DATED 19th October 2017

THE COUNCIL OF THE BOROUGH OF HAVANT

And

HAMPSHIRE COUNTY COUNCIL

And

BELLWAY HOMES LIMITED

And

BLOOR HOMES LIMITED

DEED OF VARIATION AND PLANNING OBLIGATION
made under S.106 and S.106A
of Town and Country Planning Act 1990

relating to land known as Hampshire Farm,
Westbourne Road, Emsworth Hampshire PO10 7RN

Planning Reference: APP/17/00300

THIS DEED OF VARIATION is made the 19th day of October 2017

BETWEEN:

1. **THE COUNCIL OF THE BOROUGH OF HAVANT** of Civic Offices, Havant, Hampshire PO9 2AX ("**the Council**")

2. **HAMPSHIRE COUNTY COUNCIL** of The Castle, Winchester, Hampshire SO23 8UJ ("**the County Council**")

3. **BELLWAY HOMES LIMITED** of Seaton Burn House, Dudley Land, Seaton Burn, Newcastle upon Tyne NE13 6BE (Company Registration Number 00670176) and **BLOOR HOMES LIMITED** (Co. Regn. No. 02162561) of Ashby Road, Measham, Swadlincote, Derbyshire DE12 7JP ("**the Owner**")

WHEREAS:

(1) This Deed is supplemental to a Deed of Agreement dated 12 May 2011 made pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) and section 111 of the Local Government Act 1972 between (1) the Council (2) the County Council (3) Peter Gordon Grant, Rosalind Grant, Barbara Elizabeth Edgell, Patricia Margaret Edgell, Peter David Edgell, Edward Donald Edgell, Jennifer Mary Edgell, Ruth Andrea Edgell, Elizabeth Jane Brownlow, Rebecca Helen Edgell and (4) Galliford Try Strategic Land Limited in relation to land known as Hampshire Farm, Westbourne Road, Emsworth, Hampshire PO10 7RN ("**the Section 106 Agreement**") AS AMENDED by a Deed of Variation dated 12 December 2012 made pursuant to section 106 and S106A of the Town and Country Planning Act 1990 (as amended) and section 111 of the Local Government Act 1972 between (1) the Council (2) the County Council and (3) the Owner ("**the First Deed of Variation**")

(2) The Owner is the freehold owner of the land shown hatched black on Plan 2 drawing reference PP1067/S106-02 as appended to the Section 106 Agreement ("**the Land**")

(3) The Council the County Council and the Owner have agreed to further vary the Section 106 Agreement in relation to the Community Facilities and have agreed to enter into this Deed for the purposes of doing so ("**the Second Deed of Variation**")

(4) The Parties hereto agree and consent to the terms of the Section 106 Agreement as varied being further varied in respect of the Site as hereinafter provided

NOW THIS DEED WITNESSETH as follows:

1. DEFINITIONS AND INTERPRETATION

1.1. The definitions contained in the Section 106 Agreement apply unless the context otherwise requires

1.2 The provisions of this Second Deed of Variation shall unless the context otherwise requires be construed as follows:

1.2.1 Words importing one gender shall include all other genders

1.2.2 The singular includes the plural and vice versa

1.2.3 Reference to a statute includes any amendment modification extension consolidation or re-enactment of it and any statutory instrument regulation or order made under it which is for the time being in force

1.2.4 References to any "Clause" or "Sub-clause" (or any part of them) shall (unless the context otherwise requires) be references to a Clause or Sub-clause (or any part of them) of this Second Deed of Variation

1.2.5 Headings to clauses of this Deed do not affect the interpretation or construction of this Deed

2. STATUTORY PROVISION

2.1 This Second Deed of Variation is made pursuant to the provisions of section 106 and 106A of the Town and Country Planning Act 1990 section 111 of the Local Government Act 1972 section 2 of the Local Government Act 2000 and any other enabling powers

3. LOCAL LAND CHARGE REGISTRATION

3.1 This Second Deed of Variation is registrable by the Council as a local land charge in the Register of Local Land Charges kept by the Council

4. THE OWNER'S COVENANTS

4.1 The Owner covenants with the Council to observe and perform the covenants restrictions and obligations contained in the Section 106 Agreement as varied by the First Deed of Variation and as further varied by this Second Deed of Variation

5. VARIATIONS OT THE SECTION 106 AGREEMENT

5.1 The variations set out in the Schedule hereto shall have effect on the date hereof

6. AGREEMENTS AND DECLARATIONS

It is hereby agreed and declared by the parties hereto that:

6.1 Except in so far as legally and equitable permitted by this Second Deed of Variation shall not prejudice fetter or affect the exercise of any statutory power duty or discretion of the Council

6.2 The terms of the Section 106 Agreement as varied by the First Deed of Variation and further varied by this Second Deed of Variation are confirmed as if the same were set out in this Second Deed of Variation in full and that such terms as so varied shall for all purposes be deemed incorporated in this Second Deed of Variation

6.3 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Second Deed of Variation

7. ENDORSEMENT PROMPTLY FOLLOWING COMPLETION OF THIS SECOND DEED OF VARIATION

7.1 The Council shall endorse a memorandum of variation on the Section 106 Agreement in the following terms:

"*The Agreement has been varied by a further supplemental agreement dated* 19th October *[✓] 2017 and made between Bellway Homes Limited and Bloor Homes Limited (1) Hampshire County Council (2) and the Council of the Borough of Havant (3)*"

IN WITNESS WHEREOF the parties hereto have caused this document to be executed as a Deed and delivered the day and year first before written

SCHEDULE

Variation of the Section 106 Agreement (as amended)

1. Paragraph 2.2 of Schedule 3 shall be **AMENDED** and the words "*the expiry of 5 years from Commencement of Development*" in the first line shall be **DELETED** and **REPLACED** with the words "*1 December 2017*"

2. A paragraph 2.3 of Schedule 3 shall be **AMENDED** and the words "*within five years of the Commencement of Development*" in the first and second lines shall be **DELETED** and **REPLACED** with the words "*by 1 December 2017*"

THE COMMON SEAL OF)
THE COUNCIL OF THE BOROUGH)
OF HAVANT was hereunto)
affixed in the presence of:-)



Authorised Signatory [redacted] .....

13374

THE COMMON SEAL OF)
HAMPSHIRE COUNTY COUNCIL)
was hereunto)
affixed in the presence of:-)



Authorised Signatory [redacted] .....

36/8755

EXECUTED AS A DEED)
by **BELLWAY HOMES LIMITED**)
acting by a director and its secretary)
or by two directors:-)

Director

Secretary/Director [redacted]

EXECUTED AS A DEED)
by **BLOOR HOMES LIMITED**)
acting by ~~a director and its secretary~~)
~~or by two directors:-~~)
HCC two authorised signatories:-)

~~Director~~

~~Secretary/Director~~

[redacted]

Authorised Signatory .....

Authorised Signatory .....