

DATED _____ 2019

TOWN AND COUNTRY PLANNING ACT 1990

AGREEMENT

BETWEEN

CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL

- AND -

CHRISTOPHER PATCHETT & MARGARET RICHARDSON

- AND -

CEG LAND PROMOTIONS LIMITED

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SECTION 106 AGREEMENT
Relating to land at Sun Lane and Ilkley Road, Burley
in Wharfedale, Ilkley, West Yorkshire

WALKER MORRIS LLP

Kings Court
12 King Street
LEEDS
LS1 2HL
Tel: 0113 2832500
Fax: 0113 2459412
Ref: CAS/CEG.14-31

THIS AGREEMENT is made the day of Two thousand and nineteen

BETWEEN:

- (1) **CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL** of City Hall, Bradford, West Yorkshire BD1 1HY ("**Council**") of the first part, and
- (2) **CHRISTOPHER PATCHETT** of Greystone Manor Farm, Ilkley Road, Burley-in-Wharfedale LS29 7HW ("**First Owner**") of the second part; and
- (3) **MARGARET RICHARDSON** of 6 Selby Road, Fulford, York YO19 4RD ("**Second Owner**") of the third part; and
- (4) **CEG LAND PROMOTIONS LIMITED** (Maltese Company No. C52803) care of Sluagh Square House, 1 Holbein Place, London SW1W 8NS whose registered office is situated at Suite 1, Level 2, TG Complex, Brewery Street, Mriehel, BKR3000, Malta ("**CEG**") of the fourth part;

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hereinafter called the "**Parties**" and reference to "**Party**" shall be construed accordingly.

1. DEFINITIONS

1.1 In this Agreement the following expressions shall unless the context otherwise requires have the following meaning:

- (a) "**Affordable Dwellings**" means 30% of the Dwellings (or equivalent in the event that a lesser percentage is provided but at a greater discount on Open Market Value) the location of which shall be identified and agreed on the Affordable Housing Scheme as part of a Reserved Matters Approval for a particular Phase and to be offered at the Purchase Price to a Registered Provider and reference to "**Affordable Dwelling**" shall mean any of the Affordable Dwellings;

- (b) **"Affordable Housing"** means housing provided to eligible households whose needs are not met by the market in accordance with the definition in Annex 2 of the National Planning Policy Framework which for the avoidance of doubt may include low-cost homes for first-time buyers;
- (c) **"Affordable Housing Commuted Sum"** means in the event that paragraph 1.6.1 of the First Schedule is applicable a sum equivalent to the difference between the open market value of the Affordable Dwellings (such open market value to be assessed on the basis that the Affordable Dwellings are free of the obligations relating thereto contained in this Agreement) on the date that it is disposed of on the open market and the Purchase Price relating to that Affordable Dwelling or (where the Owner has transferred some but not all of the Affordable Dwellings to a Registered Provider) a pro-rata part of such sum,
- (d) **"Affordable Housing Scheme"** means a scheme to be agreed between the Owner and the Council in writing relating to the delivery of Affordable Dwellings within a Phase on which Affordable Dwellings are to be provided such scheme to include the details referred to in paragraph 1.1 of the First Schedule and any amendment to such scheme shall be agreed in writing by the Council;

- (e) **"Application"** means the outline planning application for the demolition of existing building and outline planning permission (all matters reserved other than points of vehicular access into the site) for residential development (Use Class C3); education facility (Use Class D1); public spaces; landscaping; car/cycle parking; access routes within the site; drainage and other associated works on the Site received by the Council on 27 September 2016 and registered by the Council under reference number 16/07870/MAO;
- (f) **"Bus Operator"** means Keighley Bus Company (under contract to West Yorkshire Combined Authority) or their direct successor or such person or persons who currently or from time to time operate bus services in the administrative district of the Council;
- (g) **"Bus Service"** means the enhancement of public transport provision by the diversion and increased frequency of the existing 962 bus service(s) (or any alternative and / or replacement service) operated by the Bus Operator in order to connect the Development with the Burley-in-Wharfedale centre and Burley-in-Wharfedale rail station to facilitate an increase in the frequency of the service towards a 30 minute frequency service, allowing the introduction of earlier starting times and later finish times to cover the commuting periods and diversion through the Site;

- (h) **"Bus Service Contribution"** means ~~the sum of £375,000.00 (three hundred and seventy five thousand pounds) payable in 5 (five) instalments with an~~ initial payment of £75,000.00 (seventy five thousand pounds) Index Linked and then subsequent payments of £75,000.00 (seventy five thousand pounds) Index Linked per annum to be paid to the Council for a period of four years (for the avoidance of doubt this will involve 5 (five) payments in total) in accordance with the provisions of paragraph 7.3 of the First Schedule and to be used by the Council for procuring with West Yorkshire Combined Authority the Bus Service the need for which is to address impacts arising as a result of the Development;
- (i) **"Call-in"** means the call-in (PINS Reference No. APP/W4705/V/18/3208020) by the Secretary of State in relation to the Application;
- (j) **"CEG"** ~~means CEG Land Promotions Limited (Maltese Company No. C52803) care of Sloop Square House, 1 Holborn Place, London SW1W 8NS whose registered office is situated at Suite 1, Level 2, TG Complex, Brewery Street, Mriehel, BKR1000 Malta~~

(j)(k)	"Commencement of Development"	means the date upon which the Development shall be commenced by the carrying out on the Site (or if applicable a Phase or Phases on the Site) pursuant to the Planning Permission of a material operation specified in Section 56 of the 1990 Act Save That the term " <i>material operation</i> " shall not include operations in connection with any work of or associated with demolition site clearance remediation works environmental investigation archaeological investigation site and soil surveys erection of contractors work compound erection of site office erection of any temporary means of enclosure the temporary display of site notices or advertisements and reference to " Commencement Date " shall be construed accordingly;
(l)	"Commencement Notice"	means a notice to be served by the Owner on the Council in accordance with paragraph 1.4 of the First Schedule 28 (twenty eight) days prior to the commencement of construction of any Dwellings;
(m)	"Decision Letter"	means the letter issued by the Secretary of State determining the Call-in;
(n)	"Development"	means the development of the Site in accordance with the Planning Permission;
(o)	"Dwellings"	means residential units that may be built on the Site as part of the Development and reference to " Dwelling " shall mean any of the Dwellings;

(ep)	"Education Purposes"	means school education that encompasses both the teaching and learning of knowledge, proper conduct, and technical competency through instruction, teaching and training by professional teachers together with associated playing fields that may be provided on the School Land,
(pe)	"Homes England"	means Homes England or any bodies undertaking the existing functions of Homes England within the meaning of Part I of the Housing and Regeneration Act 2008 (or as redefined by any amendment, replacement or re-enactment of such Act);
(qe)	"Ghost Island Works"	means the ghost island right turn lane access into the Site from the A65 as shown indicatively on Drawing No. 13-215-TR-009A appended hereto at Appendix 1;
(is)	"Index"	means the Retail Price Index (All Items) published only by or on behalf of H M Government including any other index (or document to the same effect) which replaces that index;
(st)	"Internal Estate Road"	means the internal estate road to be provided within the Development in the approximate location shown for indicative purposes only between the points marked 'A' and 'B' on Plan 4 in accordance with the Planning Permission and Reserved Matters Approval;

(th) **"Inspector"** means an inspector appointed by the Secretary of State to determine the Call-in pursuant to Schedule 6 of the 1990 Act;

(uw) **"National Planning Policy Framework"** means the National Planning Policy Framework published by ~~the Department for~~ The Ministry of Housing, Communities and Local Government in ~~July 2018~~ February 2018 (or any future guidance or initiative that replaces or supplements it);

(vw) **"Occupation" and "Occupy" and "Occupied"** means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations;

(wx) **"Off-Site A65 Bradford Road Traffic Signal Improvements Contribution"** means the sum of £65,000.00 (sixty five thousand pounds) Index Linked to be paid to the Council by the Owner and applied by the Council towards TR2500 controller non-physical specification software improvements to the traffic signals at the A65 Bradford Road/Buckle Lane/Bingley Road junction to improve traffic capacity the need for which is to address impacts arising as a result of the Development;

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(x3)	"Off-Site A65 Coutances Way/B6382 Wheatley Lane/A65 Leeds Road Junction Improvements Contribution"	means the sum of £40,000.00 (forty thousand pounds) Index Linked to be paid to the Council by the Owner and applied by the Council towards the installation of a Microprocessor Optimised Vehicle Actuation (MOVA) control at the A65 Coutances Way/B6382 Wheatley Lane junction to improve traffic capacity the need for which is to address impacts arising as a result of the Development;
(yz)	"Off-Site Buckle Lane Junction Improvements Contribution"	means the sum of £320,000.00 (three hundred and twenty thousand pounds) Index Linked to be paid to the Council by the Owner and applied by the Council towards improvements relating to widening on the Bingley Road eastbound approach and associated amendments to carriageway markings at the A65 Bradford Road/Buckle Lane/Bingley Road junction to improve traffic capacity as shown indicatively on Drawing No. 13-215-TR-024 appended hereto at Appendix 2 the need for which is to address impacts arising as a result of the Development;
(zaa)	"Off-Site Main Street Parking Study/Review Contribution"	means the sum of £15,000.00 (fifteen thousand pounds) Index Linked to be paid to the Council by the Owner and applied by the Council towards reviewing waiting restrictions, loading restrictions and the potential for a 20mph speed restriction along Main Street, Burley-in-Wharfedale to improve road safety and pedestrian amenity the need for which is to address impacts arising as a result of the Development;

(aabb)	"Off-Site Manor Park Safety Improvement Measures Contribution"	means the sum of £25,000.00 (twenty five thousand pounds) Index Linked to be paid to the Council by the Owner and applied by the Council towards vehicle-activated signs and traffic islands on Manor Park bends to improve road safety the need for which is to address impacts arising as a result of the Development;
(bbcc)	"Off-Site Sun Lane/Hall Drive/Southfield Road Improvements Contribution"	means the sum of £55,000.00 (fifty five thousand pounds) Index Linked to be paid to the Council by the Owner and applied by the Council towards traffic calming and footway improvements along Sun Lane/Hall Drive/Southfield Road to provide permanent improvements to pedestrian access to the Site the need for which is to address impacts arising as a result of the Development;
(ccdd)	"Off-Site Highway Works Contributions"	means collectively the Off-Site A65 Bradford Road Traffic Signal Improvements Contribution, the Off-Site A65 Couthances Way/B6382 Wheatley Lane/A65 Leeds Road Junction Improvements Contribution, the Off-Site Main Street Parking Study/Review Contribution, the Off-Site Manor Park Safety Improvement Measures Contribution, the Off-Site Sun Lane/Hall Drive/Southfield Road Improvements Contribution and the Off-Site Buckle Lane Junction Improvements Contribution;
(ddee)	"Offer"	has the meaning given in paragraph 2.3 of the First Schedule;
(eeff)	"Offer Period"	has the meaning given in paragraph 1.1.5 of the First Schedule;

(11ggg)	"Open Market Dwellings"	means the dwellings to be constructed on the Site pursuant to the Planning Permission excluding the Affordable Dwellings and reference to " Open Market Dwelling " shall mean any of the Open Market Dwellings;
(ggghh)	"Owner"	means collectively the First Owner and the Second Owner;
(hhhhh)	"Pedestrian Link"	means the pedestrian route from the Site to Sun Lane the approximate location of which is as shown on Drawing No. 301 Rev P ('Proposed Parameters Plan') appended hereto at Appendix 3;
(iiiii)	"Phase"	means a phase of the Development detailed in any phasing plan or masterplan approved by the Council as part of the Planning Permission and / or Reserved Matters Approval(s) and reference to " Phases " shall be construed accordingly;
(jjjjj)	"Plan 1"	means the plan appended hereto at Appendix 4 and marked "Plan 1" indicatively identifying the extent of the Site edged red;
(kkkkk)	"Plan 2"	means the plan appended hereto at Appendix 5 and marked "Plan 2" indicatively identifying the South Pennine Moors Phase 2 SPA / South Pennine Moor;
(lllll)	"Plan 3"	means the plan appended hereto at Appendix 6 and marked "Plan 3" indicatively identifying the Sun Lane LNR;

(mm#)	"Plan 4"	means the plan appended hereto at Appendix 7 and marked "Plan 4" identifying the indicative route of the Internal Estate Road;
(nn#)	"Planning Obligations"	means the obligations, conditions and stipulations set out in the First Schedule and "Planning Obligation" shall be construed accordingly;
(opp)	"Planning Obligations Monitoring Officer"	means the Officer employed by the Council who is designated from time to time with the monitoring functions in relation to planning obligations under Section 106 of the 1990 Act;
(pp#)	"Planning Permission"	means a planning permission which may be granted by the Secretary of State pursuant to the Application and the Call-in;
(qq#)	"Practical Completion"	means the stage when a Dwelling has been constructed and fitted out and is ready for Occupation;

(155)	"Primary School Delivery Partnership"	means a partnership to be set up in accordance with the provisions of paragraph 4 of the First Schedule consisting of representatives from the Council and CEG, together with such other body or bodies as may be appointed by the Council and CEG, with any amendment to the membership (other than the addition of co-opted members from the community which shall be within the discretion of the partnership) to be agreed with the Council and CEG from time to time. Such partnership will meet quarterly (or as otherwise agreed by the parties in accordance paragraph 4.2.7 of the First Schedule) and its terms of reference shall be limited to seeking to facilitate the delivery of the School on the School Land,
(156)	"Purchase Price"	means the price to be agreed between the Owner and the Registered Provider at which the Affordable Dwellings will be transferred by the Owner to a Registered Provider;
(157)	"Registered Provider"	means a Registered Provider as defined in part 1 of the Housing Act 1996 (or as redefined by any amendment, replacement or re-enactment of such Act) who is registered with Homes England pursuant to section 3 of that Act and has not been removed from the register pursuant to Section 4 of that Act or any company or other body approved by Homes England for receipt of social housing grant;

(uuuu)	"Reserved Matters Approval(s)"	means approval by the Council of one or more matters reserved for approval by and under the Planning Permission;
(vvvv)	"Retained Land"	means all parts of the Land other than the School Land;
(wwww)	"School"	means up to a two-form entry primary school which in the opinion of the Council in its capacity as local education authority is necessary to meet the anticipated current and / or future demand for primary school places within the Council's administrative area;
(xxxx)	"School Land"	means up to 1.78 hectares of land the approximate location of which is indicatively shown shaded blue on Drawing No. 301 Rev P ('Proposed Parameters Plan') appended hereto at Appendix 3;
(yyyy)	"Secretary of State"	means the Secretary of State for The Ministry of Housing, Communities and Local Government or any substitute or any Inspector appointed by him;
(zzzz)	"Site"	means all that piece or parcel of land situated at Sun Lane and Ilkley Road, Burley-in-Wharfedale, Ilkley, West Yorkshire shown edged in red for identification purposes only on Plan 1;

- (a) **"South Pennine Moors Phase 2 SPA / South Pennine Moors SAC Contribution"** means the sum of £18,000.00 (eighteen thousand pounds) Index Linked to be paid to the Council by the Owner and applied by the Council towards procuring recreational access management measures and / or habitat management and monitoring measures on the South Pennine Moors SPA / SAC as shown indicatively on Plan 2 the need for which is to address impacts arising as a result of the Development;
- (b) **"Substantial Completion"** means the stage when the Internal Estate Road or the Temporary Turning Head Facility has been constructed and is open to vehicular traffic and reference to **"Substantially Completed"** shall be construed accordingly;
- (c) **"Sun Lane LNR"** means the Sun Lane Local Nature Reserve being an area of land of approximately 4.8ha that is adjacent to and to the south of the Site, ~~as~~ shown ~~edged labelled red~~ on Plan 3;
- (d) **"Sun Lane LNR Contribution"** means the sum of £25,000.00 (twenty five thousand pounds) Index Linked to be paid to the Council by the Owner and applied by the Council towards procuring the Sun Lane LNR Improvements the need for which is to address impacts arising as a result of the Development;

(ccc#4) **"Sun Lane LNR
Improvements"**

1. Improvements to visitor infrastructure (benches, stiles, fences and bridge);
2. Replacement of wooden bird boxes as current ones reach the end of their lifespan with 'woodcrete' boxes;
3. Installation of bat boxes (four season);
4. Routine management of the site (mowing and hedge trimming, scrub clearance, woodland management, new planting, etc);
5. Control of weeds such as thistles and ragwort,
6. Installation of an appropriately surfaced footpath to reduced trampling and confine access in more sensitive areas;
7. Monitoring of visitor numbers to inform future management;
8. Monitoring of the condition of habitats and biodiversity and the sources of management;
9. Placing dog restrictions (and restrictions on any other activities, such as mountain biking) within some zones of the Sun Lane LNR where there is a particular ecological interest;
10. Monitoring of litter and placing a dual-purpose bin at the entrance of the site;
11. Provision of open days for the public;

(iii) "Surveyor"

means an independent chartered surveyor of no less than 10 (ten) years post qualification experience unconnected to any of the parties hereto and experienced in residential development matters who shall be agreed between the parties to the dispute or appointed on the application of any party to the dispute made at any time by the President of the Royal Institution of Chartered Surveyors or his duly appointed deputy;

(iii) "Temporary Turning Head Facility"

means if paragraph 7.1 of the First Schedule is applicable a cul-de-sac turning head facility to be constructed within the Site from either Main Street or the A65 to allow buses to operate and turn around within the Site;

(iii) "Temporary Turning Head Facility Scheme"

has the meaning given in paragraph 7.1 of the First Schedule;

(iii) "Transfer"

means in relation to the School Land (as the context requires) a transfer of the freehold interest and "Transferred" shall be construed accordingly);

(iii) "Utilities"

means gas water electricity telephone foul drainage surface water drainage (excluding surface water attenuation) and service media;

(iii) "West Yorkshire Combined Authority"

means West Yorkshire Combined Authority of Wellington House, 40-50 Wellington St, Leeds LS1 2DE;

(b) "Working Day" means any day except Saturdays Sundays or bank holidays or public holidays and reference to "Working Days" shall be construed accordingly;

(c) "1990 Act" means the Town and Country Planning Act 1990 (as amended) (or as redefined by any amendment, replacement or re-enactment of such Acts).

- 1.2 Words importing the singular number only include the plural and vice versa and words importing the masculine gender only include the feminine gender and extend to include a corporation sole or aggregate.
- 1.3 Any reference to a statute or provision thereof or a statutory instrument or code of practice shall include any modification extension or enactment thereof for the time being in force.
- 1.4 Clause headings are for reference only and shall not affect the construction of this Agreement.
- 1.5 Where more than one person is included in the expressions "the Council" and "the Owner" agreements and obligations expressed to be made or assumed by such party are made or assumed and are to be construed as made or assumed by all such persons jointly and each of them severally.
- 1.6 Any covenant by the Owner not to do any act or thing shall be deemed to include a covenant not to cause permit or suffer the doing of that act or thing; and any covenants expressed to be given by the Owner shall impose a joint and several liability.
- 1.7 Covenants and obligations made or assumed by any Party shall be binding and enforceable against his her or its successors in title heirs and assigns.
- 1.8 A reference to an Act of Parliament refers to the Act as it applies at the date of this Agreement and any later amendment or re-enactment of it and any regulations or statutory instrument made under it.
- 1.9 A reference to a clause or paragraph or schedule is a reference to a clause or paragraph or schedule contained in this Agreement.

2. WHEREAS

2.1 The Council is the Local Planning Authority for the purposes of the 1990 Act for the Site for the area within which the Site is situated.

2.2 The First Owner is the owner of the Site registered at HM Land Registry under freehold Title Number WYK678545 (which title also includes land that is not the subject of the Application).

2.3 The Second Owner is the owner of the Site registered at HM Land Registry under freehold Title Number YY17635.

2.4 CEG have entered into the promotion agreement dated 23 December 2013 with the Owners, in relation to the Site, and have entered into this Agreement in order to comply with its obligations in paragraph 4 of the First Schedule.

2.5 The Council is satisfied that the proper implementation of this Agreement will be of benefit to the public and the parties are satisfied that this Agreement is compatible with the requirements of Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended).

2.6 On 14th May 2018 the Council's Planning Committee resolved to grant conditional planning consent for the Development subject to referring the Application to the Secretary of State pursuant to the Town and Country Planning (Consultation) (England) Direction 2009 and to the completion of this Agreement and conditions.

2.7 By letter dated 25 July 2018 the Council and CEG were notified that the Secretary of State had decided to Call-in the Application.

2.8 This Agreement is a planning obligation for the purposes of Section 106 of the 1990 Act.

3. NOW THIS DEED WITNESSETH AS FOLLOWS:

3.1 This Agreement is made in pursuance of Section 106 of the 1990 Act and all other enabling powers with the intent that it is enforceable by the Council against the Owner and successors in title and assigns of the Owner to the Site.

3.2 This Agreement is conditional upon and shall only take effect upon the following conditions

precedent being satisfied:

3.2.1 The grant of the Planning Permission by the Secretary of State pursuant to the Application and the Call-in; and

3.2.2 Except where expressly stated otherwise in this Agreement, the Commencement of Development,

3.3 Subject to clause 3.2 the Owner covenants with the Council to observe and perform the covenants and provisions in this Agreement and the First Schedule.

3.5 The Council covenants with the Owner to observe and perform the covenants and provisions in this Agreement and in the Second Schedule and where applicable in the First Schedule.

3.6 CEG covenant and agree with the Council and the Owners to observe and perform the covenants and provisions in paragraph 4 of the First Schedule.

3.7 The Owner covenants with the Council to pay to the Council the sum of £2,100.00 (two thousand one hundred pounds) within 28 (twenty eight) days of the date of this Agreement (or if later the receipt of an invoice for the same from the Council) in respect of the monitoring by the Planning Obligations Monitoring Officer of compliance with the terms of this Agreement **PROVIDED THAT** in the event that the Planning Permission is quashed before the Commencement of Development (but not otherwise) then the Council shall repay to the Owner the monitoring sum of £2,100.00 (two thousand one hundred pounds) within 28 (twenty eight) days of the Agreement ceasing to have effect.

3.87 The Owner shall by no later than the date of completion of this Agreement pay to the Council its full legal and administrative costs of entering into this Agreement in the sum of £1,488.00 (fourteen hundred and eighty eight pounds).

3.98 If the Secretary of State in his Decision Letter concludes that any of the Planning Obligations (or part thereof) are incompatible with any one of the tests for planning obligations set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and accordingly expressly states in his Decision Letter that he attaches no weight to that Planning Obligation (or part thereof) in determining the Call-in then the relevant Planning Obligation(s)

(or relevant part thereof, as appropriate) shall from the date of the Decision Letter immediately cease to have effect and the Owner shall be under no obligation to comply with that Planning Obligation (or the relevant part thereof, as appropriate) but the remaining Planning Obligations shall remain in full force and effect.

3.109 If the Secretary of State in his Decision Letter concludes that any of the Planning Obligations set out in the Agreement (or part thereof) are incompatible with Regulation 123 of the Community Infrastructure Levy Regulations 2010 (as amended) and expressly states in his Decision Letter that he attaches no weight to that Planning Obligation (or part thereof) in determining the Call-in then the relevant Planning Obligation(s) (or relevant part thereof, as appropriate) shall from the date of the Decision Letter immediately cease to have effect and the Owner shall be under no obligation to comply with that Planning Obligation (or the relevant part thereof, as appropriate) but the remaining Planning Obligations shall remain in full force and effect.

4. GENERAL

4.1 In this Agreement the expressions "the Council" shall include any successor to the Council as local planning authority and "the Owner" shall where the context so admits be deemed to include their respective successors in title to and assigns of the Site **PROVIDED THAT** it is agreed that each planning obligation contained in the First Schedule and the Second Schedule shall bind only in respect of the land forming the parcel of land of each relevant Phase (to the extent that it is solely material to that Phase and no other part of the Site) such that the planning obligations shall not be enforceable against the owners (including for the avoidance of doubt their respective successors assignees and other interests for the purposes of Section 106 of the 1990 Act) of one Phase in the event of the default or breach of a planning obligation(s) by an owner (including for the avoidance of doubt their respective successors assignees and other interests for the purposes of Section 106 of the 1990 Act) of a separate Phase.

4.2 No Party shall be bound by the terms of this Agreement or be liable for the breach of any covenants restrictions or obligations contained in this Agreement:

4.2.1 occurring after he or it has parted with his or its interest in the Site or part of the Site in respect of which such breach occurs (but without prejudice to liability for any subsisting

breach of covenant prior to parting with such interest); or

4.2.2 if he shall be an owner occupier or tenant of any of the Dwellings or a purchaser of an individual Dwelling; or

4.2.3 if he or it shall be the purchaser or lessee of sites for statutory infrastructure purposes in relation to the Development.

4.3 If the terms of any conveyance transfer or other disposal (including any contract thereof) cannot be agreed by the Owner and the Council and / or any dispute, disagreement or difference arises between the Parties as to their respective rights duties or obligations under this Agreement or as to the failure of the Council to give or confirm its consent agreement or approval where required under this Agreement or as to any other matter or thing arising out of or connected with the subject matter of this Agreement or any failure to agree upon any matter it shall be dealt with as follows:

4.3.1 in the case of any design requirement or matter regarding the Affordable Dwellings including the identification or other acceptance of any Registered Provider as provided for in paragraph 1.6 of the First Schedule the same shall be referred to an independent chartered surveyor of at least fifteen years standing who shall be nominated in default of agreement between the Owner and the Council by the President for the time being of the Royal Institution of Chartered Surveyors or his deputy to be decided as provided below;

4.3.2 in the case of any legal requirements regarding the documentation or rights for the Affordable Dwellings or how the Bus Service Contribution and if applicable the Affordable Housing Commuted Sum payable under this Agreement are to be spent the same shall be referred to an independent solicitor experienced mediator or arbitrator of at least fifteen years standing who shall be appointed in default of agreement between the Owner and the Council by the President of the Law Society or his deputy to be decided as provided below;

4.3.3 in the case of any matter relating to the Off-Site Highway Works Contributions the same shall be referred to a highway and transportation engineer of at least fifteen years standing who shall be nominated in default of agreement between the Owner and the Council by the

President for the time being of The Chartered Institution of Highways & Transportation or his / her deputy to be decided as provided below;

4.3.4 in the case of how the South Pennine Moors Phase 2 SPA / South Pennine Moors SAC Contribution and the Sun Lane LNR Contribution payable under this Agreement are to be spent the same shall be referred to an independent third party acting as arbitrator who shall either individually or through a company of which he/she is a director or employee be a Member of the British Association of Landscape Industries of at least fifteen years standing who shall be nominated in default of agreement between the Owner and the Council by the President for the time being of the British Association of Landscape Industries or his / her deputy to be decided as provided below;

4.3.5 any matter referred to an independent chartered surveyor or independent solicitor or a highway and transportation engineer or director or employee of the Member of the British Association of Landscape Industries in accordance with the foregoing provisions shall be decided by such person as an expert not as an arbitrator and such independent person (“**Expert**”) shall consider the written submissions of the Parties and his determination shall be made in writing and in each case be final and binding on such Parties and the costs of such determination shall be paid as the expert shall direct.

4.4 Any notice or other written communication to be served or given by one Party upon or to any other or any payment by the Owner to the Council under the terms of this Agreement shall be deemed to be validly served or given if received by facsimile (but not in the case of payment) delivered by hand or sent by recorded delivery post to the Party upon whom it is to be served or to whom it is to be given or as otherwise notified for the purpose by notice in writing provided that the notice or other written communication is marked as follows to each recipient:

4.4.1 for the First Owner it shall be marked for the attention of Christopher Patchett at the address set out above or such other contact person whose details may be notified by the Owner to the Council in writing from time to time bearing the reference “Ilkley Road – Reference No.: 16/07870/MAO”;

4.4.2 for the Second Owner it shall be marked for the attention of Margaret Richardson at the address set out above or such other contact person whose details may be notified by the

Owner to the Council in writing from time to time bearing the reference "Ilkley Road – Reference No.: 16/07870/MAO";

4.4.3 for the Council it should be marked for the attention of John Eyles, Major Development Manager at Planning Service, 4th Floor, Britannia House Bradford BD1 1HX or email john.eyles@bradford.gov.uk or such other contact person whose details may be notified by the Council to the Owner in writing from time to time bearing the reference: 16/07870/MAO.

4.5 Unless otherwise specified where any agreement certificate consent permission expression of satisfaction or other approval is to be given by any Party or any person on behalf of any Party hereto under this Agreement the same shall not be unreasonably withheld or delayed and may only be given in writing but not by email unless the use of email for the purpose concerned has been specifically agreed in writing between the Parties concerned and may be validly obtained only prior to the act or event to which it applies and the Party giving such agreement to the consent permission expression or satisfaction or other approval shall at all times act reasonably and where only payment of costs or other payments are to be made by the Owner to the Council such costs and other payments shall be deemed to be reasonable and proper.

4.6 The Owner and the Council hereby make application to the appropriate Registrar of Local Land Charges for registration of this Agreement pursuant to the provisions of the Local Land Charges Act 1975.

4.7 It is further hereby agreed and declared that nothing in this Agreement shall fetter or restrict the discretion of the Council in the exercise of its powers under any statutory enactment or other enabling power for the time being in force.

4.8 This Agreement does not nor is intended to confer a benefit on a third party within the meaning of the Contracts (Rights of Third Parties) Act 1999.

4.9 This Agreement shall have effect as from the date specified in clause 3.2 until discharged but (subject to the provisions of clause 3.7 and (subject to the proviso thereto) clause 3.6) shall cease to have effect if the Planning Permission shall be quashed lapse or expire or be revoked

or modified without the consent of the Owner or for any reason cease to have effect before the Commencement of Development.

- 4.10 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than one relating to the Development as specified in the Application) granted (whether or not on appeal) after the date of the Agreement.
- 4.11 Except where otherwise stated in this Agreement the amount of any contribution or other sum to be paid to the Council under any provision or obligation in this Agreement shall be increased (but not decreased) by any change in the Index between the date of this Agreement and the date on which such contribution or other sum is paid to the Council and any such increased sum will become due and be paid under the terms of this Agreement as if such increased sum shall have been included or referred to in this Agreement.
- 4.12 While the Second Owner acts in the capacity of trustees no individual trustee is to be personally liable for any breach of their obligations under this Agreement except to the extent of the value of the trust fund or estate held by them at the time they receive written notice of any claim.
- 4.13 A reference in this Agreement to the Site shall include any part of it.
- 4.14 If for any reason any clause or clauses (or for the purposes of Schedules paragraph or paragraphs) or any parts of the same in this Agreement shall be found to be illegal invalid or otherwise unenforceable this shall not affect the legality validity or enforceability of the remainder of the Agreement.

FIRST SCHEDULE

(Owner's Planning Obligations / Covenants)

The Owner covenants with the Council as follows:

1. AFFORDABLE HOUSING

1.1 Not to allow or permit the Commencement of Development of a Phase of the Development on which Affordable Dwellings are to be provided until the Owner has submitted to the Council and the Council has approved an Affordable Housing Scheme relating to the Affordable Dwellings to be provided in that Phase such scheme to provide details of the following:

- 1.1.1 the location of the Affordable Dwellings on a Phase by reference to a plan
PROVIDED THAT it is agreed that less than 30% of the Dwellings (or equivalent) on a Phase may be provided as Affordable Dwellings provided that 30% of the total number of Dwelling (or equivalent) are provided as Affordable Dwellings across the Development as a whole;
- 1.1.2 the house types, mix and specification of each Affordable Dwelling;
- 1.1.3 the tenure of the Affordable Dwellings in accordance with Annex 2 of the National Planning Policy Framework;
- 1.1.4 the layout of each Affordable Dwelling by reference to tenure and including the number of habitable rooms proposed for each Affordable Dwelling, together with the gross internal floorspace of each of the Affordable Dwellings;
- 1.1.5 how the Affordable Dwellings will be marketed (including details relating to the length of time the Affordable Dwellings will be marketed to a Registered Provider ("Offer Period")) and transferred to a Registered Provider(s) for subsequent allocation in accordance with paragraph 1.7 of this Schedule;
- 1.1.6 the build sequence and implementation programme relating to the linkages between the Occupation of the Open Market Dwellings and the delivery of the Affordable

Dwellings to be provided on the Site or within Phase as the case may be; and

1.1.7 how the Owner will ensure that the Affordable Dwellings will remain as Affordable Housing in perpetuity for any future owners, occupiers or tenants.

1.2 Within 30 (thirty) Working Days (or within such other time period that the Council may reasonably require and which may be agreed in writing between the Owner and the Council within the initial 30 (thirty) Working Day period) of the Council receiving from the Owner an Affordable Housing Scheme the Council will notify the Owner in writing of its approval to the Affordable Housing Scheme proposed by the Owner or will acting reasonably provide in writing its proposed amendments to the Affordable Housing Scheme pursuant to which the Owner acting reasonably shall submit an Affordable Housing Scheme incorporating those amendments as are reasonable and accepted **PROVIDED THAT** if the Council does not notify the Owner of its approval or proposed amendments to the Affordable Housing Scheme within 30 (thirty) Working Days (or such other period of time that may be agreed) it shall be deemed that the Council has approved the Affordable Housing Scheme submitted by the Owner **AND FURTHER PROVIDED THAT** if agreement cannot be reached between the Council and the Owner within 40 (forty) Working Days of the date of the submission of the Affordable Housing Scheme to the Council (or such other period of time that may be agreed) then the provisions of Clause 4.3 of this Agreement relating to expert determination can be invoked by any Party in relation to only those matters that are in dispute and in the event that the provisions of Clause 4.3 are invoked by any Party in relation to an Affordable Housing Scheme for a particular Phase it is agreed that the Owner will not be prevented from submitting an Affordable Housing Scheme in relation to a different Phase whilst the Affordable Housing Scheme for the Phase in dispute awaits final determination.

1.3 Upon receipt of the Council's approval or deemed approval to an Affordable Housing Scheme pursuant to paragraph 1.2 of this Schedule (or upon receipt of expert determination in relation to the Affordable Housing Scheme if applicable) to construct the Affordable Dwellings in accordance with the Planning Permission, Reserved Matters Approval(s), approved plans and to provide the Affordable Dwellings in accordance with the approved Affordable Housing Scheme and to specifications to be agreed between the Owner and the Registered Provider and with the benefit of a recognised new build insurance or guarantee certificate compliant with the Council

of Mortgage Lenders handbook current at the time of the Commencement Date which shall be offered to a Registered Provider upon transfer to a Registered Provider of the Affordable Dwellings **PROVIDED THAT** it is agreed that the external specifications of the Affordable Dwellings will be the same specification as an equivalent Open Market Dwelling and the internal specifications of the Affordable Dwellings are to be agreed between the Owner and the Registered Provider and to deliver those Affordable Dwellings in accordance with the provisions of this Agreement.

1.4 To serve on the Council a Commencement Notice 28 (twenty eight) days prior to the Commencement of Development of a Phase.

1.5 If at the expiration of the Offer Period referred to in an approved Affordable Housing Scheme it has not been possible to transfer some or all of the Affordable Dwellings on that Phase to the Registered Provider the Owner shall notify the Council forthwith and shall provide written evidence of such non acceptance of an offer or refusal to proceed to exchange contracts and obtain the Council's acknowledgement of receipt of such evidence.

1.6 Where the Council (which shall respond without unreasonable delay to such notification and in any event will respond within one month of the receipt of the evidence after which it shall be deemed to have acknowledged and accepted such evidence) is reasonably satisfied that the Owner has taken all reasonable steps to transfer the Affordable Dwellings to the said Registered Provider in accordance with the approved Affordable Housing Scheme then it shall notify the Owner accordingly and the Owner shall:

1.6.1 following receipt of such notification from the Council (and in any event prior to the sale of each of the Affordable Dwellings) pay to the Council the Affordable Housing Commuted Sum such sum to be applied by the Council towards the provision of Affordable Housing in the locality of the Site in accordance with the following provisions:

- (a) during the first year following the receipt of any such sum(s) the provision of such housing in the Parish of Burley-in-Wharfedale electoral ward of the Council, and

- (b) in the three years after the end of the first year period referred to in sub-paragraph 1.6.1(a) of this Schedule the provision of such housing ~~in the~~ during the first two years following the receipt of any such sum(s) the provision of such housing in the Wharfedale electoral ward and adjoining wards of the Council;

- 1.6.2 Following the payment of such sum be entitled to sell the Affordable Dwellings on the open market free from the restrictions contained in this Schedule.

Occupation and General Provisions

- 1.7 Save with the consent in writing of the Council each of the Affordable Dwellings shall be Occupied in the following manner:

- 1.7.1 first priority to persons who for the 12 (twelve) months immediately prior to their Occupation of the Affordable Dwelling have been living or working within the Parish of Burley-in-Wharfedale or any successors or amendments to that parish and that persons parent, grandparent, partner, child or grandchild;
- 1.7.2 second priority to persons who for the 12 (twelve) months immediately prior to their Occupation of the Affordable Dwelling have been living or working within the electoral ward of Wharfedale or any successors or amendments to that ward and that persons parent, grandparent, partner, child or grandchild;
- 1.7.3 in allowing the Affordable Dwellings to be Occupied in accordance with this First Schedule the Registered Provider shall use its reasonable endeavours to use the "Open Moves" choice based lettings system (or any successor scheme with like or similar aims) of the Council in at least 50% of initial and subsequent occupations;
- 1.7.4 the Council shall be entitled to enquire from time to time of the Registered Provider letting/selling the Affordable Dwellings as to the identities of occupiers of an Affordable Dwelling and the steps the Registered Provider has taken to ensure the Affordable Dwelling is Occupied in accordance with this Agreement and the Registered Provider shall provide all information it has to the Council in response to

such enquiries **PROVIDED THAT** this First Schedule shall not be binding upon:

- (a) any mortgagee or chargee of any Registered Provider who acquires the Affordable Dwellings or its successors in title exercising its power of sale who shall be free to sell free from this First Schedule or any receiver appointed by any such mortgagee or charge or purchaser from them; or
- (b) any purchaser or occupier (or person claiming title from such person) of any of the Affordable Dwellings in the event of such person having acquired or having an interest in 100% of the equity in any of the Affordable Dwellings whether acquired pursuant to the rights granted by the lease of the Affordable Dwellings or pursuant to the provisions of the Housing Act 1985 or the Housing Act 1996 (or any legislation amending or replacing the same with like or similar effect) or under any future equivalent legislation conferring such a right which is binding on any Registered Provider or any mortgagee charge or receiver of such of Affordable Dwellings.

Affordable Dwelling – Car Parking Spaces

- 1.8 The Owner shall provide a vehicle parking space or spaces for use by the occupants of the Affordable Dwelling in accordance with the Planning Permission, Reserved Matters Approval(s) and approved plans **PROVIDED THAT** it is agreed that the parking spaces will be offered at no further consideration aside from the agreed Purchase Price.

2. EDUCATION

- 2.1 Subject to the provisions of the proviso to paragraph 2.3.5 of this Schedule, to safeguard and retain as an undeveloped site the School Land for the School from the Commencement of Development until a period of 10 (ten) years has elapsed following the date of the Offer referred to in paragraph 2.3 of this Schedule.

- 2.2 It is agreed that the precise boundaries of the School Land shall be identified in accordance with the following provisions:

2.2.1 The First Owner shall as part of or before any application for a Reserved Matters Approval (or within such other period of time that may be agreed in writing between the First Owner and the Council) submit to the Council a plan identifying the First Owner's proposed precise location of the School Land.

2.2.2 If agreement cannot be reached between the Council and the First Owner within 30 (thirty) Working Days of the date of the submission of the Owner's proposed precise location of the School Land to the Council (or such other period of time that may be agreed in writing between the First Owner and the Council) then the suitability of the First Owner's proposed location of the School Land may be referred by either the Owner or the Council to a Surveyor who shall determine the suitability of the First Owner's proposed location or such alternative location within the School Land as may be proposed by the Council or by the Surveyor at his discretion.

2.2.3 In determining the suitability of the First Owner's proposed precise location of the School Land (or such alternative location as the Surveyor may decide) a Surveyor appointed pursuant to paragraph 2.2.2 of this Schedule shall have regard to:

- (a) the need for the School Land to accommodate both buildings and land (including reasonable playing fields and car parking) as part of the School;
- (b) any relevant planning and / or design considerations;
- (c) any relevant engineering and / or construction considerations;
- (d) any relevant financial considerations;
- (e) any other considerations relevant to the use of the School Land as an educational facility for Education Purposes, and
- (f) any representations made by the First Owner and / or the Council;

insofar as such considerations relate to the comparative suitability of the precise location of the School Land proposed in accordance with paragraphs 2.2.1 and 2.2.2 of this Schedule.

2.2.4 Upon receipt of the Council's approval or Surveyor's determination of the precise location of the School Land such location shall only be varied as may be agreed in writing between the First Owner and the Council (at each party's absolute discretion).

2.3 Not to Occupy more than 1 (one) Dwelling (or such other number of Dwellings that may first be agreed in writing by the Council) until the First Owner has offered ("Offer") to contract to Transfer its interest in the School Land to the Council for £1.00 (one pound) on the terms referred to in paragraph 2.3.5 of this Schedule. It is agreed that:

2.3.1 the Offer will remain open for acceptance for a period of 10 (ten) years from the date of the Offer (or such longer period that may be agreed in writing between the First Owner and the County Council), and

2.3.2 in the event that the Offer is accepted by the Council the First Owner shall permit the Council full and unrestricted access to the School Land including for all officers, contractors, plant, machinery and materials from the date of acceptance of Offer by the Council (and prior to acceptance if first agreed in writing between the First Owner and the Council) until the School has been constructed and completed to the satisfaction of the Council; and

2.3.3 the First Owner shall within 3 (three) months of the date of acceptance of an Offer by the Council in relation to the School Land Transfer the freehold of the School Land to the Council **PROVIDED THAT** it is agreed that at the time of Transfer the School Land will be with vacant possession **AND FURTHER PROVIDED THAT** it is agreed that the First Owner will be entitled to use an area on the School Land on a temporary basis for purposes connected with the construction of the Development until such time that the School Land is transferred to the Council; and

2.3.4 the First Owner and the Council shall act reasonably and expeditiously at all times in relation to the transfer of the School Land; and

2.3.5 it shall be a term of the transfer of the School Land to the Council so as to bind successors in title to the School Land:

(a) not to permit the School Land to be used for anything other than for

Education Purposes and the construction of the School **PROVIDED THAT** this paragraph 2.3.5(a) will not be applicable in the event the School Land is Transferred back to the First Owner (or its nominee) in accordance with paragraph 2.3.5(d) of this Schedule; and

- (b) to repair and make good any damage that may be caused to access and / or estate roads within the Development caused by construction traffic relating to the construction of the School; and
- (c) to provide such rights of access and rights to connect to Utilities and apparatus across part of the Retained Land to be agreed as may be reasonably necessary to facilitate the development of a School upon the School Land; and
- (d) the Council shall maintain the School Land from the date that it is Transferred to the Council and the School shall be constructed on the School Land within 5 (five) years of the date of the transfer. In the event the School is not constructed on the School Land within 5 (five) years of the date of the transfer or if the development of the school has commenced in accordance with the terms of section 56 of the 1990 Act but at least 50% of the external walls to the school have not been completed to one metre in height within 5 (five) years of the commencement of development of the school the First Owner may require that the School Land be transferred back to the First Owner (or their nominee) for £1.00 (one pound); and
- (e) to keep the First Owner regularly informed of the progress of a planning application or an application for Reserved Matters Approval in relation to the School; and
- (f) for the avoidance of doubt nothing in this Agreement shall require the First Owner to incur any costs associated with the grant of planning permission and / or the approval of reserved matters and / or any other permits consents and permissions required for the development of a School on the School

Land;

PROVIDED THAT in the event that the Offer is refused by the Council or is not accepted within 10 (ten) years from the date of the Offer (subject to an extension of time not having been agreed in writing between the First Owner and the Council) (whichever shall occur first) then the Offer shall lapse and the obligation on the First Owner to Transfer the School Land to the Council shall cease and determine.

3 OFF-SITE HIGHWAY WORKS

- 3.1 Not to Occupy more than 1 (one) of the Dwellings until the Off-Site A65 Bradford Road Traffic Signal Improvements Contribution has been paid to the Council.
- 3.2 Not to Occupy more than 401 (four hundred and one) of the Dwellings until the Off-Site A65 Couthances Way/B6382 Wheatley Lane/A65 Leeds Road Junction Improvements Contribution has been paid to the Council.
- 3.3 Not to Occupy more than 1 (one) of the Dwellings until the Off-Site Main Street Parking Study/Review Contribution has been paid to the Council.
- 3.4 Upon the completion and adoption by the Council of the Ghost Island Works to pay the Off-Site Manor Park Safety Improvement Measures Contribution to the Council and not to Occupy any further Dwellings following the completion and adoption by the Council of the Ghost Island Works until the Off-Site Manor Park Safety Improvement Measures Contribution has been paid.
- 3.5 Upon the completion and adoption by the Council of the Pedestrian Link to pay the Off-Site Sun Lane/Hall Drive/Southfield Road Contribution to the Council and not to Occupy any further Dwellings following the completion and adoption by the Council of the Pedestrian Link until the Off-Site Sun Lane/Hall Drive/Southfield Road Improvements Contribution has been paid.
- 3.6 Not to Occupy more than 350 (three hundred and fifty) of the Dwellings until the Off-Site Buckle Lane Junction Improvements Contribution has been paid to the Council.

4 PRIMARY SCHOOL DELIVERY PARTNERSHIP

- 4.1 Prior to the Commencement of Development to establish the Primary School Delivery Partnership, whose remit will be to seek to facilitate the delivery of the School on the School Land in accordance with the provisions of paragraph 2 of this Schedule, to be managed and led by the Council and CEG.
- 4.2 Once the Primary School Delivery Partnership has been established in accordance with paragraph 4.1 of this Schedule, within 3 (three) months thereof (or within such other period of time that may be agreed in writing between the Council and CEG), to agree terms of reference ("**Terms of Reference**") for the Primary School Delivery Partnership, which will include (but not be limited to):
- 4.2.1 seeking to facilitate the delivery of the School on the School Land;
 - 4.2.2 membership, which will consist of members as agreed in accordance with paragraph 4.3 of this Schedule;
 - 4.2.3 accountability in terms of which member(s) will be responsible for reporting back on activities of the group and to whom;
 - 4.2.4 review in terms of how often will the group review the relevance and value of its work and the terms of reference,
 - 4.2.5 working methods / ways of working in terms of what method / approach to working the partnership will adopt and if any sub-groups will be convened;
 - 4.2.6 sharing of information and resources (including confidential materials if applicable);
 - 4.2.7 frequency and number of meetings, which initially will be held on a quarterly basis (unless otherwise agreed), together with reasonable notice periods to be given in advance of such meetings;
 - 4.2.8 location and venue for meetings, together with any reasonable costs associated with such meeting, which will be borne by CEG on behalf of the First Owner **PROVIDED**

THAT it is agreed that the Council will first submit to CEG an estimate of such reasonable costs for approval; and

4.2.9 as appropriate, other reasonable matters as determined by the Council and CEG.

4.3 To agree the membership of the Primary School Delivery Partnership, which will include representatives of the Council and CEG, together with other parties including potentially representatives of the existing primary schools in Burley-in-Wharfedale, Ward Councillors, Burley Parish Council, prospective free school sponsors, any necessary expert advisors, and any other party or relevant local stakeholder.

4.4 Once established, the Primary School Delivery Partnership will meet at times to be agreed in the Terms of Reference (subject to any variations that may be agreed from time to time) and such meetings will be held until such time that the School is delivered on the School Land or it has been determined that the School is not needed.

5 SOUTH PENNINE MOORS PHASE 2 SPA / SOUTH PENNINE MOORS SAC CONTRIBUTION

5.1 Not to Occupy any of the Dwellings until the South Pennine Moors Phase 2 SPA / South Pennine Moors SAC Contribution has been paid to the Council.

6 SUN LANE LNR CONTRIBUTION

6.1 Not to Occupy any of the Dwellings until the Sun Lane LNR Contribution has been paid to the Council.

7 SUSTAINABLE TRANSPORT MEASURES

Bus Service Contribution and Temporary Turning Head Facility

7.1 In the event that the Substantial Completion of the Internal Estate Road has not occurred by the Occupation of the 100th Dwelling the Owner will submit to the Council a scheme ("**Temporary Turning Head Facility Scheme**") relating to the provision of a Temporary Turning Head Facility prior to the Occupation of 110 Dwellings such scheme to include details of the construction, location and timings of delivery of the Temporary Turning Head Facility

PROVIDED THAT if the Council does not notify the Owner of its approval or proposed amendments to the Temporary Turning Head Facility Scheme within 30 (thirty) Working Days (or such other period of time that may be agreed) it shall be deemed that the Council has approved the Temporary Turning Head Facility Scheme submitted by the Owner.

- 7.2 Upon receipt of the Council's approval or deemed approval to the Temporary Turning Head Facility Scheme pursuant to paragraph 7.1 of this Schedule to construct the Temporary Turning Head Facility in accordance with the approved Temporary Turning Head Facility Scheme (subject to any variations that may be agreed in writing by the Council from time to time)

PROVIDED THAT it is agreed that the Temporary Turning Head Facility shall:

- 7.2.1 be Substantially Completed prior to the Occupation of 150 Dwellings (or such other number of Dwellings that may first be agreed in writing by the Council); and
- 7.2.2 remain operational until the Substantial Completion of the Internal Estate Road (unless otherwise agreed in writing by the Council)

PROVIDED THAT it is agreed that the Temporary Turning Head Facility may be relocated if reasonably necessary in order to accommodate the carrying out of the Development.

- 7.3 For a period of 5 (five) years to pay to the Council the Bus Service Contribution to procure the Bus Service with the 5 (five) year period to commence and the first payment to be made upon the earlier of:

- 7.3.1 Substantial Completion of the Internal Estate Road; or
- 7.3.2 Substantial Completion of the Turning Head Facility;

and each subsequent payment to be made on or around the 12 (twelve) month anniversary following the preceding payment.

SECOND SCHEDULE

(Council's Covenants)

The Council hereby covenants with the Owner:

General Provisions

1. To remove from the Local Land Charges Register any entries relating to this Agreement as soon as possible after the obligation or obligations to which the entry or entries relates have been discharged.
2. To issue a receipt on request for the Off-Site Highway Works Contributions the South Pennine Moors Phase 2 SPA / South Pennine Moors SAC Contribution, the Sun Lane LNR Contribution and if applicable the Affordable Housing Commuted Sum.
3. Upon receipt:
 - 3.1 to place the sums referred to in paragraph 2.3 of this Schedule in an interest bearing account or in separate accounts as the Council shall in its discretion decide; and
 - 3.2 to apply each of the sums referred to in paragraph 2.3 of this Schedule for the purposes set out in this Agreement the need for which directly arises from the Development and not to apply the said sums for any other purposes and the Council shall (on the reasonable request of the payee or the payee's nominee) provide evidence of how and upon what the monies have been so applied.

Bus Service

4. Within 28 days of each instalment of the Bus Service Contribution being paid to the Council to issue a receipt on request for each instalment of the Bus Service Contribution and to pay the same to the West Yorkshire Combined Authority but solely on condition that the West Yorkshire Combined Authority will procure that the Bus Operator will:
 - 4.1 use each part of the Bus Service Contribution solely for procuring a Bus Service the

need for which is generated by the Development;

- 4.2 ensure that fares on the Bus Service will accord with the general fare rate for services operating within the area of the Development;
- 4.3 upon request issue to the Council and the Owner a quarterly statement setting out on an open book basis an audit trail in relation to exactly how and upon what the Bus Service Contribution has been expended together with details of the unspent balance; and
- 4.4 repay to the Council the Bus Service Contribution or any part or parts thereof that remain unspent within 1 (one) year of the date of payment of the final instalment together with any accrued interest.

- 5 In the event that all or part of the Bus Service Contribution or any part or parts thereof remain unspent by the Bus Operator after 1 (one) year of the date of payment of the final instalment by the Council, the Council shall use all reasonable endeavours to recover the unspent sum from the Bus Operator and on receipt of the same shall pay the same together with any accrued interest to the person who paid the sum or sums or its nominee.

School

- 6 To comply with its obligations in paragraph 2 of the First Schedule and in the event that it accepts an Offer of transfer of the School Land ~~to~~ within 3 (three) months of the date of acceptance of the Offer take a Transfer of the freehold of the School Land.

Repayment

- 7 That in the event the Off-Site Highway Works Contributions , the South Pennine Moors Phase 2 SPA / South Pennine Moors SAC Contribution, the Sun Lane LNR Contribution and if applicable the Affordable Housing Commuted Sum or any part or parts thereof are not expended within five (5) years of the date of payment of the final instalment (if applicable) of the respective contribution then the sum or sums not expended or committed for expenditure plus interest accrued will be repaid to the person who paid the sum or sums or its nominee.

IN WITNESS whereof the parties hereto have executed this Agreement as a deed the day and year first above written.

EXECUTED AS A DEED by affixing)
THE COMMON SEAL of **CITY OF**)
BRADFORD METROPOLITAN)
DISTRICT COUNCIL in the)
presence of:)

Authorised by the
City Solicitor

Signed as a **DEED** (but not)
Delivered until dated) by)
CHRISTOPHER PATCHETT)
in the presence of:)

Witness Signature _____

Witness Name of _____

Address _____

Occupation _____

Signed as a **DEED** (but not)
Delivered until dated) by)
MARGARET RICHARDSON)
in the presence of:)

Witness Signature _____

Witness Name of _____

Address _____

Occupation _____

EXECUTED AS A DEED (but not)
delivered until the date hereof) by)
CEG LAND PROMOTIONS LIMITED)
acting by a director)
in the presence of a witness)

Director

Witness Signature

Name

Address

Occupation

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Appendix 1
(Drawing No. 13-215-TR-009A – Ghost Island Works)

Appendix 2
(Drawing No. 13-215-TR-024 – Off-Site Buckle Lane Junction Improvements)

Appendix 3
(Drawing No. 301 Rev P ('Proposed Parameters Plan') – Pedestrian Link)

Appendix 4
(Plan 1)

Appendix 5
(Plan 2)

Appendix 6
(Plan 3)

Appendix 7
(Plan 4)