

DATED

17 March 2016

2016

AFFINITY SUTTON HOMES LIMITED

and

ARUN DISTRICT COUNCIL

ADC comments

DEED OF NOMINATION

for

15 Rental Units at

Phase 4 Kingley Gate,

Courtwick Lane, Littlehampton BN17 7FJ

201/43/12

LA 1355/10

Para 44

Sch 4

Para 7

7.1

THIS DEED OF NOMINATION RIGHTS is made the

day of

2018

BETWEEN

(1) **AFFINTY SUTTON HOMES LIMITED** is a Charitable Registered Society under the Cooperative and Community Benefit Societies Act 2014 (No 31412R).

(2) **ARUN DISTRICT COUNCIL** of Arun Civic Centre Maltravers Road Littlehampton West Sussex BN15 7LF ("the Council")

1. DEFINITIONS

In this Deed :

1.1 "Initial Let" means the first tenancy of such newly constructed and previously unoccupied Rented Unit.

1.2 "Nominee" means a person named in the Nomination List who is specified by the Council as being suitable for taking a Tenancy Agreement of a Rented Unit.

1.3 "Nomination List" means the list to be supplied by the Council pursuant to clauses 3.3 and 3.10 (as may be updated from time to time in accordance with clause 3.16).

1.4 "Property" means the land at Phase 4 Kingley Gate, Courtwick Lane, Littlehampton BN17 7FJ

1.5 "Rented Units" means Plot 409 , 433 to 439 and Plots 480 to 486 at the Property.

1.6 "Subsequent Nominee" means a Nominee to be offered a Tenancy Agreement pursuant to clause 3.10.

- ✓ 1.7 "Tenancy Agreement" means an assured Tenancy Agreement in a form prepared by the Registered Partner (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. ✓
- ✓ 1.8 "Vacancy 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 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 Rented Unit is completed. ✓
- ✓ 1.9 "Void" means a Rented Unit which is vacant otherwise than as a result of the tenant having: ✓
- ✓ 1.9.1 moved to other accommodation either by transfer or decant provided by the RP;
- ✓ 1.9.2 moved to other accommodation under a reciprocal arrangement provided by another registered partner registered with the Homes and Communities Agency under the Housing Act 1996.
- ✓ 1.10 "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 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 Agreement is made pursuant to s111 of the Local government Act 1972 s33 of the Local Government (Miscellaneous Provisions) Act 1982 and all other enabling powers.

✓ 3. **PROCEDURE**

The parties agree that the following nomination procedure shall apply to the nomination of persons in respect of the Rented Units, and for avoidance of doubt the Council is entitled to and will receive under this Agreement :-

- (a) 100% of the initial lettings and
- (b) 75% of all re-lets referred to as Voids or subsequent lets in this Agreement

Initial Lets

✓ 3.1 The RP shall give the Council not less than eight weeks written notice of the date when the Initial Let units will be ready for occupation.

✓ 3.2 The RP shall serve on the Council a Vacancy Notice in respect of each Rented Unit not less than four weeks prior to such newly constructed and previously unoccupied Rented Unit becoming available for occupation.

✓ 3.3 The Council shall within ten working days of receipt of a Vacancy Notice serve upon the RP the Nomination List setting out a list of Nominees.

✓ 3.4 The Nomination List to be served by the Council under clause 3.3 shall:

✓ 3.4.1 specify the appropriate category of Rented Unit to which it relates; and

✓ 3.4.2 indicate the priority for the housing of the Nominees.

✓ 3.5 The RP shall have the right to let the Initial Let in respect of the Rented Units to persons of its own choosing in the event of the Council's failure to serve

the Nomination List referred to in clause 3.3 within the period of ten working days of receipt of the Vacancy Notice.

✓ 3.6 The RP shall within five working days of the date of receipt of the Nomination List referred to in clause 3.3 select a Nominee from the Nomination List in priority order and shall use its reasonable endeavours to arrange viewing of the relevant Rented Unit and offer a Tenancy Agreement to such selected Nominee.

✓ 3.7 If the selected Nominee fails to enter into a Tenancy Agreement within five working days of receipt of the RP's offer of a Tenancy Agreement such selected Nominee shall be deemed to have rejected the RP's offer and the RP shall select another Nominee whereupon the procedure set out in clause 3.6 and this clause shall be repeated.

✓ 3.8 In the event of the second selected Nominee failing to accept the RP's offer of a Tenancy Agreement within the time prescribed by clause 3.7 then the RP shall make an offer to a third Nominee and the procedure set out in clauses 3.6 and 3.7 shall apply but in the event of such third selected Nominee failing to accept the RP's offer of a Tenancy Agreement within the prescribed time limits the RP shall not be bound to make any further offers of accommodation to Nominees in respect of such vacancy of the Rented Unit but shall be entitled to let the Rented Unit to a tenant of its own choosing.

✓ 3.9 The RP's obligations under clauses 3.1 to 3.8 shall cease when all of the Rented Units have been offered to Nominees in accordance with clauses 3.6 to 3.8.

VOIDS AND SUBSEQUENT LETS

✓ 3.10 Should a Rented Unit become a Void after the Initial Let or the RP has reasonable cause to believe it will become a Void then in 3 out of every 4 cases:

- ✓ 3.10.1 the RP shall advertise the relevant vacant Rented Unit through a Choice Based Lettings system and request a nomination; and
- ✓ 3.10.2 within two working days of close of bidding the Council shall send the RP the Shortlist setting out a list of Subsequent Nominees which shall contain the information referred to in clause 3.4.
- ✓ 3.11 The RP shall have the right to let the relevant vacant Rented Unit to a person of its own choosing in the event of the Council's failure to serve the Nomination List referred to in clause 3.10 within two working days of close of bidding.
- ✓ 3.12 Upon receipt of the Nomination List referred to in clause 3.10 the RP shall follow the procedure mutatis mutandis set out in clauses 3.6 to 3.8.
- ✓ 3.13 The RP shall not be obliged to follow the procedure set out in clauses 3.10 to 3.12 if it would result in the Subsequent Nominees being nominated for more than 75 per cent of the Rented Units available after the Initial Let and shall have the right to let the relevant vacant Rented Unit to a person of its own choosing.

Provision of information and alteration of lists

- ✓ 3.14 The RP shall give notification to the Council of the occurrence of the following events within five working days of their occurrence:
 - ✓ 3.14.1 a Nominee or Subsequent Nominee failing to view a Rented Unit within 10 working days of an offer being made;
 - ✓ 3.14.2 a Nominee or Subsequent Nominee failing to accept the offer of a Tenancy Agreement within the time limit prescribed by this Agreement;
 - ✓ 3.14.3 a Nominee or Subsequent Nominee accepting an offer of a Tenancy Agreement;

- ✓ 3.14.4 a person accepting an offer of a tenancy from the RP;
- ✓ 3.14.5 the RP rejecting a Nominee or Subsequent Nominee in accordance with clause 3.20.
- ✓ 3.15 In the event of a notice being served pursuant to clause 3.14 then the name of such Nominee or Subsequent Nominee shall be removed from the Nomination List.
- ✓ 3.16 Within ten working days of the Council receiving notice served in accordance with clause 3.14 above save for notice under 3.14.4 the Council shall serve upon the RP the name and address of a Nominee or Subsequent Nominee to add to the Nomination List such notice to include the information set out in clause 3.4.
- ✓ 3.17 If the Council shall within the period mentioned in clause 3.16 notify the RP that the Council then has no suitable Nominee or Subsequent Nominee the Council shall advise the RSL of a suitable replacement Nominee or Subsequent Nominee as soon as reasonably practicable.
- ✓ 3.18 The RP shall have the right to let a Rented Unit to a person of its choosing if the Council's failure to provide a Nominee or Subsequent Nominee creates a Void in respect of that Rented Unit.
- ✓ 3.19 On 1 April 1 July 1 October and 1 January in each year the RP shall serve the Council with details of the letting activities of the Rented Units in a format to be agreed between the RP and the Council.
- ✓ 3.20 The RP shall have the right to interview and make enquiries of each Nominee or Subsequent Nominee and by serving written notice upon the Council to that effect to reject any Nominee or Subsequent Nominee if in the opinion of the RP the grant of a Tenancy to such Nominee would be in contravention of the RP's registered rules or its letting criteria.

- ✓ 3.21 The Council shall immediately notify the RP in writing if any Nominee or Subsequent Nominee is withdrawn from the Nomination List.
- ✓ 3.22 When calculating percentage for the purposes of this Deed percentage equal to or in excess of 0.5 shall be rounded up and percentages less than 0.5 shall also be rounded up.
- ✓ 3.23 The Council and the RP agree that the nomination rights contained in this Deed may be varied from time to time but only by agreement in writing by the parties.

✓ 4. 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 have been deemed to have been served two working days after posting.

✓ 5. TRANSFERS TO OTHER REGISTERED PARTNERS

The RP shall ensure that any registered social landlord to which the Property and Rented Units erected thereon are transferred otherwise than by direction of the Homes and Communities Agency under its statutory powers shall enter into a similar agreement *mutatis mutandis* with the Council.

✓ 6. MORTGAGEES IN POSSESSION

The provisions of this Agreement shall not apply to any mortgagee in possession or anyone deriving title therefrom or any individual dwelling in respect of which the right to buy or the right to acquire under the Housing Act 1996 Part 1 Chapter 11 or under any other statutory provisions has been validly exercised.

✓ 7. 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 the President for the time being of the Chartered Institute of Housing.

✓ 8. **COSTS**

The RP agrees with the Council to pay the reasonable legal costs which the Council incurs in preparing and entering into this deed in the sum of £500.

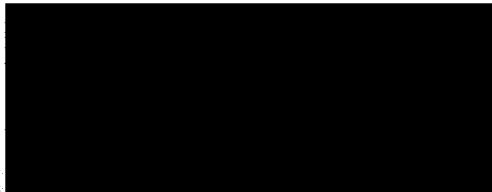
✓ 9. **AGREEMENTS AND DECLARATIONS**

The parties agree:

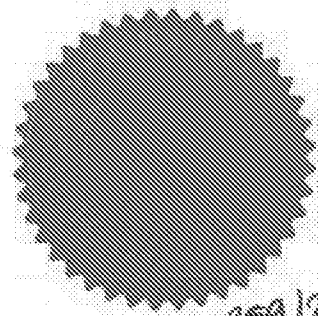
- 9.1 nothing in this deed fetters or restricts the exercise by the Council of any of its powers; and
- 9.2 the obligations contained in this Deed are covenants for the purpose of s33 of the Local Government (Miscellaneous Provisions) Act 1982.

EXECUTED as a **DEED** by affixing the
Common Seal of **AFFINITY SUTTON**
HOMES LIMITED in the presence of:-

Authorised Signatory:



Authorised Signatory: ✓



1025912

EXECUTED as a DEED by affixing the
Common Seal of ARUN DISTRICT COUNCIL
In the presence of:-



Authorised signatory

Authorised signatory name *HELEN JANE
ATKINSON*

Authorised signatory job title *SOLICITOR.*

