

DATED:

28th October.

2010

GREAT PLACES HOUSING ASSOCIATION

and --

THE LANCASHIRE COUNTY COUNCIL

and --

BARDSLEY CONSTRUCTION LIMITED

and --

THE RIBBLE VALLEY BOROUGH COUNCIL

and

NATIONAL HOUSE BUILDING COUNCIL

AGREEMENT

made under Section 38 of the Highways Act 1980 and all other powers enabling it to do so in connection with land at Mitchell Street Clitheroe in the County of Lancashire.

County Secretary & Solicitor
Office of the Chief Executive
Lancashire County Council
PO Box 78 County Hall
Preston Lancashire
PR1 8XJ
Tel: 01772 530541
(Ref: LSG4/RL/5.34435)

THIS AGREEMENT is made

28th October

2010

BETWEEN:

- (1) **GREAT PLACES HOUSING ASSOCIATION** (Co. Reg. No. IP19564R) whose registered office is situate at Southern Gate, 729 Princess Road, Manchester M20 2LT ("the First Owner"); and
- (2) **THE LANCASHIRE COUNTY COUNCIL** of PO Box 78 County Hall Preston Lancashire PR1 8XJ (the "County Council"); and
- (3) **BARDSLEY CONSTRUCTION LIMITED** (Co. Reg. No. 00800556) whose registered office is situate at Globe Square, Dunkinfield, Cheshire SK16 4RG ("the Developer"); and
- (4) **THE RIBBLE VALLEY BOROUGH COUNCIL** of Council Offices, Church Walk, Clitheroe, Lancashire BB7 2RA ("the Second Owner"); and
- (5) **NATIONAL HOUSE BUILDING COUNCIL** (Co. Reg. No. 00320784) whose registered office is situate at Chiltern Avenue Amersham Bucks HP6 5AP ("the Surety");

WHEREAS:

- (1) Lancashire County Council is by virtue of section 1(2) of the Highways Act 1980 the Highway Authority for highways other than trunk roads in the County of Lancashire;
- (2) The First Owner is the estate owner in fee simple absolute in possession of ~~the leasehold land on the north west side of Mitchell Street, Clitheroe~~ Lancashire which is registered at HM Land Registry under title number LA952443 which includes part of the site of the proposed highway shown coloured pink (the "Pink Land") on the Drawing numbered 3686/1 Rev E and which is annexed hereto and which the Second Owner being the freehold owner is willing to dedicate as highway in accordance with the provisions of

this Agreement, and is desirous of making up the Pink Land so that the same shall become a highway or highways maintainable at the public expense;

- (3) The Second Owner is the estate owner in fee simple absolute in possession free from encumbrances of the freehold land known as Mitchell Street, Clitheroe, Lancashire which is registered at HM Land Registry under title number LA952443 which includes part of the site of the proposed highway shown coloured pink (the "Pink Land") on the Drawing numbered 3686/1 Rev E and which is annexed hereto and which the Second Owner is willing to dedicate as highway in accordance with the provisions of this Agreement, and is desirous of making up the Pink Land so that the same shall become a highway or highways maintainable at the public expense;
- (3) The First Owner is the estate owner in fee simple absolute in possession free from encumbrances of the freehold land known as land on the west side of Mitchell Street, Clitheroe, Lancashire which is registered at HM Land Registry under title number LAN20297 which includes part of the site of the proposed highway shown coloured pink (the "Pink Land") on the drawing numbered 3686/1 Rev E and which is annexed hereto and which the First Owner is willing to dedicate as highway in accordance with the provisions of this Agreement, and is desirous of making up the Pink Land so that the same shall become a highway or highways maintainable at the public expense;
- (4) The First Owner and the Second have requested that when the Works have been executed and maintained in accordance with this Agreement as hereinafter appearing the County Council shall undertake the maintenance of the Pink Land as a highway or highways maintainable at the public expense which the County Council has agreed to do upon the terms and conditions contained in this Agreement.
- (5) The County Council warrants that in its capacity as local highway authority it has approved the carrying out of the Works subject only to the Developer and the First Owner and the Second complying with, observing and performing the provisions of this Agreement.

NOW in pursuance of Section 38 of the Highways Act 1980 **IT IS HEREBY AGREED AND DECLARED** by and between the parties hereto as follows:

1 DEFINITIONS AND INTERPRETATION

In this Agreement where the context so admits:

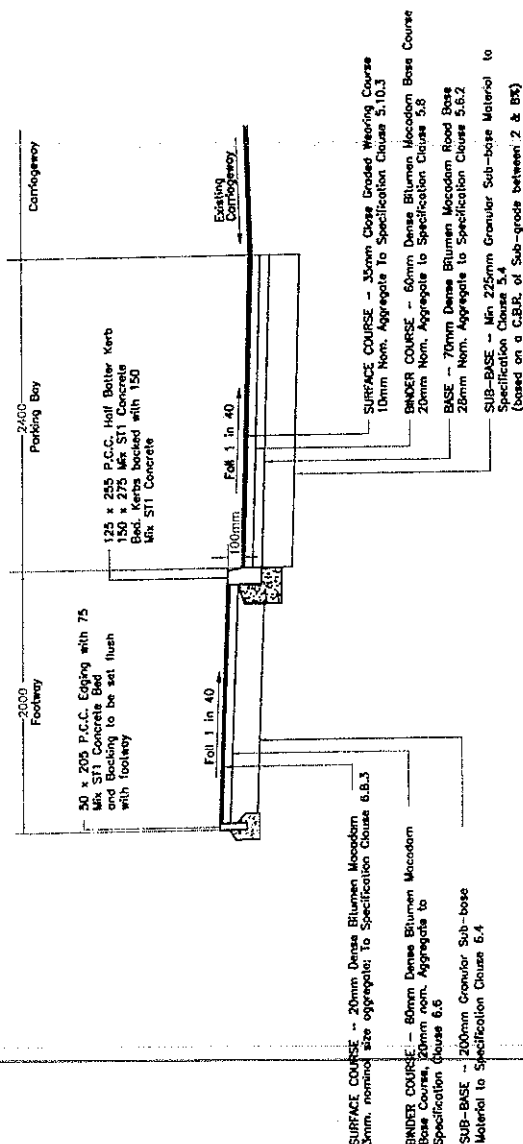
- 1.1 "Appendix A" means Appendix A of the Code of Practice on Highway Status and Adoption, the current form of which is annexed as the Third Schedule;
- 1.2 "Appendix B" means Appendix B of the Code of Practice on Highway Status and Adoption, the current form of which is annexed as the Fourth Schedule;
- 1.3 the "Commuted Sum" means the sum calculated in accordance with the provisions of clause 3.12 below;
- 1.4 the "County Council" includes its successors in title or other person or body having the responsibility for the exercise of the functions of the principal highway authority for the County of Lancashire from time to time and for the time being;
- 1.5 "Default Cost" means the total sums referred to at clause 17.1 (a) to (d) inclusive;
- 1.6 the "Design" means the design and scheme of works to be prepared by the Developer and First Owner or a consultant on its behalf and approved by the Environment Director (approval of which shall not be unreasonably withheld or delayed) for the carrying out of the Works and to include all appropriate drawings specifications conditions of contract and programme of works;
- 1.7 the "Developer" includes the successors in title and all persons deriving title under or through it or having any legal estate interest right in or to the Pink Land;
- 1.8 the "Drawings" mean the sealed drawing(s) numbered 3686/1 Rev E and the section drawing(s) numbered 3686/4 Rev B signed by or on behalf of the parties hereto and any amended or additional Drawings signed by or on behalf of the Environment Director;
- 1.9 the "Environment Director" means the Executive Director of Environment of the County Council from time to time and for the time being and may include reference to any other person (whether or not an officer or employee of the County Council) appointed or authorised by the Environment Director to implement any of the provisions of this Agreement on his behalf or in his stead;

