

Thirteen Housing Group – Proposed Group Consolidation

Heads of Terms

This Agreement is dated

2017

Between:

- (1) **Thirteen Housing Group Limited**, a company limited by guarantee registered in England and Wales with registered number 06477162 whose registered office is at Northshore, North Shore Road, Stockton-on-Tees, Cleveland TS18 2NB (“**Thirteen**”);
- (2) **Erimus Housing Limited**, a company limited by guarantee registered in England and Wales with registered number 04619469 and a charity with registered charity number 1106102 whose registered office is at Northshore, North Shore Road, Stockton-on-Tees, Cleveland TS18 2NB (“**Erimus**”); and
- (3) **Middlesbrough Borough Council** of Middlesbrough House, 50 Corporation Road, Middlesbrough TS1 2YQ (“**the Council**”).

1. Background

- 1.1. Erimus is currently a subsidiary of Thirteen. Erimus was the recipient of a transfer of the Council’s housing stock (the “**Transfer**”) pursuant to a transfer agreement dated 15th November 2004 (the “**Transfer Agreement**”).
- 1.2. The Group has invested over £30m in Erimus’ homes in Middlesbrough, including in delivering on the promises made to tenants at Transfer. However, the operating environment for the Thirteen Group has changed dramatically from when the Group was formed (pursuant to a merger of the Fabrick and Vela Groups) in April 2014 and there is now a real need to make savings within the Group as a result of the Government’s announcement to:
 - Cut social rents by 1% each year for the next four years;
 - Extend the Right to Buy to all housing association tenants (not just those who were former council tenants); and
 - Limit the amount of rent which will be payable for all new tenancies entered into after 1 April 2016.
- 1.3. In response to this, the Group needs to achieve greater efficiencies and unlock capacity within the Group in order to be able to continue with its mission of delivering affordable housing in the North East.
- 1.4. It is therefore proposed that Erimus, along with the other registered providers of social housing (“**RPs**”) in the Group, should “consolidate” with Thirteen, the Group parent, to form a single RP operating across all of the current operating areas of the Group. This will simplify the Group structure and reduce duplication and will free up time to

focus on improving services. The consolidation will also make the Group more financially stable (with projected savings of £500k p.a. and another £3m over time).

- 1.5. In order to achieve this consolidation, Erimus will first convert to become a community benefit society (using the statutory process set out in section 115 of the Co-operative and Community Benefit Societies Act 2014 (“the **2014 Act**”)) and then transfer its engagements to, or amalgamate with, Thirteen (under section 109 or 110 of the 2014 Act). A similar process will be followed by the other RP subsidiaries of Thirteen, so that Thirteen will be the remaining asset holding RP in the Group (the “**Consolidation**”).
- 1.6. By virtue of sections 109 and 110 of the 2014 Act, the obligations of Erimus to the Council (together with the benefits currently enjoyed by Erimus) under the Transfer Agreement will be vested in Thirteen.
- 1.7. This Agreement set out the heads of terms for the proposed Consolidation and the principles by which the Council confirms its intention to give its consent to the Consolidation.

2. Proposals for the Consolidation

- 2.1. It is proposed that:
 - Erimus will convert to become a community benefit society (under section 115 of the 2014 Act) and will then amalgamate with or transfer its engagements (under sections 109 or 110 of the 2014 Act) to Thirteen. Erimus will then be dissolved;
 - Prior to transfer, Thirteen will convert to become a community benefit society and an exempt charity;
 - Thirteen will hold all social housing assets currently held by Erimus, together with the social housing assets of Tristar Homes, Housing Hartlepool and Tees Valley Housing and shall be entitled to use all such assets across the Group’s current areas of operation;
 - Thirteen will remain registered as an RP with the Homes and Communities Agency (the “**Regulator**”) and shall, once obtained, maintain its status as an exempt charity;
 - The Board of Thirteen will comprise up to eleven people, consisting of a Senior Independent Director and ten others, including one Executive Board Director. In line with the requirements of the Regulator’s Governance and Financial Viability Standard, Board members will be appointed on the basis of skills and experience against identified requirements and an external independent consultant will advise on these skills and experience requirements. It is proposed that, wherever possible, members of the initial Thirteen Board (post-Consolidation) should comprise individuals drawn from existing Boards within the Group;

