

THIS DEED is made the 30th day of April Two Thousand and Twenty One

BY:

- (1) **HILLS RESIDENTIAL CONSTRUCTION LIMITED** (Company Registration Number 03919214) whose registered office is at Bridge Mill House Brook Street Colchester Essex CO1 2UZ ("the Owner")
- (2) **CLOSE BROTHERS LIMITED** (Company Registration Number 195626) whose registered office is at 10 Crown Place London EC2A 4FT (the "Mortgagee")

and creates planning obligations which are enforceable by

- (3) **TENDRING DISTRICT COUNCIL** of Council Offices, Thorpe Road, Weeley, Clacton-on-Sea, Essex CO16 9AJ ("the Council") and
- (4) **ESSEX COUNTY COUNCIL** of County Hall Chelmsford Essex CM1 1QH ("the County Council")

WHEREAS:

- A. For the purposes of the Act, the Council and the County Council are both local planning authorities for the area within which the Site is located and the authorities by whom the obligations in this Deed are enforceable.
- B. The County Council is the local authority for statutory age education for the County of Essex and in whose administrative area the Site is located
- C. The Owner is the owner of the freehold interest in the Site that is registered at HM Land Registry under title number AA12729
- D. The Mortgagee has the benefit of a charge over the Site dated 11 March 2020
- E. Outline planning permission was granted by the Council in relation to a wider development within which the Site is situated on 28 September 2016 under reference number 16/00133/OUT (the "Outline Planning Permission") and a section 106 agreement in relation to this planning application was entered into on 5 September 2016 between the Council (1) the County Council (2) George Robert Wright (3) and the Owner (4) (the "Original Section 106 Agreement"). Development has commenced pursuant to the Outline Planning Permission and a number of payments have been made pursuant to the Original Section 106 Agreement
- F. Planning permission was granted on 6 November 2020 under reference number 20/00748/FUL for the re-design of the eastern parcel of the original application site to provide 18 new build dwelling houses comprising of 2, 3 and 4 beds and a unilateral undertaking was provided by the Owner and the Mortgagee in relation to that planning permission on 26 October 2020 (the "2020 Unilateral Undertaking").
- G. A further planning application reference 21/00104/FUL ("the Planning Application") has been made to the re-design of the eastern parcel of a previously approved development (ref: 20/00748/FUL) and as the grant of planning permission pursuant to the Planning Application will result in the grant of

a new planning permission the Owners and the Mortgagee have agreed to provide this planning obligation in relation to the Planning Application

- H. The number of Residential Dwellings to be provided as part of the Planning Application increases the number of Affordable Housing Dwellings to be provided across the site bound by the Original Section 106 Agreement by nine (9) and the Owner has entered into this Deed to covenant that three additional Affordable Housing Dwellings will be provided in addition to those to be provided under the Original Section 106 Agreement and to covenant to pay additional financial contributions towards education and healthcare and a financial sum for the purpose of mitigating harm arising from the development at the Site to the Special Protection Area, Special Areas of Conservation and Ramsar site designated primarily to protect waders & wildfowl specified in the Fifth Schedule
- I. The Owner requires the Council to use the sum paid in accordance with the Fourth Schedule for the purpose of mitigating harm arising from the Development at the Special Protection Area, Special Areas of Conservation and Ramsar site designated primarily to protect waders & wildfowl specified in the Fifth Schedule
- J. The Council has not determined the Planning Application and considers the Owner should enter into this obligation to the intent that any objections relating to RAMS, education and healthcare and Affordable Housing to the grant of planning permission are overcome.
- K. This Deed is enforceable in accordance with section 106 of the Town and Country Planning Act 1990 if permission is granted pursuant to the Planning Application
- L. This planning obligation is independent and separate from the Original Section 106 Agreement and from the 2020 Unilateral Undertaking and the obligations contained herein shall only be enforceable separately from and not in conjunction with the Original Section 106 Agreement and the 2020 Unilateral Undertaking

NOW THIS DEED WITNESSETH as follows:

1. DEFINITIONS

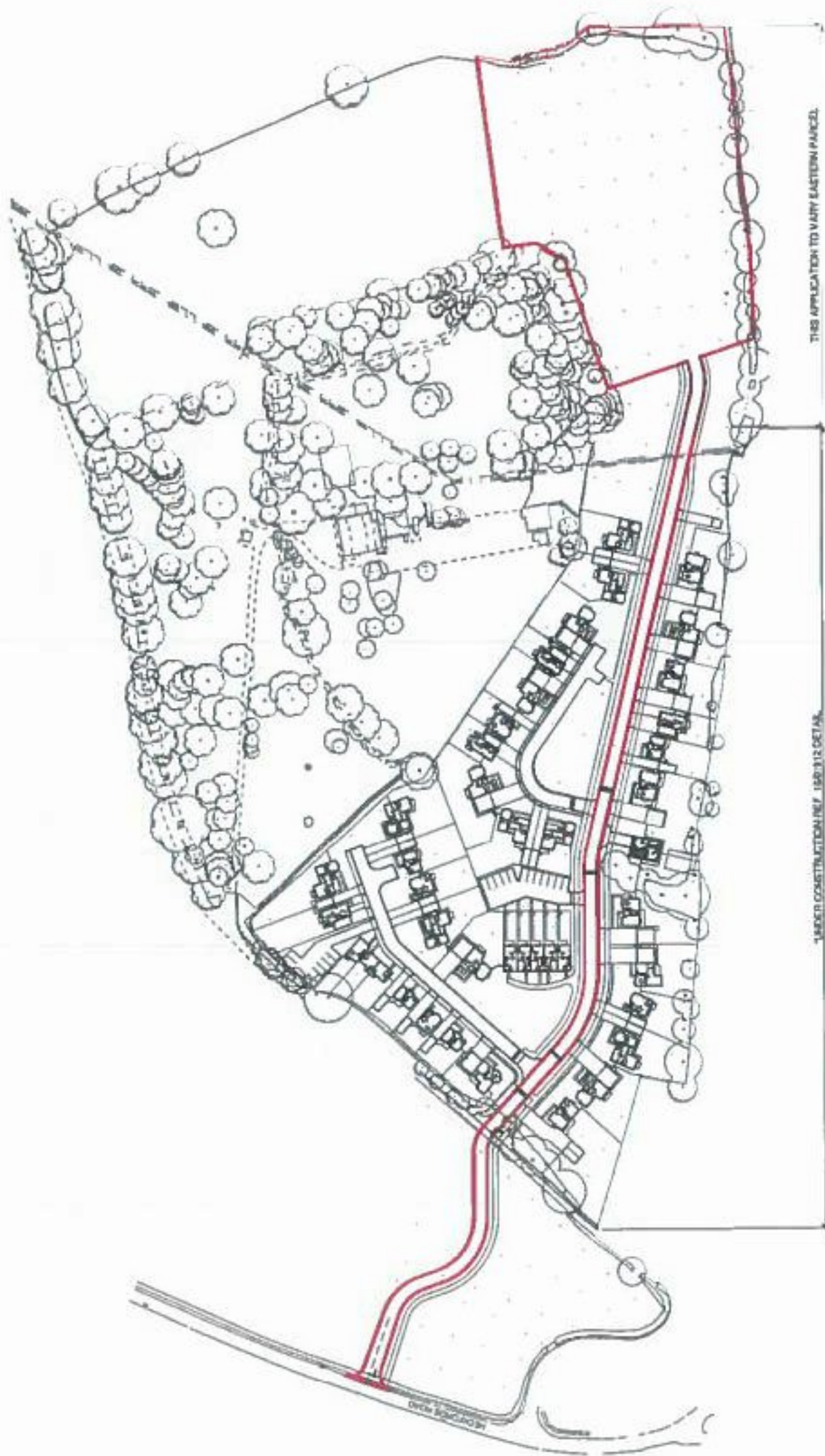
- 1.1 In this Deed where the context so admits the following words and expressions shall have the following meanings:

"Act" means the Town and Country Planning Act 1990, as amended;

"Commencement of the Development" means the implementation of the Planning Permission by the carrying out of a material operation described in Section 56 of the Act and "Commence the Development" shall *mutatis mutandis* be construed accordingly PROVIDED THAT (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, enabling works, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the

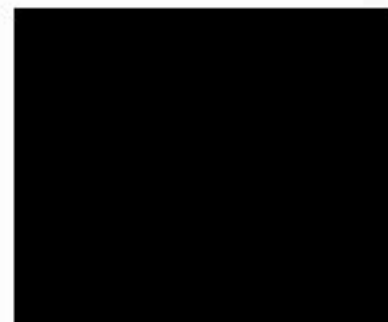
	temporary display of site notices or advertisements shall not be a material operation and "Commence" and "Commence Development" shall be construed accordingly;
"Development"	means the development authorised by the Planning Permission;
"Index"	means the "All Items" index figure of the Index of Retail Prices published by the Office for National Statistics or any such alternative index or comparable measure of price inflation as the Council reasonably requires;
"Index Linked"	means increased to reflect any increase or decrease in the Index during the period from and including the date of this Deed to and including the date of actual payment
"Market Dwellings"	means all Residential Dwellings to be constructed as part of the Development which are not Affordable Housing Dwellings as defined in the Second Schedule;
"Notice of Commencement"	means notice in writing to advise the Council of the expected date of Commencement of the Development;
"Occupation"	means occupation of a building constructed as part of the Development and shall not include day time occupation by workmen involved in the construction of the Development or in so far as such uses are ancillary to the construction of the Development the use of finished buildings for sales purposes for use as temporary offices or for the storage of plant and materials and "Occupy" and "Occupied" shall mutatis mutandis be construed accordingly;
"Plan"	means the drawing annexed hereto;
"Planning Permission"	means the planning permission granted in pursuance of the Planning Application subject to conditions;
"Residential Dwellings"	means the residential dwellings permitted by the Planning Permission;
"Site"	means land at Admirals Farm Heckford Road Great Bentley CO7 8RS shown for identification edged red on the Plan;

1.2 Where the context so requires:



THIS APPLICATION TO VARY EASTERN PARCEL.

1-800-828-6882



- (a) A reference in this Deed to an Act of Parliament or any Order Regulation Statutory Instrument or the like shall include a reference to any amendment or re-enactment of the same.
- (b) Words importing the masculine gender include the feminine gender and vice versa. Words in the singular include the plural and vice versa and words importing individuals shall be treated as importing corporations and vice versa.
- (c) Any headings or side notes are for ease of reference only and shall not affect the construction of this Deed.
- (d) Where a party includes more than one person any obligations of that party shall be joint and several.

2. INTERPRETATION AND LEGAL EFFECT

2.1 This Deed is made pursuant to Section 106 of the Act and the covenants contained herein are planning obligations for the purposes of Section 106 of the Act in respect of which:

- (a) The Owner owns the freehold title to the Site;
- (b) The Council and the County Council are the Local Planning Authorities entitled to enforce the provisions of this Deed and the covenants contained in this Deed shall be so enforceable;
- (c) This Deed is entered into in respect of the Site with the intent that it shall bind the Owner's freehold interest in the Site;
- (d) This Deed shall be binding on all successors and assigns in title of the Owner and any persons claiming under or through them;
- (e) This Deed has been executed as a Deed and the Owner shall supply a copy of it to the Council so that it may be registered by the Council against the Site as a Local Land Charge and entered into the planning register maintained by the Council under the Act;

2.2 Nothing in this Deed is or amounts to or shall be construed as a planning permission or approval;

2.3 Save in respect of the obligations in this Deed expressly requiring compliance prior to Commencement of the Development and which shall become operative on the issue of the Planning Permission this Deed shall thereafter come into effect on the Commencement of the Development;

2.4 The provisions of this Deed shall not be enforceable under the Contracts (Rights of Third Parties) Act 1999;

3. MISCELLANEOUS

3.1 Nothing in this deed shall prohibit the rights to develop any part of the Site in accordance with a grant of further planning permission issued after the completion of this Deed;

- 3.2 No person shall be liable for any breach of this Deed unless they hold an interest in that part of the Site in respect of which such breach occurs or held such an interest at the date of the breach neither the reservation of rights or the inclusion of any covenants or restrictions over the Site in any transfer of the Site will constitute an interest for the purposes of this Clause;
- 3.3 The Owner shall save for liability in respect of any antecedent breach upon parting with its respective interests in the Site or part thereof be released from all obligations rights and duties under the terms of this Deed and all outstanding obligations rights and duties shall pass to the Owner's successors in title to the Site;
- 3.4 The obligations in this Deed will not be enforceable against a statutory undertaker after the transfer of statutory apparatus (and any land upon or in which the statutory apparatus is situated) by the Owner to that statutory undertaker;
- 3.5 The obligations in this Deed will not be enforceable against a purchaser an occupier or tenant or mortgagee of any completed Market Dwelling or against any successor in title or against anyone deriving title from any of them;
- 3.6 The provisions and obligations set out in the First Schedule and the Third Schedule and the Fourth Schedule of this Deed shall not be enforceable against any Approved Body or any owner or occupier or tenant or mortgagee of any Affordable Housing Dwelling or any mortgagee of an Approved Body or against anyone deriving title from any of them;
- 3.7 Subject to the provisions of the Second Schedule in relation to a Chargee (as defined in the Second Schedule) a mortgagee of the Site will not incur any liability for any breach of the obligations contained in this Deed unless and until it becomes a mortgagee in possession of the Site;
- 3.8 The provisions of this Deed will come to an end if the Planning Permission is quashed revoked or otherwise withdrawn or modified without the consent of the Owner before the Commencement of the Development or the Planning Permission expires;
- 3.9 Where the provisions of this Deed come to an end under Clause 3.8 the Owner may request that the Council vacate or cancel the entry made in the Local Land Charges register in relation to this Deed or otherwise to record the fact that it has come to an end and no longer affects the Site.

4. NOTICES

- 4.1 All notices given or served or required to be given or served under this Deed shall be given or served as follows:
- (a) by personal delivery by hand (in which case service is immediately effected).
 - (b) by first class post (in which case service is effected on the second day after posting).
- 4.2 The address for service of notices:

4.2.1. for the Council shall be at the Council's address at the head of this Deed and notices shall be marked for the attention of the Council's Head of Planning ref 20/00748/FUL.

4.2.2 for the County Council notices shall be marked for the attention of Infrastructure Planning Officer Planning Services Place and Public Health Essex County Council County Hall Chelmsford CM1 1QH.

4.2.3 to the Owner as aforesaid.

4.2.4 to the Mortgagee as aforesaid.

5. THE OWNER'S COVENANTS

5. The Owner HEREBY COVENANTS with the Council and the County Council;

5.1. To serve on the Council and the County Council a Notice of Commencement not less than four weeks before the expected date of Commencement of the Development;

5.2. To serve on the Council and the County Council a notice in writing not less than four weeks before the expected date of first Occupation of a Residential Dwelling

5.3 To observe the planning obligations contained in the Schedules to this Deed;

6. MORTGAGEE'S CONSENT

6.1 The Mortgagee acknowledges and declares that this Deed has been entered into by the Owner with its consent and that the Site shall be bound by the obligations contained in this Deed and that the security of its charge over the Site 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 Site in which case it too will be bound by the obligations as if it was a person deriving title from the Owner

7. JURISDICTION

7.1 This Deed is to be governed by and interpreted in accordance with the law of England and the courts of England are to have jurisdiction in relation to any disputes between the parties arising out of or related to this Deed.

IN WITNESS WHEREOF this Deed has been executed as a Deed the day and year first before written

FIRST SCHEDULE

EDUCATION

1. In this Schedule unless the context requires otherwise the following words and expressions shall have the following meanings:

"Early Years and Childcare Contribution" means the Early Years and Childcare Pupil Product multiplied by the cost generator of sixteen thousand five hundred and ninety six pounds (£16,596.00) adjusted by the percentage change in build costs from the Education Index Point prevailing at February 2021 to the Education Index Point prevailing at the date payment is due to be made to the County Council;

"Early Years and Childcare Pupil Product" means the Qualifying Flats and Qualifying Houses multiplied by 0.045;

"Early Years and Childcare Purposes" means the use of the Early Years and Childcare Contribution towards the provision of facilities for the education and/or care of children between the ages of 0 to 5 (both inclusive) including those with special educational needs within the ward of Great Bentley and/or a three mile radius of the Site including the reimbursement of capital funding for such provision made by the County Council in anticipation of the Early Years and Childcare Contribution;

"Education Contribution" means the Early Years and Childcare Contribution the Primary Education Contribution;

"Education Index" means the Department for Business Innovation and Skills Tender Price Index of Public Sector Building Non-housing (PUBSEC Index) or in the event that the PUBSEC Index is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by the County Council;

"Education Index Point" means a point on the most recently published edition of the Education Index at the time of use;

"Flat" means a Residential Dwelling that occupies a single floor and /or does not benefit from private open space for the exclusive use of the residents of the Dwelling and no other persons;

"General Index" means the Consumer Price Index (CPI) or in the event that the CPI is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by the County Council;

"House" means a Residential Dwelling that does not meet the definition of a Flat;

"Primary Education Contribution" means the Primary Pupil Product multiplied by the cost generator of seventeen thousand two hundred and sixty eight pounds (£17,268.00) adjusted by the percentage change in build costs from the education Index Point prevailing at February 2021 to the Education Index Point prevailing at the date payment is due to be made to the County Council;