- 1.10 the "Estimated Cost" is the sum of **THIRTY THOUSAND POUNDS** (£30,000.00) being the amount which is in the opinion of the Environment Director the cost of carrying out the Works within the period specified in Clause 3.1 hereof;
- 1.11 the "Final Certificate" means the Certificate to be issued on satisfactory completion of the Works in accordance with Clause 10 below;
- 1.12 the "First Owner" includes successors in title and all persons deriving title under or through it or having any legal estate interest right in or to the Pink Land.
- 1.13 the "Highway Retaining Structures" means new or existing bridges or retaining walls (unless excluded by section 38(2) of the Highways Act 1980) irrespective of height supporting or necessary for the support of the Pink Land;
- 1.14 the "Land Dedication Plan" means the plan showing the Pink Land and marked number 3686/1 Rev E;
- 1.15 the "Maintenance Period" means the period specified in Clause 8.2.1 below;
- 1.16 the "Maximum Fee" means the sum of £750.00 (seven hundred and fifty pounds) as detailed in Appendix A or such revision as in force at the date of this Agreement.
- 1.17 the "Minimum Fee" shall mean the sum that is set annually by the Cabinet Member for Sustainable Development for the time being of the County Council and which is contained in Appendix A;
- 1.18 the "Part 1 Certificate" means the Certificate to be issued on the satisfactory completion of the Part 1 Works in accordance with Clause 7 hereof;
- 1.19 the "Part 1 Works" means the works referred to in Part 1 of the First Schedule hereto;
- 1.20 the "Part 2 Certificate" means the Certificate to be issued on the satisfactory completion of the Part 2 Works in accordance with Clause 8 hereof;
- 1.21 the "Part 2 Works" means the works referred to in Part 2 of the First Schedule;
- 1.22 the "Pink Land" means the land shown coloured pink on the Land Dedication Plan which is marked number 3686/1 Rev E and being part or parts of the Site;

- 1.23 the "Second Owner" includes the successors in title and all persons deriving title under or through it or having any legal estate interest right in or to the Pink Land;
- 1.24 the "Site" means the land situate on the northwest side of Mitchell Street, Clitheroe, Lancashire as the same is for the purposes of identification only edged Red on the Site Plan;
- 1.25 the "Site Plan" means the plan showing the Site and which is marked number 3686/1 Rev E;
- 1.26 the "Specification" means the edition of the publication entitled "Specification for Construction of Estate Roads 2002 or any further revision thereof a copy of which the Developer hereby acknowledges has been supplied to him;
- 1.27 "Statutory Undertaker" means a "statutory undertaker" as defined in Section 329(1) of the Highways Act 1980 and British Telecommunications Plc;
- 1.28 "Planning Permission" means the planning permission for the Site granted by the Ribble Valley Borough Council as the local planning authority pursuant to the provisions of the Town and Country Planning Act 1990 (as amended) on 11 October 2007 under Reference Number 3/2007/0535;
- 1.29 the "Property Retaining Structures" means new or existing retaining walls (unless excluded by section 38(2) of the Highway Act 1980) irrespective of height supporting land or property above the road and within 3.65 metres of the edge of the Pink Land which for the avoidance of doubt shall include buildings built over a highway and property;
- 1.30 the "Works" means all the works specified in the First Schedule hereto for the making up of the Pink Land;
- 1.31 Clause paragraph and schedule headings and the table of contents do not form part of this Agreement and must not be taken into account in its construction or interpretation;
- 1.32 References to clauses paragraphs and schedules in the absence of anything expressed to the contrary are references to the clauses paragraphs and schedules of this Agreement;
- 1.33 References to any statute include reference to any statutory amendment modification or re-enactment of such statute and all delegated legislation made under it;

NOTES

- All dimensions are in millimetres unless otherwise shown.
- All highway works shall be in accordance with the L.C.C. Specification for Construction of Estate Roads.
- Turnbuckle straps to be laid after finished wearing course has been laid.
- Wherever possible, concrete shall be cast in situ and finished with road construction.
- Gully connections to be clay pipes, plastic until this place are not to be used.

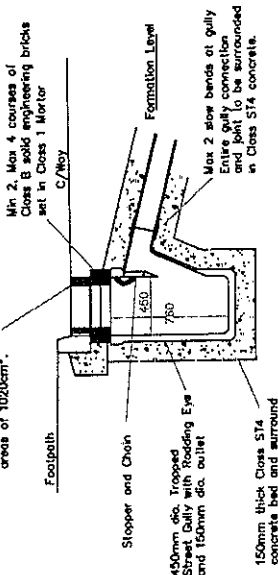


With the agreement of the Engineer geotextile material to be placed at formation level over areas of highway where soft spots of unsound ground is encountered

PARKING BAY / FOOTWAY DETAIL

SCALE 1:20

Gully gratings and frames shall comply with (BS) EN 124 Class D400 and must be marked with a BS Attention or URDA and shall provide a permanent raised kerb to the kerb side of the gully. All gully gratings and frames shall be made from ductile iron and shall have a minimum depth of frame of 100mm and a minimum water area of 1020cm².



