

DATED

10th March 2026

**SUPPLEMENTAL AGREEMENT UNDER SECTION 106A OF THE TOWN AND COUNTRY PLANNING
ACT 1990 RELATING TO LAND AT FORGE MOUNT, PROVIDENCE HILL, BURSLEDON AND LAND
AT DODWELL LANE, BURSLEDON AND LAND KNOWN AS MISERY, BURSLEDON SOUTHAMPTON**

between

EASTLEIGH BOROUGH COUNCIL

And

HAMPSHIRE COUNTY COUNCIL

And

VIVID HOUSING LIMITED

And

FOREMAN HOMES LIMITED

**Head of Legal Services
Eastleigh Borough Council
Upper Market Street
Eastleigh
SO50 9YN**

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This deed is dated

10th March

2026

Parties

- (1) EASTLEIGH BOROUGH COUNCIL of Eastleigh House, Upper Market Street, Eastleigh SO50 9YN (**Council**)
- (2) HAMPSHIRE COUNTY COUNCIL of The Castle, Winchester, SO23 8UJ (**County Council**)
- (3) FOREMAN HOMES LIMITED incorporated and registered in England and Wales with company number 03313213 whose registered office is at Yarmouth House Parkway, Whiteley, Fareham, England, PO15 7AX (**Foreman**)
- (4) VIVID HOUSING LIMITED (a charitable community benefit society as defined in section 1 of the Cooperative and Community Benefit Societies Act 2014 with registered number RS007544) whose registered office is at Peninsular House Wharf Road Portsmouth Hampshire PO2 8HB (**VIVID**)

BACKGROUND

- (A) The Council is the local planning authority for the purposes of the Act for the area in which the Site is situated.
- (B) The County Council is the highway authority for the area in which the Site is situated and a local planning authority for the purposes of the Act.
- (C) On 6 September 2021, the Original Agreement was entered into by the original parties.
- (D) VIVID is the freehold owner of the part of the Site as registered under title number HP885930 and Foreman is the freehold owner of the part of the Site as registered under title numbers HP744331 and HP879087.
- (E) Without prejudice to the terms of the other covenants contained in the Original Agreement, the parties have agreed to vary the terms of Original Agreement as set out in this deed.
- (F) This agreement is made under section 106A of the Act and is supplemental to the Original Agreement.

Agreed terms

1. Interpretation

The following definitions and rules of interpretation apply in this deed.

1.1 Definitions:

Original Agreement: the agreement made under section 106 of the Act dated 6 September 2021 between the Council (1), the County Council (2), Roger Fisher and Marie Spake (3), Maurice Roland Fisher and Molly Florence Price (4), Foreman Homes Limited (5), Heritable Development Finance Limited (6), Foreman Homes East Limited (7) and Edward John Freeman and Glenys Sara Freeman (8) (planning reference O/17/81166).

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 the Council and the County Council the successors to their respective statutory functions.

1.8 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.

1.9 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.

1.10 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.

- 1.11 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 of the Local Government Act 1972, section 1 of the Localism Act 2011 and any other enabling powers.

3. Variations to the Original Agreement

- 3.1 The definition of "Affordable Housing Plan" shall be amended by deleting the words "Affordable Housing and Location Plan and replacing them with the words "*Section 106 Units HT Key Plan and drawing reference number 16.115.303 Revision B*"

- 3.2 The definition of "Council's Contribution Payments" shall be amended by deleting the following wording:

"(ix) the On-Site Public Open Space Commuted Maintenance Sum;

(x) the On-Site Public Open Space Maintenance Supervision Fee"

- 3.3 The definition of "On-Site LEAP Play Area Works Contribution" shall be deleted and replaced with:

"On-Site LEAP Play Area Works Contribution": means a contribution of one hundred and ninety five thousand, three hundred and thirteen pounds and twenty eight pence (£195,313.28) index linked from and including 1 April 2025 in accordance with clause 14.2 of this Deed and to be applied by the Council towards the provision maintenance and supervision of the play equipment within the Site and payable in accordance with Schedule Four and Six of this Deed"

- 3.4 The definition of "On-Site LEAP Play Area Commuted Maintenance Sum" shall be deleted and replaced with:

"On-Site LEAP Play Area Commuted Maintenance Sum": means the sum of one hundred and seventeen thousand, one hundred and eighty seven pounds and ninety five pence (£117,187.95) index link from and including 1 April 2025 in accordance with clause 14.2 of this Deed) and to be applied by the Council towards the maintenance of the Play Area and payable in accordance with Schedule Four and Six of this Deed"

- 3.5 The definition of "On-Site LEAP Play Area Supervision Fee" shall be deleted and replaced with:

“On-Site LEAP Play Area Supervision Fee”: means the sum of eight thousand, seven hundred and eighty nine pounds and ten pence (£8,789.10) index linked from and including 1 April 2025 in accordance with clause 14.2 of this Deed and to be applied by the Council towards the supervision of the Play Area and payable in accordance with Schedule Four and Six of this Deed”

- 3.6 The definition “LEAP Play Area” shall be deleted in its entirety and the definition of “Play Area Land” shall be amended to “means the land shown edged red on the plan annexed and marked “ELEAP Area for Transfer”.
- 3.7 The definition “Owners” shall be amended by deleting the word “Owners” and replacing it with “Vivid and Foreman” and by adding “and the expression ‘Owner’ shall be read and construed accordingly” to the end of the definition.
- 3.8 The following Definitions to the Original Agreement shall be deleted in their entirety:
- *“On-Site Public Open Space Commuted Maintenance Sum”*
 - *“On-Site Public Open Space Maintenance Supervision Fee”*
- 3.9 Paragraph 4.3 of Schedule Four to the Original Agreement shall be deleted in its entirety.
- 3.10 Paragraphs 1 and 2 of Schedule Six of the Original Agreement shall be amended so that the words “prior to Commencement of Development” are replaced with “prior to Occupation of the 75th Dwelling on the Site”.
- 3.11 Paragraph 3 of Schedule Six of the Original Agreement shall be amended so that the words “that Development shall not be Commenced” are replaced with “Not more than seventy five of the Dwellings to be constructed on the Site shall be Occupied”.
- 3.12 Paragraph 4 of Schedule Six of the Original Agreement shall be amended so that the words “of any more than forty five (45) of the Dwellings constructed on the Site” are replaced with “of the Penultimate Dwelling”.
- 3.13 Paragraphs 7 – 9 (inclusive) of Schedule Six of the Original Agreement shall be deleted in their entirety and the following new paragraphs 7 and 8 shall be inserted:

“7. on expiry of the Maintenance Period of the On-Site Open Space Land and the Play Area Land the Owners shall:

7.1 No later than 6 months following Occupation of the Penultimate Dwelling pay to the Council the On-site LEAP Play Area Commuted Maintenance Sum and transfer the Play

Area Land to the Council and the Council agrees that it shall, subject to a satisfactory final inspection, accept such a transfer on the following terms:-

- (a) any environmental contamination remediation scheme reasonably required by the Council or arising pursuant to Paragraph 2 of this Schedule in respect of the Play Area Land and any parts of the Site immediately adjacent to the Play Area Land reasonably required by the Council has been implemented by the Owner or Developer (as the case may be).*
- (b) any programme of archaeological work required and approved by the Council has been implemented by the Owner or Developer (as the case may be) and completed to the reasonable satisfaction of the Council;*
- (c) any charge over the Play Area Land has been released and all necessary steps have been taken to enable the Council or its nominee to be registered with an absolute freehold title at Land Registry free from incumbrances*
- (d) the transfer of the Play Area Land shall be in consideration of the sum of £1.00 and shall be subject to a covenant in favour of the Owners not to use the Play Area Land other than as a children's play area.*
- (e) vacant possession shall be given on completion;*
- (f) for an estate in fee simple in possession;*
- (g) with full title guarantee;*
- (h) subject only to the matters specified in the title at 31st August 2021 of the Play Area Land to be transferred (other than entries securing monies) and the terms of this Agreement so far as the same relate to and affect the Play Area Land*
- (i) with all necessary rights of access and drainage*

7.2 to indemnify the Council against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Council arising out of or in connection with any contamination (as defined by Part IIA of the Environmental Protection Act 1990) identified by the Council within the boundary of the Play Area Land.

7.3 The Owners will be responsible for the Council's proper and reasonable legal costs and disbursements incurred by the Council in connection with the transfer to the Council of the Play Area Land.

8. The Owners shall:

- (a) maintain the On-Site Open Space Land in accordance with the Approved Specification and Landscape Drawings in perpetuity; and*
- (b) not use or permit use of the On-Site Open Space Land other than as open space and play area land for unrestricted use by the public; and*
- (c) not make any disposal of the On-Site Open Space Land in part and shall not make any disposal of the whole of the On-Site Open Space Land other than to a private management company in which case the Owner shall:*
 - (i) include in the transfer a restrictive covenant not to use the On-Site Open Space Land other than as open space for use by the public in perpetuity and in accordance with the terms of this Deed; and*
 - (ii) provide a copy of the transfer, together with details of the private management company (including relevant contact details) to the Council within 5 working days of completion of the disposal."*

3.14 The Affordable Housing Plan defined in clause 1 and annexed to the Original Agreement shall be removed and replaced with the plan annexed to this agreement and all references within the Original Agreement to the 'Affordable Housing Plan' shall be construed as referring to the Affordable Housing Plan annexed to this variation.

3.15 In all other respects, the Original Agreement (as varied by this deed) shall remain in full force and effect.

4. Covenants by the Owners

The Owners covenant to observe and perform the covenants, restrictions and obligations contained in the Original Agreement as varied by this deed.

5. Local land charge

This deed is a local land charge and shall be registered as such by the Council.

6. Council's costs

The Owners shall pay to the Council and the County Council on or before the date of completion of this deed the Council's and County Council's reasonable and proper legal costs together with all disbursements incurred in connection with the preparation, completion and registration of this deed.

7. Value added tax

7.1 All consideration given in accordance with the terms of this deed shall be exclusive of any value added tax (VAT) properly paid.

7.2 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.

8. Third party rights

A person who is not a party to this deed does not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed.

9. 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) will be governed by and construed in accordance with the law of England and Wales.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

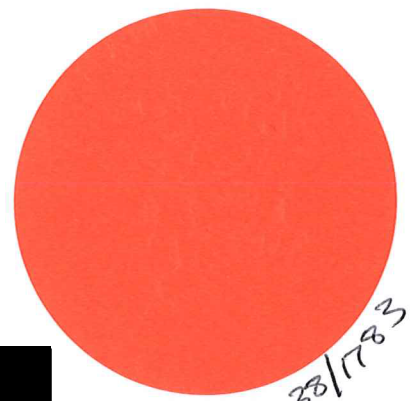
THE COMMON SEAL of)
EASTLEIGH BOROUGH)
COUNCIL was hereto)
affixed in the presence)
of: JOANNE CASSAR



[Redacted signature]

Authorised signatory

THE COMMON SEAL of)
HAMPSHIRE COUNTY)
COUNCIL was hereto)
affixed in the presence)
of: SARAH HUCKFIELD



[Redacted signature]

Authorised signatory

Signed as a Deed by [STEPHEN BAN] as)
attorney for **FOREMAN HOMES LIMITED**)
under a power of attorney dated 6 May)
2025 in the presence of:)

[Redacted signature]

Signature

Witness Signature:

Witness Name:

Address:

Occupation:

