

Supplemental Agreement and Deed of Variation

Pursuant to Section 106A of the Town and Country Planning Act 1990 (as amended)

In respect of: Land South of Salhouse Road, Sprowston (Woodland Heath)

Broadland District Council (1)

BDW Trading Limited (2)

Planning Application Ref: 20160498

Dated 23 May 2022

Osborne Clarke

2 Temple Back East
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Bristol

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THIS DEED is made the 23rd day of May

2022

BETWEEN

- (1) **BROADLAND DISTRICT COUNCIL** of Thorpe Lodge, 1 Yarmouth Road, Norwich NR7 0DU (the "Council"); and
- (2) **BDW TRADING LIMITED** (company registration number 03018173) whose registered office is at Barratt House, Cartwright Way, Forest Business Park, Bardon Hill, Coalville, Leicestershire, LE67 1UF (the "Owner"),

together referred to as the "Parties"

RECITALS

- A. The Council is the local planning authority for the purposes of the 1990 Act for the area in which the Site is situated.
- B. The Owner is the freehold owner of the part of the Site registered at the Land Registry under Title No. NK502863 (subject to the matters recorded on the register) on which the First Homes Units are proposed to be provided in accordance with the terms of the Principal Deed as amended by this Deed.
- C. On 7 March 2019 the Original Deed was entered into and Planning Permission was issued by the Council for the Development of the Site.
- D. The Original Deed was subsequently varied by the First Deed of Variation.
- E. The Parties to this Deed have agreed to vary the Principal Deed in the manner set out in this Deed.

NOW THIS DEED WITNESSES AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

- 1.1 In this Deed, including for the avoidance of doubt the recitals, save where indicated otherwise words and phrases shall have the meanings ascribed to them in the Principal Deed and the following expressions shall have the following meanings:

"First Deed of Variation"	means the agreement made under section 106 and section 106A of the 1990 Act dated 23 May 2022 between: (1) Broadland District Council; (2) BDW Trading Limited; and (3) Legal & General Affordable Homes (Development 2) Limited
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"First Homes Unit(s)" shall have meaning given to that term in Part 1 of the Second Schedule to the Principal Deed as amended by this Deed

"Original Deed" means the agreement made under section 106 of the 1990 Act dated 7 March 2019 between: (1) Broadland District Council; (2) Norfolk County Council; (3) RK Properties Limited; (4) John Frederick Faircloth; (5) John Frederick Faircloth and Janet Lilian Faircloth; and (6) David Eric Smith

"Principal Deed" means the Original Deed as amended by the First Deed of Variation

1.2 In this Deed where the context so requires:

- (a) the singular includes the plural and vice versa;
- (b) references to any party will include the successors in title of that party;
- (c) where a party includes more than one person, any obligations of that party will be joint and several;
- (d) references to clauses, schedules and paragraphs are references to clauses and paragraphs in and schedules to this Deed except where otherwise specified;
- (e) title headings to the clauses, schedules and paragraphs are for convenience only and shall not affect the interpretation of this Deed;
- (f) references to any statute or statutory instrument shall except where otherwise specifically provided include reference to any statutory modification or re-enactment thereof for the time being in force; and
- (g) except where expressly provided otherwise the expression the "Owner" shall include persons successors in title to the Owner and its assigns and all persons deriving title to all or part of the Site under or through it.

2 LEGAL EFFECT

2.1 This Deed is made pursuant to the provisions of Section 106A of the 1990 Act and all other powers enabling so as to vary the Principal Deed in the manner set out in this Deed and the Owner's obligation and covenants contained in this Deed:

- (a) are covenants and planning obligations to which these statutory provisions apply;
- (b) relate to the Site in the manner set out in this Deed; and
- (c) are enforceable by the Council.

2.2 Save as hereby modified all other obligations and terms of the Principal Deed shall continue in

full force and effect.

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

3 COMMENCEMENT

The provisions in this Deed shall take effect upon its completion.

4 VARIATIONS TO THE PRINCIPAL DEED

- 4.1 The Parties agree that the Principal Deed shall be varied as set out in the Schedule to this Deed but shall otherwise remain in full force and effect.
- 4.2 This Deed shall be read in conjunction with the Principal Deed.
- 4.3 The Parties covenant to comply with their respective obligations set out in the Principal Deed as amended / supplemented by this Deed.

5 LEGAL COSTS

The Owner will pay on or before the date of this Deed the Council's reasonable legal costs and disbursements in connection with its preparation and completion of this Deed.

6 COUNCIL'S COSTS (FIRST HOMES)

The Owner shall pay to the Council on or before the date of this Deed the sum of £1,650 (£150 per First Homes Unit) as a contribution towards the Council's costs incurred in connection with the performance of the Council's obligations under Part 4 of the Second Schedule to be inserted into the Principal Deed pursuant to this Deed.

7 JURISDICTION

This Deed is governed by and interpreted in accordance with the Law of England.

THE SCHEDULE

The Principal Deed shall be varied as follows:

1 Clause 5.3 of the Principal Deed shall be amended to read as follows:

5.3 The covenants, restrictions and requirements contained in this Deed shall not be enforceable against:

5.3.1 individual purchasers lessees and/or occupiers of Dwellings constructed on the Site pursuant to the Planning Permission including their mortgagees SAVE THAT:

- (a) the covenants, restriction and requirements contained in Paragraph 1.7 in Part 1 of the Second Schedule shall be enforceable against individual purchasers lessees and/or occupiers of Affordable Dwellings including their mortgagees but only to the extent set out therein; and
- (b) the covenants, restrictions and requirements contained in Part 4 of the Second Schedule shall be enforceable against individual purchasers lessees and/or occupiers of the First Homes Units including their mortgagees but only to the extent set out therein

5.3.2 any statutory undertaker or other person who acquires any part of the Site or an interest in it for the purposes of the supply of electricity gas water telecommunications or highways or drainage in connection with the Development of the Site

2 In Part 1 of the Second Schedule of the Principal Deed the following additional definitions shall be added:

"Additional First Homes Contribution"	means in circumstances where a Disposal of a First Homes Unit other than as a First Home has taken place in accordance with paragraph 3.8, 3.9 or 5 of Part 4 of this Second Schedule, the lower of the following two amounts: <ul style="list-style-type: none">(a) 30% of the sale proceeds; and(b) the sale proceeds less the amount due and outstanding to any Mortgagee of the relevant First Homes Unit under relevant security documentation. For this purpose, the "amount due and outstanding
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	<p>to any Mortgagee" shall include all accrued principal monies, interest and reasonable costs and expenses that are payable by the First Homes Owner to the Mortgagee under the terms of any mortgage, but for the avoidance of doubt shall not include any other costs or expenses incurred by the First Homes Owner in connection with the sale of the First Homes Unit</p> <p>and which for the avoidance of doubt shall in each case be paid following the deduction of any additional SDLT payable by the First Homes Owner as a result of the Disposal of the First Homes Unit other than as a First Home.</p>
"Annex 2"	means Annex 2 to this Deed (Compliance Certificate)
"Annex 3"	means Annex 3 to this Deed (First Homes Plan)
"Armed Services Member"	means a member of the Royal Navy the Royal Marines the British Army or the Royal Air Force or a former member who was a member within the five (5) years prior to the purchase of the First Homes Unit, a divorced or separated spouse or civil partner of a member or a spouse or civil partner of a deceased member or former member whose death was caused wholly or partly by their service
"Authority to Proceed & Eligibility Approval"	means the document issued by the Council confirming that the person(s) who have submitted a First Homes Application Form satisfy the Eligibility Criteria (National) and Eligibility Criteria (Local) (if any) and may proceed with the purchase of a First Homes Unit such document (or its equivalent) to be in the form prescribed by Homes England from time to time
"Cluster"	shall mean a group of Affordable Dwellings and First Homes Units which does not have contiguous boundaries with another group of Affordable Dwellings and First Homes Units
"Compliance Certificate"	means the certificate issued by the Council confirming that a First Homes Unit is being Disposed of as a First Home to a purchaser meeting the Eligibility Criteria (National) and unless

	paragraph 3.2 of Part 4 of this Second Schedule applies the Eligibility Criteria (Local) in the form at Annex 2 or such other form (or its equivalent) as may be issued by Homes England from time to time
"Communication and Approval Protocol"	means such communication and approval protocol as may be agreed between the Owner and the Council from time to time in respect of the conveyancing process relating to the Disposal of the First Homes Units
"Disposal"	<p>means a transfer of the freehold or (in the case of a flat only) the grant or assignment of a leasehold interest in a First Homes Unit other than:</p> <ul style="list-style-type: none"> (a) a letting or sub-letting in accordance with paragraph 4 of Part 4 of this Second Schedule; (b) a transfer of the freehold interest in a First Homes Unit or land on which a First Homes Unit is to be provided before that First Homes Unit is made available for occupation except where the transfer is to a First Homes Owner; or (c) an Exempt Disposal <p>and "Disposed" and "Disposing" shall be construed accordingly</p>
"Eligibility Criteria (National)"	<p>means criteria which are met in respect of a purchase of a First Homes Unit if:</p> <ul style="list-style-type: none"> (a) the purchaser is a First Time Buyer (and in the case of a joint purchase each joint purchaser is a First Time Buyer); and (b) the purchaser's annual gross income (or in the case of a joint purchase, the joint purchasers' joint annual gross income) does not exceed the Income Cap (National)
"Eligibility Criteria (Local)"	means criteria published by the Council at the date of the relevant Disposal of a First Homes Unit which are met in respect of a Disposal of a First Homes Unit if:

	<p>(a) the purchaser's annual gross income (or in the case of a joint purchase, the joint purchasers' joint annual gross income) does not exceed the Income Cap (Local) (if any); and</p> <p>(b) any or all of criteria (i) (ii) and (iii) below are met:</p> <p>(i) the purchaser meets the Local Connection Criteria (or in the case of a joint purchase at least one of the joint purchasers meets the Local Connection Criteria); and/or</p> <p>(ii) the purchaser is (or in the case of a joint purchase at least one of the joint purchasers is) an Armed Services Member; and/or</p> <p>(iii) the purchaser is (or in the case of a joint purchase at least one of the joint purchasers is) a Key Worker</p>
"Exempt Disposal"	<p>means a transfer of the freehold or (in the case of a flat only) the grant or assignment of a leasehold interest in a First Homes Unit in one of the following circumstances:</p> <p>(a) to a spouse or civil partner upon the death of the First Homes Owner;</p> <p>(b) to a named beneficiary under the terms of a will or under the rules of intestacy following the death of the First Homes Owner;</p> <p>(c) to a former spouse or former civil partner of a First Homes Owner in accordance with the terms of a court order, divorce settlement or other legal agreement or order upon divorce, annulment or dissolution of the marriage or civil partnership or the making of a nullity, separation or presumption of death order; or</p> <p>(d) to a trustee in bankruptcy prior to sale of the relevant First Homes Unit (and for the avoidance of doubt paragraph 5 of Part 4 of this Second Schedule shall apply to such sale),</p> <p>PROVIDED THAT in each case other than (d) the person to whom the transfer / assignment (as applicable) is made</p>

	complies with the terms of paragraph 4 of Part 4 of this Second Schedule																								
"FH Discount Market Price"	means a sum which is the Market Value discounted by at least 30%																								
"First Home"	means a Dwelling which may be Disposed of as a freehold or (in the case of flats only) as a leasehold property to a First Time Buyer at the FH Discount Market Price and which on its first Disposal does not exceed the Price Cap and "First Homes" shall be construed accordingly																								
"First Homes Application Form"	means the application form pursuant to which person(s) may apply to purchase a First Homes Unit such document (or its equivalent) to be in the form prescribed by Homes England from time to time																								
"First Homes Phase 2 Pilot"	means the second phase of Homes England's First Homes early delivery programme 2021 to 2023																								
"First Homes Mix"	<p>means the eleven (11) Dwellings comprised in the Development on the Site to be provided as First Homes in accordance with the following agreed details (or such other details as may be agreed between the Owner and the Council):</p> <table border="1"> <thead> <tr> <th>Plot No.</th><th>Unit Type</th></tr> </thead> <tbody> <tr><td>289</td><td>3 bed house</td></tr> <tr><td>290</td><td>3 bed house</td></tr> <tr><td>254</td><td>3 bed house</td></tr> <tr><td>318</td><td>3 bed house</td></tr> <tr><td>255</td><td>3 bed house</td></tr> <tr><td>320</td><td>3 bed house</td></tr> <tr><td>344</td><td>3 bed house</td></tr> <tr><td>345</td><td>3 bed house</td></tr> <tr><td>313</td><td>4 bed house</td></tr> <tr><td>348</td><td>3 bed house</td></tr> <tr><td>349</td><td>3 bed house</td></tr> </tbody> </table>	Plot No.	Unit Type	289	3 bed house	290	3 bed house	254	3 bed house	318	3 bed house	255	3 bed house	320	3 bed house	344	3 bed house	345	3 bed house	313	4 bed house	348	3 bed house	349	3 bed house
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"First Homes Owner"	means the person or persons having the freehold or leasehold interest (as applicable) in a First Homes Unit other than:																								

	<p>(a) BDW Trading Limited; or</p> <p>(b) another developer or other entity to which the freehold interest or leasehold interest in a First Homes Unit or in the land on which a First Homes Unit is to be provided has been transferred before that First Homes Unit is made available and is disposed of for occupation as a First Home;</p> <p>a tenant or sub-tenant of a permitted letting under paragraph 4 of Part 4 of this Second Schedule</p>
"First Homes Plan"	means plan reference H8211_2A_FH_001 Rev A titled 'First Homes Layout Plan' attached to this Deed at Annex 3 which has been agreed with the Council and shows the location of the First Homes Units marked with a red dot (or such other plan as may be agreed between the Owner and the Council)
"First Homes Units"	means the Dwellings identified on the First Homes Plan as First Homes and "First Homes Unit" shall be construed accordingly
"First Time Buyer"	means a first time buyer as defined in paragraph 6 of schedule 6ZA of the Finance Act 2003
"Income Cap (Local)"	<p>means:</p> <p>(a) on the first Disposal of a First Homes Unit eighty thousand pounds (£80,000); or</p> <p>(b) on a second or subsequent Disposal of a First Homes Unit such sum (if any) as may be published by the Council from time to time as the "First Homes Income Cap (Local)" for the Council's administrative area and is in operation at the time of the relevant Disposal of the First Homes Unit</p> <p>it being acknowledged that at the date of this Deed the Council has not set an Income Cap (Local) and that no Income Cap (Local) is intended to apply to the first Disposal of a First Homes Unit</p>

"Income Cap (National)"	means eighty thousand pounds (£80,000) or such other sum as may be published for this purpose from time to time by the Secretary of State
"Key Worker"	<p>means a person employed or with a confirmed job offer for a minimum of 16+ hours per week within Broadland District or adjacent Local Authority areas (which includes: Norwich City, South Norfolk, North Norfolk, Great Yarmouth and Breckland District) in one of the following categories of employment:</p> <ul style="list-style-type: none"> (a) public sector employees who provide frontline services in areas including health, education and community safety – such as NHS staff, teachers, police, firefighters and military personnel, social care and childcare workers; or (b) such other categories of employment as may be published by the Council from time to time as the "First Homes Key Worker criteria" and is in operation at the time of the relevant Disposal of the First Homes Unit and for the avoidance of doubt any such replacement criteria in operation at the time of the relevant Disposal of the First Homes Unit shall be the "Key Worker" criteria which shall apply to that Disposal in addition to the categories of employment at limb (a) of this definition above
"Local Connection Criteria"	<p>means either (a) or (b) below:</p> <ul style="list-style-type: none"> (a) criteria which are met by a person who satisfies one or more of (i), (ii) and (iii) below: <ul style="list-style-type: none"> (i) is ordinarily resident within Broadland District and has been for a continuous period of not less than 12 consecutive months prior to submission of the First Homes Application Form for the relevant First Homes Unit; and/or (ii) who has a close family association with Broadland District by reason of a parent, sibling or child who is ordinarily resident within Broadland District; and/or

	<p>(iii) who has been employed within Broadland District for a continuous period of not less than 12 consecutive months prior to submission of the First Homes Application Form for the relevant First Homes Unit;</p> <p>(b) such other local connection criteria as may be published by the Council from time to time as its "First Homes Local Connection Criteria" and which is in operation at the time of the relevant Disposal of the First Homes Unit and for the avoidance of doubt any such replacement criteria in operation at the time of the relevant Disposal of the First Homes Unit shall be the "Local Connection Criteria" which shall apply to that Disposal</p> <p>it being acknowledged that the criteria in limb (a) only is intended to apply to the first Disposal of a First Homes Unit.</p>
"Market Value"	means for the purposes of the First Homes Units only the open market value as assessed by a Valuer as confirmed to the Council by the First Homes Owner and assessed in accordance with the RICS Valuation Standards (January 2014 or any such replacement guidance issued by RICS) and for the avoidance of doubt shall not take into account the 30% / relevant discount in the valuation
"Mortgagee"	means any financial institution or other entity regulated by the Prudential Regulation Authority and the Financial Conduct Authority to provide facilities to a person to enable that person to acquire a First Homes Unit including all such regulated entities which provide Shari'ah compliant finance for the purpose of acquiring a First Homes Unit
"Practical Completion"	means for the purposes of the First Homes Units only the stage reached when the construction of a First Homes Unit is sufficiently complete that, where necessary, a certificate of practical completion can be issued and it can be Occupied
"Price Cap"	means the amount for which the First Homes Unit is sold after the application of the FH Discount Market Price which on its first Disposal shall not exceed Two Hundred and Fifty

	Thousand Pounds (£250,000) or such other amount as may be published from time to time by the Secretary of State
"SDLT"	means Stamp Duty Land Tax as defined by the Finance Act 2003 or any tax replacing it of like effect
"Secretary of State"	means the Secretary of State for Levelling Up, Housing and Communities from time to time appointed and includes any successor in function
"Valuer"	means a Member or Fellow of the Royal Institution of Chartered Surveyors being a Registered Valuer appointed by the First Homes Owner and acting in an independent capacity

- 3 In Part 1 of the Second Schedule of the Principal Deed the definition of "Affordable Dwellings" shall be amended to read as follows:

"Affordable Dwellings"	the Dwellings to be constructed on each Phase of the Site to a standard agreed with the Council as Affordable Housing and "Affordable Dwelling" shall be construed accordingly PROVIDED THAT such term shall not include First Homes Units which for the avoidance of doubt are to be subject to the obligations in Part 4 of this Second Schedule only
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- 4 In Part 1 of the Second Schedule of the Principal Deed the definition of "Affordable Housing" shall be amended to read as follows:

"Affordable Housing"	the Intermediate Housing and Rented Housing be provided to Eligible Households whose needs are not met by the market and the First Homes Units which are to be provided in accordance with Part 4 of this Second Schedule
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- 5 In Part 1 of the Second Schedule of the Principal Deed the definition of "Discounted Market Dwellings" shall be amended to read as follows:

"Discounted Market Dwellings"	Dwellings for sale to Eligible Households at the Discount Price and "Discounted Market Dwelling" shall be construed accordingly but
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	for the avoidance of doubt excluding the First Homes Units
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- 6 In Part 1 of the Second Schedule of the Principal Deed the definition of "Homes England" shall be amended to read as follows:

"Homes England"	means the Homes and Communities Agency (which trades as Homes England) being a body corporate created by Section 1 of the Housing and Regeneration Act 2008
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- 7 In Part 1 of the Second Schedule of the Principal Deed the definition of "Intermediate Housing" shall be amended to read as follows:

"Intermediate Housing"	one or more of Intermediate Dwellings Discounted Market Dwellings Shared Equity Dwellings and Shared Ownership Dwellings as approved by the Council but for the avoidance of doubt excluding the First Homes Units
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- 8 In the Second Schedule of the Principal Deed a new Part 4 to the Second Schedule shall be added after Part 3 of the Second Schedule in the form annexed to this Deed as Annex 1.

- 9 A new Annex 2 (Compliance Certificate) shall be inserted into the Principal Deed in the form annexed to this Deed as Annex 2.

- 10 The drawing annexed to this Deed at Annex 3 shall be inserted into the Principal Deed as a new Annex 3 (First Homes Plan).

IN WITNESS whereof the Council and the Owner have executed this instrument as a Deed in the presence of the person(s) mentioned below the day and year above written

EXECUTED as a **DEED** by affixing)
THE COMMON SEAL of)
BROADLAND DISTRICT COUNCIL)
in the presence of:)



.....
[Redacted]
Authorised Signatory Deputy Monitoring Officer
[Redacted]

SIGNED as a **DEED** by)
)
and)
)
Attorneys for and acting on behalf of)
BDW TRADING LIMITED)
in exercise of the powers conferred on)
them by a Power of Attorney dated)
in the presence of)

.....
[Redacted]
Attorney

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[Redacted]
Attorney

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[Redacted]
Witness Signature

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ANNEX 1

Wording to be inserted into the Second Schedule of the Principal Deed

Part 4 FIRST HOMES

OBLIGATIONS

Unless otherwise agreed in writing by the Council, the Owner for and on behalf of itself and its successors in title to the Site with the intention that the following provisions shall bind the Site and every part of it into whosoever's hands it may come covenants with the Council as below save that:

- (a) paragraphs 1 and 2 of this Part 4 of the Second Schedule shall not apply to a First Homes Owner;
- (b) paragraphs 3 and 4 of this Part 4 of the Second Schedule apply as set out therein, save that where a First Homes Unit is owned by a First Homes Owner they shall apply to a First Homes Owner, but only in respect of the relevant First Homes Unit owned by that First Homes Owner); and
- (c) Paragraph 6 of this Part 4 of the Second Schedule applies as set out therein.

1 QUANTUM OF FIRST HOMES

- 1.1 Eleven (11) of the Dwellings as identified as First Homes on the First Homes Plan have been reserved and set aside as First Homes Units and shall be provided and retained as First Homes Units in perpetuity subject to the terms of this Part 4 of the Second Schedule.
- 1.2 If Homes England notifies the Council that one or more First Homes Units are no longer receiving grant funding from Homes England pursuant to the First Homes Phase 2 Pilot the Council will release the Owner from the obligations whether past present or future in paragraphs 1 to 6 of this Part 4 of the Second Schedule and direction issued pursuant to paragraph 3.7 of this Part 4 of the Second Schedule in respect of those First Homes Units only and shall do everything necessary to give effect to that release.
- 1.3 If Homes England notifies the Council that additional grant has been given to the Owner under the First Homes Phase 2 Pilot to deliver additional First Homes in addition to the First Homes Units, the Council and the Owner shall enter into a deed of variation to this agreement to agree:
 - 1.3.1 an amended First Homes Plan on which the First Homes Units and the additional First Homes shall be identified as First Homes; and

- 1.3.2 that the provisions in paragraphs 2 to 5 of this Part 4 of the Second Schedule shall apply to the all the First Homes identified on the amended First Homes Plan.

2 DEVELOPMENT STANDARD

All First Homes Units shall be constructed to no less than the standard applied to the Open Market Dwellings.

3 DELIVERY MECHANISM

- 3.1 The First Homes Units 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:

3.1.1 the Eligibility Criteria (National); and

3.1.2 the Eligibility Criteria (Local) (if any).

- 3.2 If after a First Homes Unit 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 3.1.2 of this Part 4 of the Second Schedule shall cease to apply.

