Dated 2026

AMBER VALLEY BOROUGH COUNCIL

and

REDROW HOMES LIMITED

Deed of Variation

pursuant to Section 106A of the Town and Country Planning Act 1990 relating to land to the west of Radbourne Lane, Mackworth, Derby

ward hadaway

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This Deed is made the day of 2026

By

(1) **AMBER VALLEY BOROUGH COUNCIL** of Town Hall, Ripley, Derbyshire, DE5 3BT **(**"the **Borough Council")**; and

(2) **REDROW HOMES LIMITED** (a company registered in England with company registration No 01990710) whose registered office is at Redrow House, St David's Park, Flintshire, CH5 3RX **(**"the **Owner")**;

Whereas

(A) The Borough Council is the borough planning authority and a local planning authority for the purposes of the TCPA 1990 for the area in which the Redrow Land is situated.

(B) The Owner is the registered proprietor of the freehold interest in the Redrow Land registered at HM Land Registry under title number DY586026.

(C) A Section 106 Agreement dated 1 December 2021 was entered into pursuant to Section 106 of the 1990 Act by (1) the Borough Council, (2) Derbyshire County Council, (3) Jean Mary Clark-Maxwell, John Andrew Forbes Clark-Maxwell, Simon Balfour Reid and Elspeth Mary Reid and (4) Miller Homes Limited and the Owner, ("the **Original Agreement**").

(D) The parties hereto have agreed to enter into this Deed in order to vary certain obligations secured by the Original Agreement insofar as they relate to the Redrow Land only.

(E) The obligations contained in the Original Agreement to which this Deed relates are not enforceable by Derbyshire County Council and the parties hereto are satisfied that there is no requirement for the County Council to enter into this Deed.

(F) This Deed is supplemental to the Original Agreement and varies the Original Agreement only to the extent set out in this Deed and only in relation to the Redrow Land.

1. **DEFINITIONS AND INTERPRETATION**

1.1. The words and expressions in this Deed shall where the context so requires or admits and except as otherwise provided or required by this Deed have the meanings as given to them in the Original Agreement.

1.2. In the operative provisions of this Deed the following expressions have the following meanings:

"Redrow Land"	the part of the Site edged red on the Plan;
"Plan"	the plan at Schedule 2 of this Deed;

1.3. Reference in this Deed to any enactment shall be construed as a reference to that enactment as amended extended or re-enacted or repealed by or under any other enactment and shall include all instruments orders and regulations for the time being made, issued or given under that enactment.

1.4. Subject to the terms of the Original Agreement and this Deed reference to the "Owner" shall include their respective successors in title and reference to "the Borough Council" shall include any successor authority to its statutory functions described at Clause 2.3 below.

1.5. Words importing one gender shall be construed as importing any gender and words importing the singular shall be construed as importing the plural and vice versa.

1.6. Any words denoting natural persons shall include legal persons and vice versa.

1.7. References to clauses paragraphs and schedules are references to clauses paragraphs and schedules to this Deed.

1.8. Clause headings shall not affect the construction of this Deed.

1.9. Any phrase introduced by the terms ‘including’ ‘include’ ‘in particular’ or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2. STATUTORY BASIS

2.1. This Deed is made pursuant to Section 106 and Section 106A of the 1990 Act and binds the Redrow Land and as such is enforceable pursuant to section 106(3) of the 1990 Act against the Owner and any person claiming or deriving title to the Redrow Land (or any part or parts thereof) through or under the Owner as if that person had been an original covenanting party to this Deed.

2.2. Save as varied by Clause 3 below the Original Agreement remains enforceable pursuant to Section 106(3) of the 1990 Act against the Owner and any person claiming or deriving title to the Redrow Land (or any part or parts thereof) through or under the Owner as if that person had been an original covenanting party to the Original Agreement.

2.3. To the extent that the covenants, restrictions and requirements in this Deed are not made under section 106 of the 1990 Act they are made under section 1 of the Localism Act 2011 and section 111 of the Local Government Act 1972 and all other powers so enabling.

3. VARIATION OF OBLIGATIONS AFFECTING THE REDROW LAND

3.1. The Owner and the Borough Council each agree that from the date of this Deed and in respect of the Redrow Land only the Original Agreement shall be read and construed and observed and performed subject to the variations set out in the Schedule to this Deed.

4. REGISTRATION

4.1. This Deed is a local land charge and shall be registered as such by the Borough Council.

5. **NON-FETTER AND WAIVER**

5.1. Nothing in this Deed restricts or is intended to restrict the proper exercise at any time by the Borough Council of any of its statutory powers, functions or discretions.

5.2. Nothing in this Deed shall prohibit or limit the right to develop any part of the Redrow Land in accordance with a planning permission granted before or after the date of this Deed.

6. **SEVERABILITY**

6.1. If any provision in this Deed is in whole or in part be held to be invalid, illegal or unenforceable under any enactment or rule of law such provisions shall to the extent required be severed from this Deed and shall not affect the validity or enforceability of the remaining provisions of this Deed.

7. **COSTS**

7.1. On completion of this Deed the Owner shall pay the Borough Council's reasonable legal costs in the sum of £[ ] in connection with the negotiation and completion of this Deed.

8. **GOVERNING LAW**

8.1. 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.

9. **CONTRACTUAL RIGHTS OF THIRD PARTY**

9.1. No term of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party.

THE PARTIES HEREBY WITNESS that this document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Schedule 1 - Variations to the Original Agreement

1. The parties hereby agree that the following amendments shall be made to the Original Agreement:

1.1. The following definition at Clause 1.1 shall be deleted in their entirety and replaced with the following:

*"**Affordable Housing**"*	*means subsidised housing for sale or rent for those whose needs are not met by the market;*
*"**Chargee**"*	*means any mortgagee or chargee of any completed Dwelling and any receiver or manager (including an administrative receiver) appointed by such mortgagee or chargee pursuant to the Law of Property Act 1925 or otherwise and the successors in title to all of the foregoing;*

1.2. The following definitions at Clause 1.1 shall be deleted in their entirety:

1.2.1. "**AHP Chargee**".

1.2.2. "**AHP Chargee's Duty**".

1.3. The following clause shall be inserted after clause 3.6.3 of the Original Agreement:

1.3.1. "*3.6.4 any Affordable Housing Provider of the Affordable Dwellings SAVE THAT this clause shall not apply to the obligations contained within **Schedule 2** of this Agreement*".

1.3.2. Part 2 and Part 3 of Schedule 2 to the Original Agreement shall be deleted in their entirety and replaced with the following:

"***Part 2 – Exemptions and Mortgagee Protection***

1. *The Affordable Housing provisions in this Agreement shall not be binding on 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 Dwellings or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:*

1.1. such mortgagee or chargee or Receiver shall first give written notice to the Borough Council of its intention to dispose of the Affordable Dwellings and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Dwellings to another registered provider or to the Borough Council for a consideration not less than the amount due

and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and

1.2. if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Dwellings free from the Affordable Housing provisions in this Agreement which provisions shall determine absolutely.

2. *Nothing in this Agreement shall be binding or enforceable against:*

2.1. a Protected Tenant;

2.2. a Chargee in possession (other than the Chargee which is a party to the Shared Ownership Charge subject to paragraph 2.3 below;

2.3. a Chargee which is a party to a Shared Ownership Charge; and

2.4. the successors in title to all of the foregoing including any chargee lender or mortgagee to any such successors in title."

Schedule 2 – the Plan

The **COMMON SEAL** of)
AMBER VALLEY BOROUGH COUNCIL)
Was affixed in the presence of:)

……
Authorised Signatory

EXECUTED as a **DEED** by
as attorney for
REDROW HOMES LIMITED

……..
as attorney for **REDROW HOMES LIMITED**

in the presence of: -

Signature of witness…….

Name (in BLOCK CAPITALS) …….

Address: ……...