

Planning Obligation by Deed of Agreement under Section 106 of the Town and Country Planning Act 1990
relating to Land rear of 15 St Peters Close
Charsfield Suffolk

Dated: 11th February

2022

- (1) EAST SUFFOLK COUNCIL**
- (2) SUFFOLK COUNTY COUNCIL**
- (3) CLARE LUCY FANE**
- (4) PARK PROPERTIES NEW HOMES LTD**

Ref JB/DC/21/2319/FUL

2022

DATE

11th February

PARTIES

- (1) **EAST SUFFOLK COUNCIL** of East Suffolk House, Riduna Park, Station Road, Melton IP12 1RT ("the Council")
- (2) **SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, Suffolk, IP1 2BX (the "County Council")
- (3) **CLARE LUCY FANE** of Hoo House, Hoo, Woodbridge, Suffolk IP13 7QJ ("the Owner")
- (4) **PARK PROPERTIES NEW HOMES LTD** (Co. Regn. No. 10347001) of 11 Deben Mill Business Centre, Old Maltings Approach, Woodbridge, Suffolk, IP12 1BL ("the Developer")

INTRODUCTION

- 1 The Council is the local planning authority for the purposes of the Act for the area in which the Site is situated.
- 2 The County Council is also a local planning authority and the local education authority for the purposes of the Act for the area in which the Site is situated.
- 3 The Owner is the freehold owner of the Site under Land Registry title number SK 153231
- 4 The Council resolved to grant Planning Permission subject to conditions and the completion of this Deed for the provision of Affordable Housing and the payment of certain financial contributions set out herein.
- 5 The Council in resolving to approve the Application is 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).

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:

“Act” the Town and Country Planning Act 1990 as amended.

“Application” the application for full planning permission validated by the Council on the 11th May 2021 for the Development and allocated reference number DC/21/2319/FUL

“Commencement of Development” the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out on the Site 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” shall be construed accordingly.

“Completion of the Development” the date that the last Dwelling is first Occupied

“Development” Mixed Residential development of 18 Dwellings Including 6 x No. Affordable Homes with Associated Garages and Parking. Construction of Access Road off St Peters Close and Provision of New Vehicular Access to No. 15 as set out in the Application and pursuant to the Planning Permission

“Dwelling”	any dwelling (including a house bungalow flat or maisonette and including both Affordable Dwellings and Market Housing Units) to be constructed pursuant to the Planning Permission and “Dwellings” shall be construed accordingly.
“Index”	All In Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation.
“Index Linked”	means the increase in any sum referred to in clause 3 of the First part of the Third Schedule by an amount equivalent to the increase in the Index from the date hereof until the date on which such sum is payable to be calculated in accordance with Clause 10 of this Deed;
“Interest”	interest at 4 per cent above the minimum lending rate of the Bank of England from time to time.
“Local Plan”	the East Suffolk Council – Suffolk Coastal Local Plan adopted 23 September 2020
“Occupation” and “Occupied”	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.
“Plan	the plan attached to this Deed.
“Planning Permission”	the full planning permission subject to conditions to be granted by the Council pursuant to the Application substantially as set out in the draft annexed to the Second Schedule and any planning permission granted pursuant to s.73 of the act subsequently granted.

“RPI Index”	the “All Items” index figure of the Index of Retail Prices published by the Office for National Statistics from time to time or any successor organisation or (if that index shall cease to be published or is otherwise unavailable) such alternative basis of indexation as may be agreed between the Parties hereto
“RPI Indexed”	the increase in a sum referred to in the Second Part of the Third Schedule and described as RPI Indexed by an amount equivalent to the increase in the RPI Index to be calculated in accordance with Clause 10 of this Deed
“Secondary School Transport Contribution”	The sum of £18,075 (Eighteen thousand and seventy-five pounds) (RPI Indexed)
“Section 106 Officer”	The officer so designated by the Council and any notice required to be served on the Section 106 Officer must be sent or delivered to the Council at the address aforesaid marked for the attention of the Section 106 Officer
“Site”	the land described in the First Schedule against which this Deed may be enforced as shown edged red for identification purposes only on the Plan.

2 CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed 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 or County Council the successors to their respective statutory functions.
- 2.7 The headings are for reference only and shall not affect construction.
- 2.8 Any covenant by the Owner 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 to or upon whom it is to be given or served at the address for that party given in this Deed or such other address in the United Kingdom as that party may by notice to the other parties hereto or their solicitors stipulate as that party's address for service of notice pursuant to this Deed or if not such address is given or stipulated at that party's last known address and any notice so given or served shall be deemed to be received and the date on which it is given or served shall be deemed to be 48 hours after posting

3 LEGAL BASIS

- 3.1 This Deed is made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers.
- 3.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council and County Council as local planning authorities against the Owner and their successors in title.

4 **CONDITIONALITY**

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

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

save for clauses 7.14, 7.15, and 15 which shall come into effect immediately upon completion of this Deed.

5 **THE OWNER'S COVENANTS**

5.1 The Owner hereby covenants with the Council as set out in the First Part of the Third Schedule so as to bind the Site and each and every part thereof

5.2 The Owner hereby covenants with the County Council as set out in the Second Part of the Third Schedule so as to bind the Site and each and every part thereof

5.3 The Owner warrants that she is the freehold owner of the Site and has full power and capacity to enter into this Deed and that no other party has a legal interest in the Site which would require them to be a party to this Deed

6 **THE COUNCIL AND COUNTY COUNCIL COVENANTS**

6.1 The Council hereby covenants with the Owner as set out in the First Part of the Fourth Schedule.

6.2 The County Council hereby covenants with the Owner as set out in the Second Part of the Fourth Schedule.

7 **MISCELLANEOUS**

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

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

7.3 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council or 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) or on behalf of the County Council by the Executive Director of Growth Highways and Infrastructure (or the officer of the County Council fulfilling such functions) and any notices shall be deemed to have been properly served if sent by recorded delivery to the

principal address or registered office (as appropriate) of the relevant party) or officer acting under his or her hand;

- 7.4 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall forthwith on the written request of the Owner mark accordingly all entries made in the Register of Local Land Charges in respect of this Deed.
- 7.5 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.
- 7.6 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 Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 7.7 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 but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 7.8 This Deed shall not be enforceable against owner-occupiers or tenants of Dwellings constructed pursuant to the Planning Permission and against those deriving title from them
- 7.9 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.
- 7.10 In the event that any new planning applications are made in respect of the Development pursuant to section 73 of the Act then with effect from the date that such new planning permission is granted pursuant to section 73 of the Act;
- 7.10.1 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
- 7.10.2 the definitions of Development Application and Planning Permission shall be assumed to include references to any applications under section 73 of the Act, the planning permissions granted thereunder and the development permitted by such subsequent planning permissions 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.

- 7.11 Nothing contained or implied in this Deed shall prejudice or affect the rights, discretions, functions, powers, duties and obligations of the Council or County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.
- 7.12 The Owner covenants from the date that this Deed takes effect to allow the Council, the County Council and their 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
- 7.13 The Owner hereby agrees that any rights to claim compensation arising from any limitations or restrictions on the planning use of the Site under the terms of this Deed are hereby waived
- 7.14 The Owner covenants to pay the Council's reasonable legal costs incurred in the preparation and negotiation of this Deed on completion of this Deed
- 7.15 The Owner covenants to pay the Council's monitoring fee of £816 on completion of this Deed
- 7.16 The Owner covenants to pay the County Council's reasonable legal costs incurred in the preparation and negotiation of this Deed on completion of this Deed
- 7.17 The Owner covenants to pay the County Council's monitoring fee of £412 on completion of this Deed

8 WAIVER

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.

9 CHANGE IN OWNERSHIP

- 9.1 The Owner agrees with the Council and County Council to give the Council and County Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed have been discharged such notice quoting the Council's reference DC/21/2319/FUL and 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 or unit of occupation purchased by reference to a plan and the title number or numbers thereof.

- 9.2 For the avoidance of doubt, the Owner shall not be obliged by this obligation to notify the Council or County Council of every plot or Dwelling disposal, but only if it disposes of all its freehold interest in the site.

10 INDEXATION

Any sum referred to in clause 3 of the Third Schedule (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:

- 10.1 A is the sum payable under this Deed;
- 10.2 B is the original sum calculated as the sum payable;
- 10.3 C is the Index for the month 2 months before the date on which the sum is payable;
- 10.4 D is the Index for the month 2 months before the date of this Deed; and
- 10.5 C/D is greater than 1

Any sum referred to in Second Part of the Third Schedule (unless the context reads otherwise) shall be increased by an amount equivalent to the increase in the RPI 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:

- 10.6 A is the sum payable under this Deed;
- 10.7 B is the original sum calculated as the sum payable;
- 10.8 C is the RPI Index for the month 2 months before the date on which the sum is payable;
- 10.9 D is the RPI Index for the month 2 months before the date of this Deed; and
- 10.20 C/D is greater than 1

11 INTEREST

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.

