

**The Mayor and Burgesses of London Borough of Bexley**  
**Deferred Payment Agreement**  
**(“The Agreement”)**  
**Care Act 2014**

**Between:**

**The Mayor and Burgesses of The London Borough of Bexley**  
**(The Local Authority)**

**And**

**[Insert name of adult recipient of care**  
**Insert identical as per the registered title]**

**(The Borrower)**

**Property:**

**Insert address and registered title number of**  
**property on which agreement is to be secured**  
**Insert identical as per the registered title**

**As registered under title number: XX insert title number**

This Agreement is dated \_\_\_\_\_ and made between **The Mayor and Burgesses of London Borough of Bexley** (“the Local Authority”), of Civic Offices, 2 Watling Street, Bexleyheath, DA6 7AT and **[insert name resident]** (“you”, “the Borrower”), of **[insert address ]**.

**Insert Identical as per the registered title**

## 1. Interpretation

1.1 In this agreement, the following words have the following meanings:

- Accommodation:** the care home identified in Schedule 1, as it may be amended in accordance with term 2.5 below.
- Agreement:** the terms set out in this document and numbered 1 to 16 and Schedule 1.
- Care Charges:** those charges for care and/or support which are specified by description and weekly amount or such other period as has been agreed in Schedule 1, as they may be amended in accordance with any of terms 2.5, 2.6 or 2.7 below.
- Costs:** the Local Authority’s reasonable administrative Costs reasonably incurred and disbursements in respect of this Agreement, which are payable as set out in Schedule 1, subject to revision, on page 13.
- Debt:** the balance from time to time of the Loan which has not yet been repaid, together with any interest and Costs already charged and not yet paid.
- Loan:** the total amount of Care Charges which have been deferred, and the words “lend”, “lending” and “lent” are used in this Agreement to describe the act of deferring a Care Charge or Care Charges payable to the Local Authority.
- Lending Limit:** the limit on lending as set out in Schedule 1 (see also term 2.1).
- Property:** the Property and any other assets identified on first page (front page) of this Agreement.
- Rate of Interest:** the rate of interest stated in Schedule 1, as it may be varied under term 3.

- 1.2 Where a reference is made in this Agreement to any legislation or legislative provision, it includes reference to that provision as it may from time to time be amended, extended or re-enacted.
- 1.3 Where the context allows or requires, words in the singular include the plural and words in the plural include the singular.
- 1.4 Where a reference is made in this Agreement to your income, it means your income as calculated in accordance with regulations made under section 17 of the Care Act 2014.
- 1.5 For the duration of this Agreement you, the Borrower, will be deemed to be a privately funded resident of the residential care home (the Accommodation) and the care provider will be responsible for the contract of service and determining the weekly Care Charges and any variations.

## **2. How the Loan will be made**

- 2.1 The Local Authority agrees, subject to the Lending Limit and to the limits related to income as set out in 2.7 and 2.8 below, to lend amounts to you, the Borrower. Each amount will be subject to a maximum of the weekly or such other period as has been agreed Care Charges specified in Schedule 1 or, if less, the weekly or such other period as has been agreed Care Charges which is actually payable and which meets the Description of Care Charges in Schedule 1. The Loan will be made by deferring your obligation to pay Care Charges which are payable to the Local Authority. The details of the Accommodation and the Care Charges are set out in Schedule 1 at the end of this Agreement, together with the Lending Limit.
- 2.2 If the Debt would exceed the Lending Limit as a result of the Local Authority lending an amount that it would otherwise be due to lend for Care Charges, the Local Authority will not lend that amount. This means, for example, that if 90% of the value of the Property, less the amount of any indebtedness secured over the Property by a charge with priority over the Local Authority's security and less £14,250, is £70,000, and your Debt is already a total of £70,000, you will not be lent any more unless or until the value of the Property increases. However, where, due to a fall in the value of the Property, the Debt comes to exceed the Lending Limit on a date which falls after the date on which the Local Authority last lent an amount in respect of Care Charges and on or before the date on which it is next

due to lend an amount in respect of Care Charges, the Local Authority will lend on that next occasion even though lending on that occasion will result in the Debt further exceeding the Lending Limit. After that, the Local Authority will not lend any further amount unless or until the value of the Property increases. This does not preclude the Local Authority from adding interest and administrative Costs to the Loan after the Lending Limit has been reached.

