

FREETHS

1st November 2017

- (1) Barnsley Metropolitan Borough Council
- (2) Premier Construction (Northern) Limited

**Deed of Variation to a Section 106 Agreement
Relating to land and buildings at Kings Road
Barnsley**

Ref: 1771/PZB/2069214/24
Direct Tel: +44 (0)845 017 7009
Fax No: +44 (0)845 077 9603
Email: peter.baker@freeths.co.uk
Dated: 21 September 2017

- 1.7. A reference to any party shall include that party's personal representatives, successors or permitted assigns and in the case of the Council the successors to its respective statutory functions.
- 1.8. Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9. Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.10. Unless the context otherwise requires, references to clauses are to the clauses of this deed.
- 1.11. Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.12. Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

2. STATUTORY PROVISION

This deed is made pursuant to the provisions of sections 106 and 106A of the TCPA 1990, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and any other enabling powers. The Council is the local planning authority for the area in which the Land is located and is entitled to enforce the obligations under this deed pursuant to S 106(9) of the TCPA 1990

3. VARIATIONS TO THE ORIGINAL AGREEMENT

- 3.1. The Original Agreement shall be amended in the following way manner:
 - 3.1.1. by substituting with effect from the date of this deed the reference to "plot 9" in the definition of "Affordable Housing Units" to "plot 23"
 - 3.1.2. by inserting the words "(or any other plot numbers or house types agreed in writing by the Council)" after the words "Plan 2" in the definition of "Affordable Housing Units"
 - 3.1.3. At paragraph 1.3 of the First Schedule replace the words "the Affordable Housing Unit situated on Plot 9" with "at least one of the Affordable Housing Units"
 - 3.1.4. At paragraph 1.4 of the First Schedule replace the words "the Affordable Housing Units situated on Plots 33 and 34" with "all the Affordable Housing Units"

- 3.1.5. At paragraph 1.7 replace the words “the Affordable Housing Unit situated on plot 9” with “the Affordable Housing Unit first constructed to Practical Completion”
- 3.1.6. At paragraph 1.8 replace the words “the Affordable Housing Units situated on plots 33 and 34” with “the remaining Affordable Housing Units”
- 3.2. In all other respects the Original Agreement (as varied by this deed) shall remain in full force and effect.

4. COVENANTS TO THE COUNCIL

The Owner covenants to observe and perform the covenants, restrictions and obligations contained in the Original Agreement as varied by this deed.

5. LOCAL LAND CHARGE

This deed shall be registered as a local land charge.

6. VALUE ADDED TAX

- 6.1. All consideration given in accordance with the terms of this deed shall be exclusive of any VAT properly paid.
- 6.2. If at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this deed then to the extent that VAT has not been previously charged in respect of that supply the party making the supply shall have the right to issue a VAT invoice to the party to whom the supply was made and the VAT shall be paid accordingly.

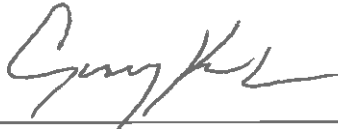
7. THIRD PARTY RIGHTS

A person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed.

8. GOVERNING LAW


This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

The common seal of BARNSELY M & C was affixed to this document in the presence of:	
	Authorised signatory


No. 652
IN REGISTER

Premier Construction (Northern) Limited
By [**Godson Allart**] its Director



 Director

in the presence of:

Witness' Signature: 
 Witness' Name: **MARTYN PLATT**
 Witness' Address: **86 Dove Road, Wombwell, Barnsley, S73 0TE**