

**DATED**

**2025**

**WOKINGHAM BOROUGH COUNCIL**

**-and-**

**ABRI GROUP LIMITED**

**DEED OF VARIATION**

**AGREEMENT PURSUANT TO SECTIONS 106 AND 106A OF THE TOWN AND COUNTRY PLANNING  
ACT 1990**

**Relating to the Development at: Site at Land West of Trowes Lane, Swallowfield, Wokingham**

**Planning Reference: 202845**

**PARTIES**

- 1) **WOKINGHAM BOROUGH COUNCIL** of Council Offices, Shute End, Wokingham, Berkshire RG40 1WW (the “Council”); and
- 2) **ABRI GROUP LIMITED** (a society registered under the Cooperative and Community Benefit Societies Act 2014 (with registration number 30230R) and an exempt charity whose registered office is at Collins House, Bishopstoke Road, Eastleigh, Hampshire SO50 6AD (the “Owner”).

**RECITALS**

- A Cove Construction Limited is the freehold owner of the Site as defined within the Original Agreement. Cove Construction Limited acquired the Site from David Frederick Warwick, Josephine Margaret Warwick and Keith James Warwick on 20 September 2022. Cove Constructions Limited’s title to the Site is now registered under title number BK524450.
- B The Owner is the PRP for the purpose of the Original Agreement. The Owner acquired the Affordable Dwellings (as defined in the Original Agreement), which are shown edged red on the attached plan (“**Affordable Housing Land**”), from Cove Construction Limited on 1 May 2025. The Owner’s title to the Affordable Housing Land is pending registration.
- C The Council is the local planning authority for the purposes of this Deed under the Act and for the area in which the Site is situated and by whom the obligations within this Deed are enforceable.
- D The Council entered into a Unilateral Undertaking dated 30 November 2017 and made between (1) Cove Construction Limited, (2) David Frederick Warwick, Josephine Margaret Warwick and Keith James Warwick, given to (3) Wokingham Borough Council (“**2017 Undertaking**”), which was varied by four Deeds of Variation, one dated 16 August 2018 and made between (1) Wokingham Borough Council, (2) Cove Construction Limited, (3) David Frederick Warwick, Josephine Margaret Warwick and Keith James Warwick, and (4) The University of Reading, one dated 17 June 2021 and made between (1) Wokingham Borough Council, (2) Cove Construction Limited, and (3) David Frederick Warwick, Josephine Margaret Warwick and Keith James Warwick, one dated 27 July 2022 and made between (1) Wokingham Borough Council, (2) Cove Construction Limited and (3) Keith James Warick, David Frederick Warwick and Josephine Margaret Warwick (“**2022 Variation**”) and one dated 10 February 2023 and made between (1) Wokingham Borough Council and (2) Cove Construction Limited (together the “**Original Agreement**”) which secured the provision of Affordable Housing (as defined in the 2017 Undertaking) and other planning obligations in respect of the Site.

- E The Original Agreement was further varied by a Deed of Variation dated 27 February 2025 and made between (1) Wokingham Borough Council and (2) Cove Construction Limited (the “**2025 Variation**”).
- F Without prejudice to the terms of the other covenants contained in the Original Agreement and the 2025 Variation, the Council pursuant to its delegated powers decided to agree with the Owner to vary the terms of Original Agreement and the 2025 Variation as set out in this Deed.
- G The Council is satisfied that the obligations in this Deed are in the interests of the proper planning of the Council's administrative area. They meet the tests of planning obligations set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, being necessary to make the Site acceptable in planning terms, directly related to the Site and fairly and reasonably related in scale and kind to the Site.

## **1. CONSTRUCTION OF THIS DEED**

- 1.1 The provisions of the Original Agreement and the 2025 Variation relating to its interpretation apply to this Deed except to the extent that they are expressly varied by this Deed.
- 1.2 The Original Agreement and the 2025 Variation shall be varied in the manner set out in clause 3 of this Deed.
- 1.3 The definitions, clauses, obligations and provisions of the Original Agreement and the 2025 Variation shall remain in full force and effect except as varied or added to by this Deed and shall continue to be applicable to the Site as defined in the Original Agreement and the 2025 Variation, and remain to be performed to the extent that they have not already been performed.
- 1.4 Save where the context otherwise requires the expressions used in this Deed shall have the same meaning or meanings as those stated in the Original Agreement and the 2025 Variation.
- 1.5 Headings contained in this Deed are for reference purposes only and are not incorporated into the Deed and shall not be deemed to be an indication of the meaning of the parts of this Deed to which they relate.
- 1.6 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.

## **2. LEGAL BASIS**

- 2.1 This Deed is supplemental to the Original Agreement and the 2025 Deed, and is made pursuant to sections 106 and 106A of the Act, Section 111 of the Local Government Act 1972 sections 12 and 93 of the Local Government Act 2003, Section 1 of the Localism Act 2011 and any other enabling powers.

2.2 The covenants obligations restrictions and requirements imposed upon the Parties by this Deed:

- 2.2.1 are entered into pursuant to the provisions of section 106 of the Act;
- 2.2.2 are planning obligations for the purposes of section 106 of the Act;
- 2.2.3 relate to the Affordable Housing Land;
- 2.2.4 are entered into with intent to bind the Owner's interest in the Affordable Housing Land and each and every part thereof into whosoever hands the same may come;
- 2.2.5 are enforceable by the Council as local planning authority; and
- 2.2.6 are executed by the respective Parties as a deed.

2.3 To the extent that any obligations contained in this Deed are not planning obligations within the meaning of the Act they are entered into by the Council pursuant to the powers contained in section 111 of Local Government Act 1972 sections 12 and 93 of the Local Government Act 2003 Section 1 of the Localism Act 2011 and all other powers so enabling.

2.4 This Deed shall take effect upon the date hereof.

### **3. VARIATIONS TO THE ORIGINAL AGREEMENT**

3.1 The Parties agree that the Original Agreement shall be varied as set out within this clause 3 as follows:

3.1.1 The definition of "Shared Ownership Dwelling" in the 2017 Undertaking and the 2025 Variation shall be deleted and replaced with the following definition:

*"means a shared ownership lease (being Homes England's model form of shared ownership lease) involving the purchase of an initial equity stake from the PRP or Local Housing Company (at a minimum of 10% and a maximum of 75% equity share on initial purchase) and paying rent at 2.75% of the value of the unsold equity at the point of initial purchase (such rent being subject to an increase per annum of 1% over Consumer Price Index (CPI)) with an option of purchasing a greater share subsequently up to 100% of the equity in the Dwelling."*

### **4. AGREEMENT**

It is agreed that the Original Agreement and the 2025 Variation (as varied by this Deed) shall remain in full force and effect.

### **5. COVENANTS OF THE OWNER AND THE REGISTERED PROVIDER**

The Owner covenants to observe and perform the covenants, restrictions and obligations contained in the Original Agreement and the 2025 Variation as varied by this Deed.

## **6. MISCELLANEOUS**

- 6.1 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to this Deed.
- 6.2 This Deed shall be registered as a local Site charge by the Council.
- 6.3 The Owner warrant that no person other than the Owner has any legal or equitable interest in the Site.

## **7. JURISDICTION**

- 7.1 This Deed including its construction, validity, performance and enforcement and any dispute arising or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes and claims) shall be governed by and interpreted in accordance with English law.
- 7.2 The Parties irrecoverably agree that the English courts shall have exclusive jurisdiction to settle any disputes or claims arising out of or in connection with this Deed or its subject matter or formation (including non-contractual disputes and claims).

## **8. REGISTRATION**

This Agreement shall be registered as a local land charge in the Register of Local Land Charges maintained by the Council.

## **9. DELIVERY**

- 9.1 This Deed is delivered on the date written at the start and the provisions of this Deed (other than this Clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

**IN WITNESS** whereof these presents have been executed by the Parties hereto as a Deed and delivered on the day and year first before written

The **COMMON SEAL** of  
**WOKINGHAM BOROUGH COUNCIL**  
was hereunto affixed  
in the presence of:

Authorised Signatory/ Solicitor

EXECUTED as a DEED by  
**ABRI GROUP LIMITED** )  
by affixing its common seal )  
in the presence of: )

Authorised Signatory: .....  
Name:

Authorised Signatory: .....  
Name: