

DATED 7th January 2016

BRECKLAND DISTRICT COUNCIL

- and -

NORFOLK COUNTY COUNCIL

-and-

WILLIAM ALEXANDER MORFOOT

-and-

SVENSKA HANDELSBANKEN AB (PUBL)

A G R E E M E N T

Under Section 106 of the
Town and Country Planning Act 1990
relating to land off Elm Close, Yaxham, Norfolk

Breckland District Council
Elizabeth House
Walpole Loke
Dereham
Norfolk
NR19 1EE

THIS DEED OF AGREEMENT ("this Deed") is made the 7th day of January 2014

BETWEEN:

- (1) BRECKLAND DISTRICT COUNCIL of Elizabeth House, Walpole Loke, Dereham Norfolk NR19 1EE ("the Council"); and
- (2) NORFOLK COUNTY COUNCIL of County Hall Martineau Lane Norwich Norfolk NR1 2DH ("the County Council")
- (3) WILLIAM ALEXANDER MORFOOT of The Elms, Norwich Road, Yaxham, Dereham Norfolk NR19 1RJ ("the Owner")
- (4) SVENSKA HANDELSBANKEN AB (PUBL) (Company No: FC014392) whose UK registered office address is at 3 Thomas More Square, London E1W 1WY ("the Mortgagee")

together "the Parties"

RECITALS

- (1) The Council is the local planning authority for the purposes of the Act for the area in which the Site is situated.
- (2) The Owner is the freehold owner of the Site registered at H M Land Registry under title number NR249981
- (3) The County Council is a local planning authority for the purposes of the Act and the education authority and library service provider for the area in which the Site is situated.
- (4) The Mortgagee has the benefit of a legal charge over the Site.
- (5) The Owner has submitted the Application to the Council and the Council has resolved to grant the Planning Permission subject to the prior completion of this Deed.

NOW THIS DEED WITNESSES AS FOLLOWS:

1 DEFINITIONS

For the purposes of this Deed the following expressions shall have the following meanings:

"Act"	The Town and Country Planning Act 1990 as amended
"Application"	The application dated 30.7.14 for outline planning permission for development on the Site for residential dwellings in accordance with the plans and particulars submitted to the Council and allocated reference number 3PL/2014/0820/O
"Commencement"	The date on which any material operation as defined in Section 56(4) of the Act forming part of the

Development begins to be carried out other than operations consisting of site clearance demolition work archaeological investigations or investigations for the purpose of assessing ground conditions remedial work in respect of any contamination or other adverse ground conditions erection of any temporary means of enclosure the temporary display of site notices or advertisements and "Commenced" shall be construed accordingly

"Development"	The Development of the Site for residential Dwellings to be carried out pursuant to the Planning Permission
"Dwelling"	Any residential unit to be constructed on the Site pursuant to the Planning Permission as part of the Development whether an Affordable Dwelling or an Open Market Dwelling
Index Linked"	Means index linked from 24.8.15 until such time that payment of any sum specified in this Deed is made such index linking to be equivalent to any increase in such sums in proportion to the increase in the Retail Price Index (All Items) published by the Office for National Statistics and in respect of the Education Contribution, Library Contribution and PROW Contribution the RICS Building Cost Information Service All In Tender Index (or if such indices ceases to be published such other indices as the Council and County Council shall reasonably determine)
"Monitoring Fee"	The sum of £1000 for the monitoring of this Deed
"Occupation"	Occupation of any building or part of the Site as a residential dwelling or for any purposes authorised by the Planning Permission but excluding occupation for the purposes of construction internal and external refurbishment decoration fitting-out marketing or any other activity preparatory to the use of the Site for the purposes as authorised by the Planning Permission and the words "Occupy and Occupied" shall be construed accordingly
"Open Market Dwelling"	Any Dwelling constructed as part of the Development which is not an Affordable Dwelling
"Plan"	The plan attached to this Deed at the First Schedule
"Planning Permission"	The planning permission to be granted subject to conditions by the Council or on appeal to the Secretary of State (or the successor in title to his statutory functions) pursuant to the Application for the Development or such other planning permission

for the Development granted pursuant to section 73 or 96A of the Act as the Council may agree in writing

