

DATED

14<sup>th</sup> March

2008

SOUTH GLOUCESTERSHIRE DISTRICT COUNCIL

(1)

BAE SYSTEMS PLC

(2)

BOVIS HOMES LIMITED

(3)

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AGREEMENT

under Section 106 of the Town and Country Planning Act 1990  
Section 278 of the Highways Act 1980  
Sections 111 and 120 of the Local Government Act 1972 and other  
statutory provisions relating to land at Northfield Filton Aerodrome Patchway

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Angela Harwood  
Head of Legal & Democratic Services  
The Council Offices  
Castle Street  
Thornbury  
Bristol BS35 1HF

Reference L3/SAGR/PT.3132

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THIS AGREEMENT is made the 14<sup>th</sup> day of March two thousand and eight

**B E T W E E N** SOUTH GLOUCESTERSHIRE DISTRICT COUNCIL of The Council Offices Castle Street Thornbury South Gloucestershire BS35 1HF ("the Council") of the first part **BAE SYSTEMS PLC** whose registered office is at 6 Carlton Gardens London SW1Y 5AD (Company Registration Number 01470151) ("the Owner") of the second part and **BOVIS HOMES LIMITED** whose registered office is at The Manor House North Ash Road New Ash Green Longfield Kent DA3 8HQ (Company Registration Number 00397634) ("the Developer") of the third part

### INTERPRETATION

In this Agreement unless the context indicates otherwise:

1. Any reference to the parties or any other legal or natural person shall include his her its or their heirs assigns and successors in title and in the case of any local authority shall also include any successor in function
2. Any covenants obligations or other commitments given by more than one party shall be joint and several
3. Where the Owner and the Developer is not a body corporate then neuter words shall include the masculine or feminine gender (as the case may be) and singular words shall include their plural numbers and references to the Owner/Developer shall mean such of the Owner and or the Developer as appropriate and shall include their successors in title and assigns
4. The headings throughout this agreement are for convenience only and shall not be taken into account in the construction and interpretation of this Agreement

### DEFINITIONS

The words and expressions below shall mean as follows:

- 1.1. The "Act" shall mean the Town and Country Planning Act 1990 and that and any other reference to the Act shall include any amending or replacing legislation for the time being in force
- 1.2. The "Application Land" shall mean the land situate at Northfield Filton Airport in South Gloucestershire shown edged red on Plan Number 1 in respect of which the Owner/Developer has made the Planning Application
- 1.3. The "Conditions" shall mean those conditions attached to the Planning Permission
- 1.4. "Bond" means a bond in the form set out in Annex 3 unless otherwise agreed between the Council the Owner and the Developer
- 1.5. "Bonded Obligations" means those obligations which are set out in Clause 18 and the table in Annex 3 and calculated in accordance with the terms of this Agreement
- 1.6. The "Chief Financial Officer" shall mean the Council's Chief Financial Officer for the time being or his duly appointed agent
- 1.7. "Design and Access Statement" means the Design and Access Statement for North Field final version dated December 2007
- 1.8. "Development" shall mean such development that may be authorised by any planning permission granted in respect of planning application PT03/3143/O PROVIDED THAT planning application PT03/3143/O is an application to develop mixed-use development across 81.25 hectares of land comprising 2,200 new dwellings 66,000 square metres of employment floor space (B1 B2 and B8) 1,500 square metres of A1 A2 A3 A4 and A5 floor space together with the provision of supporting infrastructure and facilities including new vehicular and pedestrian accesses alterations to Highwood Road new link road public open space primary school community building and hotel
- 1.9. The "Director" shall mean the Council's Director of Planning Transportation and Strategic Environment for the time being or his duly appointed agent

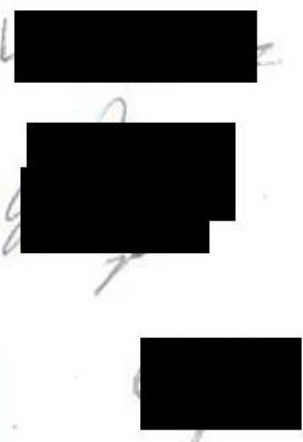
- 1.10. The **"Director of Community Services"** shall mean the Council's Director of Community Services for the time being or his duly appointed agent
- 1.11. The **"Director for Children and Young People"** shall mean the Council's Director for Children and Young People for the time being or his duly appointed agent
- 1.12. The **"Director of Community Care and Housing"** shall mean the Council's Director of Community Care and Housing for the time being or his duly appointed agent
- 1.13. **"Dwelling"** shall mean an individual self-contained unit of residential accommodation constructed pursuant to the Development
- 1.14. **"Exempt Infrastructure and Site Preparation Works"** shall mean those works described on the list of exempt infrastructure and site preparation works submitted by the Owner/ Developer and approved by the Council pursuant to condition 45
- 1.15. The **"Land"** shall mean the land registered at Land Registry under title number AV220703 situate at Northfield, Filton Airport in South Gloucestershire shown edged red on Plan Number 2 in respect of which the Owner/Developer has made the Planning Application
- 1.16. The **"Neighbourhood Centre"** shall mean the area of the land shown as such on Plan Number 3
- 1.17. **"Plan Number 1"** shall mean the plan annexed to this Agreement and numbered 1
- 1.18. **"Plan Number 2"** shall mean the plan annexed to this Agreement and numbered 2
- 1.19. **"Plan Number 3"** shall mean the plan annexed to this Agreement and numbered 3
- 1.20. The **"Planning Application"** shall mean the application made by the Owner/Developer to the Council (reference number PT03/3143/O) for planning permission to develop the Application Land for major mixed-use development across 81.25 hectares of land comprising 2,200 new dwellings 66,000 square metres of employment floor space (B1 B2 and B8) 1,500 square metres of A1 A2 A3 A4 and A5 floor space together with the provision of supporting infrastructure and facilities including new vehicular and pedestrian accesses alterations to Highwood Road new link road public open space primary school community building and hotel
- 1.21. The **"Planning Permission"** shall mean the permission which may be granted by the Council pursuant to the Planning Application in the form set out in Annex 15
- 1.22 **"Reserved Matter Permission"** means a permission granted in respect of a Reserved Matter Application
- 1.24 **"Reserved Matters Application"** shall mean any one or more applications to the Council for approval of reserved matters pursuant to the Planning Permission
- 1.25 **"Remediation Application"** means an application for planning permission in respect of the Land the object of which is to remove or otherwise render harmless contamination in on or under the Land and prepare the Land for the Development
- 1.26 **"Surety"** means a bank or other reputable financial institution who shall be approved by the Council prior to the provision of a Bond Provided That once the Council have approved a surety the Owner/Developer shall be entitled to assume that such surety will continue to be acceptable to the Council unless the Council has informed it/them to the contrary in writing

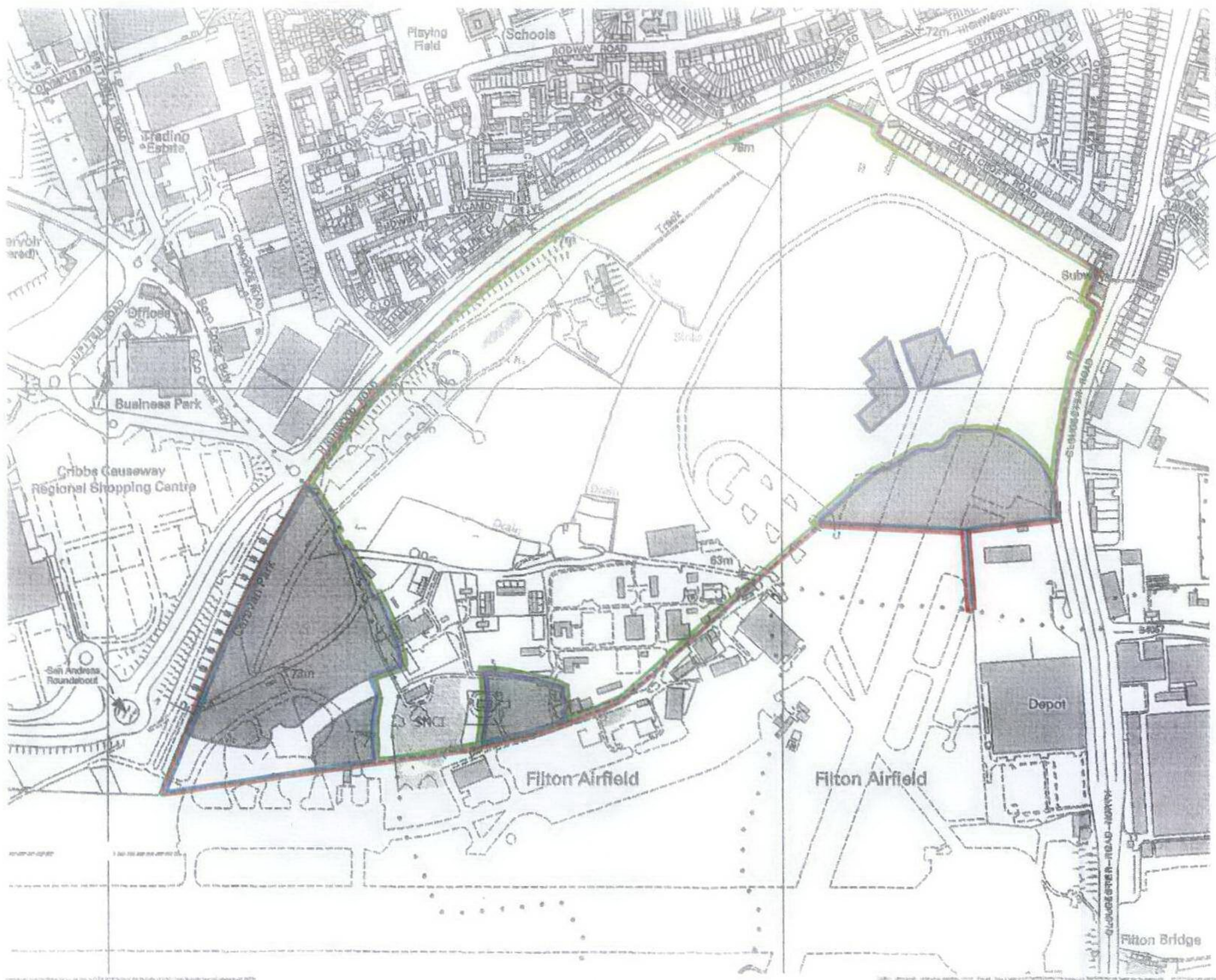
**WHEREAS:**

- (1) The Owner is seised of an estate in fee simple absolute in possession in respect of the part of the Land outlined in blue on Plan 2 free from incumbrances (the "Owner's Land") and the Developer is seised of an estate in fee simple absolute in possession in respect of the part of the Land outlined in green on Plan 2 free from incumbrances (the "Developer's Land")



The Application Land





Site boundary  
 Area of land to be retained for employment

# Plan 2

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]



North  
 North Filton

Employment Land Plan  
 with Site Boundary

Date: 25.11.07	Drawn: JJC	Scale: 1:1000
Project: L3957	Drawn: JJC	Scale: 1:1000

**BARTON WILMORE**

Planning & Public Inquiry Consultants  
 Architects & Landscape Planners & Project Managers  
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 Email: info@bartonwilmore.co.uk Website: www.bartonwilmore.co.uk



- The scaling of the drawing cannot be proved  
Date: \_\_\_\_\_ Page: \_\_\_\_\_
- Site boundary
  - Link Road
  - Boulevard
  - Highwood road
  - Bus Only Link
  - Other roads
  - Patchway Square
  - Residential
  - Neighbourhood Centre
  - Primary School
  - Employment / Mixed Use
  - Employment
  - SNCI
  - SNCI 30m Standoff
  - Hotel Site
  - Public Open Space & Existing Landscaping
  - Amenity Hub
  - Potential MUGA
  - Approximate Location of Open Space to be Adopted (including play areas within adopted area) - 6.3652 Ha

**PLAN 3**

NORTH  
0 10 25 50 100 200m

North Filton

Existing 7th  
Land Use Plan for  
Master Plan (Section 106)

Date: 01-01-2014  
Scale: 1:25000  
Project No: 13857  
Drawing No: 61-3  
Drawing No: 61-3  
Author: A



(2) The Council is the local planning authority for the area in which the Land is situated and wishes to ensure that if Planning Permission is granted and the development is commenced:

- (i) that a contribution is made towards publicly accessible art in order to promote the commissioning of the work of local arts and crafts people
- (ii) that a financial contribution is made for the provision enhancement and future maintenance to be carried out by the Council to Off Site Public Open Space
- (iii) that a financial contribution is made towards the cost of providing litter and dog bins and towards Sewer Baiting within the Development
- (iv) that a financial contribution is made towards highway improvements to be carried out by the Council and which are necessitated by the Development
- (v) that a financial contribution is made towards the provision of a Car Club
- (vi) the local highway network is constructed and improved to accommodate the additional traffic likely to be generated by the Development and/or ensure that highway safety is maintained on the local highway network
- (vii) that a financial contribution is made towards the cost of the new X18 bus service
- (viii) that the new bus service X75 and the enhanced frequency bus service 75 as set out in the Bus Schedule appended as Annex 1 are procured and provided in accordance with the phasing set out in the bus schedule
- (ix) that a financial contribution is made for the appointment of a part-time Community Development Worker for a period of six years
- (x) that a financial contribution is made towards the cost of extending Patchway library and for the provision of new facilities and work stations
- (xi) adequate arrangements are made for the provision of landscaping children's play space and retained wooded areas and subsequent maintenance of the Open Spaces and adequate arrangements are made for the dedication of the Open Spaces to ensure that sufficient land to serve the Development is available for open space and recreational purposes
- (xii) that a Nursery Facility is provided
- (xiii) to provide a site for a two form entry primary school
- (xiv) to provide a financial contribution for the primary school construction fixtures and fitting thereof and which are necessitated by the Development
- (xv) that a site will be reserved within the Development for the private provision of Extra Care Housing to be provided on commercial terms
- (xvi) that a Community Building will be provided within the development for use by the Council or its nominee
- (xvii) to provide a Health Care Space to be provided within the Neighbourhood Centre for use as a doctors' surgery
- (xviii) to provide affordable housing
- (xiv) to enter into an agreement with the Highways Agency for works to widen part of the northbound carriageway of the M5 motorway between junctions 17 and 18

**NOW THIS DEED WITNESSES** as follows:

**1 STATUTORY POWERS**

THIS Agreement will be registered as a Local Land Charge and is entered into pursuant to Section 106 of the Act Section 278 of the Highways Act 1980 Sections 111 and 120 of the Local Government Act 1972 Section 2 of the Local Government Act 2000 and all other statutory and other enabling powers and shall be enforceable accordingly but without prejudice to all and any other means of enforcing them at law or in equity or by statute

**2 ENFORCEMENT**

THE covenants and obligations created by this Deed are planning obligations for the purposes of Section 106 of the Act and are enforceable as such by the Council

**3 THIRD PARTIES**

IN accordance with Sections 1(2) and 2(3)(a) of the Contracts (Rights of Third Parties) Act 1999 no term of this Agreement shall be enforceable by a third party and any term may be rescinded or varied without the consent of any third party

**4 SUBSTANTIVE COVENANTS**

4.1 Subject to Clause 4.2 the Owner/Developer for and on behalf of itself and its heirs assigns and successors in title with the intention that the following provisions shall bind the Land and every part of it into whosever's hands it may come covenant with the Council that it/they will comply with the covenants attributable to it/them and contained in the Schedules annexed to this Agreement

4.2

4.2.1 The Developer with the intention to bind the Developer's Land covenants with the Council to observe the planning obligations contained in Schedules 5 9 12 13 14 15 16 17 and 18 ("the Developer Only Schedules") and for the avoidance of doubt it is hereby agreed that the Owner shall not be required to observe the obligations in the Developer Only Schedules and the Owner's Land shall not be bound by the obligations in the Developer Only Schedules

4.2.2 The Owner/Developer with the intention of binding the Owner's Land and the Developer's Land covenants with the Council to observe the planning obligations contained in Schedules 1 2 3 4 6 7 8 10 11 and 19 (the "Owner/Developer Schedules") (except as otherwise provided in those Schedules)

**5 RIGHT OF ENTRY**

IF pursuant to a breach the Council requires to carry out all or any part of the works required under the terms of this Agreement the Owner/Developer irrevocably authorises the Council and anyone appointed on its behalf (on giving reasonable notice except in the case of an emergency) to enter any part of the Land reasonably required for that purpose

**6 CHANGE OF OWNERSHIP**

UNTIL the obligations enforceable by the Council have been complied with the Owner/Developer will furnish the Council with details (including a plan if appropriate) of any conveyance transfer lease assignment mortgage or other disposition of all or any part of the Land including the name and address of the person to whom the disposition was made and the nature and extent of the interest disposed of to them within twenty one days of such disposal **SAVE THAT** in the event of a disposition of any individual

dwelling comprising part of the Development this obligation will apply only if the information is specifically requested by the Council

#### **7 WARRANTY**

THE Owner/Developer warrants that it/they is/are entitled to discharge the obligations as provided for in this Agreement in under or upon the Land and to carry out the Development and that all the obligations in this Agreement (save the obligations that fall within publicly maintainable highway) can and will (subject to clause 11 below) be carried out on the Land

#### **8 NOTICES**

ANY notices to be served on or document to be submitted on or to any party to this Agreement shall be delivered or posted to that party at the address specified as theirs at the head of this Agreement and in the case of the Council addressed to the Council's Head of Legal and Democratic Services and quoting the planning reference number

#### **9 CONFIRMATION OF INTERESTS**

THE Owner/Developer confirms that apart from the parties to this Agreement there are no other persons with any interest (legal or equitable) in the Land or any part thereof

#### **10 LOCAL AUTHORITY'S STATUTORY POSITION**

NOTHING herein contained or implied shall limit prejudice or affect the rights duties and obligations of the Council under all statutes byelaws statutory instruments orders and regulations in the exercise of its function as a local authority

#### **11 OPERATIVE DATE**

SAVE in respect of obligations requiring compliance prior to Commencement of Development this Agreement shall not become operative until the Commencement of Development which shall be determined by the carrying out of a "material operation" (as defined in Section 56(4) of the Act) which for the purposes of this Deed shall be deemed not to include site clearance demolition work archaeological investigations investigations for the purposes of assessing ground conditions remedial work in respect of any contamination or other adverse ground conditions diversion and laying of services erection of any temporary means of enclosure the temporary display of site notices or advertisements and the phrases "Commencement of Development" and "Commencement" and "Commence" shall be construed accordingly

#### **12 COMMENCEMENT OF DEVELOPMENT**

THE Owner/Developer shall give to the Council seven days written notice of its intention to commence Development and shall confirm in writing within seven days following commencement that Development has commenced **PROVIDED THAT** failure to provide either of the said notifications shall not render this Agreement inoperative

#### **13 LEGAL COSTS**

THE Owner/Developer shall pay to the Council on the date hereof its reasonable legal costs incurred in connection with this Agreement

#### **14 INDEMNITY**

THE Owner/Developer will without prejudice to the Council's statutory and common law powers and rights hold the Council harmless and keep the Council indemnified from and against:

- 14.1 Any claim for compensation charge expense or other demand (including any sums which the Council may be required to pay to any statutory undertaker under the provisions of the New Roads and Street Works Act 1991) arising at any time prior to the issue of Certificate No: 2 in connection with or incidental to the carrying out or use of the highway works shown on the PBA Drawing (as defined in Schedule 4 hereof) or the Development provided that the Owner/Developer are notified as soon as reasonably practicable following receipt of any such claims and shall thereafter be kept informed by the Council of the progress of such claims and be given reasonable opportunity to make representations in writing to the Council before such claim is settled
- 14.2 Any charge expense claim for compensation or other demand arising under or in connection with Part I or Section 20 of the Land Compensation Act 1973 resulting from the carrying out or use of the highway works shown on the PBA Drawing (as defined in Schedule 4 hereof) or the Development and any charge or expense incurred by the Council arising out of any such claim provided that the Owner/Developer are notified as soon as reasonably practicable following receipt of any such claims and shall thereafter be kept informed by the Council of the progress of such claims and be given reasonable opportunity to make representations in writing to the Council before such claim is settled
- 14.3 Any claim in connection with or incidental to the carrying out of any works required by this Agreement or in respect of any other requirement of or covenant with the Council contained in this Agreement **PROVIDED THAT** the Owner/Developer shall not be liable for any charge expense claim for compensation or other demand under this clause 14 if the same is due to the negligence of the Council or a Council officer

## 15 INTEREST

IF any sum payable under this Agreement is not paid within fourteen days of the date when it is due then save in the case of a manifest error by the Director or the Director of Community Services or the Director for Children and Young People or the Director of Community Care and Housing in calculating the due sum the Owner/Developer shall in addition to any payment in respect of the sum due pay interest on the sum from the due date until actual payment at the rate of 3% above the base rate from time to time of National Westminster Bank Plc

## 16 DISPUTES PROCEDURE

- 16.1 Any dispute arising out of the provisions of this Agreement shall be referred to a person having appropriate qualifications and experience in such matters ("the Expert") for the determination of that dispute **PROVIDED THAT** the provisions of Clause 16 shall be without prejudice to the right of any party to seek the resolution of any matter relating to the Agreement to the Courts or by having recourse to any Surety and/or in accordance with Section 106(6) of the Act and the referral of any matter to the Expert shall not prejudice prevent or delay the recourse of any party to the Courts to the Surety or to the provisions of Section 106 (6) for the resolution of any matter arising from the agreement
- 16.2 The Expert shall be appointed by the relevant parties to the dispute ("the Relevant Parties") or in default of agreement by a person nominated by the President for the time being of the Royal Institution of Chartered Surveyors on the application of any of the parties

16.3 The decision of the Expert shall (save in the case of manifest error which may be referred back to the Expert) be final and binding upon the Relevant Parties and the following provisions shall apply:

- 16.3.1 the charges and expenses of the Expert shall be borne equally between the Relevant Parties unless the Expert shall otherwise direct
- 16.3.2 the Expert shall give the Relevant Parties an opportunity to make representations and counter representations to him before making his decision
- 16.3.3 the Expert shall be entitled to obtain opinions from others if he so wishes
- 16.3.4 the Expert shall make his reasoned decision within the range of any representations made by the Relevant Parties themselves
- 16.3.5 the Expert shall comply with any time limit or other directions agreed by the Relevant Parties on or before his appointment

## **17 PRIMARY SCHOOL CONSULTATIONS AND OPENING**

THE Council hereby agrees and covenants with the Owner/Developer to consult all relevant consultees in respect of the opening of the Primary School (as set out in Schedule 13 and 14) on the basis that the Council favours a phased opening of the Primary School

## **18 BOND**

18.1 The Owner (to the extent of the Bonded Obligations as set out in the Owner/Developer Schedules)/Developer shall not permit the Commencement of Development until a Bond has been provided to the Council with a Surety in a sum being the aggregate of :

- 18.1.1 the amount shown as the amount to be bonded under the column headed "Bond 1" in Annex 3 as the same may have been increased by reference to the appropriate Indexes as set out in the relevant Schedule to this Agreement and
- 18.1.2 any commuted sum required under paragraphs 1.11.2 and 1.11.3 of Part 2 of Schedule 11 as the same may have been increased by reference to the appropriate indexes as set out in the relevant Schedule to this Agreement and
- 18.1.3 in the case of the obligations contained in Schedule 14 as the sum is calculated in accordance with DCSF Cost Calculators at the date the Bond is provided

**PROVIDED THAT** the Owner shall not be required to provide or be party to any Bond pursuant to this clause 18.1 to the extent that any such Bond relates to the covenants and obligations contained in the Developer Only Schedules

18.2 The Owner (to the extent of the Bonded Obligations as set out in the Owner/Developer Schedules)/Developer shall not permit the first legal transfer of any more than 149 Dwellings until a Bond has been provided to the Council with a Surety in a sum being the aggregate of:

- 18.2.1 the amount shown as the amount to be bonded under the column headed "Bond 2" in Annex 3 as the same may have been increased by reference to the appropriate Indexes as set out in the relevant Schedule to this Agreement and
- 18.2.2 any commuted sum required under paragraphs 1.11.2 and 1.11.3 of Part 2 of Schedule 11 as the same may have increased by reference to the appropriate indexes as set out in the relevant Schedule to this Agreement and
- 18.2.3 in the case of the obligations contained in Schedule 14 as the sum is calculated in accordance with DCSF Cost Calculators at the date the Bond is provided and

- 18.2.4 the sum of £1,600,000 if notice has been served on the Developer by the Council under paragraph 2.2 of Schedule 14 and
- 18.2.5 if notice has been served by the Council on the Owner/Developer under the terms of paragraph 2.1 of part 2 to Schedule 8 the sum of £801,750

**PROVIDED THAT** the Owner shall not be required to provide or be party to any Bond pursuant to this clause 18.2 to the extent that any such Bond relates to the covenants and obligations contained in the Developer Only Schedules

- 18.3 The Owner (to the extent of the Bonded Obligations as set out in the Owner/Developer Schedules)/Developer shall not permit the first legal transfer of any more than 749 Dwellings until a Bond has been provided to the Council with a Surety in a sum being the aggregate of:
- 18.3.1 the amount shown as the amount to be bonded under the column headed "Bond 3" in Annex 3 as the same may have been increased by reference to the appropriate indexes as set out in the relevant Schedule to this Agreement and
- 18.3.2 any commuted sum required under paragraphs 1.11.2 and 1.11.3 of Part 2 of Schedule 11) as the same may have increased by reference to the appropriate indexes as set out in the relevant Schedule to this Agreement and
- 18.3.3 in the case of the obligations contained in Schedule 14 as the sum is calculated in accordance with DCSF Cost Calculators at the date the Bond is provided and
- 18.3.4 if notice has been served by the Council on the Owner/Developer under the terms of paragraph 2.1 of part 2 to Schedule 8 the sum of £2,697,250

