

Dated

25th June

2018

Broadland District Council

-and-

Norfolk County Council

-and-

Broadland Growth Limited

**DEED OF PLANNING OBLIGATION
UNDER SECTION 106
OF THE TOWN AND COUNTRY PLANNING
ACT 1990**

relating to land off Rosebery Road, Great Plumstead, Norfolk

THIS DEED is dated

25th June

2018

PARTIES:

- (1) BROADLAND DISTRICT COUNCIL, Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich, Norfolk NR7 0DU (referred to as "the Council" and also and until such time as it ceases to have an interest in the Site, "the Owner")
- (2) NORFOLK COUNTY COUNCIL, County Hall, Martineau Lane, Norwich, Norfolk NR1 2DH (referred to as "the County")
- (3) BROADLAND GROWTH LIMITED (Company number 08822021) whose registered office is at Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich, Norfolk NR7 0DU (referred to as "the Developer")

together referred to as 'the Parties'

INTRODUCTION

- (A) The Council is a local planning authority for the area within which the Site is located
- (B) The County is also a local planning authority for the County of Norfolk
- (C) With the full knowledge and consent of the Council (as Owner) the Developer has applied for the Permission (and proposes to carry out and complete the Development) and the Council (as local planning authority) has resolved to grant the Permission provided the Parties enter into this Deed
- (D) The Owner owns the freehold of both the Site and the Blue Land
- (E) Having regard to the Council's ownership of the Site at the date hereof and to avoid any suggestion of a conflict of interest or other improper motive or conduct the County has agreed to be the Enforcing Authority for the purposes of this Deed and in relation to the Council's obligations and stipulations (as Owner) contained therein during such time as the Council has a proprietary interest in the Site as the Owner,

1. DEFINITIONS

In this Deed the following expressions have the following meanings:

Act	The Town and Country Planning Act 1990 as amended
Blue Land	That land known as land off Rosebery Road, Great Plumstead, Norfolk and registered at H M Land Registry under title number NK117150 shown edged blue on the Plan
Commencement	<p>The date on which a material operation as defined in Section 56(4) of the Act is first carried out, except operations consisting of:</p> <p>site clearance</p> <p>demolition</p> <p>archaeological investigations</p> <p>ground surveys</p> <p>removal of contamination</p> <p>erection of temporary fences</p> <p>and 'Commence' and 'Commenced' will be construed accordingly</p>
Development	The Development of the Site in accordance with the Permission
Dwelling	A dwelling to be built on the Site as part of the Development
Enforcing Authority	Means the County until such time as the Council ceases to have an interest in the Site after which time it means the Council

Index Linked	<p>The increase (if any) in the Royal Institute of Chartered Surveyors Build Cost Information Service All in tender price Index between 1st January 2015 and the date upon which a payment of the Open Space contribution is made pursuant to this Agreement (or if such index ceases to be published, another index notified to the Owner by the Nominated Officer or the Enforcing Authority (as the case may be)</p>
Nominated Officer	<p>The senior officer of the Council responsible for development management or other officer of the Council notified to the Owner</p>
Occupation	<p>Occupation of the Site, or any part of it, for any purpose authorised by the Permission, but excluding occupation for the purposes of:</p> <ul style="list-style-type: none"> construction internal and external refurbishment decoration fitting-out marketing <p>and 'Occupy' and 'Occupied' will be construed accordingly</p>
Permission	<p>The planning permission to be granted by the Council for the erection of 22 dwellings (1 to 4 bed) including a mix of 9 bungalows, 4 flats and 9 houses and associated works and allocated reference number 20171999 or if the Council agrees (in its absolute discretion) in writing another planning permission for the Development granted pursuant to section 73 of</p>

the Act or a replacement permission for the Development

Plan The plan of the Site and of the Blue Land attached to this Deed at Schedule 1

Site That land known as land off Rosebery Road, Great Plumstead, Norfolk and registered at H M Land Registry under title number NK117150 shown edged red on the Plan

Trigger means the Commencement date and any trigger or threshold in this Deed linked to the taking of specified steps, payment of money, or linked to the prohibition of a specified action

2. LEGAL BASIS

2.1 This Deed is made pursuant to Section 106 of the Act and Section 111 of the Local Government Act 1972 and all other enabling powers and the covenants and obligations contained in this Deed are planning obligations for the purposes of section 106 of the Act enforceable by the Council and the Enforcing Authority

2.2 It is agreed by the Parties that any obligation contained within this Deed which sets out how a planning obligation will be performed will not amount to more than one planning obligation per Schedule for the purposes of Regulation 123 of the Community Infrastructure Levy Regulations 2010, as amended

2.3 Covenants given by more than one party can be enforced against them individually or jointly

- 2.4 A reference to an act of Parliament includes any later modification or re-enactment, including any statutory instruments made under that act, and reference to a gender or person includes all genders or classes of person
- 2.5 Any covenant in this Deed not to do something includes an obligation not to allow or permit it to be done
- 2.6 This Deed is governed by and interpreted in accordance with the law of England

3. COVENANTS

- 3.1 The Owner covenants with the Enforcing Authority for itself and its successors in title to observe and perform the obligations and stipulations contained in this Deed
- 3.2 The Developer covenants with the Enforcing Authority for itself and its successors in title to observe and perform the obligations and stipulations contained in Schedule 3 of this Deed
- 3.3 The Enforcing Authority covenants with the Owner to comply with its requirements contained in this Deed

4. OTHER PROVISIONS

- 4.1 No person will be liable for any breach of this Deed if he no longer has an interest in the Site (unless the breach occurred before he disposed of his interest)
- 4.2 The Owner confirms that it is the owner of both the Site and the Blue Land with full power to enter into this Deed and that there is no person or body with an interest in either the Site or the Blue Land whose consent is necessary to make this Deed binding on all interests in the Site and the Blue Land

- 4.3 This Deed will not bind anyone who acquires an interest in part of the Site for the purpose of the supply of utility services
- 4.4 On completion the Developer will pay the Owner's reasonable legal costs in connection with this Deed
- 4.5 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 4.6 If any provision of this Deed is held to be invalid, illegal or unenforceable it will not affect the remaining provisions
- 4.7 No waiver, express or implied, by the Council or the Enforcing Authority (as the case may be) constitutes a continuing waiver, nor prevents the Council or the Enforcing Authority (as the case may be) from enforcing any of the provisions in this Deed

5. DISPUTES

- 5.1 If any dispute is not resolved between the Parties, any of the Parties may refer it for determination by an expert. The expert will be appointed by agreement between the parties or, in default of agreement, by the President for the time being of the Royal Institution of Chartered Surveyors and the expert's decision shall be final and binding
- 5.2 Nothing in this Clause will apply to the recovery of liquidated sums or prevent the parties from commencing or continuing court proceedings

6. INTEREST AND VAT

- 6.1 If any payment due under the terms of this Deed is paid late interest will be added from the date payment is due to the date of payment at the rate of 4%

above the base lending rate of the Bank of England from time to time

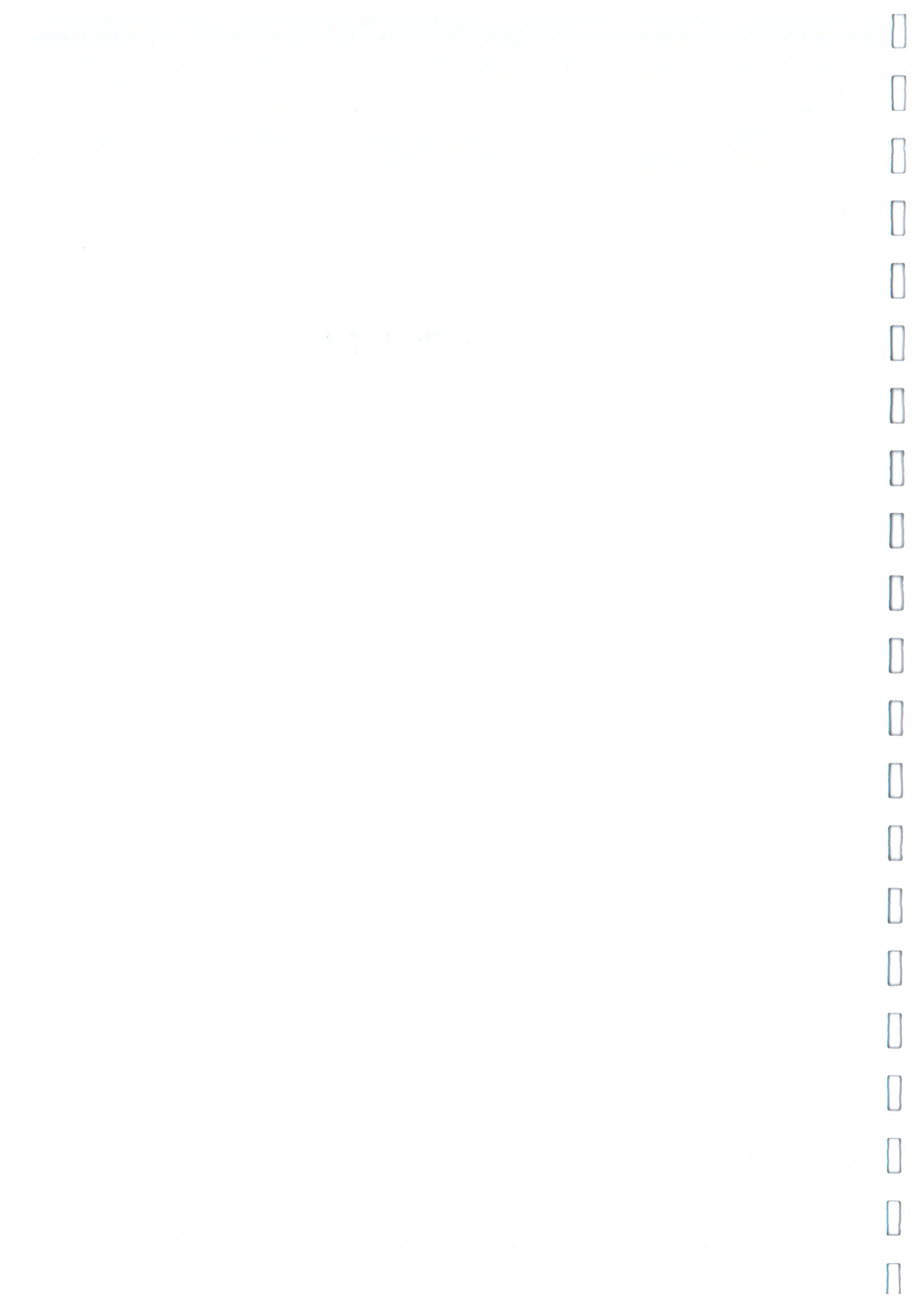
- 6.2 All payments under this Deed are exclusive of value added tax (VAT) and any VAT due must also be paid

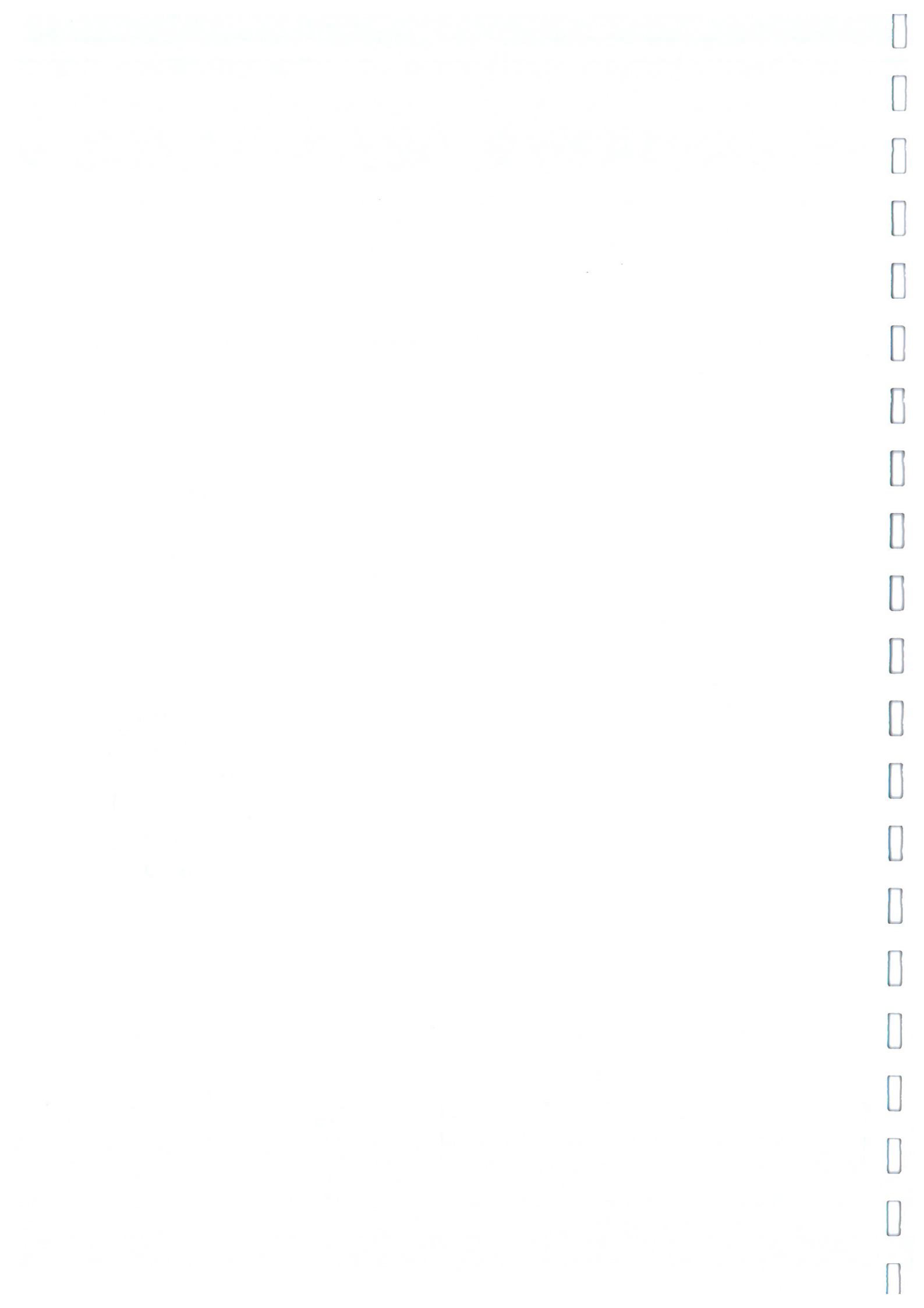
7. NOTIFICATIONS

- 7.1 Any notice or written communication given under this Deed is validly given if hand delivered or sent by recorded delivery post to the address set out at the beginning of this Deed, unless written notification of another address has been received
- 7.2 The Owner will notify the Nominated Officer or the Enforcing Authority (as the case may be) in writing of the relevant
- 7.2.1 anticipated Triggers seven days in advance of each anticipated date
 - 7.2.2 actual Triggers within seven days of each actual date
- 7.3 If the Owner disposes of its interest in the Site it will notify the Enforcing Authority within 7 days of the name and address of the new owner and sufficient details to identify the Site or part of the Site PROVIDED THAT this requirement shall not apply to the sale of any Dwellings for Occupation as dwelling houses

Schedule 1

The Plan



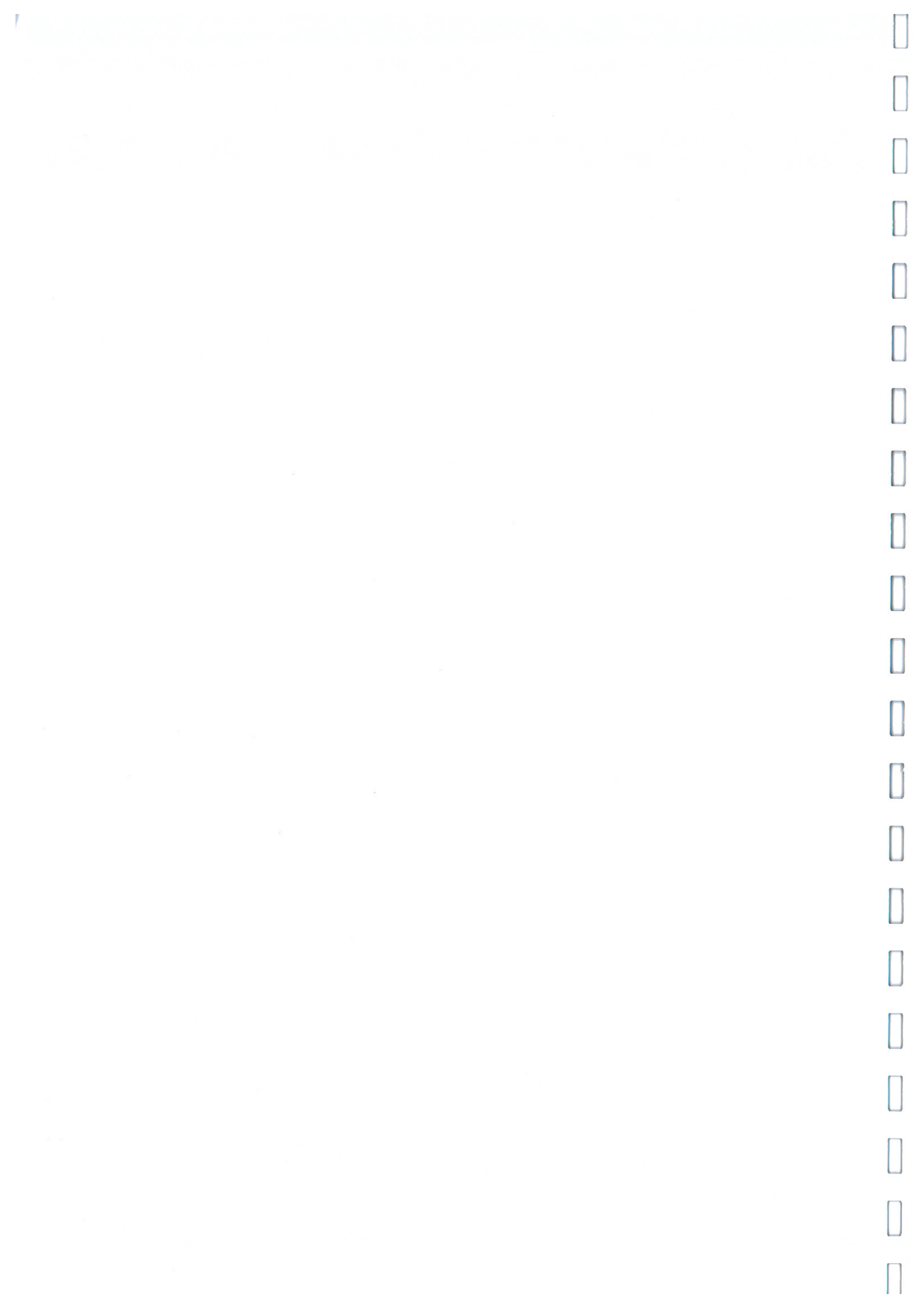


Schedule 2
Affordable Housing

Part 1

In this Schedule (and elsewhere in this Deed where the context permits) the following words and expressions shall have the following meanings:

"Affordable Dwellings"	the Dwellings to be constructed on the Site to a standard agreed with the Council as Affordable Housing and "Affordable Dwelling" shall be construed accordingly
"Affordable Housing"	the Intermediate Housing and Rented Housing to be provided to Eligible Households whose needs are not met by the market
"Affordable Housing Mix"	the mix of Intermediate Housing and Rented Housing, dwelling types, location and size as set out in Part 3 of this Schedule
"Affordable Housing Provision"	the construction and provision of 8 Affordable Dwellings on the Site equating to 36% of the total number of Dwellings (or such other percentage as the Council may agree in its absolute discretion) in accordance with the Affordable Housing Mix
"Affordable Housing Scheme"	<p>A scheme securing the Affordable Housing Provision and specifying:</p> <ul style="list-style-type: none">- The timescale and programme for implementation of the Affordable Housing Scheme and construction of the Affordable Dwellings;- full details of the design of the Affordable Dwellings



	<p>- The identity of the Provider or such details as the Council requires to satisfy itself that the Affordable Dwellings will be secured as Affordable Housing in perpetuity;</p> <p>AND, where the parties agree any amendment or alteration to the Affordable Housing Mix or the Affordable Housing Provision:</p> <p>- The number, location, type and size of Affordable Dwellings to be constructed on the Site;</p> <p>- such other information as the Council may reasonably require to enable approval of the Affordable Housing Scheme</p>
"Affordable Rented Dwellings"	Dwellings to be let by a Registered Provider with an appropriate agreement with the Homes England for the provision of affordable rents being controls that limit the rent to no more than 80 per cent of local market rent including any service charges (where applicable) and shall not exceed the local housing allowance for that area and as nominated by the Council in accordance with Part 2 of this Schedule
"Approved Affordable Housing Scheme"	the Affordable Housing Scheme approved by the Council in accordance with paragraph 1.1 of this Schedule including any amendment, revision or substitution approved by the Council in writing
"Eligible Household"	A person or persons in need of accommodation who are unable to rent or buy on the local open market nominated by the Council in accordance with Part 2 of this Schedule and determined in accordance with the Council's housing allocation policy or as otherwise approved by the Council

"Homes England"	Homes England or the Regulator of Social Housing or their successor bodies or other appropriate body as the Council may nominate
"Intermediate Dwellings"	Dwellings for sale at prices below local market price that Eligible Households can afford as determined by the Council acting reasonably including low cost homes (but not including low cost market housing), shared ownership, shared equity and equity loan products as approved by the Council
"Intermediate Housing"	one or more of Intermediate Dwellings Shared Equity Dwellings Shared Ownership Dwellings and Intermediate Rented Dwellings as agreed by the Council
"Intermediate Rented Dwellings"	Dwellings at rents above those of Social Rented Dwellings but below local market rents that Eligible Households can afford (which shall be no more than 80% of local market rents including any service charges (and shall not exceed the local housing allowance for that area) as determined by the Council
"Open Market Dwelling"	Any Dwelling constructed as part of the Development which is not an Affordable Dwelling
"Practically Complete"	Means completion of the construction of the Affordable Dwellings 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 Affordable Dwellings and which it would be reasonable to include in a schedule of minor snagging items and "Practically Completed" shall be construed accordingly
"Provider"	either:

	<p>(i) a Registered Provider</p> <p>or</p> <p>(ii) another organisation that owns the Affordable Dwellings and has been approved in writing by the Council</p>
"Public Subsidy"	funding provided by the Council, Homes England or any other public body or successor body towards the provision of Affordable Housing
"Recycling Obligation"	an obligation to use the net proceeds from the acquisition of any share or interest in an Affordable Dwelling by an Eligible Household towards alternative Affordable Housing provision
"Registered Provider"	Is as defined in the Housing and Regeneration Act 2008
"Rented Housing"	one or more of Affordable Rented Dwellings and Social Rented Dwellings and Intermediate Rented Dwellings as agreed with the Council
"Shared Equity Dwellings"	Dwellings purchased on a shared equity basis whereby not more than 80% of the equity is sold to the purchaser with power to increase their percentage of ownership up to 100% after five years of acquisition of the initial share and upon a payment equating to the additional equity being purchased payable to the Council or the Provider as the case may be (or such other body as the Council may elect). Such payment to be based on the actual market value as at the date of acquisition of the additional equity.
"Shared Ownership Dwellings"	Dwellings purchased on a Shared Ownership Lease
"Shared Ownership Lease"	<p>a lease in a form approved by Homes England or where there is no such form in a form approved by the Council such lease to provide for the following:</p> <ul style="list-style-type: none"> - not more than 75% and not less than 25% of the

	<p>equity (or such other percentages the Council may agree) shall be initially sold to the purchaser by the Provider</p> <ul style="list-style-type: none"> - power to the purchaser to increase their ownership up to 100% if they so wish - an initial rent not exceeding 2.75% of the value of the equity retained by the Provider subject to annual increases not exceeding Retail Price Index (All Items) published by the Office for National Statistics (or if such index ceases to be published such other index as the Council shall reasonably determine) plus 0.5% or such other rent as complies with the requirements from time to time of the Homes England
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The Owner hereby covenants with the Enforcing Authority as follows:

- 1.1 Not to Commence the Development until the Affordable Housing Scheme has been submitted to and approved by the Enforcing Authority in writing
- 1.2 Not to construct the Affordable Dwellings otherwise than in accordance with the Approved Affordable Housing and the timescales and details set out therein.
- 1.3 Not to offer for sale any Intermediate Dwelling (other than a Shared Ownership Dwelling) without the prior written consent of the Enforcing Authority to the maximum selling price of that Intermediate Dwelling
- 1.4 Not to Occupy more than 75% of the Open Market Dwellings until all of the Affordable Dwellings to be provided under the Approved Affordable Housing Scheme are Practically Complete and have been transferred to the approved Provider (or individual plot owners where appropriate, or where no transfer is required their ongoing provision has been secured) in accordance with and subject to the following terms:

- a) free from all financial charges, adverse rights, restrictions or other encumbrances which would interfere with the use of the Affordable Dwellings as Affordable Housing;
 - b) with the benefit of all necessary easements, rights and utilities; and
 - c) any other terms to secure any conditions and requirements of the Approved Affordable Housing Scheme
- 1.5 Not to use the Affordable Dwellings for any purpose other than Affordable Housing in accordance with the Approved Affordable Housing Scheme PROVIDED THAT the obligations contained in this Schedule shall not be binding upon:
- 1.5.1 a person acquiring an interest in an Affordable Dwelling under a statutory right to buy or acquire or a voluntary right to buy scheme under the Housing and Planning Act 2016;
 - 1.5.2 an Eligible Household who has staircased under a Shared Ownership Lease to acquire 100% of the leasehold or freehold interest or by a person who has acquired 100% of a Shared Equity Dwelling
 - 1.5.3 a mortgagee or chargee (or any receiver (including an administrative receiver or administrator) 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 (each a "Receiver") of the whole or any part of the Affordable Dwelling or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT it is has first complied with the following:
 - a) such mortgagee or chargee or Receiver shall first give notice to the Enforcing Authority of its intention to dispose of the Affordable Dwellings and shall have used reasonable endeavours over a period of three months from the date of the

written notice to complete a disposal of the Affordable Dwellings to another Registered Provider or to the Enforcing Authority 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, costs and expenses; and

b) if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Dwellings free from the obligations contained in this Schedule which provisions shall determine absolutely in relation to the affected Affordable Dwellings

1.5.4 all persons or bodies deriving title under or through any persons or bodies referred to in this paragraph 1.6 (including their successors in title)

1.6 To comply with the requirements of the Local Letting Cascade at Part 2 of this Schedule and to ensure that the Affordable Rented Dwellings are let in accordance and compliance with that Cascade

Part 2

Local Letting Cascade

1. Nomination Rights Policy

1.1 The Policy will apply to all categories of properties on the basis of 100% of all lettings in perpetuity.

2. Allocations will be made to applicants on the Common Housing Register managed and maintained by Broadland District Council on the following priority basis:

2.1 Residents of Great and Little Plumstead (including Thorpe End) who have lived in the Parish for a total of at least 3 of the last 10 years.

2.2 Former residents of Great and Little Plumstead (including Thorpe End) who have had their main home in the Parish for 3 of the last 10 years.

2.3 Households who need to move to the parish of Great and Little Plumstead (including Thorpe End) to give/receive support from family/relatives.

2.4 Residents of the adjacent parishes of Postwick, Blofield, Woodbastwick, Salhouse, Rackheath, Sprowston and Thorpe St Andrew who have lived in these parishes for the last three years.

2.5 People working in the parish of Great and Little Plumstead (including Thorpe End) who have done so for a year or more.

2.6 Residents of Great and Little Plumstead who have lived in the parish for less than three years.

2.7 Residents of the adjacent parishes of Postwick, Blofield, Woodbastwick, Salhouse, Rackheath, Sprowston and Thorpe St Andrew who have lived in these parishes for less than 3 years.

2.8 Residents of the adjacent parishes of Brundall, Strumpshaw, Lingwood and Burlingham, Hemblington, South Walsham, Wroxham, Crostwick, Beeston St Andrew, Spixworth and Old Catton who have lived in these parishes for the last three years.

2.9 Residents of the parishes of Brundall, Strumpshaw, Lingwood and Burlingham, Hemblington, South Walsham, Wroxham, Crostwick, Beeston St Andrew, Spixworth and Old Catton who have lived in these parishes for less than 3 years.

2.10 Residents of Broadland District

2.11 Any other person

Part 3

Affordable Housing Mix

Plot No.	Property type.	Tenure	Comment
6	1 bed 2 person terraced bungalow	Shared Equity	
7	1 bed 2 person terraced bungalow	Shared Equity	
9	2 bed 4 person semi detached bungalow	Shared Equity	
19	1 bed 2 person flat	Shared Equity	
20	1 bed 2 person flat	Shared Equity	
8	2 bed 4 person semi detached bungalow	Affordable Rent	To be constructed to a standard to comply with the Building Regulations Part M, Category 2 M4(2)
21	1 bed 2 person flat	Affordable Rent	
22	1 bed 2 person flat	Affordable Rent	

SCHEDULE 3

OPEN SPACE

In this Schedule (and elsewhere in this Deed where the context permits) the following words and expressions shall have the following meanings:

"Off Site Open Space Contribution"	The sum of £53,600 Index Linked in lieu of the amount of Open Space being provided on Site compared to that required in accordance with the Councils current Open Space Policies and to be applied by the Parish Council as follows: <ul style="list-style-type: none">(1) the sum of £42,000 Index Linked towards the repair and maintenance of the Blue Land(2) the sum of £11,600 Index Linked towards the provision of play space, formal recreation and the provision of allotments within the administrative area of the Parish Council (including in whole or in part within the Blue Land).
"Open Space"	Land ordinarily required to be set aside and used as public open space within the Site which may include areas for formal recreation, play and allotments in line with current Open Space Policies
"Open Space Policies"	Means the policies contained in the Council's Development Management Development Plan Document including policy EN1 biodiversity & habitats, EN3 green infrastructure & RL1 provision of

	<p>formal recreation space or such replacement policies or documents as the Council may specify (or any amendment or revision therefore) relating to the provision of open space, recreation, sport, allotments, green i</p> <p>nrastructure and other similar types of amenity land and facilities</p>
"Parish Council"	Means the Great and Little Plumstead Parish Council
"Standard Terms"	<p>in accordance with the reasonable requirements of the Enforcing Authority in consultation with the Parish Council to include:</p> <ul style="list-style-type: none"> - the transfer of the freehold estate of the Blue Land Unencumbered with full title guarantee - for a sum not exceeding £1 (one pound) - with the benefit of all necessary rights and easements and with vacant possession - subject to a restriction on the future use of the Blue Land for recreational and amenity purposes (including allotment use) by the general public - an obligation to install and thereby provide both an electricity and a water supply from within the Site and up to the boundary of the Blue Land (and without the reservation of any ransom strip) the

	<p>costs thereof to be paid for by the Owner</p> <ul style="list-style-type: none"> - an obligation to maintain the Blue Land to a standard suitable for use by members of the public - a requirement that the conveyancing fees and disbursements of the Parish Council are paid for by the Owner
"Unencumbered"	<p>Means free from all adverse rights, easements, restrictions or other encumbrances which would interfere with the use of the Blue Land as public open space and all encumbrances which might result in additional cost or liability to the Parish Council not normally associated with the use of the Blue Land as Open Space</p>

The Owner hereby covenants with the Enforcing Authority as follows:

1. On completion of the Development to transfer the Blue Land Unencumbered to the Parish Council upon the Standard Terms

The Developer hereby covenants with the Enforcing Authority as follows:

1. On completion of the Development to pay the Off Site Open Space Contribution to the Parish Council

SCHEDULE 4

Enforcing Authority covenants

The Enforcing Authority hereby covenants with the Owner as follows:

1. At the written request of the Owner to provide written confirmation of the discharge of any or all of the obligations (as appropriate) contained in this Deed when satisfied that such obligations have been performed

SCHEDULE 5

Covenants by the Council with the County

The Council hereby covenants with the County as follows:

1. To indemnify the County against all costs claims and demands in connection with the obligations of the County in this Deed as Enforcing Authority including but not limited to monitoring compliance where requested and enforcement of any obligations breached PROVIDED THAT and for the avoidance of any doubt this indemnity is limited to the period that the Council has a proprietary interest in the Site and the County accordingly acts as Enforcing Authority

IN WITNESS whereof the parties hereto have executed this document as a Deed on the day and year first before written.

THE COMMON SEAL OF Broadland District Council
was affixed in the presence of:

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)

7852



J Penn

Authorised Signatory:

Head of Finance and
Revenue Services

JILL PENN

THE COMMON SEAL OF Norfolk County Council
was affixed in the presence of: *ABDUS CHAOHURY*

)
)

42859



Abdus ChaoHury

Authorised to sign on behalf of Chief Legal Officer

~~Head of Law~~

Executed as a deed by
BROADLAND GROWTH LIMITED acting by:

)
)



~~Director~~

M. Mue

~~Director/Secretary~~

