Dated 6 APRIL 2023

**(1) South Holland District Council**

**and**

**(2) Charlotte Properties Limited**

**and**

**(3) Phoenix Money Ltd**

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# PLANNING OBLIGATION BY DEED
## Section 106 of the Town and Country Planning Act 1990

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**Relating to The Bell Inn,**
**33 Church Street, Pinchbeck, Spalding**

**South Holland District Council**
**Council Offices**
**Priory Road**
**Spalding**
**PE11 2XE**

**SHDC Reference: LD/H14-0219-22**

"Act"

"Additional Fi

Date 6 APRIL 2023

**BETWEEN**

(1) **SOUTH HOLLAND DISTRICT COUNCIL** of Council Offices, Priory Road, Spalding, PE11 2XE ("the Council"); and

(2) **CHARLOTTE PROPERTIES LIMITED** (Company Registration No. 05067991) of 250 Price Street, Birkenhead, CH41 3PS ("the Owner"); and

(3) **PHOENIX MONEY LTD** (Company Registration No. 12392830) of Quinn Barrow, 8 Floor, Horton House, Exchange Flags, Liverpool, L2 3YL ("the Mortgagee")

**INTRODUCTION**

(A) The Council is the Local Planning Authority for the purposes of the Act for the area within which the Land is situated.

(B) The Owner is the freehold owner of the Land registered under title number LL88168 or which is subject to a Registered Charge in favour of the Mortgagee dated 25 May 2021 referred to in entry number 2 of the charges register of title number LL88168.

(C) The Owner has via their agent applied to the Council for planning permission for the Land under reference H14-0219-22 for residential development by the conversion of the ex-Bell Public House into 5 flats and 9 detached bungalows.

(D) The Council resolved on 3 February 2023 to grant Planning Permission for the Development in accordance with the Application subject to the Owner entering this Deed without which Planning Permission for the Development would be refused.

(E) The parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.

(G) The parties agree that the planning obligations contained in this Deed are necessary to comply with the requirements of regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

**NOW THIS DEED WITNESSES AS FOLLOWS:**

**1. DEFINITIONS**

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

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| "Act" | means the Town and Country Planning Act 1990 as amended |
| "Additional First Homes Contribution" | means in circumstances where a sale of a First Home other than as a First Home has taken place in accordance with paragraphs 5.8, 5.9 or 7 of Schedule 4, the lower of the following two amounts:<br>(a) 30% of the proceeds of sale; and<br>(b) the proceeds of sale less the amount due and outstanding to any Mortgagee of the relevant First Home under relevant security documentation which for this purpose 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 other costs or expenses incurred by the First Homes Owner in connection with the sale of the First Home<br>and which for the avoidance of doubt shall in each case be paid following the deduction of any SDLT payable by the First Homes Owner as a result of the disposal of the First Home other than as a First Home. |
| "Affordable Dwellings" | means those Dwellings within the Development comprising 4 Affordable Housing Units to be provided as part of the Development of which 3 will be Rented Dwellings and 1 a First Home |

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| "Affordable Housing Units" | means affordable housing as described in Annex 2 of the National Planning Policy Framework dated July 2021, or any Planning Policy Statement, Guidance Notes or Circulars which may amend, supplement or supersede |
| "Affordable Housing Contribution" | means a financial contribution calculated in accordance with the Affordable Housing Contribution formula set out at Annex A Part 1 or Part 2 to this Deed |
| "Affordable Housing Plan" | means the plan identifying the proportion and distribution of the Affordable Housing included within the Development being labelled as the Affordable Housing Plan for s106 Agreement and identified as drawing number 3170 – EB06 rev B and attached at Annex B or as otherwise agreed with the Council |
| "Affordable Housing Provider" | means (a) a body whose function or aim is to provide and manage Affordable Housing (including Affordable Housing of the type and amount proposed within the Development) (b) a provider (pursuant to Part 2 of the Housing and Regeneration Act 2008) registered with Homes England or (c) an alternative affordable housing provider (including but not limited to a housing trust or company, a community land trust or an almshouses society) which has been approved by the Council in writing (such approval not to be unreasonably withheld or delayed) |

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| "Affordable Housing Scheme" | means the scheme for securing the Affordable Housing and detailing the design, tenure, mix, size and location of the Affordable Housing to be provided as part of the Development together with the identity of the Affordable Housing Provider and consisting of three (3) Rented Dwellings comprising 1 x one-bedroom flat (being unit 4) and 2 x two-bedroom flats (being units 2 and 3) and one (1) First Homes comprising of 1 x one-bedroom flat (being unit 1) as shown on the Affordable Housing Plan, unless such other alternative mix, percentage(s) and/or plot(s) is agreed with the Council acting reasonably (and such consent not to be unreasonably withheld or delayed) |
| "Affordable Rent Dwelling" | means an Affordable Dwelling rented to an Eligible Household by a local authority or an Affordable Housing Provider subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable) and where the rent and service charge must not exceed the local housing allowance for the relevant area which is reviewed annually, and "Affordable Rent" shall be construed accordingly |
| "Application" | means the application for planning permission for the Development and allocated reference number H14-0219-22 |

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| "Chargee" | means a mortgagee or chargee (or any receiver) including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver) of the whole or any part of the Affordable Dwellings or any persons or bodies deriving title through such mortgagee or chargee or Receiver |
| "Commencement of Development" | means 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 (for the purposes of this Deed and for no other purpose) operations consisting of<br>• access,<br>• site clearance,<br>• demolition work,<br>• archaeological investigations,<br>• investigations for the purpose of assessing ground conditions,<br>• remedial work in respect of any contamination or other adverse conditions,<br>• the laying or diversion of services,<br>• the erection of hoardings or other temporary means of enclosure, and<br>• the temporary display of site notices or advertisements |

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| "Commencement Notice" | means written notice to the Council of the intended date of Commencement of Development |
| "Compliance Certificate" | means the certificate issued by the Council confirming that a Dwelling is being disposed of as a First Home to a purchaser meeting the Eligibility Criteria (National) and unless paragraph 5.2 of Schedule 4 applies also meets the Eligibility Criteria (Local) |
| "Development" | means the residential development of up to 14 Dwellings, consisting of 5 flats and 9 detached bungalows pursuant to the Planning Permission |
| "Discount Market Price" | means a sum which is the First Home Market Value discounted by at least 30% |
| "Disposal" | 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 Home other than:<br>(a) a letting or sub-letting in accordance with paragraph 6 of Schedule 4<br>(b) a transfer of the freehold interest in a First Home or land on which a First Home is to be provided before that First Home is made available for Occupation except where the transfer is to a First Homes Owner<br>(c) an Exempt Disposal<br>and "Disposed" and "Disposing" shall be construed accordingly |

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| "Dwelling" | means any unit of residential accommodation constructed pursuant to the Planning Permission |
| "Education Authority" | means the Local Education Authority for the area within which the land is situated. |
| "Education Contribution" | means a contribution of twenty eight thousand two hundred and sixty seven pounds (£28,267) which arises out of the need to provide Primary School and Secondary School places the contribution of which shall be used towards the provision of primary education within Spalding West primary planning area and secondary education within Spalding Secondary planning area |
| "Eligibility Criteria (National)" | means criteria which are met in respect of a purchase of a First Home if:<br>(a) the purchaser is a First Time Buyer (or in the case of a joint purchase each joint purchaser is a First Time Buyer); and<br>(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). |
| "Eligible Household" | means a household whose housing needs are not met by the market at a cost low enough for them to afford. For the Rented Dwellings this will be determined in accordance with the Council's housing allocation policy. For the Shared Ownership Dwellings this will be |

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| | determined in accordance with the current guidance and standards published by Homes England or as may be agreed between the Council and the Owner |
| "Exempt Disposal" | means the Disposal of a First Home in one of the following circumstances:<br>(a) a Disposal to a spouse or civil partner upon the death of the First Homes Owner<br>(b) a Disposal to a named beneficiary under the terms of a will or under the rules of intestacy following the death of the First Homes Owner<br>(c) Disposal 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<br>(d) Disposal to a trustee in bankruptcy prior to sale of the relevant Dwelling (and for the avoidance of doubt paragraph 7 of Schedule 4 shall apply to such sale)<br>Provided that in each case other than (d) the person to whom the disposal is made complies with the terms of paragraph 6 of Schedule 4 |

