

**= AFFORDABLE HOUSING AGREEMENT =**

**SITE B (PHASE 2) Rightup Lane**

**PLOTS 118-120, 128-129 & 130-137 (S/O & RENT)**

**THIS DEED** is made the \_\_\_\_\_ day of \_\_\_\_\_ Two thousand and eighteen BETWEEN **SOUTH NORFOLK DISTRICT COUNCIL** of South Norfolk House, Swan Lane, Long Stratton, Norfolk, NR15 2XE (“the Council”) (1) and **THE HAVEBURY HOUSING PARTNERSHIP** (Regn No: RS007648) whose registered office is situate at Havebury House, Western Way, Bury St. Edmunds, Suffolk, IP33 3SP (“the Owner”) (2)

**WHEREAS:-**

- (1) The Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 or any statutory modification or re-enactment thereof (“the Planning Act”) for the area in which the land described below is situate and is also the housing authority for the purposes of the Housing Act 1985 or any statutory modification or re-enactment thereof (“the Housing Act”) and as housing authority is required by Section 8 of the Housing Act to consider housing conditions in its district and the needs of the district with respect to the provision of further housing accommodation
- (2) Pursuant to such consideration the Council has concluded that there is a need in the district for Affordable Housing for local needs and that the provision of the housing the subject of this Deed contributes towards the satisfaction of that need
- (3) The Owner is the owner in fee simple in possession of land being plot numbers 118-120, 128-129 & 130-137 on the development site located at Wymondham, Norfolk shown for identification on the attached plan (“the Plan”) edged blue (“the Land”)
- (4) An application dated 18 February 2012 was made to the Council for planning permission to develop the Land and other land (“the Development

Site”) by erection of a housing development which application is more particularly described in the forms, plans and particulars deposited with the Council and numbered 2012/0371/O including the reserved matters consent numbered 2015/2168 (“the Application”)

- (5) The Council as local planning authority was disposed to grant planning permission in respect of the Application provided that the Development Site was regulated in order to secure part of its future availability for use as Affordable Housing and by an earlier agreement under Section 106 of the Planning Act dated 6 February 2014 and made between the Council (1) Norfolk County Council (2) Pelham (South Wymondham) Limited (3) J Alston & Sons Limited (4) James Alston (5) Mrs Marion Elizabeth Jones (6) Lend Lease Construction (EMEA) Limited (7) Endurance Estates Strategic Land and Landowners (8) RMC Logistics Eastern Limited (9) Norwich Diocesan Board of Finance Limited (10) BOCM Pauls Limited (11) Antoinette Faulkner, James Brennan Morley, Elizabeth Mary Barrett and Paul Cubitt (being the Trustees of the Josiah and Mary Brewster Charity) (12) Lloyds Commercial Finance Limited (13) and Lloyds Bank Plc (14) (the “Main Agreement”) as varied by a Deed of Variation dated 17 May 2017 South Norfolk District Council (1) Norfolk County Council (2) Endurance Estates Strategic Land Limited (3) RMC Logistics Eastern Limited and Others (4) and Hopkins Homes Limited (5) both of which contained a restriction not to complete more than particular numbers in terms of units of Market Housing on the Development Site until the units of Affordable Housing have been built on the Land and completed ready for occupation (“the Units”) pursuant to an agreement under Section 106 of the Planning Act regulating occupations in the form in which this present Deed is entered into
- (6) To the extent that the provision of the development and management of the Units in accordance with this Deed fulfils the responsibility of the Council as housing authority and so relieves it of its duty itself to provide and manage that kind of housing accommodation in that location it is a benefit in money's worth to the Council

**NOW THIS DEED WITNESSETH** as follows:-

### **ENABLING POWERS**

- 1.1 This Deed and the covenants contained in it are made with and are enforceable by the Council pursuant to section 106 of the Planning Act sections 111 and 139 of the Local Government Act 1972 sections 8 and 9 of the Housing Act and any other enabling powers
- 1.2 To the extent to which such covenants are capable of being entered into under section 106 of the Planning Act they shall constitute planning obligations for the purposes of that section

### **OWNER'S COVENANTS**

- 2.1 The Owner **COVENANTS** with the Council so as to bind the Land and any part of it that it will observe and perform the restrictions obligations and stipulations set out in the Schedule to this Deed **PROVIDED THAT THE HAVEBURY HOUSING PARTNERSHIP** shall not be personally liable for any breach of this Deed which first occurs after it shall have disposed of all of its title and interest in the Land **PROVIDED FURTHER** that the restrictions obligations and stipulations set out in the Schedule shall not bind nor be enforceable against
  - 2.1.1 any mortgagee or chargee or any receiver including any 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 (however appointed) including a housing administrator (each a 'Receiver') of the whole or any part of the Land and any successor in title to such mortgagee chargee or Receiver and/or

2.1.2 a lessee of a Unit under a Shared Ownership lease who has occupied that Unit as a single family dwelling and who has taken a transfer of the freehold reversion of that lease and/or has staircased to 100% of the equity in the Unit or a purchaser from or a mortgagee of the lessee of that Unit and any persons deriving title from the same and/or

2.1.3 any person having an interest in a Unit following the exercise of a statutory right to acquire or right to buy or any mortgagee of such person or any successor in title to such person

## **AGREEMENTS AND DECLARATIONS**

3.1 Nothing in this Deed shall be construed as restricting the exercise by the Council or by any other competent authority of any powers exercisable by it or them under the Planning Act or under any statute regulation or byelaws

3.2 This Deed will remain in full force and effect notwithstanding the terms and conditions of any planning permission which may be or has been at any time issued by the Council or by any other appropriate person or authority pursuant to the provisions of the Planning Act

3.3 Subject only to the provisions of section 106A of the Planning Act the terms and conditions of this Deed can only be varied by a supplemental deed or memorandum endorsed on this Deed executed by the parties or their successors in title

3.4 No express or implied waiver by the Council of any breach or default by the Owner or its successors in title in performing or observing any of its obligations under this Deed shall constitute a continuing waiver or prevent the Council from enforcing those obligations against the Owner or its successors in title

- 3.5 The Owner **WARRANTS** that it has full power to enter into this Deed and that there is no person having any charge over or any interest in the Land other than those entering this Deed whose consent is necessary to make this Deed binding upon the Land and all estates and interests in it
- 3.6 The Owner **WAIVES** any rights to claim compensation arising from any limitation or restriction on the planning use of the Land under the terms of this Deed

### **INTERPRETATION**

- 4.1 The expressions “the Council” and “the Owner” includes their respective successors in title and assigns
- 4.2 One gender includes all the others
- 4.3 A covenant not to do something includes a covenant not to permit or suffer that thing to be done
- 4.4 The headings in this Deed are for ease of reference only and cannot be taken into account in its interpretation

**IN WITNESS** whereof the parties hereto have executed this instrument as their deed and it is the parties' intention that this Deed be delivered and it is hereby delivered on the date first before written

## THE SCHEDULE

(restrictions obligations and stipulations)

1. Not to use the Land or allow it to be occupied other than as and for an Affordable Housing Scheme comprising the Units as indicated in the table set out below or such other mix as agreed in writing with the Council

<b>Plot No</b>	<b>Property Type</b>	<b>No of Persons</b>	<b>Tenure</b>	<b>Cascade</b>
118	2 bedroom house	4	Rent	B
119	2 bedroom house	4	Rent	B
120	2 bedroom house	4	Rent	A
128	2 bedroom house	4	Rent	A
129	2 bedroom house	4	Rent	A
130	2 bedroom house	4	Rent	A
131	1 bedroom bungalow	2	Rent	A
132	1 bedroom bungalow	2	Rent	A
133	3 bedroom house	5	Rent	A
134	3 bedroom house	5	Rent	A
135	3 bedroom house	5	Rent	B
136	3 bedroom house	5	S/O	None
137	3 bedroom house	5	S/O	None

### ABBREVIATIONS

S/O = for Shared Ownership

rent = for a rent of a type to be agreed in writing with the Council and charged by a registered provider (and which can include Affordable Rent as defined in paragraph 9.3 below and Intermediate Rent as defined in paragraph 9.4 below) but not exceeding the Affordable Rent as defined or any other form of rent which may supersede Affordable Rent or Intermediate Rent

2. To grant occupation of the Units to applicants in the following priority order of category:-

#### **Either cascade A**

- 2.1 Residents of South Norfolk

2.2 any other person

**Or Cascade B**

2.1 Residents of the parish of Wymondham who have lived in that parish for a total of at least 3 of the last 10 years

2.2 Former Residents of the parish of Wymondham who lived in that parish for at least 3 of the last 10 years

2.3 People working in the parish of Wymondham and have done so for the last year or more for at least 10 hours each week

2.4 Residents of the parish of Wymondham who have lived in that parish for less than 3 years

2.5 Residents of South Norfolk

2.6 any other person

3. To give priority within each category to applicants in housing need that is to say:

3.1 people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions; or

3.2 people occupying housing accommodation which is temporary or occupied on insecure terms; or

3.3 families with dependent children; or

3.4 households consisting of or including someone who is expecting a child; or

- 3.5 households consisting of or including someone with a particular need for settled accommodation on medical or welfare grounds; or
- 3.6 households whose social or economic circumstances are such that they have difficulty in securing settled accommodation; or
- 3.7 those sharing accommodation; or
- 3.8 those living in accommodation which is unsuitable for their needs
- 3.9.1 should there be any person falling within any of the aforementioned categories who is eligible for Affordable Housing accommodation but cannot demonstrate a need for such accommodation then the Owner can ignore that person for the purposes of fulfilling the criteria for the whole of paragraphs 2 and 3 above
- 3.9.2 should there be any person falling within any of the aforementioned categories who is eligible for Affordable Housing accommodation and can demonstrate a need for such accommodation but the accommodation available is unsuitable (either by being too large or too small) then the Owner if it so wishes can ignore that person for the purposes of fulfilling the criteria for the whole of paragraphs 2 and 3 above
4. Not itself or through any contractors or subcontractors to discriminate against any individual on grounds of race religion gender marital status sexual orientation or age and to promote good relations between people of different racial groups
5. Not to permit any Unit to be occupied other than under a tenancy at a rent without a premium or a Shared Ownership lease
- 6.1 Any proceeds realised from the sale of any Unit (“the Net Proceeds”) shall (after repayment of any monies required under a statutory obligation or under



the provision of any other charge on the Land) be used towards the Recycling Obligation

7. To grant to the Council nomination rights to 75% of True Voids for occupation of the Units
- 8.1 In the event that the Owner is unable to dispose of a Shared Ownership Unit under the provisions of paragraphs 2 and 3 above within 3 months of such Unit first being offered for occupancy then the following provisions shall apply
- 8.2 The Owner shall provide the Council with the following information:
  - 8.2.1 evidence that the Shared Ownership Unit was advertised for a period of at least one month before Practical Completion and at least two months after Practical Completion (such advertising to be in accordance with the methods approved for the time being by the Council)
  - 8.2.2 the Council upon receipt of the information required under 8.2.1 above shall decide whether or not the Owner may vary the originally specified tenure of Shared Ownership to an alternative tenure to be agreed between the Council and the Owner
- 8.3 For the avoidance of doubt, the provisions of sub-paragraphs 8.1 and 8.2 above shall apply in respect of a particular Unit only until any first grant of a Shared Ownership lease of that Unit
9. In this Deed:
  - 9.1 "Affordable Housing" means housing of a kind which (having regard to its rent or other consideration) is suitable for occupation by people who are in need of such housing because of their limited means

- 9.2 “Affordable Housing Scheme” means a scheme for the provision of units of Affordable Housing
- 9.3 “Affordable Rent” means affordable rented housing as defined in Annex 2: Glossary of the National Planning Policy Framework, March 2012 (“Annex 2”) (copy extract annexed)
- 9.4 “Intermediate Rent” means intermediate housing as defined in Annex 2 but limited to homes for rent and excluding homes for sale
- 9.5 “Market Housing” means dwelling units on the Development Site which are sold on the open market at open market value
- 9.6 “Residents” includes persons dwelling in the parish concerned or, in the case of gypsies as defined in the Caravan Sites Act 1968, also includes persons who have habitually resorted to the particular parish (albeit that they have resorted also to a wider area of resort) for the said period
- 9.7 “Recycling Obligation” means an obligation to use any monies paid in relation to the acquisition of any share or interest in a Unit towards alternative Affordable Housing provision
- 9.8 “Shared Ownership” means a Unit provided on the basis that a maximum of 75% of the equity may be acquired at first purchase and the annual rent is to be calculated as 2.75% of the value of the equity retained by the Owner and the annual rent shall not be increased by more than the percentage increase in the Retail Price Index (or if such index ceases to be published such other index as the Council shall reasonably determine) plus 0.5% of the current rent per annum and such individual purchaser shall be able to staircase to acquire 100% of the equity of the Unit
- 9.9 “True Voids” means those Units that are available for letting in any Financial Year but excluding any:

9.9.1 that are used for Emergency Transfers; or

9.9.2 which are required by the Owner for the purposes of decanting tenants where properties require structural remedial works

9.10 “Financial Year” means the Owner’s financial accounting year being each of the periods of a year commencing on the 1st day of April in one year and ending on the 31st March in the following year the first such period having commenced on the 1st day of April 2018

9.11 “Emergency Transfers” shall mean transfers to vacant Units effected in the following circumstances:

9.11.1 in cases of domestic violence

9.11.2 in cases of racial harassment

9.12 “Practical Completion” means completion of the construction of the Units in accordance with this Deed subject only to the existence of minor defects and/or omissions at the time of inspection which are capable of being made good without materially interfering with the beneficial use and enjoyment of the Units and which it would be reasonable to include in a schedule of minor snagging items and “Practically Completed” shall be construed accordingly

**THE COMMON SEAL of SOUTH )  
NORFOLK DISTRICT COUNCIL )  
was affixed to this Deed in the )  
presence of:- )**

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Officer of the relevant service

**THE COMMON SEAL of THE )  
HAVEBURY HOUSING )  
PARTNERSHIP was affixed to )  
this Deed in the presence of:- )**

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Authorised Signatory

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Authorised Signatory

**SOUTH NORFOLK DISTRICT COUNCIL**

- and -

**THE HAVEBURY HOUSING PARTNERSHIP****PLANNING OBLIGATION DEED**

under Section 106 of the Town and  
Country Planning Act 1990 as amended  
by the Planning and Compensation  
Act 1991

relating to **SITE B (PHASE 2)**  
**PLOTS 118-120, 128-129 & 130-137 (S/O & RENT)**  
on the  
development site on land at Wymondham, Norfolk

**= AFFORDABLE HOUSING AGREEMENT =**

**SITE B (PHASE 2) Rightup Lane**

**PLOTS 118-120, 128-129 & 130-137 (S/O & RENT)**

2-12 (evens Lapwing Court)

3-15 (odds) Lapwing Court

Abdus Choudhury  
Practice Director  
nplaw  
Martineau Lane  
Norwich  
NR1 2DH