“Secretary of State” The Secretary of State or any other minister or authority for the time being entitled to exercise the powers given under sections 77, 78 and 79 of the Act

“Site” The land known as land off Elm Close, Yaxham, Dereham, Norfolk shown edged red on the Plan against which this Deed may be enforced

2. CONSTRUCTION OF THE DEED

- 2.1 Where in this Deed reference is made to any clause paragraph schedule or recital such reference unless the context otherwise requires is a reference to a clause paragraph schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless an express provision indicates otherwise.
- 2.5 A reference to an Act of Parliament shall include any later modification extension or re-enactment of that Act of Parliament and shall include all statutory instruments orders and regulations made under that Act of Parliament or deriving validity from it.
- 2.6 References to any party to this Deed shall include the successors in title to that party and to any persons deriving title through or under that party and in the case of the Council and the County Council the successors to their respective statutory functions.
- 2.7 Any approval consent certification direction or permission to be or made by the Council and the County Council shall not be unreasonably made withheld or delayed

3. LEGAL BASIS

- 3.1 This Deed is made pursuant to Section 106 of the Act and in so far as any provision contained herein is not a planning obligation it is made pursuant to section 111 of the Local Government Act 1972 and all other enabling powers.

3.2 The covenants restrictions and requirements contained in this Deed are planning obligations for the purposes of section 106 of the Act and are enforceable by the Council and the County Council

4. COVENANTS

4.1 With effect from Commencement of the Development (or earlier where the context requires) the Owner covenants with the Council and County Council to comply with the obligations and restrictions contained in this Deed.

4.2 The Owner further covenants that they are the freehold owners of the Site and have full power to enter into this Deed and that the Site is free from mortgages charges or other encumbrances, save for the charge in favour of the Mortgagee and that there is no person having any interest in the Site other than as notified in writing to the Councils solicitors prior to the date hereof.

4.3 The Council covenants to comply with the obligations and restrictions contained within the Fourth Schedule to this Deed.

4.4 With effect from Commencement of the Development (or earlier where the context requires) the Owner covenants with the County Council to comply with the obligations and restrictions contained in the Fifth Schedule to this Deed

4.5 The County Council covenants to comply with the obligations and restrictions contained within the Sixth Schedule to this Deed.

5. LIABILITY

5.1 No person shall be liable for any breach or non-performance of the covenants contained herein in respect of the whole or any part of the Site in which they no longer have a legal interest save in respect of any prior subsisting breach.

5.2 The Council and the County Council shall not be liable to any person under this Deed after that person has parted with all interest in the Site save in respect of any liability arising prior thereto.

5.3 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission or any renewal thereof or any reserved matters approval with respect thereto) granted after the date of this Deed in respect of which development this Deed will not apply.

5.4 Save for the obligations contained in the Second Schedule which shall continue to be binding and enforceable against individual purchasers owners occupiers lessees or their mortgagees of Affordable Dwellings subject to the provisions contained therein the covenants, restrictions and requirements contained in this Deed shall not be enforceable against:

5.4.1 individual purchasers or lessees of Dwellings constructed on the Site pursuant to the Planning Permission or their mortgagees where (in relation to a breach) that breach occurs after that individual purchaser or lessee has completed the purchase or lease of the Dwelling or has entered into a binding contract for such purchase or lease

