

- 1.10.1 notify the District Council three (3) months' prior to the Practical Completion of the Affordable Housing Units;
 - 1.10.2 set out the reasons (together with any supporting evidence) in writing why a transfer to the Registered Provider has not been entered into pursuant to paragraph 1.6 of this part of this Schedule;
 - 1.10.3 submit any other information reasonably requested by the District Council to satisfy why the Owner has not been able to enter into a transfer with the Registered Provider pursuant to paragraph 1.6 of this part of this Schedule;
 - 1.10.4 offer the sixty-seven (67) Affordable Housing Units to the District Council to be purchased by the District Council as Affordable Housing.
- 1.11 In the event the District Council make an acceptable offer to the Owner (within two (2) months' of written invitation) for the Affordable Housing Units then the Owner shall not Occupy or permit Occupation of more than eighty per cent (80%) of the Market Housing Units until the Owner has provided the District Council with a freehold transfer document unconditionally released for completion
- 1.12 In the event the District Council does not make an acceptable offer to the Owner (within two (2) months' of written invitation) to purchase all of the Affordable Housing Units or the District Council indicates that they do not want to purchase the Affordable Housing Units the District Council shall serve on the Owner written confirmation that the Owner shall be permitted to sell the Affordable Housing Units on the open market (such written confirmation not to be unreasonably withheld or delayed) and shall pay the Affordable Housing Contribution to the Council within two (2) months of receipt of that written confirmation (such sum to be calculated in accordance with the Council's policies as are applicable at the time of calculation) in lieu of the provision of Affordable Housing on the Site.
- 1.13 Upon the payment of the Affordable Housing Contribution to the District Council the provisions of this Paragraph 1 of Part 2 of this Second Schedule shall no longer be applicable in respect of the Affordable Housing Units and the Owner shall be free to dispose of the said Affordable Housing Units as Market Housing Units.

PART 3

OPEN AND PLAY SPACE

- 1.1 The Owner hereby covenants with the District Council that prior to Commencement of Development and in parallel with the relevant reserved matter application or discharge of condition application to submit the Open and Play Space Plan and the Open and Play Space Specification to the District Council for approval.

- 1.2 The Owner covenants not to Commence the Development unless and until the Open and Play Space Plan and the Open and Play Space Specification have been approved by the District Council in writing such approval not to be unreasonably withheld or delayed.
- 1.3 If the District Council fails within twenty (20) Working Days' of submission of the Open and Play Space Plan and Open and Play Space Specification to notify the Owner of its approval of the Open and Play Space Plan and the Open and Play Space Specification the Owner shall be entitled to assume deemed approval of the Open and Play Space Plan and Open and Play Space Specification.
- 1.4 The Owner hereby covenants with the District Council not to permit the Occupation of any more than the number of Dwellings specified in the Open and Play Space Specification until the Open and Play Space has been provided in accordance with the approved Open and Play Space Plan and the Open and Play Space Specification.
- 1.5 The Owner further covenants with the District Council at their own cost to maintain and manage the Open and Play Space strictly in accordance with the Open and Play Space Plan the Open and Play Space Specification and the Planning Permission until the date of the Open and Play Space Transfer described in paragraphs 1.7 and 1.8 of this Part 3 of this Second Schedule has been completed and for the avoidance of doubt the Open and Play Space can be transferred in full to the Nominated Body or if the Parties (acting reasonably) so agree in part to different Nominated Bodies.
- 1.6 The Owner covenants that following the District Council's written confirmation that the Open and Play Space has been laid out in accordance with the Open and Play Space Plan and Open and Play Space Specification to transfer by way of a transfer or part thereof as agreed in writing by the District Council to the appropriate Nominated Body and such transfer to include such items as necessary and outlined in the Open and Play Space Transfer and shall for the avoidance of doubt include a covenant that the Open and Play Space shall thereafter be retained and maintained in accordance with the Open and Play Space Plan the Open and Play Space Specification and the Planning Permission for the benefit of all residents of the Development.
- 1.7 The Owner shall transfer the Open and Play Space to the Nominated Body in full or Nominated Bodies in part within twelve (12) months of Occupation of the last Dwelling in accordance with the Open and Play Space Transfer.
- 1.8 The Open and Play Space is to be transferred to the Nominated Body in full or Nominated Bodies in part for the sum of one pound (£1) within twelve months (12 months) of Occupation of the last Dwelling in accordance with the Open and Play Space Transfer.

