

Dated

2025

27<sup>th</sup> November

UNEX (NO.3) LIMITED (1)

AND

TAP INVESTMENTS LIMITED (2)

AND

OFTENFACT LIMITED (3)

AND

WEST SUFFOLK COUNCIL (4)

AND

SUFFOLK COUNTY COUNCIL (5)

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**DEED OF VARIATION**

Further to a S.106 Agreement dated 12 May  
2023 relating Land at Black Bear Lane High  
Street Newmarket Suffolk

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DATED 27<sup>th</sup> November

2025

THIS DEED is made by:

- (1) **UNEX (NO.3) LIMITED** of (Company Registration Number 06877529) whose registered office is at Unex House, Church Lane, Stetchworth, Newmarket, Suffolk CB8 9TN. (the "**First Owner**");
- (2) **TAP INVESTMENTS LIMITED** (Company Registration Number 2834017) whose registered office is at Unex House, Church Lane, Stetchworth, Newmarket, Suffolk, CB8 9TN (the "**Second Owner**");
- (3) **OFTENFACT LIMITED** (Company Registration Number 2740915) whose registered office is at Unex House, Church Lane, Stetchworth, Newmarket, Suffolk, CB8 9TN (the "**Third Owner**");
- (4) **WEST SUFFOLK COUNCIL** of West Suffolk House, Western Way, Bury St Edmunds, Suffolk IP33 3YU (the "**Council**")
- (5) **SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, Suffolk IP1 2BX (the "**County Council**")

Together the "**Parties**".

**RECITALS:**

- (A) The Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 (as amended) ("**the Act**") for the area within which the Site is situated and by whom the obligations contained in the Original Section 106 Agreement are enforceable.
- (B) The County Council is the local highway authority (except for trunk roads) the local education authority the local library authority and is also a local planning authority for the purpose of the Act for the area in which the Site is situated and by whom the obligations contained in the Original Section 106 Agreement are enforceable.
- (C) The First Owner is the registered proprietor of the part of the Site registered with title absolute at HM Land Registry under Title Number SK304810 and SK129971.
- (D) The Second Owner is the registered proprietor of the part of the Site registered with title absolute at HM Land Registry under Title Number SK169495.
- (E) The Third Owner is the registered proprietor of the part of the Site registered with title absolute at HM Land Registry under Title Number SK52701.
- (F) On 12 May 2023 the Owners entered into the Original Section 106 Agreement with the Council and the County Council.

- (G) Without prejudice to the terms of the other covenants contained in the Original Section 106 Agreement the Parties hereto have agreed to enter into this Deed of Variation to vary the definition of Affordable Housing Units to clarify how the split between Shared Ownership and Affordable Housing for Rent is to be calculated.

## 1 INTERPRETATION

- 1.1 The following definitions and rules of interpretation apply in this Deed of Variation.

**Original Section 106 Agreement:** the Agreement made under Section 106 of the Act dated 12 May 2023 entered into by the Owners and the Council

**Owners:** the First Owner and the Second Owner and the Third Owner together

- 1.2 Where in this Deed of Variation reference is made to any clause, paragraph, Schedule or recital such reference is a reference to a clause, paragraph, Schedule or Recital in this Deed of Variation or the Original Section 106 Agreement as expressly set out herein and as the context dictates.
- 1.3 Words of gender include other genders and words denoting actual persons include companies, corporations and firms and all words shall be construed interchangeable in that manner.
- 1.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.
- 1.5 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.
- 1.6 References to any party to this Deed of Variation shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council the successors to their respective statutory functions.
- 1.7 References to "the parties" shall mean the parties to this Deed of Variation and reference to a "party" shall mean any one of the parties.
- 1.8 The headings are for reference only and shall not affect construction.
- 1.9 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

1.10 In this Deed unless the context otherwise requires the words and expressions contained herein shall have the same meaning as that ascribed to them in the Original Section 106 Agreement.

## 2 STATUTORY AUTHORITY

2.1 This Deed of Variation 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.

2.2 The covenants given by the Owners under clause 3 of this Deed of Variation create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Owners and any person deriving title in the Site or any part of it from the Owners.

2.3 The provisions of this Deed shall come into effect on the date hereof.

## 3 VARIATION OF THE ORIGINAL SECTION 106 AGREEMENT

The Original Section 106 Agreement is only capable of being varied by a supplemental deed between the parties to the Original Section 106 Agreement or their respective successors in title or assigns made under section 106A of the Act.

The Parties agree that from the date of this Deed of Variation the Original Section 106 Agreement shall be amended as set out below.

3.1 In Clause 1 of the Original Section 106 Agreement the definition of "Affordable Housing Units" and its corresponding meaning shall be deleted in its entirety and the following new definition and corresponding meaning shall be inserted in its place:

"Affordable Housing Units"	means Shared Ownership Dwellings and Affordable Housing for Rent with such quantum of each tenure calculated in accordance with the following formula:  Shared Ownership Dwellings ("A") = number of Dwellings x 0.10 (rounded up)  Affordable Housing for Rent= (number of Dwellings x 0.30) less A  (example: Shared Ownership Dwellings: 10% of 123 Dwellings = 13 Shared Ownership Dwellings and Affordable Housing for Rent: 30% of 123 = 36.9 less 13 Dwellings = 23.9 Affordable Housing for Rent)
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- 3.2 In Clause 1 of the Original Section 106 Agreement the corresponding meaning given for the definition of "Shared Ownership Unit" shall be deleted in its entirety and the following new corresponding meaning shall be inserted in its place:

"Shared Ownership Unit"	the Affordable Housing Units to be provided by a Registered Provider by way of a Shared Ownership Lease granted to eligible households whose needs are not met by the market and where the purchaser buys an initial share in the property from the Registered Provider who retains the remainder and may charge a rent on the remainder with the purchaser being able to purchase additional shares up to 100% (staircasing) and the phrase "Shared Ownership Dwellings" shall be construed accordingly
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- 3.3 For the avoidance of doubt, subject to the amendments set out in clause 3.1 and clause 3.2 above, the Original Section 106 Agreement shall continue in full force and effect.

#### **4 COVENANTS TO THE COUNCIL**

The Owner covenants to observe and perform the covenants, restrictions and obligations contained in the Original Section 106 Agreement as varied by this Deed of Variation.

#### **5 RELEASE**

- 5.1 The Owner shall not be liable for a breach of any of its obligations under this Deed of Variation (save for antecedent breaches) after it shall have parted with all of its interests in the Site or such parts thereof in respect of which the breach occurs.

- 5.2 Nothing in this Deed of Variation shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission granted (whether or not on appeal) after the date of this Deed of Variation.

#### **6 LOCAL LAND CHARGE**

This Deed of Variation is a local land charge and the parties agree that it shall be registered as such by the Council.

**7 SEVERABILITY**

If any part of this Deed shall be declared unlawful or invalid by a court of competent jurisdiction then (to the extent possible) the remainder of this Deed shall continue in full force and effect.

**8 CONTRACT (RIGHTS OF THIRD PARTIES) ACT 1999**

Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 no part of this Deed of Variation Deed shall be enforceable by a third party who is not a party to this Deed of Variation and for the avoidance of doubt the terms of this Deed of Variation may be varied by deed between the parties and their successors in title and the District Council without the consent of any such third party.

**9 JURISDICTION**

This Deed of Variation is governed by and interpreted in accordance with the law of England and the parties submit to the non-exclusive jurisdiction of the courts of England.

**10 DELIVERY**

This Deed of Variation is for the purposes of the Regulatory Reform (Execution of Deeds and Documents) Order 2005 a deed and for the avoidance of doubt this Deed of Variation shall be deemed not delivered despite being executed by the parties and of no effect until such time as it is dated.

[Redacted]

Director

[Redacted]

EXECUTED as a DEED by )  
TAP INVESTMENTS LIMITED )

[Redacted]

Director

[Redacted]

Director / Company Secretary

EXECUTED as a DEED by )  
OFTENFACT LIMITED )

[Redacted]

Director

[Redacted]

[Redacted]

THE COMMON SEAL of )  
WEST SUFFOLK COUNCIL )  
was hereunto affixed to this deed )  
in the presence of: )



Authorised Signatory:..... [Redacted]

Name of Authorised Signatory:..... CHRISTINE KITTNER

Position of Authorised Signatory:..... SERVICE MANAGER - LEGAL

THE COMMON  
SEAL OF SUFFOLK COUNTY COUNCIL  
was affixed in the presence of:



Officer

