

DATED 12<sup>th</sup> January 2022

EAST SUFFOLK COUNCIL	(1)
SUFFOLK COUNTY COUNCIL	(2)
LILIAS MULGRAVE SHEEPHANKS	(3)
ANDREW MICHAEL ALEXANDER SKRINE	(4)
WALNUT TREE PROPERTY LIMITED	(5)
CAPITAL COMMUNITY DEVELOPMENTS LIMITED	(6)

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**S106 AGREEMENT**

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Relating to land north of Gardenia Close and Garden Square,  
Rendlesham, Suffolk

**Birketts**

Birketts LLP: Offices in Cambridge | Chelmsford | Ipswich | Norwich |  
London  
[www.birketts.co.uk](http://www.birketts.co.uk)

DATE

12<sup>th</sup> January

2022

## **PARTIES**

- (1) **EAST SUFFOLK COUNCIL** of East Suffolk House Station Road Melton Suffolk IP12 1RT ("the Council")
- (2) **SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, Suffolk, IP1 2BX ("the County Council")
- (3) **LILIAS MULGRAVE SHEEPHANKS** of The Rookery, Eyke, Woodbridge, Suffolk IP12 2DR ("the First Owner")
- (4) **ANDREW MICHAEL ALEXANDER SKRINE** of 9 New Square, Lincoln's Inn, London WC2A 3QN ("the Second Owner")
- (5) **WALNUT TREE PROPERTY LIMITED** a company incorporated in Jersey with company number 109753) whose registered office is at ~~Fairbairn House~~, 31 Esplanade, St Helier, Jersey JE1 4FF ("the Third Owner")
- (6) **CAPITAL COMMUNITY DEVELOPMENTS LIMITED** whose registered office is at 30 Gardenia Close, Rendlesham, Woodbridge, Suffolk, United Kingdom, IP12 2GX (Company Registration Number 09512747) ("the Developer")

Together "the Parties"

## **INTRODUCTION**

1. 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.
2. The County Council is the local highway authority (except for trunk roads), the local education authority and is also a local planning authority for the purposes of the Act for the area in which the Site is situated and by whom the obligations contained in this Deed are enforceable.
3. The First Owner is the freehold owner of that part of the Site registered with other land at the Land Registry under title number SK232473.

4. The First Owner and the Second Owner are the freehold owners of that part of the Site registered with other land at the Land Registry under title numbers SK225051 and SK237527.
5. The First Owner, Second Owner, and Third Owner are the freehold owners of the Additional Land registered with other land at the Land Registry under title number SK225051 and SK192688 in which the Public Footpath shall be created by a Creation Agreement.
6. The Third Owner is the freehold owner of the Site registered at the Land Registry under title numbers SK192688 SK270842 SK322252 and SK375575.
7. The First Owner Second Owner and Third Owners shall hereafter in this Deed be referred to as the Owners.
8. The Developer is the freehold owner of that part of the Site registered with other land at the Land Registry under title number SK391639.
9. On 29 December 2020 the Council validated the Application submitted to the Council for determination.
10. The Site lies within the area to which the Local Plan applies.
11. The Council, the County Council, the Owners and the Developer acknowledge 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.
12. It is a material consideration in the Council's planning policies that in any proposals for residential development with capacity for ten (10) units or more new dwellings a proportion of 33% (one in three) of the new dwellings should be provided for Affordable Housing purposes.
13. The Council and the County Council are satisfied that the planning obligations sought under the provisions of this Deed meets the test set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended)
14. The Developer intends to purchase the freehold interest in the Site from the Owners subject to receipt of Planning Permission in terms which are satisfactory to the Developer.

NOW THIS DEED WITNESSES AS FOLLOWS:

## **OPERATIVE PART**

### **1 DEFINITIONS**

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

<b>“Act”</b>	the Town and Country Planning Act 1990 (as amended)
<b>“Additional Land”</b>	shall mean that area of land to the east of the Site which the Owners have agreed that the Public Footpath can be created by a Creation Agreement shown indicatively on the Public Footpath Plan attached to this Deed
<b>“Application”</b>	the application for full planning permission submitted to and validated by the Council on 29 December 2020 for the Development and allocated reference number DC/20/5278/FUL
<b>“Commencement of Development”</b>	the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out on the Site (or where explicitly referred to as a trigger point within this Deed a material operation forming part of the Development is carried out on the land of a Phase as shown on the Phasing Plan) other than (for the purposes of this Deed and for no other purpose) operations consisting of 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, the temporary display of site notices or advertisements and “Commence Development” and “Commencement” shall be construed accordingly.

<b>“Completion of the Development”</b>	the date that the last Dwelling is first Occupied
<b>“Creation Agreement”</b>	shall mean an agreement entered into by the Owners with the County Council pursuant to section 25 of the Highways Act 1980
<b>“Development”</b>	the phased development of 75 dwellings, car parking, public open space, hard and soft landscaping and associated infrastructure and access as set out in the Application
<b>“Dwelling”</b>	any dwelling (including a house bungalow flat or maisonette) and including both Market Housing Units and Affordable Dwellings to be constructed pursuant to the Planning Permission and “Dwellings” shall be construed accordingly
<b>“Index”</b>	All In Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation
<b>“Index Linked”</b>	the increase in any sum referred to in the Third Schedule and the Fourth Schedule by an amount equivalent to the increase in the Index to be calculated in accordance with Clause 11 of this Deed
<b>“Interest”</b>	Interest at four per cent (4%) above the base lending rate of the Bank of England from time to time

<b>“Local Plan”</b>	the East Suffolk Council Suffolk Coastal Local Plan September 2020
<b>“Management Company”</b>	a company or body who will take over responsibility for the future ownership and maintenance of the Open Space in perpetuity and which definition may include a resident's association established for this purpose, a private limited company or a community interest company or other organisation primarily for the benefit of the general public in the location of the Site
<b>“Occupation” and “Occupied”</b>	occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations
<b>“Open Space”</b>	the areas of Open Space shown indicatively on the Open Space Plan
<b>“Open Space Plan”</b>	a plan to be submitted to the Council for approval indicating the location of the Open Space
<b>“Open Space Specification”</b>	means the specification for delivery of the Open Space including the specifications plans and drawings showing but not limited to the layout and design of the Open Space, the phasing and timing of the delivery of the Open Space including details of any landscaping, paths and access arrangements together with details of the

proposed future management regime for the Open Space to be agreed in writing with the Council in accordance with Part 3 of the Third Schedule

**"Open Space Transfers"**

transfers of the Open Space for each Phase to be approved in writing by the Council and which inter alia shall contain the following provisions:

a) The Owners shall transfer the fee simple estate of each Phase 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 in each Phase;

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 Management Company:

(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 as defined in this Deed and shown on the Open Space Plan;

(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

**"Path Specification"**

the Owners and the County Council within the Creation Agreement will agree

the precise specification that will enable the Owners to deliver a footpath that is a minimum of two meters wide and its surface is level, firm, free draining and fit for use by walkers at all times of year

**“Phase 1”**

the area of land edged blue and marked “Phase 1” on the Phasing Plan and shall include those works as set out for Phase 1 in the Phasing Table in Schedule 7

**“Phase 2”**

the area of land edged pink and marked “Phase 2” on the Phasing Plan and shall include those works as set out for Phase 2 in the Phasing Table in Schedule 7

**“Phase 3”**

the area of land edged orange and marked “Phase 3” on the Phasing Plan and shall include those works as set out for Phase 3 in the Phasing Table in Schedule 7

**“Phasing Plan”**

the plan attached to this Deed at Appendix F which is marked Phasing Plan and has drawing reference P/P Rev K1

**“Plan”**

the site plan attached to this Deed at Appendix E

**“Planning Permission”**

the planning permission subject to conditions to be granted by the Council pursuant to the Application

**“Public Footpath”**

means the footpath to be created by the Creation Agreement as shown indicatively on the Public Footpath Plan



<b>“Public Footpath Contribution”</b>	means the sum of £5,000 (five thousand pounds) to be used towards the administrative and legal costs of creating the Public Footpath by way of a Creation Agreement
<b>“Public Footpath Plan”</b>	the plan attached to this Deed showing the area in which Public Footpath can be created
<b>“Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Contribution</b>	means the sum of twenty four thousand ninety one pounds and fifty pence (£24,091.50) (Index Linked) calculated using the Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Contribution Calculation to be paid by the Owners to the Council in three tranches (one for each Phase of the Development) towards the cost of mitigating the impact of additional visitors upon European Protected Sites as a result of the Development pursuant to the Habitats Regulations Assessment Recreational Disturbance Avoidance and Mitigation Strategy for Ipswich Borough, Babergh District, Mid Suffolk District and East Suffolk Councils – Technical Report dated 23 May 2019
<b>“Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Contribution Calculation”</b>	the sum of £321.22 (three hundred and twenty one pounds and twenty two pence) multiplied by the total number of new Dwellings proposed pursuant to the Planning Permission to calculate the Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Contribution

<b>"Section 106 Officer"</b>	the officer so designated by the Council and any notice required to be served on the Council must be sent or delivered to the Council at the address aforesaid marked for the attention of the Section 106 Officer
<b>"Secondary School Transport Contribution"</b>	means the sum of £72,300 (seventy-two thousand three hundred pounds) for the purposes of funding school transport provision for a minimum of five years for secondary-age pupils residing on the Development.
<b>"Site"</b>	the land described in the First Schedule against which this Deed may be enforced as shown edged red for identification purposes only on the Plan
<b>"Transport Information Board"</b>	a solar-powered real time screen at the Redwald Drive stop opposite Sparrows Croft Road
<b>"Transport Information Board Contribution"</b>	the sum of £15,000 (Index Linked) payable to Suffolk County Council for the provision of the Transport Information Board
<b>"Working Days"</b>	Monday to Friday (inclusive) except Good Friday, Christmas Day and public or bank holidays from time to time in England.

## **2 CONSTRUCTION OF THIS DEED**

2.1 Where in this Deed reference is made to any clause, sub-clause, paragraph, sub-paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, sub-clause, paragraph, sub-paragraph or schedule or recital in this Deed.



2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.

2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.

2.5 Any reference to an Act of Parliament or Directive of the European Union shall include any modification, extension or re-enactment of that Act or Directive for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or Directive or deriving validity from it.

2.6 Any references to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council the successors to its statutory functions.

2.7 The headings are for reference only and shall not affect construction.

2.8 Any covenant by the Council, County Council, Owners or the Developer not to do an act or thing shall be deemed to include an obligation to use all reasonable endeavours not to permit or suffer such act or thing to be done by another person where knowledge of the actions of the other person is reasonably to be inferred.

2.9 Any notices required to be given under the terms of this Deed may (in addition to any other valid method of service) be given or served by sending the same by recorded delivery post addressed to the party as set out below:

Council: as given in this Deed for the attention of the Section 106 Officer

County Council: as given in this Deed

First Owner: as given in this Deed

Second Owner: as given in this Deed

Third Owner: as given in this Deed

Developer: as given in this Deed

### **3 LEGAL BASIS**

3.1 This Deed is made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all other enabling powers.

3.2 The covenants, restrictions and requirements imposed upon the Owners and 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 local planning authorities against the Owners and the Developer and their successors in title.

3.3 Insofar as any of the covenants contained in this Agreement are not planning obligations within Section 106 of the Act they are entered into pursuant to the powers contained in Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers.

3.4 The covenants, restrictions and requirements contained in this Deed shall only be capable of being varied by a supplemental deed between the Parties hereto or their respective successors in title or assigns made under Section 106A of the Act.

### **4 CONDITIONALITY**

4.1 The obligations set out in the Third Schedule and Fourth Schedule are conditional upon:

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

and the rest of the provisions set out in this Deed shall take effect immediately upon completion of this Deed.

### **5 THE OWNERS' COVENANTS**

5.1 The Owners hereby covenant with the Council as set out in the Third Schedule so as to bind the Site and each and every part thereof.

5.2 The Owners hereby covenant with the County Council as set out in the Fourth Schedule so as to bind the Site and each and every part thereof.

5.3 The Owners covenant and warrant to the Council and the County Council that the Owners are the freehold owners of their respective parts of the Site and have full power and capacity to enter into this Deed and that no other party has any charge over or any other interest in the Site which would require them to be a party to this Deed or whose consent is required to make this Deed binding on the Site and all estates and interests therein.

5.4 The Developer consents to and confirms the terms of this Deed.

## **6 THE COUNCIL'S COVENANTS**

6.1 The Council hereby covenants with the Owners and the Developer as set out in the Fifth Schedule.

## **7 THE COUNTY COUNCIL'S COVENANTS**

7.1 The County Council hereby covenants with the Owners and the Developer as set out in the Sixth Schedule.

## **8 MISCELLANEOUS**

8.1 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.

8.2 This Deed shall be registrable as a local land charge by the Council.

8.3 Where the agreement, approval, consent or expression of satisfaction is required by the Owners or 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 officer of the Council fulfilling such functions) and shall be given on behalf of the County Council by the Executive Director of Growth, Highways and Infrastructure and any notices shall be deemed to have been properly served if sent in accordance with clause 2.9.

8.4 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall forthwith on the written request of the Owners or the Developer mark accordingly all entries made in the Register of Local Land Charges in respect of this Deed.

8.5 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.

8.6 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.

8.7 In the event that any new planning applications are made in respect of the Development pursuant to section 73 of the Act with effect from the date that such new planning permission is granted pursuant to section 73 of the Act then:

8.7.1 the obligations in this Deed shall in addition to binding the Site in respect of the Planning Permission relate to and bind the Site in respect of any planning permission granted pursuant to section 73 of the Act; and

8.7.2 the definition of Development, Application and Planning Permission shall be assumed to include reference to any applications under section 73 of the Act, the planning permission granted thereunder and the development permitted by such subsequent planning permission PROVIDED THAT nothing in this clause shall fetter the discretion of the Council in determining any applications under section 73 of the Act and the appropriate nature and/or quantum of section 106 obligations in so far as they are materially different to those contained in this Deed and required pursuant to a determination under section 73 of the Act whether by way of a new deed or supplemental deed pursuant to section 106 of the Act or a modification pursuant to section 106A of the Act.

8.8 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 any part in respect of which such breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

8.9 This Deed shall be enforceable (in respect of any restriction on occupation and use only) against owner-occupiers or tenants of Dwellings constructed pursuant to the Planning Permission and against those deriving title from them.

8.10 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.

8.11 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 the exercise of its functions as a local authority.

8.12 The Owners and the Developer covenant from the date that this Deed takes effect to allow upon a minimum of 48 hours' notice and an explanation as to which provisions of the Deed are in question the Council, the County 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.

8.13 The Developer hereby agrees that any rights to claim compensation arising from any limitations or restrictions on the planning use of the Site under the terms of this Agreement are hereby waived.

8.14 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 Owners or the Developer and at no cost to the Council or County Council.

8.15 The Developer covenants to pay the Council's and County Council's reasonable legal costs incurred in the preparation and negotiation and completion of this Deed.