PART 4

HABITATS SITES MITIGATION CONTRIBUTION

1. The Owner covenants to pay the Habitats Sites Mitigation Contribution to the District Council prior to Commencement of the Development.
2. The Owner covenants not to Commence the Development until the Habitats Sites Mitigation Contribution has been paid in full to the District Council.

THIRD SCHEDULE

OWNER'S COVENANTS WITH THE COUNTY COUNCIL

3. The Owner shall give the County Council Notice of Expected Commencement not less than five (5) Working Days' before the date that the Owner expects Commencement of the Development to occur and (ii) within fifteen (15) Working Days' of Commencement of Development having occurred, the Notice of Actual Commencement in order to confirm that Commencement has occurred.

PART 1

OFF-SITE HIGHWAY WORKS CONTRIBUTION

1. The Owner covenants to pay the Off-Site Highway Works Contribution to the County Council prior to Commencement of the Development.
2. The Owner covenants not to Commence the Development until the Off-Site Highway Works Contribution has been paid in full to the County Council.

PART 2

EDUCATION

1. The Owner covenants to pay the Pre-School Contribution to the County Council prior to the Occupation of fifty per cent (50%) of the Dwellings.
2. From the date of this Deed the Owner hereby covenants not to use or allow or permit any works or activities to be carried out on the Pre-school Land that may render the Pre-school Land unsuitable for use as a Pre-school Facility in any way. Provided That this obligation shall cease to have effect in the event that the Planning Permission expires prior to the Commencement of the Development or if the Planning Permission is quashed, revoked or otherwise withdrawn (without the consent of the Owner) in accordance with clause 7.9 of this Deed.
3. The Owner shall allow the County Council and or the County Council's Nominee or agents access to the Pre-school Land with or without vehicles plant and machinery for the purposes of investigation or verification that the Pre-school Land is suitable for the Pre-school Facility Provided That they comply at all times with the provisions set out in clause 10 (Rights of Entry) of this Deed.
4. In the event that the County Council serves the Pre-school Land Notice then the Owner covenants that within ninety (90) Working Days' of service of the Pre-school Land Notice they shall complete the Pre-school Land Transfer free of encumbrances

or restrictions (save those set out in the title) to the County Council (or if so directed by the County Council to the County Council's Nominee) in exchange for consideration not exceeding in total the sum of one pound (£1) sterling and otherwise on such reasonable terms congruent with the operation of this Deed and the intended use as the Pre-school Facility as shall be agreed between the parties to that transfer.

PART 3

TRAVEL PLANS

1. The Owner covenants to pay the Travel Plan Implementation Figure six (6) months prior to the anticipated date for the first Occupation of the first (1st) Dwelling in accordance with the Owner's build program.

PART 4

FOOTPATH IMPROVEMENTS

1. The Owner covenants to pay the Footpath Improvements Contribution to the County Council prior to Commencement of the Development.
2. The Owner covenants not to Commence the Development until the Footpath Improvements Contribution has been paid in full to the County Council.

FOURTH SCHEDULE
DISTRICT COUNCIL'S COVENANTS

1. The District Council will issue the completed Planning Permission on or within five (5) Working Days' of the date of this Deed.
2. At the written request of the Owner the District Council shall provide written confirmation of the discharge of the obligations contained within this Deed when satisfied (acting reasonably) that such obligations have been performed.