Provided That no amount shall be required as part of this Bond in relation to the obligations in Schedules 12 and 16 if such obligations have been complied with of this Agreement and further **PROVIDED THAT** the Owner shall not be required to provide or be party to any Bond pursuant to this clause 18.3 to the extent that any such Bond relates to the covenants and obligations contained in the Developer Only Schedules

- 18.4 The Owner (to the extent of the Bonded Obligations as set out in the Owner/Developer Schedules)/Developer shall not permit the first legal transfer of any more than 1499 Dwellings until a Bond has been provided to the Council with a Surety in a sum being the aggregate of:
- 18.4.1 the amount shown as the amount to be bonded under the column headed "Bond 4" in Annex 3 as the same may have been increased by reference to the appropriate Indexes as set out in the relevant Schedule to this Agreement and
- 18.4.2 any additional commuted sum required under paragraphs 1.11.2 and 1.11.3 of Part 2 of Schedule 11) as the same may have increased by reference to the appropriate indexes as set out in the relevant Schedule to this Agreement and
- 18.4.3 in the case of the obligations contained in Schedule 14 as the sum is calculated in accordance with DCSF Cost Calculators at the date the Bond is provided and
- 18.4.4 if notice has been served by the Council on the Owner/Developer under the terms of paragraph 2.1 of part 2 to Schedule 8 the sum of £145,500

**PROVIDED THAT** the Owner shall not be required to provide or be party to any Bond pursuant to this clause 18.4 to the extent that any such Bond relates to the covenants and obligations contained in the Developer Only Schedules

- 18.5 The Council shall be entitled to call on any Bond provided under this Agreement if the Owner/Developer defaults in complying with the requirements of this Agreement in relation to a Bonded Obligation as follows:
- 18.5.1 the Council shall first call for payment of any Bonded Obligations from the Developer and then the Surety and only after having used reasonable endeavours (which shall not require the Council to institute proceedings in the court) to require payment from the Developer and the Surety shall the Council seek payment from the Owner **PROVIDED THAT** the Council shall not seek payment from the Owner in respect of any Bonded Obligation that relates to the Developer Only Schedules
  - 18.5.2 the actual cost of remedying the said breach or the value of the Bond whichever shall be the lower
  - 18.5.3 upon giving to the Owner/Developer written notice of their intention to call upon the Bond and the reason for so doing
  - 18.5.4 allowing the Owner/Developer a reasonable opportunity to rectify any breach complained of which in any event shall be not more than 14 days
  - 18.5.5 the Owner/Developer shall be entitled to request a reduction in the value of any Bond where a contribution secured by such Bond has been paid
- 18.6 If any Bond is not released within one year of the date of the said Bond a further Bond shall be entered into for a revised amount being the amount by which that part of the Bonded Obligations then outstanding has increased or decreased by reference to the appropriate Indexes or in the case of the obligations contained in Schedule 14 as the sum is calculated in accordance with DCSF Cost Calculators at the date the Bond is provided and the existing Bond shall be released
- 18.7 The Council hereby agree to confirm in writing to the Surety and the Owner/Developer within 14 days of receipt of a request to do so whether a contribution has been paid in relation to a Bonded Obligation which is at the time of request the subject of a Bond and the amount by which the bond may be reduced if appropriate
- 18.8 The obligations of the parties under a Bond shall cease and determine absolutely upon the discharge of the obligations under this Agreement to which such Bond relates
- 18.9 If the amount of any contribution due under the terms of this Agreement is required to be increased as a result of any proposal to increase the numbers of Dwellings to be built on the Land increasing beyond 2200 then the appropriate Bond or Bonds shall be increased accordingly in accordance with the timing set out in this Agreement

## **19 REASONABLENESS OF THE PARTIES**

WHERE in this Agreement the Council and or the Owner/Developer are required to exercise a discretion make a determination or use their reasonable endeavours then such discretion determination or endeavours shall be undertaken reasonably and without undue delay

## **20 REMEDIATION**

THE Owner/Developer hereby agree that no operations (other than sampling surveying (including land surveys topographical surveys and ecological surveys) and site investigations (including the drilling of boreholes)) associated with the preparation of the Land for the Development shall be undertaken

(notwithstanding clause 11) until a Remediation Application has been submitted to the Council and approved **PROVIDED THAT** this clause shall not require a Remediation Application in circumstances where no specific planning permission is required for the works of remediation to be undertaken on the Land

## **21 MONITORING**

THE Owner/Developer shall inform the Chief Financial Officer in writing upon the first legal transfer of the 1<sup>st</sup> 150<sup>th</sup> 450<sup>th</sup> 750<sup>th</sup> 1500<sup>th</sup> and the 2100<sup>th</sup> Dwellings

## **22 RELEASE**

22.1 Where the Owner/Developer intends to dispose of the whole or any part of the Land or ceases to be an owner of the same it may by notice to the Council request a formal release either as to the whole or part as the case may be of any of the provisions of this Agreement and shall in such notice specify:

22.1.1 precisely the part of the Land the subject of the request

22.1.2 the name and address of the Owner's successor and

22.1.3 the provisions of the Agreement from which the Owner/Developer desires to be released

22.2 On receipt of any such request as is mentioned in clause 22.1 the Council shall be entitled to require the Owner/Developer making the request to procure that such proposed purchaser or new owner shall enter into a deed of substitution (including any bonding/guarantee arrangements which may be required by the Council in respect of the then cost of carrying out all relevant outstanding obligations) confirming its acceptance of all relevant outstanding obligations under this Agreement of the Owner/Developer making the request and that such proposed purchaser or new owner shall in any such deed of substitution (if necessary) confirm that such proposed purchaser or new owner has all necessary rights to enable such proposed purchaser or new owner to develop the land which such proposed purchaser or new owner is acquiring as contemplated by and in accordance with this Agreement

22.3 Subject to the matters set out in clause 22.2 the Council shall not unreasonably withhold or delay its consent to the request under clause 22.1 except that the Council may in its sole discretion refuse such consent if the party making the request has committed and not remedied any breach of this Agreement and on:

22.3.1 the disposal of the interest or cessation of ownership (as the case may be) notified in writing to the Council and

22.3.2 on receipt of such consent from the Council pursuant to clause 22.3 and

22.3.3 (if required) on the execution of such deed of substitution and

22.3.4 (if required) the provision of bonding/guarantee arrangements as the case may require

the Owner/Developer as appropriate making such request shall forthwith be released from all of the provisions of this Agreement to which the consent relates (which in the case of a transfer of part of the Owner/Developer's interest in the Land shall be taken to mean in relation to that part of the Land only) without prejudice however to any antecedent breach by the party making such request of any such provisions whether or not the same are apparent at the date of such deed of substitution provided that in any event all liability on the part of the Owner/Developer shall in any



event cease in respect of each relevant clause on the completion of the obligation contained or referred to in that clause

22.4 The Owner/Developer (on behalf of the Owner/Developer and their successors in title and all persons deriving title under them) covenant to pay the reasonable and proper costs of the Council incurred in dealing with a request under clauses 22.1

22.5 Where the Owner/Developer disposes of all or any part of the Land to another party to this Agreement then subject to the provisions of clause 22.3 being satisfied:

22.5.1 the acquiring owner shall be deemed by its execution of this Agreement to accept and acknowledge that in respect of such land it is bound by the terms of this Agreement and

22.5.2 no deed of substitution shall be required

22.5.3 the Owner/Developer as appropriate who parts with their interest shall thereafter be released from all liability or obligations in respect of the Land (or in respect of a transfer of part of the Land in respect of that relevant part) under the terms of this Agreement

**EXECUTED as a deed by the parties and delivered the day and year first before written**

## **SCHEDULE 1: CONTRIBUTION TO ART**

### **Part 1: Definitions relating to Public Art**

1. In this Schedule the words below shall mean as follows:
  - 1.1 "Public Art Contribution" means the sum of £80,000 (Eighty Thousand Pounds) to be used by the Owner/Developer (as appropriate dependent on land ownership) in order to implement the Public Art Strategy
  - 1.2 "Public Art Strategy" shall mean the strategy to be prepared by a public art consultant or leading local artist appointed by the Owner/Developer (as appropriate dependent on land ownership) in agreement with the Council's Director of Community Services for the provision of an integrated programme of art work throughout the Development which strategy shall be submitted to the Council at the Developer's expense and approved in writing by the Director of Community Services prior to the Commencement of the Development PROVIDED THAT the carrying out of Exempt Infrastructure and Site Preparation Works shall not trigger the obligation to submit the Public Art Strategy

### **Part 2: Covenants relating to Public Art**

- 1.1 The Owner/Developer (as appropriate dependent on land ownership) shall implement the Public Art Strategy throughout the Development PROVIDED THAT the Owner/Developer (as appropriate dependent on land ownership) shall not be required to spend more than the Public Art Contribution
- 1.2 Upon the reasonable request of the Council the Owner/Developer shall account to the Council for such sums as have been expended in carrying out the Public Art Strategy

**SCHEDULE 2:  
CONTRIBUTION TO OFF-SITE PUBLIC OPEN SPACE**

**Part 1: Definitions relating to the financial contribution towards off-site public open space improvements/enhancements**

1. In this Schedule the words below shall mean as follows:
  - 1.1 "Off-Site Public Open Space Capital Cost Contribution" means that part of the Off-Site Public Open Space Contribution not required for future maintenance of Off-Site Public Open Space as referred to in paragraph 2.1
  - 1.2 "Off-Site Public Open Space" shall mean areas of open space set out in paragraph 2.3 of Part 2 of this Schedule
  - 1.3 The "Off-Site Open Spaces Contribution" shall mean the sum referred to in Paragraph 2.1 of Part 2 of this Schedule
  - 1.4 The "Index" shall mean the indices based on the Updating Percentages published by Tudorseed Construction for the Schedule of Rates for Grounds Maintenance 1987

**Part 2: Covenants relating to the financial contribution towards public open space improvements**

- 2.1 The Owner/Developer will pay to the Council the sum of Two Million Nine Hundred and Forty Two Thousand Nine Hundred and Twenty Eight Pounds (£2,942,928.00) (together with an additional sum calculated as set out below) as a contribution towards Off-Site Public Open Space this sum comprises the cost of the provision and enhancement of Off-Site Public Open Space in the sum of (£1,836,912.00) One Million Eight Hundred and Thirty Six Thousand Nine Hundred and Twelve Pounds and future maintenance of Off-Site Public Open Space in the sum of (£1,106,016.00) One Million One Hundred and Six Thousand and Sixteen Pounds the payment of 45% of the Off-Site Open Spaces Contribution to be paid on the first legal transfer of the 750<sup>th</sup> Dwelling a further payment of 38% of the Off-Site Open Spaces Contribution to be paid on the first legal transfer of the 1500<sup>th</sup> Dwelling and a final payment of 17% of the Off-Site Open Spaces Contribution to be paid on the first legal transfer of the 2100<sup>th</sup> Dwelling or within 22 months from the date of the first legal transfer of the 1700<sup>th</sup> dwelling whichever is the earlier
- 2.2 The Off-Site Open Spaces Contribution due and payable (having been calculated at (March 2006 prices) shall be increased in accordance with any increases in the Index between that date and actual payment PROVIDED THAT if there is any change after the date of this Deed in the reference base used to compile the Index the figure taken to be shown in the Index after such a change shall be the figure which would have been shown in the Index if the reference base current at the date of the execution of the Deed had been retained
- 2.3 The Off Site Open Spaces Contribution shall be used by the Council for the purpose of the provision enhancement improvement and maintenance which may include off site playing fields and or sports facilities which may include Off-Site Open Spaces accessibility and car parking

arrangements within 5 kilometres of the boundary of the Land (unless otherwise agreed in writing between the Director of Community Services and the Owner/Developer)

2.4 That such part or all of the Off-Site Public Open Space Capital Cost Contribution shall be repaid to the payer of the Off-Site Open Space Capital Cost Contribution together with interest thereon from the date of payment until repayment at the 7 day LIBID rate as follows:

2.4.1 Any part of the first payment of 45% of the Off-Site Public Open Space Capital Cost Contribution made in 2.1 that remains unspent 5 years from the payment of the second payment of 38% of the Off Site Public Open Space Contribution made under 2.1 and

2.4.2 Any part of the remainder of the Off-Site Public Open Space Capital Cost Contribution that remains unspent 5 years after the final payment of the Off-Site Public Open Space Contribution paid in 2.1

2.5 The Off-Site Open Spaces Contribution has been calculated on the basis that 2,200 Dwellings will be constructed on the Application Land and in the event it is proposed that more than 2,200 Dwellings will be constructed on the Application Land the Owner/Developer will pay to the Council an amended Off-Site Open Spaces Contribution (together with the additional sum calculated in accordance with paragraph 2.2 of this Part of this Schedule) in accordance with the timing set out in paragraph 2.1 of this Part of this Schedule and in accordance with the following formula:

$A + B \times C$

Where:

A = number of Dwellings to be actually constructed

B = 2,200 Dwellings proposed to be constructed

C = £2,942,928.00 (index linked in accordance with paragraph 2.2 of this Part of this Schedule)

**SCHEDULE 3:  
CONTRIBUTION TOWARDS COMMUNITY FACILITIES**

**Part 1: Definitions relating to the financial contribution towards community facilities**

1. In this Schedule the words below shall mean as follows:
  - 1.1 The "Litter and Dog Bin Financial Contribution" shall mean the sum referred to in Paragraph 3.1 of Part 2 of this Schedule
  - 1.2 The "Sewer Baiting Financial Contribution" shall mean the sum referred to in Paragraph 2.1 of Part 3 of this Schedule
  - 1.3 The "Index" shall mean the indices based on the Royal Institute of Chartered Surveyors Building Cost Index

**Part 2: Covenants relating to the financial contribution towards the costs of sewer baiting within the Development**

- 2.1 The Owner/Developer will pay to the Council upon Commencement of Development the sum of Nine Hundred and Eighteen Pounds (£918.00) (together with an additional sum calculated as set out below) as a contribution towards the cost of sewer baiting within the Development
- 2.2 The Sewer Baiting Financial Contribution due and payable (having been calculated at (March 2006 prices) shall if not paid on the date hereof be increased in accordance with any increases in the Index between that date and actual payment PROVIDED THAT if there is any change after the date of this Deed in the reference base used to compile the Index the figure taken to be shown in the Index after such a change shall be the figure which would have been shown in the Index if the reference base current at the date of the execution of the Deed had been retained
- 2.3 The Sewer Baiting Financial Contribution shall be used only for the carrying out by the Council of sewer baiting within the Development and such sums that remain unspent after a period of a minimum of 10 years from the date of payment or on the first legal transfer of the 2200<sup>th</sup> Dwelling whichever is the later (PROVIDED THAT the sewer system has been completed and sealed) shall be returned to the payer of the Sewer Baiting Contribution with interest from the date of payment until repayment at the 7 day LIBID rate on the amount repaid
- 2.4 The Sewer Baiting Financial Contribution has been calculated on the basis that 2,200 Dwellings will be constructed on the Application Land and in the event it is proposed that more than 2,200 Dwellings will be constructed on the Land the Owner/Developer will pay to the Council an amended Sewer Baiting Financial Contribution (together with the additional sum calculated in accordance with paragraph 2.2 of this Part of this Schedule) in accordance with the timing set out in paragraph 2.1 of this Part of this Schedule and in accordance with the following formula:

$$A \div B \times C$$

Where:

- A = number of Dwellings to be actually constructed
- B = 2,200 Dwellings proposed to be constructed
- C = £918.00 (index linked in accordance with paragraph 2.2 of this Part of this Schedule)

**Part 3: Covenants relating to the financial contribution towards the costs of litter and dog bins within the Development**

- 3.1 The Owner/Developer will pay to the Council the sum of Twenty Nine Thousand Nine Hundred and Twenty Pounds (£29,920.00) (together with an additional sum calculated as set out below) as a contribution towards the costs of the provision of litter and dog bins within the Development the payment of 25% of the Litter and Dog Bin Financial Contribution to be paid on the first legal transfer of the 750<sup>th</sup> Dwelling a further payment of 40% of the Litter and Dog Bin Financial Contribution to be paid on the first legal transfer of the 1500<sup>th</sup> Dwelling and a final payment of 35% of the Litter and Dog Bin Contribution to be paid on the first legal transfer of the 2100<sup>th</sup> Dwelling or within 22 months from the date of the first legal transfer of the 1700<sup>th</sup> dwelling whichever is the earlier
- 3.2 The Litter and Dog Bin Financial Contribution due and payable (having been calculated at (March 2006 prices) shall if not paid on the date hereof be increased in accordance with any increases in the Index between that date and actual payment PROVIDED THAT if there is any change after the date of this deed in the reference base used to compile the Index the figure taken to be shown in the Index after such a change shall be the figure which would have been shown in the Index if the reference base current at the date of the execution of the deed had been retained
- 3.3 The payment of the Litter and Dog Bin Financial Contribution shall be made on condition that such payments (if accepted) shall be used only for the provision by the Council of litter bins and dog bins within the Land and that such sums that remain unspent after a period of five years from the date of each payment shall be returned to the Owner/Developer as appropriate with interest from the date of payment until repayment at the 7 day LIBID rate on the amount repaid unless otherwise agreed between the Owner/Developer and the Council
- 3.4 The Litter and Dog Bin Financial Contribution has been calculated on the basis that 2,200 Dwellings will be constructed on the Application Land and in the event it is proposed that more than 2,200 Dwellings will be constructed on the Application Land the Owner/Developer will pay to the Council an amended Litter and Dog Bin Financial Contribution (together with the additional sum calculated in accordance with paragraph 3.2 of this Part of this Schedule) in accordance with the timing set out in paragraph 3.1 of this Part of this Schedule and in accordance with the following formula:

$$A \div B \times C$$

Where:

- A = number of Dwellings to be actually constructed
- B = 2,200 Dwellings proposed to be constructed
- C = £29,920.00 (index linked in accordance with paragraph 3.2 of this Part of this Schedule)

- 3.5 The Owner/Developer hereby agree that if the first legal transfer of the 1,700th Dwelling has not been completed within a period of three years from the first legal transfer of the 1,500th Dwelling and the Owner/Developers have not paid 77% of the Litter and Dog Bin Financial Contribution the

Owner/Developer shall pay to the Council any difference between the sum actually paid and 77% of the Litter and Dog Bin Financial Contribution paid

**SCHEDULE 4:  
HIGHWAY IMPROVEMENTS**

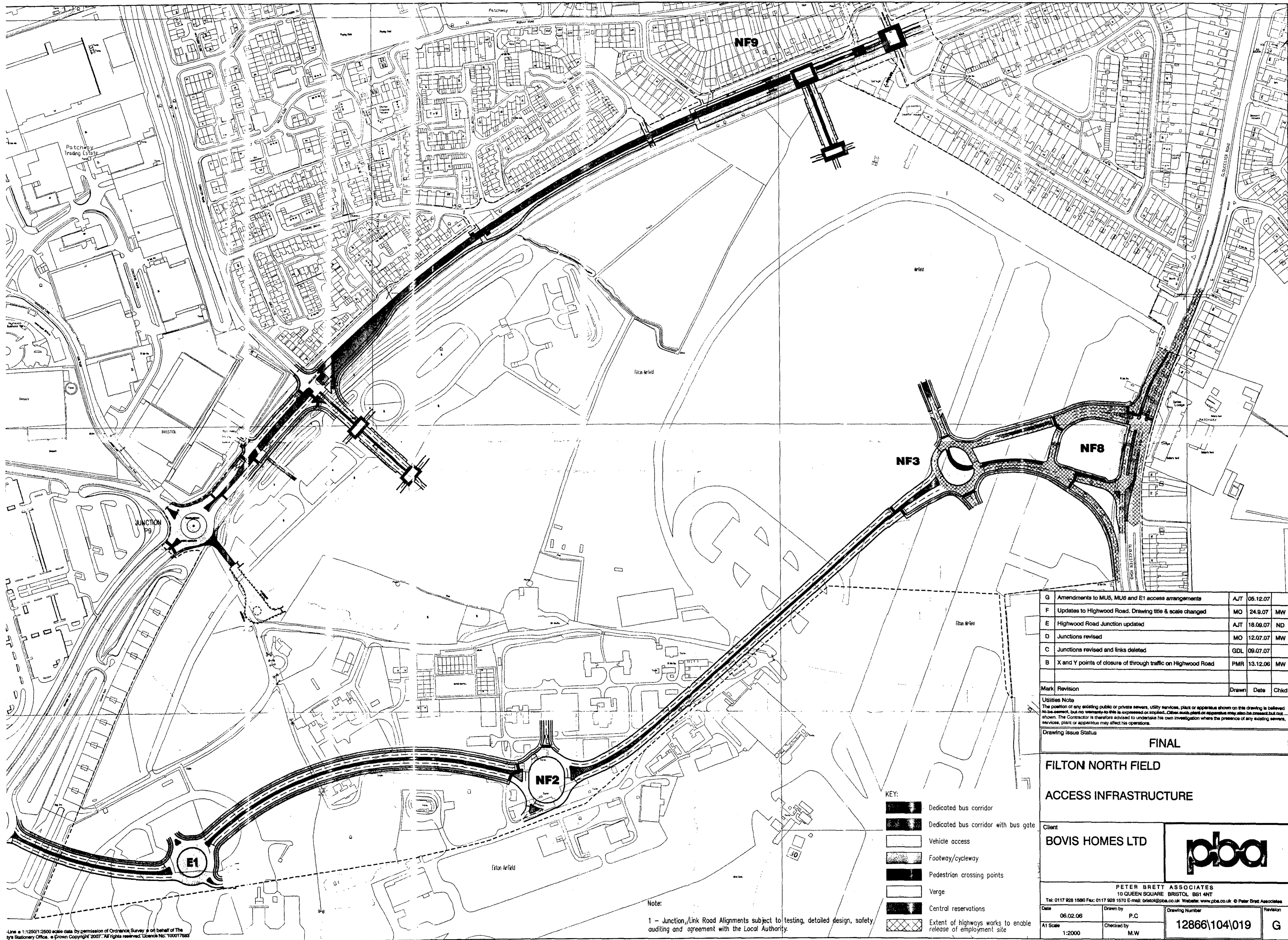
**Part 1 Definitions**

1. In this Schedule and Schedules 6 7 and 8 the words below shall mean as follows:
  - 1.1 "PBA Drawing" means the drawing showing the highway works primarily located on the Land and involving the Principal Link Road and numbered PBA12866/104/019 Rev G and annexed at Annex 9
  - 1.2 "Phase" shall mean for the purposes only of Schedules 4 to 8 any of Phase 1a Phase 1b and Phase 2
  - 1.3 "Phase 1a" shall mean Phase 1a as shown on Table 4
  - 1.4 "Phase 1b" shall mean Phase 1b as shown on Table 4
  - 1.5 "Phase 2" shall mean Phase 2 as shown on Table 4
  - 1.6 "Principal Link Road" shall mean the link road between the NF8 on the PBA Drawing and the San Andreas Roundabout or in the event that the link road cannot be provided along the San Andreas Link Route it shall be provided from the NF8 to Standing Stone Roundabout along such other route as may be agreed under the provisions of Paragraph 2 of Part 2 of this Schedule
  - 1.7 "the San Andreas Roundabout" means the roundabout indicated as such on the PBA Drawing
  - 1.8 "the San Andreas Link Route" means the possible alignment of the Principal Link Road connecting the roundabout NF2 on the PBA Drawing of the Principal Link Road with the San Andreas Roundabout
  - 1.9 "Standing Stone Roundabout" means the roundabout at the junction of Highwood Road and Highwood Lane as shown as such on the PBA Drawing
  - 1.10 "Standing Stone Scheme" means the design for the alignment of the Principal Link Road between the A38 and the Standing Stone Roundabout as shown on Figure 6.2 of the Design and Access Statement entitled Infrastructure Plan for Alternative Standing Stone Master Plan
  - 1.11 "Table 4" means the table setting out the phases of the Development and titled "Table 4" and set out in Annex 1

**Part 2 Phasing of the Highway Works**

- 1.1 Not to Commence the Development of any Phase until the Owner/Developer has entered into an agreement or agreements under s106 of the Act and/or as appropriate Section(s) 38 and/or 278 of the Highways Act 1980 substantially in the form of the agreement annexed at Annex 8 ("the Highways Agreement") to secure the carrying out by the Owner/Developer of the highway works necessary for





- KEY:**
- Dedicated bus corridor
  - Dedicated bus corridor with bus gate
  - Vehicle access
  - Footway/cycleway
  - Pedestrian crossing points
  - Verge
  - Central reservations
  - Extent of highways works to enable release of employment site

Note:  
 1 - Junction/Link Road Alignments subject to testing, detailed design, safety auditing and agreement with the Local Authority.

G	Amendments to M5, M16 and E1 access arrangements	AJT	05.12.07	
F	Updates to Highwood Road. Drawing title & scale changed	MO	24.9.07	MW
E	Highwood Road Junction updated	AJT	18.09.07	ND
D	Junctions revised	MO	12.07.07	MW
C	Junctions revised and links deleted	GDL	09.07.07	
B	X and Y points of closure of through traffic on Highwood Road	PMR	13.12.06	MW

Mark Revision Drawn Date Chkd  
 Utilities Note  
 The position of any existing public or private sewers, utility services, plant or apparatus shown on this drawing is believed to be correct, but no warranty is made as to its accuracy. Other such plant or apparatus may also be present but not shown. The Contractor is therefore advised to undertake his own investigation where the presence of any existing sewers, services, plant or apparatus may affect his operations.