8.16 The Developer declares and covenants to pay the County Council on completion of this Deed the reasonable fee incurred by the County Council for monitoring compliance with the obligations within this Deed in the sum of £1648 (being £412 per trigger).

8.17 The Developer declares and covenants to pay the Council on completion of this Deed a monitoring fee of £1224 (being £408 per obligation) for monitoring compliance with the obligation within this Deed

## **9 WAIVER**

9.1 No waiver (whether expressed or implied) by the Council or 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 or County Council from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

## **10 CHANGE IN OWNERSHIP**

10.1 The Owners agree with the Council and the County Council as soon as practicable to give the Council and the County Council 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/20/5278/FUL to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site purchased by reference to a plan and the title number or numbers



thereof PROVIDED THAT this obligation shall not apply to transfers of individual Dwellings within the Development or the transfer or grant of leases of electricity sub-stations, gas governors, or pumping stations or the like.

## **11 INDEXATION**

11.1 Any sums referred to in the Third and Fourth 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:

- 11.1.1 A is the sum payable under this Deed;
- 11.1.2 B is the original sum specified in this deed;
- 11.1.3 C is the Index for the month 2 months before the date on which the sum is payable;
- 11.1.4 D is the Index for the month 2 months before the date of this Deed; and
- 11.1.5 C/D is greater than 1.

## **12 INTEREST**

12.1 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.

## **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 DISPUTE PROVISIONS**

14.1 In the event of any dispute or difference arising between any of the Parties to this Deed 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.

14.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 14.1 or as to the appropriateness of the professional body then such question may be referred by either party 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 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.

14.3 Any Expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties 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.

14.4 The Expert shall be required to give notice to each of the said parties 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.

14.5 The provisions of this clause shall not affect the ability of the Council, County Council and/or the Owners and/ or Developer 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

## **15 JURISDICTION**

15.1 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**

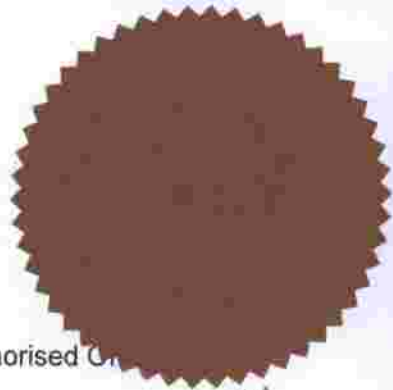
16.1 The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

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

THE COMMON SEAL OF  
**EAST SUFFOLK COUNCIL**  
as affixed in the presence of:



.....Authorised Officer



671



.....Authorised Officer

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



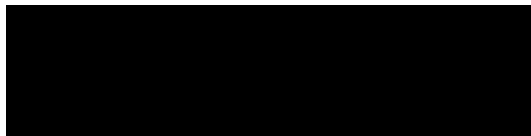
.....Authorised Officer



85230



SIGNED AS A DEED by  
**LILIAS MULGRAVE  
SHEEPSHANKS**  
In the presence of:



Witness

Address

Occupation



SIGNED AS A DEED by  
ANDREW MICHAEL  
ALEXANDER SKRINE In the

[Redacted]

[Redacted]

Witness [Redacted]

Address [Redacted]

Occupation [Redacted]

Executed as a deed by affixing  
the common seal of **WALNUT  
TREE PROPERTY LIMITED** in  
the presence of:

[Redacted] [Redacted]  
*[Director, Authorised Signatory]*

[SECRETARY OR OTHER  
PERMANENT  
OFFICER OF THE  
CORPORATION]

FOR AND ON BEHALF OF  
NEDGROUP PRIVATE WEALTH  
CORPORATE SERVICES LIMITED  
*AS SOLE DIRECTOR OF  
WALNUT TREE PROPERTY LIMITED*



EXECUTED AS A DEED BY  
**CAPITAL COMMUNITY  
DEVELOPMENTS LIMITED**  
acting by a director in the  
presence of:

[Redacted]

.....Director

[Redacted]

Witness Signature [Redacted]

Witness Name [Redacted]

Witness Address [Redacted]

## FIRST SCHEDULE

### **Details of the Owners' and Developer's Title, and description of the Site**

The freehold land lying to the north and west of Garden Square and Gardenia Close , Rendlesham Suffolk registered with other land at the Land Registry under title numbers SK225051 SK270842 SK322252 SK375575 SK237527 SK232473 SK391639 and SK192688 (being the land shown edged red on the Plan)

**SECOND SCHEDULE**  
**Not Used**

### THIRD SCHEDULE

#### The Owners and Developer Covenant with the Council

##### 1 Definitions

<b>"Affordable Dwellings"</b>	that part of the Development comprising twelve (12) Affordable Rent Units and thirteen (13) Discounted Market Sales Housing Units as shown on the Affordable Housing Locations Plan and detailed in the Affordable Housing Table
<b>"Affordable Housing"</b>	means the Affordable Dwellings to be made available as Affordable Rent Units and Discounted Market Sales Housing Units as hereinafter set out that will be available to Eligible Households as hereinafter defined whose needs are not met by the market for them to afford determined with regard to local incomes and local house prices
<b>"Affordable Housing Locations Plan"</b>	the plan attached to this Deed which is marked Affordable Housing Locations Plan drawing reference A/H/L/P Rev 1 as attached at Appendix B
<b>"Affordable Housing Table"</b>	the table attached at Appendix C with the details of the type of Affordable Housing within the Development
<b>"Affordable Rent Units"</b>	means those Affordable Dwellings to be let by a Registered Provider with an appropriate agreement with Homes England for the provision of affordable rents being controls that limit the rent to not exceed the local housing allowance including any services charges or as otherwise agreed with the Council in writing

<b>“Allocation Policy”</b>	means the policy and procedure adopted by the Council to determine the eligibility and priority for the allocation of the Affordable Housing
<b>“Discounted Market Sales Housing Units”</b>	Dwellings provided for sale at a cost not exceeding 80% of Open Market Value as may be consistent with any other affordable routes to home ownership (as set out within the National Planning Policy Framework published in February 2019 (or as may be amended from time to time))
<b>“Eligible Household”</b>	a person or persons on the housing waiting list maintained by the Registered Provider or the Council or a person or persons who is otherwise approved by the Council as being in need of separate or alternative accommodation and unable to buy or rent housing generally available on the open market
<b>“Homes England”</b>	the non-departmental public body responsible for creating thriving communities and affordable homes in 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 might replace it in either function
<b>“Local Connection”</b>	The local connections criteria to be applied to each and every let or sale of an Affordable Dwelling as set out in Appendix A



<b>“Market Housing Units”</b>	that part of the Development comprising 50 Dwellings which is general market housing for sale on the open market and which is not Affordable Housing
<b>“Neighbouring Parish”</b>	The parishes (in order of priority) Tunstall, Campsea Ashe, Eyke, Pettistree and Wantisden
<b>“Nominated Person”</b>	means a person or persons nominated by either the Registered Provider or the Council from their respective housing registers or the Home Buy Agent to be offered an Affordable Dwelling
<b>“Nomination Agreement”</b>	means an agreement to be entered into between: (i) the Registered Provider and (ii) the Council, which shall be substantially in the form of the agreement which is appended at Appendix D to this Deed
<b>“Open Market Value”</b>	means the market value of the Affordable Housing Units (“ <b>market value</b> ” being as defined in the Red Book or any replacement edition) but on the assumption that the Affordable Housing Units can be sold on the open market without restriction on price, tenure, ownership or occupation free from the implications contained in this Deed and assuming that the Affordable Housing Unit is newly completed decorated and equipped and ready in all respects for first residential occupation and which shall be evidenced by the provision of valuations from three suitably qualified valuers who are independent and not employed by the Owners
<b>“Practical Completion”</b>	means the completion of a Dwelling to a standard which is wind and watertight and fit for habitation in terms of heating, plumbing, electrics and sanitation and “Practically Complete” shall be construed accordingly
<b>“Protected Person”</b>	means any person who: <ul style="list-style-type: none"> <li>(a) has exercised the right to acquire pursuant to the Housing and Regeneration Act 2008 or any statutory provision for the time being in</li> </ul>

force (or any equivalent contractual right) in respect of a particular Affordable Dwelling; or

