

DATED 08 NOVEMBER 2017

BROADLAND DISTRICT COUNCIL

- and -

NEWBURY DEVELOPMENTS (RACKHEATH) LLP

-and-

DAISYBOX LIMITED

-and-

ZORIN FINANCE LIMITED

-and-

P2P GLOBAL INVESTMENTS PLC

-and-

ORBIT SOUTH HOUSING ASSOCIATION LIMITED

-and-

ORBIT GROUP LIMITED

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**DEED OF VARIATION**

of an Agreement under Section 106 of the  
Town and Country Planning Act 1990  
relating to land off Salhouse Road Rackheath  
Norwich

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nplaw  
Norfolk County Council  
County Hall  
Martineau Lane  
Norwich  
NR1 2DH

THIS DEED OF VARIATION is made the 08 day of NOVEMBER 2017

**BETWEEN:-**

- (1) **BROADLAND DISTRICT COUNCIL** (the "Council") of Thorpe Lodge, 1 Yarmouth Road, Norwich NR7 0DU
- (2) **NEWBURY DEVELOPMENTS (RACKHEATH) LLP** (the "Owner") (LLP Regn No OC397142) whose registered office address is c/o Wyatts Chartered Accountants, York House, 1 Seagrave Road, London SW6 1RP
- (3) **DAISYBOX LIMITED** (the "1<sup>st</sup> Mortgagee") (company no 09293989) whose registered office address is 11/15 Wigmore Street, London W1A 2JZ
- (4) **ZORIN FINANCE LIMITED** (the "2<sup>nd</sup> Mortgagee") (company no 07514913) whose registered office address is 1 Knightsbridge Green, London SW1X 7NE
- (5) **P2P GLOBAL INVESTMENTS PLC** (the "3<sup>rd</sup> Mortgagee") (company no 08805459) whose registered office address is 1<sup>st</sup> Floor, 40 Dukes Place, London EC3A 7NH
- (6) **ORBIT SOUTH HOUSING ASSOCIATION LIMITED** ("OSHA") (Registered Society no. 27802R) whose registered office is at ~~Fey House, 27-29 High Street, Margate, Kent, CT9 1DL~~ <sup>Garden Court, Harry Weston Road, Binley Business Park, Coventry, CV3 2SU</sup>
- (7) **ORBIT GROUP LIMITED** ("OGL") (Registered Society no. 28503R) whose registered office is at Garden Court, Harry Weston Road, Binley Business Park, Coventry, West Midlands, CV3 2SU

Together "the Parties"

**WHEREAS:-**

- (1) This Deed is supplemental to a Deed dated 15.8.12 and made under Section 106 of the Town and Country Planning Act 1990 (as amended) between the Council (1) Norfolk County Council (2) Stavros Stavaridis, Lilian Violet Stavridis, Samuel John Smith and Valerie Ann Smith (3) and Dennis Jeans (Developments) Limited (4) containing planning obligations enforceable by the Council (the "Original Agreement") and amended by a deed of variation dated 6.10.14 made under Section 106 of the Town and Country Planning Act 1990

(as amended) between the Council (1) Norfolk County Council (2) Dennis John Jeans (3) Valerie Ann Smith (4) Dennis Jeans (Developments) Limited (5) and Leeds Building Society (6) containing planning obligations enforceable by the Council (the "First Deed of Variation").

- (2) 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 Land is located.
- (3) OSHA and OGL between them own the whole of the First Affordable Housing Land having purchased the First Affordable Housing Land from the Owner
- (4) Norfolk County Council is a Local Planning Authority for the purposes of the Act for the area within which the Land is located but is not party to this Deed as the amendments in this Deed relating to the Original Agreement and First Deed of Variation are only concerning the Affordable Housing and Open Space/Play Space.
- (5) The Owner, OSHA and OGL (together referred to in this Deed as "the Owners") between them own the freehold interest in the Land subject to the Original Agreement and First Deed of Variation.
- (6) The 1<sup>st</sup> Mortgagee, 2<sup>nd</sup> Mortgagee and 3<sup>rd</sup> Mortgagee have the benefit of registered charges over the Land except for the First Affordable Housing Land and are entering into this Deed to give their consent and acknowledge that their interest continues to be bound by the Original Agreement and First Deed of Variation as varied by this Deed
- (7) "the Land" for the purposes of this Deed is as defined in the Original Agreement.
- (8) The Parties have agreed to amend the Original Agreement as varied by the First Deed of Variation in accordance with the provisions in this Deed.

- (9) Terms used in this Deed have the meaning ascribed to them in the Original Agreement and First Deed of Variation save as expressly amended herein.

**NOW THIS DEED WITNESSES** as follows:

1. This Deed is supplemental to the Original Agreement and First Deed of Variation.
2. The terms and conditions of the Original Agreement as amended by the First Deed of Variation shall remain in full force and effect except as varied by this Deed and appendices referred to in this Deed are incorporated into the Original Agreement.
3. From and including the date of this Deed the parties hereto agree to vary the Original Agreement as amended by the First Deed of Variation as follows:
  - 3.1 The definition of "Affordable Housing Scheme" be deleted and replaced by the following definition:

"means the detailed scheme for the provision of Affordable Housing within the Development in accordance with the Affordable Housing Provision which the Council confirms is approved and which is to include 14 Affordable Rental Units and 12 Shared Ownership Dwellings and plot 45 will be an Affordable Rental Unit and a 2 bedroom (4 person) wheelchair/disabled adapted Dwelling and the unit mix and tenure mix of the all the Affordable Housing Units shall be in accordance with the Schedule attached at Appendix 1"

- 3.2 The definition of "Affordable Rental Unit" be amended by deleting the wording and replacing it with the following:

"Dwellings to be let by a Provider with an appropriate agreement with the HCA for the provision of affordable rents being controls that limit the rent to no more than 80 per cent of local market rents including any service charges or let by a Provider that is otherwise permitted by the HCA to let the Affordable Housing Units by way of affordable rents or as otherwise agreed with the Council in writing."

- 3.3 The definition of "Qualifying Occupiers" be amended by adding the words:

"and up to one third of the Affordable Rental Units chosen by the Council will be let on first occupation in accordance with the Local Lettings Policy".

3.4 In the definition of "Shared Ownership Lease" the words "up to 50% (Fifty per cent)" shall be deleted and replaced by the words: "up to 75% (Seventy Five per cent)".

3.5 The following definitions be added to the Original Agreement:

"HCA" the Homes & Communities Agency or it's successor body or other appropriate body as the Council may nominate

"Provider" (i) a Registered Provider; or  
(ii) another organisation that owns the Affordable Housing and has been approved in writing by the Council"

"Local Lettings Policy" (i) first allocations shall be made to people living in the Parish of Rackheath  
(ii) if there is no suitable person in paragraph (i) allocations will be made to people who work in the Parish of Rackheath  
(iii) if there are no suitable persons in paragraphs (i) and (ii) allocations will be made to people who need to move to the Parish of Rackheath to give/receive support to/from close family  
(iv) If there are no suitable persons in paragraph (i) and/or (ii) and/or (iii) above, allocations will be made to households living in the Council area in accordance with the Council's policies relating to housing allocation or where no

such persons are available to an eligible household as approved by the Council

"Registered Provider" means a body registered as a non-profit organisation pursuant to Chapter 3 Housing and Regeneration Act 2008

- 3.6 The definitions of "Open Space" and "Open Space Scheme" be deleted and replaced with the following definitions:

"Open Space Land" The land shown for identification purposes coloured green on the Plan to be set aside and used as public open space and laid out in accordance with the Open Space Works Specification

"Open Space Works Specification" A scheme including plans drawings and specifications showing but not limited to the layout and design of the Open Space Land including details of any proposed play areas and equipment landscaping paths and access arrangements, street furniture and fencing together with details of the proposed permanent Open Space Land management regime

- 3.7 The definitions of "Play Space" and "Play Space Scheme" be deleted

- 3.8 The following definitions be added to the Original Agreement;

"Management Company" a company to be set up for the purposes of managing and maintaining the Open Space Land

"Unencumbered" Means free from all adverse rights, easements, restrictions or other encumbrances which would interfere with the use of the Open Space Land as

public open space

"Affordable Housing Land" the land on which the Affordable Housing Units are being or are to be constructed shown coloured purple on the Plan

"First Affordable Housing Land" means that part of the Affordable Housing Land on which the first 22 Affordable Housing Units are to be constructed

"Right to Buy" the right for tenants of Registered Providers to purchase their own homes under Part V of the Housing Act 1985 and/or the right to acquire created by s.180 Housing and Regeneration Act 2008 and/or any other statutory or contractual right for tenants of registered providers to purchase their homes and for the avoidance of doubt the phrase shall include purchasers under the extended Right to Buy contemplated by Chapter 1 Part 4 of the Housing and Planning Bill 2015

3.9 The following words shall be added at the end of clause 5.1.5:

3.9.1 "or to a purchaser under the Right to Buy or to a lessee under a Shared Ownership Lease who staircases to 100% of the equity of his/her Dwelling or by way of a mortgage to a bona fide lender"

3.9.2 Clause 5.1.7 shall be deleted and replaced by the following:

"Paragraph 5.1.3 and 5.1.4 and 5.1.5 above shall not be binding upon any mortgagee in possession or any mortgagee exercising its power of sale of the Affordable Housing Units or part thereof nor any mortgagee of a Shared Ownership Dwelling lawfully exercising the mortgagee protection provision within the Shared Ownership Lease nor any receiver or manager of such mortgagee and shall cease to apply to any of the Affordable Housing Units

where the Owners shall be required to dispose of such Units pursuant to a Right to Buy or to a lessee of a Shared Ownership Lease who staircases to 100% of the equity in the Shared Ownership Dwelling.

3.10 the Plan attached to the Original Agreement is replaced with the Plan attached to this Deed marked drawing 235 Rev B

3.11 Clauses 5.2, 5.2.1, 5.2.2, 5.2.3 and 5.2.4 be deleted and replaced with the following:

5.2 OPEN SPACE LAND

5.2.1 Not to Commence the Development until the Open Space Works Specification has been submitted to and approved in writing by the Council (such approval not to be unreasonably withheld or delayed)

5.2.2 Not to Occupy more than 25% of the Dwellings until the Open Space Land Unencumbered has been provided in accordance with the approved Open Space Works Specification to the written satisfaction of the Council (such written satisfaction not to be unreasonably withheld or delayed)

5.2.3 to thereafter maintain the Open Space Land Unencumbered to a standard suitable for use by members of the public as approved by the Council until the Open Space Land has been transferred in accordance with the provisions of clause 5.2.5 below.

5.2.4 Not to Occupy more than 75% of the Dwellings until:

- a) the Management Company has been created to the satisfaction of the Council; and
- b) the memorandum and articles of association and the form of transfer of the Open Space Land to the Management Company have been submitted to the Council for approval and has been approved by the Council (such approval not to be unreasonably withheld or delayed)

5.2.5 Not to Occupy more than 80% of the Dwellings until the Open Space Land has been transferred to Management Company in accordance with the

reasonable requirements of the Council (which shall include a requirement that the Management Company conveyancing fees and disbursements are paid for by the Owners and for the Open Space Land to be transferred free from all encumbrances restrictions or easements which might affect the use as Open Space Land or result in additional cost or liability to the Management Company not normally associated with the use of the Open Space Land for a sum not exceeding £1 (one pound) and subject to a restriction on the future use of the Open Space Land for recreational and amenity purposes by the general public PROVIDED THAT the Management Company shall not be required to accept the transfer of the Open Space Land unless it has been provided and maintained in strict accordance with the Open Space Works Specification

5.2.6 For the avoidance of doubt no Provider owning the Affordable Housing Land shall be liable for any of the obligations or restrictions under this clause 5.2.'

4. In all other respect the contents of the Original Agreement as amended by the First Deed of Variation are confirmed and agreed.

5. No party shall be liable for any breach of a covenant, restriction or obligation contained in this Deed after parting with all of its interest in the Land, except in respect of any breach subsisting prior to parting with such interest.

6. The Owners<sup>and Owner</sup> individually warrant that they have full power to enter into this <sup>Signature</sup> Deed in respect of their various interests in the Land and there is no other person other than the 1<sup>st</sup> Mortgagee and 2<sup>nd</sup> Mortgagee and 3<sup>rd</sup> Mortgagee whose prior consent is necessary to make this Deed binding on the Land

7. The Owner hereby agrees to pay on or before the date of this Deed the Council's legal costs in connection with this Deed.

8. This Deed is a Local Land Charge and shall be registered as such.

9. Subject to the provisions of Clause 6 of the Original Agreement 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

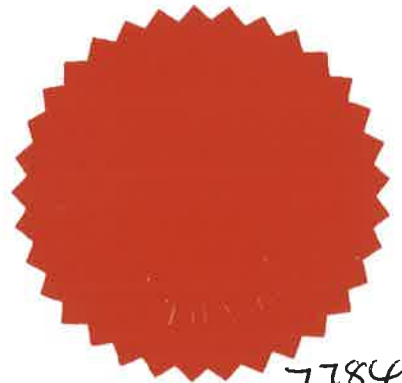
by and construed in accordance with the law of England. The parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims).

10. Execution as a deed

a. This instrument:

- i. is executed as a deed and by its execution the parties authorise their solicitors to deliver it for them when it is dated;
- ii. is not delivered until dated;
- iii. was delivered when it was dated.

THE COMMON SEAL of **BROADLAND DISTRICT** )  
**COUNCIL** was affixed in the presence of: )




Authorised Signatory:   

Head of Democratic Services and  
Monitoring Officer

Executed as a Deed by **NEWBURY** )  
**DEVELOPMENTS (RACKHEATH) LLP** in the )  
presence of: )

Authorised Signatory:

Witness signature:   
Witness name: **SERENA SHALSON**  
Witness Address: **35-37 GROSVENOR SQ., LONDON, W1K 2HN**

The COMMON SEAL of **ORBIT SOUTH HOUSING** )  
**ASSOCIATION LIMITED** was hereunto affixed )  
in the presence of: )



Authorised Signatory:   
Director  
  
Company Secretary

The COMMON SEAL of **ORBIT GROUP LIMITED** )  
was hereunto affixed in the presence of: )



Authorised Signatory:   
Director

Authorised Signatory:   
Company Secretary

Executed as a Deed by **ZORIN FINANCE LIMITED** )  
acting by its director in the presence of )



Authorised Signatory:

Name: **DARREN RIX**

Address: **1 KNIGHTS BRIDGE GREEN, LONDON SW1X 7NE**

Occupation: **HEAD OF CREDIT RISK.**

Executed as a Deed by **P2P GLOBAL** )  
**INVESTMENTS PLC** acting by two directors **OR** a )  
director in the presence of )



Authorised Signatory:

Name: **ELAINE POWER**

Address: **8 HANOVER STREET, LONDON W1S 1YQ**

Occupation: **PA**

Executed as a Deed by **DAISYBOX LIMITED** )  
acting by its director in the presence of )



Authorised Signatory:

Name: **Sarah Lynn Dennis**

Address: **6 Bronte Close Totton Southampton SO40 8SR**

Occupation: **PA**

Land of Salhouse Road, Rackheath 20151591	Plot Number	Property Type	Size	Tenure
Rackheath	9	House	2 bedroom (4 person)	S/O
Rackheath	10	House	2 bedroom (4 person)	S/O
Rackheath	11	House	2 bedroom (4 person)	S/O
Rackheath	12	House	2 bedroom (4 person)	S/O
Rackheath	13	Flat	1 bedroom (2 person)	ART
Rackheath	14	Flat	1 bedroom (2 person)	ART
Rackheath	15	Flat	1 bedroom (2 person)	ART
Rackheath	16	Flat	1 bedroom (2 person)	ART
Rackheath	17	Flat	1 bedroom (2 person)	ART
Rackheath	18	Flat	1 bedroom (2 person)	ART
Rackheath	19	House	2 bedroom (4 person)	ART
Rackheath	20	House	3 bedroom (5 person)	ART
Rackheath	21	House	3 bedroom (5 person)	ART
Rackheath	37	House	3 bedroom (5 person)	S/O
Rackheath	38	House	3 bedroom (5 person)	S/O
Rackheath	39	House	3 bedroom (5 person)	S/O
Rackheath	40	House	3 bedroom (5 person)	S/O
Rackheath	41	House	3 bedroom (5 person)	S/O
Rackheath	42	House	2 bedroom (4 person)	S/O
Rackheath	43	House	2 bedroom (4 person)	S/O
Rackheath	44	House	2 bedroom (4 person)	S/O
Rackheath	45	Bungalow (bespoke w/c adapted unit)	2 bedroom (4 person)	ART
Rackheath	64	House	2 bedroom (4 person)	ART
Rackheath	65	House	2 bedroom (4 person)	ART
Rackheath	66	House	2 bedroom (4 person)	ART

Rackheath	67	House	2 bedroom (4 person)	ART
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M. Mue

Head of Democratic Services and  
Monitoring Officer

Director

Company Secretary



death

viaFULCRUM

BUILT ENVIRONMENT PROFESSIONALS

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