

DATED 12<sup>th</sup> December

2024

EAST SUFFOLK COUNCIL	(1)
SUFFOLK COUNTY COUNCIL	(2)
PETER JAMES ROBINSON and BRENDA MARGARET ROBINSON	(3)
DENBURY HOMES LIMITED	(4)

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S106 AGREEMENT

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Relating to land off The Street, Eyke

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No table of contents entries found.

DATE 12<sup>th</sup> December 2024

## **PARTIES**

1. **EAST SUFFOLK COUNCIL** of East Suffolk House Station Road Melton Suffolk IP12 1RT ("the Council"); and
2. **SUFFOLK COUNTY COUNCIL** of Endeavour House 8 Russell Road Ipswich Suffolk IP1 2BX ("the County Council"); and
3. **PETER JAMES ROBINSON** and **BRENDA MARGARET ROBINSON** of 41 Angela Close Martlesham Woodbridge Suffolk IP12 4TG ("the Owner")
4. **DENBURY HOMES LIMITED** (Company Registration No 02162164) whose registered office is at Westley Bottom Westley Bury St Edmunds Suffolk IP33 3WD ("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 Owner is the freehold owner of the Site registered with other land at the Land Registry under title number SK193549
4. The Developer submitted the Application to the Council for the Development and the Council has resolved to grant the Planning Permission for the Development pursuant to the Application subject to the prior completion of this Deed to regulate the Development and to secure the planning obligations contained in this Deed
5. The Developer intends to purchase the freehold interest in the Site subject to the Council granting the Planning Permission in terms which are satisfactory to the Developer
6. On 6 January 2023 the Council validated the Application and allocated it reference DC/22/4775/FUL
7. The Site lies within the area to which the Local Plan applies

8. The Council, the County Council, the Owner 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.
9. 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)

NOW THIS DEED WITNESSES AS FOLLOWS:

## OPERATIVE PART

### 1. DEFINITIONS

- 1.1 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 Second Schedule:

**“Act”** the Town and Country Planning Act 1990  
(as amended)

**“Anticipated Commencement Date”** the date the Owner reasonably anticipates Commencement of Development to occur

**“Anticipated First Occupation Date”** The date the Owner reasonably anticipates the first (1<sup>st</sup>) Dwelling will be first Occupied

**“Application”** the application for full planning permission submitted to and validated by the Council on 6 January 2023 for the Development and allocated reference number DC/22/4775/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" and "Commencement" shall be construed accordingly.

<b>"Completion of Development"</b>	the date that the last Dwelling is first Occupied
<b>"Council Monitoring Fee"</b>	the sum of Three Thousand One Hundred and Fifteen Pounds (£3,115)
<b>"County Council Monitoring Fee"</b>	the sum of Nine Hundred and Fifty-Two Pounds (£952)
<b>"Development"</b>	the full planning application for the residential development of 65 dwellings (Use Class C3); change of use of Agricultural Land to provide for the expansion of the adjacent Eyke CE Primary School site (Use Class F1(a)); vehicular and pedestrian access from The Street; internal access road; car and cycling parking; local equipped area for play (LEAP); public open space; landscaping; Sustainable Urban Drainage Systems; and associated infrastructure
<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

**"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"**

the increase in any sum referred to in the Second and Third Schedules by an amount equivalent to the increase in the Index (or the RPI Index where the Third Schedule requires) to be calculated in accordance with Clause 11 of this Deed

**"Interest"**

interest at four per cent (4%) above the base lending rate of the Bank of England from time to time

**"Local Plan"**

the East Suffolk Council Suffolk Coastal Local Plan adopted in 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

**"Planning Permission"**

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

**"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 and "RPI Index Linked" shall be construed accordingly

**"S106 Officer"**

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

**"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 Site Plan

**"Site Plan"**

means the plan attached to this Deed reference EYK1 001

**"Working Day"**

Monday to Friday (inclusive) except Good Friday, Christmas Day and public or bank holidays from time to time in England and "Working Days" shall be construed accordingly

**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 any gender include any other 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 the 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 and in the case of the County Council any notice shall be marked for the attention of the Executive Director of Growth Highways and Infrastructure.

