DATED	12th June	2020
	BABERGH DISTRICT COUNCIL	(1)
	SUFFOLK COUNTY COUNCIL	(2)
	PERSIMMON HOMES LIMITED	(3)

Planning Obligation by Deed of Agreement under Section 106 of the Town and Country Planning Act 1990 relating to land to the South of Ipswich Road, Hadleigh, Suffolk

Planning application reference: DC/17/03902

Birketts

Birketts LLP: Offices in Cambridge | Chelmsford | Ipswich | Norwich

BETWEEN:

- (1) BABERGH DISTRICT COUNCIL of Endeavour House, 8 Russell Road, Ipswich, Suffolk, IP1 2BX ("the Council")
- (2) SUFFOLK COUNTY COUNCIL of Endeavour House, 8 Russell Road, Ipswich, Suffolk, IP1 2BX ("the County Council")
- (2) PERSIMMON HOMES LIMITED (Company Number 04108747) of Persimmon House, Fulford, York, YO19 4FE ("the Developer")

Together "the Parties"

INTRODUCTION

- (A) The Council is the local planning authority for the purposes of the Act for the area in which the Site is situated and by whom the obligations contained in this Deed are enforceable
- (B) The County Council is the local education authority and highway authority and also a local planning authority for the purposes of the Act for the area in which the Site is situated and by whom the obligations contained in this Deed are enforceable
- (C) The Developer is the freehold owner of the Site as set out in Schedule 1.
- (D) The Developer submitted the Application to the Council for the Development and the Council has resolved to grant planning permission for the Development pursuant to the Application subject to the prior completion of this Deed to regulate the Development and to secure the planning obligations contained in this Deed.
- (E) The Council enters into this Deed to the intent that the requirements of the Council's policies are met and that any objections by the Council to the grant of planning permission on the basis of those policies are overcome.
- (F) The Council and the County Council considers and the Developer acknowledges that the Development should not take place until certain restrictions regulating the use of the Site are imposed in the manner hereafter appearing and pursuant to Section 106 of the Act the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.
- (G) The Council in resolving to approve the Application is satisfied that the planning obligations sought under the provisions of this Deed meet the tests set out in

Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

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 buy or rent housing generally available on the open market in accordance with Annexe 2 of the National Planning Policy Framework 2019;
"Affordable Housing Nomination Agreement"	an agreement substantially in the form set out in Schedule 6 (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;
"Affordable Housing Scheme"	A scheme in compliance with drawing ref 939-P-160 Revision A submitted as part of the reserved matters reference DC/17/03902 unless otherwise agreed in writing with the Council
"Affordable Housing Table"	the table at part 3 of Schedule 2 setting out the type and tenure mix of the Affordable Housing Units

"Affordable Housing Units"	Means thirty-five per cent (35%) (rounded to the nearest whole number) of the Dwellings to be provided on the Site as Affordable Housing on the Site of which seventeen (17) Dwellings shall be Shared Ownership and forty-three (43) Dwellings will be for Affordable Rent with the locations to be agreed in writing by the Council in the Affordable Housing Scheme and to be delivered in accordance with Schedule 2;
"Affordable Rent"	means housing made available by a Registered Provider as low-cost rental accommodation (as defined by the Housing and Regeneration Act 2008 Section 69) with a rent charged at a level up to 80% of the equivalent market rent including any service charges applicable;
"Application"	means the application for full planning permission to develop the Site in accordance with the application plans and other materials submitted to the Council for the Development allocated reference number DC/17/03902;
"Chargee"	Any mortgagee or chargee of the Registered Provider's interest 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 of the whole or any part of the Affordable Dwellings or any persons or bodies deriving title through such mortgagee or chargee;
"Chargee's Duty"	the tasks and duties set out in schedule 2, part 2, paragraph 8 of this Deed;

"Choice Based Lettings	an integrated electronic and manual information system
Scheme"	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 Council is a party;
"Commencement of	the date on which any material operation (as defined in
Development"	Section 56(4) of the Act) forming part of the Development begins to be carried out on the Site other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure and the temporary display of site notices or advertisements and "Commence Development" and "Commencement Date" shall be construed accordingly;
"Completion Date"	the date that the last Dwelling is first Occupied;
"Development"	Residential development comprising of 170 dwellings, associated infrastructure, the provision of Public Open Space and Structural Landscaping and 0.65 hectares (10,000 sq ft.) of Class A1, A3 and B1 employment uses and associated infrastructure and landscaping
"Dwelling"	any dwelling (including a house flat maisonette or bungalow) to be constructed pursuant to the Planning Permission and "Dwellings" shall be construed accordingly;
"Early Years	the sum of £196,110.00 (one hundred and ninety-six
Contribution"	thousand, and one hundred and ten pounds) subject to Indexation in accordance with clause 12
"Employment Land"	Means the area shown on the Plan outlined in

"Employment Use"	Means for employment generating uses (Classes A1) and B1) as included in the outline application and/or a use providing service to the local community this all includes any use that with the benefit of subsequently planning permission creates new jobs and/or allows to Council to procure job creating opportunities with Hadleigh
"Gym Trail"	Means outdoor fitness equipment located along pedestrian friendly route the details of which shall provided within a gym trail provision statement within the Open Space Specification that shall accompain detailed landscape drawings required by condition such equipment as shall have been approved shall be installed in accordance with such landscaping details shall have been approved and in accordance with the relevant landscape condition 13
"Homes England"	the non-departmental public body responsible for creating thriving communities and affordable homes. England and which is the Regulator of Social Housing within the meaning of section 81 of the Housing and Regeneration Act 2008 or such other body that me replace it in either function;
"Index"	All In Tender Price Index published by the Building Co Information Service of the Royal Institution of Charters Surveyors or any successor organisation or (if that index shall cease to be published or is otherwise unavailable such alternative basis of indexation as may be agreed between the Council and the Developer;
"Index Linked"	the increase in any sum referred to in Schedule 2 at Schedule 3 by an amount equivalent to the increase the Index to be calculated in accordance with Clause of this Deed;
"Interest"	Interest at four (4) per cent above the base lending re of the Bank of England from time to time;
"LEAP"	means the fenced area to be provided by the Developmenth within the Open Space as a locally equipped area play in accordance with the Open Space Specification

"Management Company"	a company or body who will take over responsibility for the future maintenance of the Open Space and which may include a resident's association or residents management company being a private company limited by guarantee established or incorporated for this purpose		
"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 Commencement Date;		
"Notice of Expected Commencement"	notice in writing to advise of the expected Commencement Date;		
"Occupation" and	occupation for the purposes permitted by the Planning		
"Occupied"	Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations;		
"Open Space "	the areas of publicly accessible open space to be made available for public use in perpetuity as shown on the Open Space Plan to include a LEAP and Gym Trail to be provided in accordance with the Open Space Specification;		
"Open Space Commuted Sum"	Means the sum of £67,216.00 to be paid to the Council in accordance with schedule 2 part 4 paragraph 9 of this deed to spend on the maintenance of the Open Space		
"Open Space Plan"	means the plan to be provided by the Developer showing the Open Space LEAP and Gym Trail in accordance with the Open Space Specification and to be provided in accordance with the provisions of schedule 2 part 4 of this Deed		

