

Dated

16<sup>th</sup> March

2026

**UNILATERAL UNDERTAKING**

**GIVEN BY**

**SANDERS SENIOR LIVING LIMITED**

**TO**

**TENDERING DISTRICT COUNCIL**

**- and -**

**ESSEX COUNTY COUNCIL**

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**DEED OF UNILATERAL UNDERTAKING PURSUANT TO  
SECTION 106 OF THE TOWN AND COUNTRY PLANNING  
ACT 1990 (AS AMENDED)**

**RELATING TO LAND KNOWN AS ELM TREE  
RESIDENTIAL HOME, ELM TREE CLOSE, FRINTON ON  
SEA CO13 0AX**

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**(PLANNING APPLICATION: 25/01444/FUL)**

THIS DEED by way of Undertaking is given this day of 16<sup>th</sup> day of March 2026

BY:

- (1) **SANDERS SENIOR LIVING LIMITED** incorporated in England Wales with company number 10974066 whose registered office address is at Runwood House, 107 London Road, Hadleigh, Essex, SS7 2QL (the "Owner")

TO:

- (2) **TENDRING DISTRICT COUNCIL** of Station Road, Clacton-on-Sea, Essex CO15 1SE (the "Council"); and
- (3) **ESSEX COUNTY COUNCIL** of County Hall, Market Road, Chelmsford, CM1 1QH (the "County Council").

#### RECITALS

- (A) The Council and the County Council are the Local Planning Authorities for the purposes of this Deed for the area within which the Land is situated and by whom the obligations contained in this Deed are enforceable.
- (B) The Owner is the freehold owner of the Land under Title Number EX111347.
- (C) The Planning Application has been submitted to the Council to carry out the Development.
- (D) The Council has resolved to grant planning permission pursuant to the Planning Application subject to the Owner entering in this Deed.

NOW THIS DEED WITNESSES as follows:

#### 1 INTERPRETATION

- 1.1 In this Deed the following words and expressions shall unless the context otherwise requires have the following meaning:

**1990 Act** means the Town and Country Planning Act 1990 (as amended);

**Commencement** means in relation to the Development, the date upon which a 'material operation' as defined in Section 56(4) of the 1990 Act shall be commenced provided that it shall not include operations in connection with service diversions, surveys, soil investigation, site investigation, investigations for the purposes of assessing ground conditions, the erection of hoardings including the provisions of construction of compounds, the temporary display of site notices or advertisement and fences or haul road, any temporary works or works to the highway and other analogous preparatory works, and the erection of a means of enclosure for the purpose of site security and the word "Commence" and "Commenced" shall be construed accordingly;

**County Council Monitoring Fee** shall mean a fee of £700 (seven hundred pounds) per obligation due to the County Council under this Deed and for the avoidance of doubt this is a total of £1,400.00 (one thousand four hundred Pounds) (no VAT) towards the County Council's reasonable and proper administration costs of monitoring the performance of the planning obligations that the Owner is required to observe and perform pursuant to the terms of this Deed.

**Development** means the erection of a care home (within Class C2) with parking, access, landscaping and other associated works pursuant to the Planning Application;

**Index** means in respect of the NHS Contribution 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 either shall replace such index, or as the Council reasonably requires;

**Index Linked** means in respect of the NHS Contribution increased by applying the Retail Price All Items Index Jan 1987 = 100 published by the Office for National Statistics using the formula  $A = B \times C$  divided by D – where:

A = the amount actually payable;

B = the amount specified as payable;

C = the RPI All Items Index two months before the date of payment; and

D = the RPI All Items Index two months before the date of this Deed;

**Land** means the area of the land against which this Deed may be enforced as shown edged red on the Plan;

**NHS Contribution** means the sum of £20,390.00 (twenty thousand three hundred and ninety pounds) Index Linked to be paid towards the NHS Contribution Purpose;

**NHS Contribution Purpose** means the use of the NHS Contribution to be directed by the Council to NHS England for primary health care capacity improvements by way of extension refurbishment reconfiguration or relocation at GP Practice(s) within 2km catchment (or closest to) the Development including Caradoc Surgery, Walton Medical Centre and Thorpe Surgery (and branch Frinton Road Surgery);

**NHS England** means the national commissioning authority for health services in England (or its successor body from time to time)

**Notice of Commencement** means written notice of the actual date of Commencement of the Development;

**Notice of Expected Commencement** means written notice of the expected date of Commencement of the Development;

**Occupation** means the beneficial occupation of any part of the Development but for the avoidance of doubt shall not include occupation for the purposes of works carried out prior to or during construction fitting out commissioning advertising marketing security or management of land for parking and "Occupy" "Occupier" and "Occupied";

**Plan** means the plan appended at Appendix 1 to this Deed and identifying the Land;

**Planning Application** means the application for planning permission for the Development submitted on behalf of the Owner to the Council on the Land which is allocated with reference 25/01444/FUL;

**Planning Permission** means the permission to be granted pursuant to the Planning Application for the Development;

**Working Day** means any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England; and

- 1.2 Clause headings shall not affect the interpretation of this Deed.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

- 1.6 A reference to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.7 A reference to the Council and the County Council shall include the successors to its respective statutory functions.
- 1.8 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 References to clauses are to the clauses of this Deed.
- 1.11 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

## **2 STATUTORY PROVISIONS**

- 2.1 This Deed constitutes a planning obligation and is made pursuant to: -

- 2.1.1 section 106 of the 1990 Act;
- 2.1.2 section 111 of the Local Government Act 1972;
- 2.1.3 section 1 of the Localism Act 2011;

and each case any statutory amendment, variation, substitution or re-enactment thereof together with all other enabling powers.

- 2.2 The obligations imposed upon the Owner under this Deed create planning obligations pursuant to section 106 of the 1990 Act and are enforceable by the Council as local planning authority and the County Council and the obligations herein on the part of the Owner are entered into with the intent that they will bind the Land and the same shall be enforceable without limit of time not only against the Owner but also against its successors in title
- 2.3 To the extent that any of the obligations contained in this Deed are not planning obligations within the meaning of the 1990 Act, they are entered into pursuant to the powers identified in Clauses 2.1.2 and 2.1.3.

## **3 COVENANTS ON BEHALF OF THE OWNER**

- 3.1 The Owner covenants with the Council and the County Council to comply with the obligations in this Deed and Schedule 1 and Schedule 2 of this Deed.
- 3.2 The Owner covenants to pay prior to or upon completion of this Deed to the Council and County Council its reasonable and proper costs in connection with the preparation, negotiation and completion of this Deed.
- 3.3 The Owner covenants to pay to the County Council the County Council Monitoring Fee on or before the Commencement.

## **4 NOTICES**

- 4.1 The address for any notice or other written communication is as specified above in the case of each party hereto or (at the option of the recipient) such address as may be specified for service from time to time provided that the same is within the United Kingdom or (at the option of the party giving notice or other communication) the last-known place of abode or business in the United Kingdom of the recipient.

- 4.2 Any notice or other written communication to be served or given by one party upon or to any other under the terms of this Deed shall be deemed to have been validly served or given if received by electronic mail AND delivered by recorded delivery post to the party upon whom it is to be served or to whom it is to be given or as otherwise notified for the purpose by notice in writing provided that the notice or other written communication is sent to the email address stated and marked as follows for each recipient:
- 4.2.1 for the Owner at the address given at the front of this Deed;
  - 4.2.2 for the County Council to [development.enquiry@essex.gov.uk](mailto:development.enquiry@essex.gov.uk) and marked for the attention of the s106 Officer Planning Service Place and Public Health County Hall Chelmsford CM1 1QH; and
  - 4.2.3 for the Council to [obligations@tendringdc.gov.uk](mailto:obligations@tendringdc.gov.uk) and marked for the attention of the S106 Officer Tendring District Council, Town Hall, Station Road, Clacton-on-Sea, Essex.
- 4.3 Unless the time of actual receipt is proved a notice demand or communication sent by the following means is to be treated as having been served
- 4.3.1 In the case of electronic mail in the absence of evidence of a delay at the time the message was sent; and
  - 4.3.2 in the case of recorded delivery at the time delivery was signed for.
- 4.4 If a notice demand or any other communication is served after 4.00 pm on a Working Day or on a day that is not a Working Day it is to be treated as having been served on the next Working Day.
- 4.5 The Owner shall serve on the Council and the County Council
- 4.5.1 the Notice of Expected Commencement not less than three (3) months prior to the Commencement of the Development stating the expected Commencement Date;
  - 4.5.2 the Notice of Commencement not more than ten (10) days after Commencement of the Development; and
  - 4.5.3 written notice of the first Occupation of the Development one (1) month prior to the first Occupation occurring.

## **5 CONDITIONALITY**

- 5.1 Save in respect of those Clauses and Paragraphs which will become operative on the date of this Deed and in respect of obligations expressly in this Deed requiring compliance prior to Commencement and which will become operative on the issue of the Planning Permission this Deed will come into effect upon the grant of the Planning Permission and Commencement of the Development.

## **6 RELEASE**

- 6.1 No person shall be liable for any breach of an obligation, restriction or covenant contained in this Deed after parting with all of its interest in the Land or part of the Land to which the breach relates, except in respect of any breach subsisting prior to parting with such interest.
- 6.2 The obligations contained in this Deed shall not be binding upon or enforceable against:
- 6.2.1 any statutory undertaker or other person who acquires any part of the Land or interest therein for the purposes of the supply of electricity gas water drainage telecommunication services or public transport services; and

- 6.2.2 any chargee from time to time of the whole or part of the Land unless and until it takes possession of the Land or that part of the Land over which it has a mortgage or charge, in which case it too will (in respect of the Land or the relevant part of the Land in which it has a mortgage or charge) be bound by the obligations, restrictions, covenants, requirements and undertakings as if it were a party deriving title from the Owner.

## **7 DETERMINATION OF DEED**

- 7.1 This Deed shall be determined and have no further effect if the Planning Permission:

- 7.1.1 expires before the Commencement of Development;
- 7.1.2 is modified by any statutory procedure with the consent of the Owner; or
- 7.1.3 is quashed, revoked or otherwise withdrawn.

## **8 LOCAL LAND CHARGE**

This Deed is a local land charge and shall be registered as such by the Council.

## **9 FUTURE PLANNING PERMISSION**

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

## **10 THIRD PARTY RIGHTS**

A person who is not a party to this Deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

## **11 GOVERNING LAW**

This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

IN WITNESS whereof these presents have been duly executed as a Deed by the Owner hereto the day and year first before written.

## **SCHEDULE 1 – COVENANTS TO THE COUNCIL**

### **NHS Contribution**

1. The Owner hereby covenants with the Council:
  - 1.1 to notify the Council prior to the Commencement of the Development to allow the calculation of the NHS Contribution (Indexed Linked); and
  - 1.2 to pay the NHS Contribution as calculated pursuant to paragraph 1.1 of this Schedule 1 to the Council prior to the Commencement of the Development and not to allow cause or permit the Commencement of the Development unless and until the NHS Contribution has been paid to the Council in accordance with the payments details set out in paragraph 2 of this Schedule 1.
2. Payments shall be marked for the attention of the Section 106 Officer, Tendring District Council, Town Hall, Station Road, Clacton-on-Sea, Essex, CO15 1SE or via email at [obligations@tendringdc.gov.uk](mailto:obligations@tendringdc.gov.uk).

## SCHEDULE 2- PLANNING OBLIGATIONS TO THE COUNTY COUNCIL

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

**Bus and Kerb Contribution** means the sum of £10,000 (ten thousand pounds) payable to the County Council towards the Bus and Kerb Contribution Purposes;

**Bus and Kerb Contribution Purposes** means the use of the Bus and Kerb Contribution to be used by the County Council towards the upgrade of two bus stops on Rochford Way to include but not limited to Kassel Kerbs and bus stop timetables;

**Highway Contribution** means the Waiting Restriction Scheme Contribution and Bus and Kerb Contribution to which sum the Relevant Highway Indexation shall be added;

**Highway Index** means the Building Cost Information Service All-in Tender Price Index ("BCIS Index") or in the event the BCIS Index is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by the County Council;

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

**Relevant Highway Indexation** means the amount that the Owner shall pay with and in addition to the Highway Contribution paid that shall equal a sum calculated by taking the amount of the Highway Contribution being paid and multiplying this amount by the percentage change shown in the Highway Index between the Highway Index Point pertaining to April 2022 and the Highway Index Point pertaining to the date the payment is made to the County Council;

**Sterling Overnight Index Average (SONIA) Rate** means an assessment of the rate of interest the County Council can expect to earn on investments through the British sterling market, the rate used being the average interest rate at which banks are willing to borrow sterling overnight from other financial institutions and other institutional investors or such other rate as the County Council considers appropriate and SONIA Rate shall be construed accordingly;

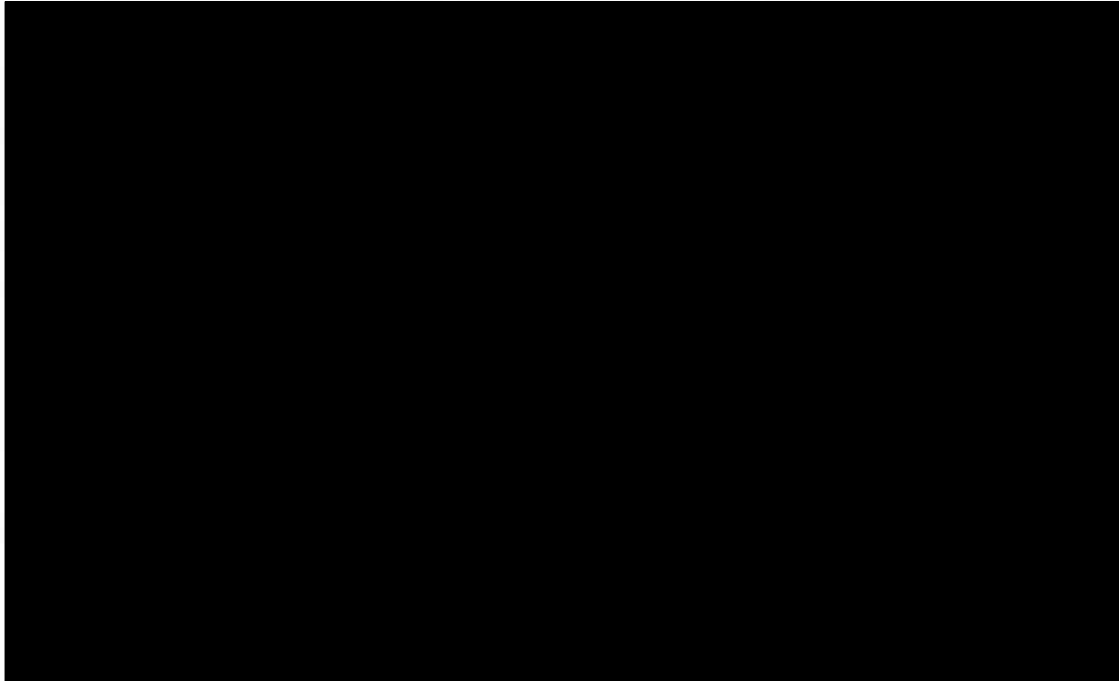
**Waiting Restriction Scheme Contribution** means the sum of £3,500 (three thousand five hundred pounds) payable to the County Council towards the Waiting Restriction Scheme Contribution Purposes; and

**Waiting Restriction Scheme Contribution Purposes** means the use of the Waiting Restriction Scheme Contribution towards the introduction of a future waiting restriction scheme such as a red route scheme in the vicinity of the junction into the Land and on Elm Tree Avenue in the event that such scheme is put forward by the North Essex Parking Partnership or considered a requirement should inconsiderate parking arise.

1. The Owner covenants with the County Council:
  - 1.1 to pay the Highway Contribution to the County Council prior to Commencement of the Development and not to cause permit or allow Commencement of the Development unless and until the Highway Contribution has been paid to the County Council in full (100%);
2. in the event that the Highway Contribution is paid later than the dates set out in paragraph 1.1 above of this Schedule 2 then the amount of the Highway Contribution or part thereof payable by the Owner shall in addition include either an amount equal to any percentage increase in build costs shown by the Highway Index between the Highway Index Point prevailing at the date the payment is due and the Highway Index Point prevailing at the date of actual payment to the County Council multiplied by the Highway Contribution due or if greater an amount pertaining to interest on the Highway Contribution (or the part thereof) due

calculated at the SONIA Rate from the date that the payment is due until the date payment of the Highway Contribution is received by the County Council; and

3. in addition to the requirement of paragraph 2 above in the event that any sum due to be paid by the Owner to the County Council pursuant to this Schedule 2 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 (10) 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) for each and every letter sent to the Owner pursuant to the debt (if applicable).
4. The County Council may utilise up to two percent (2%) of the total amount of the Highway Contribution due under this Deed to a maximum of Two Thousand Six Hundred and Forty-Five Pounds (£2,645) plus the Relevant Highway Indexation for the purposes of scheme validation, programming, commissioning of works, scheme monitoring including site visits and meetings, budget control, governance and for the avoidance of doubt such purposes are agreed by the Owner to form part of the definition of use of the Highway Contribution Purpose.
5. In the event that the Highway Contribution is overpaid by the Owner then the County Council shall be under no obligation to return any such overpaid sum in whole or in part if in good faith the County Council have spent the Highway Contribution or have entered into a legally binding contract or obligation to spend the Highway Contribution.



## APPENDIX 1

### Plan

**NOTES**

Do not scale the drawing.

All dimensions are as indicated unless stated otherwise.

This drawing is to be read in conjunction with all other relevant drawings and specifications.

The copyright of this drawing is vested in Home Team Associates Ltd and must not be copied or reproduced without the endorsement of a Director.



Thick Red line denotes Care Home Site Boundary

| Rev | Date     | Description     | Drawn By | Checked By |
|-----|----------|-----------------|----------|------------|
| 01  | 28.11.21 | For Information | MR       | RP         |

And a Directors Notice, Richmond, North York Street, CL, HS HQ  
 t: 01748 825675  
 e: enquiries@hnteam.co.uk  
 or www.hnteam.co.uk

**Project**  
 Proposed 64 Bedroom Care Home  
 Elm Tree Close  
 Frinton-on-Sea  
 CO13 0AX  
 Essex  
 Client  
 Frontier

**Drawing Title**  
 Location Plan

**FOR INFORMATION**

3445      1:1250      00

| Project                             | Drawn By | Scale | Date | Rev | Notes |
|-------------------------------------|----------|-------|------|-----|-------|
| 3445 - HA - ZZ - XX - DR - A - 0900 |          |       |      |     |       |

0100 Location Plan  
 1:1250



