

DATED 27th AUGUST 2025

THE COUNCIL OF THE BOROUGH OF HAVANT
and
VIVID HOUSING LIMITED
and
M&G TRUSTEE COMPANY LIMITED

DEED OF VARIATION
to
**a planning obligation made under Section 106 of the
Town and Country Planning Act 1990**

**Relating to land lying at Portsdown Hill, west of Glebe Park Avenue
and north of Bedhampton Hill, Bedhampton, Havant**

**Southampton, Fareham & Havant Legal Partnership
Southampton City Council
Civic Offices
Southampton
SO14 7LY**

HBC-060947

THIS DEED OF VARIATION is made the 27th day of AUGUST 2025
BETWEEN

- (1) **The Council of the Borough of Havant** of Public Service Plaza, Civic Centre Road, Havant, PO9 2AX ("the Council")
- (2) **Vivid Housing Limited** (Community Benefit Society No, 7544) of Peninsular House, Wharf Road, Portsmouth, PO2 8HB ("the Owner")
- (3) **M&G Trustee Company Limited** (Company Registration Number 1863305) of 10 Fenchurch Avenue, London, EC3M 5AG ("the Mortgagee")

RECITALS

W H E R E A S:

- (1) The Council is the local planning authority for the purposes of the Act for the area within which the Land is situated.
- (2) On 5th November 2014 the Council entered into an agreement pursuant to section 106 of the Act with Chantry Holdings Limited (1) and BDW Trading Limited (2) ("the **Principal Deed**").
- (3) The Principal Deed relates to the Development, permission for which was granted by the Council on 6th November 2014 pursuant to the Application.
- (4) Since the date of the Principal Deed, the Owner has acquired that part of the Land registered at the Land Registry under title number SH42673 ("the **Owner's Land**").
- (5) The Mortgagee has a registered charge over the Owner's Land dated 3rd November 2022.
- (6) The Owner has requested amendments to the affordable housing provisions in the Principal Deed insofar as they relate to the Owner's Land and the Council has agreed to enter into this Deed in order that the provisions of the Principal Deed be varied as hereinafter provided.
- (7) This Deed is supplemental to and varies the Principal Deed.

IT IS HEREBY AGREED as follows:

1. INTERPRETATION

- 1.1. In this Deed the following expressions shall have the meanings indicated:

"Enabling Powers"	section 111 of the Local Government Act 1972 (as amended), section 1 of the Localism Act 2011 and all other enabling powers which may be relevant for the purpose of giving validity to or facilitating the enforcement of the obligations created by this Deed
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- 1.2. Otherwise, and unless the context otherwise requires, all expressions shall have the meaning given to them by the Principal Deed.

2. STATUTORY AUTHORITIES

- 1.1 This Deed of Variation is made pursuant to section 106A of the Act and the Enabling Powers with the intention that it binds the Owner's Land and that the planning obligations contained in the Principal Deed (as varied herein) be enforceable by the Council as local planning authority

3. LEGAL EFFECT

- 3.1. This Deed varies the planning obligations contained in the Principal Deed and relates to and binds the Owner's Land and is made pursuant to the provisions of sections 106 and 106A of the 1990 Act and, insofar as the provisions hereof do not constitute planning obligations for purposes of section 106 of the Act, this Deed is also entered into pursuant to the Enabling Powers.
- 3.2. This Deed contains planning obligations for the purposes of the Act enforceable by the Council as local planning authority in respect of the Owner's interests in the Owner's Land.
- 3.3. This Deed shall come into effect on the date of completion of this Deed.
- 3.4. Save as herein varied, the Principal Deed remains in full force and effect.

4. VARIATION

The parties agree to vary the Principal Deed in the following manner:

- 4.1 The definition of "Chargee" shall be deleted and a new definition inserted as follows:
- "Chargee" means any mortgagee or chargee of the Affordable Housing Units (or any number of them) and 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)
- 4.2 Paragraph 6.7 of Schedule 1 shall be deleted and a new paragraph 6.7 inserted as follows:

"6.7 The Affordable Housing provisions in this Schedule shall not be binding upon a Chargee of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such Chargee PROVIDED THAT:

- (a) such Chargee 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 Chargee shall be entitled to dispose of the Affordable Housing Units free from the Affordable Housing provisions in this Deed which provisions shall determine absolutely.

5. MISCELLANEOUS

- 5.1 The headings in this Deed are for ease of reference only and shall not affect the construction of this Deed.
- 5.2 Reference to the singular includes the plural and references to any gender include all gender.
- 5.3 The Owner agrees to pay the Council's reasonable legal costs incurred in the preparation and negotiation of this Deed prior to completion of this Deed.
- 5.4 This Deed shall be registered by the Council as a local land charge.
- 5.5 This Deed is to be governed by and interpreted in accordance with the law of England and Wales and the parties consent to the exclusive jurisdiction of the courts of England.

6. MORTGAGEE CLAUSE

- 6.1 The Mortgagee hereby acknowledges and declares that this Deed has been entered into by the Owner with its consent and that the Owner's interests in the Owner's Land shall be bound by the obligations contained in this Deed and that the security of its registered charge over the Owner's interests in the Owner's Land shall take effect subject to this Deed PROVIDED THAT the Mortgagee shall otherwise have no liability under the terms of this Deed unless it takes possession of part of the Owner's Land in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

IN WITNESS whereof as a Deed the parties have executed this Deed or caused their respective Common Seals to be hereto affixed the day and year first before written

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

[Redacted Signature]

SOLICITOR

Authorised Signatory



103754

As attorney for **VIVID HOUSING LIMITED**
Under a power of attorney dated 25/03/25

[Redacted Signature]

Signature of attorney for **VIVID HOUSING LIMITED**

In the presence of:

[Redacted Signature]

- SENIOR ADMINISTRATOR

Signature of Witness

Name: [Redacted Name]

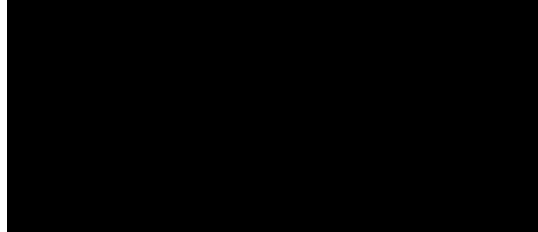
Address:

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Devonshires
Solicitors LLP
30 Finsbury Circus
London EC2M 7DT

EXECUTED as a **DEED** by affixing
THE COMMON SEAL of
M&G TRUSTEE
COMPANY LIMITED

in the presence of:



Sealing Officer