Dated 26TH October **2020**

(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 Section 106 Agreement at land off Main Road, Quadring, Spalding

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

SHDC Reference: LD/H15-1158-19

Date 26TH OCTOBER. 2020

BETWEEN

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

(2) **PLATFORM HOUSING LIMITED** (a registered society under the Co-operative and Community Benefit Societies Act 2014, number 8288) of 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) The Owner is the freehold owner of the Land registered under title number LL~~370945~~ 379045 LVD

(C) On 16 July 2019 the Council and ACD Developments Limited entered into the Original Agreement.

(D) The Owner has submitted a S73 Application to vary condition 2 to allow amendments to previously approved plans

(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) This agreement is made under section 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 1990 Act relating to land off Main Road, Quadring, Spalding

	dated 16 July 2019 between the Council and ACD Developments Limited
"S73 Application"	means the application submitted under S73 of the 1990 Act received by the Council on 27 November 2019 for the variation of condition 2 of the Original Planning Permission and allocated Council reference number H15-1158-19

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 Recital (D) in the Introduction section in the Original Agreement shall be deleted and replaced with the following:

"The Owner submitted the Planning Application to the Council for the Development of the Site as varied by reference H15-1158-19"

4.2 The Following definitions shall be added to the Original Agreement

Original 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
Original Planning Permission	means the planning permission for the Site granted pursuant to the Original Planning Application as attached at Schedule 2
"S73 Application"	means the application submitted under S73 of the 1990 Act received by the Council on 27 November 2019 for the variation of condition 2 of the Original Planning Permission and allocated Council reference number H15-1158-19
"S73 Planning Permission"	means the planning permission for the Site to be issued pursuant to the S73 Application substantially in the form as the attached draft at Schedule 2A

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

"Planning Application"	means the Original Planning Application or the S73 Application

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

"Planning Permission"	means either the Original Planning Permission or the S73 Planning Permission

4.5 The document annexed to this deed at Schedule 1 shall be added to the Original Agreement as a new Schedule 2A.

4.6 In all other respects the Original Agreement (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 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. VAT

8.1 Any consideration given under this Deed shall be done (so far as practicable and lawful) 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

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.

SCHEDULE 1

PLANNING PERMISSION (H15-1158-19)

ISSUED UNDER S.73 MODIFICIATION APPLICATION

SOUTH HOLLAND DISTRICT COUNCIL

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

William Saunders Partnership Llp
Sheppard Lockton House
Cafferata Way
Newark On Trent
NG24 2TN

TOWN AND COUNTRY PLANNING ACT 1990

DRAFT APPROVAL

Reference:	H15-1158-19	Date of Decision:
Applicant:	Platform Housing Limited C/O Mr S Stillman Stuart House - East Wing St John'S Street Peterborough PE1 5DD	
Location:	Main Road Quadring Spalding	
Description:	Demolition of existing structures and erection of 19 dwellings with access, landscaping and associated works - approved under H15-0203-19. Modification of Condition 2 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 documents:

Application form
11974-WMS-ZZ-00-DR-A-10000-S4-C8
11974-WMS-ZZ-ZZ-DR-A-10410-S4-P1
11974-WMS-ZZ-ZZ-DR-A-10600-S4-C7
11974-WMS-ZZ-ZZ-DR-A-10601-S4-C5
11974-WMS-ZZ-ZZ-DR-A-10603-S4-C6
11974-WMS-ZZ-ZZ-DR-A-10413-S4-P1
11974-WMS-ZZ-ZZ-DR-A-10411-S4-P1
11974-WMS-ZZ-00-DR-A-10001-S2-P1

From H15-0203-19

Design and Access Statement SE-1095 Dated February 2019
SE-1095 001 A
06-16085-01A Topographical Survey
A0307_01 Tree Survey & Constraints
Tree Survey Table
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.

2 The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment (FRA) prepared by ARP Associates Report Reference 800/469r1 dated November 2016 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.

3 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.

4 No further 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.

5 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.

6 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.

7 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 Platform Housing Limited 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.

8 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.

9 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.

10 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.

11 Where trees are shown on plan ref 11974-WMS-ZZ-00-DR-A-10000-S4-C8 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.

12 None of the trees shown to be retained on plan ref 11974-WMS-ZZ-00-DR-A-10000-S4-C8 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.

13 The scheme of landscaping and tree planting for the site on plan ref 11974-WMS-ZZ-00-DR-A-10000-S4-C8 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 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

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.

This planning permission is subject to an Agreement under Section 106 of the Town & Country Planning Act 1990 dated (16 July 2019) and an associated Deed of Variation dated xxx 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

5th May 2020

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

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

13262

Authorised Signatory

SIGNED as a **DEED** by **PLATFORM HOUSING LIMITED** acting by a Director and its Secretary or two Directors:-

"Deputy Group Finance Director"

Signature of Director

James Baker
Home Ownership Director

Signature of Secretary/Director

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