

to such amendments as may be reasonably required by the Registered Provider with a view to ensuring that the objectives of this Deed are met subject to a requirement to enter into the Affordable Housing Nomination Agreement with the District Council.

7. 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 District Council is a party or chosen pursuant to the Affordable Housing Nomination Agreement made pursuant to Paragraph 4 of this Part 2 of Schedule 2 which confers nomination rights on the District Council unless otherwise agreed by the District Council in writing.
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:
  - 8.1 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
  - 8.2 any Chargee PROVIDED THAT the Chargee shall have first complied with the Chargee's Duty; or
  - 8.3 any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor
  - 8.4 any successor in title of a) - c) above.
9. The Affordable Housing provisions shall not be binding on a Chargee PROVIDED THAT such Chargee shall first give written notice to the District Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal for the Affordable Housing Units to another Registered Provider or to the District Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and if such disposal has not completed within the three month period, the Chargee shall be entitled to dispose of the Affordable Housing Units free from the Affordable Housing provisions in this Deed which provisions shall determine absolutely
10. In the event that a Registered Provider is unable to make an acceptable offer to purchase the Affordable Housing Units within two (2) months from the date of Practical Completion of the Affordable Housing Units despite the Owner's reasonable endeavours to do so the Owner shall:

- 10.1 notify the District Council three (3) months' prior to the Practical Completion of the Affordable Housing Units;
  - 10.2 set out the reasons (together with supporting evidence) in writing why a transfer to a Registered Provider has not been entered into pursuant to paragraph 4 of this part of this Schedule;
  - 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 4 of this part of this Schedule; and
  - 10.4 offer the Affordable Housing Units to the District Council to be purchased by the District Council as Affordable Housing
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
  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 and shall pay an Affordable Housing Contribution to the District Council within 28 Working Days of receipt of that written confirmation from the District Council (such sum to be confirmed by the District Council and calculated in accordance with the District Council's policies as are applicable at the time of the calculation) in lieu of the provision of Affordable Housing on the Site.
  13. Upon payment of the Affordable Housing Contribution referred to in paragraph 10 of Part 2 of this Schedule 2 being received by the District Council the provisions of this paragraph 1- 6 of part 2 of the Schedule 2 shall no longer be applicable in respect of those Dwellings that were the Affordable Housing Units and the Owner shall be free to dispose of the said Dwellings as Market Housing Units.

**Part 3**

**Affordable Housing Table**

Affordable Rent Dwellings

Number	Type	Square Metres (no less than)
4	2 bed 4 person house	79sqm
1	3 bed 5 person house	93sqm
2	2 bed 4 person bungalow	70sqm

Shared Ownership Dwellings

Number	Type	Square Metres
3	3 bed 5 person house	93sqm

**Part 4**  
**Open Space**

1. The Owner covenants with the District Council that it shall submit the Open Space Plan and the Open Space Specification prior to Commencement of Development on the Site for approval such approval not to be unreasonably withheld or delayed;
2. The Owner covenants not to Occupy or permit the Occupation of the Development unless and until the Open Space Plan and the Open Space Specification have been approved by the District Council in writing such approval not to be unreasonably withheld or delayed.
3. The Owner shall serve written notice on the District Council providing details of the Nominated Body prior to the first Occupation of the Site and the District Council shall confirm the Nominated Body within 28 days of receipt of the Owner's written request
4. The Owner hereby covenants with the District Council not to permit the Occupation of any more than the fourteen (14) of Dwellings specified in the Open Space Specification until the Open Space has been provided in accordance with the approved Open Space Plan and the Open Space Specification.
5. The Owner covenants to lay out the Open Space in accordance with the approved Open Space Specification and in accordance with the approved Open Space Plan. Following the laying out and landscaping of the Open Space in accordance with the Open Space Specification and the Open Space Plan the Owner further covenants with the District Council at their own cost to properly maintain and manage the Open Space in accordance with the approved Open Space Specification, the approved Open Space Plan and the Planning Permission until the date of the Open Space Transfer has been completed;
6. The Owner covenants to arrange a meeting with the District Council's Corporate Manager for Public Realm or his representative (or other officer discharging his function) to establish that the works including landscaping specified in paragraphs 4 and 5 of this Schedule have been satisfactorily carried out;
7. The Owner covenants to carry out remedial works and to maintain to the satisfaction of the District Council's Corporate Manager for Public Realm or his representative (or other officer discharging his function) for a period of 12 months commencing on 1st April following the date of written approval by the District Council's Corporate Manager for Public Realm or his representative (or other officer discharging his function) that the said landscaping and laying out have been satisfactorily completed
8. The Owner covenants to carry out any planting works and replacement planting due to losses in the following planting season to the satisfaction of the District Council and

carry out such minor additions to the landscaping as required by the District Council that may have become necessary following use of the Open Space by the general public

9. The Owner covenants immediately on the expiration of the 12 month maintenance period referred to in paragraph 7 of this Schedule, to transfer the freehold or part thereof as agreed in writing by the District Council to the Nominated Body 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 approved Open Space Plan the Open Space Specification and the Planning Permission for the benefit of the general public and:
  - 9.1 If the Nominated Body is the Management Company the Owner shall transfer the Open Space to the Management Company for the sum of One Pound (£1) within twelve (12) months of Occupation of the last Dwelling in accordance with the Open Space Transfer; or
  - 9.2 If the Nominated Body is Haughley Parish Council or another body agreed in writing by the District Council the Owner shall transfer the Open Space to Haughley Parish Council or the other body agreed in writing with the District Council together with the Open Space Maintenance Contribution within twelve (12) months of Occupation of the last Dwelling in accordance with the Open Space Transfer
10. Until such time as the Open Space is transferred the Owner shall retain liability for the maintenance of the Open Space in accordance with the Open Space Specification
11. Following completion of the Open Space it shall (in perpetuity):
  - 11.1 Not be used for any purpose other than for the provision of public open space for the benefit of members of the public;
  - 11.2 Be maintained and managed in a clean and tidy condition and free of defects and in accordance with the Open Space Specification;
  - 11.3 Not to be built on or allowed to be built on any building on the Open Space, subject to any reasonable restrictions imposed in the interest of public safety or for the ancillary use of the public open space

**SCHEDULE 3**  
**THE OWNER'S COVENANTS WITH THE COUNTY COUNCIL**

**PART 1**

**NOTIFICATION**

1. The Owner shall serve the County Council with:
  - 1.1 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
  - 1.2 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 within fifteen (15) Working Days' give written notice to the County Council following
  - 2.1 first Occupation of the first (1<sup>st</sup>) Dwelling
  - 2.2 Completion of the Development.

**PART 2**

**PRIMARY SCHOOL TRANSPORT CONTRIBUTION**

- 1 The Owner covenants with the County Council as follows:
  - 1.1 to pay the Primary School Transport Contribution to the County Council prior to first Occupation of the first (1<sup>st</sup>) Dwelling; and
  - 1.2 not to first Occupy or permit first Occupation of any Dwellings unless and until the Primary School Transport Contribution has been paid in full to the County Council;

### **PART 3**

#### **SECONDARY SCHOOL TRANSPORT CONTRIBUTION**

1. The Owner covenants with the County Council as follows:
  - 1.1 to pay the Secondary School Transport Contribution to the County Council prior to first Occupation of the first (1<sup>st</sup>) Dwelling; and
  - 1.2 not to first Occupy or permit first Occupation of any Dwellings unless and until the Secondary School Transport Contribution has been paid in full to the County Council

**SCHEDULE 4**  
**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.
3. To use all the contributions it receives under the terms of this Deed for the purposes specified in this Deed for which they are to be paid.
4. To account for interest at the base rate of the Bank of England from time to time on all the contributions it receives under the terms of this Deed as if such contributions were held in an interest bearing account. 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 Mid Suffolk District Council.
5. The District Council shall if requested to do so in writing after the expiry of ten (10) years of the date that the Affordable Housing Contribution was paid repay such amount of the Affordable Housing Contribution which has not been committed or expended by the District Council in accordance with the provisions of this Deed to the Owner or such other person who made the payment such repayment to be made within twenty (20) Working Days' of such request.
6. In the event that the Affordable Housing Contribution paid to the District Council pursuant to this Deed was spent or committed by the District Council it shall upon written request after the expiry of ten (10) years of the payment of that sum notify the Owner (or such other person who made the payment) that such monies have been spent or committed within a further period of twenty (20) Working Days' such notice to include full details of what the said monies were spent on or committed to.
7. In the event that any of the contributions or any part of them have not been committed (by an unconditional contract or by the expenditure of the monies) for the purposes for which they were paid under the terms of this Deed the District 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 repay any unspent balance to the person who made such payments together with any interest accrued at the Bank of England Base Rate minus 2 basis points compounding annually at financial year



end. If for any period the Bank of England Base Rate is at or below 0.02% then no interest shall be payable for that period by any party to this Deed.

**SCHEDULE 5**  
**COUNTY COUNCIL'S COVENANTS**

The County Council covenants with the Owner:

- 1.1 To use all the contributions it receives under the terms of this Deed for the purposes specified in this Deed for which they are to be paid unless specified otherwise in this Deed.
- 1.2 In the event that any of the contributions or any part of them have not been committed (by an unconditional contract or by the expenditure of the monies) for the purposes for which they were paid under the terms of this Deed the County Council shall if requested to do so in writing after the expiry of ten (10) years of the date of Completion of the Development, within a further period of one (1) year repay any unspent balance to the person who made such payments together with any interest accrued at the Bank of England Base Rate minus 2 basis points compounding annually at financial year end. If for any period the Bank of England Base Rate is at or below 0.02% then no interest shall be payable for that period.
- 1.3 At the written request of the Owner the County Council shall provide written confirmation of the discharge of the obligations contained in this Deed owed to the County Council when satisfied that such obligations have been performed





- 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;
- 1.7. *'Homes England'* means the non-departmental public body responsible for creating thriving communities and affordable homes in England and which is the Regulator of Social Housing or such other body that may replace it in either function;
- 1.8. *'Initial Let'* means the first tenancy of such newly constructed and previously unoccupied Affordable Housing Unit;
- 1.9. *'Local Connection Criteria'* means had his only or principal home in the District of Mid Suffolk for a continuous period of not less than 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) to those individuals fulfilling the criteria set out in the following sub-paragraphs 1.9.1 to 1.9.3 inclusive
- 1.9.1 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 2 years in the District of Mid Suffolk and wishes to be near that relative or
- 1.9.2 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 2 years
- 1.9.3 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 months out of the preceding twelve months or (ii) three years out of the preceding five years and in either case such period of former residency shall end with the Availability Date
- 1.10 *'Nomination List'* means the Gateway to Homechoice Short List produced in accordance with the Gateway to Homechoice SLA;
- 1.11 *'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;

- 1.12 *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
- 1.13 *'Land'* means the development on land on the north side of Station Road, Haughley, Suffolk registered at the land registry under title number SK242261
- 1.14 *'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;
- 1.15 *'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;
- 1.16 *'the Service Level Agreement' or 'SLA'* 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);
- 1.17 *'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 and *'Shared Ownership Dwellings'* shall be construed accordingly;
- 1.18 *'Shared Ownership Lease'* means a lease or sub-lease of an Affordable Dwelling granted at a premium whereby not less than ten percent (10%) 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 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. In the event of any shared ownership lessee staircasing up to 100% ownership; the Registered Provider must retain any capital receipt between 80% and 100% equity for re-investment in affordable housing within Mid Suffolk District.

1.19 '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;

1.20 '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 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;

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

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

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

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

1.22 '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.*

## **4. INITIAL LETS**

*The Registered Provider hereby grants the District Council Nomination rights for 100% of the Initial Lets and thereafter 100% for Voids in relation to the Affordable Rent dwellings. In relation to the Initial Lets of the Affordable Housing Units the following provisions shall apply:*

- 4.1 *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;*
- 4.2 *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;*

## **5 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.*

## **6 SUPPLEMENTAL PROVISIONS RELATING TO ALLOCATING INITIAL LETS AND VOIDS**

- 6.1 *Where there are two or more applicants applying to occupy one of the Affordable Housing Units the Local Connection Criteria set out in clause 1.9.1 to 1.9.3 of this Nomination Agreement and subject to clause 6.2 of this Nomination Agreement preference must be given to the applicant/s who have the highest housing need according to the District Council's current allocations policy;*
- 6.2 *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 1.9.1 to 1.9.3 of this Nomination Agreement than someone who does not have disabilities.*

## **7 REGISTERED PROVIDER COVENANTS**

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

- 7.1.1 *to ensure the Affordable Housing Units comprised within the Land are used as Affordable Housing Units;*
- 7.1.2 *to ensure that the Affordable Housing Units are let on the basis of a Tenancy Agreement at an Affordable Rent or Shared Ownership Lease and they are all retained and managed by a Registered Provider in accordance with the objectives of such Registered Provider;*
- 7.1.3 *the Affordable Housing Units in accordance with current Homes England requirements.*



## **8 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.*

## **9 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.*

## **10 TRANSFER TO OTHER REGISTERED PROVIDER**

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

## **11 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*

## **12 AGREEMENTS AND DECLARATIONS**

*The parties agree:*

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

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

*12.3 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:*

*12.3.1 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*

- 12.3.2 any Chargee and any successor in title to the Chargee PROVIDED THAT the Chargee shall have first complied with the Chargee's Duties; or
- 12.3.3 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;
- 12.4 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 one (1) months' prior notice to the District Council of its intention to dispose and:
- 12.4.1 in the event that the District Council responds within one (1) month 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;
- 12.4.2 if the District Council does not serve its response to the notice within the said period of one (1) month contained in clause 12.4.1 then the Chargee shall be entitled to dispose free of the restrictions set out in this deed;
- 12.4.3 if the District Council or any other person cannot within two (2) months of the date of service of its response under clause 12.4.1 secure such transfer then provided that the Chargee shall have complied with its obligations under clause 12.4 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** )  
**MID SUFFOLK DISTRICT COUNCIL** )  
 was affixed in the presence of: )  
 Authorised Officer

**THE COMMON SEAL OF** )  
**REGISTERED PROVIDER'S NAME** )  
 Signature of Authorised Officer )