

**THIS DEED OF NOMINATION RIGHTS** is made the 29<sup>th</sup> October 2018

**BETWEEN:**

- (1) **THE HAVEBURY HOUSING PARTNERSHIP** whose registered address is at Havebury House Western Way Bury St Edmunds Suffolk IP33 3SP ('the RP'); and
- (2) **MID SUFFOLK DISTRICT COUNCIL** of Endeavour House, 8 Russell Road Ipswich Suffolk IP1 2BX ('the 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 twenty-five Dwellings all of which shall be Affordable Housing to be provided on the Property and which dwellings shall be occupied by persons allocated in accordance with a Choice Based Lettings Scheme to which the Council is a party or otherwise nominated by the Council pursuant to this deed of nomination rights as varied from time to time and Affordable Housing Unit shall be construed accordingly
- 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 open market rent inclusive of any service charges applicable
- 1.4 'Gateway to Homechoice' means the Greater Haven Gateway sub-regional Choice Based Lettings system
- 1.5 "the Gateway to Homechoice SLA" means the Service Level Agreement for the time being in force made between the RP and Others (1) and the Council and Others (2)

- 1.6 'Initial Let' means the first tenancy of such newly constructed and previously unoccupied Affordable Housing Unit**
- 1.7 'Local Connection' 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 Mid Suffolk 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 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 Mid Suffolk and wishes to be near that relative or**
- 1.9.3 is employed in the district of Mid Suffolk 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 Council of his or her former residency in the district of Mid Suffolk 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 'Nomination List' means the Gateway to Homechoice Short List produced in accordance with the Gateway to Homechoice SLA**
- 1.11 'Nominee' means a person named on the Gateway to Homechoice Short List who satisfies the Local Connection and is verified by the Council as best meeting the**

criteria for the category of Affordable Housing Unit in respect of which the RP is to select a person from the Nomination List and offer a Tenancy Agreement

- 1.12 'Practical Completion' means issue of a certificate of practical completion by the RP's surveyor or in the event that the Affordable Housing Units are constructed by a party other than the RP the issue of a certificate of practical completion by that other party's surveyor
- 1.13 'Property' means the land at Jokers Nightclub, Ipswich Street Stowmarket Suffolk shown edged red on the plan annexed
- 1.14 'Protected Tenant' means any Nominee who has exercised the right to acquire pursuant to the Housing and Regeneration Act 2008 or the right to buy or the preserved right to buy pursuant to the Housing Act 1985 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit
- 1.15 '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 Regulator of Social Housing under Chapter III of that Act
- 1.16 'Tenancy Agreement' means an assured or an assured shorthold tenancy agreement (or any form of residential tenancy prescribed by statute in substitution for or in addition to those) in a form prepared by the RP and containing terms which accord with the form of tenancy agreement being used by the RP from time to time for its general lettings
- 1.17 'Vacancy Notice' means a written notice (in a form to be agreed between the Council and the RP and given by the RP to the Council within five (5) weeks from the date of this Deed) the function of such notice being the notification to the Council by the RP that the construction and fitting out of the Affordable Housing Units is complete
- 1.18 'Void' means an Affordable Housing Unit which is vacant otherwise than as a result of the tenant having:

1.18.1 moved to other accommodation either by transfer or decant provided by the RP

1.18.2 moved to other accommodation under a reciprocal arrangement provided by another Registered Provider

1.19 'Void Notice' means a written notice given by the RP to the Council (in a form to be agreed between the RP and the Council within five (5) weeks from the date of this Deed) the function of such a notice being the notification to the Council of a Void

## **2 Enabling Provisions**

This Deed is made pursuant to the Local Government Act 1972 Section 111 and all other enabling powers

## **3 Procedure**

The parties agree that the Gateway to Homechoice Service Level Agreement procedure to which they are signatories shall apply to the nomination of persons in respect of the Affordable Housing Units

### **3.1 Initial lets**

The Association hereby grants the Council nomination rights for 100% of Initial Lets and thereafter 75% of voids. In relation to the Initial Lets the following provisions shall apply

3.1.1 The RP shall give the Council not less than four (4) months' written notice of the date when all the Affordable Housing Units will be ready for occupation

3.1.2 The RP shall serve a Vacancy Notice upon the Council in respect of an Affordable Housing Unit not earlier than four (4) months prior to an Affordable Housing Unit becoming available for occupation