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

5.5 In the event of the Planning Permission being quashed revoked or withdrawn before the Commencement of Development or expiring and not being renewed without the Development having been Commenced or in the event of the revocation of the Planning Permission the obligations under this Deed shall cease absolutely BUT FOR THE AVOIDANCE OF DOUBT where permission is issued pursuant to an application under section 73 of the Act this Deed shall continue in full force and effect subject to and in accordance with the provisions contained herein AND PROVIDED THAT in the event that upon receipt of an application under section 73 of the Act the Council considers that the obligations contained in this Deed should be varied or amended it is agreed and acknowledged that the Council retain the right to refuse such application unless and until a deed of variation or alternative agreement has been entered into to secure the appropriate obligations

5.6 in the event of determination of this Deed under Clause 5.5 above the Council shall upon request procure that any entry referring to this Deed in the Register of Local Land Charges shall be removed

5.7 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed which shall continue in full force and effect.

5.8 No waiver (whether express or implied) by the Council or the County Council of any breach or default by the Owner or their successors in title in performing or observing any of its obligations under this Deed shall constitute a continuing waiver or prevent the Council or the County Council from enforcing those obligations or from acting upon any subsequent breach or default

6. DISPUTES

6.1 Wherever there is a dispute between the Parties arising from the terms of this Deed which shall not be resolved within two months of any of the Parties having notified the others that any such dispute exists then any of the Parties may require the dispute to be determined by a professional person having at least ten years professional standing in a relevant professional discipline ("the Professional") which Professional shall be agreed between the Parties or in default of agreement appointed by the President for the time being of the Royal Institution of Chartered Surveyors and:

6.1.1 the Professional shall act as an expert;

6.1.2 the Professional shall afford the Parties to the dispute an opportunity promptly to make representations in writing and if they so direct to make submissions on one another's representations;

6.1.3 the Professional shall be able to stipulate periods of time for the making of such submissions and representations;

- 6.1.4 the Professional shall be bound to have regard to the said submissions and representations;
 - 6.1.5 the Professional shall have the power to award the costs of the determination in favour of any of the Parties at the expense of any other Party in the event that the Professional shall consider that the said other Party has acted unreasonably and the extent of the costs awarded shall reflect the extent and effect of said unreasonable behaviour;
 - 6.1.6 the Professional shall be limited in his findings to the determination of the dispute put by any Party;
 - 6.1.7 the findings of the Professional shall save in the case of manifest material error be final and binding on the Parties save that the Parties retain the right to refer to the Courts on a matter of law; and
 - 6.1.8 the Professional shall be required to issue his decision as soon as reasonably practicable.
- 6.2 If for any reason the Professional shall fail to make a decision and give notice thereof within two months of the deadline for submissions and representations given by the Professional in clause 6.1.3 above any of the Parties may apply to the President or the Vice President for the time being of the Royal Institution of Chartered Surveyors for a substitute to be appointed in his place which procedure may be repeated as many times as necessary;
- 6.3 Nothing in this clause 6 shall be taken to fetter the ability of the Council or the County Council to carry out their statutory functions as local planning authority with powers to enforce breaches of planning control arising from any breach of any of the obligations entered into by the Owner in this Deed or any other planning breach in respect of the Site.
- 6.4 no party shall be obliged by virtue of this clause 6 to engage in the resolution envisaged by this clause 6 where the issue relates to the non-payment of financial contributions; and
- 6.5 the Parties shall comply in full with any award decision or direction made by the Professional including any as to costs.

7. MORTGAGEE'S CONSENT

The Mortgagee consents to this Deed so that its interest in the Site shall be bound by the obligations contained in this Deed and that its security over the Site shall take effect subject to this Deed PROVIDED THAT the Mortgagee shall not be required to observe or perform the obligations in this Deed unless it takes possession of the Site BUT FOR THE AVOIDANCE OF DOUBT any successor in title to the Mortgagee shall also be bound by this Deed as a successor in title to the Owner.

8. LATE PAYMENTS

If any payment of any sum referred to in this Deed shall have become due from the Owner to the Council/or the County Council but shall remain unpaid for a period exceeding 28 days, the Owner shall pay on demand to the Council (and/or the County Council as appropriate) interest thereon (at a rate of four percent above the

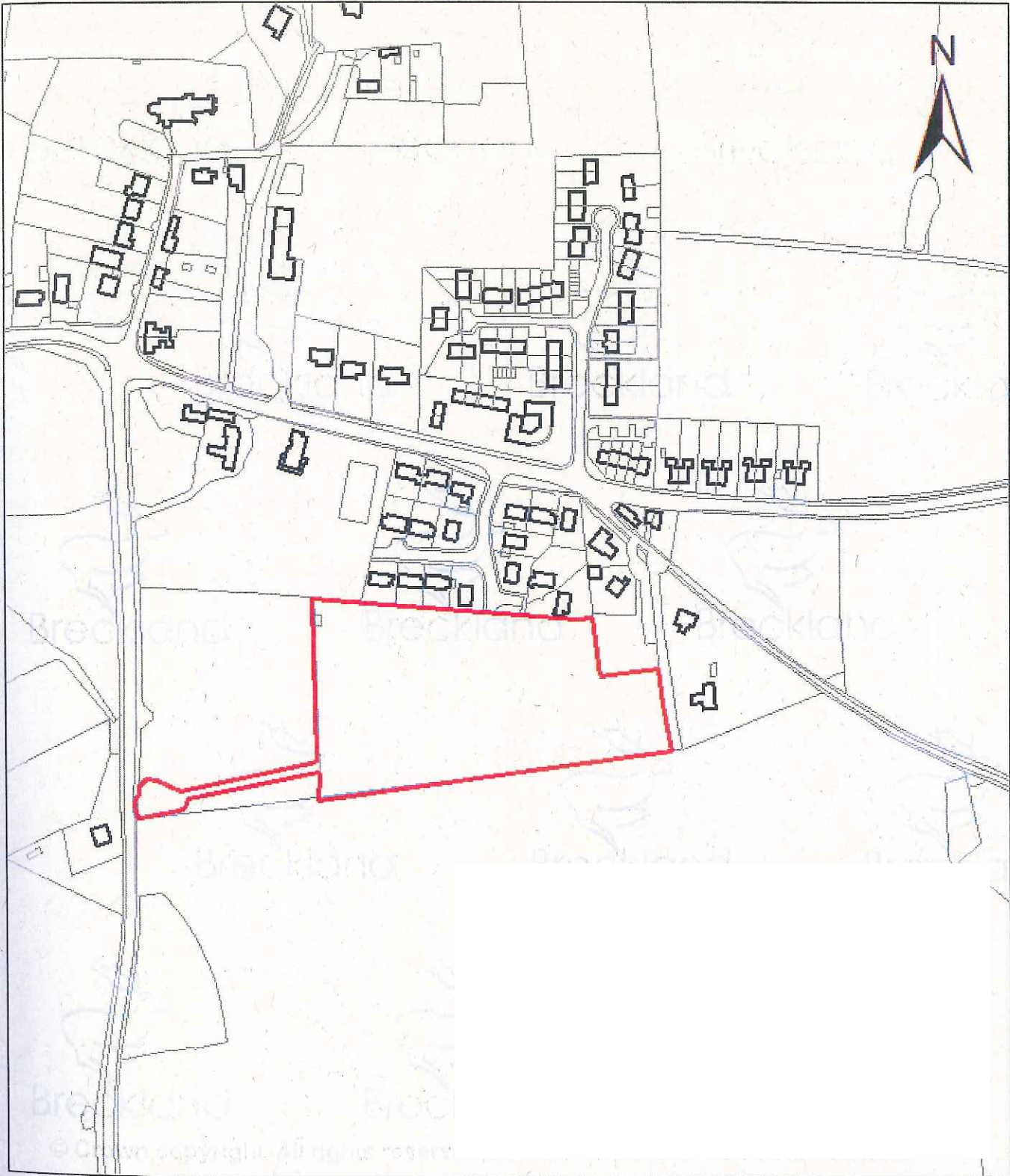
base rate of National Westminster Bank Plc from time to time in force) until payment of the outstanding sum has been paid.