### **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 under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council and the County Council as appropriate as local planning authorities against the Owner and their successors in title

### **4. CONDITIONALITY**

- 4.1 The obligations set out in the Second and Third Schedules of this Deed are conditional upon the grant of the Planning permission and the rest of the provisions set out in this Deed shall take 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 Second 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 Third Schedule so as to bind the Site and each and every part thereof
- 5.3 The Developer hereby covenants with the Council to pay the Council's reasonable legal costs incurred in the preparation and negotiation of this Deed on completion of this Deed and the Council Monitoring Fee on completion of this Deed
- 5.4 The Developer hereby covenants with the County Council to pay the County Council's reasonable legal costs incurred in the preparation and negotiation of this Deed and the County Council Monitoring Fee on completion of this Deed
- 5.5 The Owner warrants that they are the freehold owners 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 interest in the Site which would require them to be a party to this Deed or whose consent is necessary to make this Deed binding on the Site and all estates and interests therein

**6. THE COUNCIL'S COVENANTS**

- 6.1 The Council hereby covenants with the Owner as set out in the Fourth Schedule

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

- 7.1 The County Council hereby covenants with the Owner as set out in the Fifth 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
- 8.3 Where the agreement approval, consent or expression of satisfaction is required by the Owner from the Council and/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 any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party

- 8.4 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
- 8.5 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
- 8.6 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
- 8.7 Save for the obligations contained within paragraph 2 to the Second Schedule of this Deed which shall continue to be binding and enforceable against individual purchasers, owners, occupiers, lessees or their mortgagees of the Affordable Dwellings subject to the provisions contained therein the covenants, restriction and requirements contained in this Deed shall not be enforceable against:
- 8.7.1 Individual purchasers or lessees of Dwellings constructed on the Site pursuant to the Planning Permission or their mortgagees (except in respect of First Homes in Paragraph 2 of the Second Schedule) where (in relation to a breach) that breach occurs after that individual purchaser or lessee has completed the purchase or lease of the Dwelling or has entered into a binding contract for such purchase or lease; and
- 8.7.2 Any statutory undertaker or other person who acquires any part of the Site or an interest in it for the purposes of the supply of electricity gas water telecommunications or highways in connection with the Development of the Site
- 8.8 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
- 8.9 Nothing contained or implied in this Deed shall prejudice or affect the rights, discretions, functions, powers, duties and obligations of the Council and/or the County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as local authorities
- 8.10 The Owner covenants from the date that this Deed takes effect to allow the Council and/or the County Council and its 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

8.11 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

8.12 In the event that any new planning applications are made in respect of the Development pursuant to section 73 or section 73B (as inserted into the Act by s110(2) of the Levelling-up and Regeneration Act 2023 in the event that it comes into force) of the Act then with effect from the date that such new planning permission is granted pursuant to section 73 or section 73B of the Act ("Section 73 Consent")

8.12.1 The obligations of this Deed shall in addition to binding the Site in respect of the Planning Permission relate to and bind the Site in respect of the Section 73 Consent; and

8.12.2 The definitions of Development Application and Planning Permission shall be assumed to include references to any applications made pursuant to sections 73 or 73B 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 applications under sections 73 or 73B 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 sections 73 or 73B 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; and

8.12.3 To the extent that any of the obligations in this Deed have already been discharged at the date that a Section 73 Consent is granted they shall remain discharged for the purposes of the Section 73 Consent

## **9. WAIVER**

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

## **10. CHANGE IN OWNERSHIP**

- 10.1 The Owner agrees to give the Council and the County Council written notice within 10 working days 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/22/4775/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 or unit of occupation purchased by reference to a plan and the title number or numbers thereof

## **11. INDEXATION**

- 11.1 Any sum referred to in the Second and Third Schedule (unless the context reads otherwise) shall be increased by an amount equivalent to the increase in the Index or RPI Index (as the context dictates) 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 calculated as the sum payable;
  - 11.1.3 C is the Index or RPI Index (as the context dictates) for the month 2 months before the date on which the sum is payable;
  - 11.1.4 D is the Index or RPI Index (as the context dictates) 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 until 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 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 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 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 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 and/ or the County 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

## **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

## **17. NOTICES**

17.1 The Owner shall provide the S106 Officer and the County Council with written notification within ten (10) Working Days of the date of

17.1.1 Commencement of Development

17.1.2 Occupation of first Dwelling

17.1.3 Occupation of 15<sup>th</sup> Market Dwelling

17.1.4 Occupation of 30th Market Dwelling

17.1.5 Practical Completion of the Affordable Dwellings

17.2 The Owner shall provide the County Council with prior written notification no later than ten (10) Working Days advising of:

17.2.1 the Anticipated Commencement Date

17.2.2 the Anticipated First Occupation Date

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

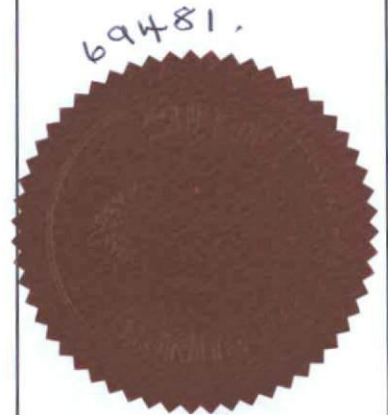
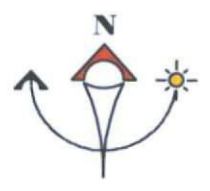
## **FIRST SCHEDULE**

### **Details of Owner's Title and Description of the Site**

Freehold land off The Street, Eyke, Suffolk IP12 2QW within registered title number SK193549 shown edged Red for identification only on the Site Plan.