Drawing Issue Status  
**FINAL**

**FILTON NORTH FIELD  
 ACCESS INFRASTRUCTURE**

Client  
**BOVIS HOMES LTD**



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Date	06.02.06	Drawn by	P.C	Drawing Number	12866/104/019	Revision	
At Scale	1:2000	Checked by	M.W				G

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the implementation of that Phase as indicated by the number of property completions before which such element of the highway works must be completed as set out below:

1.2 The Owner/Developer shall use all reasonable endeavours to:

- 1.2.1. Submit detailed technical drawings for that part of the Principal Link Road between the A38 and point NF3 as shown on the PBA Drawing within 9 months of the grant of the Planning Permission
- 1.2.2. Submit detailed technical drawings for that part of the Principal Link Road between points NF3 to NF2 as shown on the PBA Drawing within 12 months of the grant of the Planning Permission
- 1.2.3. Prior to the submission of the first Reserved Matters Application submit detailed technical drawings together with an application for full planning permission (so far as such is required) for that part of the San Andreas Link Route that is outside the Application Site

1.3 The Owner/Developer shall use all reasonable endeavours to construct and open to traffic the Principal Link Road either along the San Andreas Link Route or as otherwise provided for and in accordance with the terms of this Schedule and in accordance with the following time table:

- 1.3.1 Commence construction of the Principal Link Road between the A38 and NF3 as indicated on the PBA Drawing within 4 weeks of approval of the Drawings for that section
- 1.3.5. Complete construction of the Principal Link Road between the A38 and NF3 as indicated on the PBA Drawing within 12 months of approval of the Drawings for that section.
- 1.3.6. Complete construction of the Principal Link Road between points NF3 and NF2 as indicated on the PBA Drawing within 6 months of completion of the Principal Link Road between the A38 to NF3 as indicated on the PBA Drawing and in any event within 2 years and 6 months of the date of the Planning Permission .

In each case provided always that the Council has complied in all respects with its obligations as set out in this Schedule

1.4 Prior to the first legal transfer of the 451<sup>st</sup> Dwelling the Developer shall construct a road connection between the points marked NF3 NF8 and NF9 on Highwood Road and the A38 in accordance with the indicative details shown on the PBA Drawing

1.5 Prior to the first legal transfer of the 651<sup>st</sup> Dwelling the Owner shall (to the extent that it has the requisite land ownership and/or the requisite contractual rights against the Developer) and the Developer shall:

- 1.5.1 close to through traffic the section of Highwood Road between points X and Y on the PBA Drawing
- 1.5.2 implement two-way bus only use of the east bound carriageway of Highwood Road between points X and Y on the PBA Drawing
- 1.5.3 implement access to and from the Development from Highwood Road between west of point X and east of point Y on the PBA Drawing
- 1.5.3 construct and open to traffic the Principal Link Road either in accordance with the San Andreas Link Route or the Standing Stone Scheme as provided for in this Schedule

- 1.5.5 close the road linking point NF3 to Highwood Road as set out on the PBA Drawing at a point North of NF3 to all but bus traffic

PROVIDED THAT the Owner/Developer shall as appropriate only be required to comply with paragraph 1.5 to the extent that any necessary Traffic Regulation Orders have been obtained by the Council AND FURTHER PROVIDED THAT if the San Andreas Link Route is not provided pursuant to paragraph 2 the Principal Link Road will be constructed and opened to traffic in accordance with the Standing Stone Scheme

### The San Andreas Link Route

- 2.1 The Council shall use all reasonable endeavours to acquire all land and or rights that may reasonably be necessary to enable the Owner/Developer to construct the San Andreas Link Route (so far as the necessary land and or rights are not already vested in the Owner/Developer) and shall transfer such land and or rights to the Owner/Developer at nil cost or otherwise authorise the Owner/Developer (at nil cost) to construct the San Andreas Link Route
- 2.2 Provided That the Council have provided the Owner/Developer with the land and or rights as set out in paragraph 2.1 and in accordance with the timescale set out in paragraphs 2.3 to 2.7 the Director on behalf of the Council the Owner and or the Developer shall jointly instruct an independent highway consultant to prepare at the Owner/Developer's expense detailed technical drawings ("the Drawings") to a concept level at 1:1250 scale showing the Principal Link Road along a line running to the San Andreas Roundabout to a standard equivalent to the Standing Stone Scheme ("the Scheme") The work undertaken by the highway consultant will be monitored by the Owner/Developer and the Director
- 2.3 Upon receipt of the Drawings the Director and the Owner/Developer will endeavour to reach agreement on the acceptability of the Scheme in terms only of traffic capacity, geometrical design and public safety
- 2.4 If within 6 months of the joint instruction to the independent highway consultant either the Owner/Developer or the Director is not satisfied that the Scheme is acceptable as set out above the Scheme shall be referred to the arbitrator in accordance with the clause 2.9 below
- 2.5 In the event that the Director and the Owner/Developer are agreed that the Scheme is acceptable or in the event that the Arbitrator rules that the Scheme is acceptable within 4 weeks of such agreement or ruling (as the case may be) the Drawings shall be presented to the Director who within two months of such presentation shall serve notice on the Developer as to the acceptability at officer level of the Scheme or if not acceptable to give the reasons therefore and if the Scheme could be made acceptable the precise amendments to render it acceptable at officer level
- 2.6 Within 28 days of receipt of the notice referred to in 2.5 above the Owner/Developer shall submit an application for full planning permission for that part of the San Andreas Link Route that is outside the Application Site boundary so far as such is required (or the Scheme amended as appropriate under the terms hereof)
- 2.7 If within 6 months following the date of validation of the application for planning permission for that part of the San Andreas Link Route that is outside the Application Site boundary to the San Andreas Roundabout (so far as such is required)

- 2.7.1 full planning permission has been granted (in determination of such application)  
and  
2.7.2 the Council has secured all land and or rights as set out in paragraph 2.1

Then the Owner/Developer shall within a further 2 months enter into an appropriate agreement substantially in the form of the Highways Agreement in order to secure the satisfactory completion of the works and the adoption of the highway as publicly maintainable highway and thereafter construct to Stage 1 (as defined in the Highways Agreement) at the Owner/Developer's own cost the San Andreas Link Route and on the terms set out in the said Highway Agreement within 2 years and six months of the date of the Planning Permission and prior to the first legal transfer of the 651<sup>st</sup> Dwelling

2.8 In any event the obligations under this paragraph 2 shall cease if :

- 2.8.1 within 12 months from the submission of the first Reserved Matters Application or the date of the first legal transfer of the 151<sup>st</sup> Dwelling (whichever is the earlier) either (a) the Council has failed to secure all land and or rights as set out in paragraph 2.1 and/or (b) no agreement has been reached as to the acceptability of the Scheme either by agreement between the parties under clause 2.4 above or following determination by the Arbitrator under 2.9

Or

- 2.8.2 planning permission for the San Andreas Link Route has not been granted (whether on appeal or by resubmission or otherwise) within 18 months of the validation of the first planning application submitted under paragraph 2.6

In which event the Owner/Developer shall construct the Principal Link Road in accordance with the Standing Stone Scheme subject to obtaining such permissions and or consents therefor

- 2.9 In the event that the parties fail to agree on the instruction of a highway consultant or any dispute regarding the extent or acceptability of the Scheme or the standard of the works or in the case of any other dispute regarding the interpretation or meaning of this clause 2 such dispute shall be determined by a member of the Institute of Civil Engineers appointed by the President for the time being of the Institute of Civil Engineers any such referral may be made on the joint application of the parties or on the application of any one of them and any such referral shall be construed as a submission to arbitration within the meaning of the Arbitration Act 1996
- 2.10 The Council will use all reasonable endeavours to progress any application(s) for planning permission submitted to it for an alternative to the San Andreas Link Route as may be submitted to it by or on behalf of the Owner/Developer in the event that the Council is unable to provide the necessary rights to build the San Andreas Link Route as required by paragraph 2.1 and if any such application(s) remains undetermined 6 months after submission then notwithstanding the terms of paragraph 1.3 of Part 2 of this Schedule the deadline for the construction and opening to the public of the Principal Link Road shall be increased by a period equal to the time in excess of 6 months as any such planning application(s) remains undetermined

**SCHEDULE 5:  
FINANCIAL CONTRIBUTION TOWARDS A CAR CLUB  
AND DEVELOPMENT OF PERSONAL TRAVEL PLANS**

**Part 1: Definitions relating to the financial contribution towards a car club**

1. In this Schedule the words below shall mean as follows:
  - 1.1 The "Car Club Contribution" shall mean the sum referred to in Paragraph 2.1 of Part 2 of this Schedule
  - 1.2 The "Index" shall mean the Retail Prices Index
  - 1.3 "Personal Travel Plans" shall mean the travel plans for the residents of the Development to be developed by appropriate members of staff from the Council's Highways and Transport Department. The Community Development Worker as the Council's on site representatives will help to disseminate relevant information to the residents of the Development with support from the Council's Highways and Transport Department.

**Part 2: Covenants relating to the financial contribution towards a car club**

- 2.1 Prior to the first legal transfer of the 451<sup>st</sup> Dwelling the Developer will pay to the Council the sum of eighty thousand pounds (£80,000) together with an additional sum calculated as set out below) to be used only as a contribution towards the cost of the purchase of cars for communal use of the residents of the Development together with the costs of administration of a car club and or towards the cost of developing Personal Travel Plans for the residents of the Development and the allocation of the Car Club Contribution between these purposes shall be at the discretion of the Director in consultation with the Director of Community Services
- 2.2 The Car Club Contribution due and payable (having been calculated at October 2004 prices) shall be increased in accordance with any increases in the Index between October 2004 and actual payment PROVIDED THAT if there is any change after the date of this deed in the reference base used to compile the Index the figure taken to be shown in the Index after such a change shall be the figure which would have been shown in the Index if the reference base current at the date of the execution of the deed had been retained
- 2.3 The Car Club Contribution shall be made on condition that the payment (if accepted) shall be used *only for the purposes set out in 2.1 and that such sums that remain unspent after a period of five years following payment shall be returned to the payer of the Car Club Contribution with interest from the date of payment until repayment at the 7 day LIBID rate*
- 2.4 The Car Club Contribution has been calculated on the basis that 2,200 Dwellings will be constructed on the Application Land and in the event it is proposed that more than 2,200 Dwellings will be constructed on the Application Land the Developer will pay to the Council an amended Car Club Contribution (together with the additional sum calculated in accordance with paragraph 2.2 of this Part of this Schedule) in accordance with the timing set out in paragraph 2.1 of this Part of this Schedule and in accordance with the following formula:

$$A \div B \times C$$

Where:

- A = number of Dwellings to be actually constructed
- B = 2,200 Dwellings proposed to be constructed
- C = £80,000.00 (index linked in accordance with paragraph 2.2 of this Part of this Schedule)

**SCHEDULE 6:  
FINANCIAL CONTRIBUTION TOWARDS  
HIGHWAY INFRASTRUCTURE IMPROVEMENTS**

**Part 1: Definitions relating to the financial contribution towards highway improvements**

1. In this Schedule the words below shall mean as follows:
  - 1.1 The "Highways Contribution" shall mean the sum referred to in Paragraph 2.1 of Part 2 of this Schedule
  - 1.2 The "Index" shall mean the indices based on the Retail Price Index (all items) compiled and published by The Office for National Statistics or any other such index that substitutes the Retail Price Index
  - 1.3 The "Off Site Highway Works" shall mean the works set out on the table and marked as "Table 6" in Annex 1 and prioritised as set out in the said table and such other schemes as may be agreed in writing between the Council and the Owner/Developer

**Part 2: Covenants relating to the financial contribution towards highway improvements**

- 2.1 The Owner/Developer will pay the Highways Contribution to the Council being the sum of three million eight hundred thousand pounds (£3,800,000) (together with an additional sum calculated as set out below) as a contribution towards the cost of the Off Site Highway Works
- 2.2 The Highways Contribution shall be payable in the following instalments:
  - 2.2.1 the first instalment of £0.5M shall be payable on the first legal transfer of the first Dwelling
  - 2.2.2 the second instalment of £0.8M shall become payable on the 1<sup>st</sup> anniversary of the first legal transfer of the first Dwelling
  - 2.2.3 the third instalment of £1M shall become payable on the 2<sup>nd</sup> anniversary of the first legal transfer of the first Dwelling and
  - 2.2.4 the final instalment of £1.5M shall become payable on the 3<sup>rd</sup> anniversary of the first legal transfer of the first Dwelling
- 2.3 Within 28 days of satisfactory implementation of the completion of the bus gate at the Standing Stone Roundabout as shown on the PBA Drawing as required by paragraph 1.5. to Part 2 of Schedule 4 in accordance with the terms of the Highways Agreement ("The Date of Repayment") the Council shall repay the sum of five hundred thousand pounds (£0.5M) to the payer of the Highways Contribution as such sum of five hundred thousand pounds may be increased by reference to the Index between March 2006 and the date of payment by the Owner/Developer of the last instalment of the Off Site Highway Contribution preceding repayment by the Council under this paragraph ("The Date of Payment") together with interest on such sum from The Date of Payment to The Date of Repayment (or such later date as repayment is actually made) at the 7 day LIBID

rate Provided That the payment of the Highway Contribution has been made by the Developer in accordance with the terms of this Agreement

- 2.4 The Highways Contribution due and payable (having been calculated at March 2006 prices) shall be increased in accordance with any increases in the Index between that date and actual payment PROVIDED THAT if there is any change after the date of this Deed in the reference base used to compile the Index the figure taken to be shown in the Index after such a change shall be the figure which would have been shown in the Index if the reference base current at the date of the execution of the Deed had been retained
- 2.5 The Highways Contribution has been calculated on the basis that 2,200 Dwellings will be constructed on the Application Land and in the event it is proposed that more than 2,500 Dwellings be constructed on the Application Land the Owner/Developer will pay to the Council an amended Highways Contribution (together with the additional sum calculated in accordance with paragraph 2.4 of this Part of this Schedule) in accordance with the timing set out in paragraph 2.2 of this Part of this Schedule and in accordance with the following formula:  
 $A \div B \times C$

Where:

- A = number of Dwellings to be actually constructed  
B = 2,200 Dwellings proposed to be constructed  
C = £3,800,000.00 (index linked in accordance with paragraph 2.4 of this Part of this Schedule)

- 2.6 Prior to the opening of the Principal Link Road and closure of Highwood Road to all but bus traffic the Council will undertake traffic surveys to monitor traffic levels for two consecutive Christmas periods on Coniston Road Junction with Highwood Road and at Patchway viaduct and also for a period of up to 3 years (to include two Christmas periods) after the opening of the Principal Link Road and closure of Highwood Road to all but bus traffic PROVIDED THAT in order to request payment under paragraph 2.7 the Council shall undertake traffic surveys before and after the opening of the Principal Link Road and the closure of Highwood Road to all but bus traffic (and for the avoidance of doubt any sums already paid to the Council shall be repaid if the Council fail to undertake traffic surveys both before and after the opening of the Principal Link Road)
- 2.7 If the Council carry out traffic surveys as set out in 2.6 then the Council may request a payment from the Owner/Developer for the Council's reasonable costs of carrying out such surveys and the Owner/Developer shall comply with such request within 21 days of receipt
- 2.8 If the results from the traffic calming surveys demonstrate that traffic levels have increased by 5% or more following the closure of Highwood Road then (following any necessary consultations) the Council may: undertake traffic calming measures to mitigate (and if appropriate reverse) the effect of the increase in traffic levels and request payment from the Owner/Developer for the reasonable costs of such traffic calming measures and the Owner/Developer shall comply with such request within 21 days of receipt PROVIDED THAT the aggregate of payments made under paragraph 2.7 and 2.8 shall not exceed one hundred thousand pounds (£100,000) in total



2.9 Any sums to be paid to the Council under paragraphs 2.6 to 2.8 due and payable (having been calculated at November 2007 prices) shall be increased in accordance with any increases in the Index between November 2007 and actual payment PROVIDED THAT if there is any change after the date of this deed in the reference base used to compile the Index the figure taken to be shown in the Index after such a change shall be the figure which would have been shown in the Index if the reference base current at the date of the execution of the deed had been retained

**SCHEDULE 7:  
FINANCIAL CONTRIBUTION TO PUBLIC TRANSPORT PROVISION**

**Part 1: Definitions relating to the financial contribution towards public transport provision**

1. In this Schedule the words below shall mean as follows:
  - 1.1 The "Public Transport Contribution" shall mean the sum of one million two hundred thousand pounds (£1.2 million) to be paid by the Owner/Developer towards the provision of the new X18 bus service as set out in Table 3 of the Bus Schedule annexed at Annex 1 to be provided to the quality standards also set out in Annex 1 under the heading BUS SERVICE STANDARD or increasing the frequency of any other bus service which may be agreed between the Owner/Developer and the Council in writing which currently or may in the future serve the Development ("the Council's Bus Service") payable in accordance with Paragraph 2.1 of Part 2 of this Schedule
  - 1.2 The "Index" shall mean the indices based on the Retail Price Index (all items) compiled and published by The Office for National Statistics or any other such index that substitutes the Retail Price Index

**Part 2: Covenants relating to the financial contribution towards public transport provision**

- 2.1 The Owner/Developer will pay the Public Transport Contribution to the Council in the following instalments
  - 2.1.1 within three months of receipt of written notice by the Council that the contract for the Council's Bus Service has been let the Owner/Developer shall pay the sum of six hundred thousand pounds (£600,000) (together with an additional sum calculated as set out below) PROVIDED THAT the Public Transport Contribution shall not be payable prior to the first transfer of the 451<sup>st</sup> Dwelling
  - 2.1.2 on the first anniversary of the date when payment is required to be made in 2.1.1 above the Owner/Developer shall pay the sum of three hundred thousand pounds (£300,000)
  - 2.1.3 on the second anniversary of the date when the payment is required to be made in 2.1.1 above the Owner/Developer shall pay the sum of three hundred thousand pounds (£300,000)
- 2.2 The Public Transport Contribution due and payable (having been calculated at March 2006 prices) shall be increased in accordance with any increases in the Index between that date and actual payment PROVIDED THAT if there is any change after the date of this Deed in the reference base used to compile the Index the figure taken to be shown in the Index after such a change shall be the figure which would have been shown in the Index if the reference base current at the date of the execution of the Deed had been retained

- 2.3 In the event that the Council has not expended the whole or any part of the Public Transport Contribution at the expiry of the period of 5 years commencing with the date of the receipt of the payment due under sub clause 2.1.3 above then any unexpended balance shall be repaid to the payer which made the payment together with interest accrued from the date of payment to the date of repayment at the 7 day LIBID rate on the amount repaid unless otherwise agreed between the Owner/Developer and the Council
- 2.4 Upon the 1<sup>st</sup> anniversary of the first legal transfer of the 2000<sup>th</sup> Dwelling the obligations on the part of the Owner/Developer to make payments of the Public Transport Contribution shall cease PROVIDED THAT the payments in this Schedule have been made as required

**SCHEDULE 8:  
PROVISION OF NEW PUBLIC TRANSPORT SERVICES**

**Part 1: Definitions relating to the provision of new public transport services**

1. In this Schedule the words below shall mean as follows:
  - 1.1 The "Services" shall mean the new bus service X75 and the enhancement to frequency of service 75 as set out in the Bus Schedule to be provided in accordance with Paragraph 1.2 of Part 2 of this Schedule and such services shall be of a quality set out in the Bus Service Standard in Annex 1 and the Owner/Developer and the Council (as appropriate) shall monitor the Services to ensure compliance with the said quality standards
  - 1.2 The "Bus Provider" shall mean such providers as are included on the Council's list of approved tenderers for subsidised services or any alternative provider that has been previously approved in writing by the Council
  - 1.3 The "Contract" shall mean a contract or contracts between the Owner/Developer and the Bus Provider for the provision of the Services
  - 1.4 The "Bus Schedule" shall mean the schedule and phasing of bus services attached in Annex 1
  - 1.5 The "Services Contribution" shall mean the contribution referred to in Table 5 of Annex 1
  - 1.6 The "Index" shall mean the indices based on the Retail Price Index (all items) compiled and published by The Office for National Statistics or any other such index that substitutes the Retail Price Index

**Part 2: Covenants relating to the provision of new public transport services**

1. The Owner/Developer shall at its/their sole expense use all reasonable endeavours to enter into a Contract with a reputable bus operator to provide the Services as follows:
  - 1.1 a new bus service (to be numbered service 75) which shall be provided by the Owner/Developer for a period of six years from its commencement and shall commence on completion of the link between Highwood Road and the A38 (as required by paragraph 1.4 of Part 2 of Schedule 4 ) and
  - 1.2 a new bus service (to be numbered service X75) which shall be provided by the Owner/Developer for a period of four years from its commencement prior to the first legal transfer of the 751<sup>st</sup> Dwelling
- 2.1 If the Director confirms in writing that he is satisfied that despite all reasonable endeavours of the Owner/Developer no Contract or Contracts have been let for the Services prior to the first legal transfer of the 300<sup>th</sup> Dwelling the Director shall inform the Owner/Developer of such in writing

- 2.2 Upon service of the notice in 2.1 the Council shall tender the Services and the Owner/Developer shall thereafter pay the Services Contribution in the manner set out in Table 5 of Annex 1
- 2.3 The Services Contribution due and payable (having been calculated at March 2006 prices) shall be increased in accordance with any increases in the Index between that date and actual payment PROVIDED THAT if there is any change after the date of this Deed in the reference base used to compile the Index the figure taken to be shown in the Index after such a change shall be the figure which would have been shown in the Index if the reference base current at the execution of the Deed had not been retained
- 2.4 The Council shall use the payments made under paragraph 2.2 to satisfy tender and up front set up and mobilisation costs but shall return unspent monies on the second anniversary of the letting of the contract for the Services and annually thereafter for each year of operation together with interest thereon and shall account to the Owner/Developer for sums spent on the Services
3. Upon the 1<sup>st</sup> anniversary of the first legal transfer of the 2000<sup>th</sup> Dwelling and PROVIDED THAT all payments and obligations contained in this Schedule have been complied with the obligations on the part of the Owner/Developer for the continued provision of the Services shall cease

## SCHEDULE 9:

### COMMUNITY DEVELOPMENT WORKER

#### **Part 1: Definitions relating to the employment of a Community Development Worker**

1. In this Schedule the words below shall mean as follows:
  - 1.1 the "Community Development Worker" shall mean a person paid by the Council to carry out the duties described in the Community Development Job Description with the aim of developing a sustainable new community and integrating the same with the existing community of Patchway
  - 1.2 the "Community Development Worker Contribution" shall mean the sum of Eighty four thousand six hundred pounds (£84,600) towards the cost to the Council of employing a Community Development Worker for a six year period as soon as reasonably practical following the first legal transfer of 500 dwellings to carry out the duties set out in the Community Development Worker Job Description
  - 1.3 the "Community Development Worker Job Description " means the job description set out in Annex 2
  - 1.4 The "Index" shall mean the indices based on the Retail Price Index (all items) compiled and published by The Office for National Statistics or any other such index that substitutes the Retail Price Index

#### **Part 2: Covenants relating to the employment of a Community Development Worker by the Developer**

- 2.1 The Developer shall pay the Community Development Worker Contribution upon the later of the first legal transfer of the 500th Dwelling or 28 days from receipt of written demand by the Council
- 2.2 The Community Development Worker Contribution due and payable (having been calculated at March 2006 prices) shall be increased in accordance with any increases in the Index between that date and actual payment PROVIDED THAT if there is any change after the date of this Deed in the reference base used to compile the Index the figure taken to be shown in the Index after such a change shall be the figure which would have been shown in the Index if the reference base current at the date of the execution of the Deed had been retained
- 2.3 In the event that the Council has not expended the whole or any part of the Community Development Worker Contribution at the expiry of the period of 8 years commencing with the date of the receipt of the payment due under sub paragraph 1 above then any unexpended balance shall be repaid to the payer which made the payment together with interest accrued from the date of payment to the date of repayment at the 7 day LIBID rate on the amount repaid
- 2.4 The Community Development Worker Contribution has been calculated on the basis that 2,200 Dwellings will be constructed on the Application Land in the event it is proposed that more than 2,450 Dwellings will be constructed on the Application Land the Developer will pay to the Council an amended Community Development Worker Contribution (together with the additional sum

calculated in accordance with paragraph 2.2 of this Part of this Schedule) in accordance with the timing set out in paragraph 2.1 of this Part of this Schedule and in accordance with the following formula:

$$A \div B \times C$$

Where:

- A = Number of Dwellings to be actually constructed
- B = 2,450 Dwellings proposed to be constructed
- C = £84,600.00 (Index linked in accordance with paragraph 2.2 of this Part of this Schedule)

**SCHEDULE 10:  
CONTRIBUTION TO THE LOCAL LIBRARY**

**Part 1: Definitions relating to the financial contribution towards the local library**

1. In this Schedule the words below shall mean as follows:
  - 1.1 The "Local Library Contribution" shall mean the sums referred to in paragraph 2.1 of Part 2 of this Schedule
  - 1.2 The "Index" shall mean the Royal Institute of Chartered Surveyors Building Cost Index

**Part 2: Covenants relating to the financial contribution towards the local library**

- 2.1 Prior to the first legal transfer of the 600th Dwelling on the Land the Owner/Developer will pay to the Council the sum of Two Hundred and Forty Two Thousand Five Hundred and Twenty One Pounds (£242,521.00) (together with an additional sum calculated as set out below) as a contribution towards the expansion of Patchway library for information technology hardware and software applications stock and additional floor space
- 2.2 The Local Library Contribution due and payable (having been calculated at March 2006 prices) shall be increased in accordance with any increases in the Index between that date and actual payment PROVIDED THAT if there is any change after the date of this Deed in the reference base used to compile the Index the figure taken to be shown in the Index after such a change shall be the figure which would have been shown in the Index if the reference base current at the date of the execution of the Deed had been retained
- 2.3 The payment of the Local Library Contribution shall be used only for the purpose of the expansion of Patchway Library and to provide enhanced facilities at Patchway Library and for no other purpose and any sums that remain unspent after a period of five years from the date of payment or the first legal transfer of the 2200th Dwelling on the Land whichever is the later shall be returned to the payer of the Local Library Contribution with interest from the date of payment until repayment at the 7 day LIBID rate on the amount repaid
- 2.4 The Local Library Contribution has been calculated on the basis that 2,200 Dwellings will be constructed on the Application Land and in the event it is proposed that more than 2,220 Dwellings will be constructed on the Application Land the Owner/Developer will pay to the Council an additional Local Library Contribution (together with the additional sum calculated in accordance with paragraph 2.2 of this Part of this Schedule) in accordance with the timing set out in paragraph 2.1 of this Part of this Schedule and in accordance with the following formula:  
$$A - B \times C$$

Where:

- A = number of Dwellings to be actually constructed  
B = 2,220 Dwellings proposed to be constructed  
C = £110.24 (Index linked in accordance with paragraph 2.2 of this Part of this Schedule)



**SCHEDULE 11:  
OPEN SPACES**

**Part 1 : Definitions relating to the Open Spaces**

- 1.1 "Boules Court" shall mean an area of the Open Space set out in accordance with the British Petanque Federation standards of a minimum size of four metres (4 m) by fifteen metres (15 m) any solid barriers to be thirty centimetres outside these dimensions
- 1.2 "Certificate A" shall mean the certificate or certificates of completion referred to in Paragraphs 1.4 1.5 and 1.8 of Part 2 of this Schedule
- 1.3 The "Commuted Sum" shall mean the sums referred to in Paragraph 1.11.1 to 1.11.3 (inclusive) of Part 2 of this Schedule and "Commuted Sum" shall be construed accordingly
- 1.4 "Croquet Lawn" shall mean an area of the Open Space set out in accordance with The Croquet Association standards of a minimum size of thirty five yards (35 yards) by twenty eight yards (28 yards) the grass to be fine turf
- 1.5 "Incidental Open Spaces" shall mean those areas of land identified after the date of this Agreement and not forming part of the agreed Open Spaces but which the Owner/Developer and the Council agree should be laid out as open space and which form large or linear spaces where each space is a minimum size of 500 square metres and is connected by footpath route to other Open Spaces
- 1.6 The "Index" shall mean the indices based on the Updating Percentages published by Tudorseed Construction for the Schedule of Rates for Grounds Maintenance 1987
- 1.7 The "Landscaping Maintenance Period" shall mean a period or periods of a minimum of twelve months from the date of signing-on of Certificate A but if at the end of that period the Director of Community Services forms the view that he cannot sign-off Certificate A the Landscaping Maintenance Period shall include such further period as shall elapse until the signing off of Certificate A
- 1.8 The "Landscaping Scheme" shall mean the scheme (or a series of schemes) detailing proposals for the provision of the Open Spaces and Incidental Open Spaces and shall include details of both hard and soft landscaping works: such details shall include proposed finished levels or contours means of enclosure any vehicle and pedestrian routes (that cross the Open Spaces and/or the Incidental Open Spaces) any proposed vehicular and/or pedestrian accesses (including those for the purposes of maintenance) hard surfacing materials minor artefacts and structures (for example furniture play equipment refuse or other storage units signs lighting) proposed and existing functional services above and below ground (for example drainage power communications cables pipelines manholes) retained historic landscape features and proposals for restoration (where relevant): the soft landscape works shall include planting plans written specifications (including cultivation and other operations associated with plant and grass establishment) schedules of plants noting species plant sizes and proposed numbers/densities where appropriate and an implementation programme (and for the avoidance of doubt any Surface Water Infrastructure that forms part of Open Spaces as defined in the Landscaping Scheme or forms part of the Incidental

Open Spaces will be subject to approval by the Environmental Agency pursuant to section 23 of the Land Drainage Act 1991)

- 1.9 The "Landscaping Works" shall mean the works specified in the Landscaping Scheme
- 1.10 "LAP" means an unequipped local area of children's play meeting NPFA requirements and European Safety Standard EN15312 which shall allow children to safely play run about games
- 1.11 "LEAP" means the Local Equipped Area for Play meeting the NPFA requirements and European Safety Standard EN15312 and using only steel play equipment and completed maintained inspected to RoSPA guidelines and accessible for public use
- 1.12 "MUGA" means the Multi-Use Games Area of not less than 685 square metres meeting the Sport England Specification and to European Safety Standard EN15312
- 1.13 "NEAP" means the Neighbourhood Equipped Area of Play of at least 1500 square metres meeting the NPFA requirements and European Safety Standards EN1176 and 1177 and using only steel play equipment all to be completed maintained inspected to RoSPA guidelines and accessible for public use
- 1.14 The "Open Spaces" shall mean those parts of the Land equating to Sixty Three Thousand Six Hundred and Fifty Two Square Metres (6.3652 Ha) in the approximate positions shown as such on Plan Number 3 to be set aside for public open space and/or recreational and/or other related purposes as defined in the Landscaping Scheme and Plan attached thereto and to be transferred in accordance with Paragraph 1.10 of Part 2 of this Schedule
- 1.15 "Site Compound" means any area used for siting offices toilets fuel tanks cabins storage containers the storage of materials and the construction of temporary roads and hardstandings
- 1.16 "Surface Water infrastructure" means those parts of Open Spaces and Incidental Open Spaces (whose primary objective is to allow formal and informal recreational and play amenity) that include watercourses that require the Owner/Developer (as appropriate dependant on land ownership) to carry out the construction and implementation of water retention and control facilities and devices listed in Annex 7 (for the avoidance of doubt any underground storage features are excluded from this definition and shall not form part of the Open Spaces and incidental Open Spaces) PROVIDED THAT a Commuted Sum in respect thereof is paid in accordance with paragraph 1.11.3 to Part 2 of this Schedule and FURTHER PROVIDED THAT any Independent Engineering Report required for such watercourse listed in Annex 6 is submitted to and approved in writing by the Director of Community Services and for the avoidance of doubt any surface water infrastructure that does not meet the primary objective will form part of the Incidental Open Spaces and any Surface Water Infrastructure exceeding the cumulative total size of 1 hectare shall not form part of the Open Spaces and the Incidental Open Spaces
- 1.17 "Teen Shelter" means the shelter located on an open space area of not less than 2000 square metres
- 1.18 "Trim Trail" shall mean that part or parts of the Open Space laid out to provide 21 activity zones collectively catering for all age groups in accordance with the Trim Trail Details

- 1.19 Trim Trail Details" shall mean the specification and proposals for the phased implementation of the Trim Trail

**Part 2: Covenants relating to the Open Spaces and Incidental Open Spaces**

**1 Scheme Approved**

- 1.1.1 The Owner/Developer covenant to ensure that the detailed master plan and design code (submitted to the Council pursuant to condition 5 attached to the Planning Permission) for each phase of the Development include detailed proposals for the provision of the Open Spaces within the phase in question including: the location and extent of the proposed Open Spaces the extent of both hard and soft landscaping works within the Open Spaces (including details of proposed surface materials) long sections showing the proposed ground levels across the Open Spaces any vehicle and pedestrian routes that cross the Open Spaces (including those for the purposes of recreation) any proposed vehicular and/or pedestrian accesses (including those for the purposes of maintenance); and the locations of any proposed play equipment and/or pitches
- 1.1.2 The Owner/Developer shall ensure that in each case the detailed master plan and design code (as referred to in paragraph 1.1.1 above) distinguishes between the Open Spaces and Incidental Open Spaces that will be provided within the phase in question
- 1.1.3 The Owner/Developer also covenant to formulate the Landscaping Scheme in accordance with the detailed master plans and design codes that are approved in writing by the Council unless the Council provides written approval for any variation and for the avoidance of doubt the Landscaping Scheme shall be submitted to and approved in writing by the Council concurrent with the approval by the Council of each Reserved Matters Application and the works shall be carried out as approved unless otherwise agreed in writing by the Council
- 1.2 The Owner/Developer shall ensure that any Open Spaces or the Incidental Open Spaces used as a Site Compound(s) shall not be within 10 metres of the canopy of an existing tree or hedge and shall be cleared of all materials debris waste and equipment and contaminated soil and relieved of all compaction to the satisfaction of the Council for use as Open Space or Incidental Open Space
- 1.3 Landscaping Works**
- The Developer shall commence the Landscaping Works in accordance with the timetable agreed as part of the Landscaping Scheme and complete each Phase of the Landscaping Works in accordance with this paragraph to the satisfaction of the Director of Community Services in accordance with the timetable agreed in the Landscaping Scheme and which shall provide for the following:
- 1.3.1 Prior to the first legal transfer of the 750th Dwelling all areas of Open Space within Phase 1a and 1b as identified in Figure 6.29 of the Design and Access Statement (or such other Phase as shall be submitted to and approved by the Council) shall be provided ready and available for use landscaped and equipped in accordance with the Landscaping Scheme or as otherwise agreed with the Director of Community Services and signed on to Certificate A for the avoidance of doubt these identified areas shall include:

- 1.3.1.1 A Local Equipped Area of Play (LEAP) meeting the NPFA requirements and using only steel play equipment and completed maintained inspected to RoSPA guidelines and accessible for public use
- 1.3.1.2 An unequipped local area of children's play (LAP) meeting NPFA requirements which shall allow children to safely play run about games
- 1.3.1.3 General areas of Open Spaces to be provided throughout the Development in large or linear spaces where each space is a minimum size of 500 square metres and connected by footpath route to other Open Spaces

and shall be accessible for public use and directly accessible allowing entry and egress of plant and materials from any publicly owned land and/or public highway land to maintain the same

- 1.3.2 Prior to the first legal transfer of the 1500<sup>th</sup> Dwelling all areas of Open Space within Phase 2 as identified in Figure 6.29 of the Design and Access Statement or such other Phase as shall be submitted to and approved by the Council) shall be provided ready and available for use landscaped and equipped in accordance with the Landscaping Scheme or as otherwise agreed with the Director of Community Services and signed on to Certificate A for the avoidance of doubt these identified areas shall include:

- 1.3.2.1 The Neighbourhood Equipped Area of Play (NEAP) of at least 1500 square metres meeting the NPFA requirements and using only steel play equipment all to be completed maintained inspected to RoSPA guidelines and accessible for public use
- 1.3.2.2 Teen Shelter located on an open space area of not less than 2000 square metres unless it has previously been agreed that such facility shall be provided as part of paragraph 1.3.1
- 1.3.2.3 A Multi-Use Games Area (MUGA) of not less than 685 square metres meeting the Sport England Specification unless it has previously been agreed that such facility shall be provided as part of paragraph 1.3.1
- 1.3.2.4 Two unequipped local areas of children's play (LAP) meeting NPFA requirements which shall allow children to safely play run about games
- 1.3.2.5 A Local Equipped Area of Play (LEAP) meeting the NPFA requirements and using only steel play equipment and completed maintained inspected to RoSPA guidelines and accessible for public use
- 1.3.2.6 General areas of Open Spaces to be provided throughout the Development in large or linear spaces where each space is a minimum size of 500 square metres and connected by footpath route to other Open Spaces

and shall be accessible for public use and directly accessible allowing entry and egress of plant and materials from any publicly owned land and/or public highway land to maintain the same

- 1.3.3 Prior to the first legal transfer of the 2100<sup>th</sup> Dwelling or within 22 months from the date of the first legal transfer of the 1700<sup>th</sup> dwelling whichever is the earlier the land amounting to the total of 6.3652 hectares of Open Spaces shall be provided ready and available for use landscaped and equipped in accordance with the Landscaping Scheme and signed on to Certificate A or as otherwise agreed with the Director of Community Services for the avoidance of doubt these identified areas of remaining Open Spaces shall include:

- 1.3.3.1 Two unequipped local area of children's play (LAP) meeting NPFA requirements which shall allow children to safely play run about games
- 1.3.3.2 General areas of Open Spaces to be provided throughout the Development in large or linear spaces where each space is a minimum size of 500 square metres and connected by footpath route to other Open Spaces
- 1.3.3.3 the Boules Court the Croquet Lawn and in so far as not already provided the Trim Trail

shall be accessible for public use and directly accessible allowing entry and egress of plant and materials from any publicly owned land and/or public highway land to maintain the same

- 1.3.4 General areas of Incidental Open Spaces to be provided throughout the development in large or linear spaces where each space is a minimum size of 500 square metres or as otherwise agreed with the Director of Community Services and connected by footpath route to other Open Spaces and shall be accessible for public use and directly accessible allowing entry and egress of plant and materials from any publicly owned land and/or public highway land to maintain the same
- 1.4 Issue of Certificate of Completion of the Landscaping Works**

Upon completion of any part of the Landscaping Works the Developer in respect of the Open Spaces and the Owner/Developer in respect of such part of the Incidental Open Spaces that is/are located within their land ownership shall give to the Director of Community Services written notification to that effect and upon the Director of Community Services confirming on inspection that they are in accordance with the approved Landscaping Scheme and have been satisfactorily completed he shall sign-on Certificate A to that effect (and subsequently the signing-off of Certificate A) with appropriate reductions in the bond relating to the Landscaping Works which the Director of Community Services may agree

**1.5 Landscaping Maintenance Period**

- 1.5.1 Following the signing-on of Certificate A the Developer shall maintain the Open Spaces and the Owner//Developer as appropriate shall maintain such part of the Incidental Open Spaces as is/are located within their land ownership for the Landscaping Maintenance Period and make good any defects arising within the Landscaping Maintenance Period to the satisfaction of the Director of Community Services
- 1.5.2 During the course of the Maintenance Period the Council shall inform the Owner/Developer of two dates one date being not less than six months and the second date not less than nine months and not more than 10 months from the commencement of the Maintenance Period upon which it shall inspect the Open Space(s) and if appropriate Incidental Open Space(s) and agree with the Owner/Developer a list of defects which shall be remedied by the Owner/Developer (as appropriate dependent on land ownership) either before the second of the visits or prior to the signing-off of Certificate A as appropriate

**1.6 Replacement of trees and shrubs and other plants**

In addition to the obligations under paragraph 1.4 above if during a period of two years after the planting of any tree or shrub or other plants forming part of the Landscaping Scheme such tree or

shrub should for any reason die or be removed or felled other than through vandalism the Owner/Developer (as appropriate dependent on land ownership) shall to the satisfaction of the Director of Community Services replace that tree or shrub with another of the same or other similar species specified by the Director of Community Services during the next planting season

#### **1.7 Existing hedges and trees**

The Owner/Developer (as appropriate dependent on land ownership) or their appointed agents shall not remove or allow or permit the removal of any existing hedges or felling of any existing trees prior to the approval of or other than in accordance with the Landscaping Scheme

#### **1.8 Issue of Certificate of Completion of Landscaping Maintenance Period**

At the end of the Landscaping Maintenance Period the Owner/Developer (as appropriate dependent on land ownership) shall give to the Director of Community Services written notification that the Landscaping Maintenance Period has expired and subject to the Director of Community Services being satisfied on inspection that the Open Spaces and the Incidental Open Spaces (or any part thereof) are in accordance with the approved Landscaping Scheme and have been satisfactorily maintained and following the signing-off of Certificate A by the Director of Community Services to that effect and the legal transfer being completed (and for the avoidance of doubt the Council shall accept an offer made of any Open Space or Incidental Open Space (or any part thereof) provided such offer complies with paragraph 1.10) the Council shall take over the maintenance of the Open Spaces and the Incidental Open Spaces

1.9 For the avoidance of doubt if the Director of Community Services does not sign-off Certificate A the Developer shall remain responsible for and hereby covenants to ensure the proper maintenance of the Open Spaces and Owner/Developer (as appropriate) shall remain responsible for and hereby covenants to ensure the proper maintenance of the Incidental Open Spaces within their respective ownerships and the Landscaping Maintenance Period shall be extended until such time as Certificate A has been signed-off and the legal transfer has been completed

#### **1.10 Transfer of the Open Spaces and Incidental Open Spaces**

1.10.1 Within one month following the signing-on of Certificate A or Certificates A of each area of Open Space or Incidental Open Space (together with any associated Surface Water Infrastructure) the Owner/Developer (as appropriate dependent on land ownership) shall offer to legally transfer such area(s) to the Council and in doing so shall:

- 1.10.1.1 provided a good and proper title to that part of the Open Space(s) and or Incidental Open Space deduced at the expense of the Owner/Developer (as appropriate dependent on land ownership) and
- 1.10.1.2 make such offer upon the terms and conditions set out in Part 3 of this Schedule and
- 1.10.1.3 pay the Council's reasonable legal costs and expenses associated with the transfer

such offer to be irrevocable until a period 3 months after the date of signing off of Certificate A for a period of 3 months from the date of offer Provided That the Council shall not accept any offer made under this paragraph until Certificate A has been signed off

#### 1.11 Commuted Sum

1.11.1 The Owner/Developer shall pay to the Council before or upon the date of the transfer of any part of the Open Spaces and in accordance with the formula below to calculate that part of the Commuted Sum due and payable the sum of One Million Two Hundred and Thirteen Thousand Two Hundred and Seven Pounds (£1,213,207.00) as a contribution towards the future cost of maintenance of the Open Spaces PROVIDED THAT for the avoidance of doubt that the Commuted Sum does not cover the future costs of maintenance of any Surface Water Infrastructure any Incidental Open Spaces or any Public Art which will remain the responsibility of the Owner/Developer in accordance with Schedule 1 which may be located on the Open Spaces or Incidental Open Spaces (the relevant Commuted Sums for which are separately provided for in paragraphs 1.11.2 to 1.11.3 (inclusive) of this Part of this Schedule 11 and FURTHER PROVIDED that if the transfer of the Open Spaces are to be transferred in phases then the following formula will apply to calculate that part of the Commuted Sum due and payable

$$A \times B + C$$

Where:

A = area of land to be transferred (square metres)

B = £1,213,207.00

C = 6.3652 hectares

1.11.2 The Owner/Developer (as appropriate dependent on land ownership) shall pay to the Council before or upon the date of the transfer of any Incidental Open Spaces a Commuted Sum in accordance with the following formula:

$$A \times B = C$$

Where:

A = The amount in square metres of Incidental Open Spaces

B = £19.06 per square metre

C = Commuted Sum payable in respect of the Incidental Open Spaces

1.11.3 The Owner/Developer shall pay to the Council before or upon the date of the transfer of any Surface Water Infrastructure a Commuted Sum in accordance with the following formula:

$$(A \times B) + C = D$$

Where:

A = The amount in square metres of Surface Water Infrastructure

B = £6.40 per square metre of Surface Water Infrastructure area

- C = Cost of the type of Surface Water Attenuation Installation as listed in Annex 7  
D = Commuted Sum payable in respect of the Surface Water Infrastructure

#### 1.12 Index-Linking of Commuted Sum

The Commuted Sums due and payable (having been calculated at March 2006 prices) shall if not paid on the date hereof be increased in accordance with any increase in the Index between that date and actual payment PROVIDED THAT if there is any change after the date of this deed in the reference base used to compile the Index the figure taken to be shown in the Index after such a change shall be the figure which would have been shown in the Index if the reference base current at the date of the execution of the Deed had been retained and any Commuted Sum payable in respect of the Incidental Open Spaces and/or in respect of the Surface Water Infrastructure shall be similarly increased in accordance with the index from the date of its calculation to the date of actual payment

#### Readjustments

1.13 No more than 2,200 Dwellings shall be constructed on the Land UNLESS it has been agreed in writing between the Developer and the Director of Community Services that the Developer will transfer to the Council an amended Open Spaces provision as appropriate

1.14 The Commuted Sums have been calculated on the basis that 2,200 Dwellings will be constructed on the Land and in the event it is proposed that more than 2,200 Dwellings will be constructed on the Land the Owner/Developer will pay to the Council the Commuted Sum together with the additional sums calculated in accordance with paragraph 1.12 of this Part of this Schedule in accordance with the timing set out in paragraph 1.11 of this Part of this Schedule and in accordance with the following formula:

$$A \div B \times C$$

Where:

- A = number of Dwellings to be actually constructed  
B = 2,200 Dwellings proposed to be constructed  
C = The relevant Commuted Sum (index linked in accordance with paragraph 1.12 of this Part of this Schedule)

#### Creation of Rights

1.15 The Developer shall not following the date of this Agreement create or grant any rights easements quasi-easements or privileges over the Open Spaces and the Owner/Developer similarly covenant in respect of any identified Incidental Open Spaces located on such part of the Land as is within their ownership which might in any way affect the use of or the access to the Open Spaces and any identified Incidental Open Spaces as envisaged under this Agreement



## **Failure to perform - Obligation of Surety**

1.16 Before commencing the whole or any part of the Landscaping Works or the Development the Developer shall enter into a bond or bonds in the form annexed hereto with a reputable surety approved beforehand by the Council for Six Hundred and Forty Seven Thousand Pounds (£647,000.00) together with such further sum as the Council determines is the cost of the Landscaping Works:

- 1.16.1 in accordance with paragraph 1.13 and
- 1.16.2 is required on the Incidental Open Space and
- 1.16.3 is required on the Surface Water Infrastructure

to the effect that if the Developer defaults in any way in carrying out its obligations under this Schedule then the Council may demand the sum of money necessary to remedy the default from the surety and the surety shall pay such sum to the Council within five working days PROVIDED THAT if the Landscaping Works are not completed within one year of the date of the bond or bonds a further bond or bonds shall be entered into for a revised amount being the amount by which the cost of the Landscaping Works has increased or decreased by reference to the Index and the existing bond or bonds shall be released and on each anniversary of the date of this Agreement until the Landscaping Works have been transferred in full the bond or bonds shall be renewed in accordance with the provisions of this paragraph

1.17 On approval of details of both hard and soft landscaping works submitted to the Council with each Reserve Matters Application in accordance with paragraph 1.1 to Part 2 of this Schedule which include Incidental Open Spaces and Surface Water Infrastructure the Developer shall increase the Bond entered into under the provisions of clause 18 by the amount of the additional commuted sum payable in respect of the Incidental Open Spaces and Surface Water Infrastructure at that date such that any such additional commuted sum shall become a Bonded Obligation as at the date of the Reserved Matters Application and for the Avoidance of Doubt The Owner/Developer shall enter into a new bond if the amount of the existing bond is insufficient to provide surety for the additional commuted sum

1.18 Notwithstanding paragraph 1.3.3 of this Schedule 11 the Developer hereby agrees that if the first legal transfer of the 1,700th Dwelling has not been completed within a period of three years from the first legal transfer of the 1,500th Dwelling and the Developer has not provided 77% of the Open Space the Developer shall provide such additional area of the Open Space such that it in aggregate equals 77% of the Open Space in accordance with the Landscaping Scheme and such additional part of the Commuted Sum as is relevant to the Open Space provided under this paragraph

1.19 The Owner/Developer shall be entitled to reduce the limit of any subsisting or future bond required under the terms of this Schedule 11 by 50% of the value of any such bond as is (or would be) attributable to any area(s) of Open Space or Incidental Open Space (together in either case with any Surface Water Infrastructure) upon the signing-on of Certificate A in relation to area(s) of Open Space or Incidental Open Space and in either case with associated Surface Water Infrastructure

1.20 Upon offering to legally transfer any area of Open Space or Incidental Open Space (together in either case with any associated Surface Water Infrastructure) under paragraph 1.10 following the signing-off of Certificate A in relation to such area the Owner/Developer shall be entitled to reduce

the limit of any subsisting or future bond required under the terms of this Schedule 11 by the remaining value of such bond as is (or would be) attributable to the appropriate area of Open Space or Incidental Open Space and in either case with associated Surface Water Infrastructure

**Part 3 :Terms and Conditions of Transfer of the Open Spaces and Incidental Open Spaces**

**1 Price**

The price shall be One pound (£1.00) payable on completion

**2 Title**

The Owner/Developer shall at its own expense

- (a) deduce a good and marketable title free from any financial or other charge
- (b) provide eight plans showing the Open Spaces and Incidental Open Spaces for use in connection with the transfer

**3 Covenant for Title**

The Owner/Developer shall convey with full title guarantee

**4 Matters Subject to which Land Sold**

- (i) The land is sold subject to and with the benefit of (as the case may be)
  - (a) all matters registered as local land charges
  - (b) all notices orders proposals or requirements affecting or relating to the land given or made by any government department statutory undertaking or other public or local authority of which notice is given
  - (c) all rights easements quasi-easements and privileges in the nature of light air drainage way and passage and other like rights used or enjoyed over the land and of which notice has been given
- (ii) The land is sold subject to all matters disclosed in writing to the Council prior to the date hereof by the Owner's/Developer's Solicitors
- (iii) The Council may elect to nominate an alternative transferee in respect of the Open Spaces and the Incidental Open Spaces or any part thereof and such transfer shall likewise be in accordance with the terms and conditions contained in this Part of this Schedule
- (iv) In such transfer the Council (or such other person or body nominated as aforesaid) shall undertake with the Owner/Developer to hold the Open Spaces and the Incidental Open Spaces for public open space leisure recreational or community purposes or a combination of these purposes but shall not be required to accept any other restriction or condition regarding the future use of the Open Spaces and the Incidental Open Spaces
- (v) There shall be excluded from such transfer (unless previously agreed in writing with the Council or such other person or body nominated as aforesaid) all boundary structures or other boundary features together with any responsibility or liability therefore

**5 Incorporating Standard Conditions of Sale**

- (a) The Standard Conditions of Sale (Third Edition) shall apply to this transfer insofar as the same are applicable to a sale of the Open Spaces and the Incidental Open Spaces by private treaty and are not otherwise inconsistent with the terms of this Agreement or excluded hereby
- (b) The following provisions of the said Standard Conditions of Sale shall not apply:  
2.2 2.3 3.1.4 3.2.2 3.3 4.3.1 4.5.2 5.1 5.2.2(b) to (f) inclusive 6.1 and 8

**6 Boundaries**

The precise boundaries of the land to be transferred are as shown on the plan attached hereto or as may be otherwise agreed in writing between the parties and this will include confirmation of the legal ownership of any abutting trees hedges ponds watercourses and ditches

**7 Vacant Possession**

Vacant possession shall be given on completion

**8 Date of Completion**

Completion shall take place at the Council Offices in Thornbury as soon as reasonably practicable following the signing-off of Certificate A or otherwise as agreed in writing between the parties the Owner/Developer remaining responsible for the land and its maintenance until transfer has been completed

**9 Registration**

9.1 If title to the Open Spaces and Incidental Open Spaces is registered at HM Land Registry forthwith upon commencement of Development at its own expense procure that a notice of this Deed including a reference to the agreement to transfer the Open Spaces and the Incidental Open Spaces is recorded on that Title and that a copy of the Land Registry entries is produced to the Council demonstrating that this has been done

9.2 If title to the Open Spaces and the Incidental Open Spaces is not registered at HM Land Registry forthwith procure at its own expense that this Agreement is registered in HM Land Charges Registry and that proof of this is produced to the Council forthwith upon commencement of Development

**SCHEDULE 12:  
NURSERY FACILITY**

**Part 1: Definitions relating to the Nursery Facility**

- 1.1 The "Nursery Facility" shall be accommodation provided and located within the Neighbourhood Centre and in close proximity to other community facilities and sufficient in size and design to accommodate the requirements set out in paragraph 2.1 below to be set aside for a children's nursery facility together with the building to be constructed thereon in accordance with Part 2 of this Schedule

**Part 2: Covenants relating to the Nursery Facility**

- 2.1 Prior to the Commencement of Development the Developer will submit to the Council for approval full details of the specification of the Nursery Facility which shall satisfy the following requirements:
- 2.1.1 The provision of 60 part-time places for three year olds
  - 2.1.2 The provision of 60 part-time places for four year olds
  - 2.1.3 To meet OfSTED registration standards the play rooms will offer 2.3 square metres per child with additional space for storage
  - 2.1.4 A ratio of 1:10 toilet/wash hand basins for the children with at least one accessible toilet facility
  - 2.1.5 A staff room/office
  - 2.1.6 Changing area for children with special needs
  - 2.1.7 Accessible staff toilet
  - 2.1.8 Kitchen for food and drink preparation
  - 2.1.9 Coat hanging provision
  - 2.1.10 Enclosed and secure outdoor play area
  - 2.1.11 Buggy storage area
  - 2.1.12 The optional provision for childcare for the 0-3 age range in accordance with OfSTED standards
- or such revision thereto as shall be approved of by the Council (such approval not to be unreasonably withheld or delayed) and
- 2.2 The Developer covenants
- 2.2.1 not to commence the construction of the Nursery Facility unless the Council has first approved the detailed specification in paragraph 2.1
  - 2.2.2 to construct the Nursery Facility in the precise location agreed with the Council and to complete the Nursery Facility in all respects in accordance with the agreed specification and programme

- 2.2.3 not to commence construction of the 750<sup>th</sup> Dwelling until the Nursery Facility has been provided in accordance with Part 3 of this Agreement and is in operation as a children's nursery or as otherwise agreed in writing with the Director for Children and Young People

**Part 3 : Covenants relating to sale of the Nursery Facility**

- 3.1 The Developer for and on behalf of itself and its successors in title to the Land with the intention that the following provisions shall bind the Land and every part of it into whosever hands it may come covenants with the Council that:
- 3.1.1 Before the first legal transfer of any Dwellings the Developer will commence the marketing of the Nursery Facility and use all reasonable endeavours to make an offer or offers in respect of the Nursery Facility to a nursery operator and provide written evidence of the same to the Council
- 3.1.2 The basis for the offer(s) shall be that the Developer and the nursery operator shall enter into a contractual agreement incorporating terms to ensure that the Nursery Facility is operated as a children's nursery and the transfer price or lease rental shall be based on an open market valuation of the Nursery Facility subject to the terms of this Agreement
- 3.1.3 Not to permit the use of the Nursery Facility for any purpose other than a children's nursery unless otherwise agreed in writing with the Director for Children and Young People
- 3.2 Upon the completion of the contractual agreement referred to in paragraph 3.1.2 the Developer will provide written evidence of the same to the Council
- 3.3 Prior to the construction of the 750<sup>th</sup> Dwelling the Developer or its successors in title will transfer or lease the Nursery Facility to the nursery operator
- 3.4 If despite the reasonable endeavours of the Developer no operator has been found willing to take a transfer or lease of the Nursery Facility the Developer shall make an offer of the Nursery Facility to the Council and thereafter transfer the Nursery Facility to the Council or its nominee on the terms set out in paragraph 3.1.2
- 3.5 If the Council confirms in writing that it does not accept the offer made in paragraph 3.4 the Developer may offer the Nursery Facility on the open market free of any restrictions in this Agreement and shall pay to the Council such sum (if any) as the Developer may receive in excess of the equivalent value of the Nursery Facility if constrained by this Agreement

**SCHEDULE 13:  
PRIMARY SCHOOL SITE**

**Part 1: Definitions**

1. In this Schedule the words below shall mean as follows:
  - 1.1 The "Primary School Site" shall mean a site of 2 hectares for a primary school within the Land that is within the administrative area of South Gloucestershire as shown in the approximate position coloured pink on Plan Number 3
  - 1.2 "Service Media" shall mean all pipes sewers mains ducts conduits gutters watercourses wires cables channels flues and any other apparatus
  - 1.3 "Services" shall mean the supply of water electricity gas and the disposal of foul and surface water

**Part 2: Covenants relating to the Primary School Site**

- 2.1 The Developer will after approval of the Masterplan but prior to the Commencement of Development:
  - 2.1.1 agree with the Council the location of the Primary School Site which shall be:
    - 2.1.1.1 a generally level and accessible site suitable for a primary school
    - 2.1.1.2 of appropriate dimension to accord with the Department for Children, Schools and Families ("DCSF") Area Guidelines (BB99) for a 420 place primary school
    - 2.1.1.3 co-located in close proximity to the Neighbourhood Centre
    - 2.1.1.4 located in close proximity to other community facilities but for the avoidance of doubt not within the employment land as shown on Plan Number 3 and
    - 2.1.1.5 located in accordance with the Masterplan or as otherwise agreed in writing between the Developer and the Director for Children and Young People
  - 2.1.2 to provide at the Developer's expense an independent survey (carried out by a surveyor approved beforehand by the Council) of the part of the Land identified under paragraph 2.1.1 to establish its suitability and viability for use as the Primary School Site PROVIDED THAT if the survey does not confirm the suitability and viability of the site a further site shall be agreed in accordance with the provisions of paragraphs 2.1.1 and 2.1.2
- 2.2 Prior to the Commencement of Development or on confirmation from the Council in writing of approval for the Primary School (whichever is the later) the Developer shall transfer the Primary School Site to the Council on the terms and conditions set out in Part 3 of the Schedule PROVIDED THAT until the Primary School Site is transferred to the Council the Developer will (at the risk of the Council) allow free access to the Primary School Site to the Council for the purpose of site investigations and sinking trial boreholes

- 2.3 The Developer will covenant that there are no Service Media on under or over the Primary School Site that would inhibit or prevent its use as a primary school
- 2.4 The Primary School Site shall be transferred to the Council subject to a requirement that if the contract for the construction of the Primary School has not been let within ten (10) years of the date of the transfer the Primary School Site shall be offered back to the Developer as appropriate for a nominal value and in such instance the Primary School Site shall be free of any restrictions in this Agreement

**Part 3: Terms and Conditions of Transfer of the Primary School Site**

**1 Price**

The price shall be One pound (£1.00) payable on completion

**2 Title**

The Developer shall at its own expense

- (a) deduce a good and marketable title free from any financial or other charge
- (b) provide eight plans showing the Primary School Site for use in connection with the transfer

**3 Covenant for Title**

The Developer shall convey with full title guarantee

**4 Matters Subject to which Land Sold**

- (i) The land is sold subject to and with benefit of (as the case may be)
  - (a) all matters registered as local land charges
  - (b) all notices orders proposals or requirements affecting or relating to the land given or made by any government department statutory undertaking or other public or local authority of which notice is given
  - (c) all rights easements quasi-easements and privileges in the nature of light air drainage way and passage and other like rights used or enjoyed over the land and of which notice has been given
- (ii) The land is sold subject to all matters disclosed in writing to the Council prior to the date hereof by the Developer's Solicitors
- (iii) In such transfer the Council shall undertake with the Developer to hold the Primary School Site primarily for a maintained primary school with ancillary or community uses but shall not be required to accept any other restriction or condition regarding the future use of the Primary School Site
- (iv) There shall be excluded from such transfer (unless previously agreed in writing with the Council or such other person or body nominated as aforesaid) all boundary structures or other boundary features together with any responsibility or liability therefore

**5 Rights to be granted and reserved ("the Rights")**

The transfer shall contain the grant for the benefit of the land transferred in favour of the transferee and for the benefit of the land retained in favour of the transferor the following Rights:

- 5.1 to use as of right and at no consideration all roads and footpaths necessary to gain access and egress and to connect with such road and footpaths
- 5.2 to use as of right and at no consideration all Service Media and Services in over under or through the retained land of the transferor or the land transferred PROVIDED THAT all

Service Media and Services shall be of sufficient size and capacity to accommodate the use of the Primary School Site with rights to go onto such land for the purposes of laying maintaining renewing and repairing such Service Media and making connections with them subject to the Council making good any damage thereby caused

5.3 of support and protection from the adjoining land or the land transferred

**6 Incorporating Standard Conditions of Sale**

- (a) The Standard Conditions of Sale (Third Edition) shall apply to this transfer insofar as the same are applicable to a sale of the Primary School Site by private treaty and are not otherwise inconsistent with the terms of this Agreement or excluded hereby
- (b) The following provisions of the said Standard Conditions of Sale shall not apply:- 2.2 2.3 3.1.4 3.2.2 3.3 4.3.1 4.5.2 5.1 5.2.2(b) to (f) inclusive 6.1 and 8

**7 Boundaries**

The precise boundaries of the land to be transferred are as may be agreed in writing between the parties

**8 Vacant Possession**

Vacant possession of the Primary School Site shall be given on completion

**9 Date of Completion**

Completion shall take place at the Council Offices in Thornbury at a time as agreed in writing between the parties



**SCHEDULE 14:**  
**CONTRIBUTION TO PRIMARY SCHOOL PROVISION**

**Part 1: Definitions relating to the financial contribution towards Primary School provision**

1. *In this Schedule the words below shall mean as follows:*
- 1.1 "Exempted Infrastructure" shall include site clearance demolition archaeological surveys or investigations the assessment of contamination or remediation actions in respect of any contamination site preparation diversion and laying of services the erection and means of enclosure for site security the display of advertisements and erection of site compounds and such other operations as may be agreed in writing by the Council
- 1.2 The "Primary School Contribution" shall mean the sum referred to in Paragraph 2.1 of Part 2 of this Schedule
- 1.3 The "Primary School Additional Contribution" shall mean the sum referred to in sub-paragraph 2.1(d) of Part 2 of this Schedule and calculated pursuant to paragraph 2.3 of Part 2 of this Schedule
- 1.4 The "Statutory Process" means the process in accordance with the School Standards and Framework Act 1998 the Education Act 2005 and the Education Inspections Act 2006 or subsequent Enactment in force at this time

**Part 2: Covenants relating to the financial contribution towards Primary School provision**

- 2.1 The Developer will pay to the Council the sum of Four Million Nine Hundred and Thirty Five Thousand, Nine Hundred and Ninety One Pounds (£4,935,991.00) (or such other sum calculated on the basis of the prevailing (Department for Children, Schools and Families ("DCSF")) costs calculations at the time of such payment to be used by the Council for the provision a 2 form entry primary school on the Primary School Site (as defined in Schedule 13) or such sum as is referred to in paragraph 2.2 of Part 2 as a contribution towards the cost of primary school provision that is within the administrative area of South Gloucestershire in accordance with the following timetable:
  - (a) 10% of the Primary School Contribution on completion of the Statutory Process to establish the school or on the Commencement of Development whichever is later which shall be payable on receipt by the Developer of written demand from the Council
  - (b) 40% of the Primary School Contribution upon commencement of construction of the school which shall be payable on receipt by the Developer of written demand from the Council
  - (c) 50% after 12 weeks of the opening of the school which shall be payable on receipt by the Developer of written demand from the Council
  - (d) the Primary School Additional Contribution (if payable) will be paid on the Commencement of Development pursuant to a Reserved Matters Application which if built out would result in more than 2,200 Dwellings being constructed on the Application Land

For the avoidance of doubt no more than 750 Dwellings shall be legally transferred within 37 months from the date of the submission of the first Reserved Matters Application other than Exempted infrastructure development unless otherwise agreed in writing by the Council

2.2 If the Statutory Process to establish the Primary School produces an outcome that proposes the Primary School should not be built but additional capacity should be provided at neighbouring primary schools to provide capacity for the number of children resident (or anticipated to be resident) on the Land then the Council shall inform the Developer to such effect in writing and request a sum based on the appropriate DCSF Cost Calculator at the time of such payment to be used by the Council to extend the capacity of other neighbouring primary schools to cater for the number of children resident (or anticipated to be resident) on the Land together with a capped figure of up to One Million Six Hundred Thousand Pounds (£1,600,000) that may be required for any additional site acquisition costs and for the avoidance of doubt the Primary School Site (as defined under Schedule 13) shall upon the second payment made under paragraph 2.2.1.2 be released from any restrictions in this Agreement (in such circumstances the Developer will submit an outline or a full planning application in respect of any proposed alternative use(s) for the Primary School Site and for the avoidance of doubt the Primary School Site shall be considered as appropriate for the uses described in policy M1 of the South Gloucestershire Local Plan (adopted January 2006) and the appropriate mix of the same (or the appropriate single use) will be determined through the planning application process)

2.2.1 The Developer shall pay such sum as provided in paragraph 2.2 of Part 2 of this Schedule as follows:

2.2.1.1 10% (Ten Percent) upon demand

2.2.1.2 40% (Forty Percent) upon the commencement of the works for the construction of the additional primary school places

2.2.1.3 50% (Fifty Percent) within 12 weeks of the additional primary school places becoming available for use

and for the avoidance of doubt if separate contracts are let for the additional primary school places then payments shall be made separately for each such contract

2.3 The Primary School Contribution and such sum as provided in paragraph 2.2 of Part 2 of this Schedule have been calculated on the basis that up to 2,200 Dwellings will be constructed on the Application Land and in the event it is proposed that more than 2,200 Dwellings will be constructed on the Application Land the Developer will (subject to the provisions of paragraph 2.4 below) pay to the Council the Primary School Additional Contribution which shall be calculated in accordance with the following formula:

$$(A + B) \times C$$

Where:

A = number of Dwellings exceeding 2,200 to be actually constructed on the Application Land

B = 2,200 Dwellings proposed to be constructed

C =

£4,935,991.00 (or such other sum calculated on the basis of the prevailing DCSF costs calculator at the time of such payment to be used by the Council for the provision of the Primary School) or such sum as provided in paragraph 2.2 of Part 2 of this Schedule as appropriate

- 2.4 It shall be a precondition to any obligation of the Developer to pay the Primary School Additional Contribution that the Council demonstrates to the reasonable satisfaction of the Developer (such approval not to be unreasonably delayed or withheld) that the construction of Dwellings on the Application Land in excess of 2,200 shall result in the need for additional primary school facilities which cannot be met from the facilities provided pursuant to the Primary School Contribution
- 2.5 If the Primary School Contribution or such sum as provided in paragraph 2.2 of Part 2 of this Schedule and/or the Primary School Additional Contribution has not been expended in full within ten years of the receipt by the Council of payment PROVIDED THAT the Primary School Contribution has been expended for the provision of the educational needs that have arisen as a result of this Development then the Primary School Contribution or such sum as provided in paragraph 2.2 of Part 2 of this Schedule and/or the Primary School Additional Contribution (as the case may be) or any unexpended balance thereof shall be returned to the person paying the Primary School Contribution together with all unexpended accrued interest

**SCHEDULE 15:  
EXTRA CARE HOUSING**

**Part 1 Definitions**

- 1.1 "Extra Care Housing Facility" means a building or buildings built to the Extra Care Housing Specification providing places for 50 residents
- 1.2 "Extra Care Housing Specification" shall mean the specification for the accommodation to be provided as set out in Annex 5

**Part 2: Covenants relating to the Extra Care Housing Facility**

- 2.1 Prior to the Commencement of Development the Developer will submit to the Council for comment full details of the intended location of the Extra Care Housing Facility and take account of any comments made by the Council in the siting of the Extra Care Housing Facility
- 2.2 The Developer covenant not to permit the first legal transfer of the 1000<sup>th</sup> Dwelling until the Extra Care Housing Facility has been provided in accordance with the Extra Care Housing Specification and has been offered for sale or lease in accordance with Part 3 of this Schedule

**Part 3: Covenants relating to sale of the Extra Care Housing Facility**

- 3.1 The Developer for and on behalf of itself and its successors in title to the Land with the intention that the following provisions shall bind the Land and every part of it into whosever hands it may come covenants with the Council that:
- 3.1.1 Before the first legal transfer of the 150th Dwelling the Developer will commence the marketing of the Extra Care Housing Facility and use all reasonable endeavours to make an offer or offers in respect of the Extra Care Housing Facility to an appropriate operator and provide written evidence of the same to the Council
- 3.1.2 The basis for the offer(s) shall be that the Developer and the operator shall enter into a contractual agreement incorporating such terms to ensure that the Extra Care Housing Facility is operated as an extra care housing facility in line with the Extra Care Housing Facility Specification
- 3.1.3 Subject to paragraph 3.5 not to permit the use of the Extra Care Housing Facility for any purpose other than an Extra Care Housing Facility unless otherwise agreed in writing with the Council
- 3.2 Upon the completion of the contractual agreement referred to in paragraph 3.1.2 the Developer will provide written evidence of the same to the Council

- 3.3 Subject to paragraph 3.5 and prior to the first legal transfer 1000th Dwelling the Developer or its successors in title will transfer or lease the Extra Care Housing Facility to the operator or the Council or its nominee
- 3.4 If despite the reasonable endeavours of the Developer no operator has been found willing to take a transfer or lease of the Extra Care Housing Facility the Developer shall make an offer of the Extra Care Housing Facility to the Council and thereafter transfer the Extra Care Housing Facility to the Council or its nominee on the terms set out in paragraph 3.1.2
- 3.5 If the Council confirms in writing that it does not accept the offer made in paragraph 3.4 or has not responded to the said offer within 2 months then the Developer may offer the Extra Care Housing Facility on the open market free of any restrictions in this Deed

## SCHEDULE 16:

### PROVISION OF A COMMUNITY BUILDING

#### Part 1 Definitions relating to the provision of a Community Building

1. In this Schedule the words below shall mean as follows:

- 1.1 The "Community Building Contribution" shall mean such sum as may be agreed between the Developer and the Council as a contribution towards the costs of providing the Off Site Community Building and in the event of failure to agree to be determined by the Expert
- 1.2 The "Lease" shall mean the lease substantially in the form set out in Annex 4 (unless otherwise agreed in writing between the Developer and the Council) to be entered into between the Developer and the Council for the term of 150 years in respect of the Neighbourhood Centre Community Building
- 1.3 The "Neighbourhood Centre Community Building" shall mean the 870 square metres gross internal floor area (as defined in the RICS Code of Measuring Practice 5<sup>th</sup> Edition) building constructed in accordance with the Specification to be used for community purposes located within the Neighbourhood Centre on the site under paragraph 2.1 of Part 2 of this Schedule
- 1.4 The "Off Site Notice" shall mean a notice in writing served by the Council on the Developer confirming its intention to provide the Off Site Community Building
- 1.5 The "On Site Notice" shall mean a notice in writing served by the Council on the Developer confirming that the Council requires the provision of the Neighbourhood Centre Community Building
- 1.6 The "Off Site Community Building" shall mean a community building to be used for community purposes and provided by the Council within Patchway Town Centre or such other locations as may be agreed between the parties
- 1.7 The "RICS Index" shall mean the Royal Institute of Chartered Surveyors Building Cost Index
- 1.8 The "Reserve Community Building Land" shall mean the part of the Land reserved specifically for the Neighbourhood Centre Community Building
- 1.9 The "Specification" shall mean the Headline Specification set out in Annex 4 together with the detailed specification required thereunder for the construction and fitting out of the Community Building to be prepared at the expense of the Developer to be agreed by the parties and which shall be based on and satisfy the minimum requirements of the Headline Specification

#### Part 2 Developer Covenants relating to provision

- 2.1 Prior to the submission of any Reserved Matters Application to develop the Neighbourhood Centre in accordance with the Planning Permission the Developer will agree with the Council the location of the Reserve Community Building Land which shall be a generally level and accessible site of an

area of no less than 0.24 Ha suitable for the Neighbourhood Centre Community Building and located within the Neighbourhood Centre and in close proximity to other community facilities

- 2.2 The Developer covenant not to include the Reserve Community Building Land in any Reserved Matters Application other than either an application containing details of the Neighbourhood Centre Community Building in accordance with the Specification or without such details where the reservation of the Reserve Community Building Land has been released in accordance with paragraph 2.5
- 2.3 The Developer covenant not to commence the construction of the Neighbourhood Centre Community Building unless the Council has first approved the Specification
- 2.4 Prior to the first legal transfer of the 751<sup>st</sup> Dwelling the Developer shall complete the construction and fit out the Neighbourhood Centre Community Building in accordance with the relevant Reserved Matters Permission and the Specification and shall offer to transfer the Neighbourhood Centre Community Building to the Council or its nominee at a premium of no more than £1 and at nominal rent and otherwise on the terms and conditions set out in the Lease PROVIDED THAT if the Neighbourhood Centre Community Building is an individual building not forming part of another building the Developer will offer to transfer the freehold interest to the Council for £1.00
- 2.5 If the Council serve the Off Site Notice prior to the first legal transfer of the first Dwelling then the Developer will pay to the Council the Community Building Contribution (together with an additional sum calculated as set out in paragraph 2.6 below) within 6 months of the date of receipt by the Developer of the Off Site Notice PROVIDED THAT the Developer shall be released from the covenant contained in paragraphs 2.2 2.3 and 2.4 above and the Reserve Community Building Land thereafter shall be released from any restriction under this Schedule and FOR THE AVOIDANCE OF DOUBT the Off Site Notice shall be of no effect if it is served after the date of the legal transfer of the first Dwelling unless with the agreement of the Developer
- 2.6 The Community Building Contribution due and payable shall be increased in accordance with any increases in the RICS Index between the date of service of the Off Site Notice and the date of actual payment
- 2.7 In the event that the Council has not expended the whole or any part of the Community Building Contribution at the expiry of the period of 8 years commencing with the date of the receipt of the Community Building Contribution then any unexpended balance shall be repaid to the party which made the payment together with interest accrued from the date of payment to the date of repayment at the 7 day LIBID rate
- 2.8 Upon receipt by the Developer of the Off Site Notice the Developer shall enter into a bond with a reputable surety approved beforehand by the Council for the amount of the Community Building Contribution at that date to the effect that if the Developer default in carrying out its obligations to pay the Community Building Contribution the Council may call upon the surety to settle the outstanding payment PROVIDED THAT the said bond shall be released upon payment of the Community Building Contribution

2.9 At any time prior to the date of the legal transfer of the first Dwelling the Council may serve the On Site Notice and if such notice is served the Developer shall provide the Neighbourhood Centre Community Building in accordance with the terms of this Schedule



## **SCHEDULE 17:**

### **HEALTH CARE SPACE**

#### **Part 1 - Definitions**

1. In this Schedule the words below shall mean as follows:
  - 1.1 the "Contract" shall mean a contract which may be entered in to by the Developer and the PCT and or the Space Provider for the Lease of the completed Health Care Space
  - 1.2 "Health Care Space" shall mean a maximum of 733 square metres of gross internal floor space to be provided within the Neighbourhood Centre for use as a doctors' surgery suitable for a three doctor practice and a two dentist surgery together with the availability of car parking for eight staff and twenty five visitors or other such location as may be agreed between the Council PCT and the Developer
  - 1.3 "Lease" shall mean the grant of a lease of 20 years (unless otherwise agreed between the Developer and tenant of the Health Care Space(s)) on terms to be agreed by the District Valuer
  - 1.4 "Market Rent" means the rent in respect of premises to be constructed and let by the Developer under this Deed and arrived at as a market rent determined in accordance with The National Health Service (General Medical Services - Premises Costs) (England) Direction 2004 or such other Direction or Directions as may replace it so as to properly reflect the intended use and giving a fair economic return to the Developer
  - 1.5 "PCT" shall mean the South Gloucestershire Primary Care Trust or any successor in function
  - 1.6 "Serviced Shell" means completion of the whole of the Health Care Space so that it meets the following criteria insofar as the criteria is applicable to the particular Health Care Space:
    - (a) the premises is wind and water tight
    - (b) that all Services have been provided and completed and tested and the test certificates have been handed over to the Council (or such other person as the Council may direct) as the case may be and there is proper and safe access to the Health Care Space
    - (c) in respect of those parts of the Health Care Space which are to be fitted-out by a tenant the relevant part of the Health Care Space is ready for the tenant to fit out and all the works to be completed by the Developer have been fixed in their final position
    - (d) in respect of those parts of the Health Care Space which are not to be fitted out by a tenant the relevant parts of the Health Care Space are ready for beneficial use and occupation
    - (e) that a completion certificate has been issued for the Health Care Space by the relevant authority pursuant to and in accordance with Section 17 of the Building Regulations 2000 (as may be amended and in force at the date of construction)