(b) has exercised any statutory right to buy or preserved right to buy (or any equivalent contractual right) in respect of a particular Affordable Dwelling

(c) any successor in title to a chargee or mortgagee of the persons named in (a) to (b) above

**“Reasonable Consideration”** means offer prices from Registered Providers which gives the Owners a reasonable consideration having regard to current market conditions in the disposal of the Affordable Rent Units of a similar type and location by Registered Providers on a grant free basis via Section 106 Agreements

**“Red Book”** means the RICS Valuation – Global Standards 2017 (the Red Book) or such other document amending, consolidating or replacing it

**“Registered Provider” or “RP”** shall mean either:

(a) a body registered as a social landlord pursuant to the provisions of the Housing Act 1996 or a housing association within the meaning of the Housing Associations Act 1985; or

(b) any person or body or entity which is registered as a provider of social housing in accordance with section 80(2) and chapter 3 of the Housing and Regeneration Act 2008

to be approved by the Council such approval not to be unreasonably withheld or delayed

**Part 1**  
**Affordable Housing**

**1. General**

- 1.1 Not to use the Affordable Dwellings for any purpose other than in accordance with this Deed unless otherwise agreed in writing with the Registered Provider and the Council and the Registered Provider shall enter a Nominations Agreement shown indicatively at Appendix D within six months of Practical Completion.
- 1.2 The Council or Registered Provider will (unless otherwise agreed in writing) consider only eligible applicants in accordance with the Allocation Policy and Nomination Agreements in accordance with the Local Connection cascade as set out in Appendix A. The Council will nominate Eligible Households for the Affordable Rent Units 100% at first let. Second and subsequent lets the Council will nominate 75% of the Eligible Households for the Affordable Rent Units. The Registered Provider will nominate 25% of the names provided the Nominated Persons meet the Council's Allocation Policy. The Council will accept nominations from the Registered Provider in exceptional circumstances as direct lets. Priority will go to applicants who have a Local Connection t and who have been assessed as being housing priority in line with the Council's Allocation Policy.

**2. Affordable Rent Units**

- 2.1 From the date of Practical Completion the Affordable Rent Units shall only be used for the purposes of Affordable Rent Units thereafter let to an Eligible Household unless otherwise agreed in writing with the Council.
- 2.2 The Owners covenant not to Occupy or permit Occupation of more than 40% of the Market Housing Units in each Phase unless and until a contract has been entered into with Registered Provider for transfer of all the Affordable Dwellings (save for any Discount Market Sales Housing Unit
- 2.3 The Owners covenant not to Occupy or permit Occupation of more than 60% of the Market Housing Units in each Phase unless and until the Affordable Rent Units in that Phase are Practically Complete and transferred to a Registered Provider unless otherwise agreed in writing by the Council.
- 2.4 In the event that the Developer is not eligible to become a Registered Provider and a suitable Registered Provider cannot be found for the Affordable Rent Units as required

at paragraph 2.2 despite the Owners' reasonable endeavours to do so the Owners will provide written notification of such to the Council's satisfaction (the Council at all times acting reasonably) that demand from a Registered Provider has not been forthcoming for Reasonable Consideration.

2.5 If the Council is satisfied that demand from Registered Providers has not been forthcoming for Reasonable Consideration the Council will enter into written negotiations with the Owners to seek an agreed way forward that does not disadvantage or fetter the Owners' ability to continue construction or occupation of the Development.

2.6 The provisions of this paragraph 2 shall not be binding on a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any 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 (each a 'Receiver')) of the whole or any part of the Affordable Rent Units or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT it has first complied with the following:

2.6.1 such mortgagee or chargee or Receiver shall first given written notice to the Council of its intention to dispose of the Affordable Rent Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Rent Units to another registered provider or to the 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

2.6.2 if such disposal has not been completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Rent Units free from the affordable housing provisions in this Deed which provisions shall determine absolute.

### **3. Discounted Market Sales Housing Units**

3.1 The Discounted Market Sales Housing Units shall only be disposed of (which term shall include a freehold sale or sale of a registrable lease) on the terms specified herein.

3.2 The maximum price payable to the Owners in respect of the disposal of a Discounted Market Sales Housing Unit shall not exceed 80% of the Open Market Value (for sale or leasehold purposes) as certified by an independent valuer or surveyor who practices within a 15 mile radius of the Site.

3.3 Where the freehold or a registrable leasehold interest in a Discounted Market Sales Housing Unit is transferred such transfer and all such subsequent transfers shall

contain a covenant binding the transferee and all subsequent transferees that no transfer shall take place save for a disposal of the freehold or registrable leasehold interest in the Discounted Market Sales Housing Units at a price or premium which does not exceed 80% of the Open Market Value of the said unit at the date of disposal as certified by an independent valuer or surveyor in the manner described in paragraph 3.2 above.

3.4 No purchaser of a Discounted Market Sales Housing Unit shall sub-let or otherwise rent out such Discounted Market Sales Housing Unit.

3.5 The transfer to a person specified in this Schedule 3 Part 1 paragraph 3 shall contain a covenant binding on the transferee and all subsequent transferees from the date of the first transfer by the Owners that the transferee and any future transferees of the Discounted Market Sales Housing Unit will procure a direct covenant from each successive transferee in favour of the Registered Provider to observe and perform all of the covenants specified in this Part 1.

3.6 The transfer to a person specified in this Schedule 3 Part 1 paragraph 3 shall contain a covenant binding on the transferee and all subsequent transferees from the date of the first transfer by the Owners that the transferee and any future transferees of the Discounted Market Sales Housing Units will on each transfer of the said units apply for the following restriction (or a restriction in similar terms) to be entered in the Register of the title in the property

"No transfer, assent or other dealing by the Proprietor of the property is to be registered without the transferee's solicitor producing to the Land Registry a Certificate confirming that the purchase price for the property does not exceed 80% of the open market value as determined in accordance with a Section 106 Agreement dated (the date hereof to be inserted) and made under Section 106 Agreement given under the Town and County Planning Act 1990 between (the parties hereto to be inserted)".

3.7 Nothing in the transfer shall operate to restrict delay limit or prevent the immediate occupation or disposal of any Discounted Market Sales Housing Units to or by a person and those living with him where such occupation or disposal arises as a result of a court order or any other statutory provision or presumption or will or intestacy but subject always to the strict compliance by any transferee of the legal estate with the provisions of this paragraph before any further disposal for value of the legal estate takes place.

**Part 2**

**Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Contribution**

1. Prior to Commencement of Development of Phase 1 the Owners shall pay to the Council eight thousand six hundred and seventy-two pounds and ninety-four pence (£8,672.94) (or the number of Dwellings forming part of Phase 1 x £321.22 if the Phasing Plan is amended) of the Recreational Disturbance Avoidance and Mitigation Strategy Contribution (the first tranche of the Recreational Disturbance Avoidance and Mitigation Strategy Contribution).
2. The Owners covenant not to cause or permit Commencement of Development of Phase 1 until the first tranche of the Recreational Disturbance Avoidance and Mitigation Strategy Contribution has first been paid to the Council.
3. Prior to Commencement of Development of Phase 2 the Owners shall pay to the Council a further seven thousand seven hundred and nine pounds and twenty-eight pence (£7,709.28) (or the number of Dwellings forming part of Phase 2 x £321.22 if the Phasing Plan is amended) of the Recreational Disturbance Avoidance and Mitigation Strategy Contribution (being the second tranche of the Recreational Disturbance Avoidance and Mitigation Strategy Contribution).
4. The Owners covenant not to cause or permit Commencement of Development of Phase 2 until the second tranche of the Recreational Disturbance Avoidance and Mitigation Strategy Contribution has first been paid in full to the Council.
5. Prior to Commencement of Development of Phase 3 the Owners shall pay to the Council the final seven thousand seven hundred and nine pounds and twenty-eight pence (£7,709.28) (or the number of Dwellings forming part of Phase 3 x £321.22 if the Phasing Plan is amended) of the Recreational Disturbance Avoidance and Mitigation Strategy Contribution (being the final tranche of the Recreational Disturbance Avoidance and Mitigation Strategy Contribution).
6. The Owners covenant not to cause or permit Commencement of Development of Phase 3 until the final tranche of the Recreational Disturbance Avoidance and Mitigation Strategy Contribution has first been paid in full to the Council.
7. If any part of the Habitats Sites Mitigation Contribution remains unpaid after 28 Working Days after it has become due, Interest will be payable in accordance with Clause 12.

### PART 3

#### OPEN SPACE

- 1.1 The Owners hereby covenant with the Council that prior to Commencement of Development to submit the Open Space Plan and the Open Space Specification to the Council for approval.
- 1.2 The Owners covenant not to Commence the Development unless and until the Open Space Plan and the Open Space Specification have been approved by the Council in writing such approval not to be unreasonably withheld or delayed. The Open Space Specification will account for planting seasons extending beyond the provision triggers points in 1.4, 1.5 and 1.6.
- 1.3 If the Council fails within twenty (20) Working Days' of submission of the Open Space Plan and Open Space Specification to notify the Owners of its approval of the Open Space Plan and the Open Space Specification the Owners shall be entitled to assume deemed approval of the Open Space Plan and Open Space Specification.
- 1.4 The Owners hereby covenant with the Council not to permit the Occupation of any more than seventy percent (70%) of the Dwellings in Phase 1 until the Open Space in that Phase (if any) has been provided in accordance with the approved Open Space Plan and the Open Space Specification.
- 1.5 The Owners hereby covenant with the Council not to permit the Occupation of any of the Dwellings in Phase 2 until the Open Space in that Phase has been provided in accordance with the approved Open Space Plan and the Open Space Specification
- 1.6 The Owners hereby covenant with the Council not to permit the Occupation of any of the Dwellings in Phase 3 until the Open Space in that Phase has been provided in accordance with the approved Open Space Plan and the Open Space Specification
- 1.7 The Owners further covenant 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 1.8 and 1.9 of this Part 3 of this Third Schedule has been completed.
- 1.8 The Owners covenant that following the Council's written confirmation (not to be unreasonably withheld or delayed) that the Open Space has been laid out in accordance with the Open Space Plan and Open Space Specification to transfer the freehold or part thereof the Open Space as agreed in writing by the Council to the Management Company (in accordance with the provisions of paragraph 1.9) 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 the public

- 1.9 The Owner shall use all reasonable endeavours to transfer the Open Space to the Management Company within twelve (12) months of Occupation of the last Dwelling of Phase 3 in accordance with the Open Space Transfer for the sum of One Pound (£1.00).



## FOURTH SCHEDULE

### The Owners' Covenant with the County Council

#### 1. **Public Footpath Contribution**

- 1.1 The Owners covenant to pay to the County Council the Public Footpath Contribution upon Commencement of the Development.
- 1.2 The Owners covenant to engage fully with the process of entering into a public path Creation Agreement pursuant to section 25 of the Highways Act 1980 with the County Council.
- 1.3 The Owners covenant to deliver the new footpath to the agreed Path Specification as agreed in the Creation Agreement with the County Council.
- 1.4 In dedicating the Additional Land through a Creation Agreement, the Owners agree not to seek compensation for the dedication nor object to the Creation Agreement.
- 1.5 The Owners covenant not to Occupy or permit Occupation of any Dwellings unless and until the Public Path has been created and can be used by the public in accordance with a Path Specification agreed by the County Council.

#### 2. **Transport Information Board Contribution**

- 2.1 The Owners covenant to pay to the County Council the Transport Information Board Contribution prior to Occupation of the first Dwelling.
- 2.2 The Owners covenant not to Occupy any Dwellings until the Transport Information Board Contribution has been paid to the County Council.

#### 3. **Secondary School Transport Contribution**

- 3.1 Prior to Occupation of the first Dwelling of Phase 1 the Owners covenant to pay the County Council twenty four thousand one hundred pounds (£24,100) of the Secondary School Transport Contribution (the first tranche of the Secondary School Transport Contribution) prior to first occupation of the first Dwelling in Phase 1.
- 3.2 The Owners covenant not to Occupy any Dwellings in Phase 1 until the first tranche of the Secondary School Transport Contribution has been paid to the County Council.
- 3.3 Prior to Occupation of the first Dwelling of Phase 2 the Owners covenant to pay the County Council a further twenty four thousand one hundred pounds (£24,100) of the

Secondary School Transport Contribution (the second tranche of the Secondary School Transport Contribution) prior to first occupation of the first Dwelling in Phase 2.

- 3.4 The Owners covenant not to Occupy any Dwellings in Phase 2 until the second tranche of the Secondary School Transport Contribution has been paid to the County Council.
- 3.5 Prior to Occupation of the first Dwelling of Phase 3 the Owners covenant to pay the County Council twenty four thousand one hundred pounds (£24,100) of the Secondary School Transport Contribution (the final tranche of the Secondary School Transport Contribution) prior to first occupation of the first Dwelling in Phase 3.
- 3.6 The Owners covenant not to Occupy any Dwellings in Phase 3 until the final tranche of the Secondary School Transport Contribution has been paid to the County Council.

## **FIFTH SCHEDULE**

### **Council's Covenant with the Owners**

#### **1. Issue of Planning Permission**

- 1.1 The Council shall issue the Planning Permission within ten (10) Working Days following completion of this Deed.

#### **2. Discharge of obligations**

- 2.1 At the written request of the Owners or 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.

#### **3. Recreational Disturbance Avoidance and Mitigation Strategy Contribution**

- 3.1 The Council shall deposit the Recreational Disturbance Avoidance and Mitigation Strategy Contribution into an interest bearing account and will apply the capital and any interest accrued wholly and exclusively towards the cost of mitigating the impact of additional visitors upon European Protected Sites as a result of the Development pursuant to the Habitat Regulations Assessment Recreational Disturbance Avoidance and Mitigation Strategy for Ipswich Borough, Babergh District, Mid Suffolk District and East Suffolk Council – Technical Report dated 23 May 2019
- 3.2 If the Recreational Disturbance Avoidance and Mitigation Strategy Contribution and interest accrued thereon has not been committed (by way of contract or expenditure of the monies) within five (5) years of receipt of payment the Council will refund any uncommitted balance of the Recreational Disturbance Avoidance and Mitigation Strategy Contribution to the payer together with any accrued interest.