"Open Space Transfer"	A transfer of the Open Space to be approved of in writing
	by the Council and which inter alia shall contain the
	following provisions:
	a) The Developer shall transfer the fee simple
	estate free from encumbrances save those set out in the
	title;
	b) All easements and rights necessary in relation
	to access for the benefit of the Open Space;
	c) Any exceptions and reservations in relation to
	drainage and services, support and access of light and
	air for the benefit of the Development;
	d) Restrictive covenants by the Transferee;
	(i) Not to use or permit the Open Space to be used
	for any purpose other than for the provision of
	recreational facilities or amenity land for use by the
	general public as open space;
	(ii) Not to use or permit the Open Space to be used
	in a manner which may be or become a nuisance
	(whether or not amounting to a legal nuisance),
	annoyance, disturbance or cause damage to the rest of
	the Development;
	the state of the state of and labelled
"Plan"	Means the plan attached to this deed and labelled "Employment Land Plan" drawing number 939-LP-9002
	Revision B
	REVISIONS
"Planning Permission"	The planning permission subject to conditions as may
	be granted by the Council pursuant to the Application
(Dratical Completion)	means the completion of a Dwelling to a standard which
"Practical Completion"	is wind and watertight and fit for habitation in terms of
	heating, plumbing, electrics and sanitation and
	"Practically Complete" shall be construed accordingly;
	radically complete shall be constitued accordingly,

	any parean who:			
"Protected Person"	any person who:			
	a) has exercised the right to acquire pursuant to the Housing and Regeneration Act 2008 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit;			
	 b) has exercised any statutory right to buy or preserved right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit; 			
	 c) any person who has staircased the equity in their Shared Ownership Dwelling to 100%; 			
	d) any successor in title to paragraph a- c above;			
(D. L.U. Diable of Mov.	the sum of £100,100.00 (one hundred thousand			
"Public Right of Way Contribution"	one hundred pounds).			
"Reasonable	Offer prices from Registered Providers which give the			
Consideration"	Developer a reasonable consideration having regard to current market conditions in the disposal of Affordable Housing of a similar type and location by Registered Providers on a grant free basis via Section 106 Agreements;			
"Registered Provider" or "RP"	an organisation which is a private Registered Provider of social housing or other provider registered in accordance with the provisions of chapter 3 of the Housing and Regeneration Act 2008 and whom has been approved by the Council in writing;			
"Rental Dwelling"	means an Affordable Housing Unit which is to be let a an Affordable Rent or social rent and is let on the Registered Provider's standard form of letting ir accordance with the terms of this Deed by a Registered Provider;			

"Shared Ownership	Dwellings to be let on a Shared Ownership Lease to a
Dwellings"	household for which the household income does not exceed Eighty thousand pounds (£80,000) per annum or such other household income for the time in force in accordance with the terms as set out in Homes England's capital funding guide;
"Shared Ownership	a lease in a form approved by Homes England or where
Lease"	there is no such form in a form approved by the Council
	such lease to provide for the following:
	- not more than seventy percent (70%) and not less than
	twenty-five percent (25%) of the equity (or such other
	percentages the Council may agree) shall be initially
	sold to the purchaser by the Registered Provider;
	- power to the purchaser to increase their ownership up
	to 100% if they so wish;
	- an initial rent not exceeding 2.75% of the value of the equity retained by the Registered Provider subject to annual increases not exceeding Retail Price Index (All Items) published by the Office for National Statistics (or if such index ceases to be published such other index as the Council shall reasonably determine) plus 0.5% or such other rent as complies with the requirements from time to time of Homes England;
"Serviced"	Means the provision of utilities and vehicular access to
	the boundary of the Employment Land constructed to
	(with the exception of the vehicular access which is to
	constructed to at least base course only) an adoptable
	standard suitable for the beneficial use and occupation
	of the Employment Land for Employment Land use with
	a free right to connect to the same including those that
	are within to the site boundary
"Site"	Means the land shown edged red on the Plan and
	described in the First Schedule against which this Deed may be enforced;

0000	means the sum of £250,000.00 (two hundred and fifty thousand pounds) subject to BCIS Indexation commencing from the completion of the Original Section 106 Agreement
"Travel Plan Contribution" "Working Days"	means the sum of £70,460.00 (seventy thousand four hundred and sixty pounds Means any day Monday to Friday inclusive except bank or public holidays in England.

CONSTRUCTION OF THIS DEED

- Where in this Deed reference is made to any clause sub-clause paragraph subparagraph schedule or recital such reference (unless the context otherwise requires) is a reference to a clause sub-clause paragraph sub-paragraph schedule or recital in this Deed;
- Words importing the singular meaning where the context so admits include the plural meaning and vice versa;
- 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;
- Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise;
- 2.5 Any reference to an Act of Parliament shall include any modification, extension or reenactment of that act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that act or deriving validity from it;
- 2.6 References to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council its successor or successor in title to its relevant statutory functions;
- 2.7 Any covenant by the Developer 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;
- 2.8 The headings are for reference only and shall not affect construction.

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- This agreement is a Deed 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 Developer under this Deed create planning obligations pursuant to section 106 of the Act and are enforceable by the Council and County Council as a local planning authorities against the Developer and their successors in title SAVE that the obligations will not be enforceable against individual purchasers or tenants of any Dwelling (save in respect of the Affordable Dwellings which shall be enforceable in respect of any restriction on use or Occupation only) nor their mortgages or persons deriving title from them

4. CONDITIONALITY

- 4.1 The planning obligations contained in the Schedules to this Deed are conditional upon:
 - 4.1.1 the grant of the Planning Permission; and
 - 4.1.2 the Commencement of Development

the remainder of this Deed shall come into effect immediately upon completion of this Deed

5. THE DEVELOPER'S COVENANTS

- 5.1 The Developer covenants with the Council so as to bind the Site and each and every part thereof as set out in Schedule 2;
- 5.2 The Developer covenants with the County Council so as to bind the Site and each and every part thereof as set out in Schedule 3;

6. **COUNCIL'S COVENANTS**

6.1 The Council covenants with the Developer as set out in Schedule 4.

7. COUNTY COUNCIL'S COVENANTS

7.1 The County Council covenants with the Developer as set out in Schedule 5.

8. MISCELLANEOUS

8.1 The Council and the County Council and the Developer agree that the covenants contained in the Fourth Schedule and the Seventh Schedule of the Original Section 106 Agreement are extinguished

- The Developer shall pay to the Council and the County Council on completion of this Deed their respective reasonable legal costs incurred in the negotiation, preparation and execution of this Deed;
- 8.3 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999;
- 8.4 This Deed shall be registered as a local land charge by the Council;
- Where the agreement, approval, consent or expression of satisfaction is required by the Developer from the Council or the County Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the Council by the Head of Planning Services (or the equivalent officer of the Council fulfilling such functions) and on behalf of the County Council by the Executive Director of Growth, Highways and Infrastructure.
- 8.6 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;
- 8.7 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed;
- 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 Developer) it is modified by any statutory procedure or expires prior to the Commencement of Development;
- 8.9 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site (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;
- 8.10 This Deed shall not be binding on any statutory undertaker or other person who acquires any part of the Site or an interest in it for the purposes of the supply of electricity gas water telecommunications or highways in connection with the Development of the Site;

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- This Deed shall be enforceable against owner-occupiers or tenants of Dwellings constructed pursuant to the Planning Permission only in respect of any restriction on Occupation and use and likewise against those deriving title from them;
- 8.12 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed;
- 8.13 Nothing contained or implied in this Deed shall prejudice or affect the rights, discretions, functions, powers, duties and obligations of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority;
- 8.14 The Developer covenants from the date that this Deed takes effect to allow the Council and its respectively duly authorised officers or agents at all reasonable times to enter into and upon the Site for the purposes of monitoring compliance with the provisions of this Deed;
- 8.15 The Developer further agrees declares and covenants to pay the County Council on Commencement of the Development the reasonable fee to be incurred by the County Council for monitoring compliance with the obligations within this deed in the sum of £1,236 (one thousand, two hundred and thirty-six pounds).
- 8.16 The Developer further agrees declares and covenants to pay the District Council on Commencement of the Development the reasonable fee to be incurred by the District Council for monitoring compliance with the obligations within this deed in the sum of £2,500 (two thousand and five hundred pounds)
- 8.17 The Developer agrees that any rights to claim compensation arising for any limitations or restrictions on the planning use of the Site under the terms of the Deed are hereby waived;
- 8.18 Save as otherwise provided in this Deed all works and activities to be carried out under the terms of this Deed (including for the avoidance of doubt such works as are of a preparatory ancillary or of a maintenance nature) are (save where expressly provided otherwise) to be at the sole expense of the Developer and at no cost to the Council;
- 8.19 Nothing contained or implied in this Deed shall prejudice or affect the rights, discretions functions powers, duties and obligations of the Council and the County Council under all statutes by-laws statutory instruments orders and regulations in their exercise of their functions as a local authority;
- 8.20 The Developer covenants and warrants to the Council and the County Council that they have the full power to enter into this Deed and there is no other person other

than the Developer whose consent is necessary to make this Deed binding on the Site and all estates and interests therein.

Unless the Council states otherwise in writing this Deed shall continue to be valid and enforceable following an amendment or variation to the Planning Permission achieved through the submission of a planning application pursuant to section 73 of the 1990 Act as if this Deed had been completed pursuant to such an application and the parties shall comply with the terms of this Deed with the intention that the provisions of this Deed will apply as if the definition of the Planning Permission and the Planning Permission and the Development in this Deed included the new planning permission granted as a result of such an application so as to bind both the original planning permission and the new planning permission and a memorandum of that agreement shall be endorsed on the face of the Deed which is recorded on the planning register

9. WAIVER

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

10. CHANGE IN OWNERSHIP

- As qualified by the following sub-clause the Developer agrees with the Council to give each of them immediate written notice of any change in ownership of any of their interests in the Site occurring before all the obligations under this Deed have been discharged such notice quoting the Council's reference DC/17/03902 and giving details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan and the title number or numbers thereof;
- 10.2 The Developer shall not be obliged to notify the Council of every plot or Dwelling disposal.

11. DISPUTE PROVISIONS

11.1 In the event of any dispute or difference arising between any of the Parties in respect of any matter contained in this Deed such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert ("the Expert") whose

decision shall be final and binding on the Parties to the dispute in the absence of manifest error and any costs shall be payable by the Parties to the dispute in such proportion as the Expert shall determine and failing such determination shall be borne by the Parties to the dispute in equal shares;

- In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 11.1 or as to the appropriateness of the professional body then such question may be referred by either part to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all Parties to the dispute in the absence of manifest error and his costs shall be payable by the Parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the Parties to the dispute in equal shares;
- 11.3 Any Expert howsoever appointed shall be subject to the express requirement that a decision is reached and communicated to the relevant Parties to the dispute within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight (28) Working Days after the conclusion of any hearing that takes place or twenty-eight (28) Working Days after he has received any file or written representation;
- 11.4 The Expert shall be required to give notice to each of the said Parties to the dispute requiring them to submit to him within ten (10) Working Days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten (10) Working Days;
- The provisions of this clause shall not affect the ability of the parties to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, any other means of enforcing this Deed and consequential and interim orders and relief.

12. INDEXATION

- 12.1 Any sum referred to in Schedule 2 and Schedule 3 shall be increased by an amount equivalent to the increase in the Index from the date hereof until the date on which such sum is payable using the application of the formula A = B x C/D where:
 - 12.1.1 A is the sum payable under this Deed;
 - 12.1.2 B is the original sum calculated as the sum payable;
 - 12.1.3 C is the Index for the month two (2) months before the date on which the sum is payable;

- D is the Index for the month two (2) months before the date of this Deed;
- 12.1.5 C/D is Not less than 1
- The sum referring to the Strategic Highways Contribution shall be increased by an amount equivalent to the increase in the Index from the date of the Original Section 106 Agreement until the date on which such sum is payable using the application formula A=B x C/D where:
 - 12.2.1 A is the sum payable under this Deed;
 - 12.2.2 B is the original sum calculated as the sum payable;
 - 12.2.3 C is the Index for the month two (2) months before the date on which the sum is payable;
 - D is the Index for the month two (2) months before the date of the Original Section 106 Agreement; and
 - 12.2.5 C/D is Not less than 1

13. INTEREST ON PAYMENTS

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

14. **VAT**

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

15. JURISDICTION

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

16. **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.

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and

[GART /VAN LEE]

signed(Altorney)

In the presence of:

Witness signature

Witness name STUALT MS +0 AM

Address PERSIMMEN HOUSE, ORIGINALIT GREAT BLAKENHAMI IPE OLL

SCHEDULE 1

DETAILS OF TITLE AND DESCRIPTION OF THE SITE

The Freehold land shown edged with part on the Plan being land on the South side of Ipswich Road, Hadleigh, Suffolk registered at the Land Registry under title number SK317935.

