Dated 25 AUGUST 2020

(1) South Holland District Council

and

(2) Ian Patrick Brown and Helen Lesley Brown

and

(3) Derek Brown and Pamela Brown

and

(4) Neil Lovell Brown and Sarah Ann Brown

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

Relating to a Section 106 Agreement at land adjacent to 70 Cobgate, Whaplode

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

SHDC Reference: LD/H23-0442-20

Date 25 AUGUST 2020

BETWEEN

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

(2) **IAN PATRICK BROWN and HELEN LESLEY BROWN** of Lowgate Farm, Lowgate, Fleet, Holbeach, Spalding, PE12 8LN ("the First Owner"); and

(3) **DEREK BROWN and PAMELA BROWN** of Bramley Lodge, Damgate Road, Holbeach, Spalding, PE12 8PB ("the Second Owner")

(4) **NEIL LOVELL BROWN and SARAH ANN BROWN** of The Gables, Damgate Road, Holbeach, Spalding, PE12 8PB ("the Third Owner")

BACKGROUND

(A) The District Council is the Local Planning Authority for the purposes of the Act for the area within which the Land is situated.

(B) The First Owner is the freehold owner of the Land registered under title number LL208284.

(C) The Second Owner is the freehold owner of the Land registered under title number LL208285.

(D) The Third Owner is the freehold owner of the Land registered under title numbers LL214127 and LL214128.

(E) The First Owner, the Second Owner and the Third Owner are collectively referred to as the Owners.

(F) On 6 March 2019 the Council, Ian Patrick Brown, the Second Owner and the Third Owner entered into the Original Agreement.

(G) The purpose of this Deed is to secure amendments to the Affordable Housing provisions within the Original Agreement in order to confirm an amendment to the Affordable Housing tenures to be provided on the Development.

(H) 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.

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

(J) 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 adjacent to 70 Cobgate, Whaplode, Spalding dated 6 March 2019 and made between (1) the Council, (2) Ian Patrick Brown, (3) the Second Owner and (4) the Third Owner

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

"Affordable Housing Scheme"	means the scheme submitted to and approved in writing by the Council detailing the tenure, mix, size and location of the Affordable Housing to be provided as part of the Development and consisting of 7 Affordable Dwellings of which four (4) two-bedroom bungalows will be provided for Rented Housing and three (3) two-bedroom bungalows for Intermediate Dwellings as shown on plan COB01/pl/Layout being the site layout plan submitted with the Application

4.2 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. 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 in such a way that the VAT liability is borne by the Owner and not the District 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.

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

13196

Authorised Signatory

SIGNED as a **DEED** by
IAN PATRICK BROWN
in the presence of:

Name of Witness LYNN PERRY
Signature of witness L Perry
Address 18 MONUMENT STREET PETERBOROUGH PE1 1AG
Occupation COMPANY SECRETARY

SIGNED as a **DEED** by
HELEN LESLEY BROWN
in the presence of:

Name of Witness LYNN PERRY
Signature of witness L Perry
Address 18 MONUMENT STREET PETERBOROUGH PE1 1AG
Occupation COMPANY SECRETARY

SIGNED as a **DEED** by
DEREK BROWN
in the presence of:

Name of Witness LYNN PERRY
Signature of witness L. Perry
Address 18 MONUMENT STREET PETERBOROUGH PE1 1AG
Occupation COMPANY SECRETARY

SIGNED as a **DEED** by
PAMELA BROWN P. Brown
in the presence of:

Name of Witness LYNN PERRY
Signature of witness L. Perry
Address 18 MONUMENT STREET PETERBOROUGH PE1 1AG
Occupation COMPANY SECRETARY

SIGNED as a **DEED** by
NEIL LOVELL BROWN
in the presence of:

Name of Witness LYNN PERRY
Signature of witness L. Perry
Address 18 MONUMENT STREET PETERBOROUGH PE1 1AG
Occupation COMPANY SECRETARY

SIGNED as a **DEED** by
SARAH ANNE BROWN
in the presence of:

Name of Witness LYNN PERRY
Signature of witness L Perry
Address 18 MONUMENT STREET PETERBOROUGH. PE1 1AG
Occupation COMPANY SECRETARY