9. MISCELLANEOUS

- 9.1 Immediately on completion of this Deed the Owner shall pay the Council's and the County Council's reasonable legal costs properly incurred in connection with the negotiation preparation and execution of this Deed.
- 9.2 Immediately on completion of this Deed the Owner shall pay the Monitoring Fee to the Council.
- 9.3 The Owner shall permit the Council and its authorised employees and agents upon reasonable written notice to enter the Site at all reasonable times for the purpose of verifying whether or not any obligation arising pursuant to this Deed has been performed or observed.
- 9.4 In the event that the Owner disposes of its interest in the Site or any part thereof it shall within twenty eight days of such disposal give written notice of the name and address of its successors in title to the Council and the County Council together with sufficient details of the part of the Site included in the disposal to allow its identification.
- 9.5 The Owner agrees to give the Council and the County Council notice in writing no later than 28 days prior to the anticipated Commencement of Development, first Occupation of the Development and the reaching of any other Occupation or completion threshold or trigger relating to the obligations contained in this Deed PROVIDED THAT default in giving the requisite notice shall not prevent Commencement of Development occurring or the triggering of obligations contained herein.
- 9.6 Subject to Clause 2.6 above no provisions of this Deed shall be construed as creating any rights enforceable by a third party as defined by the Contracts (Rights of Third Parties) Act 1999 and any third party rights as may be implied by law or are deemed to be enforceable by the Contracts (Rights of Third Parties) Act 1999 are hereby excluded to the fullest extent permitted by law.
- 9.7 Save as provided for below any notice or communication to be given pursuant to this Deed shall be in writing and shall either be delivered personally or sent by registered post or recorded delivery service. The address for service on the Parties shall be those stated in this Deed or such other address in England for service as the Party to be served may have previously notified the other Parties in writing.
- 9.8 This Deed shall be registered as a local land charge by the Council.
- 9.9 This Deed is governed by and interpreted in accordance with the law of England

FIRST SCHEDULE

the Plan(s)



<p>Breckland Council</p>  <p>Elizabeth House Walpole Loke Dereham NR19 1EE</p> <p>Tel. 01362 656870 - Fax. 01362 656297</p>	Title	Scale 1:3283
	Project / Details	Date / XY centrepoint 11/12/2015 / 600929,310430
		Drawn by / Department
		Drawing / Reference Number

authorised to sign
on behalf of: HEAD OF LAW

40139

SECOND SCHEDULE

Affordable Housing

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 to Design & Quality Standards on the Site 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” 70% Rented Housing and 30% Intermediate Housing (or as otherwise agreed by the Council in its absolute discretion)
- “Affordable Housing Provision” the construction and provision of Affordable Dwellings on the Site equating to 40% 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” A scheme securing the Affordable Housing Provision and specifying:
- The timescale and programme for implementation of the Affordable Housing Scheme and construction of the Affordable Dwellings;
 - 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;
 - The type, tenure and size of Affordable Dwellings to be constructed on the Site;
 - full details of the Affordable Housing Mix (such proposal to reflect the Council's up to date strategic housing market assessment and specific local needs as determined and agreed by the Council) including the types of Intermediate Housing and Rented Housing;
 - The type of Intermediate Housing to be provided and the mechanism and form to be used for any Shared Equity Dwellings
 - such other information as the Council may reasonably require to enable approval of the

SECOND SCHEDULE

Affordable Housing

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 to Design & Quality Standards on the Site 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” | 70% Rented Housing and 30% Intermediate Housing (or as otherwise agreed by the Council in its absolute discretion) |
| “Affordable Housing Provision” | the construction and provision of Affordable Dwellings on the Site equating to 40% 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;- 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;- The type, tenure and size of Affordable Dwellings to be constructed on the Site;- full details of the Affordable Housing Mix (such proposal to reflect the Council’s up to date strategic housing market assessment and specific local needs as determined and agreed by the Council) including the types of Intermediate Housing and Rented Housing;- The type of Intermediate Housing to be provided and the mechanism and form to be used for any Shared Equity Dwellings- such other information as the Council may reasonably require to enable approval of the |

	Affordable Housing Scheme including details of how the Recycling Obligation will be complied with and secured
"Affordable Rented Dwellings"	Dwellings to be let by a Registered Provider with an appropriate agreement with the HCA for the provision of affordable rents being controls that limit the rent to no more than 80 per cent of local market rents including any service charges or as otherwise agreed with the Council in writing
"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
"Complete"	a stage of construction such that a Dwelling has a complete roof and all windows and external doors installed and where further works do not ordinarily amount to "development" for the purposes of section 55(1) of the Act and "Complete" and "Completed" shall be construed accordingly.
"Design & Quality Standards"	the appropriate standards as specified by the HCA or such other construction standards as the Council may specify
"Eligible Household"	A person or persons in need of accommodation who are unable to rent or buy on the local open market determined in accordance with the Council's housing allocation policy or as otherwise approved by the Council
"HCA"	the Homes & Communities Agency or its successor body 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 agreed with and determined 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
“Provider”	either: (i) a Registered Provider; or (ii) another organisation that owns the Affordable Dwellings and has been approved in writing by the Council
“Public Subsidy”	funding provided by the Council, the HCA or any other public body or successor body towards the provision of Affordable Housing
“Recycling Obligation”	An obligation to use any monies paid in relation to 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 as agreed with the Council
“Reserved Matters”	Means any of the following in respect of which details have not been given in the Application – access appearance landscaping layout and scale Dwellings purchased on a shared equity basis whereby not more than 75% 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 such scheme to be secured by a mechanism and in a form agreed with and approved by the Council (or such other body as the Council may elect)
“Shared Equity Dwellings”	
“Shared Ownership Dwellings”	Dwellings purchased on a Shared Ownership Lease
“Shared Ownership Lease”	a lease in a form approved by the HCA or where there is no such form in a form approved by the Council such lease to provide for the following: - not more than 50% and not less than 25% of the

equity (or such other percentages the Council may agree) shall be initially sold to the purchaser by the Provider

- power to the purchaser to increase their ownership up to 80% 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 HCA

“Social Rented Dwellings”

Dwellings owned or managed by a Provider let at rents not exceeding the Target Rent

“Target Rent”

The rent for Social Rented Dwellings as determined by the national rent regime published by the HCA or any subsequent replacement or where there is no such replacement at a rent determined by the Council

The Owner hereby covenants with the Council as follows:

- 1.1 To submit to the Council for approval the Affordable Housing Scheme at the same time as making an application for Reserved Matters.
- 1.2 Not to Commence or allow Commencement of the Development until the Affordable Housing Scheme has been approved by the Council in writing
- 1.2 Not to Occupy or allow Occupation of the first Open Market Dwelling until an exchanged unconditional contract for the sale of the land designated for the Affordable Dwellings to a Provider has been supplied to the Council SAVE THAT where the Council agrees that the Affordable Dwellings are not to be transferred this obligation shall not apply
- 1.3 Not to construct or procure the construction operation or provision of the Affordable Dwellings otherwise than in accordance with the Approved Affordable Housing Scheme and the timescales and details set out therein.
- 1.4 Not to Occupy or allow Occupation of more than;
 - 1.4.1 30% of the Open Market Dwellings until 30% of the Affordable Housing Units are provided on Site.
 - 1.4.2 60% of the Open Market Dwellings until 60% of the Affordable Housing Units are provided on Site.
 - 1.4.3 70% of the Open Market Dwellings unless all the Affordable Housing Units are provided on Site and all of the Affordable Dwellings to be provided under the Approved Affordable Housing Scheme and have been transferred to the approved