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| "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 Discount Market Price and which on its first Disposal does not exceed the Price Cap and "First Home Unit/s" and "First Homes" shall be construed accordingly and for the avoidance of doubt and in respect of this Deed only reference to First Home does not include Affordable Housing the Council does acknowledge that First Homes are to be considered a tenure of affordable housing pursuant to the National Planning Policy Framework document |
| "First Homes Costs" | means the sum of one hundred and fifty pounds (£150) or the amount published in the Council's Fees and Charges document on the Council's website (whichever is greater) per each First Homes Unit built on the Land as part of the Development |
| "First Homes Owner" | means the person or persons having the freehold or leasehold interest (as applicable) in a First Home Unit other than:<br>(a) the Owner; or<br>(b) a developer or other entity to which the freehold interest or leasehold interest in a First Home or in the land on which a First Home is to be provided has been transferred before that First Home is made available and is disposed of for Occupation as a First Home; |

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| | (c) the freehold a tenant or sub-tenant of a permitted letting under paragraph 6 of Schedule 4 |
| "First Time Buyer" | means a first time buyer as defined by paragraph 6 of Schedule 6ZA to the Finance Act 2003 |
| "Health Care Facilities Contribution" | means a contribution of eight thousand one hundred and forty pounds (£8,140) which shall be used towards improving existing or new primary care facility in the Spalding and Pinchbeck areas or alternatively, where appropriate, be used to support expansion in capacity at an alternative general practice as required to meet the local population health need |
| "Health Care Provider" | means the relevant regional health care provider for Lincolnshire Integrated Care Board |
| "Homes England" | means the executive non-departmental public body, sponsored by the Ministry of Housing, Communities & Local Government and trading as Homes England or such successor body for the time being having or being entitled to exercise the power to regulate affordable housing providers now conferred on such organisation under the Housing and Regeneration Act 2008 or any legislation replacing or amending the same |
| "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 |

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| | Secretary of State and is in force at the time of the relevant disposal of the First Home |
| "Index" | means the All in Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation or if such index no longer exists such other index as is agreed between the parties |
| "Indexation" | means indexed as set out in Clause 13 of this Deed |
| "Interest" | means interest at the base rate of Lloyds Bank PLC plus 4% |
| "Land" | means the land as described in Schedule 1 against which this Deed may be enforced as shown edged red on the Plan |
| "Market Dwelling" | means a dwelling forming part of the Development which is general market housing for sale or rent on the open market and which is not Affordable Housing |
| "Market Value" | means the open market value as assessed by a Valuer of Dwelling 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% discount in the valuation |
| "Mortgagee" | means in relation to First Home Units only any financial institution or other entity regulated by the Prudential Regulation Authority and the Financial Conduct Authority to provide facilities to a person to |

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| | enable that person to acquire a First Home including all such regulated entities which provide Shari'ah compliant finance for the purpose of acquiring a First Home |
| "the Nomination Agreement" | means an agreement negotiated between the Council and the Affordable Housing Provider which guarantees the Rented Dwellings will be let on the Council's Housing Register substantially in the form set out and attached hereto at Schedule 6 |
| "Occupation" and "Occupied" | means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations. |
| "Plan" | means the plan attached to this Deed labelled as drawing number 3170-S08 being the site location plan submitted with the Application |
| "Planning Permission" | means the planning permission to be granted by the Council for the Development pursuant to the Application which is subject to this Deed and attached in draft hereto at Schedule 2 or such other planning permissions for the Development granted pursuant to section 73 or 96A of the Act |
| "Practical Completion" | means the completion of a Dwelling to a standard which is wind and watertight and fit for its intended use in terms of heating, plumbing, electrics and sanitation and "Practically Complete" shall be construed |

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| | accordingly and a completion certificate issued pursuant to the then current Building Regulations shall be conclusive evidence that a Dwelling is practically complete. |
| "Price Cap" | means the amount for which the First Home is sold after the application of the 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 |
| "Protected Person" | means a person who:<br>1.1 has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Dwelling;<br>1.2 has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Dwelling;<br>1.3 has been granted a shared ownership lease by the Affordable Housing Provider (or similar arrangement where a share of the Affordable Dwelling is owned by the tenant and a share is owned by the Affordable Housing Provider or other body or organisation) in respect of a particular Affordable Dwelling and the tenant has |

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| | subsequently purchased from the Affordable Housing Provider all the remaining shares so that the tenant owns the entire freehold or leasehold of the Affordable Dwelling. |
| "Rented Dwellings" | means dwellings which are available to rent from an Affordable Housing Provider which will include either Affordable Rent Dwellings or Social Rented Dwellings |
| "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 |
| "Social Rented Dwellings" | means homes owned by either the Council or an Affordable Housing Provider which are let at low rents determined by government guidelines through the national rent regime or its equivalent successor document on a secure basis to those persons who are in housing need. |
| "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 |
| "Working Days" | means any day other than a Saturday Sunday or public or bank holiday in England |

## 2. CONSTRUCTION OF THIS 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 interchangeably

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 there is an express provision otherwise.

2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that act 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 deriving title through or under that party to the Land or any part thereof and in the case of the Council, successors to its functions.

## 3. LEGAL BASIS

3.1 This Deed is made pursuant to Section 106 of the Act, Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and Section 93 of the Local Government Act 2003 and all other enabling powers with the intent that the covenants and obligations shall run with the Land.

3.2 The covenants, restrictions and obligations under this Deed are planning obligations pursuant to Section 106 of the Act and may be enforced by the Council.

## 4. CONDITIONALITY

4.1 This Deed and the obligations contained herein is conditional upon

(a) the grant of Planning Permission; and

(b) the Commencement of Development

**SAVE FOR** the provisions of Clauses 8, 9.3 and 12 (legal costs, local land charge and change of ownership clauses) and any other relevant provisions which shall come into effect immediately upon completion of this Deed.

## 5. THE OWNER'S COVENANTS

5.1 The Owner covenants with the Council as set out herein

## 6. THE COUNCIL'S COVENANTS

6.1 The Council covenants to comply with its obligations as set out herein.

## 7. NOTICES AND RECORD KEEPING

7.1 Any notices required to be served pursuant to this Deed shall be deemed to have been properly served if delivered by hand or sent by recorded or special delivery to the principal address or registered office (as appropriate) of the relevant party or other such other address as may be notified by one party to other from time to time.

7.2 The Owner shall serve the Commencement Notice upon the Council at least twenty (20) Working Days prior to the Commencement of the Development.

## 8. THE COUNCIL'S COSTS

8.1 The Owners shall pay to the Council on or before the date of this Deed:

(a) the Council's reasonable legal costs of £1,000 together with all disbursements (if any) incurred in connection with the preparation, completion and registration of this Deed; and

(b) the sum of £2,500 as a contribution towards the Council's costs in monitoring the implementation of this Deed.

## 9. MISCELLANEOUS

9.1 Nothing contained or implied in this Deed shall prejudice or affect the rights, discretions, powers and duties of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of the functions as a local authority.

9.2 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.

9.3 This Deed shall be registerable as a local land charge by the Council.

9.4 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council under the terms of this Deed such agreement, approval, consent or expression of satisfaction shall not be unreasonably withheld or delayed

9.5 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.

9.6 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) modified by any statutory procedure or expires prior to the Commencement of Development.

9.7 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after they shall have irrevocably parted with their entire interest in the Land or part of the Land but without prejudice to liability for any subsisting breach arising in relation to that part prior to parting with such interest.

9.8 This Deed shall not be enforceable against:

9.8.1 owners occupiers or tenants of Dwellings (other than Affordable Dwellings in respect of the obligations contained in paragraph 1 of Schedule 3) nor against those deriving title from them;

9.8.2 any party solely as a result of such party possessing an interest in the Land relating to subsoil of land which has been adopted by the Council or any other relevant public body as maintainable at public expense;

9.8.3 statutory undertakers acquiring an interest in the Land for the purposes of their undertaking;

9.9 The provisions of paragraph 1 of Schedule 3 of this Deed (Affordable Housing) shall not be binding on a Chargee or any persons or bodies deriving title through such Chargee **PROVIDED THAT** the Chargee has complied with the requirements of paragraph 1.11 of Schedule 3 of this Deed.