12 VAT

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

13 DISPUTE PROVISIONS

- 13.1 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 whose decision shall be final and binding on the parties 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.
- 13.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 13.1 or as to the appropriateness of the professional body then such question may be referred by either part to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties 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.
- 13.3 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 working days after the conclusion of any hearing that takes place or twenty-eight working days after he has received any file or written representation.
- 13.4 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten 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 working days.
- 13.5 The provisions of this clause shall not affect the ability of the Council 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

14 JURISDICTION

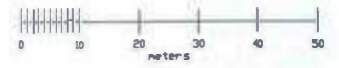
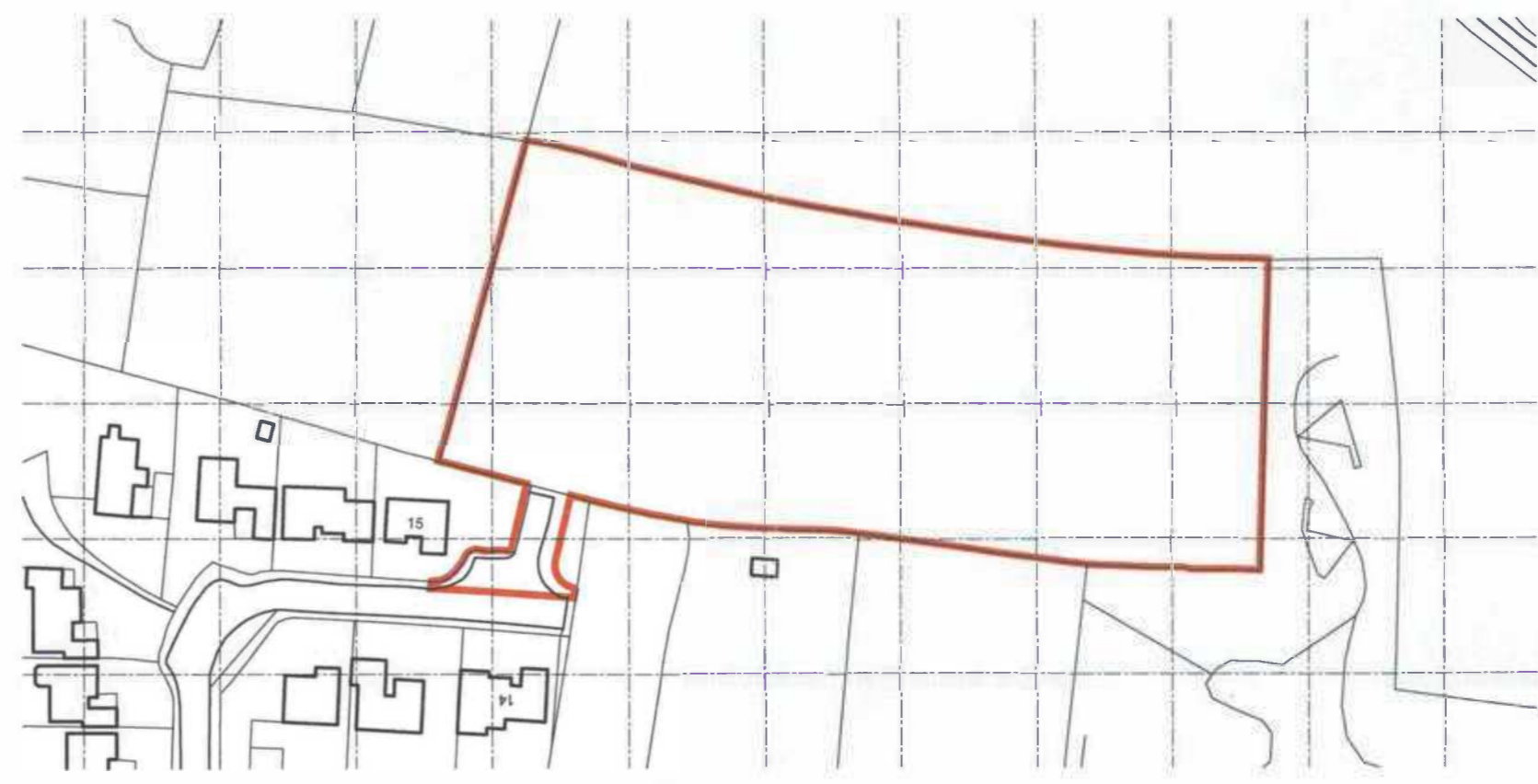
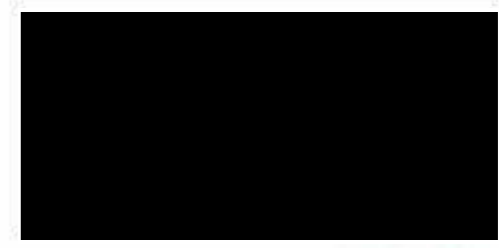
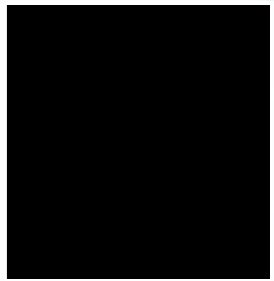
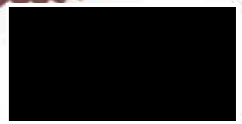
This Deed is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales.

