

- 10.1.1 such employee or agent on arrival at the Site shall if requested by any person present who appears to be the Owner the manager or person in charge thereof produce evidence of identity (but entry may be made if there is or appears to be no such person on the Site);
- 10.1.2 such entry shall be effected between 08:00 and 18:00 on any Working Day;
- 10.1.3 such employee or agent may be accompanied by such other persons as may be reasonably necessary;
- 10.1.4 such employee or agent may take photographs measurements and levels;
- 10.1.5 such employee or agent may not remain on the Site for any longer than is reasonably necessary for carrying out a proper inspection;
- 10.1.6 such employee or agent and any other accompanying persons shall comply with the Owner or the Owner's representatives, reasonable directions and all the Owner's compliance precautions, procedures and measures in place for the Site at such time in the interests of health and safety;
- 10.1.7 such employee or agent shall not be entitled to access any Dwellings that have been sold;
- 10.1.8 such employee or agent shall be accompanied at all times by the Owner's manager or person in charge at the Site or such other employee or agent of the Owner in the interests of health and safety except in the event that no such person is available (in accordance with clause 10.1.1).

11. INDEXATION

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

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

11.5 C/D is greater than 1

12. INTEREST

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

13. VAT

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

14. NOTICES

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

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

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

15. DISPUTE RESOLUTION PROVISIONS

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

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

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

16. SATISFACTION OF ANY OF THE PROVISIONS OF THIS AGREEMENT

- 16.1 Where in the opinion of the Owner any of the provisions of this Deed have been satisfied the Owner shall be entitled to apply to the District Council or the County Council for a certificate to that effect and upon the District Council or the County Council (acting reasonably) being satisfied that the relevant agreement obligation and covenant as the case may be has been satisfied the District Council or County Council shall forthwith issue a certificate to such effect.

17. APPROVALS

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

18. COMMUNITY INFRASTRUCTURE LEVY

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

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

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

19. LAND OUTSIDE THE OWNER'S CONTROL

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

20. FUTURE MORTGAGEES

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

21. JURISDICTION

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

22. DELIVERY

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

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

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



Authorised Signatory

21041



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

Authorised Officer

EXECUTED by)
CEMEX UK OPERATIONS)
LIMITED acting by)
a director in the presence of:)....
Dire

Full Name: MARK COLE

Address: c/o CEMEX UK OPERATIONS LIMITED, CEMEX HOUSE, EUREUX
WAY, RUGBY, WARCS, CV21 2DT

Witness Occupation: SOLICITOR

FIRST SCHEDULE

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

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

SECOND SCHEDULE

OWNER'S COVENANTS WITH THE DISTRICT COUNCIL

PART 1

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

PART 2

AFFORDABLE HOUSING

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

Affordable Rented – 50 Dwellings

8 x 1 bedroom 2 person flats

6 x 2 bedroom 4 person flats

4 x 2 bedroom 3 person bungalows

19 x 2 bedroom 4 person houses

11 x 3 bedroom 5 person houses

2 x 3 bedroom 6 person houses

Shared Ownership Dwellings – 17 Dwellings

4 x 2 bedroom 4 person flats

9 x 2 bedroom 4 person houses

4 x 3 bedroom 5 person houses

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

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

1.5.2 Occupy or permit Occupation of more than 80% (eighty per cent) of the Market Housing Units until all of the Affordable Housing Units have been constructed and are ready for Occupation and in the case of the Affordable Housing Units that are either Affordable Rented Housing Units or Shared Ownership Dwellings that those units have been transferred to the Registered Provider.

1.6 Any transfer to a Registered Provider of the land on which the Affordable Housing Units will be constructed shall be:

1.6.1 with vacant possession;

1.6.2 free from any encumbrance other than those existing as set out in the title at the time of the disposition (save for any financial charge or the transfer of statutory apparatus by the Owner to any statutory undertaker);

1.6.3 subject to grant by the Owner to the Registered Provider of all rights of access and passage of services and other rights reasonably necessary for the beneficial enjoyment of the Affordable Housing Units;

1.6.4 subject to a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the purpose of the construction, operation, use, maintenance and management of the Development;

1.6.6 subject to a requirement to enter into the Affordable Housing Nomination Agreement with the District Council.

1.7 The Affordable Housing Units shall be Occupied for no other purpose than as Affordable Housing save where provided otherwise in paragraphs 1.8 and 1.9 below.

1.8 The District Council and the Owner agree that the obligations and restrictions contained in paragraph 1 of Part 2 of this Second Schedule shall not bind:

1.8.1 a mortgagee, chargee or receiver who has complied with the provisions of paragraph 1.9 of this part of this Schedule below;

1.8.2 any right to acquire purchaser;

1.8.3 any Affordable Housing Unit where a Registered Provider sells to a tenant through Social Homebuy funded pursuant to section 19(3) of the Housing and Regeneration Act 2008, a voluntary grant scheme under section 21 of the Housing Act 1996 or any amendment or replacement thereof;

1.8.4 a leaseholder of a Shared Ownership Dwelling who is entitled to exercise their right under a shared ownership lease to acquire 100% of the equity of their property; or

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

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

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

(a) reasonable arrangements for the transfer of the Affordable Housing Unit(s) can be made in such a way as to safeguard it/them as Affordable Housing Unit(s); and

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

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

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

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

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

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

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

PART3

OPEN AND PLAY SPACE

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

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

PART4

HABITATS SITES MITIGATION CONTRIBUTION

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

THIRD SCHEDULE

OWNER'S COVENANTS WITH THE COUNTY COUNCIL

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

PART1

OFF-SITE HIGHWAY WORKS CONTRIBUTION

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

PART2

EDUCATION

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

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

PART3

TRAVEL PLANS

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

PART4

FOOTPATH IMPROVEMENTS

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

FOURTH SCHEDULE

DISTRICT COUNCIL'S COVENANTS

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

PART1

AFFORDABLE HOUSING

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

PART2

HABITATS SITES MITIGATION

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

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

FIFTH SCHEDULE
COUNTY COUNCIL'S COVENANTS

PART 1
HIGHWAYS

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

PART 2
EDUCATION

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

PART 3
TRAVEL PLANS

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

PART 4
FOOTPATH IMPROVEMENTS

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

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

SIXTH SCHEDULE

NOMINATIONS AGREEMENT

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

BETWEEN:

- (1) [_____] whose registered address is at [_____] ('the Registered Provider') and
- (2) **MID SUFFOLK DISTRICT COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, IP1 2BX ('the District Council')
- Together "the Parties"

1. Definitions

In this Deed:

- 1.1 **'Affordable Housing'** means subsidised housing that will be available to persons who cannot afford to rent or buy housing generally available on the open market in accordance with Annex 2 of the National Planning Policy Framework 2019
- 1.2 **'Affordable Housing Units'** means the sixty-seven (67) Dwellings identified in Paragraph 1.1 of Part 2 of the Second Schedule to this Deed all of which shall be Affordable Housing to be provided on the Property of which twenty-five per cent (25%) Dwellings shall be Shared Ownership and shall be occupied by persons in accordance with the Government's Help to Buy Scheme (or any subsequent scheme) and seventy-five (75%) Dwellings shall be Rental Dwellings to be let at an Affordable Rent and shall be occupied by persons allocated in accordance with a Choice Based Lettings Scheme to which the District Council is a party or otherwise nominated by the District Council pursuant to this deed of nomination rights as varied from time to time and Affordable Housing Units shall be construed accordingly
- 1.3 **'Affordable Rent'** means housing made available by a Registered Provider as low cost rent accommodation (as defined by the Housing and Regeneration Act 2008

Section 69) with a rent charged at a level up to 80% of the equivalent market rent inclusive of service charges or the local housing allowance rate

- 1.4 **'Chargee'** for the purposes of this Nominations Agreement means any mortgagee or chargee of the Registered Provider or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 or housing administrator pursuant to section 101 of the Housing and Planning Act 2016
- 1.5 **'Chargee's Duties'** means the tasks and duties set out in Clause 10.4 of this deed
- 1.6 **'Gateway to Homechoice'** means the Greater Haven Gateway sub-regional Choice Based Lettings system (or any replacement or similar system in place at the time)
- 1.7 **'Initial Let'** means the first tenancy of such newly constructed and previously unoccupied Affordable Housing Unit
- 1.8 **'Local Connection Criteria'** means an individual who immediately before taking up occupation of an Affordable Housing Unit:
- 1.8.1 had his only or principal home in the district of Mid Suffolk for a continuous period of not less than two (2) years and in the event that there are no or insufficient individuals qualifying under this sub-paragraph then the choice of person shall default to (but with no preference in ranking order) to those individuals fulfilling the criteria set out in the following sub-paragraphs 1.8.2 to 1.8.4 inclusive
- 1.8.2 has or a member of whose household has a parent adult child brother or sister whose only or principal home is and has been for a continuous period of not less than two (2) years in the district of Mid Suffolk and wishes to be near that relative or
- 1.8.3 is employed in the district of Mid Suffolk on the date of the consideration of the individual's entitlement for an Affordable Housing Unit and has been continuously so employed for two (2) years
- 1.8.4 who during the period commencing from the date on which an Affordable Housing Unit to which such individual is eligible pursuant to this sub-

paragraph becomes available (for the purposes of this sub-paragraph called the "Availability Date") can provide satisfactory written evidence to the District Council of his or her former residency in the district of Mid Suffolk for either (i) six (6) months out of the preceding twelve (12) months or (ii) three (3) years out of the preceding five (5) years and in either case such period of former residency shall end with the Availability Date

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

between the Registered Provider and Others (1) and the District Council and Others (2)

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

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

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

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

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

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

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

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

2 Enabling Provisions

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

3 Procedure

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

3.1 Initial lets

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

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

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

3.2 Voids

Should any Affordable Housing Unit become a Void after the Initial Let or the Registered Provider has reasonable cause to believe it will become a Void then and in each case the Gateway to Homechoice Service Level Agreement procedure shall apply

4. Supplemental provisions relating to allocating Initial Lets and Voids

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

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

5. Registered Provider covenants

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

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

6. Alteration of lists

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

7. Notices

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

8 Transfer to other Registered Provider

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

Gateway to Homechoice simultaneously on completing the transfer of the Affordable Housing Units.

9 Disputes

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

10 Agreements and declarations

The Parties agree:

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

10.4 The Chargee shall prior to seeking to dispose of the Affordable Housing Unit(s) pursuant to any default under the terms of its mortgage or charge give not less than two (2) months' prior notice to the District Council of its intention to dispose and:

10.4.1 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.

10.4.2 if the District Council does not serve its response to the notice within the said period of one (1) month contained in clause 10.4.1 then the Chargee shall be entitled to dispose free of the restrictions set out in this deed.

10.4.3 if the District Council or any other person cannot within two (2) months' of the date of service of its response under clause 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)
MID SUFFOLK DISTRICT COUNCIL)
was affixed in the presence of:)

Authorised Signatory

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

Authorised Signatory