DATED 1st July **2013**

PURPLE LODGE LIMITED (1)

And

THE COUNCIL OF THE BOROUGH OF HAVANT (2)

DEED OF VARIATION AND PLANNING OBLIGATION

Pursuant to (inter alia)
Section 106 and Section 106A of the Town and Country Planning Act 1990
Relating to land at
Ground Floor and First Floor Raebarn House,
Hulbert Road, Waterlooville
in Hampshire

Mrs J Barden-Hernandez
Solicitor to the Council
Havant Borough Council
Public Service Plaza
Civic Centre Road
Havant, Hampshire
PO9 2AX

THIS DEED OF VARIATION is made the 1st day of July 2013

BETWEEN

(1) PURPLE LODGE LIMITED (Company Registration Number 07664302) of 5 Halifax rise, Waterlooville, Hampshire, PO7 7NJ ("the Owner") and

(2) THE COUNCIL OF THE BOROUGH OF HAVANT of Public Services Plaza, Civic Centre Road, Havant, Hampshire, PO9 2AX ("the Council")

WHEREAS

1. This Deed is supplemental to a Deed of Agreement dated 23rd January 2013 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 the Owner (1) and the Council (2) in relation to the development of land at Raebarn House, Hulbert Road, Waterlooville in Hampshire ("the Section 106 Agreement") in relation to the planning application given reference APP/12/00100
2. The Parties hereto agree and consent to the terms of the Section 106 Agreement being varied in respect of the site as hereinafter provided.

NOW THIS DEED WITNESSETH as follows:

PRELIMINARY AND RECITALS

A Definitions

A.1 Words and phrases used in this Deed are defined at Clause 1.1. Save as otherwise provided words and phrases in this Deed shall have the meanings contained in the Section 106 Agreement.

B Purpose of Deed

B.1 This Deed is supplemental to and varies certain of the obligations contained in the Section 106 Agreement.

B.2 The Deed is being entered into to amend the Affordable Housing provisions contained within the Section 106 Agreement;

B.3 The provisions of this Deed bind the Land (and each and every part of it) the parties and their successors in title save where this Deed expressly provides to the contrary

C Statutory Authorities

C.1 The Council is for the purposes of Section 106 and 106A of the Act the authority which can enforce the terms of this Agreement

C.2 This Deed is made pursuant to the provisions of Section 106 and 106A of the 1990 Act Section 111 of the Local Government Act 1972 the Housing Acts and Section 2 of the Local Government Act 2000 and all other powers enabling

D Planning

D.1 This Deed is supplemental to the Section 106 Agreement which is varied by the provisions of this Deed

E Liability for this Deed

E.1 The Planning Obligations restrictions covenants limitations and obligations in this Deed within the Section 106 Agreement and this Deed of Variation relate to and are binding in their entirety upon the Owner and their successors in title and assigns and their interest in the Land save as otherwise provided and shall bind and run with the land and each and every part of it.

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 Deed 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 Sub-Clause (or any part of them) of this Deed

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

2 EFFECT OF AGREEMENT

2.1 The covenants restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Owner and their successors in title

2.2 This Deed also varies and supplements certain of the provisions of the planning obligations contained in the Section 106 Agreement

3 LAND BOUND AND ENFORCING AUTHORITY

3.1 The provisions of this Deed and the covenants restrictions limitations and obligations given by the Owner shall bind and run with the Land and each and every part of it and shall be binding against the Owner and its successors in title and assigns to the Land and each and every part of it save as provided elsewhere in this Deed.

3.2 The Owner agrees and acknowledges that (notwithstanding the disposal by the Owner of parts of the Land) it remains liable under the Section 106 Agreement (as amended by this Agreement) and the obligations contained in this Agreement.

4. LOCAL LAND CHARGE REGISTRATION

4.1 This Deed is registerable by the Council as a local land charge in the Register of Local Land Charges kept by the Council.

5. THE FIRST OWNER'S COVENANTS

5.1 The Owner for itself and its successors in title to the Land and each and every part of it hereby covenants in favour of the Council to observe perform and abide by the obligations restrictions limitations and covenants contained in this Deed and in the Section 106 Agreement as varied by this Deed and the said obligations restrictions limitations and covenants shall run with and bind with the Land and each and every part of it as set out below.

6. VARIATIONS TO THE SECTION 106 AGREEMENT

6.1 The variations set out in the Schedule hereto shall have effect.

7. AGREEMENTS AND DECLARATIONS

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

7.1 Except in so far as legally or equitably permitted this Deed shall not prejudice fetter or affect the exercise of any statutory power duty or discretion of the Council

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

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

IN WITNESS whereof this Deed has been executed as a Deed by the parties hereto the day and year first before written

SIGNED as a DEED by
PURPLE LODGE LIMITED
Acting by
Director

[redacted]

In the presence of:-

EXECUTED as a Deed by affixing
THE COMMON SEAL of
THE COUNCIL OF THE BOR[redacted]
OF HAVANT

[redacted]

[redacted]

[redacted]

12820

SCHEDULE

Variation of Section 106 Agreement

1 Definitions

1.1 The following definitions in Clause 5 of the Section 106 Agreement shall be amended as set out below: -

Defined Term in Section 106 Agreement	**Amended Defined Term**	**Amendment to definition**
"Alternative Affordable Housing Contribution"	"Alternative Affordable Housing Contribution" (no change)	Delete "Means the payment of Eighty Two Thousand Three Hundred and Four pounds (£82,304) as a financial contribution in lieu of the provision of the Onsite Affordable Housing Units and Offsite Affordable Housing Units provision (calculated in accordance with the methodology contained in the Council's "Supplementary Planning Document – Housing July 2011")" Replace with "Means the payment of Thirty Seven Thousand One Hundred

		and Thirty Nine pounds (£37,139) as a financial contribution in lieu of the provision of the Onsite Affordable Housing Units and Offsite Affordable Housing Units provision (calculated in accordance with the methodology contained in the Council's "Supplementary Planning Document – Housing July 2011")Housing Off-Site as originally provided by the Section 106 Agreement"

1.2 Where a defined term which is amended in 1.1 above appears in the Section 106 Agreement is shall be deemed to include a reference to the amended defined term as set out in 1.1 above.