SCHEDULE 2

THE DEVELOPER COVENANTS WITH THE COUNCIL

Part 1

- 1. The Developer shall give the Council Notice of Expected Commencement not less than seven (7) days before the date that the Developer expect Commencement of the Development to occur and (ii) within twenty-one (21) days of Commencement of Development shall give the Council Notice of Actual Commencement in order to confirm Commencement has occurred.
- 2. The Developer shall give the Council no less than two (2) months' written notice of the anticipated date for the first Occupation of the first Dwelling to be Occupied.
- 3. The Developer shall within five (5) Working Days' give written notice to the Council of the following:
 - 3.1.1 The date the Affordable Housing Units have been made ready for residential Occupation and have been transferred to the approved Registered Provider or the Council as may be agreed
 - 3.1.2 The date of Occupation of the first Dwelling
 - 3.1.3 The date of Occupation of 50% of the Market Housing Units
 - 3.1.4 The date of Occupation of 80% of the Market Housing Units
 - 3.1.5 The date of Occupation of the final Dwelling
 - 3.1.6 Completion of the Development

Part 2 Affordable Housing

- The Developer covenants not to Commence Development until the Affordable Housing Scheme has been submitted to and approved by the Council in writing PROVIDED THAT an amended, revised or substituted Affordable Housing Scheme may be approved by the Council following the Commencement of the Development and once approved by the Council such scheme will form part of this deed as if the same had been fully set out herein
- Having given notice under paragraph 1 of this Schedule 2 Part 1 above the Developer shall endeavour to agree with the 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 Developer may Commence the Development whilst that process is ongoing but if no agreement has been reached at the expiration of the period of four (4) months following the Commencement of the Development the Council shall be entitled to nominate a Registered Provider or other appropriate body for the purpose

- 3. To construct the Affordable Housing Units in accordance with the Planning Permission and to a standard of construction that meets Homes England construction standards and complies with the internal space requirements as detailed in the Nationally Described Space Standards March 2015
- 4. The Developer shall not

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- 4.1 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
- 4.2 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
- 5. Any transfer to a Registered Provider of the land on which the Affordable Housing Units will be constructed shall be:
 - 5.1 with vacant possession;
 - free from any encumbrance other than existing at the time of the disposition (save for any financial charge or the transfer of statutory apparatus by the Developer to any statutory undertaker);
 - 5.3 subject to grant by the Developer 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;
 - 5.4 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;

- subject to a requirement to enter into the Affordable Housing Nomination Agreement with the Council and completed between the Council and the Registered Provider within one (1) month of the date of the transfer(s) to it of the Affordable Housing Units
- 6. The Shared Ownership Dwellings shall only be Occupied by persons allocated in accordance with the Government's Help to Buy Scheme (or any subsequent scheme) and the Rental Dwellings shall only be Occupied by persons allocated in accordance with a Choice Based Lettings Scheme to which the Council is a party or chosen pursuant to the deed of nomination rights made pursuant to paragraph 5 of this part 2 schedule 2 which confers nomination rights on the Council unless otherwise agreed by the Council in writing.
- 7. The Owner covenants so as to bind any Registered Proprietor as successor in title that once a leaseholder of a Shared Ownership Unit acquires 100% of the equity in that unit then the capital receipt between 80% and 100% received by the Registered Proprietor is to be recycled by that Registered Proprietor and used to provide new Affordable Housing in the administrative area of the District Council
- 8. From the date of Practical Completion the Affordable Housing Units shall not be used other than for Affordable Housing save that this obligation shall not be binding on:
 - any Protected Person or any mortgagee or chargee of the Protected Person or any person deriving title from a Protected Person or any successor in title thereto and their respective mortgagees and chargees; or
 - b) any Chargee PROVIDED THAT the Chargee shall have first complied with the Chargee's Duty; or
 - c) any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor
 - d) any successor in title of a) c) above.
 - 9. Any Chargee of the 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 Council of its intention to dispose:
 - 9.1 in the event that the Council responds within 1 month from receipt of a notice indicating that

(b) that such a transfer would take place within two (2) months from receipt of the notice

then the Chargee of the Registered Provider shall cooperate with such reasonable arrangements and use reasonable endeavours to secure such transfer for a consideration not less than the amount due and outstanding under the terms of the relevant charge or mortgage documentation including all accrued principal monies interest and costs

- 9.2 if the 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 this Second Schedule Part 2 paragraph 1 which shall from the time of the completion of the disposal cease to apply
- 9.3 if the 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 the Registered Provider shall have complied with its obligations under paragraph 1.9 the Chargee of the Registered Provider shall be entitled to dispose free of the restrictions set out in this Second Schedule part 2 paragraph 1 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 the Registered Provider to act contrary to its duties and rights under the charge or mortgage and that the Council must give consideration to protect the interest of the Chargee of the Registered Provider in respect of monies outstanding under the charge or mortgage.

Part 3
Affordable Housing Table

Shared Ownership Dwellings = 170 Dwellings

Number	Туре
Eleven (11)	2 bedroom 4 Person Houses @ 80.9 sqm
Three (3)	2 bedroom 3 person bungalows @ 74.9 sqm
Three (3)	3 bedroom 5 person houses @ 96.9sqm

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Rental Dwellings = 43 Dwellings

Number	Туре	
Two (2)	2 bedroom 3 person bungalows @74.9 sqm	
Six (6)	1 bedroom 2 person houses@ 58 sqm	
Six (6)	1 bedroom 2 person flats @58 sqm	——–
Twenty one (21)	2 bedroom 4 person houses @ 80.9sqm	
Eight (8)	3 bedroom 5 person houses @ 96.9 sqm	

Part 4 Provision of Public Open Space and LEAP

- The Developer hereby covenants with the Council not to Commence the Development above slab level t until it has submitted the Open Space Plan and the Open Space Specification to the Council for approval.
- The Developer covenants not to Commence the Development above slab level unless and until the Open Space Plan and the Open Space Specification have been approved by the Council in writing
- 3. The Developer hereby covenants with the Council not to permit the Occupation of any more than 80 Dwellings until the Open Space has been provided in accordance with the approved Open Space Plan and the Open Space Specification and thereafter that the Open Space shall be made available for the purpose of publically accessible open space and play facilities in perpetuity.
- 4. The Developer further covenants with the Council at their own cost to maintain and manage the Open Space strictly in accordance with the Open Space Plan the Open Space Specification and the Planning Permission until the date of the Open Space Transfer described in paragraphs 7 and 8 of this part 4 of schedule 2 has been completed.

- The Developer covenants to give notice to the Council on the identity of the Management Company who will take transfer of the Open Space prior to the Completion of 140 Dwellings for approval by the Council
- The Developer covenants not to complete more than 139 Dwellings unless and until
 the identity of the Management Company has been approved by the Council in writing.
- The Developer covenants that following the Council's written confirmation that the 7. Open Space has been laid out in accordance with the Open Space Plan and Open Space Specification and the Council's written approval of the Management Company including evidence that the Management Company is able to comply with the Open Space Plan, to transfer by way of a transfer or part thereof to the Management Company and such transfer to include such items as necessary and outlined in the Open Space Transfer and shall for the avoidance of doubt include a covenant that the Open Space shall thereafter be retained and maintained in accordance with the Open Space Plan the Open Space Specification and the Planning Permission for the benefit of all residents of the Development and a covenant that the Open Space shall thereafter provide for publically accessible open space and play facilities in perpetuity and shall not cause or permit the Open Space to be transferred until the evidence that the Management Company is able to comply with the Open Space Plan has been approved and the Management Company has been established to the satisfaction of the Council
- 8. The Developer shall prior to completion of the 165th Dwelling transfer the Open Space to the Management Company in accordance with the Open Space Transfer and Covenants not to Complete more than 164 Dwellings unless and until the transfer of the Open Space to the Management Company has taken place.
- 9. In the event that the Developer is unable to secure the transfer of the Open Space to the Management Company in accordance with paragraphs 7 and 8 of this part 4 Second Schedule the Developer can offer to transfer the Open Space to the District Council in accordance with the Open Space Transfer
- 10. If the Open Space is to be transferred to the District Council as per paragraph 8 of this part 4 Second Schedule, the Developer covenants to pay the Open Space Commuted Sum to the Council upon the date of the transfer of the Public Open Space to the Council