PART 1

AFFORDABLE HOUSING

1. In the event that an Affordable Housing Contribution is paid to the District Council the District Council shall use the monies for the provision of Affordable Housing within the administrative area of the Mid Suffolk District Council.
2. The District Council shall if requested to do so in writing after the expiry of ten (10) years of the date that the Affordable Housing Contribution was paid repay such amount of the Affordable Housing Contribution which has not been committed or expended by the District Council in accordance with the provisions of this Deed to the Owner or such other person who made the payment such repayment to be made within twenty (20) Working Days' of such request.
3. In the event that the Affordable Housing Contribution paid to the District Council pursuant to this Deed was spent or committed by the District Council it shall upon written request after the expiry of ten (10) years of the payment of that sum notify the Owner (or such other person who made the payment) that such monies have been spent or committed within a further period of twenty (20) Working Days' such notice to include full details of what the said monies were spent on or committed to.

PART 2

HABITATS SITES MITIGATION

1. To use the Habitats Sites Mitigation Contribution towards mitigation and avoidance of any recreational disturbance arising from the Development in respect of the Habitats Sites.

2. The District Council shall if requested to do so in writing after the expiry of ten (10) years of the date that the Habitats Sites Mitigation Contribution was paid repay such amount of the Habitats Sites Mitigation Contribution which has not been committed or expended by the District Council in accordance with the provisions of this Deed to the Owner or such other person who made the payment such repayment to be made within twenty (20) Working Days' of such request.

3. In the event that the Habitats Sites Mitigation Contribution has been spent or committed by the District Council it shall upon written request after the expiry of ten (10) years of the payment of that sum notify the Owner (or such other person who made the payment) that such monies have been spent or committed within a further period of twenty (20) Working Days', such notice to include full details of what the said monies were spent on or committed to.

FIFTH SCHEDULE
COUNTY COUNCIL'S COVENANTS

PART 1
HIGHWAYS

1. The County Council shall if requested to do so in writing after the expiry of ten (10) years of the date that the Off-Site Highways Contribution was paid repay such amount of the Off-Site Highways Contribution which has not been committed or expended by the County Council in accordance with the provisions of this Deed to the Owner or such other person who made the payment such repayment to be made within twenty (20) Working Days' of such request.
2. In the event that the Off-Site Highways Contribution paid to the County Council pursuant to this Deed was spent or committed by the County Council it shall upon written request after the expiry of ten (10) years of the payment of that sum notify the Owner (or such other person who made the payment) that such monies have been spent or committed within a further period of twenty (20) Working Days' such notice to include full details of what the said monies were spent on or committed to.

PART 2
EDUCATION

1. In the event that the Pre-school Land is required for the Pre-school Facility the County Council shall serve the Pre-school Land Notice on the Owner within sixty (60) months' from the Commencement of the Development.
2. The County Council covenants not to use the Pre-school Land other than for the purpose of the Pre-school Facility or any ancillary uses (paid or otherwise) that shall not detract from the primary function of the Pre-school Facility.

PART 3
TRAVEL PLANS

1. The County Council covenants to use the Travel Plan Implementation Figure for the County Council or its approved contractor to implement a Travel Plan on behalf of the Owner.
2. The Travel Plan Implementation Figure will not be used to cover the cost of providing new bus services, highway dedication or works to the highway that are related to the Travel Plan.

PART 4
FOOTPATH IMPROVEMENTS

1. The County Council shall if requested to do so in writing after the expiry of ten (10) years of the date that the Footpath Improvements Contribution was paid repay such amount of the Footpath Improvements Contribution which has not been committed or expended by the County Council in accordance with the provisions of this Deed to the Owner or such other person who made the payment such repayment to be made within twenty (20) Working Days' of such request.

2. In the event that the Footpath Improvements Contribution was spent or committed by the County Council it shall upon written request after the expiry of ten (10) years of the payment of that sum notify the Owner (or such other person who made the payment) that such monies have been spent or committed within a further period of twenty (20) Working Days' such notice to include full details of what the said monies were spent on or committed to.