Notes:  
 Do not scale from this drawing to ascertain dimensions.  
 Copyright for all designs and drawings shall remain with Denbury Homes Ltd.  
 in accordance with the Copyright act.

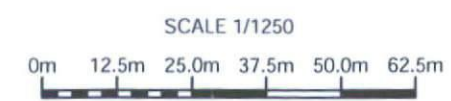
Rev.	Date	Details



DENBURY  
HOMES

PLANNING

Project: The Street, Eyke	Project no: EYK1 Dwg no: 001
Drawing: Site Location Plan	Scale: 1:1250 @ A3 Rev: -
Plot Numbers: -	Drawn by: LS Date: 04-22





**SCHEDULE TWO  
Owner Covenants**

**PART 1**

**AFFORDABLE HOUSING**

1. Definitions

- “100% Staircaser”** means a lessee of a Shared Ownership Dwelling or under a Shared Ownership Lease who has exercised their right under that lease to purchase 100% of the equity in the Shared Ownership Dwelling
- “Additional First Homes Contribution”** means in circumstances where a sale of a First Home other than as a First Home has taken place in accordance with paragraphs 2.9, 2.23 or 2.24 of this Schedule, the lower of the following two amounts:  
(a) 30% of the proceeds of sale; or  
(b) the proceeds of sale less the amount due and outstanding to any Mortgagee of the relevant First Home under relevant security documentation which for this purpose shall include all accrued principal monies, interest and reasonable costs and expenses that are payable by the First Homes Owner to the Mortgagee under the terms of any mortgage but for the avoidance of doubt shall not include other costs or expenses incurred by the First Homes Owner in connection with the sale of the First Home  
and which for the avoidance of doubt shall in each case be paid following the deduction of any SDLT payable by the First Homes Owner as a result of the Disposal of the First Home other than as a First Home
- “Affordable Dwellings”** means twenty one (21) Dwellings to be made available as Affordable Housing comprising eleven (11) Affordable Dwellings for Rent (plots 7, 8, 14, 15, 16, 17, 18, 19, 23, 24 and 25) five (5) Shared Ownership Dwellings (plots 5, 6, 12, 13 and 20) and five (5) First Homes (plots 9, 10, 11, 21 and 22 ) as shown on drawing number EYK1- 002 Rev E
- “Affordable Dwellings for Rent”** Affordable Housing let by a Registered Provider to an Eligible Person 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 or as otherwise agreed in writing with the Council

<b>"Affordable Housing"</b>	housing that will be available to eligible households as and as defined in Annexe 2 of the National Planning Policy Framework (2023) 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 income and local house prices (unless otherwise agreed in writing with the Council)
<b>"Affordable Housing Contribution"</b>	means the sum of £77,050 (Seventy Seven Thousand pounds and 50 pence) Index Linked to be paid as a contribution of 0.67 of an Affordable Dwelling in lieu of on site affordable housing to be used towards the provision of Affordable Housing through the acquisition of land or the construction or development of new properties or the purchase or refurbishment of existing market properties in East Suffolk;
<b>"Affordable Housing Table"</b>	means the table at paragraph 2.34 of this Second Schedule indicating the house and tenure types of the Affordable Dwellings unless otherwise agreed in writing with the Council
<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 Dwellings for Rent
<b>"Armed Services Member"</b>	means a member of the Royal Navy the Royal Marines the British Army or the Royal Air Force or a former member who was a member within the five (5) years prior to the purchase of the First Home, a divorced or separated spouse or civil partner of a member or a spouse or civil partner of a deceased member or former member whose death was caused wholly or partly by their service;
<b>"Chargee"</b>	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;
<b>"Compliance Certificate"</b>	means the certificate issued by the Council confirming that a Dwelling is being Disposed of as a First Home to a purchaser meeting the Eligibility Criteria (National) and unless paragraph 2.17 applies the Eligibility Criteria (Local);