- 3.3 Subject to paragraphs 3.6 to 3.10 of this Part 4 of the Second Schedule, no First Homes Unit shall be Disposed of (whether on a first or any subsequent sale) unless not less than 50% of the purchase price (meaning the FH Discount Market Price) is funded by a first mortgage or other home purchase plan with a Mortgagee.

- 3.4 No First Homes Unit shall be Disposed of (whether on a first or any subsequent sale) unless and until:

3.4.1 The Council has been provided with evidence that:

3.4.1.1 the intended purchaser meets the Eligibility Criteria (National) and unless paragraph 3.2 of this Part 4 of the Second Schedule applies meets the Eligibility Criteria (Local) (if any);

3.4.1.2 the First Homes Unit is being Disposed of as a First Home at the FH Discount Market Price; and

3.4.1.3 the transfer of the First Homes Unit includes:

- a) a definition of the "Council" which shall be Broadland District Council
- b) a definition of "First Homes Provisions" in the following terms:

"means the provisions set out in paragraph 3.1 – 3.9 (inclusive) of Part 4 of the Second Schedule of the S106 Agreement a copy of which is attached hereto as the Annexure."

- c) A definition of "S106 Agreement" in the following terms:

"means the agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 dated 7 March 2019 between: (1) Broadland District Council; (2) Norfolk County Council; (3) RK Properties Limited; (4) John Frederick Faircloth; (5) John Frederick Faircloth and Janet Lilian Faircloth; and (6) David Eric Smith as amended / supplemented by:

- (i) agreement made under section 106 and section 106A of the 1990 Act dated 2022 between: (1) Broadland District Council; (2) BDW Trading Limited; and (3) Legal & General Affordable Homes (Development 2) Limited
- (ii) a supplemental agreement made pursuant to Section 106A of the Town and Country Planning Act 1990 dated [date] between (1) Broadland District Council; and (2) BDW Trading Limited

as may be further amended and / or supplemented from time to time"

- d) a provision that the Property 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 Property 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

3.4.2 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 3.3 and 3.4.1 of this Part 4 of the Second Schedule have been met

3.5 On the first Disposal of each and every First Homes Unit the Owner shall 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 Homes Unit 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 Broadland District Council of Thorpe Lodge, 1 Yarmouth Road, Norwich NR7 0DU 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"

and for the avoidance of doubt such restriction shall continue to apply to subsequent Disposals of each and every First Homes Unit unless and until such restriction is removed in accordance with the terms of this Part 4 of the Second Schedule

3.6 The owner of a First Homes Unit (which for the purposes of this clause shall include the Owner and any First Homes Owner) may apply to the Council to Dispose of it other than as a First Home on the grounds that either:

3.6.1 the First Homes Unit has been actively marketed as a First Home for six (6) months in accordance with paragraphs 3.1 and 3.2 of this Part 4 of the Second Schedule (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 First Homes Unit as a First Home but it has not been possible to Dispose of that First Homes Unit as a First Home in accordance with paragraphs 3.3 and 3.4.1 of this Part 4 of the Second Schedule; or

3.6.2 requiring the First Homes Owner to undertake active marketing for the period specified in paragraph 3.6.1 of this Part 4 of the Second Schedule before being able to Dispose of the First Homes Unit other than as a First Home would be likely to cause the First Homes Owner undue hardship

3.7 Upon receipt of an application served in accordance with paragraph 3.6 of this Part 4 of the Second Schedule the Council shall have the right (but shall not be required) to direct that the relevant First Homes Unit is disposed of to it at the FH Discount Market Price

3.8 If the Council is satisfied that either of the grounds in paragraph 3.6 of this Part 4 of the Second Schedule 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 3.6 of this Part 4 of the Second Schedule that the relevant First Homes Unit may be Disposed of:

3.8.1 to the Council at the FH Discount Market Price; or

3.8.2 (if the Council confirms that it does not wish to acquire the relevant First Homes Unit) 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 First Homes Unit apart from paragraph 3.10 of this Part 4 of the Second Schedule which shall cease to apply on receipt of payment by the Council where the relevant First Homes Unit is Disposed of other than as a First Home