15 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.


6259



Issued for:
PLANNING

Project/Client:
Land off St Peters Close
Charsfield
Park Properties
Project No:
0312
Dwg No: 0001 Rev: B
Scale:
1:1250@A3

Drawing:
Site Location Plan

North: 
Drawn By: PJA Date: 02/2021
Checked By: PJA Date: 02/2021



FIRST SCHEDULE

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

Land rear of 15 St Peters Close Charsfield Suffolk shown edged red for identification only on the Plan.

SECOND SCHEDULE

Brief details of the Application

Application Number:	DC/21/2319/FUL
Application Type:	Full
Date Received:	11 th May 2021
Location:	Land rear of St Peters Close Charsfield Suffolk
Proposal:	Mixed Residential development of 18 Dwellings Including 6 x No. Affordable Homes with Associated Garages and Parking. Construction of Access Road off St Peters Close and Provision of New Vehicular Access to No. 15
Applicant:	Mr C Wakefield – Park Properties New Homes Ltd

THIRD SCHEDULE

FIRST PART

The Owner's Covenants with the Council

1. Definitions

"100% Staircaser"

means a lessee of a Shared Ownership Dwelling under a Shared Ownership Lease who has exercised their right under that lease to purchase 100% of the equity in the Shared Ownership Dwelling

"Affordable Housing"

means housing that will be available to eligible households and as defined in Annex 2 of the National Planning Policy Framework (2019) or any amending or subsequent national planning policy that may be published by the Government whose needs are not met by the market and eligibility is determined with regard to local incomes and local house prices (unless otherwise agreed in writing with the Council);

"Affordable Dwellings"

means 6 Dwellings to be made available as Affordable Housing comprising of 3 x Affordable Dwellings for Rent and 1 Shared Ownership Dwelling and 2 x Discount Market Sales Dwellings the exact number, location, tenure and mix of Affordable Dwelling as set out in the Affordable Housing Table

"Affordable Dwellings for Rent"

Affordable Housing let by a Registered Provider to Eligible Persons where the rent level is capped at 80% of the local market rent (including any service charges, where applicable) and within local housing allowance rates, at the date of the first tenancy, or as

otherwise agreed with the Council in writing;

“Affordable Housing Table”

Means the table in the Third Schedule indicating the house types and tenure types of the Affordable Dwellings unless otherwise agreed in writing with the Council

“Allocation Policy”

Means the policy and procedure adopted by the Council to determine the eligibility and priority for allocation of the Affordable Dwellings for Rent

“Chargee”

any mortgagee or chargee of the Registered Provider or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925,

“Chargee’s Duty”

the tasks and duties set out in paragraph 2.6 to the Affordable Housing Part of the Third Schedule

Discounted Market Sale Dwelling

Means Affordable Dwellings sold at a discount of at least 20% below Market Value to Qualifying Persons and subject to a binding covenant securing the discount in perpetuity

“DPA”

Housing England – The Housing (Right to Enfranchise) (Designated Protected Areas) (England) Order 2009

“Eligible Person”

A person or persons on the housing register maintained by the Council or who is otherwise approved by the Council as being in need of separate or alternative accommodation

and unable to buy housing generally available on the open market;

“Habitat Mitigation Contribution”

to pay the sum of Three Hundred and Twenty One Pounds and Twenty Two Pence (£321.22) per Dwelling on or before Commencement of Development consented and Index Linked payable to the Council 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

“Homes England”

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 may replace it in either function

“Initial Sale”

The sale of the first share to each and any purchaser of a Shared Ownership Dwelling

