

SECOND SCHEDULE

The Owner's Covenants with the Council

Part 1: Affordable Housing

The Owner hereby covenants with the Council as follows (unless otherwise agreed in writing by the Owner and the Council):

1 Affordable Housing

- 1.1 Not to Commence Development or allow the Commencement of Development on an Affordable Housing Phase unless or until an Affordable Housing Scheme for that Affordable Housing Phase has been submitted to and approved by the Council.
- 1.2 In the event the Affordable Housing Mix does not provide for 20% of the Dwellings on the Development to be provided as Affordable Housing Units then the Affordable Housing Contribution shall be payable.
- 1.3 Where the Affordable Housing Contribution is required to be paid, the Owner covenants that the final Developer Phase shall not be Commenced unless and until the Affordable Housing Contribution is paid to the Council.
- 1.4 Subject to the provisions of this paragraph 1 the Owner covenants to transfer all of the Affordable Housing Units to a Registered Provider SAVE FOR the Shared Equity Dwellings (if provided) in the event they are sold directly by the Owner in which case the Owner shall agree the Shared Equity Sales Procedure with the Council for approval in writing prior to marketing the Shared Equity Dwellings AND SAVE FOR the First Homes (if provided) in the event they are sold directly by the Owner.
- 1.5 Subject to the provisions of this paragraph 1 from the date of Practical Completion of the Affordable Housing Units they shall not be used other than for the purposes of Affordable Housing for Eligible Persons or Qualifying Persons or First Time Buyers (in the case of First Homes) in accordance with the Affordable Housing Scheme subject however to the provisions herein.
- 1.6 The Owner covenants that no more than 40% of the Open Market Dwellings in an Affordable Housing Phase shall be Occupied (save unless otherwise agreed with the Council) until a contract has been entered into with a Registered Provider for transfer of all the Affordable Housing Units on an Affordable Housing Phase (SAVE FOR the Shared Equity Dwellings (if

provided) in the event they are sold directly by the Owner AND SAVE FOR the First Homes (if provided) in the event they are sold directly by the Owner.) unless otherwise agreed in writing with the Council.

- 1.7 Unless otherwise agreed in writing by the Council the Owner covenants not to Occupy or allow Occupation of more than 60% of the Open Market Dwellings on an Affordable Housing Phase unless and until all of the Affordable Housing Units for that Affordable Housing Phase are Practically Complete and either transferred to a Registered Provider (and for the avoidance of doubt the term "transferred" in this Second Schedule shall mean transfer of the freehold interest) or marketed for sale to Qualifying Persons or First Time Buyers (in the case of First Homes) in accordance with Part 1 of this Second Schedule in accordance with the terms of this Deed.
- 1.8 The Owner will notify the Council within 28 days of the transfer of any Affordable Housing Units to a Registered Provider of the plot number, street address, house type, size and tenure of each Dwelling and date of transfer.
- 1.9 The Registered Provider shall enter into a Nomination Agreement with the Council and shall not let dispose or otherwise permit Occupation of any of the Affordable Rental Unit for that Affordable Housing Phase until such Nomination Agreement has been entered into with the Council in respect of the Affordable Rental Unit unless otherwise agreed in writing.
- 1.10 On the first and any subsequent letting of an Affordable Rental Unit 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 at Annex A).
- 1.11 In the event that a Registered Provider cannot be found for any of the Affordable Housing Units (save for any Affordable Housing Units to be sold directly by the Owner) 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.
- 1.12 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.

- 1.13 If after three calendar months of handover of the Affordable Housing Units to the RP there remains any Affordable Housing Units not leased or sold and the RP can provide evidence to the Council's satisfaction there are no prospective occupants the RP 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 NPPF.
- 1.14 The First Homes shall be marketed for sale and shall only be sold (whether on a first or any subsequent sale) as First Homes to a person or person(s) meeting:
- a. the Eligibility Criteria (National); and
 - b. the Eligibility Criteria (Local)
- 1.15 If after a First Home has been actively marketed for 3 months (such period to expire no earlier than three (3) months prior to Practical Completion) it has not been possible to find a willing purchaser who meets the Eligibility Criteria (Local) (if any), paragraph 1.14(b) shall cease to apply.
- 1.16 Subject to paragraphs 1.17 to 1.21, no First Home shall be Disposed of (whether on a first or any subsequent sale) unless not less than 50% of the purchase price is funded by a first mortgage or other home purchase plan with a Mortgagee.
- 1.17 No First Home shall be Disposed of (whether on a first or any subsequent sale) unless and until:
- 1.17.1 the Council has been provided with evidence that:
 - 1.17.1.1 the intended purchaser meets the Eligibility Criteria (National) and unless paragraph 1.14 applies meets the Eligibility Criteria (Local) (if any)
 - 1.17.1.2 the Dwelling is being Disposed of as a First Home at the Discount Market Price and
 - 1.17.1.3 the transfer of the First Home includes:
 - a. a definition of the "Council" which shall be East Suffolk Council
 - b. a definition of "First Homes Provisions" in the following terms:

"means the provisions set out in paragraphs 1.14 to 1.32 of the S106 Agreement a copy of which is attached hereto as the Annexure."

- c. a definition of "S106 Agreement" means the agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 dated [] made between and entered into between (1) East Suffolk Council (2) Suffolk County Council and (3) W M Tubby Limited
- d. a provision that the First Home is sold subject to and with the benefit of the First Homes Provisions and the transferee acknowledges that it may not transfer or otherwise Dispose of the First Home or any part of it other than in accordance with the First Homes Provisions
- e. a copy of the First Homes Provisions in an Annexure

1.17.2 The Council has issued the Compliance Certificate and the Council hereby covenants that it shall issue the Compliance Certificate within twenty eight (28) days of being provided with evidence sufficient to satisfy it that the requirements of paragraphs 1.16 and 1.17.1 have been met

1.18 On the first Disposal of each and every First Home to apply to the Chief Land Registrar pursuant to Rule 91 of and Schedule 4 to the Land Registration Rules 2003 for the entry on the register of the title of that First Home of the following restriction:

"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by East Suffolk Council of East Suffolk House, Station Road, Melton, Woodbridge IP12 1RT or their conveyancer that the provisions of clause XX (the First Homes provision) of the Transfer dated [Date] referred to in the Charges Register have been complied with or that they do not apply to the disposition"

1.19 The owner of a First Home may apply to the Council to Dispose of it other than as a First Home on the grounds that either:

1.19.1 the Dwelling has been actively marketed as a First Home for six (6) months in accordance with Clauses 1.14 and 1.15 (and in the case of a first Disposal the six (6) months shall be calculated from a date no earlier than six (6) months prior to Practical Completion) and all reasonable endeavours have been made to Dispose of the

Dwelling as a First Home but it has not been possible to Dispose of that Dwelling as a First Home in accordance with paragraphs 1.16 and 1.17.1; or

1.19.2 requiring the First Homes Owner to undertake active marketing for the period specified in paragraph 1.19.1 before being able to Dispose of the Dwelling other than as a First Home would be likely to cause the First Homes Owner undue hardship

1.20 Upon receipt of an application served in accordance with paragraph 1.19 the Council shall have the right (but shall not be required) to direct that the relevant Dwelling is disposed of to it at the Discount Market Price

1.21 If the Council is satisfied that either of the grounds in paragraph 1.19 above have been made out it shall confirm in writing within twenty eight (28) days of receipt of the written request made in accordance with paragraph 1.19 that the relevant Dwelling may be Disposed of:

1.21.1 to the Council at the Discount Market Price; or

1.21.2 (if the Council confirms that it does not wish to acquire the relevant Dwelling) other than as a First Home

and on the issue of that written confirmation the obligations in this Deed which apply to First Homes shall cease to bind and shall no longer affect that Dwelling apart from paragraph 1.23 which shall cease to apply on receipt of payment by the Council where the relevant Dwelling is disposed of other than as a First Home

1.22 If the Council does not wish to acquire the relevant Dwelling itself and is not satisfied that either of the grounds in paragraph 1.19 above have been made out then it shall within twenty eight (28) days of receipt of the written request made in accordance with paragraph 1.19 serve notice on the owner setting out the further steps it requires the owner to take to secure the Disposal of a Dwelling as a First Home and the timescale (which shall be no longer than six (6) months). If at the end of that period the owner has been unable to Dispose of the Dwelling as a First Home he may serve notice on the Council in accordance with paragraph 1.19 following which the Council must within 28 days issue confirmation in writing that the Dwelling may be Disposed of other than as a First Home

1.23 Where a Dwelling is Disposed of other than as a First Home in accordance with paragraph 1.19 and following confirmation at paragraph 1.21 the Owner of the First Home shall pay to the Council forthwith upon receipt of the proceeds of sale the Additional First Homes Contribution

- 1.24 Upon receipt of the Additional First Homes Contribution the Council shall:
- 1.24.1 within 28 days of such receipt, provide a completed application to enable the removal of the restriction on the title set out in paragraph 1.18 where such restriction has previously been registered against the relevant title
 - 1.24.2 apply all monies received towards the provision of Affordable Housing
- 1.25 Any person who purchases a First Home free of the restrictions in the Second Schedule of this Deed pursuant to the provisions in paragraphs 1.19 and confirmation given by the Council at paragraph 1.21.2 shall not be liable to pay the Additional First Homes Contribution to the Council
- 1.26 Each First Home shall be used only as the main residence of the First Homes Owner and shall not be let, sub-let or otherwise Disposed of other than in accordance with the terms of this Deed PROVIDED THAT letting or sub-letting shall be permitted in accordance with paragraphs 1.27 – 1.30 below.
- 1.27 A First Homes Owner may let or sub-let their First Home for a fixed term of no more than two (2) years, provided that the First Homes Owner notifies the Council in writing before the First Home is Occupied by the prospective tenant or sub-tenant. A First Homes Owner may let or sub-let their First Home pursuant to this paragraph more than once during that First Homes Owner's period of ownership, but the aggregate of such lettings or sub-lettings during a First Homes Owner's period of ownership may not exceed two (2) years.
- 1.28 A First Homes Owner may let or sub-let their First Home for any period provided that the First Homes Owner notifies the Council and the Council consents in writing to the proposed letting or sub-letting. The Council covenants not to unreasonably withhold or delay giving such consent and not to withhold such consent in any of circumstances (a) – (f) below:
- a. the First Homes Owner is required to live in accommodation other than their First Home for the duration of the letting or sub-letting for the purposes of employment;
 - b. the First Homes Owner is an active Armed Services Member and is to be deployed elsewhere for the duration of the letting or sub-letting;
 - c. the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to escape a risk of harm;

- d. the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of relationship breakdown;
 - e. the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of redundancy; and
 - f. the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to provide care or assistance to any person.
- 1.29 A letting or sub-letting permitted pursuant to paragraph 1.27 or 1.28 must be by way of a written lease or sub-lease (as the case may be) of the whole of the First Home on terms which expressly prohibit any further sub-letting.
- 1.30 Nothing in this Second Schedule prevents a First Homes Owner from renting a room within their First Home or from renting their First Home as temporary sleeping accommodation provided that the First Home remains at all times the First Home Owner's main residence.
- 1.31 An application fee will be payable on each and every application for a First Home in line with the Councils set charges for such applications
- 1.32 Nothing in this Second Schedule 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.

Mortgagee Protection

- 1.33 The obligations in this Second Schedule shall not apply to any 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 Housing Units or any individual First Home or any persons or bodies deriving title through such Chargee, Mortgagee or Receiver PROVIDED THAT:
- 1.33.1 such Chargee or Receiver of an Affordable Rental Unit or Shared Ownership Dwelling or a Shared Equity Dwelling shall first give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a Disposal of the Affordable Housing Units to another registered provider or to the Council for a consideration not less than the amount due and outstanding

under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and

- 1.33.2 if such Disposal of the Affordable Rental Units or Shared Ownership Dwellings or a Shared Equity Dwellings has not completed within the three month period, the Chargee or Receiver shall be entitled to dispose of the Affordable Rental Units or Shared Ownership Dwellings or a Shared Equity Dwellings free from the Affordable Housing provisions in this Agreement which provisions shall determine absolutely
- 1.33.3 such Mortgagee or Receiver of a First Home shall first give written notice to the Council of its intention to Dispose of the relevant Dwelling; and
- 1.33.4 once notice of intention to Dispose of the relevant First Home has been given by the Mortgagee or Receiver to the Council the Mortgagee or Receiver shall be free to sell that First Home subject only to paragraph 1.33.5 at its full Market Value
- 1.33.5 following the Disposal of the relevant First Home the Mortgagee or Receiver shall following the deduction of the amount due and outstanding under the relevant security documentation including all accrued principal monies, interest and reasonable costs and expenses pay to the Council the Additional First Homes Contribution.
- 1.33.6 following receipt of notification of the Disposal of the relevant First Home the Council shall:
 1. forthwith issue a completed application to the purchaser of that Dwelling to enable the removal of the restriction on the title set out in paragraph 1.18;
 2. apply all such monies received towards the provision of Affordable Housing; and
 3. received towards the provision of Affordable Housing.

1.34 Affordable Housing Table

Tenure	% of affordable units	% of 1 bed 2 person homes	% of 2 bed 4 person homes	% of 3 bed 5 person homes	% of 4 bed 7 person homes
Affordable rent	50	15	20	12	3
M4(2/3)		8	10	6	0
Shared Ownership	25	8	10	6	1
M4(2/3)		4	5	3	0
First Homes	25	8	10	6	1
M4(2/3)		4	5	3	0
Grand total	100	31	40	24	5

Part 2: Custom and Self-Build Dwellings

The Owner hereby covenants with the Council (unless otherwise agreed in writing):

- 1 The Owner covenants to submit a Custom and Self Build Statement and Marketing Strategy for the Custom and Self-build Plots A-C (as indicated on the Phasing Plan) to the Council for approval prior to, or in conjunction with, the submission of the reserved matters application for Phase 5.
- 2 The Owner covenants to submit a Custom and Self Build Statement and Marketing Strategy for the Custom and Self-build Plots D-I (as indicated on the Phasing Plan) to the Council for approval prior to, or in conjunction with, the submission of the reserved matters application for Phase 6.
- 3 Following approval of the Custom and Self Build Statement each Custom and Self-build Plot shall be developed in accordance with the agreed details, unless otherwise agreed by the Council
- 4 Following approval of the Marketing Strategy each Custom and Self-build Plot shall be Marketed Appropriately.
- 5 The Owner covenants that no more than 50% of the Open Market Dwellings in Phase 5 shall be Occupied until the Marketing Period has Commenced for the Custom and Self-build Plots A-C and no more than 50% of the Open Market Dwellings in Phase 6 shall be Occupied until the Marketing Period has commenced for the Custom and Self-build Plots D-I.
- 6 The Owner shall inform the Council and provide marketing materials on first advertising of the Custom and Self-build Plots to enable the Council to notify persons on the Council's Custom and Self-build Register.
- 7 If at the end of the Marketing Period the Owner has been unable to sell one or more Custom and Self-build Plots and the Owner can provide evidence to the Council's satisfaction the Custom and Self-build Plots have been Marketed Appropriately the Owner shall be free to seek approval from the Council to convert the Custom and Self-build Plots to Open Market Dwellings, such approval not to be unreasonably withheld.
- 8 Evidence that Custom and Self-build Plots have been Marketed Appropriately shall include:
 - a) Dated details of published marketing material,
 - b) Dated estate agent instructions,
 - c) Dated social media posts,

- d) Dated correspondence with the Council in respect of marketing to those on the Council's custom and self-build housing register,
 - e) Dated Records of Sales Enquiries and outcomes of those, and
 - f) Dated changes in sales price.
- 9 The Owner covenants to submit the Custom and Self-build Design Code to the Council for approval prior to, or in conjunction with, the submission of the first reserved matters application.
- 10 The Custom and Self-build Dwellings shall be constructed in accordance with the approved Custom and Self-build Design Code.
- 11 The Owner covenants to act in good faith in trying to agree both the terms of and the exchange of the Custom and Self-build Sale Contract and not to take any unreasonable steps which would otherwise frustrate such exchange.

Part 3: RAMS Contribution

1. The Owner hereby covenants with the Council (unless otherwise agreed in writing):
 - 1.1 Not to Commence Development or cause or permit the Commencement of the Development unless and until the RAMS Contribution in respect of 75 Dwellings (being twenty-eight thousand and seventy one pounds and seventy five pence (£28,071.75) BCIS Index Linked) has been paid to the Council.
 - 1.2 Not to Commence or cause or permit Commencement of Phase 4 as indicated on the Phasing Plan or the 76th Dwelling (whichever is sooner) unless and until the RAMS Contribution in respect of a further 75 Dwellings (being twenty eight thousand and seventy one pounds and seventy five pence (£28,071.75) BCIS Index Linked) has been paid to the Council.
 - 1.3 Not to Commence or cause or permit Commencement of Phase 8 as indicated on the Phasing Plan or the 151st Dwelling (whichever is sooner) unless and until the RAMS Contribution has been paid in respect of any further Dwellings permitted pursuant to the Planning Permission.

Part 4: On-Site Public Open Space

1. The Owner hereby covenants with the Council (unless otherwise agreed in writing):
 - 1.1 Not to Commence the Development within a given Phase on the Site until the On-Site Public Open Space Specification has been submitted to and approved in writing by the Council for that Phase of the Development.
 - 1.2 Not to Occupy more than 50% of the Dwellings on a Phase until the On-Site Public Open Space has been provided and laid out in accordance with the approved On-Site Public Open Space Specification to the reasonable written satisfaction of the Council for that Phase; and thereafter
 - 1.3 Not to Occupy more than 80% of the Dwellings on a Phase until the On-Site Public Open Space for that Phase has been transferred to a Management Company for the on-going maintenance of the On-Site Public Open Space and the Council has been notified of any such transfer in writing for that Phase PROVIDED ALWAYS THAT the Owner shall remain liable for the maintenance of any On-Site Public Open Space until such time as it is transferred
 - 1.4 Not to amend the approved On-Site Public Open Space Specification without the Council's written consent.
 - 1.5 Not to use or permit the On-Site Public Open Space to be used for any purpose other than public recreation and amenity subject to a right for the owners to construct any buildings or other structures ancillary to such use.
 - 1.6 Any transfer of any On-Site Public Open Space pursuant to paragraph 1.3 above shall be in accordance with the following terms (unless otherwise agreed in writing between the parties):
 - 1.6.1 in consideration of the sum of one pound (£1.00) to be paid to the Owner and shall contain a covenant by the transferee not to use or suffer or permit to be used the land transferred otherwise than for the purpose of providing public recreation and amenity facilities or for the maintenance of the On-Site Public Open Space;
 - 1.6.2 a covenant from the transferee to maintain the On-Site Public Open Space in accordance with the On-Site Public Open Space Specification in perpetuity;

1.6.3 free of all financial charges and other encumbrances that may materially affect use of the On-Site Public Open Space for such purposes; and

1.6.4 with vacant possession;

and the Owner shall furnish a copy of the transfer referred to in paragraph 1.6 above to the Council

1.7 Prior to any transfer of the On-Site Public Open Space to a Management Company the Owner shall:

1.7.1 Create or engage a Management Company; and

1.7.2 Submit the proposed memorandum, articles of association and the form of transfer of the On-Site Public Open Space to the Management Company in relation to the future maintenance of the same in perpetuity (including any contributions or other payments to be made by occupants of the Development from time to time or any other party) to the Council for its approval in writing (such approval not to be unnecessarily delayed or withheld).

1.8 Where a Management Company is to be constituted (as opposed to appointed) solely for the purpose of maintaining the On-Site Public Open Space it shall be constituted to ensure that an appropriate mechanism is in place for securing that future owners of the Dwellings enter into direct covenants with the Management Company in respect of the maintenance costs for the On-Site Public Open Space for all Dwellings.

1.9 Not to wind up the Management Company or alter its constitution without the prior written consent of the Council unless the whole of the Development shall have been demolished or unless the Council has otherwise first agreed in writing.

Part 5: Biodiversity Net Gain

Definitions:

"Biodiversity Gain Plan"	means a document to be submitted to and approved in writing by the Council showing how the Biodiversity Gain will be achieved on the Biodiversity Land to include (unless otherwise agreed in writing with the Council): <ul style="list-style-type: none">- full details of the Biodiversity Land;- target habitat descriptions.
"Biodiversity Land"	means the land upon which the approved Biodiversity Gain Plan and Habitat Management and Monitoring Plan has been implemented, (unless otherwise agreed in writing with the Council)
"Biodiversity Gain"	means an increase in biodiversity units resulting from implementing the Habitat Management and Monitoring Plan.
"Biodiversity Gain Land Monitoring Contribution"	means the sum of £8,918.00 (Eight Thousand Nine Hundred and Eighteen Pounds) to cover the Council's reasonable and proper costs of monitoring compliance with this Part 5 of the Deed (unless otherwise agreed in writing with the Council)
"Certificate of Completion"	means a written certificate of completion confirming that the Habitat Creation and Enhancement Works have been completed to the reasonable satisfaction of the Council.
"Habitat Creation and Enhancement Works"	means the habitat creation and enhancement works set out in the Habitat Management and Monitoring Plan (excluding any management or monitoring activities specified in the Habitat Management and Monitoring Plan).
"Habitat Management and Monitoring Plan"	means a scheme to be submitted to and approved by the Council which will deliver biodiversity mitigation and enhancements on the Biodiversity Land to include (unless otherwise agreed in writing with the Council):

- full details of the biodiversity mitigation and enhancements to be provided including specification, planting details and any other details reasonably required by the Council;
- implementation programme;
- a management, maintenance and monitoring plan; and
- any measures (including further agreements under Section 106 of the Act to include any variation to this Deed to ensure that the management, maintenance and monitoring of the Biodiversity Land is enforceable against only the owners of the Biodiversity Land) to secure management, maintenance and monitoring in respect of the Biodiversity Gain

The Owners Covenants as follows (unless otherwise agreed in writing with the Council):

1. Provision of the Biodiversity Land

- 1.1. The Owner covenants to provide the Biodiversity Land in accordance with the approved Biodiversity Gain Plan and Habitat Management and Monitoring Plan for the purposes of providing off-site Biodiversity Gain in relation to the Development.
- 1.2. The Owner covenants no part of the Biodiversity Land will be used or procured for the purposes of providing off-site Biodiversity Gain in relation to any other development site.

2. Submission and Implementation of the Biodiversity Gain Plan and the Habitat Management and Monitoring Plan

- 2.1. The Owner hereby covenants with the Council (unless otherwise agreed in writing) to submit the Biodiversity Gain Plan and Habitat Management and Monitoring Plan to the Council for its written approval prior to the Commencement of the Development and not to Commence the Development unless and until the Biodiversity Gain Plan and Habitat Management and Monitoring Plan has been approved by the Council.
- 2.2. The Owner covenants with the Council so as to bind its interest in the Biodiversity Land as follows:

- 2.2.1. to complete the Habitat Creation and Enhancement Works in accordance with the Habitat Management and Monitoring Plan;
- 2.2.2. to notify the Council within 10 Working Days of the completion date of the Habitat Creation and Enhancement Works;
- 2.2.3. promptly rectify any defects in the Habitat Creation and Enhancement Works identified by the Council under paragraph 6.1(b)(ii) of this Part 5 and thereafter to continue to rectify any defects until the Council issues a Certificate of Completion;
- 2.2.4. upon receiving the Certificate of Completion from the Council, maintain the Biodiversity Land in accordance with the Habitat Management and Monitoring Plan for a period of not less than 30 years from the Certificate of Completion; and
- 2.2.5. provide a monitoring plan as part of the Habitat Management and Monitoring Plan to the Council within 20 (twenty) Working Days of each monitoring plan as part of the Habitat Management and Monitoring Plan date specified in the Habitat Management and Monitoring Plan.

3. Habitat Management and Monitoring Plan

- 3.1 To notify the Council of any requested amendment to the Habitat Management and Monitoring Plan for its approval, such notice to include:
 - a) the proposed amended Habitat Management and Monitoring Plan;
 - b) a statement of reasons for such amendment; and
 - c) confirmation (with reasons) that the amendment would not prejudice:
 - i. the use or management of the Biodiversity Land in a manner consistent with its function to deliver Biodiversity Gain; and
 - ii. the continued functioning of the Biodiversity Land for Biodiversity Gain.

4. Biodiversity Gain Land Monitoring Contribution

- 4.1 In addition to the Biodiversity Land, The Owner covenants with the Council so as to bind its interest in the Site to pay to the Council the Biodiversity Gain Land Monitoring Contribution within 10 Working Days of the completion date of the Habitat Creation and Enhancement Works.

5. Access for Inspection

5.1 to allow the Council, its agents, and contractors with or without workmen and equipment to enter onto the Biodiversity Land at all reasonable times (following reasonable notice) to monitor compliance with the obligations in this Deed

6. The Council's Covenants

6.1 to inspect the Habitat Creation and Enhancement Works within 30 Working Days following receipt of the notification pursuant to 2.2.2 of this Part 5;

6.2 to do the following where Habitat Creation and Enhancement Works are inspected under 6.1:

- i. promptly issue a Certificate of Completion if the Habitat Creation and Enhancement Works if the Habitat Creation and Enhancement Works have been completed to the reasonable satisfaction of the Council; or
- ii. promptly notify the Owner of any defects, if the Council determines that the Habitat Creation and Enhancement Works have not been completed.

6.3. Not to unreasonably withhold or delay giving its written approval to any revised or replacement Habitat Management and Monitoring Plan submitted by the Owner to the Council under paragraph 2 of this Part 5;

6.4. To give not less than 10 Working Days' notice to the Owner of its intention to access the Biodiversity Land for the purposes of inspection of the Biodiversity Land to ascertain the Owner's compliance with its covenants under this Deed

THIRD SCHEDULE

The Owner's Covenants with the County Council

Part 1: Pre-School Site

- 1.1 The Owner covenants with the County Council unless otherwise agreed in writing with the County Council:
- 1.2 To reserve the Pre-School Land from completion of this Agreement until the end of the Pre-School Land Option Period
- 1.3 In accordance with Part 5 of this Third Schedule, to provide the County Council with notice in writing of the proposed location of the Pre-School Land on the Site prior to the submission of any reserved matters for the Planning Permission and to agree the location of the Pre-School Land with the County Council.
- 1.4 To transfer to the County Council the Pre-School Land without unreasonable delay following receipt during the Pre-School Land Option Period of written notice from the County Council that the County Council requires the Pre-School Land and such transfer shall be subject to the following requirements or such alternative terms as the Owner and County Council may reasonably agree (both acting reasonably and in reasonable consideration of the intended use of the Pre-School Land):
 - (a) The transfer shall be for a consideration not exceeding in total the sum of one pound (£1) sterling;
 - (b) The Owner shall transfer the fee simple estate to the County Council free from encumbrances which would prevent the transfer and use of the Pre-School Land for a pre-school facility for the education and care of pre-school children and such ancillary uses as the Council may reasonably require including but not limited to use classes F1(a) F2(b) and F2(c);
 - (c) The transfer shall include all easements and rights necessary in relation to pedestrian cyclist and vehicular access via a road which is constructed or to be constructed and thereafter maintained by the Owner (or a person so authorised by them) to highway adoption standards at the cost of the Owner for the benefit of the Pre-School Land until such time as such road may be adopted by the County Council as a highway maintainable at the public expense;
 - (d) The Pre-School Land shall be flat, free of contamination and fully serviced (meaning the installation of reasonable utility services (as set out below) to the boundary of

the Pre-School Land) within a reasonably agreed timescale (dependent on the proposed date of transfer of the Pre-School Land and the extent to which the remainder of the Development has progressed and of no less than 6 months from the date of transfer) with full and free rights to the land boundary as reasonably practicable for the purposes of installing, providing and maintaining and using utility services including connection rights into the site wide surface water drainage system, foul sewer, water, electricity, gas, telephone, and superfast broadband for a pre-school of a stated capacity (provided that such superfast broadband is available within the locality at the time of installation of the services or such other broadband as is available in the event that it is not) and for the avoidance of doubt the Owner will bear the full costs of the installation of the above services;

- (e) The Pre-School Land to have been subjected to a full archaeological investigation at no cost to the County Council (such investigation having been carried out as part of the wider Site investigation in so far as necessary)
- (f) Without Prejudice to this paragraph 1.4 the Pre-School Land to be otherwise in accordance with the Schedule of Pre-School Land Condition
- (g) The transfer shall include the right to grant a lease of or dispose of the Pre-School Land in whole or in part to a County Council Nominee.

1.5 From the date of this Deed until the end of the Pre-School Land Option Period and for the duration thereof not use or allow or permit any works or activities to be carried out on the Pre-School Land that may render the Pre-School Land unsuitable for use as a pre-school facility for the education and care of pre-school children in any way.

1.6 To allow the County Council and / or the County Council Nominee or agents access to the Pre-School Land with or without vehicles plant and machinery for the purposes of investigation or verification that the Pre-School Land is suitable for use as a pre-school facility for the education and care of pre-school children and to verify that the Owner has complied with its obligations to fully service the Pre-School Land.

Part 2: PROW Contribution

- 1.1 To pay the PROW Contribution to the County Council prior to first Occupation of any of the Dwellings.

Part 3: Travel Plan Monitoring Contribution

- 1.1 To pay the Travel Plan Evaluation and Support Contribution in respect of Residential Travel Plan to the County Council prior to first Occupation of the first (1st) Dwelling and thereafter to pay a further Travel Plan Evaluation and Support Contribution on each anniversary of the date of the first (1st) Dwelling Occupation for a minimum period of five (5) years or until one year after the first Occupation of the final Dwelling whichever is the longer period
- 1.2 Not to Occupy or permit the first (1st) Dwelling Occupation until the first Travel Plan Evaluation and Support Contribution in respect of Residential Travel Plan has been paid to the County Council
- 1.3 Not to Occupy or permit further Occupations of the Dwellings beyond the anniversary each year of the date of the first (1st) Dwelling Occupation until the relevant payment has been made each year in accordance with paragraph 1.1 of this Part 3 of this Schedule

Part 4 – Notice of the Pre-School Land

1. The Owner covenants to provide the County Council with notice in writing of the proposed location of the Pre-School Land on the Site prior to submission of any reserved matters for the Planning Permission;
2. The County Council covenants to provide written confirmation of acceptance or rejection of the location of the Pre-School Land on the Site within twenty-eight (28) Working Days of notice being served in accordance with clause 1 of this Part 4 of the Third Schedule;
3. In the event that written confirmation or rejection in accordance with clause 2 of this Part 4 of the Third Schedule is not provided by the County Council to the Owner, it shall be deemed that the location of the Pre-School Land is approved to be within the area of the Site shaded yellow on the Phasing Plan;
4. Should either the County Council or Owner dispute the location of the Pre-School Land on the Site following the submission of the notice in accordance with clause 1 of this Part 4 of the Third Schedule not before twenty-one (21) Working Days of service of the notice but not after twenty-eight (28) Working Days of service of the notice, then the Council shall make the final decision in line with the National Planning Policy Framework and local planning policies

FOURTH SCHEDULE

The Council's Covenants

The Council hereby covenants with the Owner as follows:

- 1 The Council shall provide written confirmation of the discharge of the obligations contained in this Deed on written request to the Owner when satisfied that such obligations have been performed and shall cancel all entries made in the Register of Local Land Charges on written request in respect of this Deed when all the obligations have been performed.
- 2 The Council covenants with the Owner that it shall apply the RAMS Contribution and any Affordable Housing Contribution paid to the Council solely towards the purposes specified in this Deed.
- 3 The Council shall if requested to do so in writing after the expiry of FIVE (5) years of the date of receiving the final payment of a contribution within ONE (1) year pay to any such person such amount of the RAMS 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.
- 4 From time to time if reasonably requested by the Owner in writing (but not more than once in each year) the Council shall provide to the Owner returns showing:-
 - 4.1 the total amounts that it has received from the Owner under this Deed up to the reporting date; and
 - 4.2 the amounts of expenditure it has incurred to which those payments relate and the purposes for which it has so incurred the expenditure.

FIFTH SCHEDULE

The County Council's Covenants

The County Council hereby covenants with the Owner as follows:

- 1.1 The County Council shall provide written confirmation of the discharge of the obligations contained in this Deed on written request to the Owner when satisfied that such obligations have been performed.
2. **PROW Contributions**
 - 2.1 The County Council shall not use the PROW Contribution other than for the PROW Contribution Purposes unless otherwise agreed in writing with the Owner.
 - 2.2 If requested to do so in writing after the expiry of ten (10) years of the date the final Dwelling is first Occupied within a further period of one (1) year to pay within one month of such request to the Owner such amount of the PROW Contribution paid by that person which has not been committed or expended by the County Council in accordance with the provisions of this Deed together with any interest accrued at the Bank of England Base Rate minus 2 basis points, compounding annually at financial year end.

SIXTH SCHEDULE

Nominations Agreement

DATED

201

(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 20

BETWEEN:

1)of registered in England by the Financial Conduct Authority under the Co-operative and Community Benefit Societies Act 2014 (Register Number XXX) (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, Riduña Park, Station Road, Melton, Woodbridge, IP12 1RT ('the Council')

1. Definitions

In this Deed:

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

(a) 80% of the local market rent inclusive of service charges; or

(b) (if lower) the local housing allowance rate; or

(c) with rent increases during the term of any individual tenancy being limited to increases in the Consumer Price Index from the date of this Nomination Agreement plus 1% or any subsequent relevant limit placed upon Registered Providers by the Regulator or Central Government;

"Affordable Housing" means subsidised housing that will be available to persons who cannot afford to rent or buy housing generally available on the open market

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

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

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

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

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

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

"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

"Section 106 Agreement" means the Section 106 Agreement to which this Nominations Agreement is appended

"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 set out in the Section 106 Agreement.

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

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

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

(a) Moved to other accommodation either by transfer or decant provided by the Registered Provider; or

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

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

2 Enabling Provisions

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

3 Procedure

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

3.1 Initial lets

3.1.1 The Registered Provider shall give the Council not less than 4 months' written notice of the date when the Affordable Dwelling(s) for Rent will be ready for Occupation

3.1.2 The Registered Provider shall serve a Vacancy Notice on the Choice Based Lettings system detailing the date available for Occupation in respect of the Affordable Dwelling(s) for Rent at the point when it wishes the Affordable Dwelling(s) for Rent to be advertised. This will be in line with agreed advertising cycles which form part of the Allocation Policy.

3.1.3 The Council shall arrange for the Affordable Dwelling(s) for Rent to be advertised. Within 2 Working Days of the bidding cycle closing the Council shall serve upon the Registered Provider a Shortlist. The Nominees will be prioritised in line with their housing need and banding priority and effective date. The Council may agree to delegate the shortlisting to the Registered Provider and as required, verification of relevant applicant information.

3.1.4 The Shortlist to be served by the Council under clause 3.1.3 shall:

- i. Specify the appropriate category of Affordable Dwelling(s) for Rent, and
- ii. Indicate the priority for the housing of the persons named and any other relevant information using a standard pro-forma document via a generic e-mail address to the Council's Choice Based Lettings scheme

3.1.5 Upon the properties being ready to let the Registered Provider shall within five (5) Working Days of the date of receipt of the Shortlist select a Nominee from the Shortlist taking into account the priority in the order given for housing indicated by the Council and shall use its reasonable endeavours to arrange a viewing of the Affordable Dwelling(s) for Rent and offer a Tenancy Agreement to such selected Nominee subject

to any final checks as agreed in line with the Council's Allocation Policy and the Registered Provider's letting criteria

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

4. Voids

- 4.1 Should an Affordable Dwelling(s) for Rent become a Void after the Initial Let or the Registered Provider has reasonable cause to believe it will become a Void then and in each case the procedures set out in 3.1.2–3.1.9 shall apply except 3.1.2 which shall refer to Void Notice rather than Vacancy Notice in addition to 4.1.1:
- 4.1.1 The Registered Provider shall give the Council not less than 1 months written notice of the date when the Affordable Dwelling(s) for Rent will be ready for Occupation

5. Provision of information and alteration of lists

- 5.1 The Registered Provider shall give notification to the Council of the following events within (2) Working Days of their occurrence:
- i. a Nominee failing to view an Affordable Dwelling(s) for Rent when a viewing has been arranged