- (f) the Health Care Space has been constructed and completed in all respects with the specification for the relevant premises where appropriate

1.7 "Services" means

- (a) foul and surface water sewers ready for use connected to adopted sewers or a completed and functional sustainable urban drainage system in respect of which there is in force an agreement with a drainage undertaker for its maintenance and upkeep and
- (b) pipes and cables which are connected to mains services and suitable for the supply of gas water electricity telephone and data transfer facilities and
- (c) such of the items referred to in paragraphs (a) to (b) above which shall be necessary to enable any land or building to function for its permitted use all of which items referred to in paragraphs (a) to (b) above shall have adequate capacity to serve the development proposed to be serviced and "Services" shall be construed accordingly

1.8 "Serviced" means a parcel of land or a building on the Land which is provided with Services

**Part 2 - Health Care Space**

1. Prior to the submission of any Reserved Matters Application for the parcel which contains the Health Care Space the Developers shall submit the proposals for the Health Care Space to the Council who shall as soon as reasonably practical forward the proposals to the PCT for comment
2. If within 3 weeks of submission of the proposals to the PCT under paragraph 2 the PCT have either agreed the proposals or have failed to comment the proposals shall be taken as agreed by the PCT
3. If within 3 weeks of submission of the proposals to the PCT under paragraph 2 of this Schedule the PCT have made comment then the Developer shall use all reasonable endeavours to accommodate the PCT's comments into the design proposals as part of the Reserved Matters Application for the Health Care Space
4. Subject to paragraph 5 of this Schedule the Developer shall have completed the construction of the Health Care Space(s) to a Serviced Shell standard prior to first legal transfer of the 751<sup>st</sup> Dwelling in accordance with details agreed with the Council
5. The Developer shall serve notice on the Council and the PCT two years prior to the anticipated date of the completion of the Health Care Space to a Serviced Shell standard and shall thereafter enter into negotiations with the PCT doctors and or dentists who may be willing to enter into the Lease of the Health Care Space(s) or either of them upon an Market Rent basis for a term of 20 years (or such other term as may be agreed between the parties to the Lease)
6. The Developer shall use all reasonable endeavours to let the Healthcare Space on the terms set out in paragraph 3 of this Schedule
7. If despite the reasonable endeavours of the Developer the Health Care Space has not been let as required by paragraph 3 of this Schedule after the period of two years from the date of the notice served on the Council and or the PCT in paragraph 4 of this Schedule the Developer shall be free to apply to the Council to change the use of the Health Care Space to such use as it/they may determine appropriate and to market and/or develop the same free of any restriction contained in this Deed

## **SCHEDULE 18:**

### **AFFORDABLE HOUSING**

#### **DEFINITIONS**

In this Schedule 18 the words and expressions below shall mean as follows:

- 1.1 "1985 Act" means the Housing Associations Act 1985
- 1.2 "1996 Act" means the Housing Act 1996
- 1.3 "Actual Market Value" means the market value of an Affordable Dwelling assessed in accordance with the provisions of the Housing Corporation's Shared Ownership Lease Schedule 5 attached in Annex 11 in a Staircasing Event
- 1.4 "Additional Affordable Housing" means any new replacement or additional Affordable Housing provided within the Council area in a scheme that shall first have been agreed in writing (unless the Affordable Housing Provider is an Approved RSL in which case a scheme shall need only be the subject of consultation with the Director of Community Care and Housing) with the Director of Community Care and Housing (such agreement not be unreasonably withheld or delayed) to meet identified housing need at the time of the provision which for the avoidance of doubt excludes any Affordable Housing provided pursuant to Part 2 of this Schedule of this Agreement or any other Affordable Housing brought forward as part of the Council's prevailing adopted development plan Affordable Housing requirement in pursuance of Section 106 of the 1990 Planning Act or subsequent legislation.
- 1.5 "Affordable Dwelling" means an individual unit of Affordable Housing identified as such in accordance with this Schedule
- 1.6 "Affordable Housing" means affordable housing as described and defined in Annex B of Planning Policy Statement 3: Housing (2006) dated November 2006 and in Annex B of the document entitled: "Delivering Affordable Housing" dated November 2006 consisting of social rented housing and intermediate housing of any of the types so referred to in those documents
- 1.7 "Affordable Housing Contract" means: a binding contract with a Affordable Housing Provider for the sale or an agreement for lease of the relevant part of the Affordable Housing Land; or a contract for sale or agreement for lease for the sale or long lease (here meaning a lease of no less than 99 years) of completed Affordable Dwellings or a binding contract for sale or agreement for lease combining the sale or long lease of the relevant part of the Affordable Housing Land with a contract for the construction of the Affordable Dwellings on that land which contract for sale or agreement for lease in each such case includes:
- (a) terms requiring the Affordable Housing Provider and Affordable Housing Manager to offer Nomination Rights to the Council in relation to the Social Rented Affordable Housing Units and the HomeBuy Zone Agents in respect of the Shared Ownership Units

(b) full and free rights of access both pedestrian and vehicular from a public highway to the relevant part of Affordable Housing Land subject to any standard conveyancing requirements in respect of pro rata payments relating to the repair and maintenance of such accessways pending adoption

(c) full and free rights for the passage of water soil electricity gas and other services through the pipes drains channels wires cables and conduits which shall be in the adjoining land up to and abutting the boundary to the relevant part of the Affordable Housing Land subject to any standard conveyancing requirements in respect of pro rata payments relating to the repair and maintenance of such accessways pending adoption; and

(d) such other commercial terms and conditions as may be reasonably required by the Developer and/or the Affordable Housing Provider and Affordable Housing Manager

1.8 "Affordable Housing Distribution Plan" shall mean the plan and accompanying schedule submitted to and approved in writing by the Council under the terms of Condition 9 which shall comply with the requirements set down in Part 2 of this Schedule

1.9 "Affordable Housing Land" means the land on which the Affordable Dwellings identified as such under Part 2 of this Schedule are proposed to be constructed;

1.10 "Affordable Housing Manager" means an affordable housing management organisation accredited for such purposes via the Housing Management Accreditation Scheme dated March 2006 (or subsequent scheme) by the Housing Corporation

1.11 "Affordable Housing Provider" means:

(a) a housing association as defined in the Housing Associations Act 1985 or

(b) a social landlord as defined in Section 2 of the Housing Act 1996 or

(c) an accredited partner of the Housing Corporation for the provision of Affordable Housing

who shall be required to enter into an agreement with an Affordable Housing Manager where not an accredited Affordable Housing Manager for the management of the Affordable Dwellings

1.12 "Approved RSL" means any registered social landlord as defined in Section 2 of the Housing Act 1996 which at the date of exchange of contracts to acquire the Affordable Housing Land is on the Council's approved list which may be obtained from the Director of Community Care and Housing - The Current List being that contained as Annex 12 which may be replaced by the Council from time to time in any updated approved list

1.13 "Cluster" shall mean a group of Affordable Dwellings which do not have contiguous boundaries with another group of Affordable Dwellings the distribution of which Clusters within Phases are to be identified on the Affordable Housing Distribution Plan.

1.14 "HomeBuy Zone Agents" means a body appointed or approved by the Housing Corporation to act as agents for the allocation of affordable dwellings disposed of by way of intermediate tenure (including Shared Ownership Units)

1.15 "Housing Corporation" shall include any successor body in substitution for the Housing Corporation

1.16 "Index" shall mean RPI

1.17 "Infrastructure" means all sewerage plant machinery apparatus and equipment and sewerage works drains rising mains and associated manholes mains inspection chambers headwalls public utilities bridges (including any railway and/or river crossings) tunnels and underpasses culverts lagoons balancing ponds flood storage areas pumping stations or pumping apparatus flood plains sound barriers noise attenuation works screens or bunds strategic planting and landscaping open space and other main amenities and accommodation works and all other works services and service media apparatus and equipment that may be required pursuant to this Agreement or pursuant to any other planning or infrastructure agreement or otherwise needed in order to commence construct complete sell use and occupy the Development and/or to market and sell all or any of any of the Dwellings comprised in the Development or any variation amendment or substitution thereof or any Reserved Matter Permission pursuant thereto together with and including (for the avoidance of doubt) sewers and drains gas and water mains estate telephone television telecommunications and electricity cables services pipes wires cables fibres conduits mains and any other service and conducting media

1.18 "Market Dwelling" means any dwelling other than an Affordable Dwelling

1.19 "Market Value" means (in relation to the initial calculation of the Subsidy only) the market value as assessed by a Valuer of a Dwelling as confirmed to the Council by the relevant Affordable Housing Provider (such value being calculated in accordance with the RICS Appraisal and Valuation Standards (5th Edition)) and being the estimated amount for which in the absence of this Agreement residential units of equivalent location specification size state of repair and condition and which are not restricted to use as affordable housing should exchange on the date of valuation between a willing buyer and a willing seller in an arm's-length transaction after proper marketing wherein the parties had each acted knowledgeably prudently and without compulsion and on the following assumptions:

- (a) no discount is to be allowed for bulk sales or on the basis that more than one property is being sold to the same purchaser
- (b) it is sold with vacant possession and with good and marketable title
- (c) the title is free from encumbrances
- (d) the valuation is for the unrestricted freehold or as appropriate leasehold (of an initial minimum 99 year term) with vacant possession which for the avoidance of doubt ignores any use as Affordable Housing
- (e) that the property is newly built decorated full equipped for sale and serviced and fit for immediate occupation
- (f) that the valuation is for sale of an individual unit and not part of a larger sale
- (g) all roads footpaths landscaping and open space have been laid out and completed and all other Dwellings have been built sold and occupied
- (h) assuming the Application Land is free from contamination

1.20 Mobility Dwellings shall mean Affordable Dwellings built to the mobility standard as set out in Annex

- 1.21 "New Build HomeBuy means the Government initiative known as "New Build HomeBuy" as set out in the document entitled "Delivering Affordable Housing" dated November 2006
- 1.22. "Nominations Agreement" means a nominations agreement in favour of the Council and that will be substantially in the form annexed in Annex 10 in respect of Social Rented Affordable Housing Units and a nominations agreement that will be substantially in the form annexed in Annex 13 in respect of Shared Ownership Units
- 1.23. "Nomination Rights" means:
- (a) in respect of Social Rented Affordable Housing Units for the District Council the opportunity to refer potential occupiers of the Social Rented Affordable Housing Units to the Affordable Housing Provider pursuant to a Nominations Agreement
  - (b) in respect of Shared Ownership Units for the HomeBuy Zone Agents the opportunity to refer potential occupiers of the Shared Ownership Units to the Affordable Housing Provider
- 1.24. "Occupation" means first residential occupation save for the purpose of fitting out or marketing and the expressions "Occupy" and "Occupied" shall be construed accordingly
- 1.25. "On Costs" means any costs incurred by an Affordable Housing Provider and Affordable Housing Manager in relation to any transaction regarding Staircasing Receipts as described in Sub-Paragraph 2.5 of Schedule 5 of the Housing Corporation Shared Ownership Lease appended in Annex 11 which are not to be reimbursed by any other person
- 1.26. "Phase" means one of the three parcels of land identified on the Phasing Plan or as may be designated by the Developers from time to time by reference to an appropriate scale plan submitted to the Council for its approval (such approval not to be unreasonably withheld or delayed)
- 1.27. "Phasing Plan" shall mean the plan identified as Phasing Plan in the Design and Access Statement or as may be amended from time to time by the Developers submitted to the Council for its approval (such approval not to be unreasonably withheld or delayed)
- 1.28. "RPI" means the General Index of Retail Prices compiled and published by the Office of National Statistics or any other such index that substitutes the General Index of Retail Prices for the avoidance of doubt which shall be used as the baseline index for each annual change where relevant
- 1.29. "RSL" means any registered social landlord as defined in section 2 Housing Act 1996
- 1.30. "Rental Agreement" means a rental tenancy or letting agreement under which the rental payments are in accordance with the Target Rents and the relevant Social Rented Affordable Housing Unit is to be let on an assured tenancy
- 1.31. "Services" shall mean the supply of water electricity gas and the disposal of foul and surface water (including drainage of any category 1 sports provision (as that term is defined in policy LC8 of the South Gloucestershire Local Plan adopted 2006))
- 1.32. "Service Media" shall mean all pipes sewers mains ducts conduits gutters watercourses wires cables channels flues and any other apparatus

- 1.33. "Shared Ownership Lease" means a lease or sub lease under which an Affordable Dwelling may be disposed of under which that unit shall be disposed of by way of shared ownership or shared equity sale and/or lease (including New Build HomeBuy) granted at a premium to be paid by the tenant or sub tenant upon completion or raised by way of mortgage or charge and under which the provisions of the lease or sub lease enable the tenant or sub tenant to acquire the balance of the legal or equitable interest in the relevant Dwelling AND whereby the initial purchasers or lessees acquires an initial share of up to and including 40% of the equity in that unit at the equivalent percentage of the full market value of that Dwelling at the time of its initial disposal by Shared Ownership Lease and the annual rental element of the shared ownership / Shared Ownership Lease shall be up to and including 1% of the market value of the unsold equity as at the grant of the lease (with any increases in rent being index linked to the increase (if any) in the RPI as per Schedule 4 of the Housing Corporation model form of shared ownership lease extracts of which are attached as Annex 11 to this Agreement)
- 1.34. "Shared Ownership Unit(s)" means an Affordable Dwelling(s) which are identified as such in accordance with Part 2 of this Schedule and which are intended to be disposed of by way of Shared Ownership Lease (including New Build HomeBuy) to persons unable to afford to meet their housing needs in the open market
- 1.35. "Social Rented Affordable Housing Unit" shall mean an Affordable Dwelling identified as such in accordance with Part 2 to this Schedule and which is to be reserved and set aside for initial and future letting on an assured tenancy at Target Rents to people in housing need who cannot afford to meet their needs in the open market
- 1.36. "Staircasing Event" means any occasion on which a shared ownership lessee acquires additional equity in a Dwelling pursuant to a Shared Ownership Lease or tenant of a Social Rented Affordable Housing Unit acquires a share or the whole equity in their property under any current or future legislation that applies to non publicly funded Affordable Housing granting tenants the right to acquire the property or where the property is sold for any other reason
- 1.37. "Staircasing Receipts" means payments made to the Affordable Housing Provider (less On Costs) as a result of a Staircasing Event by a shared ownership lessee tenant or any other person for the acquisition of equity in a Dwelling pursuant to a Staircasing Event
- 1.38. "Sub-Phase" means any discreet parcel of land forming part of a Phase identified as such by the Owners or Developers from time to time by reference to a Phasing Plan submitted to the Council from time to time and which contains one or more Clusters of Affordable Housing
- 1.39. "Subsidy" means the amount expressed in pounds of the difference between:
- (a) the price (including land) attributable to the disposal of Affordable Dwelling to an Affordable Housing Provider (being for the avoidance of doubt the price to be received from the Affordable Housing Provider pursuant to an Affordable Housing Contract by the Developer pursuant to an Affordable Housing Contract in respect of the disposal of that Dwelling being the price (including land) as agreed between the Developer as at the date of exchange of contracts of the Affordable Housing Contract and notified to the Council in writing) and the relevant Affordable Housing Provider and
  - (b) the Market Value attributable to that Affordable Dwelling (including land) as at the date of exchange of contracts for the sale and purchase of that Affordable Dwelling to an Affordable Housing Provider

as agreed between the relevant owner and the relevant Affordable Housing Provider pursuant to an Affordable Housing Contract to whom the Affordable Dwelling is to be disposed assuming it to have been completed and ready for residential occupation as at that date and notified to the Council in writing (such Market Valuation to have been certified by a Valuer)

1.40. "Target Rents" means either:

- (i) Housing Corporation target rents system as set out in the three Year Review of Rent Restructuring dated July 2004 or
- (ii) such other measure of rental affordability as may be submitted by the Developers and approved by the Council that retains the affordable housing at affordable prices or
- (iii) if Housing Corporation target rent shall cease to operate or shall not have been revised in the year of the date of grant of any such assured tenancy then the last published Target Rent shall be index linked to the increase (if any) in RPI plus 0.5% shall apply instead

1.41. "Valuer" shall mean a Member or Fellow of the Royal Institution of Chartered Surveyors being a chartered valuation surveyor of at least 10 years post qualification experience and appointed by the Affordable Housing Provider and acting in an independent capacity

## **Part 2 Developer Covenants in Respect of Affordable Housing**

### **Quantum**

1.1 33.3% (thirty three point three percent) of the total number of Dwellings constructed pursuant to the Planning Permission (rounded up or down to the nearest whole Dwelling) shall be identified reserved and set aside as Affordable Housing (double counting and overlapping Reserved Matters Permissions excluded)

### **Distribution**

1.2 The location of the Affordable Dwellings shall be in substantial accordance with the approved Affordable Housing Distribution Plan unless otherwise agreed with the Council

### **Clustering**

1.3 Each Cluster of Affordable Housing shall be physically separate from and discontinuous with any other Cluster and no Cluster shall contain more than 10 Affordable Dwellings unless otherwise agreed in writing with the Council and shall be shown on the relevant detailed master plan to be agreed between the Developer and the Council for each phase as required by condition 5

### **Tenure**

1.4 84.5% of the Affordable Dwellings shall be Social Rented Affordable Housing Units (rounded up or down to the nearest whole Dwelling) and

1.5 15.5% of the Affordable Dwellings shall be Shared Ownership Units (rounded up or down to the nearest whole Dwelling)

### **Tenure and Type**

1.6 The mix of Affordable Dwellings rounded up or down to the relevant whole number shall be as follows:



- 1.6.1 **Social Rented Affordable Housing Units (being 84.5% of the Affordable Dwellings) consisting of:**  
 20% 1 bed flats at minimum 46m<sup>2</sup> Gross Internal Areas "(GIA)" as measured in accordance with the RICS code of measuring  
 9.5% 2 bed flats at minimum 56m<sup>2</sup> GIA  
 15% 2 bed houses at minimum 72m<sup>2</sup> GIA  
 30% 3 bed houses at minimum 86m<sup>2</sup> GIA  
 10% 4 bed houses at Minimum 106m<sup>2</sup> GIA
- 1.6.2 **Affordable Dwellings Intended to be disposed of by Shared Ownership Lease (being 15.5% of the Affordable Dwellings) consisting of:**  
 10.5% 2 bed flats not less than 56m<sup>2</sup> GIA  
 5% 2 bed houses not less than 71m<sup>2</sup> GIA

#### **Identification**

- 1.7 With each Reserved Matters Application for any Phase or Sub-Phase which includes Affordable Housing Land the Developer shall identify the Affordable Dwellings in that Phase or Sub-Phase (together with a Schedule identifying the make up of the balance of the Affordable Dwellings contained in the remainder of that Phase) in substantial accordance with the details contained in an approved Affordable Housing Distribution Plan unless otherwise agreed by the Council in writing PROVIDED ALWAYS that nothing in this Agreement shall prevent the Developers from submitting adjustments to the Affordable Housing Distribution Plan initially approved for Council approval from time to time and where there is any discrepancy between an approved Affordable Housing Distribution Plan detailed master plan and Reserved Matters Permission the precise location mix type and tenure of Affordable Dwellings shall be governed by reference to Reserved Matters Permission provided the proportion mix type and tenure of Affordable Dwellings for that Phase is consistent with the overall provision for that Phase as identified in the information supplied to the Council under Condition 9 and 10

#### **Detailed identification at Reserved Matters Permission Stage**

- 1.8 When submitting details of the nature and type of Affordable Dwellings in any Cluster as part of Reserved Matters Applications the Developer shall at the same time indicate the mix type and tenure of Affordable Dwellings proposed in the other Clusters in the same Phase

#### **Wheelchair Units**

- 1.9 3% of the Affordable Dwellings shall be designed to accommodate wheelchair users and 3% shall be designated as Mobility Dwellings - such Affordable Dwellings to be contained within the two and three bed Social Rented Affordable Housing Units to be agreed with the Council as part of the Affordable Housing Distribution Plan

#### **Delivery Mechanism**

- 1.10 No more than 30% of the Market Dwellings in any Sub-Phase of the Development shall be Occupied until an Affordable Housing Contract shall have been entered into in relation to any Affordable Housing within that Sub-Phase
- 1.11 All Affordable Dwellings shall unless otherwise agreed be managed by an Affordable Housing Manager and shall be provided without recourse to public subsidy PROVIDED ALWAYS that the Affordable Housing Provider may use its own resources borrowings rental income receipts from

sales to persons exercising any Right to Acquire under the 1996 Act or to staircase (other than receipts from the right to acquire under the 1996 Act or a Staircasing Event in respect of the other Affordable Dwellings as described in this Schedule ) or other sources of finance to fund the acquisition of Affordable Dwellings and may use any available public subsidy to fund the acquisition of Additional Affordable Housing in combination with the Staircasing Receipts reserved and set aside pursuant to this Agreement As far as is legally possible the Affordable Housing Provider and Affordable Housing Manager shall ensure that Social Rented Affordable Housing Units shall be excluded from the Right to Acquire and shall ensure no public subsidy is used for their acquisition which would bring them under the relevant legislation

1.12 The Developer will give written notice to the Council when the legal transfer of 30% and 60% of the total number of Market Dwellings in each Sub-Phase containing Affordable Dwellings rounded to the nearest whole number shall have been Occupied

1.13 No more than 60% of the Market Dwellings in any Sub-Phase shall be Occupied in that Sub-Phase until all of the Affordable Dwellings in that Sub-Phase shall have achieved practical completion and shall have been transferred (whether leasehold or freehold) to an Affordable Housing Provider except in the circumstances set out in condition 47 or any condition that may replace it in any subsequent planning permission granted following a successful application for variation or appeal and if there is a delay in the transfer of the Affordable Dwellings to and Affordable Housing Provider in the circumstances as provided for in the said condition the Developer shall use all reasonable endeavours to complete and transfer the Affordable Dwellings to the Affordable Housing Provider as soon as practicable

#### **Rent Levels**

1.14 The rent payable by the occupant of any Social Rented Affordable Housing Units shall be in accordance with Target Rents

#### **Shared Ownership Units**

1.15 The Shared Ownership Units shall not be disposed of on their initial sale other than by way of Shared Ownership Lease unless otherwise agreed in writing by the Council or such sale is to an Affordable Housing Provider

#### **Social Rented Affordable Housing Units**

1.16 The Social Rented Affordable Housing Units shall not be disposed of other than by way of Rental Agreement unless otherwise agreed in writing by the Council or such sale is to an Affordable Housing Provider

#### **Nomination rights**

1.17 The terms of any transfer of an interest in an Affordable Dwelling to an Affordable Housing Provider shall provide that:

1.17.1 in respect of all first lettings of all Social Rented Affordable Housing Units and 75% of all true voids in terms of subsequent lettings of Social Rented Affordable Housing Units the Council shall be given Nomination Rights pursuant to a Nominations Agreement in Annex

- 1.17.2 in respect of all first lettings of all Shared Ownership Units the HomeBuy Zone Agent shall be given Nomination Rights and the Affordable Housing Provider shall use reasonable endeavours to enter into a nomination agreement with the HomeBuy Zone agent in relation to those Shared Ownership Units pursuant to the draft agreement in Annex 13

#### **Occupation**

- 1.18 The Affordable Housing shall only be occupied by persons in need of Affordable Housing: to buy or to rent (at the point of sale or letting)

#### **Standard of Construction**

- 1.19 The Social Rented Affordable Housing Units shall be constructed in accordance with Housing Corporation Scheme Development Standards (essential items only) Fifth Edition April 2003

#### **Satisfaction of Affordable Housing Requirement**

- 1.20 Once the Affordable Dwellings equating to 33.3% (thirty three point three percent) of the total Dwellings approved pursuant to Reserved Matter Permission (double counting and overlapping Reserved Matter Permissions excluded) shall have been identified by reference to those permissions then any residual areas of Affordable Housing Land may be developed for Market Dwellings
- 1.21 The amount of the Subsidy and the date of any Affordable Housing Contract for disposal to an Affordable Housing Provider in respect of each Affordable Dwelling shall be notified to the Council by the Affordable Housing Provider together with a plan identifying the Affordable Dwelling to which that Subsidy relates

#### **Service Charges and Exclusion of Liability For Payments Towards Maintenance Of Public Open Space**

- 1.22 None of the purchaser's tenants or occupiers of an Affordable Dwelling shall be required to make any contribution towards the maintenance of areas of public open space within the Application Land The services charges payable by the occupiers of any Affordable Housing that are developed as flats within a mixed tenure block comprising of Market Dwellings and Affordable Dwellings AND/OR any Affordable Housing that are developed as flats and provided by an Affordable Housing Provider (but not an RSL whether an Approved RSL or not) shall be capped to no more than £550 (August 2007 base) per annum inflated by RPI + 1% thereafter
- 1.23 Ground rents for the Affordable Housing shall be at a peppercorn

#### **Application Of Staircasing Receipts**

- 1.23 (a) On the occurrence of any Staircasing Event relating to an Affordable Dwelling and subject always to the application of paragraphs (b) (c) and (d) below the Affordable Housing Provider (as successor in title to the Developer) shall (having first deducted an amount equal to X% of the initial outstanding net loan debt attributable to that Affordable Dwelling at the point of first disposal as assessed by the Affordable Housing Provider) (where X equals the additional proportion of the equity in the Affordable Dwelling acquired as a percentage of the unsold equity immediately prior to the Staircasing Event) reserve and set aside the remaining balance of any Staircasing Receipts received in relation to that Affordable Dwelling for the provision of Additional Affordable Housing until an aggregate amount equal to the Subsidy relating to that Affordable Dwelling (as notionally

recalculated and carried forward from time to time under paragraph (c) (i) below) shall have been reserved and set aside for such purposes

(b) The provisions of paragraph (a) above shall not apply where there is a statutory or regulatory requirement to account for Staircasing Receipts to any other body

(c) On the occasion of the first and any subsequent Staircasing Event the Subsidy shall be notionally recalculated (but only for the purposes of identifying the amount of any Staircasing Receipt to be reserved and set aside for the provision of Additional Affordable Housing) as follows:

- (i) On the date of the first Staircasing Event the notional Subsidy shall be notionally increased by the percentage increase (if any) in the Market Value of the relevant Affordable Dwelling from the date as originally notified to the Council by comparing the Market Value so notified by the Affordable Housing Provider at the point of calculating the Subsidy with its Actual Market Value as notified to the Council by the Affordable Housing Provider at the date of the Staircasing Event (AND for the avoidance of doubt the Subsidy as notionally increased under this Sub-Paragraph (i) shall be the result of the following calculation in respect of any relevant Affordable Dwelling

$$\frac{AMV \times S}{MV}$$

Where:

AMV equals the Actual Market Value of the Affordable Dwelling at the date of the first Staircasing Event

MV equals the Market Value of the Affordable Dwelling as originally notified to the Council at the point of calculating the Subsidy

S equals the Subsidy attributed to that Affordable Dwelling as originally notified to the Council at the point of calculating the Subsidy)

- (ii) The Subsidy (as notionally increased) shall then be notionally reduced by the amount of any Staircasing Receipts and the balance carried forward
- (iii) On the date of any subsequent Staircasing Event relating to an Affordable Dwelling the Subsidy balance carried forward under (ii) above shall be notionally increased by the percentage increase in the Actual Market Value of the relevant Dwelling from the date of the previous Staircasing Event in (i) and its Actual Market Value as notified to the Council by the Affordable Housing Provider at the date of the subsequent Staircasing Event and the provisions of para 1.23(a) to 1.23(c)(ii) shall be applied (mutatis mutandis) to such balances and any remaining notional Subsidy balance carried forward

(d) Once

- (i) an amount equal to the notional Subsidy as re calculated and carried forward from time to time in accordance with paragraph (c) above shall have been set

- aside for the provision of Additional Affordable Housing as set out on (a) above;
- or
- ii) the final Staircasing Event (leaving the Shared Ownership Lease lessee or Tenant purchaser owning a 100% freehold or leasehold share) has occurred and the Subsidy is recalculated in accordance with the provisions above in (a) and (c) if the final Subsidy balance as recalculated in accordance with Sub-Paragraphs (c) (i) to (c) (iii) is greater than the balance of the Staircasing Receipt to be used reserved and set aside for Additional Affordable Housing identified in a) there will be no requirement to carry forward the Subsidy balances following this final Staircasing Event

Then in either such case this paragraph 1.23 shall be deemed satisfied and there shall be no requirement to reserve and set aside any further Staircasing Receipts (or part thereof) under paragraph (a) and (c) above

- (e) the Developer shall procure that:
- (i) all Staircasing Receipts are paid into an interest bearing account (including any interest accrued thereon) and shall procure an annual audited account to the Council demonstrating details of all receipts from the sale of any interest in Affordable Housing (including the dates upon which the Staircasing Receipts were received):
- (ii) a record of all Staircasing Receipts are kept
- (iii) that record is made available to the Council on demand
- (iv) any Staircasing Receipts (including accrued interest) shall only be used for the provision of Additional Affordable Housing
- (v) the Affordable Housing Provider and Affordable Housing Manager shall use reasonable endeavours to ensure the Staircasing Receipts are committed on the provision of Additional Affordable Housing within 3 years and spend within 5 years unless otherwise agreed in writing with the Council In the event of any dispute then the Disputes procedure set out in Clause 16 will be entered into by the appropriate parties

### Monitoring

- 1.24 The Developer shall procure that the number and type of Affordable Housing will be monitored in order to ensure compliance with this Schedule 18 and the Developers will by the 1<sup>st</sup> February and 1<sup>st</sup> August in each calendar year make a written return to the Council for the preceding six months detailing:
- 1.24.1 the cumulative total and location of Dwellings Occupied for the whole site
- 1.24.2 the number of Affordable Housing Dwellings completed with a breakdown specifying the number Affordable Housing Dwellings built and occupied with details of their tenure and unit type and size
- 1.24.3 the number location and tenure of the Affordable Housing Dwellings with details of the rent and service charges and Market Value and equity sold to the occupier if under a Shared Ownership Lease
- 1.24.4 the amount of receipts following a Staircasing Event
- 1.25 A mortgagee or chargee of an Affordable Housing Dwelling seeking to transfer the Affordable Housing Dwelling pursuant to any default under the terms of its security by an affordable Housing

Provider or affordable Housing Manager (as appropriate) shall procure a sale of the Affordable Housing Dwelling to another affordable Housing Provider or affordable Housing Manager (as appropriate) nominated in writing by the Council or (at the request of the Council) by the Housing Corporation within 56 days of the said mortgagee or chargee notifying the Council in writing of its intention to exercise its power of sale or other remedies and such mortgagee or chargee shall complete the sale not later than six months after such nomination PROVIDED THAT in the event of a nomination not being made or a sale not being completed within the time limit set out in the foregoing provisions of this paragraph such mortgagee or chargee shall sell the Affordable Housing Dwelling to an affordable Housing Provider or affordable Housing Manager nominated in writing by the mortgagee or chargee and notified to the Council within 28 days of the occurrence of the earlier of the said events and approved by the Council within 56 days of such notification whereupon the mortgagee or chargee shall complete the sale not later than six months after such notification PROVIDED FURTHER THAT in the event of any sale not taking place in accordance with the foregoing provisions of this paragraph any mortgagee or chargee (or any receiver appointed by such mortgagee or chargee) shall be entitled to sell the relevant Affordable Housing Dwelling pursuant to its or their power of sale or other remedies under the mortgage or charge in question on the open market and shall not be bound by the provisions of this Agreement

## **SCHEDULE 19:**

### **M5 WORKS**

#### **Part 1: Definitions relating to the M5 Highway Works**

1. In this Schedule the words below shall mean as follows:
  - 1.1 "M5 Works Agreement" means an agreement in respect of the M5 Works substantially in the form set out in Annex 16 or such other form as may be agreed between the Owner/Developer and the Highways Agency
  - 1.2 "M5 Works" means the works to widen part of the northbound carriageway of the M5 Motorway between junctions 17 and 18 as shown on drawings 12866/119-R01 and V01 (B)
  - 1.3 "M5 Works Contribution" means the sum of money as reasonably determined by under the M5 Works Agreement as the cost of carrying out the M5 Works

#### **Part 2**

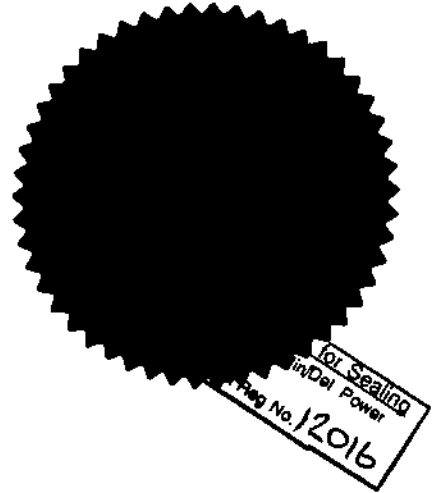
- 1 As soon as reasonably practical after the date of the grant of the Planning Permission the Owner/Developer shall:
  - 1.1 enter into an Abortive Costs Undertaking to the Highways Agency for the design of the M5 Works
  - 1.2 use all reasonable endeavours to enter into the M5 Works Agreement and to ensure that the Highways Agency carries out and opens to the public the M5 Works
2. The M5 Works Agreement shall require that:
  - 2.1 a detailed design be prepared for the M5 Works which shall be costed and
  - 2.2 following agreement (or other determination) of the amount of the M5 Works Contribution the M5 Works Contribution shall be paid to the Highways Agency under the terms of the M5 Works Agreement

EXECUTED AS A DEED BY AFFIXING THE )  
COMMON SEAL of SOUTH )  
GLOUCESTERSHIRE DISTRICT COUNCIL )  
in the presence of:

[Redacted Signature]

Group Manager

~~Head of Legal and Democratic Services~~



EXECUTED AS A DEED BY AFFIXING THE )  
COMMON SEAL of BOVIS HOMES LIMITED in the )  
presence of: )

[Redacted Signature]

Director

*Secretary*  
Director

[Redacted Signature]

SIGNED AS A DEED BY BAE SYSTEMS PLC )  
acting by a Director and its Secretary / two Directors )  
)

[Redacted Signature]

Director

[Redacted Signature]

Director/Secretary



**ANNEX 1**  
**BUS SERVICE STANDARD**

**Objective of the standard:**

to ensure the Services will be provided using high quality vehicles and equipment and operated by competent and courteous staff and will fulfil all statutory, legal and regulatory requirements

**The Standard**

1. All vehicles should be fitted with RTI equipment
2. No vehicle over 12 years of age shall be used on the service
3. 99% of all scheduled journeys should operate except those that are cancelled due to circumstances outside of the bus operator's control\*
4. Journeys should operate not more than:
  - 2 minutes ahead of schedule
  - 5 minutes behind schedule (inter-peak hours)
  - 10 minutes behind schedule (peak hours)
5. Buses should display the complete destination and service number
6. Buses should be cleaned internally and externally not less than once a day
7. Drivers should display their identity tags and be dressed in the appropriate Company uniform

**\*Disruption outside of the bus operator's control**

Disruption outside of the bus operator's control includes:

- i) Strike commotion or civil unrest
- ii) Adverse weather or other acts of God
- iii) Excessive traffic disruption in the area impacting on the bus route and that could not reasonably have been foreseen and/or roadworks on the route for less than 8 weeks duration

**FILTON NORTH FIELD BUS SERVICES SPECIFICATION**

Tables 1-3 contain bus service specifications for new and enhanced services to support the Filton North Field development. Table 4 shows phasing of service introduction in relation to development build out, infrastructure works and indicative timescales.

*The increased frequency of Services 75 and the provision of the new Service X75 will be procured directly by Bovis Homes Ltd.*

*The new Service X18 will be procured by South Gloucestershire Council using contributions secured from the Northfield development and Emerson Green (East) development.*

*Service 73 (preferred to in Phasing table 4 only) is an existing scheduled service will be provided by First Group.*

**Table 1**

Description	<b>Limited Stop City Service</b>	
Number	X75 or such other number as may be assigned by First Bristol	
Terminal Points	<b>Cribbs Causeway and Bristol Centre</b>	
Route:	Cribbs Causeway Bus Station, Pegasus Rd, Western Bus Link, Highwood Rd, Eastern Bus Link, A38, Bristol Centre	
Stopping Points:	All stops between Cribbs Causeway and Eastern Bus Link and at Filton Church, Ashley Down Rd, Zetland Rd, Broadmead and Bristol Centre	
Timetable:		
	<b>Monday to Friday</b>	<b>Saturday</b>
First bus	Arrival at Bristol Centre between 0740 and 0755	Arrival at Cribbs Causeway between 0740 and 0755
Frequency	At least every 15 minutes	
Last bus	Departure from Cribbs Causeway between 1905 and 1920	Departure from Bristol Centre between 1805 and 1820
	<b>Saturday</b>	<b>Sunday</b>
First bus	Arrival at Bristol Centre between 0740 and 0755	Arrival at Cribbs Causeway between 0840 and 0855
Frequency	At least every 15 minutes	
Last bus	Departure from Cribbs Causeway between 1735 and 1750	Departure from Bristol Centre between 1805 and 1820
	<b>Sunday</b>	<b>Public Holiday</b>
	No Service	No Service

**Table 2**

Description	<b>All Stops City Service</b>	
Number	75 or such other number as may be assigned by First Bristol	
Terminal Points	<b>Cribbs Causeway and Bristol Centre</b>	
Route	Cribbs Causeway Bus Station, Pegasus Rd, Western Bus Link <sup>1</sup> , Highwood Rd, Eastern Bus Link, A38, Bristol Centre <i>Note <sup>1</sup>until completion of Western Bus Link, route to be via Highwood Rd</i>	
Stopping Points	All recognised bus stops	
Timetable:		
	<b>Inward</b>	<b>Outward</b>
First bus	Arrival at Bristol Centre between 0710 and 0725	Arrival at Cribbs Causeway between 0740 and 0755
Daytime frequency	At least every 20 minutes	
Last daytime bus	Departure from Cribbs Causeway between 1805 and 1820	Departure from Bristol Centre between 1805 and 1820
Evening frequency	At least every 60 minutes	
Last bus	Departure from Cribbs Causeway between 2130 and 2230	Departure from Bristol Centre between 2230 and 2330
	<b>Inward</b>	<b>Outward</b>
First bus	Arrival at Bristol Centre between 0600 and 0700	Arrival at Cribbs Causeway between 0700 and 0800
Early frequency	At least every 60 minutes	
First daytime bus	Arrival at Bristol Centre between 0900 and 1000	Arrival at Cribbs Causeway between 0900 and 1000
Daytime frequency	At least every 20 minutes	
Last bus	Departure from Cribbs Causeway between 1735 and 1750	Departure from Bristol Centre between 1805 and 1820
Evening frequency	At least every 60 minutes	
Last bus	Departure from Cribbs Causeway between 2130 and 2230	Departure from Bristol Centre between 2230 and 2330
	<b>Inward</b>	<b>Outward</b>
First bus	Arrival at Bristol Centre between 1100 and 1200	Arrival at Cribbs Causeway between 1100 and 1200
Frequency	At least every 60 minutes	
Last bus	Departure from Cribbs Causeway between 2130 and 2230	Departure from Bristol Centre between 2230 and 2330
<i>Note - Specification for this service refers only to North Field requirements; Service 75 arrangements for Patchway and Hartcliffe are determined by First Bristol.</i>		

Table 3

Description	<b>Orbital Bus Service</b>	
Number	X18 or such other number as may be assigned by First Bristol	
Terminal Points	<b>Cribbs Causeway and U.W.E. or Emersons Green<sup>1</sup></b>	
Route:	Cribbs Causeway Bus Stn, Pegasus Rd, Western Bus Link, Highwood Rd, Eastern Bus Link, A38, A4174, Abbey Wood <sup>2</sup> , UWE, Emersons Green <sup>1</sup> . <i>Notes:</i> <sup>1</sup> until agreed date for operation to Emersons Green, service to terminate at UWE <sup>2</sup> Abbey Wood served once Wallscourt Farm Development link road open	
Stopping Points:	All recognised bus stops	
Timetable:		
<b>Monday to Friday</b>	<b>Westbound</b>	<b>Eastbound</b>
First journey	Arrival at Cribbs Causeway between 0740 and 0755	Arrival at UWE <sup>2</sup> between 0715 and 0730
Frequency	At least every 15 minutes	
Last bus	Departure from UWE <sup>2</sup> between 1805 and 1820	Departure from Cribbs Causeway between 1805 and 1820
<b>Saturday</b>	<b>Westbound</b>	<b>Eastbound</b>
First bus	Arrival at Cribbs Causeway between 0740 and 0755	Arrival at UWE <sup>2</sup> between 0815 and 0830
Frequency	At least every 15 minutes	
Last bus	Departure from UWE <sup>2</sup> between 1735 and 1750	Departure from Cribbs Causeway between 1735 and 1750
<b>Sunday</b>	<b>Westbound</b>	<b>Eastbound</b>
	No Service	No Service
	<i>Note <sup>2</sup> times shown at UWE apply whether service terminates at UWE or Emersons Green</i>	

Table 4

Phase of Development	No of Dwellings	Bus Service				Comments
		73	75	X18	X75	
1a	150	12	-	-	-	Access from Highwood Road
1b	451*	12	20	▲30	-	On completion of link between Highwood Road and A38 and prior to occupation of 451 <sup>st</sup> dwelling
2	[651]*	12	20	30	30	Commencement prior to the occupation of 651 <sup>st</sup> dwelling
2	Around 1,000 dwellings	12	20	15	15	On completion of link between Highwood Road and NF2 roundabout

Notes: \* refers to the trigger for the service  
 ▲ service to also be called by South Gloucestershire Council

**Table 5**

**Schedule Of Payments To SGC For The Provision Of Bus Services 75 And X75**

Bus Service	Year of Operation of Bus Service						Total Cost
	1	2	3	4	5	6	
75	145,500	97,000	97,000	97,000	97,000	48,500	582,000
X75	656,250	875,000	875,000	656,250			3,062,500

**Notes:**

1. The Council will competitively tender each bus service and cover the cost of provision of the service from the bonded payments.
2. Payments to be bonded and retained in an 'owners/developers' interest bearing account.
3. Surplus from annual tender cost, less upfront mobilisation and set up costs to be returned to the owners/developers account.
4. Such costs to be confirmed to the owners/developers.

**TABLE 6**  
**Northfield Highway contribution; schemes**

November 2006 v2

scheme		
<b>ARR MS QBC</b>		
<i>First tranche schemes</i>		
Filton ro/bt A38 northbound bus lane	Northbound bus lane to reduce delay for buses achieved through road widening. <b>Potential cost top-up EO Airbus ( current Airbus £920k contribution) .</b>	
X18, UWE/MoD bus link	Bus only link on current rapid transit corridor between UWE and MoD. Link	
Filton Ave/A4174 upgrade	Remodelling of junction to provide improved ped/cyclist crossing facilities plus new signal equipment to benefit peds. Footway between Emma-Chris Way and Filton Ave widened to allow for shared use cycleway.	
New Road to Abbeywood ro'bout bus gate + ped upgrade	A new third lane approaching Abbey Wood Roundabout between New Road and the junction to allow revisions to be made to traffic signal staging. Bus detection system to be installed on the existing eastbound Ring Road approach to Abbey Wood roundabout linked to the existing Toucan crossing just to the west of the lay-by to act as a bus gate. Traffic will be stopped allowing the bus to leave the lay-by.	
A4174 Abbeywood ro'bout	Signalisation of the Great Stoke Way entry to the roundabout. By extending the Great Stoke Way central median and widening the carriageway into the roundabout central island. Provide selective vehicle detection (SVD) sensors to ensure priority for bus services at the traffic signals.	
<i>Cribbs Causeway QBC</i>		
Pegasus Road bus lane extension E + W bound	Provide additional bus only lanes alongside existing carriageway in each direction on Pegasus Road between the Mall bus station and Highwood Road. (requires third party land acquisition).	
Standing Stone ro,bout bus enhancement	Provide signal controls and SVD at the junction to facilitate bus priority.	
<i>Second tranche schemes</i>		
RTI (real time information at selected bus stops within and adjacent to the site)		

Coldharbour Lane + junction upgrade	<p>At the Coldharbour Lane Junction the number of lanes for the left turn off the A4174 will be increased from one to two.</p> <p>An additional southbound general purpose lane will be added to Coldharbour Lane from the A4174 to the UWE roundabout and for safety reasons a central median will be added.</p> <p>A) The northbound bus/2+ lane will be retained but will terminate short to allow for weaving traffic.</p> <p>B) Bus stops will be relocated including a new bus lay-by behind the bus/2+ lane.</p> <p>C) <i>The existing toucan crossing will be replaced with a staggered toucan crossing in a similar location</i></p>	
Abbeywood ro'bout to C'harbour Lane ped + bus + RT Lane	<p><i>Widening of footway on south side. New bus lay-by west of HP entrance. Improved pedestrian crossing at Hewlett Packard. Widening of carriageway on the north side of the A4174 by one lane width to provide a second right turn lane into Coldharbour Lane. Existing right turn lane will also be extended.</i></p>	



**ANNEX 2**

**SOUTH GLOUCESTERSHIRE COUNCIL**

**JOB DESCRIPTION**

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**JOB TITLE:** COMMUNITY DEVELOPMENT WORKER (NORTH FIELD)

**GRADE:** H7

**POST NO:** L1379

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**REPORTS TO:** COMMUNITY DEVELOPMENT TEAM LEADER

**POST NO:** L1370

---

**DEPARTMENT:** COMMUNITY SERVICES

**DIVISION:** COMMUNITIES

---

**SECTION:** COMMUNITY LEARNING & DEVELOPMENT

**TEAM:** COMMUNITY DEVELOPMENT

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**1. JOB PURPOSE**

To undertake community work with individuals, community groups and agencies to develop appropriate provision and projects for the benefit of the residents of new North Field development in line with the Council's Strengthening Our Communities priorities.

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**2. MAIN DUTIES**

- (a) To enable the identification of the social, cultural, recreational and learning needs of people in the new North Field community.
- (b) To initiate and nurture the development of new community groups, regeneration initiatives, research, projects and networks for North Field residents.
- (c) To promote good equal opportunity practices within the new North Field community and to take positive steps to counter discrimination however and whenever it occurs.
- (d) To promote and encourage the participation and empowerment of North Field residents in community decision making, regeneration and community learning initiatives.
- (e) To liaise with and work in co-operation with a range of voluntary and statutory agencies across South Gloucestershire and in local neighbourhoods and communities to meet the above objectives.
- (f) To assist the new North Field community groups to secure appropriate resources.
- (g) To assist in the assessment and monitoring of grant-aided projects and contribute to the development of services commissioned through the voluntary and community sector to benefit the new North Field Community.
- (h) To assist grant aided community groups and associates in the North Field Area to support staff employed in a paid or voluntary capacity as agreed with the line manager.
- (i) To advise community groups that benefit the North Field Community in matters relating to their statutory responsibilities and legal obligations as agreed with the line manager.

- (j) To participate in the planning, development and delivery of training for part time and voluntary community workers and voluntary and community sector organisations in collaboration with relevant partners from within and outside the Council.
  - (k) To attend and contribute to appropriate groups and forums within and outside the Council and prepare reports as required in relation to North Field community development priorities.
  - (l) To assist the Council's Highways and Transport Department in developing personal travel plans for the residents of the Development
- 

### 3. DIMENSIONS

Not applicable.

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### 4. JOB CONTEXT

The Community Development Worker will support and encourage the development of a sustainable community at North Field based on social justice and mutual respect. The team works by:-

- Building organisational and community capacity.
- Encouraging community participation in consultation and decision-making processes.
- Targeting issues which create disadvantage.
- Initiating the development of appropriate partnerships/networks and disseminating information.
- Facilitating and co-ordinating community activity/actions.
- Responding to development priorities and issue based work at neighbourhood and community level.

Community development work is demand led but informed by the priorities within the Council's Strengthening Communities Strategy and Local Area Agreement.

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### 5. SUPERVISION AND WORK PLANNING

- (a) The post holder receives general supervision from the Community Development Team Leader.
  - (b) The post holder is expected to work very much on their own initiative within Service plan priorities and the parameters of the project plans with the line manager.
- 

### 6. PROBLEMS AND DECISIONS

- (a) The post holder will ensure support for a wide range of community development projects and initiatives specifically for the residents of the new North Field development and they will have to deal with potentially conflicting priorities with the assistance of their line manager.
  - (b) The post holder will be providing appropriate support and advice to community groups and associations which can have legal implications and potential for claims against the Council if incorrectly handled.
- 

### 7. CONTACTS

The post-holder will have contact with the following on a regular basis in relation to the development of community work for the new North Field residents:-

- Officers and staff in other Council departments
- Members of the community.
- Parish and town councils.
- Voluntary and community organisations and groups
- Elected members
- Other partner agencies including PCT, Police etc.

- Housebuilders at North Field

---

**8. KNOWLEDGE, EXPERIENCE AND TRAINING**

- (a) The post holder must have an appropriate professional qualification or be qualified at NVQ4 or equivalent level in a relevant discipline eg Community Development; social work; youth work; and have at least two years relevant experience of working closely with communities and voluntary groups.
- (b) The post holder will also need to demonstrate the following skills and abilities:
  - Project management
  - Effective organisational skills
  - Excellent communication skills
  - Administrative skills
  - Flexible working
  - Working independently and as part of a team.

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**9. PHYSICAL EFFORT AND/OR STRAIN**

- Working in a normal office environment.
- Other community buildings and facilities.

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**10. WORKING ENVIRONMENT**

- Working in a normal office environment.
- Other community buildings and facilities.

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**11. EQUIPMENT**

Normal office equipment.

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**12. GENERAL**

This job description only contains the main duties relating to this post and does not describe in detail all the duties required to carry them out and there will be an expectation that the post holder will carry out other duties that reasonably fall within the general nature of the level of responsibility of the post provided it is in connection with the North Field Development.

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**13. SPECIAL NOTES OR CONDITIONS**

This is a fixed term post for 6 years solely to deliver community development for North Field residents. The post is subject to funding from the North Field development. The post holder may be required to work outside normal hours and attend evening or weekend meetings.

Date Prepared: December 2006

Evaluation Date:.....

Effective Date: .....

**SOUTH GLOUCESTERSHIRE COUNCIL**

**EMPLOYEE SPECIFICATION**

The "Essential Requirements" indicate the minimum requirements and applicants lacking these attributes will not be considered for the post. The "Desirable Requirements" enable the Interviewer to further refine their choice of applicant at short listing and interview stage.

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**JOB TITLE: NORTH FIELD COMMUNITY DEVELOPMENT WORKER**

**GRADE: H7**

**POST NO: L1379**

---

**REPORTS TO: COMMUNITY DEVELOPMENT TEAM LEADER**

**POST NO: L1370**

---

**DEPARTMENT: COMMUNITY SERVICES**

**DIVISION: COMMUNITIES**

---

**SECTION: COMMUNITY LEARNING & DEVELOPMENT**

**TEAM: COMMUNITY DEVELOPMENT**

---

**ESSENTIAL**

- An appropriate professional qualification or be qualified at NVQ4 or equivalent qualification in a relevant discipline (eg Community Development, social work, youth work and have substantial relevant experience of working closely with communities and voluntary groups).
- Demonstrable knowledge and experience of successful networking, partnership building and project management is essential.
- Experience of working closely with communities and voluntary groups.
- Ability to develop and manage specific projects.
- Open mindedness and acceptance of others, and able to develop working relationships with a range of people.
- Good communication skills which encourage participation and empowerment.
- Commitment to Community Development principles.
- Commitment to the development, understanding and implementation of equal opportunities.
- Ability to organise own work programme.
- Ability to write reports and maintain records.
- Ability to work efficiently and effectively on own and within team.
- Good interpersonal skills and ability to develop good working relationships with staff at all levels.
- Ability to work outside normal office working hours.
- Ability to travel to a variety of locations.

