Dated 23 May 2019

Eastleigh Borough Council

and

Hampshire County Council

and

Synergy Housing Limited

Deed of Variation pursuant to Section 106A of the Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972 and all enabling powers relating to land at The Sidings Mill Street Eastleigh in Hampshire (otherwise known as Ashton Gardens)

Planning Application No: F/11/70108

Trowers & Hamlins LLP
The Senate
Southernhay Gardens
Exeter
EX1 1UG
t +44 (0)1392 612600
f +44 (0)1392 612601
www.trowers.com

trowers & hamlins

Deed of Variation

dated 23 May **2019**

Parties

(1) **Eastleigh Borough Council** of Civic Offices, Leigh Road, Hampshire, SO50 9YN ("the Council")

(2) **Synergy Housing Limited (Community Benefit Society No. 31447R)** of Link House, 25 West Street, Poole, BH15 1LD ("the Owner")

(3) **Hampshire County Council** of The Castle, Winchester Hampshire SO23 8UJ ("the County Council")

(4)

Introduction

(A) This deed is supplemental to the **Principal Deed**.

(B) The Council is the local planning authority for the purposes of the Act (as defined in the Principal Deed) for the area in which the Site (as defined in the **Principal Deed**) is situated.

(C) The County Council is the Highway Authority (save in respect of trunk roads and special roads) and Education Authority for Hampshire within which the Site (as defined in the Principal Deed) is situated

(D) The Owner is the freehold owner of that part of the Site comprising of the Affordable Housing Land (as defined in the **Principal Deed**) upon which the Affordable Housing Dwellings have been built which is registered at the Land Registry with Title Absolute under Title Number HP778890 and shown edged red on the plan annexed (the **Affordable Housing Dwellings**)

(E) The Owner the Council and the County Council have agreed that the Principal Deed shall be modified in respect of the Affordable Housing Dwellings in the manner set out in the Schedule hereof.

Agreed terms

1 Definitions and Interpretations

1.1 In this Agreement unless the context otherwise requires the following expressions shall have the following meanings:

Principal Deed means a deed made pursuant to section 106 of the Town and Country Planning Act 1990 (the **Act**) dated 13 December 2012 (1) Eastleigh Borough Council (2) Hampshire County Council (3) Travis Perkins (Properties) Limited and (4) Taylor Wimpey UK Limited

and except where otherwise specified or where the context otherwise requires, definitions in the **Principal Deed** shall apply in this Agreement.

HM Land Registry
Official copy of title plan

Title number **HP778890**
Ordnance Survey map reference **SU4519NE**
Scale **1:1250 enlarged from 1:2500**
Administrative area **Hampshire : Eastleigh**

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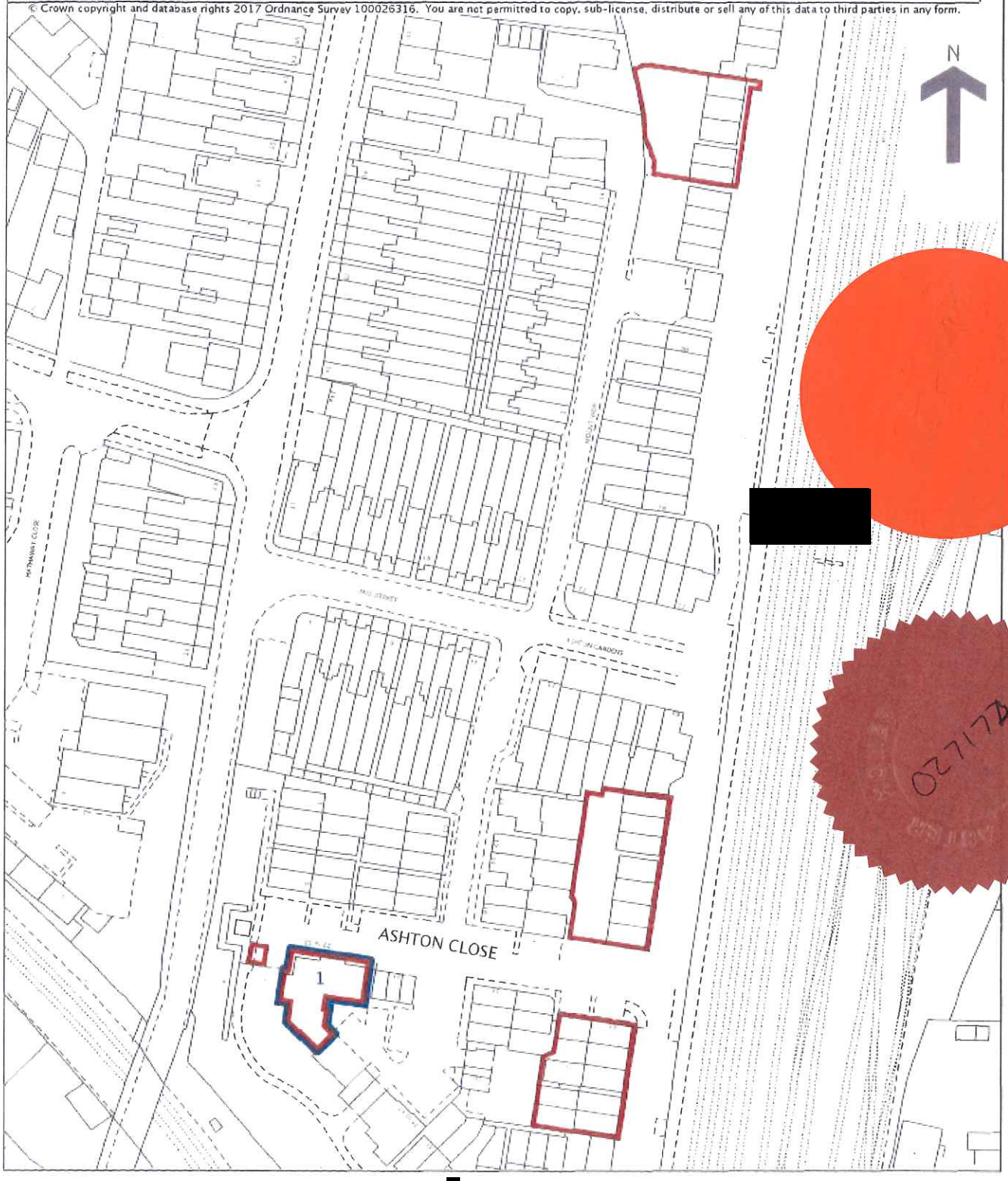

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1.2 In this Agreement, except where the context requires otherwise:

1.2.1 The singular includes the plural, the masculine includes the feminine, and vice versa;

1.2.2 References to clauses and schedules are to the clauses in and schedules to this Agreement;

1.2.3 Reference to any party having an interest in land affected by this Agreement shall include any successor in title of that party to that land or to any part of it;

1.2.4 Reference to any party having a statutory function referred to in this Agreement shall include any successor to that statutory function;

1.2.5 Reference to any Act or Statutory Instrument shall include any subsequent amendment or re-enactment of it;

2 The Council the County Council and the Owner hereby agree that:

2.1 The **Principal Deed** shall be modified as set out in the Schedule to this Agreement;

2.2 This Agreement varies and shall be construed in connection with and supplemental to the Principal Deed and any necessary amendments to the **Principal Deed** to give effect to such variation shall be deemed to have been made

2.3 This Agreement is a Local Land Charge and shall be registered as such;

2.4 This Agreement is made pursuant to Sections 106 and 106A of the Act and is a planning obligation made with the intent to bind the Owner's interest in the Affordable Housing Land and section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and any and all enactments and powers in that behalf;

2.5 Except as provided in this Agreement, it is agreed between the parties that this Agreement is supplemental to and not in substitution for the **Principal Deed** and that the terms of the **Principal Deed** will continue in full force and effect, subject only to the provisions of this Agreement;

2.6 This Agreement shall take effect from the date hereof

2.7 The Owner shall pay

(a)to the Council on completion of this Agreement the costs of the Council incurred in the negotiation, preparation, execution and registration of this Agreement

(b) to the County Council on completion of this Agreement the costs of the County Council incurred in the negotiation, preparation, execution and registration of this Agreement

2.8 This Agreement is governed by and interpreted in accordance with the law of England and Wales.

2.9 The provisions of this Agreement (other than this clause which shall be of immediate effect) shall be of no effect until this Agreement has been dated.

In witness of which the parties hereto have executed this document as a Deed the day and year first before written.

Schedule

Provisions amended or inserted into the **Principal Deed**

1 Clause 5 of Schedule 6 of the **Principal Deed** shall be deleted and replaced with the following clause:

Clause 5:

'That the Affordable Housing Dwellings constructed on the Affordable Housing Land will not be used for any purpose other than as Affordable Housing to rent and/or Affordable Housing subject to a shared ownership or shared equity scheme. The obligations and provisions contained in this Deed shall not be binding upon:

(a) *any 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 Dwellings or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:*

i *such mortgagee or charge or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Housing Dwellings and shall have used reasonable endeavours over a period of 3 months from the date of the written notice to complete a disposal of the Affordable Housing Dwellings 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 principle monies, interest, costs and expenses; and*

ii *if such disposal is not completed within the 3 month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Housing Dwellings free from the provisions and obligations contained in this Deed which shall determine absolutely.*

(b) *any tenant exercising their right to acquire or purchase under a statutory power or to a shared ownership or shared equity owner acquiring such percentage that will take their ownership to 100% of a property subject to a shared ownership or shared equity lease, or to their successors in title*

EXECUTED as a DEED by affixing)

the COMMON SEAL of **EASTLEIGH**)

BOROUGH COUNCIL in the)

presence of:)

[redacted]

Authorised Signatory

11294

EXECUTED as a DEED by affixing)

the COMMON SEAL of **HAMPSHIRE**)

COUNTY COUNCIL in the presence of:-)

[redacted]

Authorised Signatory

37/0649

Executed as a Deed by affixing the Common Seal of)

SYNERGY HOUSING LIMITED)

In the presence of)

[redacted]

Authorised Signatory

Authorised Signatory/Secretary

027174