9.10 Representatives of the Council may enter upon the Land at any reasonable time upon reasonable prior written notice to ascertain whether the terms of this Deed are being or have been complied with.

9.11 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.

## 10. MORTGAGEE'S CONSENT

10.1 The Mortgagee acknowledges and declares that this Deed has been entered into by the Owner with its consent and that the Land shall be bound by the obligations contained in this Deed and that the security of the mortgage over the Land shall take effect subject to this Deed **PROVIDED THAT** the Mortgagee shall otherwise have no liability under this Deed unless it takes possession of the Land in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

## 11. WAIVER

11.1 No waiver (whether expressed or implied) by the Council or the Owner of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council or the Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

## 12. CHANGE OF OWNERSHIP

12.1 The Owner agrees with the Council to give the Council immediate written notice of any change in the ownership of any of its interest in the Land occurring before all the obligations under this Deed have been discharged such notice to give details of the transferees name and address together with details of the part of the Land disposed of **PROVIDED THAT** this shall not apply in relation to the sale or lease of a single Dwelling

## 13. INDEXATION

13.1 The sums referred to in the Schedules shall be linked to the Index to the intent that the actual amounts to be paid shall be the amounts of the relevant

payments as set out in Schedules Three and Five divided by the Index figure last published prior to the date of this Deed multiplied by the Index figure last published before the due date for payment and "Indexation" shall be construed accordingly.

**14. INTEREST**

14.1 If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the actual date of payment.

**15. VAT**

15.1 Any consideration given under this Deed shall be done in such a way that the VAT liability is borne by the Owner and not the Council.

**16. DISPUTE RESOLUTION**

16.1 In the event of any dispute or difference arising between any of the parties to this Deed in respect of any matter contained in this Deed such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed by agreement between the parties or in the absence of agreement as to the identity of the person by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute.

16.2 In the absence of agreement as to the appropriateness of the professional body then such question may be referred by any party to the president for the time being of the Royal Institution of Chartered Surveyors for him to determine the appropriate professional body.

16.3 Any person appointed pursuant to this clause shall act as an expert and his decision shall be final and binding on the parties in the absence of manifest error or fraud.

16.4 The expert's costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.

16.5 Any expert shall be appointed subject to the express requirement that a decision is reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the

dispute and in any event not more than forty (40) Working Days after appointment.

16.6 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten (10) Working Days written submissions and supporting material and each party will be entitled to make a counter written submission on the other party's original submission within a further ten Working Days.

## 17. SECTION 73 APPLICATIONS

17.1 It is agreed between the parties that where planning permission is issued in relation to the Development pursuant to an application under section 73 of the Act this Deed shall continue to bind the Development and shall be 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 a relevant 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 obligation.

## 18. JURISDICTION

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

## 19. EXECUTION AND DELIVERY

This Deed is executed as a deed by the parties and is delivered on the date first hereinbefore written

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

The **COMMON SEAL** of **SOUTH HOLLAND DISTRICT COUNCIL** was hereunto affixed in the presence of:-



131756

Authorised Signatory

**EXECUTED** as a **DEED** by **CHARLOTTE PROPERTIES LIMITED** acting by one Director in the presence of

Signature of Director

Signature of Witness

Name of Witness A WILLIAMS

Address of Witness 23 ASKEW CLOSE
WALLASEY
CH44 8EU

**EXECUTED** as a **DEED** by **PHOENIX MONEY LIMITED** acting by one Director in the presence of:

Signature of Director

Signature of Witness

Name of Witness Rory Nelson

Address of Witness QUINN BARROW
8th Floor Horton House
Exchange Flags
Liverpool L2 3YL
0151 231 6620

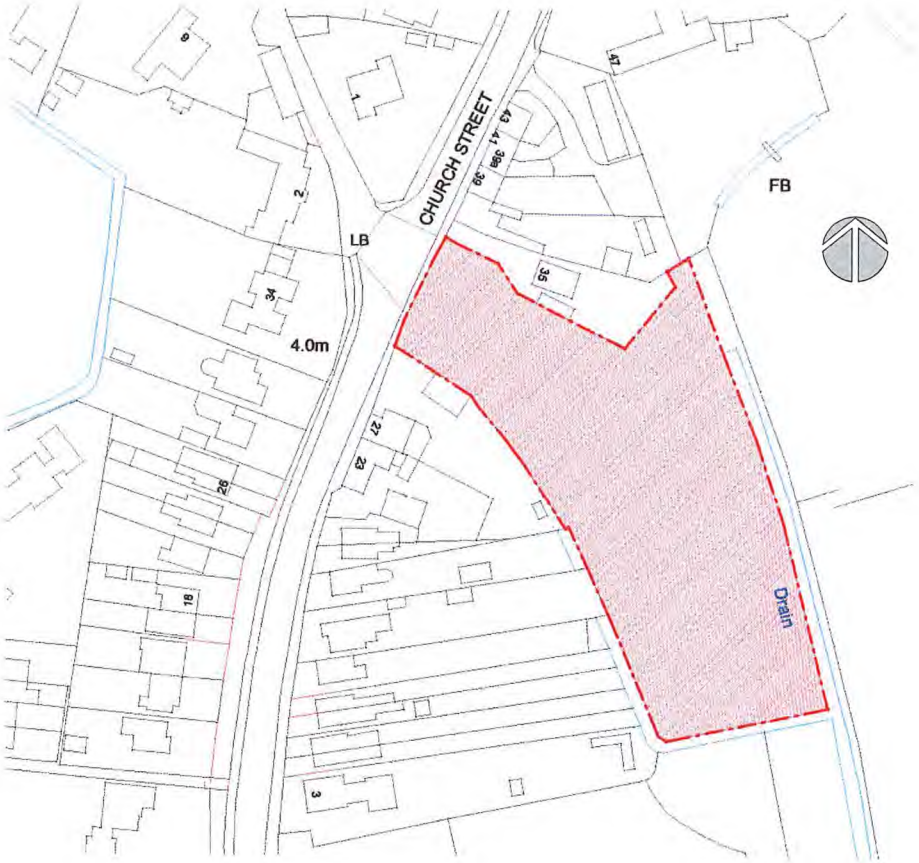
## SCHEDULE 1

## DETAILS OF THE OWNER'S TITLE, AND DESCRIPTION OF THE LAND

The Land is known as The Bell Inn, 33 Church Street, Pinchbeck, Spalding, PE11 3UB and falling within Title Number LL88168, and shown edged red on the Plan.

Contractors are responsible for checking all dimensions on site prior to work commencing.Due to areas of the structure being covered, unexposed or otherwise inaccessible the notes / specifications of existing materials are subject to confirmation of site when it is feasible to expose the relevant areas of construction. All material schedules are given in good faith and for pricing purposes only. It is the responsibility of the contractor to check their accuracy before ordering any materials.

