

**DATED** 16<sup>th</sup> July **2019**

**PLANNING AGREEMENT**

**between**

**(1) SOUTH HOLLAND DISTRICT COUNCIL**

**AND**

**(2) ACD DEVELOPMENTS LIMITED**

Agreement under

Section 106 Town & Country Planning Act 1990  
relating to land off Main Road, Quadring, Spalding

THIS DEED is made the 16<sup>th</sup> day of July 2019

# **BETWEEN**

- (1) **SOUTH HOLLAND DISTRICT COUNCIL** of Council Offices, Priory Road, Spalding, Lincolnshire, PE11 2XE ("the Council")
- (2) **ACD DEVELOPMENTS LIMITED** (Company Registration No. 08373049) of 143 Eastfield Road, Peterborough, PE1 4AU. ("the Owner")

# **RECITALS**

- (A) The Council is the local planning authority for the purposes of the 1990 Act for the area within which the Site is situated and by whom the obligations and covenants contained in this Deed are enforceable
- (B) The Council is the local housing authority of the purposes of the Housing Act 1985
- (C) The Council is a local authority for the purposes of the 1972 Act and the 2011 Act
- (D) The Owner submitted the Planning Application to the Council for the Development of the Site.
- (E) The Owner is the freehold owner of the Site.
- (F) The Site will be transferred from the Owner to the Waterloo Housing Group Limited (Registered Society No. 7737) of Unit 1700, Solihull Parkway, Birmingham Business Park, Birmingham, B37 7YD within 24 hours of completion of this Deed.
- (G) To facilitate the Development the Owner has agreed to enter into this Deed in order to secure the planning obligations contained in this Deed
- (H) The parties in entering into this Deed do so to create planning obligation pursuant to section 106 of the 1990 Act in respect of the Owners' interest in the Site and (subject to clause 3 of this Deed) the Owner agrees to be bound by and to observe and perform the covenants agreements conditions and stipulations hereinafter contained on the terms of this Deed.
- (I) The parties agree that the planning obligations contained in this Deed are necessary to comply with the requirements of regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended).

# **OPERATIVE PART**

**NOW THIS DEED WITNESSETH AS FOLLOWS:**

## 1. DEFINITIONS AND INTERPRETATION

1.1. In this Deed the following terms and expressions shall have the following meaning:

"1972 Act"	means the Local Government Act 1972 (as amended)
"1990 Act"	means the Town and Country Planning Act 1990 (as amended)
"2011 Act"	means the Localism Act 2011
"Affordable Housing"	has the meaning given to it in Annex 2 of the National Planning Policy Framework February 2019 or any amendment or supplemental guidance issued thereof
"Affordable Housing Units"	means the Dwellings to be provided for use as Affordable Housing in accordance with the terms of Schedule 5
"Affordable Rent"	has the meaning given to it in Annex 2 of the National Planning Policy Framework 2019 or any amendment or supplemental guidance issued thereof and any reference to local market rent are to the local market rent charged in the District and where the rent and service charge must not exceed the Local Housing Allowance for the relevant area which is reviewed annually
"Chargee"	means a mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver) of the whole or any part of the Affordable Housing
"Commencement of Development"	means the date on which any material operation (as defined in section 56(4) of the 1990 Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of access, site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and the words "Commence" and "Commenced" shall be construed accordingly

"Completed",	means in respect of a Dwelling, the issue of a final certificate under the Building Act 1984 and "Completion" shall be construed accordingly
"Development"	means the development which is the subject of the Planning Permission
"District"	means the District of South Holland
"Dwelling"	means any unit of residential accommodation (including a house flat bungalow or maisonette) to be constructed pursuant to the Planning Permission
"Local Housing Allowance"	means the maximum entitlement of contribution towards the rent used to calculate housing benefit for tenants renting from private landlords
"Nominations Agreement"	means an agreement negotiated between the Council and the Owner which guarantees the Rented Housing will be let on the Council's Housing Register substantially in the form set out and attached at Schedule 6
"Occupation"	means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in the construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and reference to "Occupier" and "Occupied" shall be construed accordingly
"Planning Application"	means the application for planning permission for the demolition of existing structures and erection of 19 dwellings allocated under the Council's reference number H15-0203-19
"Planning Permission"	means the planning permission for the Site granted pursuant to the Planning Application substantially in the form as attached in draft at Schedule 2
"Plan"	means the Plan annexed to this Deed at Schedule 1 being the official copy of the title plan associated with registered title number LL379045
"Protected Person"	means a person who: <ul style="list-style-type: none"> <li>(a) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Dwelling;</li> <li>(b) has been granted a shared ownership lease of a particular Dwelling and the tenant has subsequently purchased all the</li> </ul>



remaining shares so that the tenant owns the entire Dwelling;  
or

(c) any mortgagee Chargee and or successor in title to anyone  
falling with categories (a) or (b) above  
and Protected People shall be construed accordingly