STREET GULLY TYPE I

SCALE NTS

(To Adjust Existing Gullies)

REVISIONS	DATE	BY	REASON
1	19/03/01	W.A.S.	Revised to comply with Clause 5.4
2	19/03/01	W.A.S.	Revised to comply with Clause 5.4
3	19/03/01	W.A.S.	Revised to comply with Clause 5.4

Ironside Farrar Engineering & Construction 1000 High Street London E15 4JH Tel: 020 725 1000 Fax: 020 725 1001 Email: info@ironsidefarrar.co.uk		Project No. 0806/4	Sheet No. B
Client Mitchell Street Othello Bardley Construction Typical Highway Details	Drawn By W.A.S.	Checked By W.A.S.	Scale 1:20

11323

S.A.H.
P. Stott

20271

- 1.34 Words importing any one gender include every other gender;
- 1.35 Words importing the singular number include the plural and vice versa and where any party comprises more than one person covenants and obligations on the part of that party shall be deemed to be the joint and several covenants and obligations of those persons.

2. POWER TO EXECUTE

- 2.1 The County Council is a principal council within the meaning of section 270(1) of the Local Government Act 1972 and the local highway authority for the purposes of the Highways Act 1980 for highways other than trunk roads in the County of Lancashire;
- 2.2 The Planning Permission has attached to it certain conditions to carry out such works as may be necessary to connect the Site to a vehicular highway or highways.
- 2.3 The County Council enters into this Agreement pursuant to the provisions of section 111 of the Local Government Act 1972 sections 38 and 305 of the Highways Act 1980 and all other powers enabling it to do so.

3. DEVELOPER'S & FIRST OWNERS LIABILITY

- 3.1 The Developer and First Owner shall carry out and complete the Works at the Developer's and First Owners expense in a good and workmanlike manner with proper materials in accordance in all respects with the Specification and the Drawings to the satisfaction of the Environment Director within twelve (12) calendar months from the date hereof ;
- 3.2 That before commencing any part of the Works the Developer and First Owner shall inform the Environment Director in writing of the name of the CDM Coordinator to be appointed by the Developer and First Owner in accordance with the provisions of the Construction (Design and Management (Regulations

1994 (as amended)) made under the Health and Safety at Work Act 1974 and shall provide that upon the issue of the Maintenance Certificate the Environment Director shall be provided with a copy of the Health and Safety File relating to the Works.

- 3.3 That before commencing any part of the Works the Developer and First Owner shall submit the Design to the Environment Director for his approval in writing (approval not to be unreasonably withheld or delayed) and shall produce evidence that the same has been approved by the local planning authority;
- 3.4 That before commencing any part of the Works the Developer and First Owner shall inform the Environment Director in writing of the details of the person appointed by the Developer to be responsible for the safety in accordance with Regulation 7 of the Management of Health and Safety at Work Regulations 1999.
- 3.5 The Developer and First Owner shall at all times permit the Environment Director and any other officer of the County Council access to enter every part of the Site and sites thereof with or without equipment machinery materials plant vehicles and workmen for the purpose of inspecting and testing the Works and all components materials tackle or methods of works used or intended to be used therein.
- 3.6 The Developer and First Owner shall before the commencement of the Works and at no expense to the County Council obtain such consents deeds of grant easements licences or permissions as may be required for the purpose of carrying out the Works and to comply with the same and indemnify and keep indemnified the County Council from and against all liabilities costs claims actions and demand or expenses which may arise from the Developer's and First Owners failure to obtain or comply with such licences consents or permissions

- 3.7 The Developer and First Owner hereby declares and warrants to the County Council that he has and will throughout the duration of this Agreement maintain full right liberty and consent to carry out such works as may be necessary to connect the Pink Land to a vehicular highway or highways;
- 3.8 The Developer and First Owner shall at all times indemnify the County Council and keep indemnified the County Council against all actions claims costs demands expenses losses liabilities and proceedings arising out of or in connection with or incidental to the carrying out of the Works (including but not limited to claims under Parts I and II of the Land Compensation Act 1973 and the Noise Insulation Regulations 1975) (as amended) other than those arising out of or in consequence of any neglect act default or liability of the County Council.
- 3.9 That the Developer and First Owner shall not cause or permit or suffer any dwelling erected by the Developer and First Owner or on his behalf fronting adjoining or abutting on to the Pink Land to be occupied until:
- (a) the Environment Director has issued the Part 1 Certificate in respect of the Pink Land or such part of the Pink Land as will provide the occupier with access to a vehicular highway and where applicable a base course pedestrian access to such highway has been provided; and
 - (b) the Pink Land or such part of the Pink Land have lighting installed and commissioned in accordance with the Specification and the Drawings including electricity supply cables thereto provided and connected as agreed by the Developer and First Owner with the relevant Statutory Undertaker for the time being and for the avoidance of doubt the Developer and First Owner shall make payment at his own expense for the energy consumed from the date of connection until the County Council accepts responsibility for the same in accordance with the provisions of this Agreement; and
 - (c) any street name plates on roads giving access to those properties have

been erected in accordance with the requirements and specification of the street naming authority.

3.10 Where any dwelling fronts adjoins or abuts onto the Pink Land and that Pink Land includes a verge or strip of land (commonly known as 'a service strip') adjacent to the Carriageway then the Developer and First Owner shall provide the first occupier of any such dwelling with a copy of the document set out in the Second Schedule hereto and request the first occupier to retain a copy of that document with the title deeds and documents to the dwelling.

3.11 The Developer and First Owner shall on demand and in any event prior to the issue of the Final Certificate pay to the County Council such sum as is assessed by the Environment Director in accordance with Appendix B and notified to the Developer and First Owner in accordance with clause 3.11.1 below by way of Commuted Sum for the future maintenance of areas, highway construction and other infrastructure that, due to the non standard nature of those works, will require maintenance in excess of that normally required in order to keep the highway in such a state as to be safe and fit for the ordinary traffic reasonably expected to use it;

3.11.1 The amount of the Commuted Sum will be notified to the Developer and First Owner prior to the issue of the Final Certificate;

3.11.2 The Commuted Sum will be calculated in accordance with the costs/figures as detailed in Appendix B at the date on which the Commuted Sum is calculated.

3.12 THE Part 1 Works and the Part 2 Works are completed;

PROVIDED THAT such periods referred to at 3.1 and 3.12 above may be extended by such reasonable period or periods as shall be necessary subject to first obtaining the approval in writing of the Environment Director whose approval shall not be unreasonably withheld or delayed

4. HIGHWAY RETAINING STRUCTURES/PROPERTY RETAINING STRUCTURES

4.1 ON the Environment Director certifying that any works appertaining to Highway Retaining Structures and/or Property Retaining Structures will be necessary the Developer and First Owner for itself and its successors in title and assigns shall enter into a separate Agreement with the County Council and such Agreement shall provide for: -

4.1.1 the assessment design construction repair and/or strengthening as appropriate of the Highway Retaining Structures and/or Property Retaining Structures in accordance with the County Council's requirements which shall be at the sole expense of the Developer and First Owner;

4.1.2 the payment by the Developer and First Owner of a commuted sum (which for the avoidance of doubt is payable in addition to the sum payable pursuant to Clause 3.11 of this Agreement) to the County Council for the cost to the County Council of inspection maintenance repair and eventual reconstruction of those Highway Retaining Structures and/or Property Retaining Structures which are to be adopted by the County Council;

4.1.3 the maintenance of any Highway Retaining Structures and/or Property Retaining Structures which are not to be adopted by the County Council (to include its repair and reconstruction if damaged by whatever cause) by and at the expense of the Developer and First Owner;

4.1.4 the County Council to carry out at the sole expense of the Developer and First Owner (unless it declines to do so) the design and design check of any Highway Retaining Structures and/or Property Retaining

Structures;

4.1.5 the County Council in all cases at the expense of the Developer and First Owner (unless it declines to do so) to supervise the construction of any Highway Retaining Structures and/or Property Retaining Structures;

4.1.6 where a Property Retaining Structure includes a building/permanent structure over a highway for the Developer to enter into a separate agreement under section 177 of the Highways Act 1980 which shall bind their successors in title or assignees and come into operation on the issue of the Final Certificate under this Agreement;

4.1.7 the provision of a bond for an amount as specified by the County Council in respect of the Highway Retaining Structures and/or Property Retaining Structures.

5. STATUTORY UNDERTAKERS - CONNECTIONS TO EXISTING SERVICES

5.1 **THE** Developer and First Owner shall before connecting the Pink Land with any highway or highways maintainable at the public expense give notice to each person board or authority being the Statutory Undertaker for the time being of any service or services laid in upon or under such highway or highways of the proposal to make such connection as if the connection were work to be executed for road purposes or major highway works as defined at Section 86 (2) (3) and (4) of the New Roads and Street Works Act 1991 and shall indemnify the County Council in respect of the cost of any works or measures considered necessary by any Statutory Undertaker in consequence of the proposal to make such connection.

6. TRAFFIC CALMING

6.1 The County Council shall subject to clause 6.2 below undertake all necessary consultations required by the "Lancashire County Council Traffic Calming Guidelines for Residential Roads" ("the Guidelines") and all other steps

required to comply with statutory procedures and management of such traffic calming measures;

6.2 Where the Guidelines require that consultations be undertaken with third parties the County Council shall at its discretion claim from the Developer and First Owner an additional fee of either 2% of the Estimated Cost plus any disbursements that shall include but shall not be limited to advertising Cost ("the Additional Fee") or the Maximum Fee whichever is the lesser. The Additional Fee or the Maximum Fee shall be payable in addition to any Inspection Fees payable in accordance with Clauses 14.1 14.2 or 14.3 below.

6.3 The Additional Fee or the Maximum Fee shall be payable by the Developer and First Owner to the County Council on demand.

7. PART 1 CERTIFICATE

7.1 On the completion of the Part 1 Works to the satisfaction of the Environment Director in all respects and when the Developer and First Owner has entered into a separate Agreement or Agreements with the County Council if required to do so in accordance with the provisions of Clause 4 of this Agreement and when the Environment Director has received notification that any works appertaining to Highway Retaining Structures and/or Property Retaining Structures have been completed he shall issue the Part 1 Certificate to the Developer and First Owner.

8 PART 2 CERTIFICATE

8.1 On completion of the Part 2 Works to the satisfaction of the Environment Director he shall issue his Part 2 Certificate only if:-

8.1.1 any sewer constructed under the Pink Land under an agreement under Section 104 of the Water Industry Act 1991 (as amended) has

vested in the Statutory Undertaker in accordance with that agreement;
and

8.1.2 appropriate certification has been received by the County Council from the Environment Agency certifying that all necessary consents (if any) have been granted pursuant to the Water Resources Act 1991 and/or the Land Drainage Act 1991; and

8.1.3 the Developer and First Owner, when required to do so in accordance with the provisions of Clause 4 of this Agreement has entered into a separate Agreement or Agreements with the County Council for any works appertaining to Highway Retaining Structures and/or Property Retaining Structures which have been certified as necessary by the Environment Director of the County Council after the issue of the Part 1 Certificate and the Environment Director of the Council has received written notification from the County Council that those works have been completed to his satisfaction.

8.2 From the date of the issue of the Part 2 Certificate to the Developer:

8.2.1 the Maintenance Period of twelve (12) calendar months shall commence to run;

8.2.2 the Pink Land shall become a highway or highways and remain forever open for use by the public at large;

8.2.3 the Developer and First Owner shall remain the street manager for the purposes of Section 49(4) of the New Roads and Street Works Act 1991 and any statutory modification or re-enactment thereof until such time as the Pink Land shall become a highway or highways maintainable at the public expense.

9. OBLIGATIONS DURING THE MAINTENANCE PERIOD

9.1 During the Maintenance Period:

9.1.1 the Developer and First Owner at his own expense shall maintain the Works including all grassed and planted areas and carry out such routine maintenance as may be necessary to facilitate use by vehicles and pedestrians;

9.1.2 the County Council at its own expense shall undertake routine maintenance of and be responsible for payment for energy for all street lights and illuminated traffic signs provided that the County Council has not already accepted this obligation in accordance with the Specification.

10. FINAL CERTIFICATE

10.1 Prior to the expiration of the Maintenance Period the Developer and First Owner shall forthwith at his own expense reinstate and make good any defect or damage which may have arisen from any cause whatsoever or be discovered during the Maintenance Period (including any defect in or damage to the road surface water drainage system) of which he has been notified in writing by the Environment Director so that the Works comply with the Specification **AND THEN PROVIDED THAT:**

10.1.1 the Developer and First Owner has paid to the County Council all amounts due to the County Council under this Agreement; and

10.1.2 any necessary reinstatement or other works have been completed to the satisfaction in all respects of the Environment Director; and

10.1.3 the Developer and First Owner has delivered to the Environment Director drawings showing the Works as constructed together with a copy of the Health and Safety File as defined in the Construction (Design and Management) Regulations 1994; and

10.1.4 the Environment Director is satisfied that the Highway Retaining Structure Works and/or Property Retaining Structure Works (if any) have been maintained by the Developer since their completion; and

10.1.5 the Developer and First Owner has secured all drainage rights required by the County Council in accordance with Clause 11 below;

the Environment Director shall issue the Final Certificate to the Developer and First Owner and shall release the Surety from all liability hereunder.

11 GRANTS OF RIGHTS OF DRAINAGE

- 11.1 Before the issue of the Final Certificate by the Environment Director the Developer and First Owner shall without cost to the County Council execute or ~~procure the execution by all necessary parties of such deeds as are in the~~ opinion of the County Council necessary to secure to the County Council full drainage rights in respect of such parts of the surface water drainage system of the Pink Land as are situate outside the limits of the Pink Land and the County Council shall not be liable for the payment of compensation claims demands losses expenses or legal or any other costs liabilities or fees arising on account of the execution of any such deeds and the Developer and First Owner will indemnify the County Council in respect of such compensation claims demands losses expenses costs liabilities actions or fees.

12 PROCEDURE FOR INSPECTION AND ISSUE OF CERTIFICATES

- 12.1 Within fourteen (14) days of receipt of written application from the Developer and First Owner to the County Council for the issue of a Part 1 Certificate or Final Certificate pursuant to this Agreement and within twenty-eight (28) days of written application from the Developer and First Owner to the County Council for the issue of a Part 2 Certificate pursuant to this Agreement the Environment Director shall inspect the Works and where necessary provide the Developer and First Owner with a definitive list in writing of any remedial works required to be carried out before the issue of that certificate. Any such remedial works shall be subject to the same inspection procedure detailed herein until such time as they shall be completed to the reasonable satisfaction of the Environment Director who within twenty-eight (28) days thereafter shall issue the relevant Certificate.

13. ADOPTION

- 13.1 Upon the issue of the Final Certificate the Pink Land situated within the Site shall be deemed to have been dedicated by the Second Owner and First Owner to the use of the public as a highway or highways maintainable at the public expense for all classes of user which for the avoidance of doubt includes mechanically propelled vehicles (Natural Environment & Rural Communities Act 2006).

14 INSPECTION FEES AND LEGAL COSTS

- 14.1 **ON** the execution of this Agreement the Developer and First Owner shall pay:-
- 14.1.1 the County Council the greater of either the sum of **TWO THOUSAND ONE HUNDRED AND FORTY POUNDS (£2,140.00)** being Six (6) per cent of the Estimated Cost or the Minimum Fee in respect of the costs incurred by the County Council in inspecting the Works (both excluding for the avoidance of doubt the cost of inspecting any works appertaining to Highway Retaining Structures and/or Property Retaining Structures which shall be determined in accordance with the provisions of the separate Agreement to be made between the County Council and the Developer and First Owner pursuant to the provisions of Clause 4 hereto); and
- 14.1.2 the County Council the sum of **SEVEN HUNDRED AND FIFTY POUNDS (£750.00)** in respect of the County Council's legal costs for the preparation of this agreement.
- 14.2 **FORTHWITH** upon the period for completion of the Works being extended in accordance with clause 3.12 above the Developer and First Owner shall pay to the County Council:-
- 14.2.1 an additional inspection fee being the greater of either a sum equal to 2% of the outstanding amount of the Default Costs detailed at clause 17 whether or not a Default Notice has been served such Default Costs being approved in writing by the Environment Director or the Minimum Fee; and

14.2.2 at each further extension in accordance with Clause 3.12 above or at twelve monthly intervals of the first such extension whichever shall first occur the Developer and First Owner shall pay to the County Council a further additional inspection fee being the greater of either a sum equal to 5% of the outstanding amount of the Default Costs as detailed at Clause 17 or the Minimum Fee.

~~14.3~~ **RECEIPT** by the County Council of the payment of such sum shall not create any contractual relationship between the County Council and the Developer and First Owner nor absolve the Developer and First Owner from any liability or obligation imposed upon him by the terms of this Agreement or by statute or at common law and the County Council will not be liable for any loss damage or injury which the Developer and First Owner may sustain by reason of insufficient or faulty inspection of the works by the County Council.

15. DETERMINATION BY THE COUNTY COUNCIL

15.1 If the Developer and First Owner fails to perform or observe any of the conditions stipulations or obligations on his part contained herein or if a receiving order in bankruptcy is made against him or if the Developer and First Owner is being wound up or if the Developer and First Owner enters into a composition or scheme of arrangement (otherwise than for the purpose of amalgamation or reconstruction) the County Council may without prejudice to any of its rights claims or remedies against the Developer and First Owner in respect of such non-performance or non-observance determine this Agreement (except for Clauses 16, and 17 of this Agreement) by notice in writing signed by the Environment Director and delivered to the Developer and First Owner or sent by post to the address stated in this Agreement.

16. POWER TO EXECUTE WORKS IN DEFAULT

16.1 Without prejudice to Clauses 3, 15 and 17 hereof if the Developer and First Owner fails to execute or complete the Works in accordance with the Developer's and First Owners obligations hereunder the County Council shall after not less than twenty-eight days' notice in writing to the Developer and

First Owner be entitled to execute or complete the Works in default by its own employees or by contract or otherwise and to recover the cost as certified by the Environment Director from the Developer.

17. SURETY'S OBLIGATIONS

17.1 If the Developer and First Owner at any time fails to perform or observe any of the conditions stipulations or obligations on his part contained in this

Agreement or if a receiving order in bankruptcy is made in respect of the Developer's and First Owner's estate or if the Developer and First Owner is being wound up or if the Developer and First Owner enters into a composition or scheme of arrangement (otherwise than for the purpose of reconstruction or amalgamation) the Environment Director may without prejudice to any statutory rights or powers or any other right claim or remedy under this Agreement send to the Surety notice in writing (the "Default Notice"):-

- (a) specifying the work (the "Default Work") to be carried out in order that the Works may be executed or completed as the case may be in accordance with this Agreement; and
- (b) containing an estimate by the Environment Director of the cost of carrying out the Default Work and of the cost of maintaining the Works for a period of twelve months prior to the Pink Land becoming maintainable at the public expense and also a statement of the amount of the usual establishment charges of the County Council;
- (c) specifying the amount of the Commuted Sum which has not been paid by the Developer and First Owner in accordance with Clause 3.11 above;
- (d) specifying the amount of the bond required in respect of any Highway/Property Retaining Structures as required by Clause 4 above.

(together hereinafter referred to as the "Default Costs").

17.2 **THE Default Costs:-**

17.2.1 shall not exceed the sum of **THREE THOUSAND POUNDS** (£3,000.00)

on and after the issue of the Part 2 Certificate;

BUT IN ANY EVENT THE AMOUNT PAYABLE BY THE SURETY WILL NOT EXCEED £30,000.

17.3 Within twenty-eight days (28) after the Surety has received the Default Notice the Surety shall:-

17.3.1 pay the Default Costs to the County Council; or

17.3.2 pay only the Default Costs detailed at clause 17.1 (c) and (d) above (if any) and send to the County Council Notice in writing ("the Surety's Counter Notice") of the intention of the Surety to carry out the Default Work;

17.4 If the Surety having sent the Surety's Counter Notice to the County Council fails to start the Default Work within fifty-six (56) days after the Surety received the Default Notice the Surety shall forthwith pay the balance of the Default Costs to the County Council with simple interest thereon at the rate of 4.7 percent per annum above the base lending rate for the time being of the National Westminster Bank Plc calculated from the date on which the Surety received the Default Notice;

17.5 If the Surety having sent the Surety's Counter Notice to the County Council starts the Default Work and the said work is not completed within four months after the Surety's Counter Notice was received by the County Council or within such further period as may be agreed by the County Council the Surety shall subject to Clause 17.6 below forthwith on demand by the Environment Director pay to the County Council such sum as the Environment Director may determine as being the cost of carrying out any Default Work or part thereof not carried out by the Surety or the cost of maintaining the Works for the period of twelve months prior to the Pink Land becoming maintainable at the public expense as may be the case (or as being the cost of both) and also pay to the County Council the amount determined by the Environment Director as being the amount of the appropriate usual establishment charges of the County Council;

17.6 The sum payable under Clause 17.5 shall not exceed the balance of the Default Costs and the covenant in Clause 18.1 (c) shall apply with respect to such sum and on the issue of the Final Certificate the Surety shall be released from all liability hereunder;

17.7 For the purposes of this Agreement a demand stated to be made hereunder and signed or purporting to be signed on behalf of the County Council shall be conclusive as to the Surety's obligation to pay the amount demanded and there shall be no obligation or duty whatsoever on the Surety to consider the alternative set out in Clause 17.3.2 hereof.

18 COUNTY COUNCIL'S COVENANTS

18.1 **THE** County Council **HEREBY COVENANTS** with the Developer and First Owner and the Surety for the benefit of all building plots fronting adjoining or abutting the Pink Land and for each and every one of them:-

- (a) to use its reasonable endeavors in consultation with the Surety to mitigate any loss or damage sustained by reason of any default by the Developer and First Owner by taking such reasonable steps as the County Council shall think fit;
- (b) to apply the Default Costs received from the Surety (excluding those detailed at clause 17.1 (c) and (d) as above mentioned) towards the expenditure involved in executing or completing the Works and maintaining and making good all defects for a period of twelve months after completion and the amount so received shall be deducted from any sum which would otherwise be recoverable from the owners of premises fronting the Pink Land under the provisions of the Highways Act 1980 or any other Act for the time being in force replacing or amending the same;
- (c) in the event of the Default Costs (excluding those detailed at Clause 17.1 (c) and (d)) paid by the Surety to the County Council exceeding the cost of executing or completing the Works and maintaining and making good all defects as aforesaid together with the amount of the County Council's usual establishment charges to repay to the Surety within twenty-eight (28)

days after the Pink Land become maintainable at the public expense the amount of such excess with interest calculated at half yearly rests on the unexpended balance for the time being of the sum paid by the Surety to the County Council at the rate of interest prevailing from time to time on monies held in a deposit account with the County Council's bankers.

18.4 THE COUNTY COUNCIL HEREBY FURTHER COVENANTS that the Final Certificate will be issued in accordance with this Agreement and that the Surety will be released from all liability under this Agreement in accordance with this Agreement.

19. SECOND OWNERS COVENANTS

- 19.1 The Second Owner hereby consents to the completion of this Deed and acknowledges that subject as herein provided the Site shall be bound by the covenants contained in this Agreement;
- 19.2 To permit the First Owner and Developer and County Council and all persons authorised by it to enter and remain on the Site with or without equipment and machinery materials plant and workmen and vehicles for all purposes connected with and for such period or periods as may be necessary for the carrying out of the highway works and inspection thereof.
- 19.3 On the issue of the Final Certificate pursuant to clause 10 to dedicate that part of the Pink Land as a public highway pursuant to clause 13.

20. FIRST OWNERS COVENANTS

- 20.1 The First Owner hereby consents to the completion of this Deed and acknowledges that subject as herein provided the Site shall be bound by the covenants contained in this Agreement;

20.2 To permit the Second Owner, Developer and County Council and all persons authorised by it to enter and remain on the Site with or without equipment and machinery materials plant and workmen and vehicles for all purposes connected with and for such period or periods as may be necessary for the carrying out of the highway works and inspection thereof.

20.3 On the issue of the Final Certificate pursuant to clause 10 to dedicate that part of the Pink Land as a public highway pursuant to clause 13.

21. PART OR PARTS

21.1 Notwithstanding anything herein before contained the Developer and First Owner may from time to time during the currency of this Agreement apply to the Environment Director for the Part 1 Certificate or the Part 2 Certificate in respect of any part of the Pink Land (being the whole width of the Pink Land between points to be defined in the application) and if the Environment Director shall be satisfied that the part so defined is in all respects suitable to be treated as a separate road for the purposes of construction and adoption in accordance with the several provisions contained in this Agreement then he shall issue a separate Part 1 Certificate or Part 2 Certificate as the case may be in respect of that part and thereafter the same proceedings may be taken in respect of the said part of the Pink Land as if the said part were the subject of a separate Agreement under which the terms of this Agreement applied to the said part separately from the remainder of the Pink Land but without prejudice to the application of this Agreement to the remainder of the Pink Land and the liability of the Surety shall be reduced as may be agreed by the Environment Director with the Developer.

22. ASSIGNMENT

22.1 This Agreement may not be assigned by the Developer and First Owner and Second Owner without the consent of the County Council which consent shall not be unreasonably withheld.

23. ARBITRATION

- 23.1 In the event of any dispute arising out of this Agreement the same shall at the request of either party be referred to a sole arbitrator to be agreed between the parties or failing agreement as to the same within fourteen (14) days after such request to be appointed by the President for the time being of the Institution of Civil Engineers and in this respect this Agreement shall be construed as a submission to arbitration within the meaning of the Arbitration Act 1996 or any statutory re-enactment or modification thereof.

24 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

- 24.1 Pursuant to the provisions of Section 1 of the Contracts (Rights of Third Parties) Act 1999 the provisions of this Agreement shall not be enforceable by any person not a party to it.

25. REGISTRATION

For the avoidance of doubt the County Council shall procure the registration of this Agreement in the Register of Local Land Charges in accordance with the provisions of Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and the Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2002. Any fees that may be incurred by the County Council in effecting such registration shall be borne by the Developer and shall be payable by the Developer to the County Council on demand.

26. JURISDICTION

This Agreement shall be governed by and construed in accordance with the laws of England and Wales and only the Courts of England and Wales shall have jurisdiction hereunder.

27. **NATURE OF DOCUMENT**

This Agreement is a deed and is executed by the parties as a deed.

IN WITNESS whereof this Agreement has been executed as a Deed the day and year first before written

THE FIRST SCHEDULE

Part I

1. All highway drainage
2. All other drainage contained within the highway
3. All kerb foundations and where appropriate kerbs including lowering at vehicle crossings and pram-ramps
4. Carriageway sub-base road base and any supporting structures thereto
5. Carriageway base course surfacing where appropriate
6. Demarcation of sight lines and clearance of vision splays
7. All Road traffic signs where appropriate

Part 2

7. All outstanding kerbing not completed in Part 1
8. Pedestrian ways
9. Carriageway wearing course and/or carriageway base course
10. Vision splays and verges
11. Street lighting and street furniture
12. Street name plates
13. Road markings
14. All other works described in the Specification and shown in the Drawings
15. CCTV Inspection Report and video of all highway drainage

THE SECOND SCHEDULE

THE STATUS OF SERVICE STRIPS ALONGSIDE SHARED SURFACE CARRIAGEWAYS

It is very common on new residential developments particularly on short cul-de-sacs for there to be no separate footway and for all road users i.e. pedestrians cyclists and motorists to share use of the same surfaced carriageway.

In these situations a strip of land is usually provided alongside the carriageway. This strip is un-surfaced except where it is crossed by drives or paths to properties.

The purpose of the strip is to provide a facility for the utilities to lay cables and pipes and is commonly referred to as the service strip.

It is important for the owner/occupier of any property fronting the service strip to be aware of the following:-

1. The service strip is part of the adopted highway.
2. The purpose of the strip is to contain cable or pipes owned by the utilities such as electricity gas water and telecommunications:-
 - 2.1 The Highway Authority may arrange for public lighting columns and associated cables to be sited in the service strip.
 - 2.2 Interference with equipment cables or pipes by the owner/occupier digging in the strip can be extremely hazardous with potential danger to life. Those responsible for damage would be liable for any costs.
 - 2.3 The utilities and the Highway Authority can enter the service strip at any time without notice to carry out work.
3. The owner/occupier shall not place any structure on the service strip or enclose any part of it within the garden curtilage by means of a fence wall or hedge.
4. If the owner wishes to plant in the service strip a licence from the Highway Authority may be necessary. Such planting will be severely restricted as to the

extent and type. Further advice can be obtained from the Highway Department of the Local Council.

THIRD SCHEDULE (APPENDIX A)

Activity Description	Charge 2007/08	Charge 2008/09	Notes
CHARGES UNDER HIGHWAYS ACT 1980 – SECTION 38			
S38 ADMINISTRATION AND SUPERVISION FEE. (PERCENTAGE OF ESTIMATED COST OF ROADWORKS, SUBJECT TO MINIMUM FEE)	6%	6%	£2140 minimum fee. Percentage fee exclusive of approval and inspection costs for highway and property retaining structures, which are charged at cost.
SUPPLEMENTARY CHARGE FOR EXTENSION OF S38 AGREEMENT	2%	2%	Of outstanding default Cost 1 st year
	5%	5%	Of outstanding Default Cost thereafter
	814.42	847.00	5.5m c/way plus 2 x 1.8m f/ways.
RATE PER LINEAR METRE FOR ESTIMATING S38 AGREEMENT ROADWORKS COSTS.	860.91	895.50	Block paved 5m c/way & service verges
	145.50	151.50	Highway drainage system (excluding gullies and gully connections – included in roads costs)
	2%	2%	Plus disbursements e.g. advertising costs Maximum fee £750
PROVISION OF STREET LIGHTING DESIGN SERVICE TO DEVELOPER.	142.50 + V.A.T	148.00 + V.A.T	Site with 5 columns or less.
	33.00 + V.A.T	34.50 + V.A.T	Additional for each column exceeding 5 columns up to 10 columns.
	15.00 + V.A.T	15.50 + V.A.T	Additional for each column exceeding 10 columns.

FOURTH SCHEDULE (APPENDIX B)

Activity Description	Charge 2007/2008	Charge 2008/2009	Notes
COMMUTED SUMS FOR FUTURE MAINTENANCE - SECTION 38 AGREEMENTS (SHEET 1 OF 2)			
SOAKAWAY	5419	5636	Per soakaway
OTHER SUSTAINABLE DRAINAGE SYSTEMS (INCLUDING FILTER DRAINS)	Site specific calculation		
DIVERTED CULVERTED WATERCOURSES - ROAD CROSSING OR LONGITUDENAL UP TO 20m LENGTH			
Pipe dia. not exceeding 300 mm dia.	39.50	41.00	1 Commuted sum applicable to culverted watercourses that are diverted into highway in order to facilitate development or maximise area of development land.
Pipe > 300mm but n/e 600 mm. dia.	43.00	44.50	
Pipe > 600mm but n/e 900 mm. dia.	46.50	48.50	2 Commuted sum calculated as per linear metre of pipe
Pipe > 900mm but n/e 1200mm dia.	50.50	52.50	
DIVERTED CULVERTED WATERCOURSES - LONGITUDENAL EXCEEDING 20m LENGTH			
Pipe less than 300 mm dia.	13.00	13.50	1 Commuted sum applicable to culverted watercourses that are diverted into highway in order to facilitate development or maximise area of development land.
Pipe > 300mm but n/e 600 mm. dia.	15.00	15.50	
Pipe > 600mm but n/e 900 mm. dia.	18.00	18.50	2 Commuted sum calculated as per linear metre of pipe
Pipe > 900mm but n/e 1200mm dia.	22.00	23.00	
CULVERT DEBRIS SCREEN	2922	3010	Per screen
PETROL AND SPILLAGE INTERCEPTORS	2735	2844	Per chamber

Activity Description	Charge 2007/08	Charge 2008/09	Notes
COMMUTED SUMS FOR FUTURE MAINTENANCE – SECTION 38 AGREEMENTS (SHEET 2 OF 2)			
HIGHWAYS STRUCTURES	Site specific calculation		To be calculated by Environment Director (See LCC County Bridges Instruction CBI 4.2)
ROAD LIGHTING (NON-STANDARD BUT ACCEPTABLE MATERIAL SPECIFICATIONS)	Site specific calculation		See LCC Code of Practice on Road Lighting and Highway Electrical Design
ADDITIONAL LIGHTING WHERE MULTIPLE ROAD LIGHTING SYSTEMS NECESSITATED BY NON-ESSENTIAL HIGHWAY INFRASTRUCTURE.	966	1005	Per 8m/10m installation.
	454	472	Per 5m/6m installation
HIGHWAY VERGE (EXCLUDING SERVICE STRIP)	26	27	Per linear metre of 2 metre verge. Varying verge widths calculated pro-rata.
<u>HIGHWAY TREES</u>	188	196	Per tree (but district Councils will normally be expected to maintain trees and landscaping under licence). Sum may be reduced where trees are at sufficient clearance as to warrant low maintenance regime i.e greater than 5 metres from trunk to any structure or paved area.
TRAFFIC MANAGEMENT MEASURES INCLUDING STREET FURNITURE, BOLLARDS ETC.	Site specific calculation		Per site.
ENHANCED PAVING MATERIALS	Site specific calculation		Per site.
OTHER MATTERS NOT SPECIFIED IN TABLE BUT NECESSITATED BY SITE CIRCUMSTANCES	Site specific calculation		Per site

THE COMMON SEAL of THE LANCASHIRE
COUNTY COUNCIL was affixed to this Deed
pursuant to the Scheme of Delegation to Chief
Officers in the presence of:

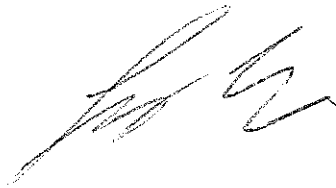


Authorised Signatory

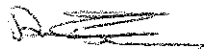
THE COMMON SEAL OF
GREAT PLACES HOUSING ASSOCIATION

was hereunto affixed in the presence of:-

Member



Member/Secretary



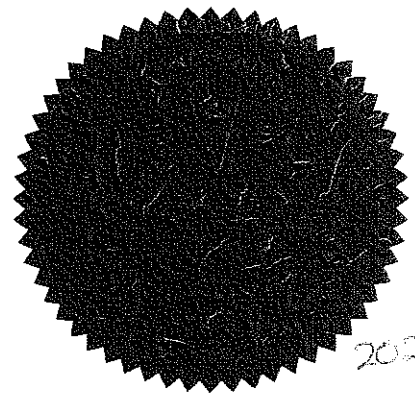
THE COMMON SEAL OF BARDSLEY CONSTRUCTION LIMITED

was hereunto affixed in the presence of:-

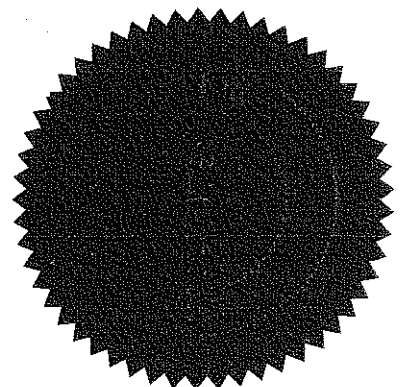
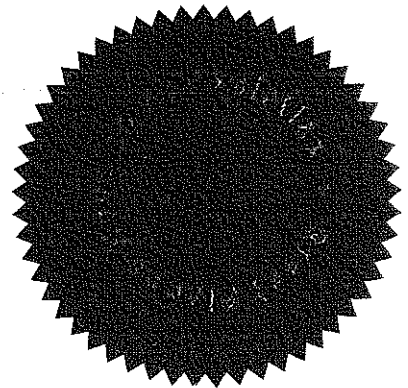
Director



Director/~~Secretary~~



2027



11323

THE COMMON SEAL OF THE RIBBLE VALLEY BOROUGH COUNCIL

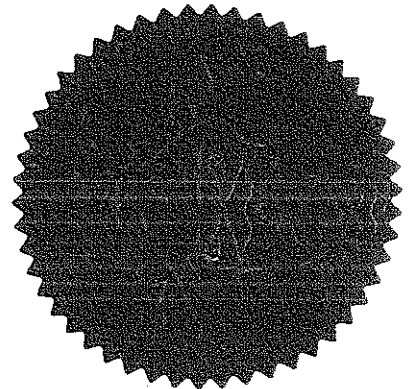
was affixed to this Deed pursuant to the
Scheme of Delegation to Chief Officers in the
presence of:

Seal No. 109:



Mayor

Authorised Signatory

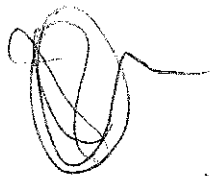


M. H. Sutt Chief Executive

THE COMMON SEAL OF THE NATIONAL HOUSE BUILDING COUNCIL

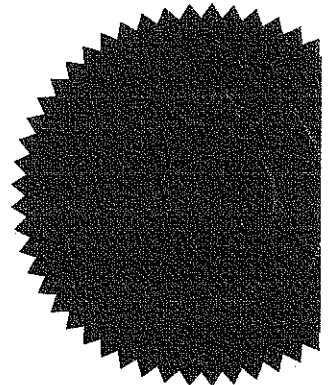
was hereunto affixed in the presence of:-

Director



BARRY RICHARDSON
AUTHORISED SIGNATORY

Director/Secretary



Financial Services Authority

Form K



INDUSTRIAL AND PROVIDENT SOCIETIES ACT 1965

Acknowledgement of Registration of Change of Name

Register No. **19564 R**

The change of the name of **Manchester Methodist Housing Association Limited** to **Great Places Housing Association** is this day registered as an amendment of rules under the Industrial and Provident Societies Act 1965.

Date: **01 November 2009**

The change of name is hereby approved.

A handwritten signature in black ink, appearing to be 'E. B. A.' or similar, written over the name of the Financial Services Authority.

Financial Services Authority

Date: **01 November 2009**

Financial Services Authority
25 The North Colonnade
Canary Wharf
London, E14 5HS

Registered Number 21767R

SPACE NEW LIVING LIMITED

SPECIAL RESOLUTION

That this meeting of shareholders of Space New Living Limited (**Space**) hereby resolves to transfer on 31 October 2009 (or, if later, on the date this resolution is registered by the Financial Services Authority) (the **Transfer Date**) the whole of the stock, property and other assets and all engagements of Space to Manchester Methodist Housing Association Limited (**MMHA**) in consideration of MMHA issuing to each person who is then a shareholder of Space paid up shares equal to the amount standing to the credit of such shareholder in the share ledgers of Space on the Transfer Date save that such shareholders who are also shareholders of MMHA on the Transfer Date shall be issued with 1 pound loan stock of MMHA in lieu of the 1 paid up share referred to if they so request.



Chair



Secretary



INDUSTRIAL AND PROVIDENT SOCIETIES ACT 1965

Acknowledgement of Registration of copy of Special Resolution

Name of Society: **Space New Living Limited**
Register No. **21767 R**

The copy of the special resolution appended hereto is this day registered under
the Industrial and Provident Societies Act 1965

Date: **01 November 2009**

e b. m.

Financial Services Authority
25 The North Colonnade
Canary Wharf
London E14 5HS