Provider (or where no transfer is required their ongoing provision has been secured) in accordance with and subject to the following terms:

- a) for a consideration at a level which ensures that no Public Subsidy is required to enable the transaction to be completed;
- b) free from all financial charges, adverse rights, restrictions or other encumbrances which would interfere with the use of the Affordable Dwellings as Affordable Housing;
- c) with the benefit of all necessary easements, rights and utilities; and
- d) any other terms to secure any conditions and requirements of the Approved Affordable Housing Scheme

1.5 Not to use or allow the Affordable Dwellings to be used 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;

1.5.2 an Eligible Household 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 has first complied with the following:

- a) such mortgagee or chargee or Receiver shall first give notice to the Council 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 or 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, 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

THIRD SCHEDULE

Open Space

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

“Management Company”	Means a company to be set up for the purposes of managing and maintaining the Open Space Land
“Nominated Body”	Means one of the following as determined by the Council: a) The Council b) the town or parish council for the area within which the Site is located c) such other body as the Council may elect as being responsible for maintenance of the Open Space d) the Management Company
“Open Space Land”	a minimum area of 1,200 square metres to be provided within the Site in a location to be agreed with the Council and to be used as public open space and laid out in accordance with the Open Space Works Specification
“Open Space Maintenance Contribution”	A financial contribution to be used for repairing and maintaining the Open Space Land or any drainage feature within the Open Space Land or for other such purposes being a sum to be calculated at the rate of £8.50 or such other sum as the Council may agree as appropriate per square metre in respect of the Open Space Land the precise area(s) of which shall be calculated by agreement or in default of such agreement by an qualified surveyor in accordance with the terms of Clause 6 of this Deed such sum to be Index Linked
“Open Space Works Specification”	A scheme including plans drawings and specifications showing but not limited to the layout and design of the Open Space Land including details of any proposed play areas and equipment landscaping paths and access arrangements, street furniture and fencing together with details of the proposed permanent Open Space Land management regime
“Unencumbered”	Means free from all adverse rights, easements, restrictions or other encumbrances which would interfere with the use of the Open Space Land as public open space

The Owner hereby covenants with the Council as follows:

1. OPEN SPACE

- 1.1 Not to Commence or allow Commencement of Development unless and until the extent of the Open Space Land Unencumbered has been agreed with the Council and the Open Space Works Specification has been submitted to and approved in writing by the Council (such approval not to be unreasonably withheld)
- 1.2 Not to Occupy or allow Occupation of more than 50% Dwellings unless and until the Open Space Land Unencumbered has first been provided in accordance with the approved Open Space Works Specification to the written satisfaction of the Council
- 1.3 to thereafter maintain the Open Space Land Unencumbered to a standard suitable for use by members of the public as approved by the Council until such time as the Open Space Land has been transferred in accordance with the provisions contained herein
- 1.4 Not to Occupy or allow Occupation of the 50% Dwelling comprised in the Development unless and until it has served upon the Council a notice requesting confirmation by the Council of the Nominated Body
- 1.5 In the event that the Management Company is the Nominated Body not to Occupy or allow Occupation of the 75% Dwelling unless and until:
 - a) the Management Company has been created to the satisfaction of the Council; and
 - b) the memorandum and articles of association together with the form of transfer of the Open Space Land to the Management Company has been submitted to the Council for approval and has been approved by the Council prior to the transfer taking place
- 1.6 Not to Occupy or allow Occupation of the 80% Dwelling comprised on the Site unless and until:
 - a) the Open Space Land has been transferred to the Nominated Body in accordance with the reasonable requirements of the Council (which for the avoidance of doubt includes a requirement for the Open Space Land to be transferred free from all encumbrances restrictions or easements which might affect the use as Open Space Land or result in additional cost or liability to the Nominated Body not normally associated with the use of the Open Space Land) in consultation with the Nominated Body for a sum not exceed £1 (one pound) and subject to a restriction on the future use of the Open Space Land for recreational and amenity purposes by the general public; and
 - b) the Open Space Maintenance Contribution has been paid to the Council PROVIDED THAT the Nominated Body shall not be required to accept the transfer of the Open Space Land unless it has been provided in strict accordance with the Open Space Works Specification

FOURTH SCHEDULE
Council's Covenants

1. PUBLIC OPEN SPACE

- 1.1 The Council shall within three months of receipt of the notice referred to at paragraph 1.4 of the Third Schedule or within three months of Occupation of 50% of the Dwellings (whichever is the later) confirm the Nominated Body.
- 1.2 In the event of failure by the Council to nominate the Nominated Body in accordance with paragraph 1.1 above the Nominated Body shall be the Management Company
- 1.3 to pay the Open Space Maintenance Contribution to the Nominated Body within 28 days of receipt

FIFTH SCHEDULE

The Owner's Covenants with the County Council

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

"Education Contribution"	Means the sum of £323.00 per Dwelling Index Linked for a Multi Bed House and £162.00 per Dwelling Index Linked for a Multi Bed Flat to be used to contribute to an extension to increase school capacity at Dereham 6 th Form Centre
"Library Contribution"	Means the sum of £60 per Dwelling Index Linked to be used for library stock and IT at Dereham Library
"Multi Bed Flat"	A flat or apartment with more than one bedroom
"Multi Bed House"	Means a house bungalow or maisonette with more than one bedroom
"PROW Contribution"	Means the sum of £200 Index Linked to be used towards supplying and installing signage for the public right of way FP5

The Owner hereby covenants with the County Council as follows:

1. EDUCATION CONTRIBUTION

to pay the Education Contribution to the County Council in a single lump sum payment prior to the Occupation of 50% of the Dwellings

2. LIBRARY CONTRIBUTION

to pay the Library Contribution to the County Council in a single lump sum payment prior to the Occupation of 25% of the Dwellings

3. PROW CONTRIBUTION

To pay the PROW Contribution to the County Council in a single lump sum payment prior to first Occupation of the first Dwelling

SIXTH SCHEDULE

County Council's Covenants

EDUCATION CONTRIBUTION

1. To hold the Education Contribution in an interest bearing account and apply it and any interest accrued towards an extension to increase school capacity at Dereham Sixth Form Centre serving or likely to serve the Development
2. In the event that the Education Contribution (or any part of it) has not been committed (by way of a contract or by expenditure of the monies) to the improvement of educational facilities referred to in paragraph 1 above within 5 years of final Occupation of the Development then the County Council shall repay to the Owner so much of the Education Contribution as shall remain uncommitted together with any accrued interest thereon

LIBRARY CONTRIBUTION

3. To hold the Library Contribution in an interest bearing account and apply it and any interest accrued towards the provision of library stock and IT at Dereham Library serving or likely to serve the Development
4. In the event that the Library Contribution or any part of it has not been committed (by way of a contract or by expenditure of the monies) to the provision of additional library facilities referred to in paragraph 3 above within five years of final Occupation of the Development then the County Council will repay to the Owner so much of the Library Contribution as shall remain uncommitted together with any accrued interest thereon

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 Breckland District Council)
was affixed in the presence of:)



Authorised Signatory:

THE COMMON SEAL OF Norfolk County Council)
was affixed in the presence of:)



Head of Law

authorised to sign
on behalf of: HEAD OF LAW

SIGNED AS A DEED by William Alexander Morfoot)
in the presence of:)

Witness

Address Spire Solicitors LLP
The Pines
50 Connaught Road
Attleborough
Norfolk NR17 2BP

Occupation *Solicitor*

Executed as a deed on behalf of Svenska Handelsbanken AB (publ), a public banking Company incorporated in Sweden,

by _____

and _____

being persons who, in accordance with the laws of that territory, are acting under the authority of the Company.