“Local Connection Cascade”

The local connections criteria to be applied to each and every let or sale of an Affordable Dwelling as set out in Appendix B

“Market Housing Units”

that part of the Development which is general market housing for sale on the open market and which is not Affordable Housing

“Market Value”

Means the best price at which the sale of an interest in a Dwelling have been completed unconditionally for cash consideration on the date of valuation assuming (i) a willing seller and a willing buyer in an arm’s length transaction (ii) any restrictions imposed on a Dwelling by this Deed (iii) there has been a reasonable period to completion within which to negotiate the sale (iv) the Dwelling has been freely exposed to the market v) both the buyer and seller acted knowledgeably prudently and without compulsion;

“Neighbouring Parish”

the parishes of Dallinghoo, Debach, Clopton, Monewden, Hoo and Letheringham

“Nomination Agreement”

the agreement to be entered into by the Council and the Registered Provider in respect of rights for the Council to nominate Eligible Persons for the Affordable Dwellings for Rent in the form provided by the Council a draft of which is appended to this Deed at Appendix A;

“Practical Completion”

issue of a certificate of practical completion by the Owner’s architect or in the event that the Development is constructed by a party other than the Owner the issue of a certificate of practical completion by that other party’s architect;

“Protected Person”

means any person who:

- a) has exercised the right to acquire pursuant to the Housing and Regeneration Act 2008 or any statutory provision for the time being in force (or any equivalent contractual right or

equivalent voluntary scheme of disposal) in respect of a particular Affordable Housing Unit;

b) has exercised any statutory right to buy or preserved right to buy (or any equivalent contractual right or equivalent voluntary scheme of disposal) in respect of a particular Affordable Housing Unit;

c) a 100% Staircaser

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

(f) any mortgagee of a Shared Ownership Dwelling lawfully exercising the mortgage protection provisions within that Shared Ownership Lease

“Qualifying Persons”

Means a person or persons unable to buy housing generally available on the open market and whose household income is below £80,000 (or such other amount agreed in writing with the Council in accordance with government policy)

“Reasonable Consideration”

Offer prices from Registered Providers which give the Owner a reasonable consideration having regard to current market conditions in the acquisition of affordable housing of a similar type and location by Registered Providers on a grant free basis via Section 106

Agreements

**“Registered Provider”
or “RP”**

For the purposes of this deed means either: -
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;

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

any body, organisation or company which is registered charity with the Charity Commissioners for England and Wales and approved by Homes England or any other body organisation or company approved by the Council and which has objects demonstrably similar to or compatible with or promoting those of a registered social landlord;

“Sales Procedure”

Means the procedure to be approved in writing by the Council to verify the eligibility of purchasers in relation to the Discount Market Sales Dwellings

“Shared Ownership Dwelling”

means those Dwellings purchased on a Shared Ownership Lease

“Shared Ownership Lease”

Means a lease in a form approved by Homes England or where there is no such form in a form approved by the Council, such lease to provide for the following:

not more than 75% and not less than 10% of the equity (or such other percentages the Council may agree) shall be initially sold to the purchaser by the Registered Provider;

power to the purchaser to increase their ownership up to 100%;

an initial rent not exceeding 2.75% of the value of the equity retained by the Registered Provider subject to annual increases not exceeding Retail Price Index (All Items) published by the Office for National Statistics (or if such index ceases to be published such other index the Council shall reasonably determine) plus 0.5% or such other rent as complies with the requirements from time to time of Homes England;

2. AFFORDABLE HOUSING

- 2.1 The Owner covenants that no more than 40% of the Market Dwellings shall be Occupied (save unless otherwise agreed with the Council) until all of the Affordable Dwellings have been constructed in accordance with the Planning Permission made ready for residential Occupation and transferred to the Registered Provider or marketed for sale to Qualifying Persons in accordance with this Deed and written notification of such has been received by the Council.

- 2.2 The Registered Provider shall enter into a Nomination Agreement with the Council and shall not let dispose or otherwise permit the Occupation of any of the Affordable Dwellings until such Nominations Agreement has been entered into
- 2.3 The Owner will notify the Council within 28 days of the transfer of any Affordable Dwellings to a Registered Provider of the plot number, street address, house type, size and tenure of each dwelling and date of transfer
- 2.4 The Owner covenants that from the date of Practical Completion the Affordable Dwellings shall not be used other than for the purposes of Affordable Housing for Eligible Persons or Qualifying Persons subject however to the provisions herein.
- 2.5 On the first and any subsequent letting of an Affordable Dwelling for Rent the Council will (unless otherwise agreed in writing) nominate eligible applicants in accordance with the Allocation Policy and Nomination Agreement (Priority will go to applicants who have a Local Connection in accordance with the Local Connections Cascade).
- 2.6 The Registered Provider shall not dispose of any interest in any of the Affordable Dwellings for Rent other than by way of an assured tenancy or an assured shorthold tenancy under the Housing Act 1988 (or any form of residential tenancy prescribed by statute in substitution for or in addition to those) PROVIDED THAT nothing in this paragraph shall be deemed to prohibit the sale of the Affordable Dwellings individually or together (in any numerical combination) as one transaction (whether or not subject to any tenancy) to a Registered Provider
- 2.7 The affordable housing provisions in this Deed shall not be binding on a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver)) of the whole or any part of the Affordable Dwellings or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:
- i. such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Dwellings 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 dwellings 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

- ii. if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the [affordable dwellings] free from the [affordable housing provisions] in this Deed which provisions shall determine absolutely

2.8 In the event that a Registered Provider cannot be found for any of the Affordable Dwellings (save for any Affordable Dwellings to be sold directly by the Owner subject to the Sales Procedure) throughout England despite the Owner's reasonable endeavours to do so the Owner will be required to prove to the Council's satisfaction (the Council at all times acting reasonably) that demand from Registered Providers has not been forthcoming for Reasonable Consideration.

- i. 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 Owner to seek an agreed way forward that does not disadvantage the Owner whilst maximising the provision of Affordable Housing.
- ii. If after three calendar months of handover of the Affordable Dwellings to the Registered Provider there remains any Affordable Dwellings not leased or sold and the Registered Provider can provide evidence to the Council's satisfaction there are no prospective occupants the Registered Provider shall be free to seek written agreement of the Council to convert those Affordable Dwellings to an alternative form of affordable housing defined within Annex 2 to the National Planning Policy Framework (February 2019) (or any amended or subsequent national planning policy that may be published by the Government from time to time).

2.9 Nothing in this paragraph 2 shall be binding on a Protected Person or any mortgagee or chargee of a Protected Person or any receiver appointed by such mortgagee or chargee or any person deriving title from any such person.

- 2.10 A tenant of a Shared Ownership Dwelling may increase its share of equity in the Shared Ownership Dwelling after two years of the Initial Sale of the Shared Ownership Dwelling.
- 2.11 In the event that 100% of the Shared Ownership Dwelling is purchased
- 2.11.1 the proceeds from the final sale of the Shared Ownership Dwelling are to be ringfenced by the Registered Provider for 5 years for the provision of Affordable Housing within the East Suffolk District, and should the owner of the Shared Ownership Dwelling wish to sell it he must notify the Registered Provider and allow the Registered Provider to purchase the Shared Ownership Dwelling back in the first instance at Market Value;
- 2.11.2 in the event the Registered Provider purchases the Shared Ownership Dwelling in accordance with clause 0, the Shared Ownership Dwelling will be marketed as such subject to the terms of this Deed; and
- 2.11.3 in the event the Registered Provider declines to purchase the Shared Ownership Dwelling or fails to notify the owner of the Shared Ownership Dwelling of its intention to make an offer to purchase the dwelling within twenty-eight days of the notification as specified in clause 1, then the owner of the Shared Ownership Dwelling may sell it on the open market from the terms of this Deed
- 2.12 The maximum price payable to the Owners in respect of the disposal of a Discounted Market Sales Dwelling shall not exceed 80% of the Market Value (for sale or leasehold purposes) as certified by an independent valuer or surveyor who practises within a 15 mile radius of the Site in accordance with the Royal Institution of Chartered Surveyors red book valuation guidance for new build homes
- 2.13 The Discounted Market Sales Dwellings shall only be disposed of (which term shall include a freehold sale or sale of a registerable lease) to a Qualifying Person in accordance with the Local Connections Cascade and on the terms specified herein PROVIDED THAT in the event they are transferred to a Registered Provider clauses 2.14 to 2.17 of this Third Schedule shall not apply:
- 2.14 The Owner covenants to agree the Sales Procedure with the Council no less than 8 weeks prior to marketing the Discounted Market Sales Dwelling for its first sale

- 2.15 No less than 8 weeks prior to marketing the Discounted Market Sales Dwelling for its first sale the Owner shall notify the Council of the proposed Market Value
- 2.16 The Council must notify the Owner within 14 days of receipt of the notice served pursuant to paragraph 2.14 above if the Council considers the price proposed exceeds 80% of the Market Value
- 2.17 Any dispute over the Market Value is to be determined by an independent expert who is a chartered surveyor of not less than 10 years standing who is experienced in the field of valuing and selling residential property such as the Discounted Market Sales Dwellings
- 2.18 No purchaser of a Discounted Market Sales Dwelling shall sub-let or otherwise rent out such Discounted Market Sales Dwelling
- 2.19 Where the freehold or a registerable leasehold interest in a Discounted Market Sales Dwelling 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 registerable leasehold interest in the Discounted Market Sales Dwelling at a price or premium which does not exceed 80% of the Market Value of the sale unit at the date of disposal as certified by an independent valuer or surveyor
- 2.20 The transfer of a Discounted Market Sales Dwelling to a Qualifying Person shall contain a covenant binding on the transferee and all subsequent transferees from the date of the first transfer by the Owner that the transferee and any future transferees of the Discounted Market Sales Dwelling will on each transfer of the sale 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 disposition of the registered estate (other than a charge) by the proprietor of the registered estate is to be registered without a certificate signed by a conveyancer that the provisions of clause 2.20 of a Section 106 Agreement dated () 2022 made between (1) East Suffolk Council, (2) Suffolk County Council, (3) Clare Lucy Fane and (4) Park Properties New Homes Ltd have been complied with.”
- 2.21 Nothing in the transfer shall operate to restrict delay limit or prevent immediate occupation or disposal of any Discounted Market Sales Dwelling 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

2.22 In the event the Owner is unable to find a suitable buyer for a Discounted Market Sales Dwelling despite marketing the Dwelling for at least 6 months in total and all reasonable steps have been taken to sell the property (including where appropriate reducing the asking price) the Council may agree in writing to allow the sale of the dwelling on the open market and to remove the title restriction set out in paragraph 2.20 PROVIDED THAT

(a) The Council has agreed in writing it is satisfied the Owner is unable to find a suitable buyer

(b) a sum is paid to the Council equal to 20% of the purchase price of the Discounted Market Sales Dwelling (or, as much as possible of that once the value of all lending against the property has been cleared) net of any additional Stamp Duty liability incurred towards the provision of Affordable Housing within the East Suffolk District

2.22 The Affordable Housing provisions in this deed shall not be binding on a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver)) of the whole or any part of the Affordable Dwellings or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:

- i. such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Dwellings 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 dwellings 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
- ii. if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Dwellings free from the Affordable Housing provisions in this Deed which provisions shall determine absolutely

2.23. The Owner shall provide the S.106 Officer at the Council with written notification within fourteen days of:

2.23.1 The Commencement of Development

2.23.2 Occupation of the first Market Housing Unit

2.23.3 Occupation of 40% of the Market Housing Unit

AFFORDABLE HOUSING TABLE

House Type	Tenure	Number	Plot Number
1 bed flat	Affordable Dwelling for Rent	2	6 and 7
2 bed house	Affordable Dwelling for Rent	1	5
2 bed house	Shared Ownership Dwelling	1	4
3 bed house	/Discounted Market Sale Dwelling	2	2 and 3

3. HABITAT MITIGATION CONTRIBUTION

3.1 The Owner covenants to pay the Habitat Mitigation Contribution to the Council prior to Commencement of Development

3.2 The Owner covenants not to Commence or permit the Commencement of Development until the Habitat Mitigation Contribution has been paid to the Council

SECOND PART

The Owner's Covenants with the County Council

1. SECONDARY SCHOOL TRANSPORT CONTRIBUTION

- 1.1 To pay to the County Council the Secondary School Transport Contribution (RPI Indexed) prior to first Occupation of the first Dwelling
- 1.2 Not to Occupy or permit first Occupation of the first Dwelling until the Secondary School Transport Contribution (RPI Indexed) has been paid to the County Council

FOURTH SCHEDULE

FIRST PART

Council's Covenants

Covenants by the Council

Discharge of obligations

1. At the written request of the Owner the Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed.
- 1.2 The Council shall pay the Habitat Mitigation Contribution when received into a separate account use the Habitat Mitigation Contribution for the purposes set out in the Deed within ten (10) years from receipt PROVIDED THAT nothing shall prevent the Council from paying any part of the Habitat Mitigation Contribution to a person, body or company that may be responsible for the carrying out of the work as set out in this Deed.
- 1.3 The Council shall if requested to do so in writing after the expiry of TEN (10) years of the date that the Habitat Mitigation Contribution was paid within ONE (1) year pay to any such person such amount of the Habitat Mitigation Contribution paid by that person in accordance with the provisions of this Deed which have not been committed or expended by the Council, such payment to be made within TWENTY EIGHT (28) working days of such a request together with any interest thereon.

SECOND PART

County Council's Covenants

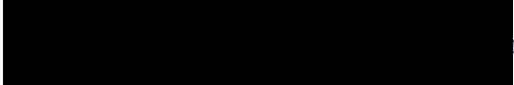
1. The County Council shall use the Secondary School Transport Contribution for school transport purposes.
2. If requested to do so in writing after the expiry of ten (10) years from the date of Completion of the Development within a further period of one (1) year to pay the payer such amount of the Secondary School Transport Contribution paid by the payer which has not been committed or expended by the County Council in accordance with the provisions of this Deed together with any interest accrued and if for any period the Bank of England Base Rate is at or below 0.02% then no interest shall be payable.
3. When the Secondary School Transport Contribution paid to the County Council pursuant to this Deed has been spent or committed the County

Council shall upon written request by the Owner and/or the payer after the expiry of ten (10) years from the date of Completion of the Development within a further period of one (1) year notify the Owner and/or payer (as appropriate) 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

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

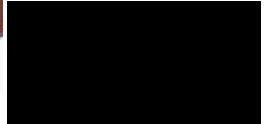
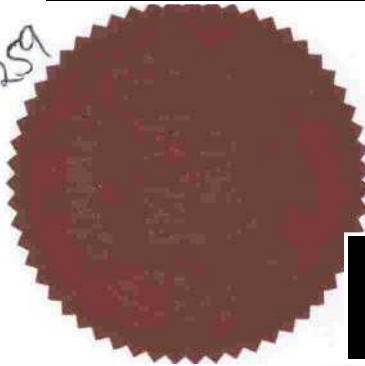


Officer



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

65259



Authorised Officer

SIGNED AS A DEED
by the said
CLARE LUCY FANE

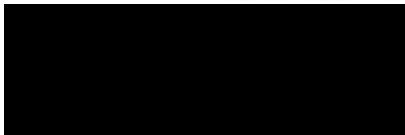
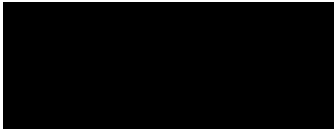


Signature

Witness name



Witness address



Witness Signat

Executed AS A DEED

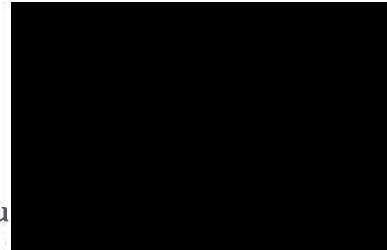
by the said

PARK PROPERTIES NEW HOMES LTD

acting by a Director in the

presence of:

Signature



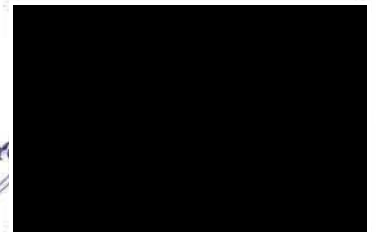
Director

Witness name

Witness address

Christopher Stewart Green
F.C.I.L.Ex
Barker Gotelee
41 Barrack Square
Martlesham Heath
IPSWICH IP5 3RF

Witness Signature



Appendix A

Nomination Agreements

DATED

2018

(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

201

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 approved by East Suffolk Council]

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% ^{and} 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

“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/or as determined in the Section 106 Agreement for the Property 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 Council and the Council will supply this within three (3) Working Days.
- 3.1.9 If the 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 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 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

COUNCIL

was affixed

In the presence of:-

Authorised signatory

DRAFT

1.4. 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

2. Affordable Dwellings for sale

2.1 On advertising each and every sale of a Shared Ownership Dwelling or Discounted Market Sales Dwelling the Dwelling shall be marketed for sale for the first 3 months to persons who:

- (a) Has continuously lived in Charsfield for the preceding 5 years, OR
- (b) Has continuously had a place of work in Charsfield 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 Charsfield 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 Charsfield

2.2. If there are no persons who qualify under paragraph 2.1 the Dwellings are to be marketed for sale for the next 3 months to persons who

- (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

If there are no purchasers who qualify under paragraph 2.1 and 2.2 above within 3 months of marketing the Affordable Dwelling it may be sold to any Qualifying Person