

Deed of Variation

**Pursuant to Section 106A of the Town and Country Planning
Act 1990 (as amended)**

In respect of: Land at Phase 1, Whitfield Urban Expansion, Dover,
Kent

Dover District Council (1)

BDW Trading Limited (2)

Dated **30 June** 2022

Osborne Clarke

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THIS DEED OF VARIATION is made the **30** day of **June** 2022

BETWEEN

- (1) **DOVER DISTRICT COUNCIL** of White Cliffs Business Park, Dover, Kent CT16 3PJ (the "**District Council**"); and
- (2) **BDW TRADING LIMITED** (Company Registration Number: 03018173) whose registered office is at Barratt House Cartwright Way, Forest Business Park, Bardon Hill Coalville, Leicestershire, LE67 1UF (the "**Owner**")

together the "**Parties**"

WHEREAS

- A. The District Council is the local planning authority for the purposes of the 1990 Act for the area in which the Site is situated.
- B. The Owner is the freehold owner of the part of the Site comprising the BDW Land (as defined herein) on which the Affordable Housing Units are proposed to be constructed (the "**BDW Land**").
- C. The Parties to this Deed have agreed that the Principal Agreement shall be varied in respect of the BDW Land as set out in Schedule 1 to this Deed and pursuant to Section 106 and Section 106A of the 1990 Act.
- D. This Deed is supplemental to and varies the Principal Agreement and is to be read together with it.

NOW THIS DEED WITNESSES AS FOLLOWS:

1 DEFINITIONS

- 1.1 Words and expressions in the Principal Agreement shall have the same meaning in this Deed (save to the extent that they are expressly varied in this Deed).
- 1.2 In this Deed the following words and expressions shall unless the context otherwise requires have the following meanings:

"BDW Land"	means the parts of the Site which are registered at the Land Registry under title number TT124075 and shown edged red on the plan at Annex 1 of this Deed
"First Deed of Variation"	means the agreement made under Section 106 and 106A of the 1990 Act dated 8 March 2017 and made between: (1) Dover District Council; (2) The Kent County Council; (3) Halsbury Homes (South East) Limited; (4) Halsbury Strategic Limited; (5) Standard Homes Limited; (6) Homes and Communities Agency; (7) Secure Trust Bank PLC; and (8) LendInvest Capital Sarl
"Principal Agreement"	means the agreement made under Section 106 of the Act dated 30 April 2015 and made between: (1) Dover District Council; (2) The Kent County Council; and (3) GBGB Limited as amended by the First Deed of Variation

2 INTERPRETATION

The provisions in the Principal Agreement relating to its interpretation apply equally to this Deed (save to the extent that they are expressly varied in this Deed).

3 LEGAL EFFECT

3.1 The Owner agrees with the District Council that the agreements and obligations in the Principal Agreement as varied by this Deed in respect of the BDW Land are covenants which:

- (a) are entered into pursuant to the provisions of section 106 and 106A of the 1990 Act, section 111 of the Local Government Act 1972 and any other enabling powers;
- (b) are planning obligations for the purposes of section 106 of the 1990 Act;
- (c) are entered into with the intention that they bind the interests held by those persons in the BDW Land and their respective successors and assigns; and
- (d) are (subject to the terms in the Principal Agreement) enforceable by the District Council in accordance with section 106 of the 1990 Act;

4 CONDITIONALITY

The terms and provisions in this Deed shall come into force on the date of this Deed.

5 COVENANTS

5.1 It is hereby agreed and declared that the Principal Agreement shall with effect from the date of this Deed be varied in respect of the BDW Land as set out in the Schedule to this Deed and the Principal Agreement shall take effect and be read and construed accordingly.

5.2 The Parties confirm that save as varied by this Deed, the Principal Agreement shall continue in full force and effect and any obligations in the Principal Agreement not yet fully discharged at the date of completion of this Deed shall remain in full force and effect.

5.3 The Parties agree that the obligations in this Deed shall not take effect so as to duplicate the obligations in the Principal Agreement and any obligations in the Principal Agreement already discharged shall be considered as discharged for the purposes of the Principal Agreement as varied by this Deed.

6 LOCAL LAND CHARGE

This Deed is a local land charge and shall be registerable as such by the District Council.

7 LEGAL COSTS

The Owner covenants to pay the District Council's reasonable legal costs incurred in connection with the negotiation, preparation, and execution of this Deed.

8 THIRD PARTY RIGHTS

No person other than a party to this Deed shall have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

9 DELIVERY

This Deed is delivered on the date of this Deed.

10 **JURISDICTION**

This Deed 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 law of England.

IN WITNESS whereof this Deed has been executed by the Parties hereto and is intended to be and is hereby delivered on the date first above written.

THE SCHEDULE
VARIATIONS TO THE PRINCIPAL AGREEMENT

1. In clause 1 of the Principal Agreement the definition of 'Adult Services Wheelchair Accessible Homes' shall be deleted and replaced with the following:

"Adult Services Wheelchair Accessible Homes"	means the provision of accessible homes which meet optional requirement M4(2) of Approved Document M issued by the Secretary of State pursuant to the Building Regulations 2010
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The **COMMON SEAL** of
DOVER DISTRICT COUNCIL
was affixed hereunto in the presence of:



Authorised Signatory

SIGNED as a **DEED** by

Attorneys for and acting on behalf
of **BDW TRADING LIMITED** in
exercise of the powers conferred on
them by a Power of Attorney dated

16 June 2022.

in the presence of:

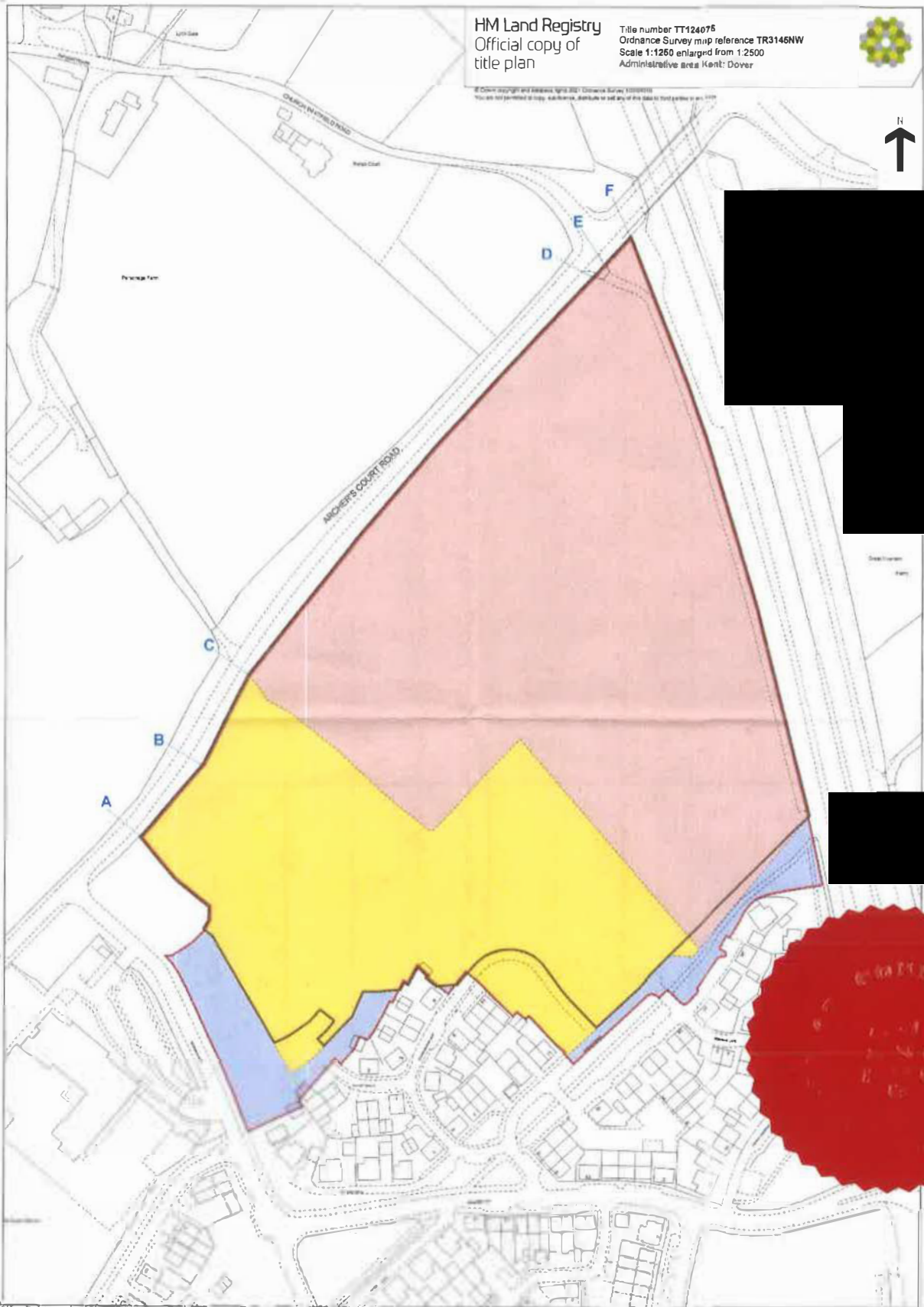
Witness Signature:

Witness Name:

Witness Address:

Witness Occupation:

Annex 1
Extent of BDW Land



HM Land Registry
Official copy of
title plan

Title number TT124075
Ordnance Survey map reference TR3146NW
Scale 1:1250 enlarged from 1:2500
Administrative area Kent: Dover



This official copy of the title plan shows the state of the title plan on 17 June 2022 at 11:35 AM.
It is in evidence in the same extent as the original (as of Land Registration Act 2002).
This title plan shows the general description of the land and the boundaries. It may be subject to alterations in scale. Measurements scaled from this Plan may not match measurements between the same points on the ground.
This title is dealt with by HM Land Registry, Durham Office.