Dated 10th January **2024**

(1) South Holland District Council

and

(2) Platform Housing Limited

DEED OF VARIATION
Sections 106 and 106A of the Town and Country Planning Act 1990

Relating to land lying to the south side of Fleet Road, Fleet, Spalding (also known as 50 Fleet Road)

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

SHDC Reference: LD/H05-0326-24

Date 10th January 2024

BETWEEN

(1) **SOUTH HOLLAND DISTRICT COUNCIL** of Council Offices, Priory Road, Spalding, PE11 2XE ("the Council"); and

(2) **PLATFORM HOUSING LIMITED** (a registered society pursuant to the Co-operative and Community Benefit Societies Act 2014 with number 8288) whose registered office is at Unit 1700, Solihull Parkway, Birmingham Business Park, Birmingham, B37 7YD ("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) On 28 March 2019 the Council and Trevor John Morriss ("Original Owner") entered into the Original Agreement.

(C) The Owner is a successor in title to the Original Owner and is the freehold owner of the Land registered at the Land Registry under title number LL397014.

(D) The Owner has via their agent submitted to the Council the Section 73A Application to amend Condition 1 of the Original Planning Permission to allow amendments to the approved plans to include an omitted drawing and update the approved site plan.

(E) Without prejudice to the terms of the other covenants contained in the Original Agreement the parties have agreed to vary the terms of the Original Agreement as set out in this Deed.

(F) The parties have agreed to enter into this Deed to give its consent to the terms of this Deed.

(G) This agreement is made under Sections 106 and 106A of the Act and is supplemental to the Original Agreement.

NOW THIS DEED WITNESSES AS FOLLOWS:

1. DEFINITIONS

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

"Original Agreement"	means the agreement made under section 106 of the Act relating to land at 50 Fleet Road, Holbeach, Spalding dated 28th March 2019 and made between (1) the Council and (2) Trevor John Morriss.
"Section 73A Application"	means the application under section 73A of the Act for the removal or variation of a condition following grant of the Original Planning Permission and submitted by the Owner and accepted on 10 April 2024 by the Council and allocated the Council's reference number H05-0326-24

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 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 Council, successors to its 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.

4. VARIATIONS TO THE ORIGINAL AGREEMENT

4.1 The Following definitions shall be added to the Original Agreement

"Original Planning Permission"	means the planning permission issued by the Council on 1 April 2019 and given reference H05-0468-18
"Section 73A Application"	means the application under section 73A of the Act for the removal or variation of a condition following grant of the Original Planning Permission and submitted by the Owner and accepted on 10 April 2024 by the Council and allocated the Council's reference number H05-0326-24
"Section 73A Permission"	means the planning permission issued pursuant to the Section 73A Application

4.2 The definition of "Application" in Clause 1.1 to the Original Agreement shall be deleted and replaced with the following:

"Application"	means the application for Planning

	Permission for the Development

4.3 The definition of "Planning Permission" in Clause 1.1 to the Original Agreement shall be deleted and replaced with the following:

"Planning Permission"	means the Original Planning Permission or the Section 73A Permission granted by the Council for the Development pursuant to the Application or such other planning permissions for the Development granted pursuant to sections 73 or 96A of the 1990 Act

4.4 The following Clause shall be inserted after Clause 8.12 of the Original Agreement to the Original Agreement:

"8.13 *It is agreed between the parties that where planning permission is issued in relation to the Development pursuant to an application under section 73 of the Act this Deed shall continue to bind the Development and shall be in full force and effect subject to and in accordance with the provisions contained herein and shall in addition bind the Development in respect of any subsequent planning permission granted pursuant to section 73 of the Act* ***AND PROVIDED THAT*** *in the event that upon receipt of an application under section 73 of the Act the Council considers that the obligations contained in this Deed should be varied or amended it is agreed and acknowledged that the Council should retain the right to refuse such application unless and until a deed of variation or alternative agreement has been entered into to secure the appropriate obligations."*

4.5 The draft decision notice for the Section 73A Permission annexed to this Deed at Schedule 1 shall be added as Schedule 2A of the Original Agreement.

4.6 In all other respects the Original Agreement (as varied by this Deed) shall

remain in full force and effect.

5. THE OWNERS' COVENANTS

5.1 The Owners covenant 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 Council.

7. COUNCIL'S COSTS

7.1 The Owners shall pay to the Council on or before the date of this Deed:

(a) the Council's reasonable legal costs of £625 together with all disbursements (if any) incurred in connection with the preparation, completion and registration of this Deed; and

(b) the sum of £424 as a contribution towards the Council's costs in monitoring the implementation of this Deed.

8. VAT

8.1 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 Council.

9. THIRD PARTY RIGHTS

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

10. JURISDICTION

10.1 This Deed is governed by and interpreted in accordance with the laws of England and Wales

11. 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:-

Jason King.

Authorised Signatory AD Housing

EXECUTED as a **DEED** by affixing the **COMMON SEAL** of **PLATFORM HOUSING LIMITED** in the presence of:

Authorised Signatory

Clare Durnin
Executive Director
(Corporate Resources)

Authorised Signatory

Jon Cocker
Chief Information Officer
Technology

PHL 8116

SCHEDULE 1

DRAFT S.73A PLANNING PERMISSION (H05-0326-24) TO BE ISSUED UNDER THE SECTION 73A APPLICATION

Council Offices
Priory Road
Spalding
Lincolnshire
PE11 2XE

Admin 01775 764723
DC Officers 01775 761161
Facsimile 01775 762937

planningadvice@sholland.gov.uk

www.sholland.gov.uk

Corporate Architecture Ltd
Venari House
1 Trimbush Way
Rockingham Road
Market Harborough
LE16 7XY

TOWN AND COUNTRY PLANNING ACT 1990

DRAFT APPROVAL

Reference: H05-0326-24

Date of Decision:

Applicant: Geda
9 High Street
Kegworth
Derbyshire
DE74 2DA

Location: 50 Fleet Road Fleet Spalding

Description: Residential Development of 25 Dwellings (Phase 2) - outline approval H05-0468-18 - with access via Phase 1 - approved under H05-0303-22. Modification of Condition 1 to allow amendments to previously approved plans.

South Holland District Council hereby give notice that permission has been GRANTED (or equivalent) subject to the following condition(s):

1 The development hereby permitted shall be carried out in accordance with the following approved plans and/or documents unless superseded or amended by a subsequent consent:

H05-0468-18
1:2500 Location Plan
14317/21
Flood Risk Assessment by Geoff Beel Consultancy (ref. GCB/Status Design) dated April 2018

H05-0303-22
5366/KP/22/001 Rev P1
5366/KP/22/002 Rev P1
5366/KP/22/003 Rev P13

5366/KP/22/004 Rev P13
5366/KP/22/005 Rev P13
5366/KP/22/006 Rev P7
2020-PL1-11 Rev A
2020-PL1-12 Rev A
2020-PL1-13 Rev A
5366/KP/22/011 Rev P2
5366/KP/22/012 Rev P2
5366/KP/22/013 Rev P3
5366/KP/22/014 Rev P2
Schedule of External Materials (Job no. 5366 - Rev 1) dated March 2022

H05-0497-23
5366/KP/22/003 Rev T3
5366/KP/22/008 Rev T1
4883/KP/19/002 Rev C4
FW2114-E-001-01 Rev A6
FW2114-E-001-02 Rev A4
FW2114-D-003-01 Rev A6
FW2114-D-003-02 Rev A5
FW2114_DM_001 v1
Drainage Strategy by Farrow Walsh (ref. FW2114_DS_001 V4) dated December 2022
Design Settings by Farrow Walsh Consulting Ltd dated 6 December 2022
Estate Road Phasing Plan by Corporate Architecture
Construction Management Plan by GEDA Construction dated 23 May 2023
Landscape Management Plan by Keary Design Associates (ref. 2020-RP-02-Rev B) dated 17 February 2021
Landscape Maintenance Specification (Version 6 10.12.2019) by Platform Housing Group
4/87964 Issue 1 (Childrens Play Area) dated 16 January 2023
Planet Jungle 'The Cloud' Specification
Rotaplay Single Zigzag Twister Specification
Basket Mini Swing Specification
Spring Mobiles Galaxy (Sit-on) Specification
Keyston Seat Specification
Keyston Bin Specification
End Cap Fixing Details
Waste Strategy by Corporate Architecture
Habitat and Protected Species Report by Paul Hickling Associates (ref. 21110-PHA) dated November 2021
Protected Species (Bats) Emergence and Activity Survey Report (ref. 21110-PHA) dated June 2022
Ground Investigation Report by Ground Engineering (ref. C15929A) dated September 2023
Ground Gas Protection Measures Verification Plan by Elemental GI Ltd (ref E23180/G/0) dated October 2023
Summary of Recent Supplementary Environmental Investigation Works (ref. E23180/STLR) dated 3 October 2023

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5366/KP/22/003 Rev C3
5366/KP/21/900 Rev C2

Reason: For the avoidance of doubt and in the interests of proper planning.

2 The approved scheme of landscaping shall be carried out and completed in its entirety during the first planting season following practical completion of the development. All trees, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

Reason: To ensure that the development is adequately landscaped, in the interests of its visual amenity and that of the area in which it is set.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

3 The approved scheme of boundary treatment/screening shall be implemented in full before any dwelling is occupied.

Reason: In the interests of the character and appearance of the development and the amenity of neighbouring residents.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

4 Before any dwelling is occupied, all of that part of the estate road and associated footways that forms the junction with the main road and which will be constructed within the limits of the existing highway, shall be laid out and constructed to finished surface levels in accordance with the approved details.

Reason: In the interests of safety, to avoid the creation of pedestrian trip hazards within the public highway from surfacing materials, manholes and gullies that may otherwise remain for an extended period at dissimilar, interim construction levels.
This Condition is imposed in accordance with Policy 2 of the South East Lincolnshire Local Plan, 2019.

5 The permitted development shall be undertaken in accordance with the approved Estate Road Phasing and Completion Plan.

To ensure that a safe and suitable standard of vehicular and pedestrian access is provided for residents throughout the construction period of the development.
This Condition is imposed in accordance with Policy 2 of the South East Lincolnshire Local Plan, 2019.

6 The development shall be carried out in accordance with the approved surface water drainage scheme and no dwelling shall be occupied until the approved scheme has been completed or provided on the site in accordance with the approved details. The approved scheme shall be retained and maintained in full in accordance with the approved details.

Reason: To ensure that the permitted development is adequately drained without creating

or increasing flood risk to land or property adjacent to, or downstream of, the permitted development.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, December 2023.

7 No dwellings shall be occupied until the works have been carried out in accordance with the approved foul water strategy.

Reason: To ensure that the site is adequately drained and to avoid pollution.
This Condition is imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019.

8 The construction process shall be carried out in accordance with the approved construction management plan.

Reason: In the interests of the amenity of local residents.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

9 The areas of publicly accessible open space shall be laid out and made available for use in accordance with the approved details and shall thereafter be so maintained.

Reason: To ensure that adequate open space provision is made available for the occupiers of the development hereby permitted and that provision is made for the management and maintenance of the open space.
This Condition is imposed in accordance with Policy 32 of the South East Lincolnshire Local Plan, 2019.

10 An equipped children's play area shall be provided in accordance with the details so approved, and thereafter so maintained.

Reason: To ensure that adequate play provision is made for the occupiers of the development hereby permitted and that the facility is adequately managed and maintained.
This Condition is imposed in accordance with Policy 32 of the South East Lincolnshire Local Plan, 2019.

11 Management of the areas of publicly accessible open space and outdoor play areas shall be carried out in accordance with the details so approved.

Reason: To ensure that adequate open space provision is made available for the occupiers of the development hereby permitted and that provision is made for the management and maintenance of the open space.
This Condition is imposed in accordance with Policy 32 of the South East Lincolnshire Local Plan, 2019.

12 The areas of incidental open space, refuse/recycling collection points and parking courts shall be maintained in accordance with the approved landscape management and maintenance schedule.

Reason: To ensure a satisfactory development in the interest of the amenities of the locality.
This Condition is imposed in accordance with Policies 2 and 32 of the South East Lincolnshire Local Plan, 2019.

13 The approved scheme of the means of storage and disposal of refuse and recycling shall be fully implemented before the dwelling(s) to which it relates has been occupied and shall thereafter be retained.

Reason: To ensure that adequate facilities are made available for refuse storage and disposal to avoid pollution, to protect residential amenity, and in the interests of the appearance of the site and the area within which it is set.
This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

14 The development hereby permitted shall be carried out in accordance with the measures set out in the approved Flood Risk Assessment, including/plus the following measures, unless otherwise agreed in writing by the Local Planning Authority.
- Finished floor levels shall be set 500mm above existing ground level;
- Safe refuge shall be provided above ground floor level;
- Flood resilience measures shall be incorporated within the development up to 300mm above finished floor level.
The mitigation measures shall be fully implemented prior to occupation.

Note: Future occupants are advised to sign up to the Environment Agency's free Floodline Warnings Direct Service.

Reason: To ensure that the development does not increase the risk of flooding or be at risk of flooding.
This Condition is imposed in accordance with Policies 3 and 4 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, December 2023.

15 A full copy of a contamination verification report shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post-remediation sampling and monitoring results shall be included in the closure report to demonstrate that the required remediation objectives and criteria has been fully met.

Note: The applicant is advised that the phased risk assessment required by the Contaminated Land Scheme Condition should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 11A.

Reason: To ensure the satisfactory remediation of contaminated land and/or waters.
This Condition is imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019.

16 The works shall be carried out in accordance with the approved ecological survey.

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Reason: In the interest of nature conservation.
This Condition is imposed in accordance with national guidance contained in Section 15 of the National Planning Policy Framework, December 2023.

Notes:

The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and subsequently determining to grant planning permission.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at http://planning.sholland.gov.uk/OcellaWeb/planningSearch

This planning permission is subject to an Agreement under Section 106 of the Town & Country Planning Act 1990 dated xxxxx and can only be implemented as a consequence of meeting the provisions of that Agreement

All roads within the development hereby permitted must be constructed to an engineering standard equivalent to that of adoptable highways. Those roads that are to be put forward for adoption as public highways must be constructed in accordance with the Lincolnshire County Council Development Road Specification that is current at the time of construction and the developer will be required to enter into a legal agreement with the Highway Authority under Section 38 of the Highways Act 1980. Those roads that are not to be voluntarily put forward for adoption as public highways, may be subject to action by the Highway Authority under Section 219 (the Advance Payments code) of the Highways Act 1980. In all cases, the developer is advised to undertake early discussions with statutory undertakers to co-ordinate the laying of utility services under the highway.

Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works.

For further guidance please visit the Lincolnshire County Council website via the following links:
Traffic Management - https://www.lincolnshire.gov.uk/traffic-management
Licences and Permits - https://www.lincolnshire.gov.uk/licences-permits

The existing ground level of the site must not be raised above the ground level of any surrounding land without further consultation with the Lead Local Flood Authority and Local Planning Authority, to consider suitable mitigation measures to ensure that surface water flood risk is not created or increased to land adjacent to the permitted development.

Phil Norman

Assistant Director - Planning and Strategic Infrastructure
South Holland District Council

8th October 2024

BUILDING REGULATIONS:
This decision refers only to planning permission as granted under the Town and Country Planning Act 1990. The works that you are proposing may also require Building Regulations and this planning permission does not give authority under Building Regulations to commence work. Please contact the Building Control section for further information on 01775 764557 or bcadmin@sholland.gov.uk