## SIXTH SCHEDULE

### County Council's Covenant with the Owners

#### 1. Discharge of obligations

- 1.1 At the written request of the Owners or the Developer made after 10 (ten) years from the Completion of Development within a further 1 (one) year the County Council shall provide written confirmation of the discharge of the obligations given to the County Council in this Deed when satisfied that such obligations have been performed.

#### 2. Public Footpath Contribution

- 2.1 Upon receipt of the Public Footpath Contribution the County Council covenants to take all steps that are reasonably necessary to process and enter into a Creation Agreement with the Owners.
- 2.2 The County Council covenants to use reasonable endeavours to enter into a Creation Agreement with the Owners prior to the Occupation of the first Dwelling.
- 2.3 The County Council covenants to use the Public Footpath Contribution towards the legal process involved in creating the Public Footpath and any associated costs, including officer time, which may arise due to the creation of the footpath.
- 2.4 If requested to do so in writing by the Owners after the expiry of five (5) years of payment of the Public Footpath Contribution within a further period of one (1) year the County Council shall repay the Owners any part of the Public Footpath Contribution that has not been spent or committed together with any accrued interest.
- 2.5 At the written request of the Owners after the expiry of five (5) years of payment of the Public Footpath Contribution within a further period of one (1) year the County Council shall notify the Owners that such monies have been spent or committed such notice to include full details of what the said monies were spent on or committed to.

#### 3. Transport Information Board Contribution

- 3.1 The County Council covenant to provide the Transport Information Board for its intended purposes under this Deed and for no other purpose.
- 3.2 If the requested to do so in writing by the Owners or the Developer after the expiry of three (3) years' payment of the Transport Information Board Contribution within a further period of one (1) year the County Council shall repay the Owners or the Developer the Transport Information Board Contribution that has not been spent or committed together with any accrued Interest.

3.3 At the written request of the Owners or the Developer after the expiry of three (3) years of payment of the Transport Information Board Contribution within a further period of one (1) year the County Council shall notify the Owners or the Developer that such monies have been spent or committed such notice to include full details of what the said monies were spent on or committed to.

4. **Secondary School Transport Contribution**

4.1 The County Council covenant to use the Secondary School Transport Contribution for the purpose of funding school transport provision for secondary-age pupils residing on the Development.

4.2 If requested to do so in writing by the Owners or the Developer after the expiry of ten (10) years from first Occupation of the final Dwelling and within a further period of one (1) year the County Council shall repay the Owner or the Developer any part of the Secondary School Transport Contribution that has not been spent or committed together with any accrued Interest.

4.3 At the written request of the Owner or the Developer after the expiry of ten (10) years from the first Occupation of the final Dwelling and within a further period of one (1) year the County Council shall notify the Owner or the Developer that such monies have been spent or committed such notice to include full details of what the said monies were spent on or committed to.

### SEVENTH SCHEDULE

PHASE 1 WORKS	PHASE 2 WORKS	PHASE 3 WORKS
Site set up	Mains services	Mains services
Open Space	Estate road unadoptable	Foul drainage
Estate road - adoptable	Foul drainage	Private drives
Mains services	Private drives	Housing
Estate road future adoptable	Housing	Clear site
Estate road unadoptable	Open Space	Open Space
Sewer pumping station		
Sewer connection		
Foul drainage		
Surface water drainage		
Private drives		
Housing		
Open Space		

## APPENDIX A

### Local Connections Cascade

1. The Affordable Dwellings for Rent are to be allocated to a person nominated by the Council in line with its Allocation Policy who is considered by them or it to be in need of such accommodation and unable to compete in the normal open market for property. Before nominating an applicant the Council will be satisfied that the applicant
  - (a) Has continuously lived in Rendlesham for the preceding 5 years, OR
  - (b) Has continuously had a place of work in Rendlesham for the preceding 5 years OR
  - (c) Has parents or close family (i.e. mother, father, son or daughter) who are over 18 and who have lived in Rendlesham for the preceding 5 years, OR
  - (d) Due to a lack of suitable accommodation was forced within the preceding 5 years to move away from Rendlesham
  
2. If there are no persons who qualify under paragraph 1 the Affordable Rental Dwellings are to be allocated to a person nominated by the Council in line with its Allocation Policy who is considered by them or it to be in need of such accommodation and unable to compete in the normal open market for property. Before nominating an applicant the Council will be satisfied that the applicant
  - (a) Has continuously lived in a Neighbouring Parish for the preceding 5 years, OR
  - (b) Has continuously had a place of work in a Neighbouring Parish for the preceding 5 years OR
  - (c) Has parents or close family (i.e. mother, father, son or daughter) who are over 18 and who have lived in a Neighbouring Parish for the preceding 5 years, OR
  - (d) Due to a lack of suitable accommodation was forced within the preceding 5 years to move away from a Neighbouring Parish
  
3. If there are no persons who qualify under paragraphs 1 and 2 above the Affordable Dwelling shall be re-advertised to the district of East Suffolk and where after re-advertising there are no persons who qualify under the paragraphs above the Affordable Dwelling shall be allocated to a person nominated by the Council who is considered by it to be in need of such accommodation and who is unable to compete in the normal open market for property in East Suffolk
  
4. Where there is a mutual exchange the RP may let the Affordable Dwelling to any incoming tenant who satisfies the local connection criteria at paragraph 1 or who

satisfy the local connection criteria in paragraphs 1, 2 or 3 above in relation to the district of East Suffolk



**APPENDIX B**  
**Affordable Housing Locations Plan**

# CCD AFFORDABLE HOUSING LOCATION PLAN

## KEY



- 14 Additional Applicable  
 20 1200-1200-1200-1200  
 11 1200-1200-1200-1200  
 12 1200-1200-1200-1200  
 13 1200-1200-1200-1200
- 15 Additional Applicable  
 21 1200-1200-1200-1200  
 12 1200-1200-1200-1200  
 13 1200-1200-1200-1200  
 14 1200-1200-1200-1200



CCD Affordable Housing	
Project Name:	
Address:	
City:	
County:	
State:	
Zip:	
Phone:	
Fax:	
Website:	
Project Manager:	
Project Status:	
Project Start:	
Project End:	
Project Budget:	
Project Cost:	
Project Revenue:	
Project Profit:	
Project Risk:	
Project Impact:	
Project Description:	
Project Objectives:	
Project Deliverables:	
Project Milestones:	
Project Risks:	
Project Opportunities:	
Project Challenges:	
Project Success Factors:	
Project Key Performance Indicators (KPIs):	
Project Stakeholders:	
Project Communication Plan:	
Project Governance:	
Project Sponsor:	
Project Steering Committee:	
Project Management Office (PMO):	
Project Team:	
Project Roles and Responsibilities:	
Project Budget Breakdown:	
Project Financial Summary:	
Project Risk Register:	
Project Change Log:	
Project Issue Log:	
Project Meeting Minutes:	
Project Deliverables List:	
Project Milestones Calendar:	
Project Communication Log:	
Project Governance Framework:	
Project Sponsor Approval:	
Project Steering Committee Approval:	
Project Management Office Approval:	
Project Team Approval:	
Project Stakeholder Approval:	
Project Success Review:	
Project Post-Mortem:	
Project Lessons Learned:	
Project Final Report:	

