

DATED

15th June

2021

INQUILAB HOUSING ASSOCIATION LIMITED

and

THE LONDON BOROUGH OF HILLINGDON

**DEED OF VARIATION PURSUANT TO
SECTION 106A OF THE TOWN AND COUNTRY PLANNING ACT 1990
RELATING TO THE DEVELOPMENT OF LAND AT**

1-18 (inclusive) Fulmer House, 128 Park Road, Uxbridge

2543/APP/2020/3789

Planning and Corporate Team
Legal Services
London Borough of Hillingdon
Civic Centre
High Street
Uxbridge
Middlesex UB8 1UW
Ref: 3E/04/017896

THIS DEED IS MADE ON THE 15th DAY OF JUNE

2021

BETWEEN

1. **INQUILAB HOUSING ASSOCIATION LIMITED** (Registered Society Number: 25733R) of Unit 3, 8 Kew Bridge Road, Brentford TW8 0FJ ("**the Owner**"); and
2. **THE LONDON BOROUGH OF HILLINGDON** of the Civic Centre, High Street, Uxbridge, Middlesex, UB8 1UW ("**the Council**").

WHEREAS

- (A) The Council is the local planning authority for the purposes of the Act in respect of the Land and by whom the obligations in this Deed are enforceable.
- (B) The Owner has the freehold interest in the Land registered under Title No. AGL223532 at the Land Registry.
- (C) The Land is subject to a legal charge dated 2 March 2020 in favour of The Housing Finance Corporation Limited ("**the Lender**"). The Lender has provided its written consent to this Deed.
- (D) A Deed of Planning Obligation dated 21 December 2006 was entered into by (1) Persimmon Homes Limited and (2) the Council pursuant to Section 106 of the Town and Country Planning Act 1990 ("**the Original Deed**").
- (E) This Deed is supplemental to the Original Deed.
- (F) For the purpose of securing satisfactory arrangements for the development of the Land and without prejudice to the terms of the other covenants contained in the Original Deed, the Parties hereto have agreed to vary the terms of the Original Deed as hereinafter provided.

IT IS AGREED AS FOLLOWS:-

1. INTERPRETATION & DEFINITIONS

IN THIS DEED, UNLESS THE CONTEXT OTHERWISE REQUIRES:

"the Act"	means the Town and Country Planning Act 1990.
"this Deed"	means this Deed of Variation.
"Parties"	means the Council and the Owner.
"Site"	means the land and buildings at 1-18 (inclusive) Fulmer House, 128 Park Road, Uxbridge UB8 1GN which is registered under title number AGL223532 at the Land Registry.

2. THE FOLLOWING DEFINITIONS AND RULES OF INTERPRETATION APPLY IN THIS DEED.

- 2.1 All words and phrases defined in the Original Deed shall have the same meaning in this Deed save where the context otherwise requires and for the avoidance of doubt, the Original Deed shall remain in full force and effect save as varied by this Deed.
- 2.2 All references in this Deed to clauses in the Original Deed are to clauses within the Original Deed.
- 2.3 Where in this Deed reference is made to a clause, schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, schedule or recital of this Deed.
- 2.4 Headings are for ease of reference only and are not intended to be construed as part of this Deed and shall not be construed as part of this Deed and shall not affect the construction of this Deed.
- 2.5 Unless the context otherwise requires, references to the singular shall include the plural and vice versa.

- 2.6 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.
- 2.7 A reference to any party shall include that party's personal representatives, successors or permitted assigns and in the case of the Council, the successors to its respective statutory functions.
- 2.8 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.
- 2.9 The provisions of the Original Deed in relation to its interpretation and in relation to statutory provisions, interests bound disputes liability notices and jurisdiction apply to this Deed except to the extent that they are expressly varied by this Deed.

3. VARIATIONS TO THE ORIGINAL DEED

- 3.1 The Parties agree that, except as varied by this Deed, the Original Deed shall remain in full force and effect.
- 3.2 Nothing in this Deed affects the Council's powers in respect of any antecedent breach or omission in relation to the Original Deed.
- 3.3 The Parties agree that with effect from the date of this Deed, the Original Deed shall be varied as set out below.
- 3.4 Paragraph 4.1 in Schedule 1 shall be deleted in its entirety and replaced with the following:
"a 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 Land or any persons or bodies deriving title through such mortgagee or chargee or Receiver."
- 3.5 Paragraph 4.3 in Schedule 1 shall be deleted in its entirety.

4. **STATUTORY PROVISION**

This Deed is made pursuant to Sections 106 and 106A of the Act, Section 111 of the Local Government Act 1972, Section 16 of the Greater London Council (General Powers) Act 1974, Section 1 of the Localism Act 2011 and any other enabling powers, to the intent that it will bind the Owner and their successors in title to the Land.

5. **COVENANTS TO THE COUNCIL**

The Owner covenant to observe and perform the covenants, restrictions and obligations contained in the Original Deed as varied by this Deed.

6. **REGISTRATION AS LOCAL LAND CHARGE**

The covenants in the Original Deed as modified by this Deed are planning obligations for the purposes of Section 106 of the Act and are enforceable by the Council as provided in the Original Deed as modified by this Deed and the Council shall register this Deed in its register of Local Land Charges.

7. **THIRD PARTIES**

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.

8. **INVALIDITY OF CERTAIN PROVISIONS**

If any of this Deed or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable the same shall be severable and the remainder of this Deed as to the application of such term to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each term and provision of this Deed shall be valid and enforced to the fullest extent permitted by law.

9. **CONFIRMATION**

It is hereby declared by the Parties to this Deed saving and excepting for as is expressly provided for by the provisions of this Deed the covenants and provisions contained in the Original Deed continue to have full force and effect.

10. **COSTS**

On or before the completion of this Deed, the Owner shall pay to the Council the Council's reasonable legal costs in this matter (£1,000 with no VAT being payable).

11. VALUE ADDED TAX

- 11.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly paid.
- 11.2 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.

12. JURISDICTION

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 law of England and Wales.

In witness whereof this document has been executed and delivered as a deed on the date first stated above.

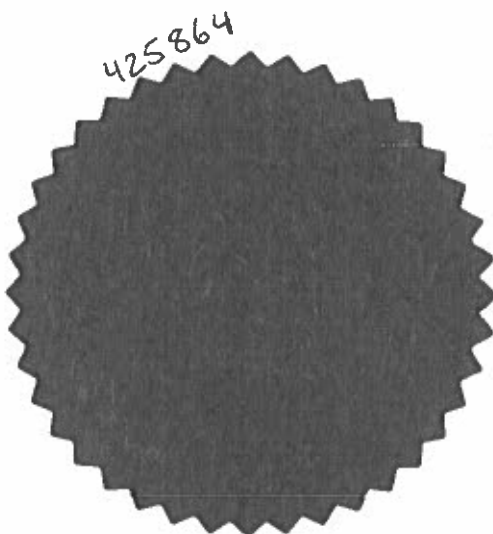
THE COMMON SEAL of the
**MAYOR AND BURGESSES OF
HILLINGDON** was duly affixed to
this Deed in the presence of:

MEMBER OF THE COUNCIL

Alan Chapman

AUTHORISED OFFICER

Rajesh Arora



EXECUTED as a Deed by
affixing the Common Seal of
**INQUILAB HOUSING ASSOCIATION
LIMITED** in the presence of:

)
)
)
)



CM

.....
Authorised Signatory

KS

.....
Authorised Signatory



THFC

15th June

2021

Dear Sir/Madam

Section 106 Deed of Variation relating to land at 1-18 (inclusive) Fulmer House, 128 Park Road, Uxbridge

1. The Housing Finance Corporation Limited ("THFC") holds a legal charge dated 2 March 2020 over the property (being Flats 1-18, Fulmer House, 128 Park Road, Uxbridge, UB8 1GN registered under title number AGL223532 ("Property")). The Property (owned by Inquilab Housing Association Limited ("Inquilab")) is to be subject to the proposed deed of variation (as detailed in paragraph 2).
2. The proposed deed will vary a Section 106 Agreement dated 21 December 2006 made between (1) Persimmon Homes Limited and (2) The London Borough of Hillingdon ("Section 106") and a copy of the agreed form of deed is appended to this letter ("Deed of Variation").
3. THFC, as lender, consents to Inquilab entering into the Deed of Variation with the intention that the Deed of Variation shall be registered as a Local Land Charge. For the avoidance of doubt, THFC as the mortgagee of the Property, will not accept nor incur any liability for any breach of the obligations set out in the Deed of Variation (nor its predecessor agreement – the Section 106) unless and until it becomes a mortgagee in possession of the Property (and that the breach relates specifically to the Property) or appoints a receiver or administrative receiver under any security documentation (so long as, as outlined above, the breach specifically relates to the Property) and will not be liable for any breach of the provisions set out in the Deed of Variation or Section 106 after it has parted with or released its interest in the Property.
4. THFC accepts that this Deed of Variation will bind THFC and its successors in title on the terms set out in paragraph 3 of this letter but not further or otherwise.

Yours faithfully

Signed on behalf of The Housing Finance Corporation Limited
(Colin Burke – Director)

This letter is acknowledged and its contents approved by The London Borough of Hillingdon as the Local Planning Authority.

Signed on behalf of The London Borough of Hillingdon