Dated 7 AUGUST **2020**

(1) SOUTH HOLLAND DISTRICT COUNCIL

and

(2) PJ SEAGATE HOMES WESTON LTD

and

(3) LENDINVEST SECURITY TRUSTEES LIMITED

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

Relating to a Section 106 Agreement at land off Dean Close/Small Drove, Weston, Spalding

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

SHDC Reference: LD/H22-0231-20

Date 2020

BETWEEN

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

(2) **PJ SEAGATE HOMES WESTON LTD** (Company registration number 11871691) whose registered office is Stuart House East Wing, St. Johns Street, Peterborough, England, PE1 5DD ("the Owner"); and

(3) **LENDINVEST SECURITY TRUSTEES LIMITED** (Company registration number 08743617) whose registered office is 8 Mortimer Street, London, W1T 3JJ ("the Mortgagee")

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 LL391533 which is subject to a Registered Charge in favour of the Mortgagee dated 24 May 2019 referred to in entry number 3 of the charges register of title number LL391533

(C) On 21 August 2017 the Council, Susan Ward and Seagate Homes (UK) Limited entered into the Original Agreement.

(D) The purpose of this Deed is to secure amendments to the Affordable Housing provisions within the Original Agreement in order to secure an amendment to the affordable housing provisions within the Original Agreement in order to confirm a reduced level of Affordable Housing from 33% to 25% of the total Dwellings to be provided on the Development of the Land.

(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 Mortgagee has agreed to enter into this Deed to give its consent to the terms of this Deed.

(G) This Deed 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 off Dean Close/Small Drove, Weston, Spalding dated 21 August 2017 and made between (1) the Council, (2) Susan Ward and (3) Seagate Homes (UK) Limited

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 District Council and the County Council, successors to their functions.

3. LEGAL BASIS

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

3.2 This Deed shall take effect upon the date that it is executed.

4. VARIATIONS TO THE ORIGINAL AGREEMENT

4.1 The definition "Affordable Dwellings" in clause 1 in the Original Agreement shall be deleted and replaced with the following:

"Affordable Dwellings"	means those Dwellings within the Development comprising Affordable Housing being 25% (15 Affordable Dwellings) of the total number of Dwellings to be provided on the Land as part of the Development

4.2 The phrase "Affordable Housing Scheme" in Clause 1 to the Original Agreement shall be deleted and replaced with the following:

"Affordable Housing Scheme"	means a scheme to be submitted to the Council detailing the tenure, mix, size and location of the Affordable Dwellings to be provided as part of the Development which consists of 10 Rented Housing being delivered as 4 x 1 bedroom houses; 4 x 2 bedroom houses and 2 x 3 bedroom houses and 5 Intermediate Dwellings being delivered as 2 x 2 bedroom houses and 3 x 3 bedroom houses for shared ownership

4.3 The draft decision notice attached to this Deed at Schedule 1 shall be added to Schedule 2 of the Original Agreement

4.4 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 District Council.

7. MORTGAGEE'S CONSENT

7.1 The Mortgagee acknowledges and declares that this Deed has been entered into by the Owner with its consent and that the Land shall be bound by the obligations contained in this Deed and that the security of the mortgage over the Land shall take effect subject to this Deed **PROVIDED THAT** the Mortgagee shall otherwise have no liability under this Deed unless it takes possession of the Land in which case it too will be bound by the obligations as if it were a person deriving title from the Owner

8. COUNCIL'S COSTS

8.1 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.

9. VAT

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

10. THIRD PARTY RIGHTS

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

11. JURISDICTION

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

12. EXECUTION AND DELIVERY

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

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

SCHEDULE 1

DRAFT DECISION NOTICE (H22-0231-20)

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

Seagate Homes (Uk) Ltd.
Holbeach Manor
Fleet Road
Holbeach
Spalding Lincs
PE12 7AX

TOWN AND COUNTRY PLANNING ACT 1990

DRAFT APPROVAL

Reference: H22-0231-20 **Date of Decision:**

Applicant: Seagate Homes (Uk) Ltd.
Holbeach Manor
Fleet Road
Holbeach
Spalding Lincs
PE12 7AX

Location: Land Off Dean Close/Small Drove Weston Spalding Lincs

Description: Modification of 106 Agreement to reduce level of affordable housing units from 33% to 25% (planning approval H22-0202-16)

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

1 South Holland District Council hereby approve the Modification of the Agreement in accordance with the application and details submitted under s.106A of the Town and Country Planning Act 1990.

Notes:

The determined plans are:
DCW-SH-SP-AR-0100

DC_DRAFT_DECISION - ODB:951

Phil Norman
Planning and Building Control Manager
South Holland District Council

1st June 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

DC_DRAFT_DECISION - ODB:951

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



Authorised Signatory

EXECUTED as a **DEED** by
PJ SEAGATE HOMES WESTON LIMITED
acting by a Director

Director Signature..... PJK

PETER JAYNE KING,
DIRECTOR

In the presence of a Witness:

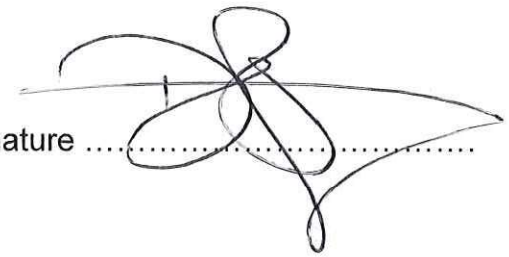
Signature.....

Witness Name: NATHAN MARSHALL.

Address: 6 NEW RD. SPALDING; PE11 1DA.

Occupation: DRIVER.

EXECUTED as a **DEED** by
Daniel Underwood
as Attorney for
LENDINVEST SECURITY TRUSTEES LIMITED



Attorney Signature .....

In the presence of a Witness



Signature.....
Witness Name: Sarah Whitworth-Underwood
Address: C/o LendInvest, 8 Mortimer St. W1T 3JJ
Occupation Snr Credit Officer