**DATED 2023**

**NORTH DEVON DISTRICT COUNCIL**

**and**

**DEED OF VARIATION**

**UNDER THE TOWN AND COUNTRY PLANNING ACT 1990**

**Relating to**

**[ ]**

Legal Services

North Devon Council

PO Box 379

Barnstaple

EX32 2GR

Planning Application Ref: **PD/[ ]/[ ]**

File Ref: **LS/[ ]/[ ]**

DCC Ref: **[ ]**

**THIS DEED OF VARIATION** is made the day of Two Thousand and Twenty Three

Parties

1. NORTH DEVON DISTRICT COUNCIL of Lynton House, Commercial Road, Barnstaple, Devon EX31 1DG (“District Council”)
2. DEVON COUNTY COUNCIL of County Hall, Topsham Road, Exeter, EX2 4QD (“County Council”)
3. [ ] of [ ] (“ the [First] Owner”)
4. [ ] of [ ] (“ the [Second] Owner”)
5. [ ] (Co. Regn. No. [ ] ) of [ ] (“the Mortgagee”)
6. [ ] (Co. Regn. No. [ ] ) of [ ] (“the Applicant”)
7. [ ] (Co. Regn. No. [ ] ) of [ ] (“the Developer”)

Background

* 1. The District Council is the Local Planning Authority for the purposes of the 1990 Act for the area within which the Land is situated and is the Authority by whom the planning obligations in this Agreement shall be enforced.
	2. The Owner is the Freehold owner of the Application Land comprised in title no**. [ ]** at the Land Registry shown edged red on the Location Plan (being the **whole of/a part of** the land comprised in the said title).
	3. By the Original Agreement the Owner has entered into planning obligations with the District Council
	4. The Owner has by the Application made a planning application to the District Council to carry out the Development
	5. In accordance with the provisions of Section 106 of the 1990 Act as amended the parties have agreed to enter into a planning obligation the terms of which are contained in this deed in connection with the Application.

**NOW THIS DEED WITNESS AS FOLLOWS**

Interpretation

* 1. In this Agreement unless the context otherwise requires the following terms (arranged in alphabetical order) shall have the following meanings:

**1990 Act** means the Town and Country Planning Act 1990 and all subsequent amendments thereto

**Application** means the planning application made to the District Council for Planning Permission on the Application Land registered on **[ ]** under planning reference number **[ ]**

**Application Land** means the land shown edged red on the Location Plan attached to this Agreement

**Development** means the development as defined in the Application and the Planning Permission and includes any part or parts thereof

**First Deed of Variation means the agreement dated [ ] made between (1) North Devon District Council [(2) (3) etc]**

**Original Agreement** means the agreement made under s106 of the 1990 Act dated **[ ]** made between (1) North Devon District Council **[(2) (3) etc]** under planning reference number **[ ]**

**IT IS HEREBY AGREED AND DECLARED** that:

**2. General**

This Agreement is a planning obligation binding the Land made in pursuance of section 106 and 106A of the 1990 Act and Section 111 of the Local Government Act 1972 and Section 1 of the Local Government Act 2000 and enforceable by the District Council under section 106 of the 1990 Act.

**3. Planning Obligations**

 The Owner covenants with the District Council that in carrying out the Development it will comply with the planning obligations and other terms of the Original Agreement as if those planning obligations and terms were repeated and incorporated herein

**4. Variation of Original Agreement**

4.1 From and including the date of this Agreement, the Original Agreement **[and the First Deed of Variation]** shall be read and construed as varied by the provisions set out in the Schedule.

4.2 The Original Agreement **[and the First Deed of Variation]** shall remain fully effective as varied by this Agreement and the terms of the Original Agreement and the **[First Deed of Variation]** shall have effect as though the provisions contained in this Agreement had been originally contained in the Original Agreement and the First Deed of Variation

**5. Registration as Local Land Charge**

 The contents of this Agreement shall be registered by the District Council as a Local Land Charge pursuant to section 106(11) of the 1990 Act.

**6. Legal Fees**

 The Owner shall, prior to the execution hereof, pay the District Council’s reasonable legal costs in connection with the preparation and completion of this Agreement.

**7. Third Party Rights**

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

**8. Governing Law**

This Agreement 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.

1. VARIATIONS

**IN WITNESS** whereof the parties have executed this document as a Deed the day and year first before written

**EXECUTED AS A DEED )**

by affixing the Common Seal of  **)**

NORTH DEVON DISTRICT COUNCIL )

in the presence of :- **)**

**EXECUTED AND DELIVERED )**

**AS A DEED** by **)**

 **)**

in the presence of:- **)**

Witness Name **)**

Witness Address **)**

 **)**

Signature **)**

Occupation **)**

**EXECUTED AND DELIVERED )**

**AS A DEED** by **)**

 **)**

in the presence of:- **)**

Witness Name **)**

Witness Address **)**

 **)**

Signature **)**

Occupation **)**

**EXECUTED/SIGNED AS A DEED** by

 ……………………………………………acting by

 [SIGNATURE OF DIRECTOR]