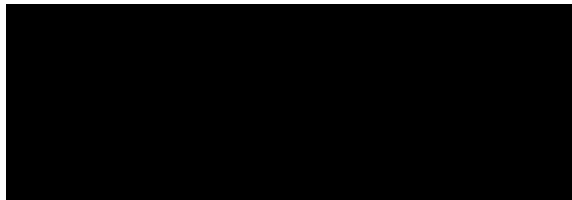
KGONZALEZ

KAREN GONZALEZ

102 HIGH STREET
GODALMING, GU7 1DS

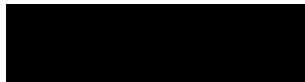
SECRETARY

EXECUTED as a DEED by)
VIVID HOUSING LIMITED)
acting by an officer)
appointed for that person by)
its attorney **Foot Anstey LLP**)
under section 74(4) of the)
Law of Property Act 1925 in)
the presence of:



Authorised signatory

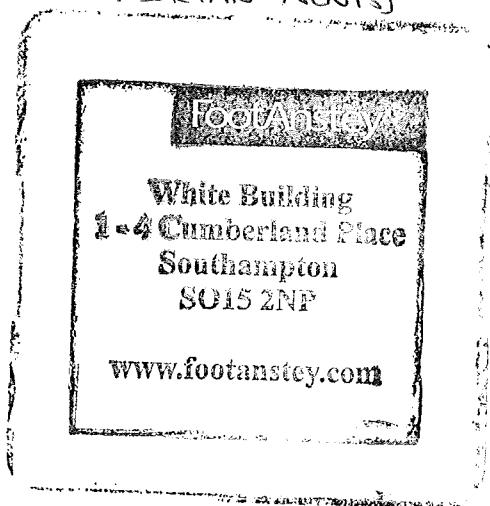
Signature of witness:



Name:

ADRIAN NOUISS

Address:



Occupation: SOLICITOR



Please Note:

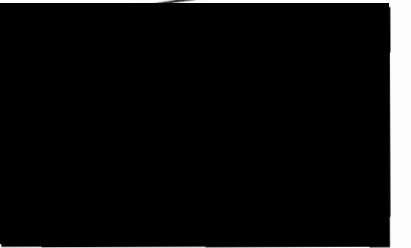
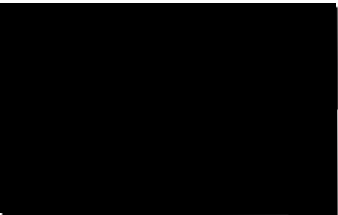
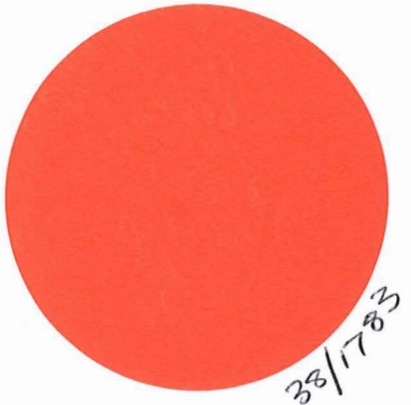
This drawing can only be scaled for planning purposes. Dimensions to be checked on site and any discrepancies are to be highlighted to the Architect prior to construction.

Topographical / Ordnance Survey information shown has been prepared by a third party, HGP accept no responsibility for accuracy or completeness of the survey.

This drawing is to be read in conjunction with all other project drawings, construction notes and / or project specifications including those by other project consultants and specialists. All discrepancies should be reported immediately.

Design subject to detail development / approval. Measurements and accommodation schedules subject to amendments following coordinated input by others. Costings cannot be finalised until approval / confirmation by relevant authorities and Client.

-  ELEAP Area for Transfer
-  Title No. HP872301



Rev.	Description	DATE	DB	CB
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ELEAP Transfer Plan

PROJECT	JOB NO.
Land off of Providence Hill	16.115
SCALE @A3	DATE
1:2000@A3	Aug '25
DRAWN BY/CHECKED BY	REVISION
DY /HJE	-
DWG#	STATUS
SKP02	Preliminary

hgp

Total No. Rent:	23
Total No. Shared Ownership:	10