"Primary Education Purposes" means the use of the Primary Education Contribution towards a project to create facilities for the education and/or care of children between the ages of 4 to 11 (both inclusive) including those with special educational needs within Tendring primary school planning group 3 (as defined within the Essex School Organisation Service's 10 Year Plan "Meeting the demand for school places in Essex 2020-29") including the reimbursement of

capital funding for such provision made by the County Council in anticipation of the Primary Education Contribution;

"Primary Pupil Product" means the sum of the Qualifying Flats multiplied by 0.15 plus the Qualifying Houses multiplied by 0.3;

"Qualifying Flats" means the number of Flats that shall be constructed on the Site that have two or more rooms that may by design be used as bedrooms provided that the number of Qualifying Flats and Qualifying House together shall not exceed nine (9);

"Qualifying Houses" means the number of Houses that shall be constructed on the Site that have two or more rooms that may by design be used as bedrooms provided that the number of Qualifying Flats and Qualifying House together shall not exceed nine (9);

"Qualifying Housing Units" means the Qualifying Flats and the Qualifying Houses provided that the number of Qualifying Housing Units together shall not exceed nine (9);

"Relevant General Indexation" means the amounts that the Owner shall pay with and/or agree in addition to each part of the fee or sum set out under paragraphs 3.2.2 and 3.6 of this Schedule that shall in each case equal a sum calculated by taking the amount being paid and multiplying this amount by the percentage change shown in the General Index between the General Index Point pertaining to April 2020 and the date payment is due to be made to the County Council;

"Secondary Pupil Product" means the sum of the Qualifying Flats multiplied by 0.1 plus the Qualifying Houses multiplied by 0.2;

"School Transport Purposes" means the use of the School Transport Contribution towards the transportation of children generated by the Development to a local school with capacity;

"School Transport Contribution" means the Secondary Pupil Product multiplied by the cost generator of five pounds and thirty pence (£5.30) multiplied by one hundred and ninety (190) (being the average days in an academic year) multiplied by five (5) adjusted by the percentage change in build costs from the Education Index Point prevailing at February 2021 to the Education Index Point prevailing at the date payment is due to be made to the County Council;

"Unit Mix" means the number of Qualifying Flats and the number of Qualifying Houses and the number of Residential Dwellings that by definition shall not be counted as Qualifying Flats or Qualifying Houses.

2. The Owner hereby covenants with the Council and the County Council as follows:
 - 2.1 to serve on the Council and the County Council prior to Commencement of the Development a notice stating the expected date Commencement will take place and the Unit Mix of the Development and in the event that the Unit Mix constructed or to be constructed as the Development should at any time differ from the Unit Mix notified to the County Council then the Owners shall serve on the Council and County Council a further notice stating the revised Unit Mix within twenty (20) Working Days of the revised Unit Mix being decided;
 - 2.2 not to Occupy (or allow, cause or permit the Occupation of) any of the Residential Dwellings unless and until the Education Contribution and the School Transport Contribution have been paid to the County Council;

- 2.3 to pay the Education Contribution and the School Transport Contribution to the County Council prior to Occupation of any of the Residential Dwellings;
- 2.4 The payments made under paragraphs 2.2 and 2.3 above are made strictly on the basis that:
 - 2.4.1 the Education Contribution and the School Transport Contribution when received shall be placed into an interest bearing account and utilised solely for the Primary Education Purposes and the School Transport Purposes respectively;
 - 2.4.2 that upon receipt of a request in writing to do so to be received by the County Council no sooner than the tenth (10th) anniversary of the first Occupation of a Residential Dwelling to return to the party who deposited the Education Contribution and/or the School Transport Contribution any part of the Education Contribution and/or the School Transport Contribution that remains unexpended when such request in writing is received (together with interest accrued at the Seven Day LIBID Rate on the unexpended part) shall be returned to the party that made the payment PROVIDED ALWAYS that where a legally binding contract or obligation has been entered into by the County Council prior to the tenth (10th) anniversary of the first Occupation of a Residential Dwelling the unexpended part of the Education Contribution and/or the School Transport Contribution that relates to that legally binding contract or obligation shall not be repaid until such payment is made and the unexpended part of the Education Contribution and/or the School Transport Contribution to be repaid (if any) shall not include such payment;
 - 2.4.3 that upon receipt of a written request from the Owner prior to the eleventh (11th) anniversary of the first Occupation of a Residential Dwelling the County Council shall provide the Owners with a statement confirming whether the Education Contribution and/or the School Transport Contribution has been spent and if the Education Contribution has been spent in whole or in part outlining how the Education Contribution and/or the School Transport Contribution has in whole or in part been spent;
- 3. The Owner confirms and acknowledges:
 - 3.1 In the event that the Owner fails to serve notice as set out in Paragraph 2.1 of this Schedule then the County Council may calculate the amount of the Education Contribution and/or the School Transport Contribution based on an estimate of the Unit Mix as it sees fit acting reasonably and demand and enforce payment of the Education Contribution and/or the School Transport Contribution at any time after the date that the Education Contribution and/or the School Transport Contribution becomes payable under this Deed;
 - 3.2 In the event that the Unit Mix to be constructed as part of the Development does not match the Unit Mix on which the Education Contribution and/or the School Transport Contribution paid was based the Owner shall pay to the County Council within 30 working days of the change in Unit Mix becoming apparent any amount pertaining to the difference between the Education Contribution and/or the School Transport Contribution paid and the Education Contribution and/or the School Transport Contribution pertaining to the Unit Mix to be constructed as part of the Development and any such amount shall from the date payment is received by the County Council form part of the Education Contribution and/or the School Transport Contribution;
 - 3.2.1 In the event that the parts of the Education Contribution and/or the School Transport Contribution are paid later than the dates they are due then the amount of the Education Contribution and/or the School Transport Contribution (or relevant part thereof) payable by the Owner shall in addition include either an

amount equal to any percentage increase in build costs shown by the Education Index between the Education Index Point prevailing at the date of Commencement of the Development and the Education Index Point prevailing at the date of payment multiplied by the Education Contribution and/or the School Transport Contribution (or relevant part thereof) due or if greater an amount pertaining to interest on the Education Contribution and/or the School Transport Contribution (or relevant part thereof) due calculated at the Seven Day LIBID Rate from the date of Commencement of Development until the date payment of the amount due is received by the County Council;

- 3.2.2 In addition to the requirement of 3.2.1 above in the event that any sum due to be paid by the Owner to the County Council pursuant to this Deed should not be received by the County Council by the date that the sum is due then the Owner hereby covenants to pay to County Council within ten Working Days of receiving a written request all reasonable costs that the County Council has incurred as a result of or in pursuance of such late payment including the sum of fifty pounds sterling (£50) plus Relevant General Indexation for each and every letter sent to the Owner pursuant to the debt;
- 3.3 In the event that the Education Contribution and/or the School Transport Contribution is overpaid by the Owner then the County Council shall be under no obligation to return any such overpaid sum or sums in whole or in part if in good faith the County Council has spent the Education Contribution and/or the School Transport Contribution or has entered into a legally binding contract(s) or obligation(s) to spend the Education Contribution and/or the School Transport Contribution PROVIDED THAT the County Council shall otherwise be under an obligation to return any such overpaid sum or sums in whole or in part if the Owner notifies the County Council of such overpayment within 10 working days of such overpayment having been made to the County Council;
- 3.4 Any dispute in relation to how the Education Contribution and/or the School Transport Contribution has been spent must be raised in writing by the Owner and received by the County Council within two months of receipt by the Owner of the County Council's statement referred to in Paragraph 2.6.3 of this Schedule and shall clearly state the grounds on which the expenditure is disputed;
- 3.5 In the event that no written request is received by the County Council from the Owner pursuant to Paragraph 2.6.2 or no valid dispute is raised by the Owner pursuant to Paragraph 3.4 above the Owner shall accept that the Education Contribution and/or the School Transport Contribution has been spent in full on the Primary Education Purposes or the School Transport Purposes respectively;
- 3.6 The County Council may utilise up to two percent (2%) of the total amount of the Education Contribution and/or the School Transport Contribution received under this Deed to a maximum of two thousand pounds sterling (£2,000) to which the Relevant General Indexation shall be added for the purposes of monitoring and managing the administration of the Education Contribution and/or the School Transport Contribution and for the avoidance of doubt such purposes are agreed by the Owner to form part of the definitions for the use of the Education Contribution and/or the School Transport Contribution.

SECOND SCHEDULE

AFFORDABLE HOUSING

Part One

1. In this Schedule unless the context requires otherwise the following words and expressions shall have the following meanings:

"Affordable Housing"	means housing provided to a Person in Housing Need whose needs are not met by the market with eligibility determined with regard to local incomes and local house prices in accordance with the definition of "Affordable Housing" set out in Annex 2 of the National Planning Policy Framework ("NPPF");
"Affordable Housing Dwellings"	means the Residential Dwellings to be provided as Affordable Housing pursuant to the Affordable Housing Scheme;
"Affordable Housing Scheme"	means the scheme to provide three (3) of the Residential Dwellings to be constructed, transferred (to an Approved Body) and used as Affordable Housing and which scheme shall include: (a) a plan that shows the location and size of the said Affordable Housing; and (b) the tenure split between social rented housing, affordable rented housing and intermediate housing (all as defined in Annex 2 of the NPPF); and (c) the identity of the Approved Body;
"Approved Body"	means a private registered provider as defined in Section 80 of the Housing and Regeneration Act 2008 and which private registered provider is: (a) approved by the Council; and (b) regulated by the Homes England;
"Chargee"	means any mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed by such mortgagee or charge or any administrator (howsoever appointed) or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any Housing Administrator of the whole or any part of the Affordable Housing Dwellings that have been transferred to an Approved Body;
"Homes England"	means the public body set up to fund and regulate the provision of Affordable Housing in England and any successor body;
"Housing Administrator"	has the meaning ascribed to it in the Housing and Planning Act 2016;

"Housing Needs Register"	means the register maintained by the Council or its nominee or an Approved Body for Persons in Housing Need;
"Persons In Housing Need"	means a person or persons registered on the Housing Needs Register or such other person considered by the Council or the Approved Body to be in housing need having regard to their income and local house prices and rents;
"Protected Tenant"	means any tenant who: <ul style="list-style-type: none"> (a) has exercised the right to acquire pursuant to the Housing and Regeneration Act 2008 Act or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Dwelling; (b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Dwelling; (c) has been granted a shared ownership lease in exercise of that person's statutory right in respect of a particular Affordable Housing Dwelling;
"Social Rented Housing"	means housing which is owned by local authorities and/or private registered providers (as defined in Section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime;

The Owner hereby covenants with the Council as follows:

1. Not to Commence the Development unless and until the Affordable Housing Scheme has been submitted to the Council for approval and the Council has approved the said Affordable Housing Scheme in writing PROVIDED THAT the said document shall be deemed to have been approved if no decision thereon has been submitted in writing by the Council to the Owner within 12 weeks of the date on which each said document is submitted to the Council.
2. Not to Occupy (or allow, cause or permit the Occupation of) more than twelve (12) Market Dwellings unless and until the Affordable Housing Dwellings referred to in the Affordable Housing Scheme have been:
 - 2.1 constructed and are available to be Occupied for their intended purpose; and
 - 2.2 transferred to the Approved Body and for the purposes of this Schedule only the expression "transferred" shall mean a transfer of the freehold interest (of any house or block of flats) or leasehold interest (of any flat in a block that also contains one or more Market Dwellings) that comprises the Affordable Housing Dwellings or an agreement for sale or lease agreed with the Approved Body that has been unconditionally released for completion by the Owner Provided Always

that any transfer of the Affordable Housing Dwellings to the Approved Body shall be subject to the provisions contained in Part Two of this Schedule.

3. (Subject always to paragraph 4 of this Schedule) the Affordable Housing Dwellings shall be Occupied for no purpose other than as Affordable Housing.
4. The Owner confirms and acknowledges that without prejudice to paragraph 3 the obligations and restrictions contained in this Schedule shall not bind:
 - 4.1 a Protected Tenant;
 - 4.2 any person or body deriving title through or from a Protected Tenant;
 - 4.3 a Chargee of the Approved Body of the whole of any part of the Affordable Housing Dwellings or any persons or bodies deriving title through such Chargee PROVIDED THAT:
 - 4.3.1 such Chargee shall first give written notice to the Council of its intention to dispose of the Affordable housing Dwellings; and
 - 4.3.2 such Chargee 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 Housing Dwelling to another Approved Body 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
 - 4.3.3 if such disposal has not completed within the three month period, the Chargee shall be entitled to dispose of the Affordable Housing Dwellings free from the Affordable Housing provisions in this Deed which provisions shall determine absolutely

Part Two

- A. The transfer of the Affordable Housing Dwellings to the Council or the Approved Body (as appropriate) shall be with vacant possession.
- B. The transfer deed for the transfer of the Affordable Housing Dwellings to the Council or the Approved Body shall be prepared by the Owner and the Owner shall pay the Council's or the Approved Body's reasonable costs of transferring the Affordable Housing Dwellings up to a total aggregate limit of £1,500 (One Thousand Five Hundred Pounds) on completion of the transfer deed.
- C. The transfer deed shall contain:
 - 1. a grant by the Owner of all rights of access and passage of services and all other rights reasonably necessary for the beneficial use and enjoyment of the Affordable Housing Dwellings;
 - 2. a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the purpose of the Development; and
 - 3. such other covenants and reservations as the Owner may reasonably require including but not limited to the maintenance of the Development once it is completed and the preservation of the appearance thereof.

THIRD SCHEDULE

HEALTHCARE CONTRIBUTION

1. In this Schedule unless the context requires otherwise the following words and expressions shall have the following meaning:

"Healthcare Contribution"	means the sum of five thousand three hundred and four pounds and sixty four pence (£5,304.64) Index Linked;
"Healthcare Contribution Purposes"	means provision of healthcare facilities at The Hollies GP practice;
"NHS England"	means the national commissioning authority for health services in England (or its successor body from time to time);
2. The Owner hereby covenants with the Council not to Occupy or allow or permit or cause to be permitted any Residential Dwellings prior to depositing the Healthcare Contribution with the Council
3. The payment made under paragraph 2 above is made strictly on the basis that:
 - 3.1 upon receipt of the Healthcare Contribution the Council shall provide a written form of receipt for payment of the Healthcare Contribution;
 - 3.2 the Council shall pay the Healthcare Contribution to NHS England upon receipt of a document from NHS England upon receipt of a document from NHS England confirming that they will:
 - 3.2.1 apply the Healthcare Contribution solely for the Healthcare Contribution Purposes;
 - 3.2.2 provide full details of the expenditure of the Healthcare Contribution on demand to the Council or the Owner;
 - 3.2.3 return any unspent part of the Healthcare Contribution together with interest accrued to the Council after the expiry of ten years from the date of receipt by the Council of the Healthcare Contribution
 - 3.3 keep an up to date record of all payments from the Healthcare Contribution transferred to the Council to NHS England;
 - 3.4 that upon receipt of a request in writing to do so to be received by the Council no sooner than the tenth (10th) anniversary of the first Occupation of a Residential Dwelling to return to the party who deposited the Healthcare Contribution any part of the Healthcare Contribution that remains unexpended when such request in writing is received (together with interest accrued at the Seven Day LIBID Rate on the unexpended part) shall be returned to the party that made the payment PROVIDED ALWAYS that where a legally binding contract or obligation has been entered into by NHS England prior to the tenth (10th) anniversary of the first Occupation of a Residential Dwelling the unexpended part of the Healthcare Contribution that relates to that legally binding contract or obligation shall not be repaid until such payment is made and the unexpended part of the Healthcare Contribution to be repaid (if any) shall not include such payment;

- 3.5 In the event that the document in the form required by paragraph 3.1 is not received following expiry of five years from the date of receipt of the healthcare Contribution by the Council then the Council's obligation to pay the Healthcare Contribution to NHS England shall cease absolutely and the Council shall refund to the party who paid the Healthcare Contribution the unexpended contribution within 28 days of receipt of a written request from the Owner to do so;
- 3.6 The Owner acknowledges that the Council shall not be responsible for how the Healthcare Contribution is utilised or in the event that NHS England does not comply with paragraph 3.1.3 above for its return under paragraph 3.6 above once it has transferred the Healthcare Contribution to NHS England

FOURTH SCHEDULE

Recreational Disturbance, Avoidance & Mitigation Contribution (RAMS)

1. To notify the Council before Commencement of the Development to allow the calculation of the **RAMS** contribution (being £125.58 x (multiplied) by nine (9) being the number of additional Residential Dwellings) Index Linked as the base index and the latest published Index to calculate the percentage change.
2. Not to Commence the Development unless and until the said **RAMS** contribution has been paid.
3. Notifications and payments shall be marked for the attention of the Section.106 Officer, Tendring District Council, Council Offices, Weeley, Clacton-on-Sea, Essex, CO16 9AJ or via email at obligations@tendringdc.gov.uk

FIFTH SCHEDULE

Relevant Designated European Wildlife Site

Special Areas of Conservation and Ramsar site(s) at Hamford Water SAC designated primarily to protect waders & wildfowl.

Executed as a Deed by)
HILLS RESIDENTIAL CONSTRUCTION LIMITED)
In the presence of:

Director's signature:

Witness signature:

Witness name:

Witness address

Witness Occupation

Signed as a deed by
SALLY WHITNEY as
attorney for
CLOSE BROTHERS
LIMITED
under a power of attorney
dated 18 December 2020
in the presence of:

Witness Signature:

Witness Name:

Address:

Occupation: