

	Dated <i>13 JULY</i>	2018
	ARUN DISTRICT COUNCIL	(1)
	and	
	WEST SUSSEX COUNTY COUNCIL	(2)
	and	
	MILDREN HOMES (ISLE OF WIGHT) LIMITED	(3)
	and	
	MSP CAPITAL LIMITED	(4)
	and	
	CRAYFERN HOMES LIMITED	(5)
	DEED OF VARIATION AND AGREEMENT Under section 106 and 106A of the Town & Country Planning Act 1990 relating to Land South of Burndell Road, Yapton, West Sussex	
	Planning Application F/2/18/PO AND F/7/15/OUT	
	Arun District Council Arun Civic Centre Maltavers Road LITTLEHAMPTON West Sussex. BN17 5LF	

THIS DEED is dated 13 JULY 2018	
(1)	ARUN DISTRICT COUNCIL of Arun Civic Centre, Maltravers Road, Littlehampton, West Sussex BN17 5LF ("Council");
(2)	WEST SUSSEX COUNTY COUNCIL of County Hall, West Street, Chichester, West Sussex PO19 1RQ ("County Council");
(3)	MILDREN HOMES (ISLE OF WIGHT) LIMITED incorporated and registered in England and Wales with company number 07934531 whose registered office is at 120 Matchams Lane, Hurn, Christchurch, Dorset BH23 6AN ("Owner");
(4)	MSP Capital Ltd (Co. Regn. No. 01543169) of Capital House, 202 Sandbanks Road, Poole BH14 8HA. ("Mortgagee"); and
(5)	CRAYFERN HOMES LIMITED incorporated and registered in England and Wales with company number 02703219 whose registered office is at Victoria House, 14 St Johns Road, Hedge End, Southampton, SO30 4AB ("Intending Purchaser")
BACKGROUND	
(A)	ADC is the local planning authority and the local housing authority and the authority responsible for housing and leisure services including open spaces in the area of the Development.
(B)	The Owner is the freehold owner of the Property registered with absolute title at the Land Registry under title number WSX386080 and subject to a charge at entry number 2 of the Charges Register in favour of the Mortgagee.
(C)	On 1 March 2016 ADC, the Original Owner and the Original Developer entered into the Original Agreement attached to this Deed for ease of reference .
(D)	The Intending Purchaser has made the Application and the parties have agreed to vary the terms of the Original Agreement as set out in this Deed.
(E)	This agreement is made as a Deed under section 106 and 106A of the Act and is supplemental to the Original Agreement.
AGREED TERMS:	
1.	Interpretation
Unless otherwise stated herein the definitions and rules of interpretation contained in the Original Agreement shall apply to this Agreement The following definitions and rules of interpretation apply to this Agreement	
1.1	Definitions

	"Application"	means the application made by the Intending Purchaser for the amendment of the Original Agreement which has been given the reference number F/2/18/PO
	"Original Agreement"	means the agreement made under section 106 of the Act dated 1 March 2016 between ADC, WSCC, the Original Owner and the Original Developer.
	"Original Developer"	means Brookworth Homes Limited of Millenium House 99 Bell Street Reigate Surrey RH2 7AN
	"Original Owner"	means Susan Mary Abbott, Andrew Brian Abbott and Graham John Abbott.
	"Original Planning Permission"	means planning permission numbered F/7/15/OUT to which the Original Agreement relates.
	"Act"	means the Town and Country Planning Act 1990 (as amended)
	1.2	Unless the context otherwise requires, all words and phrases defined in the Original Agreement shall have the same meaning in this Deed.
	1.3	Clause headings shall not affect the interpretation of this Deed
	1.4	A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
	1.5	Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
	1.6	Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
	1.7	A reference to any party shall include that party's personal representatives, successors or permitted assigns and in the case of ADC or WSCC the successors to their respective statutory functions.
	1.8	A reference to "planning permission" shall mean either the Original Planning Permission, the planning permission to be granted pursuant to the Application or both, as the context so requires.
	1.9	Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
	1.10	Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.

	1.11	Unless the context otherwise requires, references to clauses are to the clauses of this Deed.
	1.12	Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
	1.13	Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.
2	Statutory Provision	
	This Deed is made pursuant to the provisions of sections 106 and 106A of the Act, section 111 and s135 of the Local Government Act 1972, section 1 of the Localism Act 2011 and any other enabling powers.	
3	Variation of the Original Agreement	
	3.1	The Original Agreement shall be varied as follows:
	3.1.1	Paragraph 2.11 the definition of "Affordable Housing Units" shall be deleted and replaced with the following:
		"2.11 "Affordable Housing Units" means thirteen (13) Dwelling Units to be provided as Affordable Housing in accordance with the terms of this agreement comprising no (zero) Affordable Rented Homes and 13 (thirteen) Intermediate Homes, of which 2 (two) are to be provided in the form of bungalows.
	3.1.2	Schedule 3 shall be amended by the insertion of the following:
		"Landspeed Homes Limited (Ted Reddick) of 16 Katana House, Fort Fareham, Newgate Lane PO14 1AH; telephone number: 07801 941666; email address: ted@landspeed.uk.com ."
	3.2	In all other respects the Original Agreement (as varied by this Deed) shall remain in full force and effect. For the avoidance of doubt this Deed and the Original Agreement shall apply to the Original Planning Permission and all associated permissions issued pursuant to section 73 of the Act unless ADC requires a specific variation of the Original Agreement.
4	Covenants to the Council	
	The Owner covenants to observe and perform the covenants, restrictions and obligations contained in the Original Agreement as varied by this Deed.	

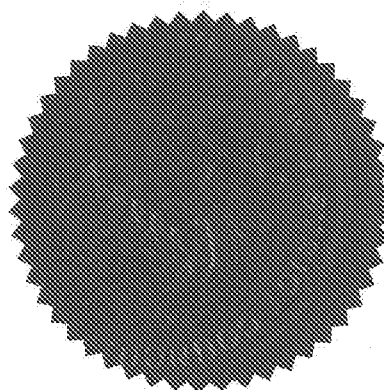
5	Mortgagee's Consent		
	The Mortgagee consents to the completion of this Deed and acknowledges that from the date of this Deed the Property shall be bound by the terms of this Deed, as if it had been executed and registered as a land charge prior to the creation of the Mortgagee's interest in the Property.		
6	Legal Costs		
	The Owner agrees with the Council and the County Council that on completion of this agreement to pay their respective legal costs incurred in preparing and entering into this agreement as set out below:		
	Payee	Sum of legal costs	
	The Council	Up to £500.00	
	The County Council	Up to £500,00	
7	Local Land Charge		
	This Deed shall be registered as a Local Land Charge		
8	Value Added tax		
	8.1	All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly paid.	
	8.2	If at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this Deed then to the extent that VAT has not been previously charged in respect of that supply the party making the supply shall have the right to issue a VAT invoice to the party to whom the supply was made and the VAT shall be paid accordingly.	
9	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.		
10	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 laws of England.		
This document has been executed and delivered as a deed and is delivered and takes effect on the date stated at the beginning of it.			

EXECUTED as a DEED by affixing)
 THE COMMON SEAL of ARUN DISTRICT)
 COUNCIL)

Seal Book Number: 204/2018

Authorised Signatory

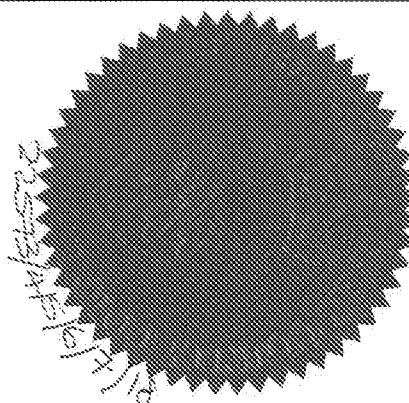
APRIL HARRISON, LAWYER



EXECUTED as a DEED by affixing)
 THE COMMON SEAL of WEST SUSSEX)
 COUNTY COUNCIL)

Seal Book Number:

Authorised Signatory:



EXECUTED as a DEED by MILDREN
 HOMES (ISLE OF WIGHT) LIMITED

Acting by an authorised signatory
 in the presence of:

Authorised Signatory

Witness signature:

Witness name: Rachel Murphy

Witness address:

Steele Raymond LLP
 Richmond Rd part
 43 Richmond Hill
 Bournemouth, BH2 6LR

Witness occupation:

Trainee Solicitor

EXECUTED as a DEED by MSP CAPITAL)
 LIMITED)

Acting by an authorised signatory
 in the presence of:

Authorised Signatory

Witness name: Rachel Murphy.

Witness address: Steele Raymond LLP.
Richmond Point.
43 Richmond Hill.
Bournemouth BH26LR.

Witness occupation: Trainee Solicitor

EXECUTED as a DEED by CRAYFERN)
HOMES LIMITED)

Acting by an authorised signatory
in the presence of:

Witness signature

Authorised Signatory

Witness name: Alastair Dineen

Witness address: Drenewydd
Sandy Lane
Cynrhyst

Witness occupation: Residential Developer