**APPENDIX C**

**Affordable Housing Table**

<b>PLOT No.</b>	<b>PROPERTY</b>	<b>PERSONS</b>	<b>GIA</b>	<b>TENURE</b>
<b>PHASE 1</b>				
74	Little Blakenham 2 bedroom semi	2-3	68sqm	DMS
72	Little Blakenham 2 bedroom semi	2-3	68sqm	DMS
71	Little Blakenham 2 bedroom semi	2-3	68sqm	DMS
49	Little Blakenham 2 bedroom semi	2-3	68sqm	DMS
63	Sudbourne ground floor 2 bedroom apartment	2	69sqm	DMS
64	Sudbourne ground floor 1 bedroom apartment	1	49sqm	AR
65	Sudbourne first floor 2 bedroom apartment	2	69sqm	DMS
66	Sudbourne first floor 1 bedroom apartment	1	49sqm	AR
67	Sudbourne second floor 2 bedroom apartment	2	64sqm	DMS
68	Sudbourne second floor 1 bedroom apartment	1	48sqm	AR
<b>PHASE 2</b>				
4	Little Blakenham 2 bedroom semi	2-3	68sqm	AR
38	Sudbourne ground floor 2 bedroom apartment	2	69sqm	DMS
39	Sudbourne ground floor 1 bedroom apartment	1	49sqm	AR
40	Sudbourne first floor 2 bedroom apartment	2	69sqm	DMS
41	Sudbourne first floor 1 bedroom apartment	1	49sqm	AR

42	Sudbourne second floor 2 bedroom apartment	2	64sqm	DMS
43	Sudbourne second floor 1 bedroom apartment	1	48sqm	AR
<b>PHASE 3</b>				
26	Little Blakenham 2 bedroom semi	2-3	68sqm	AR
30	Little Blakenham 2 bedroom semi	2-3	68sqm	AR
32	Sudbourne ground floor 2 bedroom apartment	2	69sqm	DMS
33	Sudbourne ground floor 1 bedroom apartment	1	49sqm	AR
34	Sudbourne first floor 2 bedroom apartment	2	69sqm	DMS
35	Sudbourne first floor 1 bedroom apartment	1	49sqm	AR
36	Sudbourne second floor 2 bedroom apartment	2	64sqm	DMS
37	Sudbourne second floor 1 bedroom apartment	1	48sqm	AR

**APPENDIX D**

**Nomination Agreement for Affordable Rent**

DATED

20

(name) (1)

and

EAST SUFFOLK COUNCIL (2)

**NOMINATION AGREEMENT**

Relating to Affordable Dwelling(s) for Rent

At

(name of scheme)

THIS NOMINATION AGREEMENT is made the                      day of                      202

**BETWEEN:**

- 1) .....of registered in England by the Financial Conduct Authority under the Co-operative and Community Benefit Societies Act 2014 (Register Number 32427R) (the Registered provider) [or such other Registered Provider as may be registered with and regulated by the Regulator of Social Housing; and
- 2) **EAST SUFFOLK COUNCIL** of East Suffolk House, Riduna Park, Station Road, Melton, Woodbridge, IP12 1RT ('the Council')

**1. Definitions**

In this Deed:

"Affordable Dwelling(s) for Rent" means Dwellings on the Development to be made available as Affordable Housing let at a monthly or weekly rental figure that does not exceed:-

- (a) 80% of the local market rent inclusive of service charges; or
- (b) (if lower) the local housing allowance rate; or
- (c) with rent increases during the term of any individual tenancy being limited to increases in the Consumer Price Index from the date of this Nomination Agreement plus 1% or any subsequent relevant limit placed upon Registered Providers by the Regulator or Central Government;

"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

"Allocation Policy" means the policy and procedure that the Council has adopted to determine eligibility and priority for Affordable Dwellings for Rent

"Chargee" means any mortgagee or charge of a Registered Provider or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 by such mortgagee or chargee or any other person appointed by a mortgagee or chargee under its security documentation for the purpose of enforcing its mortgage or charge or any administrator (howsoever appointed) including a housing administrator

"Choice Based Lettings" - means the process used to advertise Affordable Dwellings for Rent in the Council area or any system that replaces it.

"Development" means the Development as defined in the Section 106 Agreement to which this Nominations Agreement is appended

"Effective Date" means the date that the application form is received by the Partner Organisation (PO), except in the following situations:

- i. When an applicant is moved from one band to a higher band, their new effective date will be the date that their circumstances changed or when the PO is advised of this;
- ii. Where an applicant receives priority on medical or welfare grounds, their effective date will be the date that they the application for the award is received by the PO;
- iii. Where an applicant has been accepted as homeless their effective date will be the date that they applied as homeless unless they already qualify for Band B with an earlier date;
- iv. Where a woman is pregnant and the baby will make her eligible for a larger property, her effective date for the larger property will be the date that the baby is born

"Housing Market Area" means the relevant Housing Market Area for the Property as defined in the Suffolk Coastal Local Plan Core Strategy & Development Management Policies July 2013

"Initial Let" means the first tenancy or lease of a newly constructed and previously unoccupied Affordable Dwelling(s) for Rent in accordance with Section 199 of the Housing Act 1996 as amended by Section 315 of the Housing and Regeneration Act 2008

"Landlord(s)" means a person or persons who are required to use the Council's Choice Based Lettings process

"Nominee" or "Nominees" means a person named in the Shortlist nominated by the Council to the Registered Provider who qualify for a tenancy in accordance with the Registered Provider's letting criteria (details of which have been provided to the Council prior to the date of such nominations) to be the tenant of an Affordable Dwelling(s) for Rent.

"Partner Organisation" or "PO" means each of the eight District and Borough Councils participating in the current Choice Based Lettings scheme

"Property" means the land [ ] shown edged red on the plan attached hereto

"Registered Provider" or "RP" means a Registered Provider of social housing within the meaning of Section 80(1) of the Housing and Regeneration Act 2008 and listed in the register kept by the Regulator under Chapter 3 of that Act



"Regulator" – Homes England (formerly the Homes and Communities Agency) or any body that replaces its role as regulator of Registered Providers

"Shortlist" means the list of applicants (as may be updated from time to time) to be supplied by the Council in line with the Allocation Policy and procedures giving the names of person(s) who the Council considers to be eligible for this size of property and have a local connection (as determined by the Council) to the local Housing Market Area. Where there are no suitable applicants with a specific local connection, the Council will consider including other applicants who have a local connection to the wider district of East Suffolk in line with their priorities and the Allocation Policy and who has been assessed as being in housing priority

"Tenancy Agreement" means an introductory/probationary tenancy, assured shorthold, assured or secure tenancy agreement in a form prepared by the Registered Provider and in line with an approved policy that meets the requirements of the Regulator.

"Vacancy Notice" means a written notice given by the Registered Provider to the Council the function of such notice being the notification to the Council by the Registered Provider that the construction and fitting out of the Affordable Dwelling(s) for Rent is completed and the Affordable Dwelling(s) for Rent is ready to be advertised through choice based letting or let through any subsequent agreed letting procedure. The notice shall be in a form agreed by the parties.

"Void" means an Affordable Dwelling(s) for Rent which is vacant otherwise than as a result of the tenant having

- (a) Moved to other accommodation either by transfer or decant provided by the Registered Provider; or
- (b) Moved to other accommodation under a reciprocal arrangement provided by another Registered Provider registered with the Regulator under the Housing Act 1996 or Housing and Regeneration Act 2008

"Void Notice" means a written notice given by the Registered Provider to the Council the function of such notice being the notification to the Council by the Registered Provider that the Affordable Dwelling(s) for Rent is available to be advertised through Choice Based Lettings or let through any subsequent agreed letting procedure. The notice shall be in a form agreed by the parties.

## **2 Enabling Provisions**

This Agreement is made pursuant to Section 111 of the Local Government Act 1972 Section 33 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1982 and Section 1 of the Localism Act 2011 and all other enabling powers

### **3 Procedure**

The parties agree that the Registered Provider shall give the Council nomination rights for each and every Initial Let and Void and the following procedure shall apply to the nomination of persons in respect of the Affordable Dwellings(s) for Rent.

#### **3.1 Initial lets**

- 3.1.1 The Registered Provider shall give the Council not less than 4 months' written notice of the date when the Affordable Dwelling(s) for Rent will be ready for Occupation
- 3.1.2 The Registered Provider shall serve a Vacancy Notice on the Choice Based Lettings system detailing the date available for Occupation in respect of the Affordable Dwelling(s) for Rent at the point when it wishes the Affordable Dwelling(s) for Rent to be advertised. This will be in line with agreed advertising cycles which form part of the Allocation Policy.
- 3.1.3 The Council shall arrange for the Affordable Dwelling(s) for Rent to be advertised. Within 2 Working Days of the bidding cycle closing the Council shall serve upon the Registered Provider a Shortlist. The Nominees will be prioritised in line with their housing need and banding priority and effective date. The Council may agree to delegate the shortlisting to the Registered Provider and as required, verification of relevant applicant information.
- 3.1.4 The Shortlist to be served by the Council under clause 3.1.3 shall:
- i. Specify the appropriate category of Affordable Dwelling(s) for Rent, and
  - ii. Indicate the priority for the housing of the persons named and any other relevant information using a standard pro-forma document via a generic e-mail address to the Council's Choice Based Lettings scheme
- 3.1.5 Upon the properties being ready to let the Registered Provider shall within five (5) Working Days of the date of receipt of the Shortlist select a Nominee from the Shortlist taking into account the priority in the order given for housing indicated by the Council and shall use its reasonable endeavours to arrange a viewing of the Affordable Dwelling(s) for Rent and offer a Tenancy Agreement to such selected Nominee subject to any final checks as agreed in line with the Council's Allocation Policy and the Registered Provider's letting criteria
- 3.1.6 If the selected Nominee fails to accept the offer of a tenancy within one (1) Working Day of receipt of the Registered Provider's offer such selected Nominee shall be deemed to

have rejected the Registered Provider's offer and the Registered Provider shall select and make an offer to another Nominee by repeating the procedure set out in clause 3.1.5

- 3.1.7 If the second selected Nominee fails to enter into a Tenancy Agreement within one (1) Working Day of receipt of the Registered Provider's offer then such second selected Nominee shall be deemed to have rejected the Registered Provider's offer and the Registered Provider shall select and make an offer to a third Nominee by repeating the procedure set out in clause 3.1.5
- 3.1.8 If such third selected Nominee fails to enter into a Tenancy Agreement within one (1) Working Day of receipt of the Registered Provider's offer then the Registered Provider will request a further Shortlist from the District Council and the District Council will supply this within three (3) Working Days.
- 3.1.9 If the District Council is unable to supply any further Nominees the Registered Provider will request that the Affordable Dwelling(s) for Rent is re-advertised and the procedures set out in 3.1.3 – 3.1.8 are complied with

#### **4. Voids**

- 4.1 Should an Affordable Dwelling(s) for Rent 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 procedures set out in 3.1.2 – 3.1.9 shall apply except 3.1.2 which shall refer to Void Notice rather than Vacancy Notice in addition to 4.1.1:

- 4.1.1 The Registered Provider shall give the Council not less than 1 months written notice of the date when the Affordable Dwelling(s) for Rent will be ready for Occupation

#### **5. Provision of information and alteration of lists**

- 5.1 The Registered Provider shall give notification to the Council of the following events within (2) Working Days of their occurrence:
- i. a Nominee failing to view an Affordable Dwelling(s) for Rent when a viewing has been arranged
  - ii. a Nominee failing to accept the offer of a Tenancy Agreement within the time limit prescribed by this Nomination Agreement
  - iii. a Nominee accepting an offer of a Tenancy Agreement
  - iv. Registered Provider rejecting a Nominee in accordance with Clause 5.3
- 5.2 Arrangements for notification to the Council will be set out in the Council's approved Allocation Policy
- 5.3 The Registered Provider shall have the right to interview and make enquiries of each Nominee and by serving written notice upon the Council to that effect to reject any

Nominee if in the opinion of the Registered Provider the grant of an assured tenancy to such Nominee would be in contravention of the Registered Provider's registered rules or its letting criteria. The Registered Provider is required to make decisions without influence from third parties.

- 5.4 The Council shall notify the Registered Provider in writing of any Nominee that is withdrawn from the Shortlist
- 5.5 The Registered Provider must ensure that they handle all information in line with the current Data Protection Act 1998 and future general data protection regulations and procedures and the requirements of the Councils' Allocation Policy
- 5.6 The Council and the Registered Provider agree that the nominations rights contained in this Nomination Agreement 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 2 Working Days after posting

## **7. Chargee Provisions**

The provisions in this Agreement shall not be binding on a Chargee PROVIDED THAT:

- a) The Chargee shall first give written notice to the Council of its intention to dispose of the Affordable Dwelling(s) for Rent ("the RP Notice"); and
- b) if the Council provides written notice to the Chargee within four weeks of receipt of the RP Notice that acceptable arrangements can be made for the transfer of the Affordable Dwelling(s) for Rent to either the Council or another Registered Provider within three calendar months of the date of the RP Notice the Chargee shall use reasonable endeavours over that period to complete a disposal of the Affordable Dwelling(s) for Rent to another Registered Provider or to the 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
- c) if the Council does not serve the notice referred to in paragraph b) within the four week period referred to or if such disposal has not completed within the three month period the Chargee shall be entitled to dispose of the Affordable Dwelling(s) for Rent free of the restrictions set out in this Nomination Agreement

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

Council shall give full consideration to protecting the interest of the Chargee in respect of monies outstanding under the charge or mortgage.

## **8. Transfer to other Registered Providers**

8.1 The Registered Provider shall provide notice to the Council within five (5) Working Days of any transfer of the Affordable Dwelling(s) for Rent to a Registered Provider

8.2 The Registered Provider shall use its reasonable endeavours to procure that any Registered Provider to which the Affordable Dwelling(s) for Rent erected thereon are transferred otherwise than by direction of the Regulator under its statutory powers shall enter into a similar agreement mutatis mutandis with the Council simultaneously on completing the transfer of the Property

## **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. Costs**

The Registered Provider agrees with the Council to pay the reasonable legal costs which the Council incurs in preparing and entering into this Nomination Agreement and the Council's reasonable costs to cover the nominations procedure. Any changes to current charges will be negotiated with all landlords who are required to let their properties in line with the District Council's allocation and letting policy and procedures

## **11. Agreements and Declarations**

11.1 Nothing in this Nomination Agreement fetters or restricts the exercise by the District Council of any of its powers

11.2 The obligations contained in this Nomination Agreement are covenants for the purpose of the Local Government (Miscellaneous Provisions) Act 1982 section 33

## **12 Third Party Rights**

No provisions of this Nomination Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999

In witness whereof the parties have executed this Nomination Agreement on the day and year first before written

**THE COMMON SEAL of**  
was affixed in the presence of:-

Director

Secretary

**THE COMMON SEAL of EAST SUFFOLK  
DISTRICT COUNCIL**

was affixed

In the presence of:-

Authorised signatory

## APPENDIX E

### Plan



City of [unreadable]



[unreadable text]

[unreadable text]





## APPENDIX F

### Phasing Plan

# CCD PHASING PLAN



PHASE 2

PHASE 1

PHASE 1

Legend and scale bar. The legend includes a north arrow, a scale bar, and symbols for various types of roads and boundaries. The scale bar shows distances in feet and meters. The legend also includes a key for the different colored lines used in the plan.