PROVIDED THAT a Chargee must comply with the provisions of  
Schedule 5 Paragraphs 11.1 and 11.2 in so far as they apply in order to  
benefit from this exclusion

"Registered Provider"	means a registered provider as defined by Section 80 of the Housing and Regeneration Act 2008
"Rented Housing"	means the Affordable Housing Units to be provided and made available at an Affordable Rent
"Shared Ownership Housing"	means Dwellings that meet the criteria of Annex 2 of the NPPF or any amendment or supplemental guidance issued thereof and is made available on low cost ownership terms
"the Site"	means the land shown edged red on the Plan as is more particularly described in Schedule 1
"a Working Day"	means any day from Monday to Friday (inclusive) other than Christmas Day Good Friday and any statutory Bank or public holidays

- 1.2. Where in this Deed reference is made to any clause paragraph schedule plan or recital such reference (unless the context otherwise requires) is a reference to a clause paragraph schedule recital or plan in this Deed
- 1.3. Where in any Schedule or part of any Schedule reference is made to a paragraph such reference shall (unless the context requires otherwise) be to a paragraph of that Schedule or (if relevant) part of that schedule
- 1.4. References to any party to this Deed shall include reference to their successors in title and assigns and to persons claiming or deriving title through or under them and in respect of the Council shall include the successors to their respective statutory functions
- 1.5. Words importing the singular meaning where the context so admits include the plural meaning and vice versa
- 1.6. 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 interchangeable in that manner

- 1.7. Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise
- 1.8. 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
- 1.9. "Notify" means the transmission of written information by means of letter, email or facsimile from one party to another preceded in all cases by a telephone call between the agents of either party **PROVIDED THAT** if the said transmission is received prior to 10.00am on any working day the time periods for response laid out in this Deed shall commence from that Working Day whereas if the transmission is received after 10.00am the aforesaid time period shall commence from the following Working Day

## 2. **LEGAL BASIS**

- 2.1. This Deed is made pursuant to Section 106 of the 1990 Act Sections 111 and 120 and 139 of the 1970 Act and Section 1 of the 2011 Act and all other enabling powers with the intent that the covenants and obligations shall run with the Site
- 2.2. The covenants restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to section 106 of the 1990 Act and are intended to be enforceable by the Council as local planning authority

## 3. **CONDITIONALITY**

This Deed and the obligations contained herein is conditional upon:-

- a) the grant of Planning Permission and
- b) the Commencement of Development

**SAVE FOR** the provisions of clauses 4.1.3, 4.1.6 and 6.2 which shall come into effect immediately upon completion of this Deed

## 4. **AGREEMENTS AND DECLARATIONS**

- 4.1. The parties agree and declare that:
  - 4.1.1. the provisions of this Deed shall not be enforceable under the Contracts (Rights of Third Parties) Act 1999 and for the avoidance of doubt, this deed shall not be enforceable against any purchaser or tenant of an Open Market Dwelling built on the site subject to the Planning Permission, or against any mortgagee of the same
  - 4.1.2. the covenants given in this Deed shall cease to have effect (insofar only as it has not already been complied with) if:
    - 4.1.2.1. the Planning Permission is quashed revoked or otherwise withdrawn at any time; or
    - 4.1.2.2. the Planning Permission expires prior to the Commencement of Development; or

- 4.1.2.3. the Planning Permission is modified by any statutory procedure without the consent of the Owner
- 4.1.3. this Deed shall be registrable as a land charge by the Council as local planning authority
- 4.1.4. following the performance and satisfaction of all of the obligations contained in this Deed the Council shall forthwith effect the cancellation of all relevant entries made in the Register of Local Land Charges in respect of this Deed
- 4.1.5. no person or party shall be liable for a breach of the restrictions and obligations contained in this Deed after that person or party has parted with all of his interest in the Site or the part in respect of which the breach occurs but without prejudice to any liability for any breach committed prior to such parting for the avoidance of doubt once the Owner have complied with its obligations to transfer the Affordable Housing Units to a Registered Provider then it shall have no further liability in respect of those Affordable Housing Units pursuant to the provisions of Schedule 5
- 4.1.6. the Owner agrees to give the Council written notice of any change in ownership of its interest in the Site within 14 Working Days of such a change which occurs before all the obligations under this Deed have been discharged
- 4.1.7. nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed
- 4.1.8. nothing contained in this Deed shall prejudice or affect the rights powers duties and obligations of the Council in the exercise of its functions as local authority and its rights powers duties and obligations under all public and private statutes byelaws and regulations may be as fully and effectually exercised as if the Council were not a party to this Deed
- 4.1.9. if any severable provision of this Deed shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions shall not in any way be deemed thereby to be affected or impaired
- 4.1.10. where the agreement approval consent or expression of satisfaction is required by the Owner from the Council under the terms of this Deed such agreement approval consent or expression of satisfaction shall not be unreasonably withheld or delayed
- 4.1.11. any notices requests demands or other written communications pursuant to this Deed shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party

## **5. COUNCIL'S COVENANTS**

- 5.1 The Council covenants with the Owner to comply with its obligations as set out in Schedule 3



## **6. OWNER'S COVENANTS**

- 6.1. The Owner covenants with the Council to comply with their obligations as set out in Schedule 4 and Schedule 5
- 6.2. The Owner covenants with the Council to pay to the Council on the completion of this Deed the reasonable legal costs of the Council in preparing, negotiating and completing this Deed

## **7. JURISDICTION**

This Deed shall be governed by and interpreted in accordance with the law of England

## **8. WAIVER**

No waiver (whether expressed or implied) by the Council or the Owner of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council or the Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default

## **9. DISPUTE RESOLUTION**

- 9.1. In the event of there being a dispute arising out of this Deed or the subject matter thereof the following provisions shall apply:
  - 9.1.1. The parties shall use their reasonable endeavours to resolve the dispute by agreement
  - 9.1.2. If agreement cannot be reached the matter in dispute shall be referred to and settled by a single expert to be nominated by the President of the Royal Institution of Chartered Surveyors on the application of either party after giving notice in writing to the other party to this Deed
  - 9.1.3. The person to be appointed pursuant to clause 9.1.2 shall be a person having five years or more post qualification experience of projects comprising works of the scale and nature of the Development
  - 9.1.4. Reference to the expert shall be on terms that determination shall take place within 20 Working Days of the expert accepting his instructions
  - 9.1.5. The expert shall have the power to award costs of the determination in favour of either party to the dispute at the expense of the other party and failing such determination such costs shall be borne by the parties in equal shares
  - 9.1.6. The expert shall be limited in his findings to the matter in dispute referred to him and shall provide written reasons for his decision
  - 9.1.7. The findings of the expert shall (other than in the case of a manifest material error) be final and binding on the parties to the dispute

## **10. VAT**



All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax.

**11. EXECUTION AND DELIVERY**

This document is executed as a deed and is delivered on the date stated at the beginning of this Deed

**SCHEDULE 1**

**DETAILS OF THE OWNER'S TITLE AND DESCRIPTION OF THE SITE AND THE PLAN**

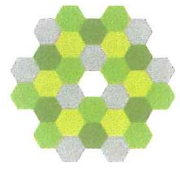
Land off Main Road, Quadring, Spalding, Lincolnshire shown edged red on the plan attached hereto and registered under title number LL379045

Title number **LL379045**

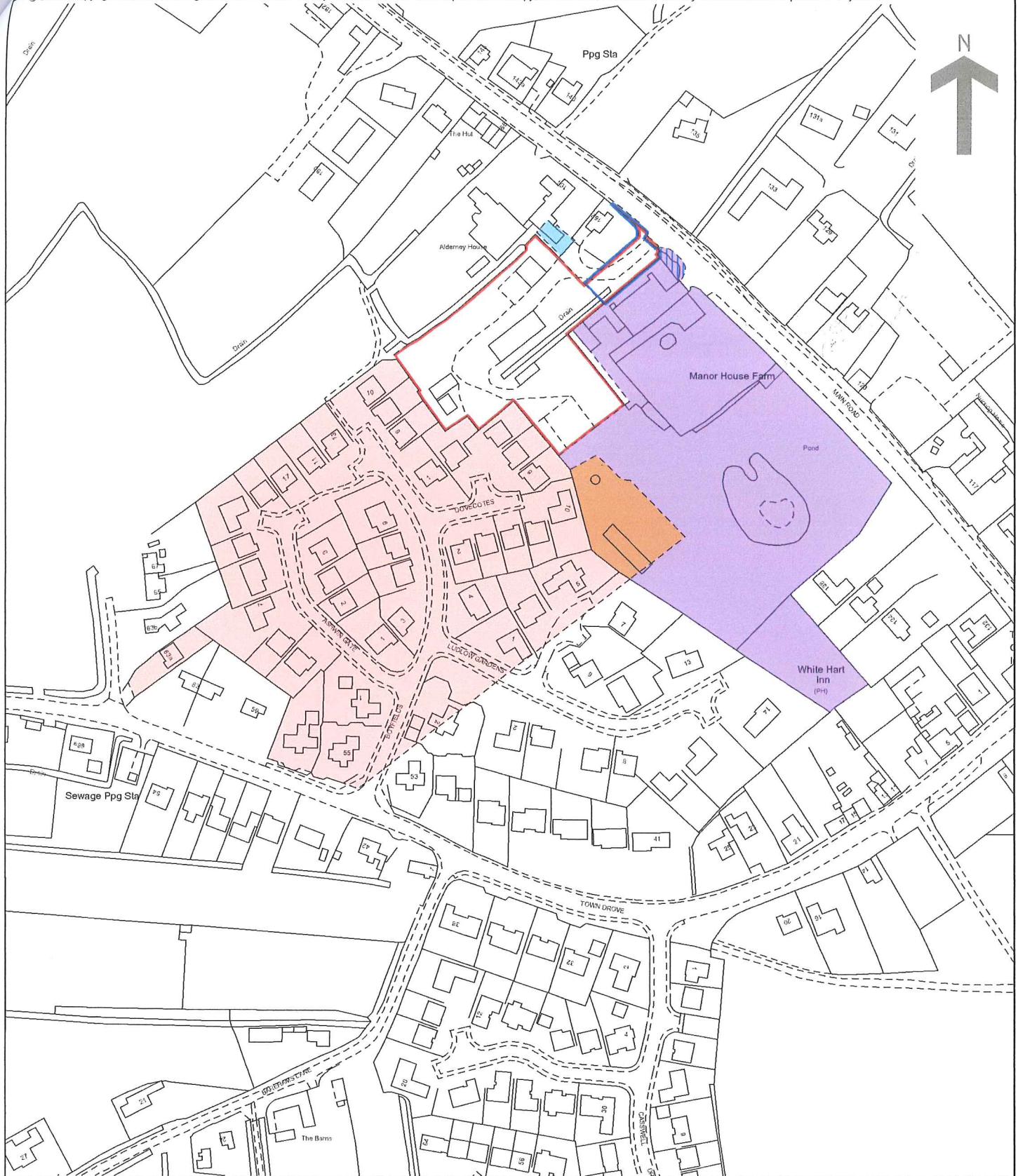
Ordnance Survey map reference **TF2233SW**

Scale **1:2500**

Administrative area **Lincolnshire : South Holland**



© Crown copyright and database rights 2018 Ordnance Survey 100026316. You are not permitted to copy, sub-license, distribute or sell any of this data to third parties in any form.



**SCHEDULE 2**  
**THE DRAFT PLANNING PERMISSION**



Swann Edwards Architecture Ltd  
Black Barn  
Fen Road  
Wisbech  
Wisbech Cambs  
PE13 4AA

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

## TOWN AND COUNTRY PLANNING ACT 1990

### DRAFT APPROVAL

**Reference:** H15-0203-19 **Date of Decision:**

**Applicant:** A C D Developments Ltd  
C/O Swann Edwards Architecture Ltd  
Black Barn  
Fen Road  
Guyhirn Wisbech Cambs

**Location:** Land Off: Main Road Quadring Spalding Lincs

**Description:** Demolition of existing structures and erection of 19 dwellings with access, landscaping and associated works

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

- 1 The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Application form  
Design and Access Statement SE-1095 Dated February 2019  
SE-1095 001 A  
PP-1000A  
06-16085-01A Topographical Survey  
A0307\_01 Tree Survey & Constraints

Tree Survey Table  
SE-1095 PP-1100 A  
SE-1095 PP-1101 B  
SE-1095 PP-1102 A  
SE-1095 PP-2100 B  
SE-1095 PP-2101 B  
SE-1095 PP-2102 B  
SE-1095 PP-2103 B  
SE-1095 PP-2104 B

Flood Risk Assessment Prepared by ARP Associates Report Reference 800/469r1 dated November 2016

Traffic Management Plan Produced by Stephen Smith - Dated 19 June 2019

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

- 3 The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment (FRA) undertaken by Prepared by ARP Associates Report Reference 800/469r1 dated November 2016 forming part of this planning application and the following measures detailed within the FRA :

-Finished floor levels to be set at 300mm above the surrounding ground level.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied in the scheme.

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, 2019.

- 4 The external materials of construction of buildings and hard surfaced areas shall be in accordance with the following details:

#### FACING BRICKWORK

Plots number: 1, 2, 5, 6, 7, 8, 11, 12, 13, 14, 17, 18, 19. IBSTOCK - RUTLAND RED STOCK. RED

Plots number: 3,4, 9, 10, 15, 16. BUFF STOCK.

ROOF TILES all plots. REDLAND GROVEBURY TILES SLATE GREY.

WINDOWS all plots. UPVC CASEMENT WHITE

FASCIAS AND SOFFIT all plots. UPVC WHITE

PATIO TILES IN THE GARDENS all plots. TEXTURED SLABS GREY

RAINWATER GOODS HALF ROUND GUTTERS AND ROUND DOWNPIPES. BLACK



Reason: To ensure that the Local Planning Authority retains control over the external materials of construction of the development in the interests of the character and appearance of the development and the visual amenity 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.

- 5 No dwellings (or other development as specified) shall be commenced before the first 50 metres of estate road from its junction with the public highway, including visibility splays, as shown the submitted on drawings have been completed to binder course.

Reason: To ensure construction and delivery vehicles, and the vehicles of site personnel may be parked and/or unloaded off the existing highway, in the interests of highway safety and the amenity of neighbouring residents.

This Condition is imposed in accordance with Policy 2 of the South East Lincolnshire Local Plan, 2019.

- 6 Before any dwelling is commenced, 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 details to be submitted and approved by the local planning authority.

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.

- 7 Before each dwelling is occupied the roads and/or footways providing access to that dwelling, for the whole of its frontage, from an existing public highway, shall be constructed to a specification to enable them to be adopted as Highways Maintainable at the Public Expense, less the carriageway and footway surface courses. The carriageway and footway surface courses shall be completed within three months from the date upon which the erection is commenced of the penultimate dwelling..

Reason: To ensure safe access to the site and each dwelling/building in the interests of residential amenity, convenience and safety.

This Condition is imposed in accordance with Policy 2 of the South East Lincolnshire Local Plan, 2019.

- 8 The proposed arrangements for future management and maintenance of the proposed streets shall be in accordance with the letter submitted from Hilljet Construction Limited dated 20th June 2019, specifically, Hilljet Construction, the Contractor constructing the development under contract with Waterloo Housing, shall maintain the proposed estate streets until such time as the S38 Agreement has been entered into. The shared private access to the frontage of Plots 15 - 19 shall be maintained by Hilljet Construction until such time as handed over to Waterloo Housing who shall then manage/maintain this by themselves or

appoint a management company to undertake this on their behalf. (The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980).

Reason: To ensure that the estate streets serving the development are completed and thereafter maintained to an acceptable standard in the interest of residential/highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the development; and to safeguard the visual amenities of the locality and users of the highway. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policy 2 of the South East Lincolnshire Local Plan, 2019.

- 9 No development shall take place beyond oversite until a surface water drainage scheme for the site, based on sustainable urban drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall:

- a) Provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
- b) Provide attenuation details and discharge rates which shall be restricted to 1.4 litres per second per hectare;
- c) Provide details of the timetable for and any phasing of implementation for the drainage scheme; and
- d) Provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.

The development shall be carried out in accordance with the approved 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 phasing. The approved scheme shall be retained and maintained in full in accordance with the approved details.

Reason: To ensure residents of the permitted development, neighbouring residents and neighbouring land are not adversely affected, by reason of flooding, by the construction of the permitted development.

This Condition is imposed in accordance with Policies 3 and 4 of the South East Lincolnshire Local Plan, 2019.

- 10 Construction management measures to minimise disturbance during the construction process through noise, dust, vibration and smoke shall be undertaken in accordance with the Construction Management Plan ref Hilljet TMP Main Road Quadring Jun19.



Reason: In the interests of the amenity of local residents. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

- 11 The precautions to be taken to prevent the deposit of mud on public highways by vehicles travelling from the site during construction of the development shall be undertaken in accordance with the Construction Management Plan ref Hilljet TMP Main Road Quadring Jun19. These precautions shall be made available before commencement of the construction of the development and be kept available and in full working order until such time as the Local Planning Authority agrees in writing to their withdrawal or the completion of the development.

Reason: In the interests of highway safety during the construction process. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policy 3 of the South East Lincolnshire Local Plan, 2019.

- 12 Details of the design and positions of all external boxes for gas and electricity supplies and of any gas flues and soil vent pipes shall be submitted to and approved in writing by the Local Planning Authority prior to their installation and there shall be no variation from the details so approved.

Reason: To ensure that the Local Planning Authority retains control over these details of the development in the interests of the character and appearance of the development and the visual amenity 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.

- 13 Where trees are shown on plan ref PP-1000A to be retained on site they shall be protected during construction work as follows:

i)chestnut pale or similar fencing 1.5 metres in height shall be provided around the trees to be retained before development is commenced at a minimum distance from the trunks equal to the spread of the crowns of the trees. No materials, equipment, site huts, fuels or other items shall be placed or stored within the areas enclosed by the fencing so erected and the ground levels within those areas shall not be altered, nor shall any excavation be made,

ii)no burning of materials or other items shall take place within 3 metres of the crown spread of any of the trees to be retained;

iii)no services shall be routed under the spread of the crowns of the trees to be retained;

iv)no retained tree shall be cut down, up-rooted, destroyed, topped or lopped unless first agreed in writing by the Local Planning Authority;

v)if any tree which is to be retained dies or is to be removed it shall be replaced within six months thereafter with a tree of such size and species which shall be first be agreed in writing by the Local Planning Authority.

Reason: To ensure the protection of trees on the site.

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 15 of the National Planning Policy Framework, 2019.

4 None of the trees shown to be retained on plan ref PP-1000A shall be cut down, up-rooted, destroyed, topped or lopped unless first agreed in writing by the Local Planning Authority. If any tree which is to be retained dies or is to be removed it shall be replaced within six months thereafter with a tree of such size and species which shall be first be agreed in writing by the Local Planning Authority.

Reason: To ensure the protection of existing trees on the site, in the interests of the visual amenity of the locality.

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 15 of the National Planning Policy Framework, 2019.

- 15 The scheme of landscaping and tree planting for the site on plan ref PP-1000A shall be carried out in its entirety within a period of twelve months beginning with the date on which development is commenced. 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.

#### 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 by identifying matters of concern within the application and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal.

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

Under the Wildlife and Countryside Act 1981 (as amended) all birds, their nests and eggs are protected by law and it is an offence to damage or destroy the nest of any wild bird while it is in use or being built. In the event of query please contact Natural England at their Lincoln office on 03000 603900.

Bats are protected species under the Wildlife and Countryside Act 1981 (as amended) and in the event that bats are living in any cavities in the tree(s), or if they are discovered while the works are taking place please inform Natural England at their Lincoln office on 03000 603900 before works proceed.



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

The development hereby permitted will require the provision of a new vehicular access crossing. Applicants are requested to contact the Local Highway Authority's Divisional Office at Pode Hole - (via call centre Tel: 01522 782070) prior to the commencement of any works within the public highway.

Should unexpected contamination be discovered on the site at any time, the applicant is advised to contact the District Council's Environmental Protection department immediately

Your attention is drawn to the attached letter from Welland and Deepings Internal Drainage Board. You are advised of the need to comply with the requirements of the Drainage Board, which are covered by their own Bye-laws. You are further advised that any future amendments to this application and/or compliance with Conditions must also respect those Bye-laws. Please contact the Drainage Board directly for further information.



**Phil Norman**  
**Planning and Building Control Manager**  
**South Holland District Council**

1st July 2019

**SCHEDULE 3**  
**THE COUNCIL'S COVENANTS**

1. At the written request of the Owner the Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied (acting reasonably) that such obligations have been performed
2. At the same time as it provides written confirmation of the discharge of the obligations contained in this Deed the Council shall amend the Local Land Charges Register to reflect that the obligation or obligations have been performed.



**SCHEDULE 4**  
**THE OWNER'S COVENANTS**

**GENERAL**

1. The Owner shall give notice in writing to the Council of the Commencement of Development within 5 Working Days of the same occurring

**SCHEDULE 5**  
**AFFORDABLE HOUSING**  
**OPERATIVE PROVISIONS**

- 1 In carrying out the Development the Owner shall provide and construct all of the Dwellings on Site as Affordable Housing, which shall not be Occupied other than as Affordable Housing, subject to the provisions of this Schedule.
- 2 The Owner covenants with the Council with the intent that they shall not permit or cause to be permitted the Occupation of any Affordable Housing Unit save as:
  - a. in accordance with Schedule 6; or
  - b. by way of a mortgage or legal charge; or
  - c. to another Registered Provider with the prior approval of the Council; or
  - d. by a Protected Person
- 3 Prior to the Commencement of Development on the Site the Owner shall have entered into a contract for sale and purchase in writing with a Registered Provider (subject to the prior approval in writing by the Council not to be unreasonably withheld or another Affordable Housing provider approved in writing by the Council) in respect of the Affordable Housing Units and the Owner shall supply to the Council a certified copy of such agreement within five (5 ) Working Days of it being completed
- 4 Any agreement to sell or transfer the Affordable Housing Units to a Registered Provider shall contain the following provisions:
  - (a) The grant by the Owner of all rights of access and passage of services and other rights reasonably necessary to the beneficial enjoyment of the Affordable Housing Units
  - (b) A reservation of all rights of access and passage of services and rights of entry reasonably necessary for the benefit of the Dwellings.
  - (c) Such other provisions easements covenants stipulations exceptions and reservations as may be reasonably necessary for the proper conveyancing of plots and the ongoing maintenance and management of the Site
5. Paragraphs 3 and 4 above do not apply in the event that the Owner is a Registered Provider.
6. Prior to the Commencement of Development the Owner shall agree with the Council the following matters namely the physical location, layout and specification (including that of any

common parts serving the Dwellings), and whether the Dwelling has a parking space or garage, as well as the type and tenure of individual Dwellings.

7 The Owner covenant with the Council with the intent that all Affordable Housing Units on the Site or any part thereof shall be maintained managed and disposed of by the Registered Provider in accordance with the prior written agreement between the Council and the Registered Provider in respect of lettings and allocations

8 The Affordable Housing shall have the following mix and tenure:

5 x 2 bed houses - Affordable Rent - plot numbers: 15-19

4 x 2 bed houses - Shared Ownership - plot numbers: 11-14

10 x 3 bed houses - Shared Ownership - plot numbers: 1-10

9 All Affordable Housing Units on the Site shall be allocated in accordance with the terms of this Deed

10 In the event that an Affordable Housing Unit is to be disposed of as a Shared Ownership Housing Unit or pursuant to a Right to Buy scheme or any equivalent contractual right the Registered Provider in such disposal shall ensure that the terms of such disposal include enforceable provisions granting a right of pre-emption in favour of the Registered Provider

11 The provisions under this Agreement shall not be binding on any Chargee or any persons or bodies deriving title through such Chargee PROVIDED THAT:

11.1 such Chargee shall first give written notice to the Council of its intention to dispose of any Affordable Dwellings and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Dwellings to another registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and

11.2 if such disposal has not completed within the three month period, the Chargee shall be entitled to dispose of the Affordable Dwellings free from the provisions under this Agreement which provisions shall determine absolutely



**SCHEDULE 6**

**NOMINATION AGREEMENT**

*Dated*

*20....*

**(1) South Holland District Council**

**and**

**(2) [REGISTERED PROVIDER]**

---

**NOMINATION AGREEMENT**

---

**Relating to land at  
[LOCATION]**

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

**SHDC Reference: LD/**

**THIS DEED** is made the                      day of                      Two thousand and .....

**BETWEEN**

- (1) **SOUTH HOLLAND DISTRICT COUNCIL** of Council Offices Priory Road Spalding PE11 2XE ("the Council"); and
- (2) **[REGISTERED PROVIDER]** whose registered office is situated at [registered office] ("the Association")

#### **RECITALS**

- (A) The Council resolved on [insert date] to grant planning permission for the Development subject to the provision of 19 dwellings to be delivered as affordable housing. The Council has agreed that 5 Rented Units and 14 Share Ownership Dwellings shall be provided to meet the obligation to provide affordable housing.
- (B) The Association intends to take a transfer of the Rented Units and by this Deed the Association agrees with the Council that the said Rented Units shall be let to occupiers in accordance with the nominations procedure detailed in Clause 4 below allowing the Council to nominate 100% of the initial tenants of each Rented Unit and thereafter at least 75% of the tenants of each Rented Unit.
- (C) The Association intends to take a transfer of the Share Ownership Dwellings and by this Deed the Association agrees with the Council that the Share Ownership Dwellings shall be disposed of by the Association in accordance with Clause 5 below

#### **NOW THIS DEED WITNESSES AS FOLLOWS**

##### **1. DEFINITIONS**

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

"the Development"	means the erection of 19 dwellings on land at Main Road, Quadring, with planning application reference H15-0203-19
"District"	means the District of South Holland
"Share Ownership Dwelling"	means the 14 Share Ownership Dwellings (being plot numbers 1 - 14 on the Development) as defined in Annex 2 of the National Planning Policy Framework 2019 or any replacement amendment or supplemental guidance to it on the land to which the allocation procedure in Clause 5 shall relate

<i>"Local Housing Need"</i>	<i>means local housing need as determined by the Council in accordance with the Council's Housing Allocations Policy</i>
<i>"Nomination Notice"</i>	<i>means a notice served by the Council on the Association providing details of nominated prospective tenants for a Rented Unit in accordance with Clause 4.3.3 of this Deed</i>
<i>"Protected Tenant"</i>	<i>means (i) any tenant who has:</i>  <i>(a) exercised the right to acquire pursuant to the Housing Act 1996 or the Housing and Regeneration Act 2008 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a Rented Unit; or</i>  <i>(b) exercised any statutory right to buy (or any equivalent contractual right) in respect of a Rented Unit; and</i>  <i>(ii) any lessee of a Shared Ownership Unit</i>
<i>"Rented Units"</i>	<i>means the 5 Rented Units (being plot numbers 15-19 on the Development) to be provided as affordable rented units as defined in Annex 2 of the National Planning Policy Framework 2019 or any replacement amendment or supplemental guidance to it on the land to which the nomination rights contained in Clause 4 shall relate</i>
<i>"Vacancy Notice"</i>	<i>means a notice served by the Association giving the Council notice that a Rented Unit is available for occupation or re-let as appropriate</i>
<i>"Working Day"</i>	<i>means any day other than a Saturday Sunday or public or bank holiday in England</i>

## **2. CONSTRUCTION OF THIS DEED**

- 2.1 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.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.



- 2.3 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
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.
- 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 and in the case of the Council, successors to its functions.

### 3. NOTICES

- 3.1 Any notice or document which is required to be given under the terms of this Deed shall be sent by email and shall be deemed to be sufficiently served if signed by or on behalf of the party issuing the notice.
- 3.2 The Council's email for service is [allocations@sholland.gov.uk](mailto:allocations@sholland.gov.uk) (or such other email address as the Council may from time to time notify the Association).
- 3.3 The Association's email address for service is [Gemma.Hill@waterloo.org.uk](mailto:Gemma.Hill@waterloo.org.uk) (or such other email address as the Association may from time to time notify the Council).
- 3.4 Service shall be deemed to be made on the day of transmission if transmitted before 4:00 pm on a Working Day but otherwise on the next following Working Day

### 4. NOMINATIONS PROCEDURE: RENTED UNITS

- 4.1 Subject to the provisions of this Deed the initial occupiers of each of the Rented Units shall be nominated by the Council
- 4.2 After the initial nominations and subject to the provisions of this Deed the Council shall have the right to nominate the occupiers of at least 75% of all Rented Units which become vacant
- 4.3 Where the Council's rights of nomination apply the following provisions shall apply:
- 4.3.1 the Association shall serve on the Council a Vacancy Notice giving to the Council

- (a) 4 weeks' notice that a Rented Unit is ready for occupation in respect of an initial let; and
- (b) 5 Working Days' notice of impending vacancy of a Rented Unit in respect of a re-let

4.3.2 the Vacancy Notice shall include the following details:

- (a) address of the Rented Unit;
- (b) weekly rental and any service charges;
- (c) number of bedrooms and maximum occupancy;
- (d) age designation; and
- (e) any other relevant information such as adaptations to the Rented Unit

4.3.3 The Council shall within fifteen (15) Working Days (in respect of an initial let) and five (5) Working Days (in respect of a re-let) of receipt of the Vacancy Notice serve on the Association a Nomination Notice containing in priority order details of as many names and addresses of persons known to the Council as being in Local Housing Need as the Council considers appropriate

4.3.4 If the initial Nomination is exhausted without the tenancy having been accepted the Association will notify the Council and the Council will have a further period of five (5) Working Days within which to provide a further Nomination Notice in accordance with the above provisions

4.3.5 A Rented Unit shall be offered to occupiers in accordance with the following provisions:

- (a) the tenancy of a Rented Unit shall first be offered to the person whose name appears first on the Nomination Notice;
- (b) if that person shall refuse or fail to accept the offer of a tenancy the Rented Unit shall be offered to the person whose name next appears on the Nomination Notice and if that person shall also refuse or fail to accept the offer of a tenancy then this process shall be repeated as often as may be necessary until **EITHER** the offer of a tenancy has been accepted **OR** the initial Nomination Notice and any further Nomination Notices have been exhausted without the tenancy having been accepted;
- (c) where **EITHER** the initial Nomination Notice and any further Nomination Notices are exhausted without the tenancy having been accepted **OR** the Council fails to provide a Nomination Notice **OR** the Council advises that it is not aware of any persons whom it considers to be in Local Housing Need then the Association shall have the right to select the occupier of the Rented Unit from its own applications provided such person or persons are in Local Housing Need **BUT FOR THE AVOIDANCE OF DOUBT** it is hereby agreed that if the Association exercises such a right the tenancy shall not be considered a Council nomination

*for the purpose of determining the sequence of nominations provided for in this Deed.*

4.3.6 *the Association will notify the Council:*

- (a) *within three (3) Working Days of the end of the acceptance period where the prospective tenant fails to accept a tenancy;*
- (b) *within three (3) Working Days where a prospective tenant provisionally accepts a tenancy;*
- (c) *within three (3) Working Days where a prospective tenant refuses the tenancy including any reasons for refusal given;*
- (d) *within three (3) Working Days of any decision by the Association that the prospective tenant does not meet the Association's criteria including the reasons why the prospective tenant does not meet such criteria; and*
- (e) *within three (3) Working Days of the start date of the tenancy*

4.3.7 *the Association will liaise with the Council where the Owner wishes to use for a management transfer any vacancy for which the Council has nomination rights.*

4.4 *the Association shall provide to the Council details of all lettings completed in respect of all Rented Units such returns to be made quarterly to the Council.*

## **5. ALLOCATION PROCEDURE: SHARE OWNERSHIP DWELLING**

5.1 *The Association shall not permit any Share Ownership Dwelling to be occupied except by a person who satisfies the HomeBuy Agent (or any successor) or the Council's qualifying criteria*

## **6. DISPUTES AND MEDIATION PROCEDURE**

6.1 *Any disputed cases arising from this Deed will be discussed and dealt with by the Council's Housing Options Manager (or successor post) (or such other officer as the Council may from time to time notify the Association) and the Association's [insert post] (or successor post)*

6.2 *If they cannot decide then the Council's Head of Housing (or successor post) and the Association's Head of Allocations (or successor post) will discuss the case and make a final decision.*

## **7. AGREEMENTS AND DECLARATIONS**

7.1 *This Deed is personal to the Association and the Council and for the avoidance of doubt **IT IS HEREBY DECLARED** that this Deed shall not bind*

7.1.1 *any Protected Tenant;*

7.1.2 *any mortgagee or charge of a Protected Tenant;*



7.1.3 any mortgagee or charge of the Association or any receiver (including administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or charge to realise its security or any administrator (howsoever appointed) or the whole or any part of the Rented Units and/or Shared Ownership Units or any persons or bodies deriving title through such mortgagee or charge or Receiver

7.2 The parties hereto agree and declare that the parties hereto shall have the right to vary this Deed in writing if they jointly so wish

Signed on behalf of **SOUTH  
HOLLAND DISTRICT COUNCIL**

Signed on behalf of  
**[ASSOCIATION]**

THE COMMON SEAL OF )  
**SOUTH HOLLAND DISTRICT COUNCIL** )  
was affixed in the presence of: )

Authorised Signatory:




SIGNED as a Deed by )  
**ACD DEVELOPMENTS LIMITED** )

Acting by two Directors )

Or a Director and its Secretary )

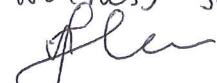
*Sonela Cere*  
.....

Director

.....

Director/Secretary

in the presence of  
witness' signature:



Witness' name:

ALINA JANKOWSKA

Witness' address:

116 Braymere Road, Peterborough, PE7 8NB