3.1.3 Before making an offer to a Nominee from the Nomination List the RP will obtain written verification from the Council that such Nominee is the nominee who best meets the criteria for the category of Affordable Housing Unit that is ready for occupation

### **3.2 Voids**

3.2.1 Should any Affordable Housing Unit become a Void after the Initial Let or the RP has reasonable cause to believe it will become a Void then and in each case the Gateway to Homechoice SLA procedure shall apply

3.2.2 Before making an offer to a Nominee from the Nomination List in respect of a Void the RP shall obtain written verification from the Council that such Nominee best meets the criteria for the category of Affordable Housing Unit that is Void

## **4. Supplemental provisions relating to allocating Initial Lets and Voids**

4.1 Where there are two or more applicants applying to occupy one of the Affordable Housing Units all of the applicants must meet the Local Connection criteria set out in clause 1.9 of this Deed and subject to clause 4.2 of this Deed preference must be given to the applicant/s who have the highest housing need according to Mid Suffolk District Council's current allocations policy

4.2 If any of the Affordable Housing Units are designed or adapted for people with disabilities or in need of level access then any such dwelling may be first offered to a person or persons with disabilities or level access needs who require such accommodation even where such person(s) have a lesser Local Connection under clause 1.9 of this Deed than someone who does not have disabilities or level access need

## **5. RP covenants**

The RP covenants with the Council to the intent that the Local Government (Miscellaneous Provisions) Act 1982 applies

- 5.1 To ensure the Affordable Housing Units comprised within the Property are used as Affordable Housing Units
- 5.2 To ensure that the Affordable Housing Units are let on the basis of a Tenancy Agreement at an Affordable Rent and they are all retained and managed by a Registered Provider in accordance with the objectives of such Registered Provider
- 5.3 To construct the Affordable Housing Units in accordance with the Level 1 of the Housing Standards Review Technical Guidance March 2015.

**6. Provision of information and alteration of lists**

- 6.1 On 1 January, 1 April, 1 July and 1 October in each year the RP shall provide the Council with details of the letting activities of the Affordable Housing Units in a format to be agreed between the RP and the Council
- 6.2 The Council and the RP agree that the nomination rights contained in this Deed may be varied from time to time by agreement in writing by the parties

**7. Notices**

Any notice required to be served hereunder shall be sufficiently served on the parties at the address indicated above or such other address notified by one party to the other and any notice shall be deemed to have been served two (2) working days after posting or in the case of electronic mailing the day such notice was transmitted by the party serving the notice

**8 Transfer to other Registered Provider**

The RP shall use reasonable endeavours to ensure that any Registered Provider to which the Property and Affordable Housing Units erected thereon are transferred otherwise than by direction of the Regulator of Social Housing under its statutory

powers shall enter into a similar Deed mutatis mutandis with the Council and Gateway to Homechoice simultaneously on completing the transfer of the Property

## **9 Disputes**

Where any matters fail to be agreed between the parties or any dispute or difference occurs the question shall be referred on the application of either party for the determination of a single expert to be agreed between the parties or in default of agreement to be nominated by or on behalf of the President for the time being of the Chartered Institute of Housing on the application of either party

## **10 Agreements and declarations**

The parties agree:

- 10.1 Nothing in this Deed fetters or restricts the exercise by the Council of any of its powers
- 10.2 The obligations and covenants contained in this Deed are covenants for the purpose of the Local Government (Miscellaneous Provisions) Act 1982 Section 33
- 10.3 From the date of Practical Completion the Affordable Housing Units shall be let in accordance with the terms of this deed save that the obligations and restrictions contained in this deed shall not be binding on:
  - 10.3.1 any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from a Protected Tenant or any successor in title thereto and their respective mortgagees and chargees; or
  - 10.3.2 any mortgagee and any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor and any successor in title to either of them.
  - 10.3.3 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 Housing Units or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:**

**10.3.4 (a) such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Units 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**

**10.3.4 (b) if such disposal has not completed within the three-month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Housing Units free from the Affordable Housing provisions in this Agreement which provisions shall determine absolutely**

**AS WITNESS whereof the parties have executed this Instrument as a Deed hereto the day and year first above written**

**THE COMMON SEAL OF  
MID SUFFOLK DISTRICT COUNCIL**  
was affixed in the presence of:

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)  
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Member

*Jobn*

Authorised Officer

**THE COMMON SEAL of THE HAVEBURY  
HOUSING PARTNERSHIP** was affixed in  
the presence of:

)  
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Director

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Secretary

*[Handwritten signature]*

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