- 2.3 You may, at any time, pay the Care Charges, or part of the Care Charges, yourself, when they become payable, in which case you must give advance notice to the Local Authority of the amount you are going to pay separately (“your contribution”), specifying whether your contribution is to be made on only one occasion or on a specified number of occasions or on each occasion when a Care Charge becomes payable until further notice.
- 2.4 The Local Authority will not be required to change the frequency with which, or the amounts in which, it lends under this Agreement any sooner than the fourteenth day after the Local Authority receives notice of any change in the frequency with which or the amounts which, as applicable, you are charged, or which you require the Local Authority to lend under this Agreement.
- 2.5 If you move from the Accommodation into another care home or supported living accommodation, that new Accommodation will be substituted as the Accommodation, and the Care Charges payable in respect of the new Accommodation (or if less that part of those new Care Charges which are equal to the existing Care Charges) will be substituted as the Care Charges provided that the Care Charges in respect of the new Accommodation meet the description which is given of the Care Charges in Schedule 1 or, where they do not meet that description, the Local Authority is either required under the Care Act 2014 to agree to lend in respect of those Care Charges or permitted to do so under the Care Act 2014 and willing to do so and the times for payment of the Care Charges will be substituted for the times shown in Schedule 1 once at least fourteen days’ notice of those times has been given to the Local Authority.
- 2.6 The Local Authority may, upon giving you at least 30 days’ written notice within 30 days after (a) it comes to the attention of the Local Authority that your income has exceeded £144 per week or such sum as is prescribed in the Regulations per week in any week while this Agreement is subsisting, or (b) where, at or since the date of this Agreement, your income has already exceeded £144 per week or such sum as is prescribed in the Regulations per week, it comes to the attention of the Local Authority that your income has further exceeded £144 per week or such sum as is prescribed in the Regulations in any

week while this Agreement is subsisting require you to repay the amount, if any, by which that part of the Loan already provided under this Agreement for Care Charges in respect of that week exceeded the difference between the Care Charges actually payable and the amount by which your income exceeded £144 per week or such sum as is prescribed in the Regulations per week.

- 2.7 The Local Authority may, upon giving you at least 30 days' written notice within 30 days after it comes to the attention of the Local Authority that your income is to exceed, or further exceed, £144 per week or such sum as is prescribed in the Regulations per week in any week while this Agreement is subsisting, may reduce the amount that it will lend in respect of the Care Charges for each subsequent week that your income exceeds £144 per week or such sum as is prescribed in the Regulations per week by the amount by which your income exceeds £144 per week or such sum as is prescribed in the Regulations per week in that week and the amount of the Care Charge specified in Schedule 1 will be amended accordingly.
- 2.8 The Local Authority will not lend any further amount under this Agreement, even where the total amount of the Debt already provided is less than the Lending Limit, at any time when:
- 2.8.1 you are no longer receiving care and support in a care home or in supported living accommodation;
  - 2.8.2 in the reasonable view of the Local Authority your needs should no longer be met by the provision of care and support in a care home or in supported living accommodation;
  - 2.8.3 the Property can no longer be insured against all usual risks, unless there are reasonable grounds for concluding that the site value of the Property, disregarding any building on the Property, is adequate security for the Debt, together with such further lending as is to be provided; and
  - 2.8.4 The Local Authority will give you at least 30 days' written notice of the date on which the Lending Limit will be reached unless it is not reasonably practicable to do so because, for example, the Lending Limit is reached by reason of a fall in the value of the Property.

### **3. Interest**

Interest will be charged in line with the nationally set maximum interest rate and is variable and is set in accordance with the relevant Department of Health Local Government Circulars that are published and the interest rate will be reviewed every 6 months. The current relevant Circular is [LAC \(DHSC\) \(2020\)](#) and the interest rate for the period [1 July 2022 to 31 December 2022](#) is [1.55%](#). The interest rate charged will be the market gilts rate plus 0.15%. The market gilts rate is variable and is as specified by the Office of Budget Responsibility. Schedule 1 refers to the interest rate.

#### **4. Costs and Interest on Costs**

- 4.1.1 You must pay the Costs, estimates for some of which are set out in Schedule 1 on page 13.
- 4.1.2 You must pay the interest on the loan sum, the rate of which will be subject to periodic review.
- 4.2 The Local Authority will give you notice of any Costs incurred by the Local Authority and changes to the rate of interest to be charged, and any revisions of those Costs, the amount of those Costs will be added to the Debt and interest will be charged on the amounts of Costs in accordance with term 3 above until payment to the Local Authority.

#### **5. Repayment**

- 5.1 The Debt is to be repaid to the Local Authority on the earliest of the following dates:
  - 5.1.1 the date of any sale or other disposal of the Property;
  - 5.1.2 90 days after your date of death.
- 5.2 If the Local Authority provides any part of the Loan under this Agreement upon the mistaken assumption that it is required to provide that part of the Loan when in fact it is not and when it is not the case that you ought reasonably to realise that the Local Authority is not required to provide that part of the Loan, that part of the Loan will be repayable to the Local Authority, together with interest calculated in accordance with term 3 (Interest) above, upon the Local Authority giving you not less than three months' notice to repay it.

#### **6. Security**

6.1 The Local Authority's rights to repayment and to be paid interest and Costs under this Agreement are to be secured by a first legal charge over the Property.

## **7. Occupation and use of the Property**

7.1 The Property must not be let or occupied by any person without the Local Authority's prior written consent, which will not be unreasonably withheld provided that the Property is to be occupied upon an assured shorthold tenancy which enables an order for possession to be obtained, after the expiry of an initial term of no more than 6 months, upon one month's written notice. If required, any other occupiers who has an interest in the Property may be required to sign an occupier's waiver form.

## **8. Insurance and maintenance of the Property**

8.1 You must provide with this Agreement and every year thereafter, and whenever asked to do so by the Local Authority, provide evidence to the Local Authority, as soon as reasonably practicable, that the Property is adequately insured against all usual risks, that the premium and insurance premium tax payable for that policy have been paid.

8.2 If satisfactory evidence is not provided to the Local Authority that the Property is adequately insured against all usual risks, the Local Authority may itself insure the Property under an appropriate policy of insurance and against all usual risks unless there are reasonable grounds for concluding that the site value of the Property, disregarding any building on the Property, is adequate security for the Debt, together with a reasonable amount by which it is anticipated that the Debt will increase in the foreseeable future.

8.3 The Local Authority will give you notice of any Costs reasonably incurred by the Local Authority in so insuring the Property and if the Borrower does not reimburse the amount of those Costs to the Local Authority within 28 days after such notice is given, the amount of those Costs will be added to the Debt and interest will be charged on the amount of those Costs in accordance with term 3 (Interest) above in respect of the period starting on the 29th day after notice of the Costs is given to you, or, if later than the 29th day after advance notice is given that such an item, or items, of Costs will be incurred, the date on which such item, or each such item of Costs is incurred.

8.4 The Local Authority, or any appropriately qualified person acting on behalf of the Local Authority, may, no more than once a year, and upon giving at least 14 days' notice to the Borrower or other owner of the Property, inspect the Property for the purposes of ascertaining whether the Property is being maintained in reasonable condition and/or

whether there are works of maintenance and/or repair which should be undertaken to the Property in order to preserve or restore its value.

- 8.5 The Local Authority, or any appropriately qualified person acting on behalf of the Local Authority, may, upon giving not less than 14 days' notice to you, carry out such works of maintenance and/or repair as the Local Authority reasonably considers should be undertaken to the Property in order to preserve or restore its value at or to a value which is adequate security for the Debt, together with a reasonable amount by which it is anticipated that the Debt will increase in the foreseeable future; provided that no more than 56 days and not less than 28 days before, you were given notice by the Local Authority (or any appropriately qualified person acting on behalf of the Local Authority) requesting that you carry out or have those works carried out, and those works have not been carried out to the reasonable satisfaction of the Local Authority or the appropriately qualified person.
- 8.6 In the event that the Local Authority has reasonable grounds to believe that works of maintenance and/or repair are or may be required as a matter of urgency, the notice requirements under 8.4 and 8.4 8.5 above are to be replaced with a requirement to take reasonable steps to notify you as soon as reasonably practicable.
- 8.7 The Local Authority will give you notice of any reasonable Costs reasonably incurred by the Local Authority in relation to the inspection, maintenance and/or repair of the Property and if you do not reimburse the amount of those Costs to the Local Authority within 28 days after such notice is given, the amount of those Costs will be added to the Debt and interest will be charged on the amount of those Costs in accordance with term 3 (interest) above in respect of the period starting on the 29th day after notice of the Costs was given to you until payment to the Local Authority.

## **9. Valuations**

- 9.1 Where an individual has secured their deferred payment with a Property, the authority must be allowed reasonable access for a valuer to enter the Property to properly assess the Property with a view to compiling a valuation report. If reasonable access is not allowed, the authority may terminate the Deferred Payment Agreement. An annual market value of the Property must be obtained in order to establish that there is sufficient equity in the Property on which to continue with the agreement.



You may request an independent assessment of the Property's value at your own expense (in addition to the Local Authority's valuation). If an appropriate independent assessment finds a substantially differing value to authority's valuation, the Local Authority and you will discuss and agree an appropriate valuation with a view to continuing with the agreement.

The value of the Property or security will be reviewed/re-valued as follows:

- As considered necessary in accordance with term 9.2 below.
- When the amount deferred is between 50%-70% of the value of the security to assess any potential change in the value (and consequently the person's 'equity limit' will be reassessed in turn). After this revaluation, the authority will revalue the security periodically to monitor any potential further changes in value. If in either case there has been any substantial change, the Local Authority will review the amount being deferred.

9.2 If at any time the Local Authority has reasonable grounds for concluding that the Debt exceeds fifty percent [50%] of the value of the Property, the Local Authority may take reasonable steps to ascertain the value of the Property and in particular instruct a suitably qualified valuer to inspect the Property and to provide a report to the Local Authority on the market value of the Property.

9.3 The Local Authority will give you notice of any Costs reasonably incurred by the Local Authority in obtaining a valuation report or otherwise ascertaining the value of the Property and if you do not reimburse the amount of those Costs to the Local Authority within 28 days after such notice is given, the amount of those Costs will be added to the Debt and interest will be charged on the amount of those Costs in accordance with term 3 in respect of the period starting on the 29th day after notice of the Costs was given to you until payment to the Local Authority.

## **10. Keeping the Local Authority informed**

10.1 You must inform the Local Authority as soon as reasonably practicable if any of the following happens:

10.1.1 Your income exceeds, or is expected to exceed, £144 per week or such sum as is prescribed in the Regulations in any week or, where your income has already exceeded £144 per week or such sum as is prescribed in the Regulations per

week it further exceeds, or is expected to further exceed, £144 per week or such sum as is prescribed in the Regulations in any week;

- 10.1.2 there is any change to the amount or frequency of your Care Charges;
- 10.1.3 you have not paid any Care Charge in full when it has become due (other than any which is payable to the Local Authority or which the Local Authority is to pay on your behalf under this Agreement);
- 10.1.4 you cease to live in a care home or supported living accommodation;
- 10.1.5 there is a change to your needs for care and support the effect of which is that you may no longer require your needs to be met by the provision of the Accommodation;
- 10.1.6 a decision is taken to sell or otherwise dispose of the Property;
- 10.1.7 if you move from the Accommodation into another care home or supported living accommodation, that new Accommodation will be substituted as the Accommodation, and the Care Charges payable in respect of the new Accommodation (or if less that part of those new Care Charges which are equal to the existing Care Charges) will be substituted as the Care Charges provided that the Care Charges in respect of the new Accommodation meet the description which is given of the Care Charges in Schedule 1 or, where they do not meet that description, the Local Authority is either required under the Care Act 2014 to agree to lend in respect of those Care Charges or permitted to do so under the Care Act 2014 and willing to do so and the times for payment of the Care Charges will be substituted for the times shown in Schedule 1 once at least 14 days' notice of those times has been given to the Local Authority.

## **11. Ending this Agreement**

- 11.1 This Agreement has no fixed duration.
- 11.2 You may bring the Agreement to an end at any time by giving reasonable written notice to the Local Authority and repaying the whole of the Debt.
- 11.3 If you do not bring the Agreement to an end early under 11.2 above, the Agreement will come to an end when the Debt is paid in accordance with term 5 above.
- 11.4 The Local Authority may bring this Agreement to an end in the event that there is breach of a substantive term of this Agreement by you and such breach has not been remedied or

in the reasonable opinion of the Local Authority, is not capable of remedy within a reasonable time to the reasonable satisfaction of the Local Authority.

## **12. Statements**

12.1 The Local Authority will provide you with a written statement, informing you of the amount which you would have to pay to the Local Authority if you were to bring the Agreement to an end on the date on which the statement is sent or such later date as has been requested by you, and the amount of interest and Costs which have accrued since the Agreement was made:

12.1.1 at the end of the period of six months beginning with the date of this Agreement;

12.1.2 every six months after the date of the first statement or in January and July of each year depending on the completion of the Agreement;

12.1.3 within 28 days of a request to the Local Authority for such a statement made by you or on your behalf.

## **13. How notices or statements are to be given**

13.1 Any notice or statement which the Local Authority is to give, or may give, to you under this Agreement is to be given by sending the notice second class prepaid post to you at the Accommodation or to such other person and at such address as has been agreed between the Local Authority and you from time to time.

13.2 Any notice which you give to the Local Authority under this Agreement is to be given by contacting the Brokerage Commissioning Team either by email to : [brokeragecommissioningteam@bexley.co.uk](mailto:brokeragecommissioningteam@bexley.co.uk), or by sending the notice by first or second class prepaid post to The Manager, Brokerage Commissioning Team, London Borough of Bexley, Ground Floor East, Civic Offices, 2 Watling Street, Bexleyheath, DA6 7AT.

13.3 Any notice or statement which is sent by first or second class prepaid post is to be treated as having been served on the second day after it is posted, excluding Sundays and public holidays.

## **14. Applicable law**

The interpretation, validity and performance of this Agreement shall be governed by the law of England and Wales.

**15. Variation**

Any variation to this Agreement must be in writing and signed both by the Borrower and on behalf of the Local Authority.

**16. Missing payments**

If you do not make payment when it falls due, legal proceedings may be issued against you for a judgment for the amount you owe and / or for possession of the Property. It could also make it more difficult or expensive for you to obtain credit in the future.

**17. Complaints**

If you are dissatisfied with any action or omission on the part of the Local Authority under or in connection with this Agreement, in the first instance please write to: The Manger, Brokerage Commissioning Team, London Borough of Bexley, Ground Floor East, Civic Offices, 2 Watling Street, Bexleyheath, DA6 7AT. If your complaint is not resolved by the Local Authority to your satisfaction, you may have a right of appeal to the Complaints Team, you can contact them via post, Complaints Team, London Borough of Bexley Civic Offices, 2 Watling Street, Bexleyheath, DA6 7AT. Or via email: [complaints@bexley.gov.uk](mailto:complaints@bexley.gov.uk)

**18. Borrower’s signature**

Please read this Agreement carefully, including all the terms set out above, the information set out below and the terms and information set out in Schedule 1 at the end of the Agreement. Only sign below if you understand and accept those terms and information within points 1 – 17 and in Schedule 1.

Signed by the **Borrower**: .....

**Date** of signature by Borrower: .....

**OR**

Signed by **The Borrower’s representative**: .....

Full Name: .....

Full Address of representative: .....

.....

Telephone Number: .....

Email address: .....

Date of signing: .....

Signing as: - Court Order Appointed Deputy

Ordinary Power of Attorney

Enduring Power of Attorney

Lasting Power of Attorney

Receiver (as per Order of Public  
Guardianship Office formerly  
Court of Protection)

(Please tick appropriate box)

**If more than one Attorney, all must sign.**

Signed by **The Borrower's representative**: .....

Full Name: .....

Full Address of representative: .....

.....

Telephone Number: .....

Email address: .....

Date of signing: .....

Signing as: - Court Order Appointed Deputy

Ordinary Power of Attorney

Enduring Power of Attorney

Lasting Power of Attorney

Receiver (as per Order of Public  
Guardianship Office formerly  
Court of Protection)

(Please tick appropriate box)

**If you have ticked any of the above boxes you must provide the documentary evidence to support this. In addition, please provide original or certified official copy duly certified by a Lawyer. All parties to this Agreement will be required to provide certified ID verification and address verification duly certified by a Lawyer to confirm all parties identity and address.**

**19. Signed on behalf of the Mayor and Burgesses of the  
London Borough of Bexley**

Signature: .....

Print Name: .....

Position: .....

## SCHEDULE 1

**Accommodation:** [Insert name and address of care home or supported living accommodation]

**Description of Care Charges/Costs:** £1010.00

The above Costs you have to pay in relation to ascertaining the value of the Property, perfection of the security, registration of the legal charge, discharging the security and for the purpose of ensuring compliance with the Agreement will be the actual reasonable Costs incurred including disbursements, and any additional charges and other Costs you have to pay will be the average cost, or average Costs, to the Local Authority incurred in relation to Deferred Payment Agreements generally which the Local Authority considers to be necessary.

**Care Charge:** £      per week\*

\* (this Care Charge may be subject to increase by the provider of the Accommodation)

The Care Charges specified above are those Care Charges for which the Loan is to be provided by the Local Authority under this Agreement. The total payable for your care and support while the Borrower is living in the Accommodation may be more than the Care Charges shown above.

**Date when first Care Charge to which this agreement relates will be incurred:** XXXXX

**Lending Limit:** - the lower of (90% market value less (a) and (b))

(1) 90% of the market or surrender value of the Property less:

(a) the total amount of any indebtedness secured on that asset, or those assets, by security which has priority over the Local Authority's security, and

(b) £14,250

(2) £ [Insert maximum amount agreed may be lent].

(being the maximum amount which the parties have agreed may lent)

**Rate of Interest:** 1.55 % subject to variation under term 3 on page 4.