- 3.9 If the Council does not wish to acquire the relevant First Homes Unit itself and is not satisfied that either of the grounds in paragraph 3.6 of this Part 4 of the Second Schedule have been made out then it shall within twenty eight (28) days of receipt of the written request made in accordance with paragraph 3.6 of this Part 4 of the Second Schedule serve notice on the owner of the First Homes Unit setting out the further steps it requires the owner of the First Homes Unit to take to secure the Disposal of the relevant First Homes Unit 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 of the First Homes Unit has been unable to Dispose of the First Homes Unit as a First Home he may serve notice on the Council in accordance with paragraph 3.6 of this Part 4 of the Second Schedule following which the Council must within twenty eight (28) days issue confirmation in writing that the First Homes Unit may be Disposed of other than as a First Home.
- 3.10 Where a First Homes Unit is Disposed of other than as a First Home or to the Council at the FH Discount Market Price in accordance with paragraphs 3.8 or 3.9 of this Part 4 of the Second Schedule the owner of the First Homes Unit shall pay to the Council forthwith upon receipt of the sale proceeds the Additional First Homes Contribution (which obligation shall remain binding on the outgoing owner of the First Homes Unit notwithstanding such Disposal).
- 3.11 Upon receipt of the Additional First Homes Contribution the Council shall:
- 3.11.1 within five (5) working days of such receipt, provide a completed and duly signed application to enable the removal of the restriction on the title set out in paragraph 3.5 of this Part 4 of the Second Schedule where such restriction has previously been registered against the relevant title; and
- 3.11.2 apply all monies received towards the provision of Affordable Housing.
- 3.12 Any person who purchases a First Homes Unit free of the restrictions in this Part 4 of the Second Schedule of this Deed pursuant to the provisions in paragraphs 3.9 and 3.10 of this Part 4 of the Second Schedule shall not be liable to pay the Additional First Homes Contribution to the Council.

4 USE

- 4.1 Each First Homes Unit shall be used only as the main residence of the First Homes Owner and shall not be let, sub-let or otherwise Disposed of otherwise than in accordance with the

terms of this Deed PROVIDED THAT letting or sub-letting shall be permitted in accordance with paragraphs 4.2 – 4.4 of this Part 4 of the Second Schedule below.

- 4.2 A First Homes Owner may let or sub-let their First Homes Unit 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 Homes Unit is Occupied by the prospective tenant or sub-tenant. A First Homes Owner may let or sub-let their First Homes Unit 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.
- 4.3 A First Homes Owner may let or sub-let their First Homes Unit 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 Homes Unit 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 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/or
 - 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.
- 4.4 A letting or sub-letting permitted pursuant to paragraph 4.1 or 4.2 of this Part 4 of the Second Schedule must be by way of a written lease or sub-lease (as the case may be) of the whole of the First Homes Unit on terms which expressly prohibit any further sub-letting.
- 4.5 Nothing in this paragraph 4 of Part 4 of the Second Schedule prevents a First Homes Owner from renting a room within their First Homes Unit or from renting their First Homes Unit as temporary sleeping accommodation provided that the First Homes Unit remains at all times the First Home Owner's main residence.

5 MORTGAGEE EXCLUSION

5.1 The obligations in paragraphs 1 - 4 of this Part 4 of the Second Schedule of this Deed in relation to First Homes shall not apply to any Mortgagee or any receiver (including an administrative receiver appointed by such Mortgagee or any other person appointed under any security documentation to enable such Mortgagee to realise its security or any administrator (howsoever appointed (each a "**Receiver**"))) of any individual First Homes Unit or any persons or bodies deriving title through such Mortgagee or Receiver PROVIDED THAT:

5.1.1 such Mortgagee or Receiver shall first give written notice to the Council of its intention to Dispose of the relevant First Homes Unit; and

5.1.2 once notice of intention to Dispose of the relevant First Homes Unit has been given by the Mortgagee or Receiver to the Council the Mortgagee or Receiver shall be free to sell that First Homes Unit at its full Market Value and subject only to paragraph 5.1.3 of this Part 4 of the Second Schedule

5.1.3 following the Disposal of the relevant First Homes Unit 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.

5.1.4 following receipt of notification of the Disposal of the relevant First Homes Unit the Council shall:

(a) forthwith issue a completed application to the purchaser of that First Homes Unit to enable the removal of the restriction on the title set out in paragraph 3.5 of this Part 4 of the Second Schedule; and

(b) apply all such monies received towards the provision of Affordable Housing.

6 COMMUNICATION AND APPROVAL PROTOCOL

The Owner and the Council hereby agree to co-operate in good faith with regard to the discharge of their respective obligations contained in Part 4 of this Second Schedule and shall use their reasonable endeavours to agree a Communication and Approval Protocol as soon as practicable following the date of the Deed.

7 ASSESSMENT OF ELIGIBILITY

7.1 The Council hereby covenants with the Owner that in respect of the first Disposal of a First Homes Unit it shall upon receipt of the First Homes Application Form undertake a full and proper assessment of the person(s) named in the First Homes Application Form to assess

whether such person(s) meet the required Eligibility Criteria (National) and Eligibility Criteria (Local) (if any) and shall not issue an Authority to Proceed & Eligibility Approval unless it has satisfied itself that such person(s) meets the Eligibility Criteria (National) and Eligibility Criteria (Local) (if any).

7.2 The Owner shall be entitled to rely upon any Authority to Proceed & Eligibility Approval issued by the Council as the Council's confirmation that:

7.2.1 the Council has undertaken a full assessment of the eligibility of the person(s) named and the information contained in and/or documentation supplied with the First Homes Application Form; and

7.2.2 the person(s) named in the First Homes Application Form meet the Eligibility Criteria (National) and Eligibility Criteria (Local) (if any) and are eligible to purchase a First Homes Unit.

ANNEX 2

Form of new Annex 2 to be inserted into the Principal Deed

Annex 2

Compliance Certificate

FIRST HOMES COMPLIANCE CERTIFICATE

Date:	[]
To:	[Buyer's conveyancer]
	[Builder's/Seller's conveyancer]
	[Buyer's mortgage advisor]
	[First Home Buyer(s)]
First Homes Buyer(s) name(s) (the proposed First Homes Owner(s)):	[]
First Home property to be purchased:	[Plot Number & Site Name/Address]
Copied to:	[First Homes Buyer(s) current address before purchase] [First Homes house builder]

The proposed First Homes Buyer(s) First Homes application has been approved by Broadland District Council pursuant to the agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 relating to Land South of Saihouse Road, Sprowston dated 7 March 2019 between: (1) Broadland District Council; (2) Norfolk County Council; (3) RK Properties Limited; (4) John Frederick Faircloth; (5) John Frederick Faircloth and Janet Lilian Faircloth; and (6) David Eric Smith (as amended / supplemented) and this Compliance Certificate issued to the proposed First Homes Buyer(s) and their conveyancer by Broadland District Council as follows:

First Homes Buyer(s) name(s) (the proposed First Homes Owner(s))	[Full Names]
[Builder] [Current First Homes Owner]	[Builder/Seller]
First Home property to be purchased:	[Plot Number & Site Name/Address]
First Home forecast purchase legal completion date:	[Date]
Market value (100% of value)	[£]
First Homes discount %	[30%]
First Homes Purchase Price (price to be paid by the proposed First Homes Buyer(s) applying the First Homes discount to the Market value)	[£]
Proposed date of exchange of contracts	[Date]
Proposed date of completion	[Date]

This **COMPLIANCE CERTIFICATE** is issued by Broadland District Council and confirms that a Dwelling is being disposed of to the First Home Buyer(s) specified in this Compliance Certificate who meet the:

- a. Eligibility Criteria (National)
 - i First Time Buyer;
 - ii Having Household income no more than £80,000 per annum; and if applicable
- b. the Eligibility Criteria (Local)

i **insert Local eligibility Criteria**

ii **]**

As set out in full in the agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 relating to Land South of Salhouse Road, Sprowston dated 7 March 2019 between: (1) Broadland District Council; (2) Norfolk County Council; (3) RK Properties Limited; (4) John Frederick Faircloth; (5) John Frederick Faircloth and Janet Lilian Faircloth; and (6) David Eric Smith (as amended / supplemented) ("**Planning Obligations**").

The First Homes Buyer(s) (the new First Homes Owner) has provided all the necessary First Homes confirmations and declarations of eligibility required by Broadland District Council and the First Homes Buyer(s) solicitor has confirmed that the transfer to the First Home Buyer(s) will comply with the requirements in Planning Obligations in relation to the Property.

Yours sincerely

Name:	
Signed:	
For and on behalf of	[Council]
Dated:	

ANNEX 3

Form of new Annex 3 to be inserted into the Principal Deed

Annex 3

First Homes Plan

[Signature]

Deputy Monitoring Officer

[Signature]
3204

School Site - min. 2ha

Accommodation Schedule						
Site: Salhouse Road, Norwich.						
Drawing No.		Rev.		Date: 15.11.19		
DEVELOPMENT BRAND: DWH/Barratt						
Open Market Housing						
Ref.	Name	No. Beds	Storey	sqft	No.	Total sqft
DWH						
P321	Farway	18	2	1001	8	8,008
P321	Madras	18	2	1001	8	8,008
P310	Kewest	18	2.5	1009	48	50,034
P323	Highley	18	2	1088	28	30,288
P322	Ashington	18	2	1218	8	9,744
P321	Shenon	18	2	1260	12	15,120
P329	Meridon	18	2	1338	5	6,595
P325	Acenstale	18	2	1402	17	23,834
P328	Hobbes	18	2	1451	29	42,079
P321	Winkham	18	2	1463	6	8,778
P325	Hollinswood	18	2	1222	15	18,330
					182	225,710
Barratt						
1	Farley	18	2	624	32	19,968
2	Maldenore	18	2	830	64	53,120
101	Monterey	18	2	854	81	69,174
102	Luffield	18	2	1201	6	7,206
1a	Kingville	18	2.5	1077	37	39,854
2	Cheser	18	2	1092	39	42,588
10	Hemsworth	18	2	1032	6	6,192
11	Woodside	15	2.5	1137	20	22,740
0.0	0.2	0.0	0.6	0.8	2	1225
					2	1817
					16	21,072
TOTAL DWH						440
TOTAL BARRATT						440
TOTAL						880