

Dated

30th June

2022

(1) SOUTH HOLLAND DISTRICT COUNCIL

and

(2) LINCOLNSHIRE COUNTY COUNCIL

and

(3) LONGHURST GROUP LIMITED

DEED OF VARIATION

Sections 106 and 106A of the Town and Country Planning Act 1990

Relating to a Section 106 Agreement for land east of Crease Drove Crowland

**South Holland District Council
Council Offices
Priory Road
Spalding
PE11 2XE**

LD/H02-0054-22

Date

30th June

2022

BETWEEN

- (1) **SOUTH HOLLAND DISTRICT COUNCIL** of Council Offices, Priory Road, Spalding, PE11 2XE ("the **Council**");
- (2) **LINCOLNSHIRE COUNTY COUNCIL** of County Offices, Newland, Lincoln, LN1 1YL ("the **County Council**")
- (3) **LONGHURST GROUP LIMITED** (Mutual Registration Number 8009) whose registered office address is 1 Crown Court, Crown Way, Rushden, NN10 6BS ("the **Owner**")

BACKGROUND

- (A) The Council is the Local Planning Authority for the purposes of the Act for the area within which the Land is situated.
- (B) The Owner is the freehold owner of the Land registered under title number LL262755.
- (C) On 21 August 2017 Tina Elizabeth Hunter-Shaw (1) Jane Margaret Vees (2) Helen Victoria Fyfe (3) and Roger Jackson Speechley (4) entered into the Original Agreement by way of Unilateral Undertaking in favour of the Council and the County Council.
- (D) On 12 August 2020 Tina Elizabeth Hunter-Shaw (1) Jane Margaret Vees (2) Helen Victoria Fyfe (3) and Roger Jackson Speechley (4) the Council (5) and the County Council (6) entered into the First Deed of Variation to the Original Agreement to secure amendments to the Affordable Housing Provisions within the Original Agreement.
- (E) The purpose of this Deed is to secure further amendments to the Original Agreement as varied by the First Deed of Variation regarding Affordable Housing.
- (F) Without prejudice to the terms of the other covenants contained in the Original Agreement as varied by the First Deed of Variation the parties have agreed to vary the terms of the Original Agreement as varied by the First Deed of Variation as set out in this Deed.
- (G) The parties have agreed to enter into this Deed to give its consent to the terms of this Deed.

- (H) This Deed is made under sections 106 and 106A of the Act and is supplemental to the Original Agreement as varied by the First Deed of Variation.

NOW THIS DEED WITNESSES AS FOLLOWS:

1. DEFINITIONS

For the purposes of this Deed the following expressions shall have the following meanings:

"First Deed of Variation"	means the agreement made under section 106A of the Act relating to land east of Crease Drove, Crowland and made between Tina Elizabeth Hunter-Shaw (1) Jane Margaret Vees (2) Helen Victoria Fyfe (3) Roger Jackson Speechley (4) South Holland District Council (5) and Lincolnshire County Council (6) dated 12 August 2020
"Original Agreement"	means the unilateral undertaking made under section 106 of the Act relating to land east of Crease Drove, Crowland dated 21 August 2017 given by Tina Elizabeth Hunter-Shaw (1) Jane Margaret Vees (2) Helen Victoria Fyfe (3) and Roger Jackson Speechley (4) to the Council and the County Council

2. CONSTRUCTION OF THIS DEED

- 2.1 Unless the context otherwise requires and save as herein varied all words and phrases defined in the Original Agreement (as varied by the First Deed of Variation) shall have the same meaning in this Deed.

- 2.2 Where in this Deed reference is made to any clause, paragraph, schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph, schedule or recital in this Deed.
- 2.3 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.4 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeably
- 2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that act or deriving validity from it.
- 2.6 References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party to the Land or any part thereof and in the case of the District Council and the County Council, successors to their functions.

3. **LEGAL BASIS**

- 3.1 This Deed is made pursuant to Sections 106 and 106A of the Act, Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all other enabling powers with the intent that the covenants and obligations shall run with the Land.
- 3.2 This Deed shall take effect upon the date that it is dated.

4. **VARIATIONS TO THE ORIGINAL AGREEMENT**

- 4.1 The definition of "Intermediate Ownership Units" shall be amended to read as follows:

"Intermediate Ownership Units"	means those Affordable Housing Units in which either (a) the occupier will initially own a percentage share under a Shared Ownership Lease or
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(b) the occupier will occupy pursuant to a lease or tenancy agreement reserving a rent which includes a capital element and which entitles the occupier to purchase the unit and to apply the capital element of rent paid towards the purchase price (**"Intermediate Ownership Agreement"**)

4.2 A new definition of "Shared Ownership Lease" shall be inserted into the Original Agreement as follows:

"Shared Ownership Lease"	means a lease in a form approved by Homes England or where there is no such form in a form approved by the Council. Such lease to provide for the following: - not more than 75% and not less than 25% of the equity (or such other percentages the Council may agree) shall be initially sold to the purchaser by the Affordable Housing Provider - power to the purchaser to increase their ownership to 100% if they so wish - an initial rent not exceeding 2.75% of the value of the equity retained by the Affordable Housing Provider subject to annual increases not exceeding the Retail Price Index (All Items) published by the Office for National Statistics (or if such index ceases to be published such other index as the Council shall reasonably determine) plus 0.5% or such other rent as complies with the requirements from time to time of Homes England
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- 4.3 In all other respects the Original Agreement as varied by the First Deed of Variation (as varied by this Deed) shall remain in full force and effect.

5. THE OWNER'S COVENANTS

- 5.1 The Owner covenants to observe and perform the covenants, restrictions and obligations contained in the Original Agreement as varied by this Deed.

6. LOCAL LAND CHARGE

- 6.1 This Deed shall be registerable as a local land charge by the District Council.

7. COUNCIL'S COSTS

- 7.1 On completion of this Deed, the Owner shall pay to the Council their reasonable legal costs together with all disbursements that have been incurred in the negotiation and completion of this Deed.

8. COUNTY COUNCIL'S COSTS

- 8.1 On completion of this Deed, the Owner shall pay to the County Council their reasonable legal costs together with all disbursements that have been incurred in the negotiation and completion of this Deed.

9. VAT

- 9.1 Any consideration given under this Deed shall be done in such a way that the VAT liability is borne by the Owner and not the District Council.

10. THIRD PARTY RIGHTS

- 10.1 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.

11. JURISDICTION

- 11.1 This Deed is governed by and interpreted in accordance with the laws of England.

12. EXECUTION AND DELIVERY

This Deed is executed as a deed by the parties and is delivered on the date first hereinbefore written.

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

The **COMMON SEAL** of **SOUTH HOLLAND DISTRICT COUNCIL** was hereunto affixed in the presence of:-

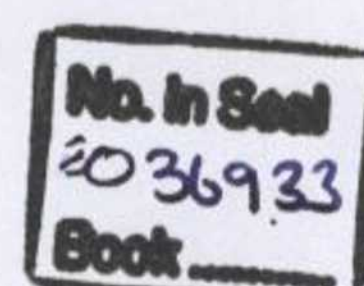
Authorised Signatory



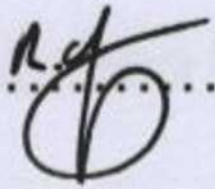
The **COMMON SEAL** of **LINCOLNSHIRE COUNTY COUNCIL** was hereunto affixed in the presence of:-

Authorised Signatory

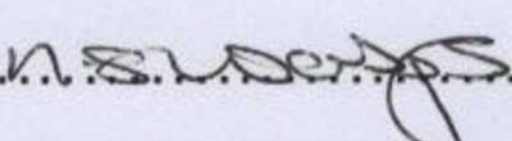
HELEN JANE GLOVER



SIGNED as a DEED by
LONGHURST GROUP LIMITED
Acting by a Director

Signature.....

In the presence of:

Witness Signature.....

Witness Name: N. S. Worsall

Address: Leverett House,
Culbert Drive,
Boston,
Mass
02170

Occupation: Director of Growth, Development & Sales