- The Council shall hold no rights as a company member or shareholder in Thirteen, nor shall it have any automatic right to appoint persons onto the Thirteen Board (as the successor body to Erimus);
- However, the Council shall be notified of any vacancies arising on the Thirteen Board and shall have the opportunity to put forward candidates for the Board, to be considered as part of the usual Board recruitment process against any identified skills and experience requirements;
- Thirteen shall also continue to engage with the Council through:
 - working with the Council to co-produce a Delivery Plan for the Borough;
 - working with the Council's committees to produce the Group's Investment and Development Programmes;
 - passing on learning from customer insight mechanisms and tenant satisfaction surveys;
 - attending project specific meetings (for example in relation to the development of specified sites in the Borough); and
 - liaison meetings between senior management to ensure priorities are being actioned.
- The parties will enter into a Collaboration Agreement in the form annexed to these Heads of Terms, setting out how the parties will work together to deliver an agreed programme of activity via a Delivery Plan;
- Thirteen will continue to put tenants at the heart of how it delivers services – the Chair (or another representative) of the Thirteen Customer Council will be invited to attend Thirteen Board meetings and take part in debates, and scrutiny of Group performance and services will continue through the Group's Customer Scrutiny Panel;
- The proposed target date for the consolidation is 30 June 2017. In order to achieve this target date, it is proposed that general meetings of Erimus (and other Group members) shall be held in March/April 2017 to seek company member / shareholder approval. Alternatively, a written resolution may be used to achieve conversion in lieu of a general meeting subject to the Council's formal consent (as a company member of Erimus) in proceeding through such a procedure.

2.2. It is confirmed that all obligations owed by Erimus to the Council under the Transfer Agreement will be vested in and upheld by Thirteen post-Consolidation and that all obligations owed by the Council to Erimus will continue to be owed by the Council to Thirteen.

2.3. The Council's formal agreement is sought, both as a company member of Erimus and under the terms of the Transfer Agreement, to the proposals for Consolidation set out above.

3. Agreement

3.1. By signing this Agreement, the Council, Thirteen and Erimus each confirm that the principles set out in this Agreement are acceptable, and that they will act in good faith to effect the Consolidation proposals in line with the terms of this Agreement.

- 3.2. The Council confirms that it will enter into a Deed of Variation to the Transfer Agreement, varying the provisions of the Transfer Agreement insofar as this is necessary to comply with the terms of this Agreement, and in particular varying the Board and shareholding arrangements for Erimus (and subsequently Thirteen) in relation to Council and tenant appointees in accordance with the principles set out in this Agreement and subject to all necessary approvals to these Heads of Terms and the parties entering into the Collaboration Agreement under clause 2.2 above.
- 3.3. The Council agrees that it will not exercise its rights as a company member of Erimus to vote against the proposed conversion of Erimus to a community benefit society nor its transfer of engagements to, or amalgamation with, Thirteen, in accordance with the principles set out in this Agreement other than where any principle has been misrepresented to the Council (innocently or otherwise).
- 3.4. It is hereby agreed that this Agreement shall not be legally binding on the parties; however, each party confirms its intention to act in good faith in the mutual interests of the parties and in accordance with the terms of this Agreement in achieving the Consolidation.

Signed on behalf of Thirteen Housing Group _____

by an authorised signatory

Name:

Signed on behalf of Erimus Housing Limited _____

by an authorised signatory

Name:

Signed on behalf of Middlesbrough Borough _____

Council by an authorised signatory

Name: