

01/184

A2/1/136

Dated

24<sup>th</sup> August

2010

**THE RYEDALE DISTRICT COUNCIL**

and

**HOME GROUP LIMITED**

**DEED OF VARIATION**

**Relating to a section 106 Agreement dated 24 January 2005 and made between Ryedale District Council (1) Redrow Homes (Yorkshire) Limited in respect of land off Scarborough Road, Norton in the County of North Yorkshire**

**Home Group Limited  
Legal Services Dept  
2 Gosforth Park Way  
Gosforth Business Park  
Newcastle upon Tyne  
NE12 8ET**

made on the

24<sup>th</sup>

day of

August

2010

**THE RYEDALE DISTRICT COUNCIL** whose principal office is at Ryedale House, Malton in the County of Yorkshire YO17 7HH ("the Council")

(2) **HOME GROUP LIMITED** of 2 Gosforth Park Way Gosforth Business Park Newcastle upon Tyne NE12 8ET ("the Owner")

**NOW THIS DEED WITNESSES** as follows:

**1 Definitions and Interpretations**

In this Deed the following words and expressions have the following meanings:

- 1.1 The Agreement means an Agreement dated 24<sup>th</sup> January 2005 and made between the Council (1) Redrow Homes (Yorkshire) Limited ("the Developer") (2)
- 1.2 The Property means the property more particularly described in the Schedule to this Deed
- 1.3 The clause headings do not form part of this deed and shall not be taken into account in its construction or interpretation

**2 Recitals**

- 2.1 The Agreement relates to a development constructed, or in the course of construction, by the Developer which comprises, together with other land, the Property.
- 2.2 Home Group Limited purchased a freehold interest in the Property on various dates from the Developer and are the successors in title to the Developer in respect of the Property.
- 2.3 The Property comprises the Discount Sale Dwellings referred to in the Agreement
- 2.4 The Council and the Owner agree that the provisions in the Agreement dealing with the Commuted Sum need to be varied to deal with the situation when a Vendor is entitled to sell on the open market but is required to pay a commuted sum to the Council on completion of that sale
- 2.5 The Council and the Owner agree that the provisions in the Agreement need varying to specify the prices and percentages at which the Discount Sale Dwellings be sold.
- 2.6 This deed is supplemental to the Agreement
- 2.7 The parties desire to alter the terms of the Agreement as mentioned below

**3 Variation**

- 3.1 It is mutually agreed that the Agreement shall be varied as follows:
  - 3.1.1 In paragraph 3.11.9 of the Third Schedule to the Agreement the words "calculated in accordance with the provisions of Part 1 of the Fifth Schedule" shall be replaced with the

words "calculated in accordance with the provisions of Part 3 of the Fifth Schedule" as though they had been contained in the Agreement at the date of execution.

3.1.2 There shall be added to the Agreement as a new Part 3 of the Fifth Schedule the wording:

"[Commuted Sum payable by Vendor under clause 3 11.9]

The commuted sum payable by a Vendor under the provisions of clause 3 11.9 shall be calculated as follows:-

The Open Market Value of the relevant Discount Sale Dwelling

Minus

The sum being the percentage of Open Market Value shown in part 3 of the Sixth Schedule for the Property in question (plus any additional percentages acquired by subsequent staircasing) PROVIDED THAT in the event that the Open Market Value of the Discount Sale Dwelling in question is less than the figure shown for the Discount Sale Dwelling in question in Part 3 of the Sixth Schedule (being the current OMV in that table) at the time when the property is disposed of then a sum to be agreed by the Housing Services Manager being no less than the original purchase price shown in Part 3 of the Sixth Schedule for the Discount Sale Dwelling in question."

[Example 1: If a purchaser acquired a Discount for Sale Unit at a price of £70,000 representing 56% of the Open Market Value (which would, at that time, have been £125,000) and then is seeking to sell that Unit when the open market value has increased to £150,000, the commuted sum payable to the Council in the event of utilising clause 3 11.9 would be:

$£150,000 - (56\% \text{ of } £150,000) = £66,000$

Example 2: If a purchaser acquired a Discount for Sale Unit at a price of £70,000 representing 56% of the Open Market Value (which would, at that time, have been £125,000) and then is seeking to sell that Unit when the open market value has decreased to £100,000, the commuted sum payable to the Council in the event of utilising clause 3.11.9 would be:

$£100,000 - (£70,000) = £30,000]$ "

as though they had been contained in the Agreement at the date of execution.