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Scale 1:1250. Print at A3

Drg No

**3170 - S08**

remway Design Ltd

**The Bell Inn | Church Street | Pinchbeck**

## SCHEDULE 2

## DRAFT PLANNING PERMISSION

Council Offices
Priory Road
Spalding
Lincolnshire
PE11 2XE

Admin 01775 764723
DC Officers 01775 761161
Facsimile 01775 762937

planningadvice@sholland.gov.uk

www.sholland.gov.uk

Matrix Planning
36 Stamford Road
Market Deeping
Peterborough
PE6 8AB

## TOWN AND COUNTRY PLANNING ACT 1990

# *DRAFT* APPROVAL

**Reference:** H14-0219-22 **Date of Decision:**

**Applicant:** Charlotte Properties Ltd.
Cherry Cottage
14 Wexford Road
Oxton
Wirral
CH43 9TB

**Location:** The Bell Inn 33 Church Street Pinchbeck Spalding

**Description:** Conversion of the ex-Bell Public House into five flats and the development of nine detached bungalows to the rear

**South Holland District Council hereby give notice that permission has been GRANTED (or equivalent) subject to the following condition(s):**

1 The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2 The development hereby permitted shall be carried out in accordance with the following approved plans and/or documents:
Application Form
3170-S08
3170 EB01
3170 EB02
ASC.21.567
3170 EB05 Rev A
Site Levels Plan - Existing

3170-S02 Rev C
3170-S03 Rev C
3170-S04 Rev C
3170-S05 Rev C
3170-S06 Rev C
COTT-01 Rev A
COTT-02 Rev A
LANG-01 Rev A
LANG-02 Rev A
MAN-02
MAN-01
OAK-02 Rev A
OAK-01 Rev A
BRAUN-01 Rev A
BRAUN-02 Rev A
EGG-01
EGG-02
RUT-01
BP/21/01
Tree Survey Details - 3170-S07 Rev C
Tree Survey - 02/09/2021
Desk Based Heritage Impact Assessment (Prepared by Neville Hall - August 2021)
Heritage Impact Assessment (Prepared by Jonathan Biggadike - January 2022)
Heritage Impact Statement 2 - Photographic Record of Defects, Vandalism & Damage (Prepared by Jonathan Biggadike - January 2022)
Ecology & Protected Species Survey Report (Prepared by Helen Scarborough - June 2021)
Ground Investigation Report - SW 21-199-GI-01 (Prepared by Shields Wilson - December 2021)
Planting Schedule (Prepared by Dragonfly Building Conservation & Landscape Design Ltd - 19th January 2022)
Planning Statement & Design & Access Statement (Prepared by Matrix Planning - February 2022)
RUT-02
3170-EB03 Rev B
Flood Risk Assessment Rev A (Prepared by S M Hemmings Dated 11th April 2022)
3170-S01 (a2) Rev E
SW 21-199-CAL-01A
21-199-102 Rev P2
21-199-103 Rev P2
21-199-110 Rev P4
21-199-111 Rev P4
3170-EB06 Rev B
3170-S01(a2) Rev F
3170-EB04 Rev B

Reason: For the avoidance of doubt and in the interests of proper planning.

3 Details of the design and positions of all external boxes for gas and electricity supplies



DC_DRAFT_DECISION - ODB:951

d of any gas flues and soil vent pipes shall be submitted to and approved in writing by ne Local Planning Authority prior to their installation and there shall be no variation from the details so approved.

Reason: To ensure that the Local Planning Authority retains control over these details of the development in the interests of the appearance of the development, and the character and visual amenity of this part of the Conservation Area in which it is set.
This Condition is imposed in accordance with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 16 of the National Planning Policy Framework, 2021.

4 The scheme of landscaping and tree planting shown on dwg. no. BP/21/01 shall be carried out and completed in its entirety during the first planting season following practical completion of the development. All trees, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

Reason: To ensure that the development is adequately landscaped, in the interests of its visual amenity and that of the area in which it is set.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

5 Prior to its installation, details of the proposed boundary treatments, including a schedule of fencing levels, heights and materials, and details of the size and species of any hedging, shall be submitted to and approved in writing by the Local Planning Authority, and the details so approved shall be implemented in full before the development is first brought into use and retained thereafter.

Note: Where levels are raised above existing ground levels, the submission shall be supported by cross-sectional drawings showing the relationship with adjoining uses and buildings to enable the Local Planning Authority to be satisfied that sufficient mitigation measures will be in place.

Reason: In the interests of the character and appearance of the development and the amenity of the area in which it is set including the amenity of nearby occupiers.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

6 Before the commencement of the development hereby permitted beyond oversite full details of ecological biodiversity measures to be installed in conjunction with the development shall be submitted to and approved in writing by the Local Planning Authority. The measures shall be constructed and retained in accordance with the details so approved.

Note: Development can incorporate a number of simple, low-cost measures to deliver biodiversity benefits and enhance priority habitats and species, such as, the use of bat and barn owl roost boxes and integrating nesting opportunities into buildings. The use of swift bricks on new developments would help minimise the decline in swifts, a priority species.



DC_DRAFT_DECISION - ODB:951

Reason: To ensure that the development is able to deliver a net gain in biodiversity.
This Condition is imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in the National Planning Policy Framework, 2021.

7 A detailed scheme of construction management to minimise disturbance during the construction process through noise, dust, vibration and smoke shall be submitted to and approved in writing by the Local Planning Authority before the development commences and the construction process shall be carried out in accordance with the scheme so approved. It shall also include a method statement, detailing how construction traffic, site personnel vehicles, materials deliveries and site accommodation will be managed to safeguard highway safety, free passage along Church Street and residential amenity.

Reason: In the interests of the amenity of local residents. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

8 Notwithstanding the levels shown on Drawing No. 21-199-100 Rev P3 & 21-199-101 Rev 2 before the commencement of the development hereby permitted, full details of the existing and proposed site levels and proposed floor levels of the buildings, hard surfaced areas and garden/amenity areas, including any mitigation measures arising as a consequence (for example increased height of boundary treatment), shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed and retained in accordance with the details so approved.

Note: Where levels are raised above existing ground levels, the submission shall be supported by cross-sectional drawings showing the relationship with adjoining uses and buildings to enable the Local Planning Authority to be satisfied that sufficient mitigation measures will be in place.

Reason: To reduce the risk of flooding of the development. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.
This Condition is imposed in accordance with Policy 4 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, 2021.

9 The development shall be carried out in accordance with the approved flood risk assessment (Prepared by S M Hemmings - 11th April 2022) and the following mitigation measures it details:
· Finished floor levels of the bungalows shall be set no lower than 3.20 metres above Ordnance Datum (AOD) with flood resilient construction to a height of 300mm above the predicted flood depth.
· Finished floor levels of the pub shall remain at 4.10 metres AOD. These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To ensure that the development does not increase the risk of flooding or be at risk of flooding.
This Condition is imposed in accordance with Policies 3 and 4 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, 2021.

10 Prior to the commencement of works on site archaeological trial trench evaluation is require, because of the high potential for as yet unrecorded medieval remains to survive in this central position within the medieval settlement adjacent to the parish church. The evaluation should consist of trial trench excavation and should provide sufficient information to enable the local planning authority to make a reasoned decision regarding the potential impacts on below ground heritage assets of archaeological interest.

Reason: For historical and archaeological interest.
This Condition is imposed in accordance with Policy 29 of the South East Lincolnshire Local Plan, 2019, as well as Section 16 of the National Planning Policy Framework, 2021.

11 Before the commencement of the development hereby permitted beyond oversite full details of the private refuse/recycling collection contractor service shall be submitted to and approved in writing by the Local Planning Authority. The approved details of the private refuse/recycling collection contractor service shall be implemented upon first occupation of any dwelling and thereafter the development shall be served in accordance with the details so approved.

Reason: To ensure that the Local Planning Authority retains control over the method and storage of household waste on site, in the interests of the character and appearance of the development and the visual amenity of the area in which it is set.
This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

12 The two sycamore trees and ash tree marked on Drawing No. Appendix 2 - Tree Protection Plan to be retained, shall not be cut down, up-rooted, destroyed, topped or lopped unless first agreed in writing by the Local Planning Authority. Should any of the trees die or authorisation be given for their removal, they shall be replaced within six months thereafter with a tree of such size and species which shall first be agreed in writing by the Local Planning Authority, such a tree will continue to assume the protection afforded to the original under this condition.

Reason: To ensure the protection of existing trees on the site, in the interests of the visual amenity of the locality.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 15 of the National Planning Policy Framework, 2021.

13 The two sycamore trees and ash tree marked on Drawing No. Appendix 2 - Tree Protection Plan to be retained shall be protected during construction work as follows:

i) Before commencement of any development, chestnut paling or similar fencing 1.5 metres in height shall be provided around the perimeter of the Root Protection Area as

calculated in British Standard 5837:2012, of all trees to be retained.
No materials, equipment, site huts, fuels or other items shall be placed or stored within t areas enclosed by the fencing so erected and the ground levels within those areas shal not be altered, nor shall any excavation be made nor any fires lit.

ii) Before commencement of any development, details of the means of construction, drainage and surfacing of the access drive, including a method statement for the protection of the existing trees shall be submitted to and approved in writing by the Local Planning Authority. The access drive shall be completed in its entirety in accordance with the approved details before the dwelling is occupied.
Note: It is advised that a 'no dig' method should be used where roadways / driveways / paths are likely to be in the Root Protection Areas. Construction should take note of the Arboricultural Advisory and Information Service publication: APN 12 Driveways Close to Trees. Tarmacadam is not an appropriate material to site near the base of trees. A cellular confinement system filled with gravel or other permeable filling is required.

iii) Where access is essential in close proximity to the retained trees and is likely to cause soil compaction, temporary ground protection should be used.

iv) The soil levels should not be altered around the base of the retained trees.
Note: An increase in soil level around the base of a tree can make conditions adjacent to the trunk damp and suitable for fungal growth; it can also increase the distance for water / gaseous exchange to the tree's roots, which can be detrimental to the health of the tree.

Reason: In the interest of preserving existing trees on site and the character of the surrounding area.
This Condition is imposed in accordance with Section 15 of the National Planning Policy Framework, 2021.

14 The water consumption of each dwelling hereby permitted should not exceed the requirement of 110 litres per person per day (as set out as the optional requirement in Part G of the Building Regulations 2010 and the South East Lincolnshire Local Plan, 2019). The person carrying out the work must inform the Building Control Body that this duty applies. A notice confirming the requirement for the water consumption has been met shall be submitted to the Building Control Body and Local Planning Authority, no later than five days after the completion of each individual dwelling.

Reason: To protect the quality and quantity of water resources available to the district.
This Condition is imposed in accordance with Policy 31 of the South East Lincolnshire Local Plan, 2019.

Notes:

The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and by identifying matters of concern within the application and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable

al.

s decision notice, the relevant accompanying report and the determined plans can be iewed online at http://planning.sholland.gov.uk/OcellaWeb/planningSearch

This planning permission is subject to an Agreement under Section 106 of the Town & Country Planning Act 1990 dated ***** and can only be implemented as a consequence of meeting the provisions of that Agreement

The permitted development requires the formation of a new/amended vehicular access. These works will require approval from the Highway Authority in accordance with Section 184 of the Highways Act. The works should be constructed in accordance with the Authority's specification that is current at the time of construction. Relocation of existing apparatus, underground services or street furniture will be the responsibility of the applicant, prior to application.

For application guidance, approval and specification details, please visit:
https://www.lincolnshire.gov.uk/licences-permits/apply-dropped-kerb
or contact vehiclecrossings@lincolnshire.gov.uk

The road serving the permitted development is approved as a private road which will not be adopted as a Highway Maintainable at the Public Expense (under the Highways Act 1980). As such, the liability for the future maintenance of the road will rest with those who gain access to their property from it.

Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works.

For further guidance please visit our website via the following links:
Traffic Management - https://www.lincolnshire.gov.uk/traffic-management
Licences and Permits - https://www.lincolnshire.gov.uk/licences-permits

Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991 or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

**Phil Norman**
**Head of Planning**
**South Holland District Council**

22nd March 2023

**BUILDING REGULATIONS:**

This decision refers only to planning permission as granted under the Town and Country Planni
Act 1990. The works that you are proposing may also require Building Regulations and this plann
permission does not give authority under Building Regulations to commence work. Please contact
the Building Control section for further information on 01775 764557 or bcadmin@sholland.gov.uk

The Owner c

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lease contact
holland.gov.uk

## SCHEDULE 3

## THE OWNER'S COVENANTS

The Owner covenants with the Council as follows:

### 1. AFFORDABLE HOUSING

1.1 Not to Occupy or permit the Occupation of more than 4 of the Market Dwellings until the construction of all Affordable Dwellings has been commenced in accordance with the Affordable Housing Scheme and written notification of that commencement has been received by the Council

1.2 Not to Occupy or permit the Occupation of more than 6 of the Market Dwellings until the construction of all Affordable Dwellings has been certified Practically Complete and has been transferred to the Affordable Housing Provider.

1.3 To use all reasonable endeavours to transfer the Affordable Dwellings except for the First Homes which the Owner is obliged to provide under the Affordable Housing Scheme to the Affordable Housing Provider and/or the Council in accordance with paragraph 1.4 below and should the Affordable Housing Provider be a provider (pursuant to Part 2 of the Housing and Regeneration Act 2008) registered with Homes England on terms that accord with relevant funding requirements of Homes England current at the date of construction of the Affordable Housing.

1.4 The transfer shall contain inter alia the following:

1.4.1 a grant in favour of the Affordable Housing Provider of all rights of access passage of services and other rights reasonably necessary for the beneficial enjoyment of the Affordable Dwellings;

1.4.2 reservation of all rights of access and passage of services and rights of entry and all usual covenants reasonably necessary or appropriate for the beneficial enjoyment of the retained parts of the Land;

1.4.3 a covenant by the Affordable Housing Provider not to use the transferred Affordable Housing other than for the purposes of providing Affordable Housing in perpetuity but subject to the exemption clauses at paragraph 1.9 and 1.10 below.

1.5 For the purposes of this Deed "all reasonable endeavours" shall include (but

not necessarily limited to) the following:

1.5.1 the Owner diligently undertaking negotiations with all willing Affordable Housing Providers and/or the Council unless and until paragraph 1.7 below applies; and

1.5.2 the Owner keeping the Council informed of its progress in negotiating a sale when requested by the Council but in any event on a quarterly basis beginning with the Commencement of Development and proactively taking into account comments made by the Council on that progress

1.6 Where contracts are exchanged with an Affordable Housing Provider pursuant to paragraph 1.3 above to supply a certified copy of such contract to the Council within five (5) Working Days of such contract being completed.

1.7 Where the Affordable Housing Provider is unwilling to take a transfer of an Affordable Dwelling and the Owner has supplied to the Council evidence of the use of all reasonable endeavours to secure a transfer of such Affordable Dwelling to an Affordable Housing Provider (including copies of any offers to and responses from any Affordable Housing Provider) and the Council having taken into account paragraph 1.5 above is satisfied (acting reasonably) that having used all reasonable endeavours the Owner is unable to identify an Affordable Housing Provider willing to purchase the Affordable Dwelling then the Owner shall at the Council's discretion either:

1.7.1 provide instead an alternative tenure of Affordable Housing for that Affordable Dwelling such tenure to be approved in writing by the Council acting reasonably **AND** where any such Affordable Dwelling is a tenure referred to in this Deed then that Dwelling shall be subject to the relevant provisions of this Deed **SUBJECT TO** the Owner paying an Affordable Housing Contribution calculated in line with the Affordable Housing Contribution Formula set out in Annex A Part 1 for the difference in values of the tenure of the Affordable Housing such sum to be used for the provision of off-site Affordable Housing; or

1.7.2 pay to the Council an Affordable Housing Contribution calculated in line with the Affordable Housing Contribution Formula set out in Annex A Part 2 and upon the Council providing written confirmation

that such Affordable Housing Contribution has been received that Affordable Dwelling shall be discharged from the terms of this Deed and the Owner shall be free to sell that Dwelling on the open market to an individual purchaser and the Council shall remove reference to this Deed in the local land charges register in relation to that Dwelling

1.8 All Affordable Housing must be constructed in accordance with such guidance as shall be issued by Homes England or its successor and approved in writing by the Council however in the absence of such guidance or standards shall be constructed to a standard agreed in writing with the Council.

1.9 All Affordable Dwellings shall be evenly integrated and indistinguishable from the Market Dwellings.

1.10 From the date of Practical Completion of the Affordable Dwellings they shall not be used other than for Affordable Housing save that this obligation shall not be binding on:

1.10.1 any Protected Person or any mortgagee of a Protected Person or any person deriving title from a Protected Person or any successor in title thereto and their respective mortgagees and chargees; or

1.10.2 any Chargee provided that the Chargee shall have first complied with the Chargee's Duty contained in paragraph 1.11 below; and

1.10.3 any purchaser from a mortgagee of an individual Affordable Dwelling pursuant to any default by the individual mortgagor

1.11 The affordable housing provisions in this Deed shall not be binding on a Chargee **PROVIDED THAT** such Chargee shall first give written notice to the Council of its intention to dispose of the Affordable Dwellings and shall have used reasonable endeavours over a period of three (3) months from the date of the written notice to complete a disposal of the Affordable Dwellings to another registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses **AND** if such disposal has not completed within the three (3) month period, the Chargee shall be entitled to dispose of the Affordable Dwellings free from the affordable housing provisions in this Deed which provisions shall

determine absolutely

**2. EDUCATION CONTRIBUTION**

2.1 Not to Occupy or permit the Occupation of more than 6 of the Dwellings unless and until the Education Contribution has been paid to the Council in full.

**3. HEALTHCARE FACILITIES CONTRIBUTION**

3.1 Not to Occupy or permit the Occupation of more than 6 of the Dwellings unless and until the Healthcare Facilities Contribution has been paid to the Council in full.

# SCHEDULE 4
# FIRST HOMES

## 1. OBLIGATIONS

Unless otherwise prior agreed in writing by the Council the Owner with the intention that the following provisions shall bind the Land covenants with the Council as below save that

1.1 paragraphs 2, 3, and 4 of this Schedule 4 shall not apply to a First Homes Owner;

1.2 paragraphs 5 and 6 of this Schedule 4 apply as set out therein but and for the avoidance of doubt where a First Home is owned by a First Homes Owner they shall apply to that First Homes Owner only in respect of the First Home owned by that First Homes Owner; and

1.3 Paragraph 7 of this Schedule 4 applies as set out therein.

## 2. CLUSTERING

2.1 The First Homes shall not be visually distinguishable from the Market Dwellings based upon their external appearance.

## 3. TYPE AND DISTRIBUTION

3.1 The mix of First Homes provided within the Development shall be in accordance with the Affordable Housing Plan.

3.2 The internal specification of the First Homes shall not by reason of their being First Homes be inferior to the internal specification of the equivalent Market Dwellings but, subject to that requirement, variations to the internal specifications of the First Homes shall be permitted

## 4. DEVELOPMENT STANDARD

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

## 5. DELIVERY MECHANISM

5.1 The First Homes shall be marketed for sale and shall only be sold (whether on a first or any subsequent sale) as First Homes to a person or person(s) meeting

5.1.1 the Eligibility Criteria (National); and

5.1.2 the Eligibility Criteria (Local) (if any)

5.2 If after a First Home has been actively marketed for three (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), paragraph 5.1.2 shall cease to apply.

5.3 Subject to paragraphs 5.6 to 5.10 no First Home shall be Disposed of (whether on a first or any subsequent sale) unless not less than 50% of the purchase price is funded by a first mortgage or other home purchase plan with a Mortgagee

5.4 No First Home shall be Disposed of (whether on a first or any subsequent sale) unless and until:

5.4.1 The Council has been provided with evidence that:

5.4.1.1 the intended purchaser meets the Eligibility Criteria (National) and unless paragraph 5.2 applies also meets the Eligibility Criteria (Local) (if any);

5.4.1.2 the Dwelling is being Disposed of as a First Home at the Discount Market Price; and

5.4.1.3 the transfer of the First Home includes:

a) a definition of the "Council" which shall be *South Holland District Council, Council Offices, Priory Road, Spalding, PE11 2XE*

b) a definition of "First Homes Provisions" in the following terms:

"means the provisions set out in paragraph 5.1 – 5.9 of Schedule 4 of the S106 Agreement a copy of which is attached hereto as the Annexure."

c) A definition of "S106 Agreement" means the agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) dated [

] made between (1) the Council [and] (2)
[and (3) ]

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

5.4.2 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 5.3 and 5.4.1 have been met

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

*"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by [Local Authority] of [address] 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"*

5.6 The owner of a First Home (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:

5.6.1 the Dwelling has been actively marketed as a First Home for six (6) months in accordance with Clauses 5.1 and 5.2 of this Schedule 4 (and in the case of a first Disposal the six (6) months shall be calculated from a date no earlier than six (6) months prior to Practical Completion) and all reasonable endeavours have been made to

Dispose of the Dwelling as a First Home but it has not been possib to Dispose of that Dwelling as a First Home in accordance with paragraphs 5.3 and 5.4.1 of Schedule 4; or

5.6.2 requiring the First Homes Owner to undertake active marketing for the period specified in paragraph 5.6.1 before being able to Dispose of the Dwelling other than as a First Home would be likely to cause the First Homes Owner undue hardship

5.7 Upon receipt of an application served in accordance with paragraph 5.6 the Council shall have the right (but shall not be required) to direct that the relevant Dwelling is disposed of to it at the Discount Market Price

5.8 If the Council is satisfied that either of the grounds in paragraph 5.6 above have been made out it shall confirm in writing within twenty eight (28) days of receipt of the written request made in accordance with paragraph 5.6 that the relevant Dwelling may be Disposed of:

5.8.1 to the Council at the Discount Market Price; or

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

and on the issue of that written confirmation the obligations in this Deed which apply to First Homes shall cease to bind and shall no longer affect that Dwelling apart from paragraph 5.10 which shall cease to apply on receipt of payment by the Council where the relevant Dwelling is disposed of other than as a First Home

5.9 If the Council does not wish to acquire the relevant Dwelling itself and is not satisfied that either of the grounds in paragraph 5.6 above have been made out then it shall within twenty eight (28) days of receipt of the written request made in accordance with paragraph 5.6 serve notice on the owner of the First Home setting out the further steps it requires the owner of the First Home to take to secure the Disposal of a Dwelling as a First Home and the timescale (which shall be no longer than six (6) months). If at the end of that period the owner of the First Home has been unable to Dispose of the Dwelling as a First Home they may serve notice on the Council in accordance with paragraph 6.6 following which the Council must within twenty eight (28) days issue confirmation in writing that the Dwelling may be Disposed of other than as a First Home

5.10 Where a Dwelling is Disposed of other than as a First Home or to the Council at the Discount Market Price in accordance with paragraphs 5.8 or 5.9 above the owner of the First Home shall pay to the Council forthwith upon receipt of the proceeds of sale the Additional First Homes Contribution

5.11 Upon receipt of the Additional First Homes Contribution the Council shall:

5.11.1 within twenty eight (28) Working Days of such receipt provide a completed application to enable the removal of the restriction on the title set out in paragraph 5.5 where such restriction has previously been registered against the relevant title

5.11.2 apply all monies received towards the provision of Affordable Housing

5.12 Any person who purchases a First Home free of the restrictions in this Schedule 4 and Schedule 3 (where relevant) pursuant to the provisions in paragraphs 5.9 and 5.10 shall not be liable to pay the Additional First Homes Contribution to the Council.

**6. USE**

Each First Home shall be used only as the main residence of the First Homes Owner and shall not be let, sub-let or otherwise Disposed of other than in accordance with the terms of this Deed **PROVIDED THAT** letting or sub-letting shall be permitted in accordance with paragraphs 6.1 – 6.4 below.

6.1 A First Homes Owner may let or sub-let their First Home for a fixed term of no more than two (2) years, provided that the First Homes Owner notifies the Council in writing before the First Home is Occupied by the prospective tenant or sub-tenant. A First Homes Owner may let or sub-let their First Home pursuant to this paragraph more than once during that First Homes Owner's period of ownership, but the aggregate of such lettings or sub-lettings during a First Homes Owner's period of ownership may not exceed two (2) years.

6.2 A First Homes Owner may let or sub-let their First Home for any period provided that the First Homes Owner notifies the Council and the Council consents in writing to the proposed letting or sub-letting. The Council covenants not to unreasonably withhold or delay giving such consent and not to withhold such consent in any of circumstances (a) – (f) below:

a) the First Homes Owner is required to live in accommodation other tha their First Home for the duration of the letting or sub-letting for the purposes of employment;

b) the First Homes Owner is an active Armed Services Member and is to be deployed elsewhere for the duration of the letting or sub-letting;

c) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to escape a risk of harm;

d) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of relationship breakdown;

e) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of redundancy; and

f) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to provide care or assistance to any person.

6.3 A letting or sub-letting permitted pursuant to paragraph 6.1 or 6.2 must be by way of a written lease or sub-lease (as the case may be) of the whole of the First Home on terms which expressly prohibit any further sub-letting.

6.4 Nothing in this paragraph 6 of Schedule 4 prevents a First Homes Owner from renting a room within their First Home or from renting their First Home as temporary sleeping accommodation provided that the First Home remains at all times the First Home Owner's main residence.

## 7. MORTGAGEE EXCLUSION

The obligations in paragraphs 1 – 6 of this Schedule 4 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 Home or any persons or bodies deriving title through such Mortgagee or Receiver **PROVIDED THAT**:

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

7.2 once notice of intention to Dispose of the relevant First Home has been given by the Mortgagee or Receiver to the Council the Mortgagee or Receiver shall

be free to sell that First Home at its full First Home Market Value and subject only to paragraph 7.3

7.3 following the Disposal of the relevant First Home the Mortgagee or Receiver shall following the deduction of the amount due and outstanding under the relevant security documentation including all accrued principal monies, interest and reasonable costs and expenses pay to the Council the Additional First Homes Contribution.

7.4 following receipt of notification of the Disposal of the relevant First Home the Council shall:

7.4.1 forthwith issue a completed application to the purchaser of that Dwelling to enable the removal of the restriction on the title set out in paragraph 5.5; and

7.4.2 apply all such monies received towards the provision of Affordable Housing

## 8. THE COUNCIL'S ADMINISTRATIVE COSTS

8.1 The Owner shall pay to the Council the First Homes Costs within 10 Working Days of the Disposal of the initial and subsequent sale of each First Home by the Owner to a First Homes Owner

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## SCHEDULE 5
## COUNCIL'S COVENANTS

The Council covenants with the Owner as follows:

**1. AFFORDABLE HOUSING**

The Council shall co-operate with any Affordable Housing Provider and enter into any Nominations Agreement between the Affordable Housing Provider and the Council.

**2. EDUCATION CONTRIBUTION**

2.1 To notify the Education Authority within 10 working days of receipt of the Education Contribution that the Council is in receipt of the Education Contribution.

2.2 To pay the Education Contribution to the Education Authority upon receipt of a document from the Education Authority confirming that they will:

2.2.1 apply the Education Contribution towards the contribution of which shall be used towards the provision of primary education within Spalding West primary planning area and secondary education within Spalding Secondary planning area, the need of which arises from the Development and for no other purposes whatsoever.

2.2.2 return any unspent part of the Education Contribution to the Council after the expiry of 10 years from the date of receipt of the Education Contribution.

2.3 to pay to the Owner any unspent monies received by them pursuant to paragraph 2.2.2 within 28 days of receipt from the Education Authority or if such sum is not then paid to the Education Authority then to repay to the Owner within 10 years of receipt by the Council of the Education Contribution.

**3. HEALTH CARE FACILITIES CONTRIBUTION**

3.1 To notify the Health Care Provider within 10 working days of receipt of the Health Care Facilities Contribution that the Council is in receipt of the Health Care Facilities Contribution.

3.2 To pay the Health Care Facilities Contribution to the Health Care Provid upon receipt of a document from the Health Care Provider that they will:

3.2.1 apply the Health Care Facilities Contribution for the purposes of improving existing or new primary care facility in the Spalding and Pinchbeck areas or alternatively, where appropriate, be used to support expansion in capacity at an alternative general practice as required to meet the local population health need, the need of which arises from the Development and for no other purposes whatsoever; and

3.2.2 return any unspent part of the Health Care Facilities Contribution to the Council after the expiry of 10 years from the date of receipt of the Health Care Facilities Contribution.

3.3 To pay to the Owner any unspent monies received by them pursuant to 3.2.2 within 28 days of receipt from the Health Care Provider or if such sum is not then paid to the Health Care Provider then to repay to the Owner within 10 years of receipt by the Council of the Health Care Facilities Contribution.

**4. GENERAL**

4.1 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall as soon as practically possible effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.

4.2 At the written request of the Owner the Council shall provide written confirmation of the full or partial discharge of the obligations given for the benefit of the Council contained in this Deed when satisfied that such obligations have been performed.

## SCHEDULE 6
## NOMINATION AGREEMENT

***Dated*** ***20....***

***(1) South Holland District Council***

***and***

***(2) [REGISTERED PROVIDER]***

---

***NOMINATION AGREEMENT***

---

***Relating to land at***
***[LOCATION]***

***South Holland District Council***
***Council Offices***
***Priory Road***
***Spalding***
***PE11 2XE***

***SHDC Reference: LD/***

"District"

"Intermediate Dwelling

***THIS DEED*** *is made the day of Two thousand and .....*

***BETWEEN***

(1) ***SOUTH HOLLAND DISTRICT COUNCIL*** *of Council Offices Priory Road Spalding PE11 2XE ("the Council"); and*

(2) ***[REGISTERED PROVIDER]*** *whose registered office is situated at [registered office] ("the Association")*

***RECITALS***

(A) *The Council resolved on [insert date] to grant planning permission for the Development subject to the provision of ..... (...) dwellings to be delivered as affordable housing. The Council has agreed that [..... (...) Rented Dwellings and [..... (...) Intermediate/Shared Ownership Dwellings] shall be provided to meet the obligation to provide affordable housing.*

(B) *The Association intends to take a transfer of the Rented Dwellings and by this Deed the Association agrees with the Council that the said Rented Dwellings shall be let to occupiers in accordance with the nominations procedure detailed in Clause 4 below allowing the Council to nominate 100% of the initial tenants of each Rented Dwelling and thereafter at least 75% of the tenants of each Rented Dwelling.*

(C) *The Association intends to take a transfer of the Intermediate/Shared Ownership Dwellings and by this Deed the Association agrees with the Council that the Intermediate/Shared Ownership Dwellings (other Intermediate Rented Dwellings) shall be disposed of by the Association in accordance with Clause 5 below*

***NOW THIS DEED WITNESSES AS FOLLOWS***

***1. DEFINITIONS***

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

| | |
|---|---|
| *"the Development"* | *means the erection of .... dwellings on land [insert location] with planning application reference .....* |

| | |
|---|---|
| *"District"* | *means the District of South Holland* |
| *"Intermediate Dwelling"* | *means the ..... (...) intermediate dwellings (being plot numbers x, x, x and x on the Development) as defined in Annex 2 of the National Planning Policy Framework dated July 2021 or any replacement amendment or supplemental guidance to it on the land to which the allocation procedure in Clause 5 shall relate* |
| *"Local Housing Need"* | *means local housing need as determined by the Council in accordance with the Council's Housing Allocations Policy and for the avoidance of doubt does not include any local connection criteria for the Shared Ownership Dwellings* |
| *"Nomination Notice"* | *means a notice served by the Council on the Association providing details of nominated prospective tenants for a Rented Dwelling in accordance with Clause 4.3.3 of this Deed* |
| *"Protected Tenant"* | *means (i) any tenant who has:*<br><br>*(a) exercised the right to acquire pursuant to the Housing Act 1996 or the Housing and Regeneration Act 2008 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a Rented Dwelling; or*<br><br>*(b) exercised any statutory right to buy (or any equivalent contractual right) in respect of a Rented Dwelling; and*<br><br>*(ii) any lessee of a Shared Ownership Dwelling* |

| | |
|---|---|
| *"Rented Dwellings"* | *means the ..... (...) rented dwellings (being plot numbers x, x, x and x on the Development) to be provided as affordable rented dwellings [and (being plot numbers x, x, x and x on the Development) to be provided as intermediate rented dwellings] [and (being plot numbers x, x, x and x on the Development) to be provided as social rented housing] as defined in Annex 2 of the National Planning Policy Framework dated July 2021 or any replacement amendment or supplemental guidance to it on the land to which the nomination rights contained in Clause 4 shall relate* |
| *"Shared Ownership Dwelling"* | *means the ..... (...) shared ownership dwellings (being plot numbers x, x, x and x on the Development) as defined in Annex 2 of the National Planning Policy Framework dated July 2021 or any replacement amendment or supplemental guidance to it on the land to which the allocation procedure in Clause 5 shall relate* |
| *"Vacancy Notice"* | *means a notice served by the Association giving the Council notice that a Rented Dwelling is available for occupation or re-let as appropriate* |
| *"Working Day"* | *means any day other than a Saturday Sunday or public or bank holiday in England* |

## *2. CONSTRUCTION OF THIS 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 interchangeably*

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 there is an express provision otherwise.*

2.5 *Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that act 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 deriving title through or under that party and in the case of the Council, successors to its functions.*

## *3. NOTICES*

3.1 *Any notice or document which is required to be given under the terms of this Deed shall be sent by email and shall be deemed to be sufficiently served if signed by or on behalf of the party issuing the notice.*

3.2 *The Council's email for service is allocations@sholland.gov.uk (or such other email address as the Council may from time to time notify the Association).*

3.3 *The Association's email address for service is [RP Email Address] (or such other email address as the Association may from time to time notify the Council).*

3.4 *Service shall be deemed to be made on the day of transmission if transmitted before 4:00 pm on a Working Day but otherwise on the next following Working Day*

## *4. NOMINATIONS PROCEDURE: RENTED DWELLINGS*

4.1 *Subject to the provisions of this Deed the initial occupiers of each of the Rented Dwellings shall be nominated by the Council*

4.2 *After the initial nominations and subject to the provisions of this Deed the Council shall have the right to nominate the occupiers of at least 75% of all Rented Dwellings which become vacant*

4.3 *Where the Council's rights of nomination apply the following provisions shall apply:*

4.3.1 *the Association shall serve on the Council a Vacancy Notice giving to the Council*

(a) *4 weeks' notice that a Rented Dwelling is ready for occupation in respect of an initial let; and*
(b) *5 Working Days' notice of impending vacancy of a Rented Dwelling in respect of a re-let*

4.3.2 *the Vacancy Notice shall include the following details:*

(a) *address of the Rented Dwelling;*
(b) *weekly rental and any service charges;*
(c) *number of bedrooms and maximum occupancy;*
(d) *age designation; and*
(e) *any other relevant information such as adaptations to the Rented Dwelling*

4.3.3 *The Council shall within ten (10) Working Days (in respect of an initial let) and five (5) Working Days (in respect of a re-let) of receipt of the Vacancy Notice serve on the Association a Nomination Notice containing in priority order details of as many names and addresses of persons known to the Council as being in Local Housing Need as the Council considers appropriate*

4.3.4 *If the initial Nomination is exhausted without the tenancy having been accepted the Association will notify the Council and the Council will have a further period of five (5) Working Days within which to provide a further Nomination Notice in accordance with the above provisions*

4.3.5 *A Rented Dwelling shall be offered to occupiers in accordance with the following provisions:*

(a) *the tenancy of a Rented Dwelling shall first be offered to the person whose name appears first on the Nomination Notice;*

(b) *if that person shall refuse or fail to accept the offer of a tenancy the Rented Dwelling shall be offered to the person whose name next appears on the Nomination Notice and if that person shall also refuse or fail to accept the offer of a tenancy then this process shall be repeated as often as may be necessary until **EITHER** the offer of a tenancy has been accepted **OR** the initial Nomination Notice and any further Nomination Notices have been exhausted without the tenancy having been accepted;*

(c) *where **EITHER** the initial Nomination Notice and any further Nomination Notices are exhausted without the tenancy having been accepted **OR** the Council fails to provide a Nomination Notice **OR** the Council advises that it is not aware of any persons whom it considers to be in Local Housing Need then the Association shall have the right to select the occupier of the Rented Dwelling from its own applications provided such person or persons are in Local Housing Need **BUT FOR THE AVOIDANCE OF DOUBT** it is hereby agreed that if the Association exercises such a right the tenancy shall not be considered a Council nomination for the purpose of determining the sequence of nominations provided for in this Deed.*

4.3.6 *the Association will notify the Council:*

(a) *within ten (10) Working Days of the end of the acceptance period where the prospective tenant fails to accept a tenancy;*

(b) *within ten (10) Working Days where a prospective tenant provisionally accepts a tenancy;*

(c) *within ten (10) Working Days where a prospective tenant refuses the tenancy including any reasons for refusal given;*

(d) *within ten (10) Working Days of any decision by the Association that the prospective tenant does not meet the Association's*

criteria including the reasons why the prospective tenant does n
meet such criteria; and

(e) within three (3) Working Days of the start date of the tenancy

4.3.7 the Association will liaise with the Council where the Owner wishes to use for a management transfer any vacancy for which the Council has nomination rights.

4.4 the Association shall provide to the Council details of all lettings completed in respect of all Rented Dwellings such returns to be made quarterly to the Council.

## 5. ALLOCATION PROCEDURE: INTERMEDIATE/SHARED OWNERSHIP DWELLING

5.1 The Association shall not permit any Intermediate/Shared Ownership Dwelling other than Intermediate Rented Dwelling to be occupied except by a person who satisfies the Help to Buy Agent (or any successor) criteria or the Council's qualifying criteria

5.2 Intermediate Rented Dwelling shall be allocated in accordance with the procedure in Clause 4 above (Rented Dwellings).

## 6. DISPUTES AND MEDIATION PROCEDURE

6.1 Any disputed cases arising from this Deed will be discussed and dealt with by the Council's Housing Options Manager (or successor post) (or such other officer as the Council may from time to time notify the Association) and the Association's [insert post] (or successor post)

6.2 If they cannot decide then the Council's Assistant Director of Housing (or successor post) and the Association's [insert post] (or successor post) will discuss the case and make a final decision.

## 7. AGREEMENTS AND DECLARATIONS

7.1 This Deed is personal to the Association and the Council and for the avoidance of doubt **IT IS HEREBY DECLARED** that this Deed shall not bind

7.1.1 *any Protected Tenant;*

7.1.2 *any mortgagee or charge of a Protected Tenant;*

7.1.3 *any mortgagee or charge of the Association or any receiver (including administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or charge to realise its security or any administrator (howsoever appointed) or the whole or any part of the Rented Dwellings and/or Intermediate/Shared Ownership Dwelling or any persons or bodies deriving title through such mortgagee or charge or Receiver*

7.2 *The parties hereto agree and declare that the parties hereto shall have the right to vary this Deed in writing if they jointly so wish*

*Signed on behalf of* ***SOUTH***

***HOLLAND DISTRICT COUNCIL***

*Signed on behalf of*

***[ASSOCIATION]***

## ANNEX A
## AFFORDABLE HOUSING CONTRIBUTION FORMULA

**Part 1**

The Affordable Housing Contribution is calculated as follows: *A = (B less C) multiplied by D*

Where:

A = the Affordable Housing Contribution

B = the value of the relevant dwelling if subject to the alternative tenure referred to in paragraph 1.7.1 of Schedule 3 as determined by an independent expert and agreed by all parties

C = the value of the relevant dwelling(s) if subject to the tenure specified in the Affordable Housing Scheme in this Deed as determined by an independent expert or agreed by all parties

D = the Affordable Housing Contribution if not paid within 12-months of the date of this Deed will be index linked to the percentage difference between house price inflation (UK House Price Index) and the Index calculated with reference to the figures last published prior to the date 12-months after the date of this Deed and the figure last published prior to the date of payment.

The Affordable Housing Contribution will be paid in full to the Council when no more than 85% of the Market Dwellings have completed. The costs for re-determining the values of B and C will be fully recharged to the Owner. The independent expert will be appointed and act under Clause 13

**Part 2**

The Affordable Housing Contribution is calculated as follows: A = *(B less C) multiplied by D*

Where:

A = the Affordable Housing Contribution

B = the open market value of the relevant dwelling if it were not subject to the terms of this Deed as determined by an independent expert and agreed by all parties

C = the value of the relevant dwelling subject to the terms of this Deed as determined by an independent expert and agreed by all parties

D = the Affordable Housing Contribution if not paid within 12-months of the date of this Deed will be index linked to the percentage difference between house price inflation (UK House Price Index) and the Index calculated with reference to the figures last published prior to the date 12-months after the date of this Deed and the figure last published prior to the date of payment.

The Affordable Housing Contribution will be calculated by the independent expert appointed and acting under Clause 13 when no more than 60% of the Market Dwellings have been completed and will be paid in full to the Council when no more than 85% of the Market Dwellings have completed. The Owner will reimburse the Council for the full cost of the independent valuation in all but exceptional circumstances.