Part 5

Employment Land

- The Developer covenants not to permit the first Occupation of more than 57 Dwellings until
 - 1.1 The Employment Land has been cleared of all surface debris and invasive floral and Serviced by the Developer to the reasonable satisfaction of the Council; and
 - 1.2 The Developer is ready willing and able to transfer and has submitted an engrossed transfer for execution by the Council of the Employment Land to the Council for £1 (one pound) in the form of the attached transfer
- Before completing the transfer referred to in 1.2 to pay the Council's reasonable legal costs and expenses for the transfer of the Employment Land
- 3. The Developer acknowledges that any future use of the Employment Land after its transfer to the Council shall not contribute towards any of the financial contributions required to be made under the provisions of this Agreement and should any Dwellings be constructed on the Employment Land after it has been transferred to the Council shall not be taken into account in any calculation as to whether or not more than 35% Affordable Housing Units have been constructed on the Development.
- 4. The transfer of the Employment Land shall be with vacant possession and free of any encumbrance other than existing at the date hereof or any rights granted or reserved in any transfers of part of the Site substantially in the form of those to be granted or reserved in paragraphs 5 and 6 of Part 2 to the transfer of the Employment Land. The Developer shall in respect of the restriction registered at entry number 2 of the charges register to title number SK317935 either provide on completion of the Employment Land transfer a validly signed RX4 to enable the Council to be registered with title to the Employment Land free of the restriction or provide a Land Registry Certificate of compliance at its own cost (provided that the Council has complied with the obligation contained in clause 13.5.3 of the Transfer dated 5th January 2007 referred to in the said restriction (so far as such applies to the Employment Land)) to enable a certificate consenting to the registration of the transfer to be obtained

d Registry nsfer of part of registered title(s)

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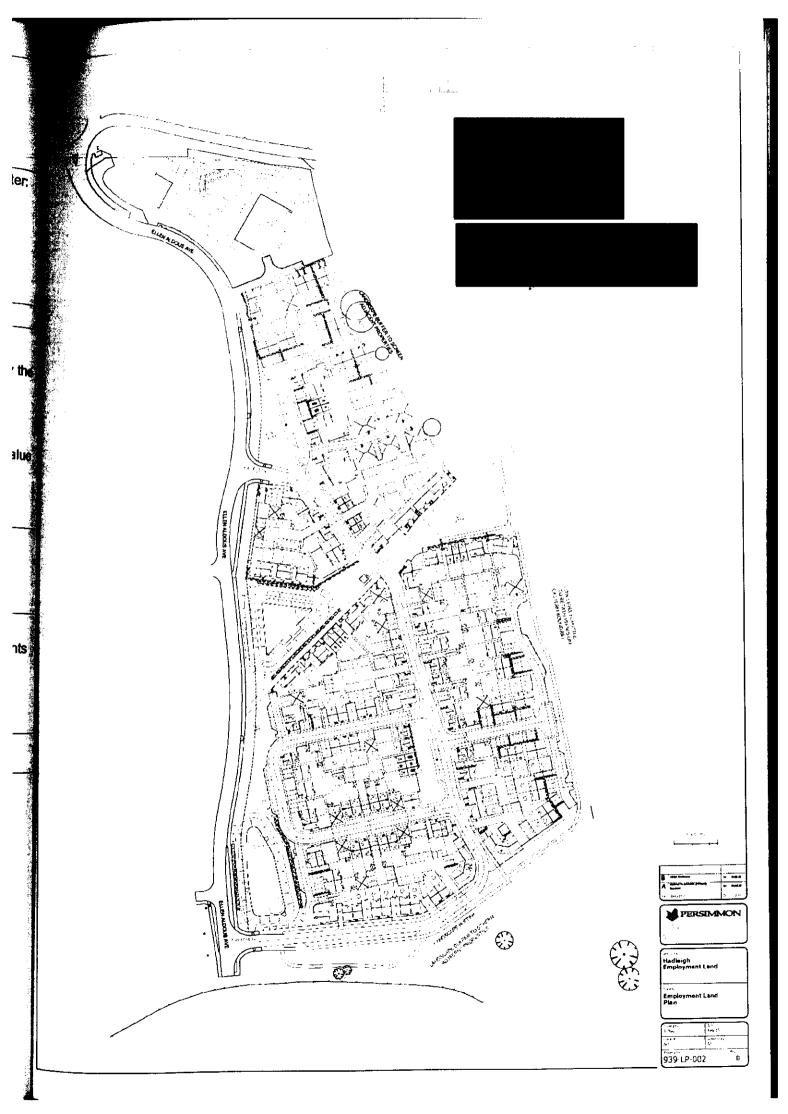
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parts of the form that are not typed should be completed in black ink and in block capitals.

ou need more room than is provided for in a panel, and your software allows, you can expand any panel in the Alternatively use continuation sheet CS and attach it to this form.

Alleria		
eve blank if not yet egistered.	1	Title number(s) out of which the property is transferred: SK317935
When application for a stration is made these the number(s) should be thered in panel 2 of Form 171.	2	Other title number(s) against which matters contained in this transfer are to be registered or noted, if any:
nsert address, including postcode (if any), or other description of the property transferred. Any physical boclusions, such as mines and minerals, should be defined.	3	Property: All that freehold property known as the employment land being part of the land south of Ipswich Road, Hadleigh, Suffolk
Place 'X' in the appropriate box and complete the statement.		The property is identified ☐ on the attached plan and shown: edged red
For example 'edged and numbered 1 in blue'.		on the title plan(s) of the above titles and shown:
Any plan lodged must be signed by the transferor.		
Remember to date this deed with the day of completion, but not before it has been signed and witnessed.	4	Date:
Give full name(s) of all of the persons transferring the property.	5	Transferor: PERSIMMON HOMES LIMITED
Complete as appropriate where the transferor is a company.	-	For UK incorporated companies/LLPs Registered number of company or limited liability partnership including any prefix: 4108747
		For overseas companies (a) Territory of incorporation:
		(b) Registered number in the United Kingdom including any prefix:
Give full name(s) of all the persons to be shown as registered proprietors.	6	Transferee for entry in the register:
Complete as appropriate where the transferee is a company. Also, for an overseas company, unless an arrangement with Land Registry exists, lodge		For UK incorporated companies/LLPs Registered number of company or limited liability partnership including any prefix:

either a certificate in Form 7 in Schedule 3 to the Land Registration Rules 2003 or a certified copy of the constitution in English or Welsh, or other evidence permitted by rule 183 of the Land Registration Rules 2003.		For overseas companies (a) Territory of incorporation: (b) Registered number in the United Kingdom including any prefix:
Each transferee may give up to three addresses for service, one of which must be a postal address whether or not in the UK (including the postcode, if any). The others can be any combination of a postal address, a UK DX box number or an electronic address.	7	Transferee's intended address(es) for service for entry in the regist Endeavour House, 8 Russell Road, Ipswich, Suffolk, IP1 2BX
	8	The transferor transfers the property to the transferee
Place 'X' in the appropriate box. State the currency unit if other than sterling. If none of the boxes apply, insert an appropriate memorandum in panel 12.	9	Consideration The transferor has received from the transferee for the property following sum (in words and figures):
momoranaam m panar var		ONE POUND (£1.00)
		☐ The transfer is not for money or anything that has a monetary wa ☐ Insert other receipt as appropriate:
Place 'X' in any box that	10	The transferor transfers with
applies.		✓ full title guarantee
Add any modifications.		limited title guarantee
Where the transferee is more than one person, place 'X' in the appropriate box. Complete as necessary. The registrar will enter a Form A restriction in the register unless:	11	Declaration of trust. The transferee is more than one person and they are to hold the property on trust for themselves as joint tend they are to hold the property on trust for themselves as tenants is common in equal shares
- an 'X' is placed: - in the first box, or		they are to hold the property on trust:
	L	



in the third box and the details of the trust or of the trust instrument show that the transferees are to hold the property on trust for themselves alone as joint tenants,

it is clear from completion of a form JO lodged with this application that the transferees are to hold the property on trust for themselves alone as joint tenants.

Please refer to <u>Joint</u> property ownership and practice quide 24: private trusts of land for further quidance. These are both available on the GOV.UK website.

Use this panel for:

- definitions of terms not defined above
- rights granted or reserved
- restrictive covenants
- other covenants
- agreements and declarations
- any required or permitted statements
- other agreed provisions.

The prescribed subheadings may be added to, amended, repositioned or omitted.

Any other land affected by rights granted or reserved or by restrictive covenants should be defined by reference to a plan.

12 Additional Provisions

1. Definitions

Conduits all drains pipes wires cables conducting media and

apparatus for the Services (excluding the Estate Sewers) now or to be constructed at any time on,

under or above the Estate.

Estate Sewers the main foul and surface water sewers and any

accessories as defined by Section 219 of the Water Industry Act 1991 now or to be constructed within the Estate which are to serve the Property and are intended to become sewers maintainable at the public

expense

Estate the land comprised or formerly comprised in the above

title number other than the Property

Estate Roads the roads carriageways footpaths and verges on the

Estate which serve the Property and which are intended to be adopted by the relevant authorities and which connect the Property to an adopted or

adoptable public highway.

Plan the plan attached to this transfer.

Relevant Authority means any statutory authority responsible for the

Conduits.

Services gas electricity water electronic transmissions and

similar services.

- Unless expressly stated otherwise a reference to Transferor or Transferor. includes their respective successors in title and those deriving title un them.
- 2. References to the Property and the Estate include the whole of every of each of them.
- 3. Unless otherwise indicated, references to clauses are to clauses in transfer.

Any other land affected should be defined by reference to a plan and the title numbers referred to in panel 2.

Rights granted for the benefit of the Property 2

The Transferor grants to the Transferee and any person authorised by Transferee for the benefit of the Property and each and every part of following rights:

- 1. a right of way at all times for all lawful purposes on foot over the footpath on foot or with vehicles over the carriageways of the Estate Roads;
- 2. the right to lay Conduits to connect to any other Conduits under the E Roads serving or capable of serving the Property;
- 3. the rights to connect into take and use the free and uninterrupted flow of Services through Conduits laid in the Estate which serve the Property;
- 4. the right to inspect maintain renew repair and replace any Conduits on Estate which serve the Property;
- 5. the right of support and protection from any adjoining parts of the Estate to Property and any buildings now or to be constructed in the future on Property;
- 6. such rights as may be reasonably necessary to enter onto as much a reasonably required of the Estate as remains unbuilt upon for the purpos constructing, repairing and maintaining any fences on the Property will cannot be accessed from the Property;
- 7. the right to use the Estate Sewers for the passage of water and sewage;

PROVIDED THAT:

- a) in exercising such rights nothing shall materially affect the layout development of the Estate over which such rights are to be exercised or adoption of works capable of adoption or shall prejudice or otherwise interfe with a structurally completed building and the plot on which it stands or supply or provision of services to, on, from any part of the Estate;
- b) the exercise of the rights referred to in clauses 12.2.2, 12.2.3, 12.2.4 a 12.2.6 subject to the Transferee:
 - making good any damage caused to the Estate in the exercise of t rights to the reasonable satisfaction of the Transferor as soon reasonably possible;

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Any other land affected should be defined by

panel 2.

reference to a plan and the

title numbers referred to in

- ii. causing as little inconvenience or disturbance as reasonably possible to the Estate;
- iii. giving due consideration to the residential development on the Estate so as not to impede or disrupt the Transferor's (or its agents) development of the Estate;
- iv. first agreeing the point of any connection into the conduits with the Transferor and there being sufficient capacity to serve both the intended development of the Estate and the Property
- complying in all respects with the reasonable and proper requirements of any Relevant Authority;
- vi. only exercising the rights on those parts of the Estate that do not form a completed building or the site of an intended building and its curtilage or land designated as public open space or local areas of play (equipped or otherwise) and, for the avoidance of doubt, garden and amenity areas of occupied residential units are deemed to be part of a completed building or the site of a completed building for the purpose of this paragraph;
- vii. taking reasonable care not to unnecessarily prejudice or delay adoption of Conduits, Estate Sewers or Estate Roads; and
- viii. none of the rights granted shall apply to or be exercised over any electricity substation(s) gas governor stations or similar installations on the Estate.

3. Rights reserved for the benefit of any part or parts of the Estate

The Transferor reserves for the benefit of the Estate and each and every part of it:

- the right to use the free and uninterrupted flow of Services through Conduits which cross the Property and which serve the Estate as at the date of this transfer;
- 2. the right to access inspect maintain renew and replace any Conduits and Estate Sewers on the Property which serve the Estate;
- the right of support and protection from the Property for the Estate and any buildings now or to be constructed by the Transferor on the Estate;
- 4. the right to enter as much as the Property as may be necessary for the purpose of complying with the proper requirements of any Relevant Authority in relation to both the development of the Estate and the adoption of the Services and as much of the Property as remains unbuilt upon for the purpose of constructing, repairing and maintaining any fences or other structures on the Estate which cannot be accessed from the Estate

PROVIDED THAT in exercising such rights:

 a) nothing shall materially affect the layout or development of the Property as envisaged by planning permission reference DC/17/03902 or any variation thereof over which such rights are to be exercised or shall prejudice or otherwise interfere with a structurally completed building on the Property and the plot on which it stands;

- b) the exercise of the rights referred to in this clause 12.3 is subject.

 Transferor:
 - i. making good any damage caused to the Property in the exercise rights to the reasonable satisfaction of the Transferee as so reasonably possible;
 - ii. causing as little inconvenience or disturbance as reasonably possible.
 Property;
 - iii. complying in all respects with the reasonable and proper requirement any Relevant Authority;
 - iv. only exercising the rights on those parts of the Property being limited parts unbuilt upon from time to time.

4. Agreements and Declarations

- All fences walls or hedges separating the Property and the Estate and
 walls separating buildings on the Property from any other buildings.
 Estate are party fences walls or hedges and shall be maintained according.
- The provisions of the Contracts (Rights of Third Parties) Act 1999 shis apply to this Transfer.
- 3. The Property and the Estate do not have over each other any rights of air or other rights (other than as expressly provided by this Transfer) would or might restrict or interfere with the way in which the Estate (of other adjoining land acquired by the Transferor) or the Property can be or developed.
- 4. The Transferor shall not be bound in any way by the plotting or get scheme of development of any part of the Estate or adjacent land as me shown on any plans or other documents.

Include words of covenant.

5. Restrictive covenants by the Transferee

The Transferee covenants with the Transferor so as to bind the Property and and every part for the benefit of the Estate:

- the Transferee shall not permit or suffer the Property to be used residential use
- not to do or permit or suffer to be done on the Property anything which
 be or become a legal nuisance or annoyance or cause damage to
 Transferor or to the owners tenants or occupiers of the Estate;
- not to do or permit or suffer to be done upon the Property or the Estate
 act or thing which:
 - may impede the adoption by or the vesting in the Relevant Authority of Estate Roads Estate Sewers or the Services which is or shall be intento be so adopted or vested

- b) may result in loss or damage to or interference with any Estate Road Estate Sewers or Services within the Property which may be or become adopted by or which may vest in a Relevant Authority or which is used jointly with the Transferor or with the owners or occupiers of the Estate or any part of it or any adjoining or neighbouring land
- 4. as soon as reasonably possible and at the cost and request of the Transferor (costs for which will be reasonable and directly attributable to the request) to execute any easement deed or document required by and in a form required by any Relevant Authority and approved by the Transferee (such approval not to be unreasonably withheld or delayed) in respect of the provision maintenance adoption or vesting of the Services within the Property and which serve the Estate PROVIDED THAT such easement, deed or document does not adversely affect the development authorised by 17/02267/REM or any variation thereof;
- 5. not to park upon or obstruct the Estate Roads;

Include words of covenant.

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6. Covenants by the Transferee

The Transferee covenants with the Transferor to indemnify and keep indemnified the Transferor against all damages costs and any other liabilities resulting from any future non-observance or non-performance by the Transferee of any covenants relating to the Property on the register of the title above referred to (if any) insofar as they affect the Property

The transferor must execute this transfer as a deed using the space opposite. If there is more than one transferor, all must execute. Forms of execution are given in Schedule 9 to the Land Registration Rules 2003. If the transfer contains transferee's covenants or declarations or contains an application by the transferee (such as for a restriction), it must also be executed by the transferee.

if there is more than one transferee and panel 11 has been completed, each transferee must also execute this transfer to comply with the requirements in section 53(1)(b) of the Law of Property Act 1925 relating to the declaration of a trust of land. Please refer to Joint property ownership and practice guide 24: private trusts of land for further guidance.

Remember to date this deed in panel 4.

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PERSIMMON HOMES LIMITED

acting by its Attorney	/S	
]	1)) Attorney
In the presence of: Witness Signature Witness Name Witness Address Witness Occupation And)	
1	1)) Attorney
In the presence of: Witness Signature Witness Name Witness Address)	, / Addinoy
Witness Occupation	.)	
THE COMMON S	EAL OF)
BABERGH DISTE Was hereunto affin presence of:		
Authorised Signat	 tory:	

WARNING

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intenso to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commoffence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an approximation.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document to be made exempt using Form EX1, under of the Land Registration Rules 2003.

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THE DEVELOPER COVENANTS WITH THE COUNTY COUNCIL

PART 1

EARLY YEARS CONTRIBUTION

- 1 The Developer shall give the County Council no less than six (6) months' written notice of the anticipated date for the first Occupation of the first Dwelling
- The Developer shall within five (5) Working Days' give written notice to the County Council following
 - 2.1 the date of first Occupation of any Dwelling
 - 2.2 the date of first Occupation of the 100th Dwelling
 - 2.3 the date of first Occupation of the final Dwelling
- The Developer covenants to pay the Early Years Contribution to the County Council prior to the 100th Dwelling Occupation
- The Developer covenants not to cause or allow the first Occupation of the 100th
 Dwelling until the Early Years Contribution has been paid in full to the County Council

PART 2

TRAVEL PLAN CONTRIBUTION

- 1. The Developer covenants to pay the County Council the Travel Plan Contribution six months prior to Occupation of the first Dwelling
- The Developer covenants not to permit or allow Occupation of any Dwellings until the Travel Plan Contribution has been paid to the County Council

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PART 3

STRATEGIC HIGHWAYS CONTRIBUTION

- 3. The Developer covenants to pay the Strategic Highways Contribution to the County Council prior to the first Occupation of the first Dwelling
- The Developer covenants not to cause or allow Occupation of any Dwellings until the Strategic Highways Contribution has been paid in full to the County Council.

PART 4

PUBLIC RIGHT OF WAY CONTRIBUTION

- The Developer covenants to pay the Public Right of Way Contribution to the County Council prior to the first Occupation of the first Dwelling.
- The Developer covenants not to cause or allow Occupation of any of the Dwellings until the Public Right of Way Contribution has been paid in full to the County Council.

COUNCIL'S COVENANTS

- At the written request of the Developer the Council shall provide written confirmation
 of the discharge of the obligations contained in this Deed when satisfied that such
 obligations have been performed.
- 2. Following the performance and satisfaction of all the obligations contained in this Deed the Council shall forthwith on the written request of the Developer mark accordingly all entries made in the Register of Local Land Charges in respect of this Deed.
- 3. To have the Open Space (if transferred to the Council) made available for the purpose of publically accessible open space and play facilities.
- To use the Open Space Commuted Sum (if provided) towards the maintenance of the Open Space, Gym Trail and the LEAP.
- 4. The Council shall hold any sums payable under this Deed in an interest-bearing account and at the end of ten years from the date of receiving the payment the Council shall return to the party who made the payment all money in that account which has not been spent or committed to be spent on the intended purpose as specified in this Deed.

COUNTY COUNCIL'S COVENANTS

- At the written request of the Developer the County Council shall provide written confirmation of the discharge of the obligations given by the County Council contained in this Deed when satisfied that such obligations have been performed.
- To use the Early Years Contribution for the delivery of new, improved or enhanced early years facilities and services serving the Development.
- 3. If requested to do so in writing by the Developer after the expiry of 10 (ten) years from first Occupation of the final Dwelling within a further period of 1 (one) year the County Council shall repay to the Developer any part of the Early Years Contribution that has not been expended or committed by that date.
- 4. To use the Travel Plan Contribution towards fer the cost of producing a travel plan for each Dwelling carrying out suitable surveys and monitoring the effectiveness of the travel plan measures on an annual basis.
- To use the Strategic Highways Contribution for the delivery strategic highways improvements in the vicinity of the development.
- 6. If requested to do so in writing by the Developer after the expiry of 10 (ten) years from first Occupation of the final Dwelling and of payment of the Early Years Contribution within a further period of 1 (one) year the County Council shall repay to the Developer any part of the Strategic Highways Contribution that has not been expended or committed by that date.
- 7. To use the Public Right of Way Contribution for the delivery of new, enhanced, or improved public footpaths serving and in the vicinity of the development
- 8. If requested to do so in writing by the Developer after the expiry of 10 (ten) years from the first Occupation of the final Dwelling within a further period of 1 (one) year the County Council shall repay to the party who made the payment any part of the Public Right of Way Contribution that has not been expended or committed by that date

DRAFT AFFORDABLE HOUSING NOMINATIONS AGREEMENT

THIS DEED OF NOMINATION RIGHTS is made the day of 202X

BETWEEN:

(1) whose registered address is at [to be inserted [('the Registered Provider')' and

(2) **BABERGH DISTRICT COUNCIL** ('the District Council') Endeavour House, 8 Russell Road, Ipswich, Suffolk IP1 2BX

1. Definitions

In this Deed:

'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 Annexe 2 of the National Planning Policy framework 2019;

'Affordable Housing Units' means 100% of the Dwellings to be provided as a mix of Affordable Housing on the Property as seventeen (17) of the dwellings Shared Ownership and shall be occupied by persons in accordance with the Government's Help to Buy Scheme (or any subsequent scheme) and forty three (43) 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;

'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 any service charge applicable;

'Chargee' 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:

'Chargee's Duties' means the tasks and duties set out in Clause 10.4 of this

'Gateway to Homechoice' means the Greater Haven Gateway sub-regional Based Lettings system;

'the Service Level Agreement' means the Gateway to Homechoice service agreement or such other service level agreement for the time being in force between the Registered Provider and Others (1) and the District Council and (2);

'Initial Let' means the first tenancy of such newly constructed and previunoccupied Affordable Housing Unit;

'Local Connection Criteria' means an individual who immediately before taking occupation of an affordable housing unit:

had his only or principal home in the District of Babergh for a continuous period of less than 2 years and in the event that there are no or insufficient individuals qualifunder this sub-paragraph then the choice of person shall default to (but with preference in ranking order) to those individuals fulfilling the criteria set out in following sub-paragraphs 1.9.2 to 1.9.4 inclusive

has or a member of whose household has a parent adult child brother or sister who only or principal home is and has been for a continuous period of not less than 2 year in the Parish of Stutton and wishes to be near that relative or

is employed in the District of Babergh on the date of the consideration of the individual's entitlement for an Affordable Housing Unit and has been continuously a employed for 2 years

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 Babergh for three years out of the preceding five years and in either case such period of former residency shall end with the Availability Date

affordable housing units subject to the other provisions of this Schedule

The local connection criteria clauses 1.9.1 to 1.9.6 shall also apply to any applicants for tenants seeking a mutual exchange to an alternative dwelling

'Nomination List' means the Gateway to Homechoice Short List produced in accordance with the Gateway to Homechoice SLA;

'Nominee' means a person named on the Gateway to Homechoice Short 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;

'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

'Property' means the development on land to the South of Ipswich Road, Hadleigh, Suffolk.

'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;

- '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 under Chapter III of that Act;
- 'Shared Ownership Dwelling' means an Affordable Dwelling to be let on a Shared Ownership Lease in accordance with the terms as set out in the Homes England capital funding guide or any other such guidance as shall replace it;
- 'Shared Ownership Lease' means a lease or sub-lease of an Affordable Dwelling granted at a premium whereby up to seventy percent (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 80% 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.
- '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;
- '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 five (5)

weeks from the date of this Deed) the function of such notice being the notification the District Council by the Registered Provider of the expected date on which construction and fitting out of the Affordable Housing Units will be complete;

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

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

moved to other accommodation under a reciprocal arrangement provided by anoth Registered Provider;

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

'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 five (5) weeks from the date of this Deed) the function of such a notice being the notification to the District Council of a Void.

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.

Initial Lets

The Association hereby grants the Council Nomination rights for 100% of the initial lets and thereafter 100% for voids in relation to the Affordable Rented Dwellings. In relation to the Initial Lets of the Affordable Housing Units the following provisions shall apply:

- The Registered Provider shall give the District Council not less than four (4) months' written notice of the date when all the Affordable Housing Units will be ready for occupation;
- The Registered Provider shall serve a Vacancy Notice upon the District Council in respect of an Affordable Housing Unit not earlier than ten (10) weeks prior to an Affordable Housing Unit becoming available for occupation;

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 SLA procedure shall apply.

Supplemental provisions relating to allocating Initial Lets and Voids

Where there are two or more applicants applying to occupy one of the Affordable Housing Units the Local Connection Criteria set out in clause 1.9.1 to 1.9.4 of this Schedule 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 Babergh District Council's current allocations policy;

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 1.9.1 to 1.9.4 of this Schedule than someone who does not have disabilities.

4. REGISTERED PROVIDER COVENANTS

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

to ensure the Affordable Housing Units comprised within the Property are used as Affordable Housing Units;

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. ALTERATION OF LISTS

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.

6. NOTICES

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

7. TRANSFER TO OTHER REGISTERED PROVIDER

The Registered Provider shall use reasonable endeavours to ensure that any Registered Provider to which the Property and Affordable Housing Units erected thereon are transferred otherwise than by direction of the 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 Property

8. 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

9. AGREEMENTS AND DECLARATIONS

The parties agree:

Nothing in this Deed fetters or restricts the exercise by the District Council of any of its powers

The obligations and covenants contained in this Deed are covenants for the purpose of the Local Government (Miscellaneous Provisions) Act 1982 Section 33

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:

- 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
- any Chargee and any successor in title to the Chargee PROVIDED THAT the Chargee shall have first complied with the Chargee's Duty; or
- 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;

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:

- 6. in the event that the District Council responds within two (2) months from receipt of the notice indicating that arrangements for the transfer of the Affordable Housing Unit(s) can be made in such a way as to safeguard them as Affordable Housing then the Chargee shall co-operate with such arrangements and use its reasonable endeavours to secure such transfer at a price and upon such terms as are reasonably acceptable to the Chargee;
- if the District Council does not serve its response to the notice within the said period of two (2) months contained in clause 10.4.1 then the Chargee shall be entitled to dispose free of the restrictions set out in this deed;
- 8. if the District Council or any other person cannot within two (2) months of the date of service of its response under clause 10.4.1 secure such transfer then provided that the Chargee shall have complied with its obligations under clause 10.4 the Chargee shall be entitled to dispose free of the restrictions set out in this deed PROVIDED THAT at all times the rights and obligations in this clause shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the District Council shall give full consideration to protecting the interest of the Chargee in respect of moneys outstanding under the charge or mortgage.

AS WITNESS whereof the parties have executed this Instrument as a Deed hereto the day and year first above written

THE COMMON SEAL OF)
BABERGH DISTRICT COUNCIL)	
was affixed in the presence of:)
	Authorised Officer
THE COMMON SEAL OF)
)
Signature of Authorised Officer)

