

Dated: 19th December 2019

BABERGH DISTRICT COUNCIL (1)

-and-

ANDERSON DESIGN & BUILD LTD (2)

DEED OF VARIATION

**PURSUANT TO SECTIONS 106 AND 106A OF THE TOWN AND COUNTRY
PLANNING ACT 1990**

**RELATING TO
LAND NORTH OF WALDINGFIELD ROAD, SUDBURY
DC/19/04650**

39967/1/DOV - engrossment - 11.12.19 4133-0835-8433 v.1.docx

Minerva House
5 Montague Close
London SE1 9BB
DX: 156810 London Bridge 6

T 020 7593 5000
F 020 7593 5099

www.wslaw.co.uk

**Winckworth
Sherwood**

Solicitors and
Parliamentary Agents

Schedule 2

Revised draft nominations agreement

Draft Nominations Agreement for Affordable Housing

THIS DEED OF NOMINATION RIGHTS is made the XX day of (Month) 20XX

BETWEEN:

XX REGISTERED PROVIDER whose registered address is at XXXXXX ('the Registered Provider') and

BABERGH DISTRICT COUNCIL of Endeavour House 8 Russell Road Ipswich IP1 2BX ('the District Council')

1. Definitions

In this Deed:

1.1 'Affordable Housing' means subsidised housing that will be available to persons who cannot afford to rent or buy housing generally available on the open market

1.2 'Affordable Housing Units' means the forty-five (45) Dwellings all of which shall be Affordable Housing to be provided on the Property of which thirty-two (32) dwellings shall be Rental Dwellings to be let at an Affordable Rent and shall be occupied by persons allocated in accordance with a Choice Based Lettings Scheme to which the District Council is a party or otherwise nominated by the District Council pursuant to this deed of nomination rights as varied from time to time and Affordable Housing Units shall be construed accordingly, and thirteen (13) dwellings shall be Shared Ownership dwellings to be sold in accordance with the Government's Help to Buy scheme as administered by the Homebuy Agency for Suffolk

1.3 'Affordable Rent' means housing made available by a Registered Provider as low-cost rent accommodation (as defined by the Housing and Regeneration Act 2008 Section 69) with a rent charged at a level up to 80% of the equivalent market rent inclusive of any service charges applicable

1.4 'Chargee' '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 (however so appointed) including a housing administrator'

1.5 'Chargee's Duties' means the tasks and duties set out in Clause 10.4 of this deed.

1.6 'Gateway to Homechoice' means the Greater Haven Gateway sub-regional Choice Based Lettings system

1.7 "the Service Level Agreement" means the Gateway to Homechoice service level agreement or such other service level agreement for the time being in force made between the Registered Provider and Others (1) and the District Council and Others (2)

1.8 'Initial Let' means the first tenancy of such newly constructed and previously unoccupied Affordable Housing Unit

1.9 'Local Connection Criteria' for forty (40) of the affordable dwellings means an individual who immediately before taking up occupation of an Affordable Housing Unit

1.9.1 had his only or principal home in the District of Babergh for a continuous period of not less than 2 years and in the event that there are no or insufficient individuals qualifying under this sub-paragraph then the choice of person shall default to (but with no preference in ranking order) to those individuals fulfilling the criteria set out in the following sub-paragraphs 1.9.2 to 1.9.4 inclusive

1.9.2 has or a member of whose household has a parent adult child brother or sister whose only or principal home is and has been for a continuous period of not less than 2 years in the District of Babergh and wishes to be near that relative or

1.9.3 is employed in the District of Babergh on the date of the consideration of the individual's entitlement for an Affordable Housing Unit and has been continuously so employed for 2 years

1.9.4 who during the period commencing from the date on which an Affordable Housing Unit to which such individual is eligible pursuant to this sub-paragraph becomes available (for the purposes of this sub-paragraph called the "Availability Date") can provide satisfactory written evidence to the District Council of his or her former residency in the District of Babergh for either (i) six months out of the preceding twelve months or (ii) three years out of the preceding five years and in either case such period of former residency shall end with the Availability Date

1.10 "Local Needs Connection Criteria" for the five (5) affordable dwellings to be prioritised to meet local housing need means an individual who immediately before taking up occupation of an Affordable Housing Unit is a person who is in need of Affordable Housing and meets one of the following criteria:

- (i) has lived in the Parish of Chilton for a continuous period of not less than 2 years and in the event that there are no or insufficient individuals qualifying under this sub-paragraph then the choice of person shall default to (but with no preference

in ranking order) to those individuals fulfilling one of the criteria set out in the following sub-paragraphs;

- (ii) has or a member of whose household has Immediate Family whose only or principal home is and has been for a continuous period of not less than 2 years in the Parish of Chilton and wishes to be near that relative or
- (iii) is employed in the Parish of Chilton on the date of the consideration of the individual's entitlement for a Local Needs Affordable Housing Unit and has been continuously so employed for 2 years or
- (iv) who during the period commencing from the date on which a Local Needs Affordable Housing Unit to which such individual is eligible pursuant to this sub-paragraph becomes available (for the purposes of this sub-paragraph called the "**Availability Date**") can provide satisfactory written evidence to the Council of his or her former residency in the Parish of Chilton for three years out of the preceding five years and such period of former residency shall end with the Availability Date

If no person qualifies pursuant to (i) – (iv) above, then a person who is in need of Affordable Housing and meets one of the following criteria:

- (v) has lived in the Adjoining Parishes of Acton, Great Waldingfield, Newton, Great Cornard, Long Melford, Sudbury South East, Sudbury North East, and Sudbury North for a continuous period of not less than 2 years and in the event that there are no or insufficient individuals qualifying under this sub-paragraph then the choice of person shall default to (but with no preference in ranking order) to those individuals fulfilling the criteria set out in the following sub-paragraphs (vi) to (viii)
- (vi) has or a member of whose household has Immediate Family whose only or principal home is and has been for a continuous period of not less than 2 years in the Adjoining Parishes of Acton, Great Waldingfield, Newton, Great Cornard, Long Melford, Sudbury South East, Sudbury North East, and Sudbury North and wishes to be near that relative or
- (vii) is employed in the Adjoining Parishes of Acton, Great Waldingfield, Newton, Great Cornard, Long Melford, Sudbury South East, Sudbury North East, and Sudbury North on the date of the consideration of the individual's entitlement for a Local Needs Affordable Housing Unit and has been continuously so employed for 2 years or
- (viii) who during the period commencing from the date on which a Local Needs Affordable Housing Unit to which such individual is eligible pursuant to this sub-paragraph becomes available (for the purposes of this sub-paragraph called the "**Availability Date**") can provide satisfactory written evidence to the Council of his or her former residency in one or more of the Adjoining Parishes three years out of the preceding five years and such period of former residency shall end with the Availability Date

If there are no qualifying persons pursuant (v) to (viii) above, then a person who is in need of Affordable Housing and meets one of the following criteria:

- (ix) has lived in the district of Babergh for a continuous period of not less than 2 years and in the event that there are no or insufficient individuals qualifying under this sub-paragraph then the choice of person shall default to (but with no preference in ranking order) to those individuals fulfilling one of the criteria set out in the following sub-paragraphs (x) to (xii)
- (x) has or a member of whose household has Immediate Family whose only or principal home is and has been for a continuous period of not less than 2 years in the district of Babergh and wishes to be near that relative or
- (xi) is employed in the district of Babergh on the date of the consideration of the individual's entitlement for a Local Needs Affordable Housing Unit and has been continuously so employed for 2 years

who during the period commencing from the date on which a Local Needs Affordable Housing Unit to which such individual is eligible pursuant to this sub-paragraph becomes available (for the purposes of this sub-paragraph called the "**Availability Date**") can provide satisfactory written evidence to the Council of his or her former residency in the district of Babergh three years out of the preceding five years and such period of former residency shall end with the Availability Date

- 1.11 'Nomination List' means the Gateway to Homechoice Short List produced in accordance with the Gateway to Homechoice SLA
- 1.12 'Nominee' means a person named on the Gateway to Homechoice Short List who satisfies the Local Connection Criteria or Local Needs Connection Criteria and is verified by the District Council as best meeting the criteria for the category of Affordable Housing Unit in respect of which the Registered Provider is to select a person from the Nomination List and offer a Tenancy Agreement
- 1.13 'Practical Completion' means issue of a certificate of practical completion by the Registered Provider's surveyor or in the event that the Affordable Housing Units are constructed by a party other than the Registered Provider the issue of a certificate of practical completion by that other party's surveyor
- 1.14 'Property' means the land to the north of Waldingfield Road, Sudbury shown edged red on the plan annexed
- 1.15 'Protected Tenant' means any Nominee who has exercised the right to acquire pursuant to 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 particular Affordable Housing Unit

- 1.16 'Registered Provider' means a registered provider of social housing as defined in section 80(2) of the Housing and Regeneration Act 2008 and listed in the register kept by Homes England under Chapter III of that Act
- 1.17 'Shared Ownership' means Dwellings to be let on a Shared Ownership Lease to a household for which the household income does not exceed Eighty thousand pounds (£80,000) per annum or such other household income for the time in force in accordance with the terms as set out in HE's capital funding guide
- 1.18 'Shared Ownership Lease' means a lease or sub-lease of Shared Ownership Units granted at a premium whereby not less than twenty-five percent (25%) and up to 70% (seventy percent) on first purchase of the equitable interest in the Shared Ownership Dwellings is paid by the tenant upon completion of such lease and/or raised by mortgage or charge from a bank or building society and which lease shall include arrangements enabling the tenant to acquire up to 100% (one hundred percent) of the legal and equitable interest in the Shared Ownership Dwelling at some future date or dates
- 1.19 'Tenancy Agreement' means an assured tenancy agreement in a form prepared by the Registered Provider and containing terms which accord with the form of tenancy agreement being used by the Registered Provider from time to time for its general lettings
- 1.20 'Vacancy Notice' means a written notice (in a form to be agreed between the Registered Provider and given by the Registered Provider to the District Council within five (5) weeks from the date of this Deed) the function of such notice being the notification to the District Council by the Registered Provider of the expected date on which the construction and fitting out of the Affordable Housing Units will be complete
- 1.21 'Void' means an Affordable Housing Unit which is vacant otherwise than as a result of the tenant having:
- 1.21.1 moved to other accommodation either by transfer or decant provided by the Registered Provider
- 1.21.2 moved to other accommodation under a reciprocal arrangement provided by another Registered Provider
- 1.22 'Void Notice' means a written notice given by the Registered Provider to the District Council (in a form to be agreed between the Registered Provider and the District Council within five (5) weeks from the date of this Deed) the function of such a notice being the notification to the District Council of a Void

2 Enabling Provisions

THE COMMON SEAL OF)

BABERGH DISTRICT COUNCIL)

was affixed in the presence of:)

Authorised Officer

THE COMMON SEAL OF)

A REGISTERED PROVIDER)

was affixed in the presence of:)

Authorised Officer

SIGNED as a DEED by the said)

)

in the presence of:)

Witness

Address

Occupation

SIGNED as a DEED by the said)

)

in the presence of:)

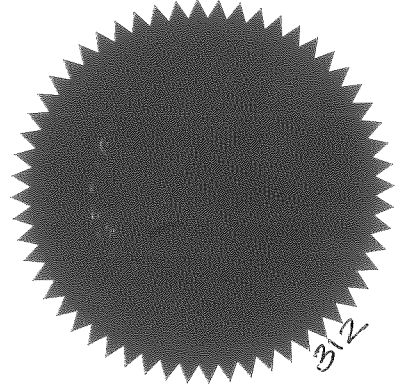
Witness

Address

Occupation"

IN WITNESS WHEREOF this Deed has been executed and delivered as a Deed by the parties hereto on the date which appears at the head of this document

The Common Seal of the)
BABERGH DISTRICT COUNCIL)
was hereunto affixed in the)
presence of: -)



.....
[Handwritten signature]

Executed as a Deed by **ANDERSON DESIGN & BUILD LTD** acting by

.....
[Handwritten signature]
(Director)

And

.....
[Handwritten signature]
(Director/ Secretary)