

DATED

10 December

2019

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

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**MID SUFFOLK DISTRICT COUNCIL (1)**

and

**SUFFOLK COUNTY COUNCIL (2)**

and

**THE OFFICIAL CUSTODIAN FOR CHARITIES (3)**

and

**THE TRUSTEES OF THE KERRISON TRUST (4)**

Relating to

Land at the Principal's House, Stoke Road, Thorndon, Eye, Suffolk,  
IP23 7JG

This Deed is made the 10 day of December 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) **THE OFFICIAL CUSTODIAN FOR CHARITIES** (“the Official Custodian”)
- (4) **THE TRUSTEES OF THE KERRISON TRUST** of The Principal’s House, Stoke Road, Thorndon, Eye, Suffolk, IP23 7JG being  
Jane Elizabeth Spring of Flat 5, 50 Queen’s Gate, London SW7 5JN;  
John Ian Saggars of Sutherland House, 105 Thoroughfare, Woodbridge, Suffolk IP12 1AS;  
Diane Sheila Cook of Rockbourne, The Street, Earl Soham, Woodbridge, Suffolk IP13 7SF;  
Sara Elizabeth Michell of Linden House, Lambseth Street, Eye, Suffolk IP23 7AG;  
Robert Anthony John Holliday of Larkfield, Hawstead, Bury St Edmunds, Suffolk IP29 5NH;  
Jacqueline Susan Forsyth of High House, Framlingham Road, Earl Soham, Suffolk IP13 7SN; and  
Simon Christopher Bird QC of Moat House Farm, Chapel Lane, Thornham Parva, Eye, Suffolk IP23 8EX  
(together “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.
3. The Site is vested in the Official Custodian in trust for the Owner.
4. The Owner intends that two of the trustees will execute this Deed using an authority given under section 333 of the Charities Act 2011.
5. The ownership and other interests in the Site are as set out in the First Schedule.

6. The Owner submitted the Application to the District Council for the Development and on 10 July 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.
7. 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.
8. The District Council and the County Council consider 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.
9. 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:

"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 Annex 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

<p>“Affordable Housing Nomination Agreement”</p>	<p>of the Affordable Housing Units in accordance with the Second Schedule</p>
<p>“Affordable Housing Scheme”</p>	<p>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” shall have the same meaning</p>
<p>“Affordable Housing Units”</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>
<p>“Affordable Rent”</p>	<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%) (i.e. 5 Dwellings) Affordable Rent which 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 Nomination Agreement as varied from time to time and twenty-five per cent (25%) (i.e. 2 Dwellings) Shared Ownership and shall be Occupied by persons in accordance with the Government's Help to Buy Scheme (or any subsequent scheme)</p>
<p>“Affordable Rent”</p>	<p>housing made available by a Registered Provider as low-cost rental accommodation (as</p>

	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
“Application”	the application for outline planning permission for the Development validated by the District Council on 22 March 2019 and allocated reference DC/19/01310
“Chargee of the Registered Provider”	any mortgagee or chargee of a Registered Provider or the whole or any part of the Affordable Housing Units or any receiver or manager (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 or any persons or bodies deriving title through them and the term “Chargee” shall be construed accordingly
“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

	<p>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</p>
"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 provision of secondary school transport to Hartismere School
"Development"	the residential development of up to twenty (20) Dwellings including affordable homes and access (following the demolition of existing buildings)
"Dwelling"	any dwelling (including a house bungalow flat or maisonette) to be constructed pursuant to the Planning Permission and "Dwellings" shall be construed accordingly
"Education Travel Contribution"	means the sum of fourteen thousand four hundred pounds (£14,400) Index Linked paid by the Owner to the County Council to be used towards the provision of free travel facilities to students of Hartismere School who live at the Site
"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
“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
“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
“Plan”	the plan marked Site Plan attached to this Deed at the Seventh Schedule
“Planning Permission”	the outline planning permission (with some matters reserved) 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
“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. For the avoidance of doubt this could include the Council
“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;

“Working Days”

Monday to Friday (inclusive) except Good Friday, Christmas Day and any other 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 to the Site and to any person deriving title to the Site 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, 7.9, 7.14, 9, 15, 20, 21, paragraph 1 of Part 1 of the Second 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 and the Official Custodian as set out in the Fourth Schedule.

6.2 The County Council hereby covenants with the Owner and the Official Custodian 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 of any obligation contained herein save to the extent that any act or omission of the District Council and/or the County Council its employees or agents has caused or contributed to such expenses or liability.

7.3 The Owner agrees to pay to the District Council on completion of this 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

7.4.1 the proper and reasonable legal costs of the County Council incurred in the negotiation preparation and execution and completion of this Deed.

7.4.2 the sum of £500 as a contribution towards the County Council's costs of monitoring the implementation 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 affect, prohibit or limit the right or ability to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal).
- 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 from 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/19/01310 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 (or, if earlier, the date on which the sum is paid);
- 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 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	Clerk to the Trustees of the Kerrison Trust care of Howard Felstead, Mills & Reeve LLP, Botanic House, 100 Hills Road, Cambridge CB2 1PH

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 to clause 15.1.

15.3 The parties to the dispute shall jointly appoint the Expert not later than twenty (20) Working Days’ after service of a request in writing by any party to the dispute to do so

15.4 If the parties to the dispute are unable to agree within twenty (20) Working Days’ as to the appointment of such Expert then the Expert shall be appointed on the application of either of the parties to the dispute as follows:

15.4.1 if the 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 if the 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 if the 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 to the dispute 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 or question relates to planning and related matters it shall be referred to a chartered town planner agreed upon by the parties to the dispute 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 to the dispute.
- 15.7 The Expert will have the power to consolidate proceedings or hold concurrent proceedings.
- 15.8 The findings of the Expert shall be in writing signed by the Expert.
- 15.9 The findings of the Expert shall be final and binding on the parties to the dispute except in the case of manifest or 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 to the dispute in such proportion as may be determined by the Expert and failing such determination to be borne in equal shares by such 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 District Council and the County Council 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:



[Redacted Signature]

Authorised Signatory (

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



[Redacted Signature]

Authorised Officer

EXECUTED by )  
DIANE SHEILA COOK )  
in the name and on behalf of )  
THE OFFICIAL CUSTODIAN FOR )  
CHARITIES and )  
of the TRUSTEES OF )  
THE KERRISON TRUST )  
in the presence of: )

[Redacted Signature]

Trustee Signature:

Witness Signature: .... [Redacted] .....

Full Name: .. [Redacted]

Address: ..... [Redacted]

Witness Occupation: [Redacted] .....

EXECUTED by  
**JOHN SAGG**



in the name and on behalf of )  
**THE OFFICIAL CUSTODIAN FOR** )  
**CHARITIES** and )  
of the **TRUSTEES OF** )  
**THE KERRISON TRUST** )  
in the presence of: )

Trustee Signature:



Witness Signature: .....



Full Name: .....



Address: .....



Witness Occupation: .....



## FIRST SCHEDULE

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

#### Part 1

##### Freehold Interests

The Owner is the freehold owner of the land shown edged red on the Plan being part of the property known as The Kerrison School, Stoke Road, Thorndon, Eye registered with the Land Registry under Title Number SK316751, which land is vested in the Official Custodian in trust for the Owner.

#### Part 2

##### Description of Site

The freehold land at the Principal's House, Stoke Road, Thorndon, Eye, Suffolk, IP23 7JG within registered title number SK316751 shown edged red on the Plan.

## 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 Thirty five percent (35%) of the Dwellings shall be provided as Affordable Housing Units comprising 4 x 1 bedroom 2 person flats; 1 x 2 bedroom 4 person house; 1 x 2 bedroom 4 person house and 1 x 3 bedroom 5 person house and shall be made available as Affordable Rented Housing/Shared Ownership as follows unless otherwise agreed in writing with the District Council:

#### **Affordable Rented – 5 Dwellings**

4 x 1 bedroom 2 person flats @ 50 sqm

1 x 2 bedroom 4 person house @ 79 sqm

#### **Shared Ownership Dwellings – 2 Dwellings**

1 x 2 bedroom 4 person house @ 79 sqm

1 x 3 bedroom 5 person house @ 93 sqm

- 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 Part 1 of the Second Schedule 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 and in accordance with current Homes England Housing Technical Standards March 2015 (unless otherwise agreed).
- 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 25% (twenty five 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 or manager (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 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 (“the Chargee’s Notice”) and:

1.9.1 in the event that the District Council responds within one (1) month 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 for a period expiring three months from the date of the Chargee's Notice for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest, costs and expenses and if such disposal has not completed within such period the Chargee shall be entitled to dispose of the relevant Affordable Housing Unit(s) or land free from 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.

1.9.2 if the District Council does not serve its response to the notice served under paragraph 1.9 within one (1) month 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 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 for each dwelling sold (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.

### **THIRD SCHEDULE**

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

1. 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**

#### **EDUCATION TRAVEL CONTRIBUTION**

1. The Owner covenants to pay the Education Travel Contribution to the County Council in full prior to the Occupation of the first Dwelling.
2. The Owner covenants not to Occupy or permit or allow Occupation of the first Dwelling unless and until the Education Travel 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. For avoidance of doubt this can include purchase of land or acquisition of existing dwellings.
2. The District Council shall if requested to do so in writing after the expiry of ten (10) years following 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 one (1) month 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 one (1) month of 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**  
**EDUCATION TRAVEL CONTRIBUTION**

1. The County Council shall use the Education Travel Contribution for the purpose specified in this Deed and for no other purpose.
2. The County Council shall hold the Education Travel Contribution in an interest-bearing account.
3. The County Council shall if requested to do so in writing after the expiry of ten (10) years of the date of Completion of Development, within a further period of one (1) year, either confirm that the Education Travel Contribution was committed or expended by the County Council in accordance with the provisions of this Deed or if it was not so committed or expended in that period pay the Education Travel Contribution (or any part not committed or expended) back to the person who paid it, such payment to be made within twenty eight (28) Working Days of such request.

## SIXTH SCHEDULE

### NOMINATIONS AGREEMENT

THIS DEED OF NOMINATION RIGHTS is made the \_\_\_\_\_ day of \_\_\_\_\_ 201X

BETWEEN:

(1) [ \_\_\_\_\_ ] whose registered address is at [ \_\_\_\_\_ ] ('the Registered Provider') and

(2) **MID SUFFOLK DISTRICT COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, IP1 2BX ('the District Council')

Together "the Parties"

#### 1. Definitions

In this Deed:

1.1 **'Affordable Housing'** means 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 Annex 2 of the National Planning Policy Framework 2019

1.2 **'Affordable Housing Units'** means the seven (7) Dwellings identified in Paragraph 1.1 of Part 2 of the Second Schedule to this Deed all of which shall be Affordable Housing to be provided on the Property of which two (2) Dwellings shall be Shared Ownership and shall be occupied by persons in accordance with the Government's Help to Buy Scheme (or any subsequent scheme) and five (5) Dwellings shall be Rental Dwellings to be let at an Affordable Rent and shall be occupied by persons allocated in accordance with a Choice Based Lettings Scheme to which the District Council is a party or otherwise nominated by the District Council pursuant to this deed of nomination rights as varied from time to time and Affordable Housing Units shall be construed accordingly

1.3 **'Affordable Rent'** means housing made available by a Registered Provider as low cost rent accommodation (as defined by the Housing and Regeneration Act 2008 Section 69) with a rent charged at a level up to 80% of the equivalent market rent inclusive of service charges or the local housing allowance rate

- 1.4 **'Chargee'** for the purposes of this Nominations Agreement means 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 or housing administrator pursuant to section 101 of the Housing and Planning Act 2016
- 1.5 **'Chargee's Duties'** means the tasks and duties set out in Clause 10.4 of this deed
- 1.6 **'Gateway to Homechoice'** means the Greater Haven Gateway sub-regional Choice Based Lettings system (or any replacement or similar system in place at the time)
- 1.7 **'Initial Let'** means the first tenancy of such newly constructed and previously unoccupied Affordable Housing Unit
- 1.8 **'Local Connection Criteria'** means an individual who immediately before taking up occupation of an Affordable Housing Unit:
- 1.8.1 had his only or principal home in the district of Mid Suffolk for a continuous period of not less than two (2) years and in the event that there are no or insufficient individuals qualifying under this sub-paragraph then the choice of person shall default to (but with no preference in ranking order) those individuals fulfilling the criteria set out in the following sub-paragraphs 1.8.2 to 1.8.4 inclusive
- 1.8.2 has or a member of whose household has a parent adult child brother or sister whose only or principal home is and has been for a continuous period of not less than two (2) years in the district of Mid Suffolk and wishes to be near that relative or
- 1.8.3 is employed in the district of Mid Suffolk on the date of the consideration of the individual's entitlement for an Affordable Housing Unit and has been continuously so employed for two (2) years
- 1.8.4 who during the period commencing from the date on which an Affordable Housing Unit to which such individual is eligible pursuant to this sub-paragraph becomes available (for the purposes of this sub-paragraph called the "Availability Date") can provide satisfactory written evidence to the District



Council of his or her former residency in the district of Mid Suffolk for either (i) six (6) months out of the preceding twelve (12) months or (ii) three (3) years out of the preceding five (5) years and in either case such period of former residency shall end with the Availability Date

- 1.9 **'Nomination List'** means the Gateway to Homechoice Short List produced in accordance with the Service Level Agreement
- 1.10 **'Nominee'** means a person named on the Nomination List who satisfies the Local Connection Criteria and is verified by the District Council as best meeting the criteria for the category of Affordable Housing Unit in respect of which the Registered Provider is to select a person from the Nomination List and offer a Tenancy Agreement
- 1.11 **'Practical Completion'** means issue of a certificate of practical completion by the Registered Provider's surveyor or in the event that the Affordable Housing Units are constructed by a party other than the Registered Provider the issue of a certificate of practical completion by that other party's surveyor
- 1.12 **'Property'** means the Affordable Housing Units which are located on land adjacent to the Principal's House, Stoke Road, Thorndon, Eye, Suffolk, IP23 7JG shown edged red on the plan annexed
- 1.13 **'Protected Tenant'** means any Nominee who has exercised the right to acquire pursuant to the Housing and Regeneration Act 2008 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit
- 1.14 **'Registered Provider'** means a registered provider of social housing as defined in section 80(2) of the Housing and Regeneration Act 2008 and listed in the register kept by Homes England Chapter III of that Act
- 1.15 **"the Service Level Agreement"** means the Gateway to Homechoice service level agreement or such other service level agreement for the time being in force made between the Registered Provider and Others (1) and the District Council and Others (2)

- 1.16 **'Shared Ownership Dwelling'** means an Affordable Dwelling to be let on a Shared Ownership Lease in accordance with the terms as set out in Homes England's capital funding guide or any other such guidance as shall replace it
- 1.17 **'Shared Ownership Lease'** means a lease or sub-lease of an Affordable Dwelling granted at a premium whereby not less than 25% and up to 70% of the Open Market Value on first purchase of the legal and equitable interest in the Affordable Dwelling is paid by the tenant 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 tenant to acquire up to 100% of the legal and equitable interest in the Affordable Dwelling at some future date or dates and which lease shall allow a rent to be charged on the remainder of the equitable interest not purchased such rent not to exceed an annual sum calculated at 2.75% of the value of the equity retained by the Registered Provider at the date of the grant of the Shared Ownership Lease or such other figure permitted by Homes England from time to time and any capital receipt received by the Registered Provider in excess of eighty per cent (80%) as a result of the tenant exercising their right to staircase out to one hundred per cent (100%) shall be retained by the Registered Provider for re-investment in Affordable Housing within the district of Mid Suffolk for a period of five (5) years from the date of receipt and if not spent within 5 years the Registered Provider will be able to expend such sums for Affordable Housing elsewhere
- 1.18 **'Tenancy Agreement'** means an assured tenancy agreement in a form prepared by the Registered Provider and containing terms which accord with the form of tenancy agreement being used by the Registered Provider from time to time for its general lettings
- 1.19 **'Vacancy Notice'** means a written notice (in a form to be agreed between the Registered Provider and given by the Registered Provider to the District Council within one month from the date of this Deed) the function of such notice being the notification

to the District Council by the Registered Provider of the expected date on which the construction and fitting out of the Affordable Housing Units will be complete

1.20 **'Void'** means an Affordable Housing Unit which is vacant otherwise than as a result of the tenant having:

1.20.1 moved to other accommodation either by transfer or decant provided by the Registered Provider

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

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

1.21 **'Void Notice'** means a written notice given by the Registered Provider to the District Council (in a form to be agreed between the Registered Provider and the District Council within one month from the date of this Deed) the function of such a notice being the notification to the District Council of a Void

1.22 **'Working Day'** means Monday to Friday (inclusive) except Good Friday, Christmas Day and any other public or bank holidays from time to time in England

## **2 Enabling Provisions**

This Deed is made pursuant to the Local Government Act 1972 Section 111 and all other enabling powers

## **3 Procedure**

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

### **3.1 Initial lets**

In relation to the Initial Lets of the Affordable Housing Units the following provisions shall apply

3.1.1 The Registered Provider shall give the District Council not less than three (3) months' written notice of the date when all the Affordable Housing Units will be ready for occupation

3.1.2 The Registered Provider shall serve a Vacancy Notice upon the District Council in respect of an Affordable Housing Unit not earlier than two (2) months prior to an Affordable Housing Unit becoming available for occupation

### **3.2 Voids**

Should any Affordable Housing Unit 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 Gateway to Homechoice Service Level Agreement procedure shall apply

## **4. Supplemental provisions relating to allocating Initial Lets and Voids**

4.1 Where there are two or more applicants applying to occupy one of the Affordable Housing Units the Local Connection Criteria set out in clause 1.8.1 to 1.8.5 of this Schedule shall apply and subject to clause 4.2 of this Schedule preference must be given to the applicant/s who have the highest housing need according to the District Council's current allocations policy

4.2 If any of the Affordable Housing Units are designed or adapted for people with disabilities then any such Dwelling may be first offered to a person or persons with disabilities who require such accommodation even where such person(s) have a lesser Local Connection under clauses 1.8.1 to 1.8.5 of this Schedule than someone who does not have disabilities

## **5. Registered Provider covenants**

The Registered Provider covenants with the District Council to the intent that the Local Government (Miscellaneous Provisions) Act 1982 applies:

- 5.1 To ensure the Affordable Housing Units comprised within the Property are used as Affordable Housing Units
- 5.2 To ensure that the Affordable Housing Units are let on the basis of a Tenancy Agreement at an Affordable Rent or as Low-Cost Home Ownership and they are all retained and managed by a Registered Provider in accordance with the objectives of such Registered Provider
- 5.3 the Affordable Housing Units are constructed in accordance with current Homes England design and space standard requirements

**6. Alteration of lists**

- 6.1 The District Council and the Registered Provider agree that the nomination rights contained in this Deed may be varied from time to time by agreement in writing by the Parties

**7. Notices**

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

**8 Transfer to other Registered Provider**

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

## **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 Agreements and declarations**

The Parties agree:

- 10.1 Nothing in this Deed fetters or restricts the exercise by the District Council of any of its powers
- 10.2 The obligations and covenants contained in this Deed are covenants for the purpose of the Local Government (Miscellaneous Provisions) Act 1982 Section 33
- 10.3 From the date of Practical Completion the Affordable Housing Units shall be let in accordance with the terms of this deed save that the obligations and restrictions contained in this deed shall not be binding on:
  - 10.3.1 any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from a Protected Tenant or any successor in title thereto and their respective mortgagees and chargees; or
  - 10.3.2 any Chargee and any successor in title to the Chargee PROVIDED THAT the Chargee shall have first complied with the Chargee's Duty; or
  - 10.3.3 any mortgagee and any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor and any successor in title to either of them
- 10.4 The Chargee shall prior to seeking to dispose of the Affordable Housing Unit(s) pursuant to any default under the terms of its mortgage or charge give not less than two (2) months' prior notice to the District Council of its intention to dispose and:



The COMMON SEAL of )  
[ ] )  
was affixed in the presence of: )

Authorised Signatory



**SEVENTH SCHEDULE**

**Site Plan**



Kerrison Cottages



26280

The  
Kerrison  
Chapel  
El Sub Sta

Gill Court



Settles  
House

Kerrison  
Conference Centre

STOKE ROAD

The  
Principles  
House

Playing Field

12365



Tree-Tops



Corvara

The Meads

Ron-de-ville

0m 10m 20m 30m

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