3.1.3 The existing clause 3 11.2 of the Agreement shall be removed and replaced with the following wording:

"3.11.2 The Eligible Occupiers' Estate Interest in any of the Discount Sale Dwellings disposed of in accordance with paragraph 3.3 to 3.8 (inclusive) above shall not be assigned transferred or disposed of other than at a price to be agreed by the Housing Services Manager being no greater than the percentage of the Open Market Value of the respective Discount Sale Dwelling shown in Part 3 of the Sixth Schedule PROVIDED THAT in the event that the Open Market Value of the Discount Sale Dwelling in question is less than the figure shown for the Discount Sale Dwelling in question in Part 3 of the Sixth Schedule (being the current OMV in that table) at the time when the property is disposed of then at a price to be agreed by the Housing Services Manager being no greater than the original purchase prices shown in Part 3 of the Sixth Schedule for the Discount Sale Dwelling in question"

- 3.1.4 There shall be added a new part 3 to the Sixth Schedule of the Agreement with the following wording:

"Part 3

<u>Discount Sale Dwelling</u>	<u>Current OMV</u>	<u>Original Purchase Price</u>	<u>%age</u>
Plot 133 (3 Marl Close)	£129,950	£70,000	53.87%
Plot 134 (4 Marl Close)	£129,950	£70,000	53.87%
Plot 135 (10 Marl Close)	£128,950	£70,000	54.28%

- 3.1.5 The existing clause 3.11.7.1 of the Agreement shall be removed and replaced with the following wording:

"3.11.7.1 the expiration of the period of 12 weeks there is no buyer who has made an offer to purchase the interest in the relevant unit at a price not exceeding the percentage of the Open Market Value of the respective Discount Sale Dwelling shown in Part 3 of the Sixth Schedule PROVIDED THAT in the event that the Open Market Value of the Discount Sale Dwelling in question is less than the figure shown for the Discount Sale Dwelling in question in Part 3 of the Sixth Schedule (being the current OMV in that table) at the time when the relevant unit is marketed then at a price to be agreed by the Housing Services Manager being no greater than the original purchase price for the relevant unit shown in Part 3 of the Sixth Schedule of such interest upon terms that are reasonably acceptable to the Vendor"

**4 Confirmation of the Agreement**

Save as modified by this deed the Agreement shall continue in full force and effect in all respects

**SCHEDULE**

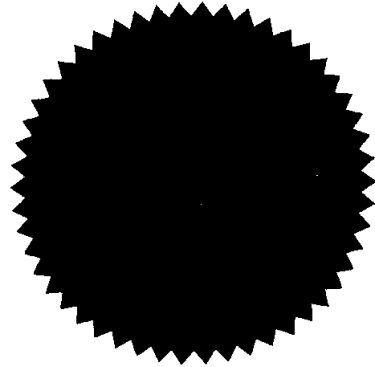
<b>Property</b>	<b>Title Number</b>
Plot 133 (3 Marl Close)	NYK377991
Plot 134 (4 Marl Close)	NYK378044
Plot 135 (10 Marl Close)	NYK378477

**IN WITNESS** whereof the parties hereto have executed this Deed the day and year first before written

THE COMMON SEAL of THE  
YEDALE DISTRICT COUNCIL  
was hereunto affixed and is  
authenticated by )  
)  
)  
)

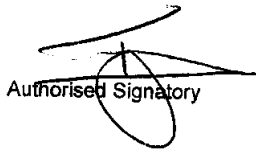
  
Chairman

Minute 934/82  
Reg No. 6289  
Initials CW



Council Solicitor  


THE COMMON SEAL of HOME GROUP  
LIMITED was hereunto affixed in )  
the presence of )  
)

  
Authorised Signatory

