

DATED

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(1) MID SUSSEX DISTRICT COUNCIL

and

(2) SAGE HOMES RP LIMITED

**DEED OF VARIATION
PURSUANT TO SECTION 106 AND 106A OF THE TOWN AND
COUNTRY PLANNING ACT 1990**

relating to Land north of Clayton Mills, Hassocks, West Sussex

Planning Ref: DM/18/4979



Devonshires Solicitors LLP
30 Finsbury Circus
London
EC2M 7DT

THIS DEED OF VARIATION is dated

BETWEEN:

- (1) **MID SUSSEX DISTRICT COUNCIL** whose principal office is at Oaklands Oaklands Road, Haywards Heath, West Sussex, RH16 1SS (“the **District Council**”);
- (2) **SAGE HOMES RP LIMITED** (Company Registration Number: 11217910) of 5th Floor Orion House, 5 Upper St Martin's Lane, London, WC2H 9EA (“the **Sage Homes RP**”)
- (3) **SITUS ASSET MANAGEMENT LIMITED** (Company Registration Number: 06738409) of 10th Floor, 25 North Colonnade, London E14 5HZ (“**Situs**”)

Collectively referred to as “the **Parties**”

BACKGROUND

- (A) For the purposes of the Act, the Council is the local planning authority for the area within which the Land is situated.
- (B) The Original Agreement was granted subject to an outline planning application with all matters reserved except for access for up to 500 residential dwellings and land for a two-form entry primary school and community building, land for a bridleway link between hassocks and burgess hill, associated infrastructure including informal open space, hard and soft landscaping, sustainable drainage features and a new site access onto Ockley Lane, and provision of improved pedestrian access across the railway line dated 16 March 2020 under planning reference: DM/18/4979.
- (C) Sage Homes RP will be the registered proprietor of the Sage Land: currently the applications to register the transfers to Sage Homes RP are pending registration with the Land Registry as set out in paragraphs (D) (E) and (F) below.
- (D) Sage Housing Limited originally purchased plots forming part of the Land pursuant to various transfers between (1) Taylor Wimpey UK Limited and (2) Sage Housing Limited. Two of these transfers are registered at the Land Registry (title numbers WSX444703 and WSX438176) and the remaining transfers are pending registration with the Land Registry.
- (E) Sage Housing Limited transferred the plots to Sage Homes RP pursuant to a transfer between (1) Sage Housing Limited and (2) Sage Homes RP dated 25 March 2024, this transfer is pending registration at the Land Registry.

- (F) Sage Homes RP also purchased plots forming part of the Land pursuant to various transfers between (1) Taylor Wimpey UK Limited and (2) Sage Homes RP which are pending registration with the Land Registry.
- (G) Situs is a party to this Deed because they have a registered charged over the Charged Land.
- (H) The parties have agreed to enter into this deed to vary the affordable housing schedule of the Principal Agreement as set out herein in respect of the Sage Land.
- (I) Without prejudice to the terms of the other covenants contained in the Original Agreement shall be modified in the manner set out within this Deed of Variation.

AGREED TERMS

1 DEFINITIONS

Original Agreement	Agreement made pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) dated 13 March 2020 made between (1) Mid Sussex District Council (2) West Sussex County Council (3) The Executors and Trustees of the will of Edgar Charles Matthews deceased
Sage Land	means the land which is registered or will be registered to Sage Homes RP and forms part of the Land, comprising of: A. the land currently registered with the Land Registry to Sage Housing Limited which will be registered to Sage Homes RP once the transfer to Sage Homes RP is registered with the Land Registry: (i) with title number WSX444703 edged red on Plan 1; and (ii) with title number WSX438176 edged red on Plan 2; B. the land which will be registered to Sage Homes RP as soon as the relevant land transfers to Sage Homes RP are registered with the Land Registry and which is: (iii) known as plots 145-151 allocated pending title number WSX448663 and shown edged red on Plan 3;

	(iv) known as plots 260 and 271 allocated pending title number WSX444971 and shown edged red on Plan 3 (v) known as plots 179-190 allocated pending title number WSX448666 and shown edged red on Plan 4; (vi) known as plots 407-412 allocated pending title number WSX450071 and shown edged red on Plan 5; (vii) known as plots 398-401 allocated pending title number WSX450067 and shown edged red on Plan 6; (viii) known as plots 328-336 allocated pending title number WSX448667 and shown edged red on Plan 7; (ix) known as plots 53-62, 365-371, 423-428 allocated pending title number WSX443137 and shown edged red on Plan 8; (x) known as plots 375-377 and 463-470 allocated pending title number WSX443138 and shown edged red on Plan 9; (xi) known as plots 201-206 allocated pending title number WSX444701 and shown edged red on Plan 10; (xii) known as plots 207-209 and 218-219 allocated pending title number WSX444702 and shown edged red on Plan 11; (xiii) known as plots 281 and 282 allocated pending title number WSX444973 and shown edged red on Plan 12; (xiv) known as plots 97-98 allocated pending title number WSX454613 and shown edged red on Plan 13; (xv) known as plots 91-96 allocated pending title number WSX454609 and shown edged red on Plan 14; and (xvi) known as plots 120-125 allocated pending title number WSX452255 and shown edged red on Plan 15.
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2 INTERPRETATION

- 2.1 Save where expressly stated otherwise the words and expressions used in this Deed shall have the meaning assigned to them as in the Original Agreement.
- 2.2 The clause and paragraph headings in this Deed are for reference only and do not affect its construction or interpretation.
- 2.3 References to clauses and Schedules are to the clauses and Schedules of this Deed, unless stated otherwise.
- 2.4 A reference to a paragraph is to the paragraph of the Schedule in which the reference is made, unless stated otherwise.
- 2.5 Words importing one gender include any other genders and words importing the singular include the plural and vice versa.
- 2.6 A reference to a person includes a reference to a firm, company, authority, board, department or other body and vice versa.
- 2.7 Unless this Deed states otherwise, any reference to any legislation (whether specifically named or not) includes any modification, extension, amendment or re-enactment of that legislation for the time being in force and all instruments, orders, notices, regulations, directions, byelaws, permissions and plans for the time being made, issued or given under that legislation or deriving validity from it.
- 2.8 References to any party in this Deed include the successors in title of that party and any references to the Council include any successor local planning authority exercising planning powers under the Act.
- 2.9 References to “including” mean “including, without limitation”.
- 2.10 Whenever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.
- 2.11 If any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of the Deed shall be unaffected.

3 LEGAL BASIS

- 3.1 This Deed is made pursuant to section 106 and 106A of the Act, section 111 of the Local Government Act 1972, Section 120 of the Local Government Act 1972, and Section 2 of the Local Government Act 2000 and any other enabling powers.

4 VARIATIONS TO THE ORIGINAL AGREEMENT

- 4.1 From and including the date of this Deed the Original Agreement shall in respect of the Sage Land, be read and construed as varied by the provisions of Schedule One of this Deed.

5 SITUS CONSENT

Situs acknowledges and declares that this Deed has been entered into by Sage Homes RP with its consent and that the Sage Land shall be bound by the obligations contained in this Deed and that the security of the mortgages over the Sage Homes RP shall take effect subject to the Original Agreement as varied by this Deed PROVIDED THAT Situs (and any future mortgagee or chargee) shall otherwise have no liability under this Deed or the Original Agreement unless any breach of the obligations under this Deed are committed or continuing at a time when Situs is in possession of the Sage Land, in which event Situs shall be bound by the obligations as if it were a person deriving title from Sage RP Land in accordance with the terms of this Deed.

6 COSTS

Sage Homes RP shall pay on or before the date of completion of this Deed the Council's reasonable and proper legal costs together with all disbursements incurred in connection with the preparation, completion and registration of this Deed.

7 LAND CHARGES

This Deed shall be registered as a local land charge by the Council.

8 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.

9 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.

IN WITNESS whereof the parties hereto have sealed and/or executed this document as a deed the day and year first before written.

EXECUTED as a **DEED** by affixing
THE COMMON SEAL of
MID SUSSEX DISTRICT COUNCIL

In the presence of:

Authorised Signatory

EXECUTED as a **DEED** by affixing
THE COMMON SEAL of
SAGE HOMES RP LIMITED

In the presence of:

Authorised Signatory

Authorised Signatory

EXECUTED as a **DEED** by

SITUS ASSET MANAGEMENT LIMITED

as Security Agent for the Sage Land

acting by its Attorney

.....

Attorney

Print Name of Attorney:

in the presence of:

Witness Signature.....

Witness Name.....

Witness Address.....

.....

SCHEDULE ONE

The following variations will be made to the Original Agreement:

1. The definition of “*Shared Ownership Unit*” at Clause 1.1 shall be amended by inserting the words “*and pays rent to the Registered Provider on the retained equity*” after the words “*share of the equity*” on the third line
2. The definition of Nomination Agreement at Clause 1.1 shall be deleted in its entirety and replaced with the following:

“Nomination Agreement” means a Nominations Agreement entered into by the Registered Provider with the Council in respect of the Affordable Housing Units in the form agreed between those parties acting reasonably
3. The definition of “Chargee” at Clause 1.1 shall be deleted in its entirety.
4. The definition of “Chargee’s Duty” at Clause 1.1 shall be deleted in its entirety.
5. Paragraph 7.2.2 shall be deleted and replaced with the following
 - 7.2.2. a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver)) of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:
 - a) such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Units to another registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and
 - b) if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Housing Units free from the Affordable Housing Units in this Agreement which provisions shall determine absolutely.
6. Paragraph 8.1.3 of the Fourth Schedule shall be deleted in its entirety.
7. The draft Nomination Agreement at Appendix 2 shall be deleted in its entirety.

SCHEDULE TWO