<b>"Discount Price"</b>	<b>Market</b>	means a sum which is the Market Value of a First Home discounted by at least 30%;
<b>"Disposal"</b>		means a transfer of the freehold or (in the case of a flat only) the grant or assignment of a leasehold interest other than: <ul style="list-style-type: none"> <li>(a) a letting or sub-letting of a First Home in accordance with paragraphs 2.16 - 2.32</li> <li>(b) a transfer of the freehold interest in a First Home or land on which a First Home is to be provided before that First Home is made available for Occupation except where the transfer is to a First Homes Owner</li> <li>(c) an Exempt Disposal</li> </ul> and "Dispose" and "Disposed" and "Disposing" shall be construed accordingly;
<b>"Eligibility (Local)"</b>	<b>Criteria</b>	means local criteria met in respect of a purchase of a First Home if: <ul style="list-style-type: none"> <li>(a) the purchaser meets the criteria in the Local Connections Cascade (or in the case of a joint purchase at least one of the joint purchasers meets the Local Connections Cascade); and</li> <li>(b) the purchaser meets any further local criteria in effect at the date of the relevant Disposal of a First Home</li> </ul> it being acknowledged that at the date of this Deed the Council has only prescribed Eligibility Criteria (Local) in respect of (a);
<b>"Eligibility (National)"</b>	<b>Criteria</b>	means criteria which are met in respect of a purchase of a First Home if: <ul style="list-style-type: none"> <li>(a) the purchaser is a First Time Buyer (or in the case of a joint purchase each joint purchaser is a First Time Buyer); and</li> <li>(b) the purchaser's annual gross income (or in the case of a joint purchase, the joint purchasers' joint annual gross income) does not exceed £80,000 or such other sum as may be published for this purpose from time to time by the Secretary of State and is in force at the time of the relevant Disposal of the First Home;</li> </ul>
<b>"Eligible Person"</b>		means a person or persons on the housing register maintained by 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 housing generally available on the open market
<b>"Exempt Disposal"</b>		means the Disposal of a First Home in one of the following circumstances:

(a) a Disposal to a spouse or civil partner upon the death of the First Homes Owner

(b) a Disposal to a named beneficiary under the terms of a will or under the rules of intestacy following the death of the First Homes Owner

(c) Disposal to a former spouse or former civil partner of a First Homes Owner in accordance with the terms of a court order, divorce settlement or other legal agreement or order upon divorce, annulment or dissolution of the marriage or civil partnership or the making of a nullity, separation or presumption of death order

(d) Disposal to a trustee in bankruptcy prior to sale of the relevant Dwelling (and for the avoidance of doubt paragraph 2.18 shall apply to such sale)

Provided that in each case other than (d) the person to whom the Disposal is made complies with the terms of paragraph 2;

**“First Home”**

means a Dwelling which may be Disposed of as a freehold or (in the case of flats only) as a leasehold property to a First Time Buyer at the Discount Market Price and which on its first Disposal does not exceed the Price Cap;

**“First Homes Owner”**

means the person or persons having the freehold or leasehold interest (as applicable) in a First Home other than:

(a) a developer or other entity to which the freehold interest or leasehold interest in a First Home or in the land on which a First Home is to be provided has been transferred before that First Home is made available and is Disposed of for Occupation as a First Home; or

(b) the freehold a tenant or sub-tenant of a permitted letting under paragraph 2

**“First Time Buyer”**

means a first time buyer as defined by paragraph 6 of Schedule 6ZA to the Finance Act 2003;

**“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

**“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 A

<b>"Market Dwellings"</b>	that part of the Development which is general market housing for sale on the open market and which is not Affordable Housing
<b>"Market Value"</b>	means the open market value as assessed by a Valuer of a Dwelling and assessed in accordance with the RICS Valuation Standards (January 2014 or any such replacement guidance issued by RICS) and for the avoidance of doubt shall not take into account any discount in the valuation
<b>"Mortgagee"</b>	means any financial institution or other entity regulated by the Prudential Regulation Authority and the Financial Conduct Authority to provide facilities to a person to enable that person to acquire an Affordable Dwelling including all such regulated entities which provide Shari'ah compliant finance for the purpose of acquiring an Affordable Dwelling
<b>"NPPF"</b>	National Planning Policy Framework December 2023 (or its subsequent replacement)
<b>"Nomination Agreement"</b>	means 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 of the draft agreement appended to this Deed at Appendix B
<b>"Practical Completion"</b>	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
<b>"Price Cap"</b>	means the amount for which the First Home is sold after the application of the Discount Market Price which on its first Disposal shall not exceed Two Hundred and Fifty Thousand Pounds (£250,000) or such other amount as may be set locally or published from time to time by the Secretary of State
<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 force (or any equivalent contractual right) in respect of a particular Affordable Dwelling or</li> </ul>

(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 or

(c) a 100% Staircaser or

(d) any successor in title of a chargee or mortgagee of the person named a) – c) above

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

**“Qualifying Person”**

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 Disposal of Affordable Housing of a similar type and location by Registered Providers on a grant free basis via Section 106 Agreements

**“Registered Provider”**

means either:-

(i) 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;

(ii) 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

(iii) 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

to be approved in writing by the Council

**“SDLT”**

means Stamp Duty Land Tax as defined by the Finance Act 2003 or any tax replacing it of like effect