**DESIRABLE**

- Further relevant qualifications/and or training/study.
- Ability to manage a budget.
- Supervisory experience.

ANNEX 3

DRAFT BOND

THIS BOND dated \_\_\_\_\_ is made

BETWEEN:

BAE SYSTEMS PLC whose registered office is at 6 Carlton Gardens London SW1Y 5AD (Company Registration No: 01470151) ("the Owner") BOVIS HOMES LIMITED whose registered office is situated at The Manor House North Ash Road New Ash Green Longfield Kent DA3 8HQ (Company Registration No: 00397634) ("the Developer") and • of • ("the Surety")

WHEREAS

By an Agreement ("the Agreement") dated • made between [REDACTED] <sup>Owner</sup> SOUTH GLOUCESTERSHIRE DISTRICT COUNCIL ("the Council") (1) and BAE SYSTEMS PLC ("the Developer") (2) and /or (as appropriate) BOVIS HOMES LIMITED (3) relating to the development of land at Northfield Filton Aerodrome Patchway in the District of South Gloucestershire the Owner and the Developer are under an obligation to provide various contributions as identified in Annex 3 on the terms and conditions specified in the Agreement

Paragraph \*\* of Part \*\* to Schedule \*\* of the Agreement contains a covenant for the Owner /Developer to enter into a bond with a surety (approved by the Council) to secure its obligations under the terms of the Agreement

NOW THIS DEED WITNESSES:

The Owner and/or (as appropriate) the Developer and the Surety are bound jointly and severally to the Council (subject to clause 4 below and the rest of this clause 1) for the sum of • pounds (£•) ("the Bond Figure") Provided That the Owner and/or Developer shall only be bound to the Council to the extent that the Bond Figure (or any part thereof) relates to land in which the Owner or as the case may be the Developer has an interest (and further Provided That to the extent the Bond Figure or any part thereof relates to the whole Land the Owner and Developer shall only be bound to contribute a proportion of such bond figure pro rata its ownership of the Land by area)

- 2 The Surety shall on receipt of a written demand from the Council certifying breach or non-observance of any of the terms conditions or covenants contained in the agreement pay to the Council within five working days after service on the Surety (at the address given above) of the demand such sum of money as the Council's Director for the time being shall certify to be necessary to make good the relevant default and in the event that the actual cost exceeds this the Surety shall be liable for the excess PROVIDED THAT the amount demanded by the Council whether as a single sum or as an aggregate sum shall not exceed the Bond Figure
- 3 It is hereby agreed and declared that the Surety shall not be released or discharged from this Bond by any arrangement which may either with or without the assent or notwithstanding the dissent of the Surety be made between the Owner and the Developer and the Council by any dealing or transaction which may take place between the Owner and the Developer and the Council
- 4 It is hereby agreed and declared that the Council shall seek payment in relation to the Bonded Obligations firstly from the Developer and or the Surety and only after having used reasonable endeavours (which shall not require the Council to institute proceedings in the court) to require payment from the Developer and the Surety shall the Council seek payment from the Owner PROVIDED THAT the Council shall not seek payment from the Owner in respect of any Bonded Obligation that relates to the Developer Only Schedules

IN WITNESS of which this Bond has been duly executed as a deed on the date and year first before written

EXECUTION CLAUSES

<b>Section 106 Obligations</b>	<b>Total Contribution</b>	<b>BOND 1 (0-150 units)</b>	<b>BOND 2 (150-750 units)</b>	<b>BOND 3 (750-1,500 units)</b>	<b>BOND 4 (1,500-2,200 units)</b>
Schedule 1: Public Art	£80,000	-	-	-	-
Schedule 2: Off-site POS	£2,942,928	-	£1,324,317	£1,118,312	£500,297
Schedule 3: Community Facilities (Sewer Baiting and Bins)	£30,838	£918	£7,480	£11,968	£10,472
Schedule 4 Highway Improvements	-	-	-	-	-
Schedule 5: Car Club	£80,000	-	£80,000	-	-
Schedule 6: Highway Infrastructure Improvements	£3,800,000	£1,300,000	£1,000,000	£1,500,000	-
Schedule 7: Public Transport Provision	£1,200,000	-	£900,000	£300,000	-
Schedule 8: New Public Transport Services	-	-	£801,750	£2,697,250	£145,500
Schedule 9: Community Development Worker	£84,600	-	£84,600	-	-
Schedule 10: Library	£242,521	-	£242,521	-	-
Schedule 11: POS Commuted Sum	£1,213,207	-	£303,301	£606,605	£303,301
Schedule 12: Nursery	-	-	-	£336,000	-
Schedule 13: Primary School Site	-	-	-	-	-
Schedule 14: Primary School Provision	£4,935,991	£493,599	£4,442,392	-	-
Schedule 15: Extra Care Housing	-	-	-	-	-
Schedule 16: Community Building	(£2,379,000)	-	£2,379,000	-	-
Schedule 17: Healthcare Space	-	-	£1,400,000	-	-
Schedule 18: Affordable Housing	-	-	-	-	-
Schedule 19: M5 Works	-	-	-	-	-

<b>Amount to be Bonded</b>		<b>£2,441,517</b>	<b>£12,965,361</b>	<b>£6,570,135</b>	<b>£959,570</b>
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**ANNEX 4  
HEADLINE SPECIFICATION AND  
NEIGHBOURHOOD CENTRE COMMUNITY BUILDING LEASE**

**Headline Specification for North Field Community Building**

Size and Specification of building

The building should be minimum 870m<sup>2</sup> GIA (Gross Internal Area as defined in the RICS code of Measuring Practice 5<sup>th</sup> edition) over 1 or 2 storeys and located within the neighbourhood centre at North Field.

The building including fitting out, external parking and landscaping should be completed by the Developer in a good and workmanlike manner with quality materials as set out in the detailed Specification (to be agreed) in addition to full compliance with legislation current at the time of construction. In terms of environmental performance the Neighbourhood Centre Community Building will achieve at least BREEAM (version prevailing at 1 January 2011) "Very Good" rating or the equivalent level of such national measure of sustainability for building design that replaces BREEAM (again version prevailing at the 1<sup>st</sup> January 2011)

Schedule of accommodation and requirements

The following elements should be contained within the building:

1. A hall for 250 people (minimum 220 sq m) plus annex room divider (banked seating to be considered)
2. A fully fitted kitchen (to catering standard), plus servery
3. Utility room
4. A manager's office
5. Lobby
6. Reception area
7. Cleaners cupboard
8. Flexible meeting rooms which can be divided with sliding folding partitions where required.
9. Lift in accordance with Building Regulations (if building more than single storey)
10. Female WCs and washbasins
11. Male WCs and washbasins
12. Disabled WC on all floors
13. Baby changing facilities
14. Male and female showers and changing facilities
15. Storage space sufficient and appropriate for all users (min 140 sq m)
16. Loose and fixed furniture and fittings appropriate for all user groups which for the avoidance of doubt will not include any electrical equipment save for kitchen equipment, lighting, hand dryers, wiring, electrical supply sockets and computer sockets, fire alarm, burglar alarm.
17. Bin store
18. A minimum of 14no. car parking spaces plus 4no disabled parking spaces. If these are to be provided as part of shared Public Patchway Square parking they should be marked out, reserved and located close to the community building.
19. Suitably sized plant room
20. Flexible services (power points/conduits etc)
21. ICT services provided for building with agreed number of connections in appropriate locations

Architectural Quality and Building Construction

The building will be a community focal point and should therefore be of high architectural quality. Due regard must be paid to the approved design codes of the neighbourhood centre and style and materials carefully chosen.

The Council will have due regard to various factors when considering design proposals including:

1. The building is a long term facility, so all materials will need to be selected for their durability and low maintenance characteristics;
2. Flat roofs and parapets are unlikely to be acceptable;
3. The possibility of graffiti, inside and out (anti graffiti paints should be used on exterior of building, if appropriate);
4. Wall and floor materials appropriate for well trafficked areas.
5. The design of the building shall have regard to the principles of sustainable construction with a view to achieving enhanced environmental performance.



6. The Council will not give approval to any design, which fails to provide complete access to all areas of the building and site for disabled persons, members of the public and staff alike. Full WC and shower facilities for male and female are required.
7. Running costs should be considered with respect to heating, lighting, servicing of mechanical and electrical services, cleaning and supervision of the facility.
8. The rooms and facilities of the building should be designed to allow for double storey height in main hall suitable for use as a hall for cultural events and sports (e.g. badminton) as appropriate.

## LEASE

Lease relating to [description of the property]

Dated 200

- (1) [Party 1]
- (2) [Party 2]
- (3) [Party 3]

### Contents

Clause	Heading
1.	Interpretation
2.	Grant
3.	Ancillary Rights
4.	Rights Excepted And Reserved
5.	Third Party Rights
6.	The Annual Rent
7.	Services And Service Charge
8.	Insurance
9.	Rates And Taxes
10.	Utilities
11.	Common Items
12.	VAT
13.	Default Interest And Interest
14.	Costs
15.	Compensation On Vacating
16.	No Deduction, Counterclaim Or Set-off
17.	Registration Of This Lease
18.	Assignments
19.	Underlettings
20.	Sharing Occupation
21.	Charging
22.	Prohibition Of Other Dealings
23.	Registration And Notification Of Dealings And Occupation
24.	Closure Of The Registered Title Of This Lease
25.	Repairs
26.	Decoration
27.	Alterations And Signs
28.	Returning The Property To The Landlord
29.	Use
30.	Management Of The Building
31.	Compliance With Laws
32.	Encroachments, Obstructions And Acquisition Of Rights
33.	Remedy Breaches
34.	Indemnity
35.	Landlord's Covenant For Quiet Enjoyment
36.	Condition For Re-entry
37.	Liability
38.	Entire Agreement And Exclusion Of Representations
39.	Notices, Consents And Approvals
40.	Governing Law And Jurisdiction
41.	Contracts (Rights Of Third Parties) Act 1999
42.	Landlord And Tenant (Covenants) Act 1995

**PRESCRIBED CLAUSES**

**LR1. Date of lease**

[DATE]

**LR2. Title number(s)**

**LR2.1 Landlord's title number(s)**

[INSERT TITLE NUMBER(S) OR LEAVE BLANK IF NONE]

**LR2.2 Other title numbers**

[TITLE NUMBER(S)] OR [None]

**LR3. Parties to this Lease**

**Landlord**

[COMPANY NAME]

[REGISTERED OFFICE ADDRESS]

[COMPANY REGISTERED NUMBER]

**Tenant**

[COMPANY NAME]

[REGISTERED OFFICE ADDRESS]

[COMPANY REGISTERED NUMBER]

**Other parties**

[[COMPANY] NAME]

[[REGISTERED OFFICE] ADDRESS]

[COMPANY REGISTERED NUMBER]

**Guarantor**

**LR4. Property**

In the case of a conflict between this clause and the remainder of this Lease then, for the purposes of registration, this clause shall prevail.

See the definition of "Property" in *clause 1.1* of this Lease.

**LR5. Prescribed statements etc.**

None.

**LR6. Term for which the Property is leased**

The term as specified in this Lease at *clause 1.1* in the definition of "Contractual Term"

**LR7. Premium**

None.

**LR8. Prohibitions or restrictions on disposing of this Lease**

This Lease contains a provision that prohibits or restricts dispositions.

**LR9. Rights of acquisition etc.**

**LR9.1 Tenant's contractual rights to renew this Lease, to acquire the reversion or another lease of the Property, or to acquire an interest in other land**

None.

**LR9.2 Tenant's covenant to (or offer to) surrender this Lease**

None.

**LR9.3 Landlord's contractual rights to acquire this Lease**

None.

**LR10. Restrictive covenants given in this Lease by the Landlord in respect of land other than the Property**

None.

**LR11. Easements**

**LR11.1 Easements granted by this Lease for the benefit of the Property**

The easements as specified in *clause 3* of this Lease.

**LR11.2 Easements granted or reserved by this Lease over the Property for the benefit of other property**

The easements as specified in *clause 4* of this Lease.

**LR12. Estate rentcharge burdening the Property**

None.

**LR13. Application for standard form of restriction**

The Parties to this Lease apply to enter the following standard form of restriction [against the title of the Property] [against title number ]

None.

**LR14. Declaration of trust where there is more than one person comprising the Tenant**

[OMIT ALL INAPPLICABLE STATEMENTS]

[The Tenant is more than one person. They are to hold the Property on trust for themselves as joint tenants.]

[The Tenant is more than one person. They are to hold the Property on trust for themselves as tenants in common in equal shares.]

[The Tenant is more than one person. They are to hold the Property on trust [COMPLETE AS NECESSARY]]

THIS LEASE is made on

(A) BETWEEN:

(1) [COMPANY NAME], incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (the Landlord)

(2) [COMPANY NAME], incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (the Tenant)and

(3)

(B) IT IS AGREED:

## 1. Interpretation

The definitions and rules of interpretation set out in this clause apply to this Lease.

"Annual Rent"	£1.00 per annum
"Building"	[DESCRIPTION OF THE BUILDING] shown edged blue on Plan 2;
"Common Parts"	the Building other than the Property and the Lettable Units;
"Contractual Term"	a term of 150 years beginning on, and including the date of this Lease and ending on, and including [SPECIFY DATE];
"Default Interest Rate"	[four] percentage points above the Interest Rate;
"Insurance Rent"	the aggregate in each year of: (a) [a fair proportion] [the Tenant's Proportion] of the cost of the premium for: (i) the insurance of the Building, [other than any plate glass,] for its full reinstatement cost (taking inflation of building costs into account) against loss or damage by or in consequence of the Insured Risks, including costs of demolition, site clearance, site protection and shoring-up, professionals' and statutory fees and incidental expenses, the cost of any work which may be required under any law and VAT in respect of all those costs, fees and expenses; and (ii) public liability insurance in relation to the Common Parts; (b) the cost of the premium for insurance for loss of Annual Rent from the Property for [three] years; and (c) any insurance premium tax payable on the above.
"Insured Risks"	means fire, explosion, lightning, earthquake, storm, flood, bursting and overflowing of water tanks, apparatus or pipes, impact by aircraft and articles dropped from them, impact by vehicles, riot, civil commotion and any other reasonable risks against which the Landlord decides to insure against from time to time and Insured Risk means any one of the Insured Risks;
"Interest Rate"	interest at the base lending rate from time to time of [NAME OF BANK], or if that base lending rate stops being used or published then at a comparable commercial rate reasonably determined by the Landlord;
"Lettable Unit"	a floor [or part of a floor] of the Building other than the Property, that is capable of being let and occupied on terms similar to those of this Lease;
"Permitted Use"	use for community recreation and/or leisure purposes
"Permitted Hours"	between the hours of 7.30 and 00.00 (midnight) on any weekday and Saturdays [and Bank Holidays] and between the hours of 7.30 and 23.00 on any Sunday Save that on the occasion of New Years Eve the activities may continue until 00.30 and in exceptional circumstances the hours may extended outside of these permitted hours for special events and functions subject to Licensing regulations and consultation with occupiers of adjoining properties. [LIMITS OF NORMAL WEEKDAY HOURS] Mondays to Fridays and [LIMITS OF NORMAL SATURDAY HOURS]

<p>"Plan 1"</p> <p>"Plan 2"</p> <p>"Property"</p>	<p>on Saturdays other than days which are bank holidays or public holidays in [England][Wales];</p> <p>the plan[s] attached to this Lease [each of which is] marked "Plan 1"; <i>(Plans not seen)</i></p> <p>the plan attached to this Lease marked "Plan 2";</p> <p>[the [part of the]] [and []] floor[s] of the Building (the floor plan[s] of which [is][are] shown edged red on Plan 1) [in respect of each of those floors] bounded by and including:</p> <p>(a) [the [floorboards] [floor screed] [OTHER FLOORING BOUNDARY]];</p> <p>(b) [the [DESCRIPTION OF CEILING BOUNDARY]];</p> <p>(c) [the interior plaster finishes of exterior walls and columns;]</p> <p>(d) the plaster finishes of the interior [structural][load-bearing] walls and columns that adjoin [another Lettable Unit or] the Common Parts;]</p> <p>(e) [the doors and windows within the interior, [structural] [load-bearing] walls and columns that adjoin [another Lettable Unit or] the Common Parts and their frames and fittings;]</p> <p>(f) [one half of the thickness of the interior, [non-structural] [non-load-bearing] walls [and columns] that adjoin [another Lettable Unit or] the Common Parts;]</p> <p>(g) [the doors and windows within the interior, [non-structural][non-load-bearing] walls [and columns] that adjoin the Common Parts and their frames and fittings;]</p> <p>but excluding:</p> <p>(h) [the windows in the exterior walls and their frames and fittings;]</p> <p>(i) [the whole of the interior [structural] [load-bearing] walls and columns within that part of the Building other than their plaster finishes and other than the doors and windows and their frames and fittings within such walls;] and</p> <p>(j) [all Service Media within that part of the Building but which do not exclusively serve that part of the Building].</p>
<p>["Rent Commencement Date"</p> <p>"Rent Payment Dates"</p>	<p>[SPECIFY DATE];]</p> <p>[25 March, 24 June, 29 September and 25 December] OR</p> <p>[SPECIFY ALTERNATIVE RENT PAYMENT DATES];</p>
<p>"Service Charge"</p> <p>"Service Charge Year"</p>	<p>[a fair proportion] [the Tenant's Proportion] of the Service Costs;</p> <p>is the annual accounting period relating to the Services and the Service Costs beginning on [SPECIFY DATE] in [YEAR] and each subsequent year during the term;</p>
<p>"Service Costs"</p> <p>"Service Media"</p>	<p>the costs listed in clause 8.2;</p> <p>[lifts and lift machinery and equipment and] all media for the supply or removal of heat electricity, gas, water, sewage, [air-conditioning,] energy, telecommunications, data and all other services and utilities and all structures,</p>

"Services"	machinery and equipment ancillary to those media; the services listed in clause 8.1;
"Tenant's Proportion"	[]%;
"Third Party Rights"	all rights, covenants and restrictions affecting the Building including the matters referred to at the date of this Lease in [the property register] [and [entry][entries] [STATE RELEVANT ENTRY NUMBER(S)] of the charges register] of title number [] OR [DESCRIPTION OF RELEVANT MATTERS AFFECTING AN UNREGISTERED REVERSION];
"VAT"	value added tax chargeable under the Value Added Tax Act 1994 or any similar replacement or additional tax;
"1954 Act"	Landlord and Tenant Act 1954.

A reference to this "Lease", except a reference to the date of this Lease or to the grant of this Lease, is a reference to this deed and any deed, licence, consent, approval or other instrument supplemental to it.

A reference to the "Landlord" includes a reference to the person entitled to the immediate reversion to this Lease. A reference to the "Tenant" includes a reference to its successors in title and assigns.

In relation to any payment, a reference to a "fair proportion" is to a fair proportion of the total amount payable.

The expressions "landlord covenant" and "tenant covenant" each has the meaning given to it by the Landlord and Tenant (Covenants) Act 1995.

Unless the context otherwise requires, references to the "Building", the "Common Parts", a "Lettable Unit" and the "Property" are to the whole and any part of them or it.

The expression "neighbouring property" does not include the Building.

A reference to the "term" is to the Contractual Term [and any agreed or statutory continuation of this Lease].

A reference to the "end of the term" is to the end of the term however it ends.

References to the "perpetuity period" are to the period of 80 years from the commencement of the term and that period is the perpetuity period for the purposes of section 1 of the Perpetuities and Accumulations Act 1964.

References to the "consent" of the Landlord are to the consent of the Landlord given in accordance with clause 41.4 and references to the "approval" of the Landlord are to the approval of the Landlord given in accordance with clause 41.5.

A "working day" is any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in [England][Wales].

Unless otherwise specified, a reference to a particular law is a reference to it as it is in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any subordinate laws for the time being in force made under it and all orders, notices, codes of practice and guidance made under it.

A reference to laws in general is to all local, national and directly applicable supra-national laws in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any subordinate laws for the time being in force made under them and all orders, notices, codes of practice and guidance made under them.

Any obligation in this Lease on the Tenant not to do something includes an obligation not to agree to or suffer that thing to be done and an obligation to use reasonable endeavours to prevent that thing being done by another person.

Unless the context otherwise requires, where the words "include(s)" or "including" are used in this Lease, they are deemed to have the words "without limitation" following them.

A "person" includes a corporate or unincorporated body.

References to "writing" or "written" do not include [faxes or] email.

Except where a contrary intention appears, a reference to a clause or Schedule, is a reference to a clause of, or Schedule to, this Lease and a reference in a Schedule to a paragraph is to a paragraph of that Schedule.

Clause, Schedule and paragraph headings do not affect the interpretation of this Lease.

## 2. Grant

[The] Landlord lets [with full title guarantee]the Property to the Tenant for the Contractual Term.

The grant is made together with the ancillary rights set out in clause 3, excepting and reserving to the Landlord the rights set out in clause 4, and subject to the Third Party Rights.

The grant is made with the Tenant paying the following as rent to the Landlord:

the Annual Rent and all VAT in respect of it;

the Service Charge and all VAT in respect of it;

the Insurance Rent; [and]

all interest payable under this Lease; and

all other sums due under this Lease].

## 3. Ancillary Rights

The Landlord grants the Tenant the following rights (the "Rights"):

the right to support and protection from the Common Parts and the structure of the building to the extent that the Common Parts provide support and protection to the Property at the date of this Lease;

[the right to use external areas of the Common Parts shown hatched  on Plan 2 for the purposes of vehicular and pedestrian access to and egress from the interior of the Building [and to and from the parts of the Common Parts referred to in clause 3.1.3 to clause 3.1.6];]

[the right to park  private cars or motorbikes belonging to the Tenant, its employees and visitors within the area edged  on Plan 2;]

[the right to use the area edged  on Plan 2 for keeping bicycles belonging to the Tenant, its employees and visitors;]

[the right to use the area edged  on Plan 2 for loading and unloading goods and materials;]

[the right to use  bins in the area edged  on Plan 2;]

the right to use the hallways, corridors, stairways, [lifts] and landings of the Common Parts [shown hatched [] on Plan 2] for the purposes of access to and egress from the Property [and the lavatories and washrooms referred to in clause 3.1.8];

[the right to use the lavatories [and washrooms ] on the [] [and []] floor[s] of the Building;]

the right to use and to connect into any Service Media at the Building that belong to the Landlord and serve (but do not form part of) the Property which are in existence at the date of this Lease or are installed during the perpetuity period;]

[the right to attach any item to the Common Parts adjoining the Property so far as is reasonably necessary to carry out any works to the Property required or permitted by this Lease;]

[the right to display the name and logo of the Tenant (and any authorised undertenant) on a [sign or noticeboard] provided by the Landlord [in the entrance hall of] the Building [and on the Common Parts at the entrance to the Property, in each case] in a form and manner approved by the Landlord; [and]

the right to enter the Common Parts or any other Lettable Unit so far as is reasonably necessary to carry out any works to the Property required or permitted by this Lease; and]

[ANY OTHER SPECIFIC RIGHTS THAT NEED TO BE GRANTED].

The Rights are granted in common with the Landlord and any other person authorised by the Landlord.

The Rights are granted subject to the Third Party Rights insofar as the Third Party Rights affect the Common Parts and the Tenant shall not do anything that may interfere with any Third Party Right.

The Tenant shall exercise the Rights (other than the Right mentioned in clause 3.1.1) only in connection with its use of the Property for the Permitted Use and only during the Permitted Hours and in accordance with any regulations made by the Landlord as mentioned in clause 3.1.1.

The Tenant shall comply with all laws relating to its use of the Common Parts pursuant to the Rights.

In relation to the Rights mentioned in clause 3.1.2 to clause 3.1.8, the Landlord may, at its discretion, change the route of any means of access to or egress from the interior of the Building and may change the area over which any of those Rights are exercised Provided such change does not make access to and egress from the Property significantly more difficult.

In relation to the Rights mentioned in clause 3.1.3 and clause 3.1.6 the Landlord may from time to time designate the spaces or bins (as the case may be) in respect of which the Tenant may exercise that Right.

In relation to the Rights mentioned in clause 3.1.9, the Landlord may, at its discretion, re-route or replace any such Service Media and that Right shall then apply in relation to the Service Media as re-routed or replaced Provided such re-routing or replacement does not prevent provision of any service to the Property previously enjoyed.

[In relation to the Right mentioned in clause 3.1.10, where the Tenant requires the consent of the Landlord to carry out the works to the Property, the Tenant may only exercise that Right when that consent has been granted and in accordance with the terms of that consent.]

In exercising the Right mentioned in clause 3.1.12, the Tenant shall:

except in case of emergency, give reasonable notice to the Landlord and any occupiers of the relevant Lettable Unit(s) of its intention to exercise that Right;



where reasonably required by the Landlord or the occupier of the relevant Lettable Unit(s), exercise that Right only if accompanied by a representative of the Landlord and/or the tenant and/or the occupier of the relevant Lettable Unit(s);

cause as little damage as possible to the Common Parts and the other Lettable Units and to any property belonging to or used by the Landlord or the tenants or occupiers of the other Lettable Units;

cause as little inconvenience as possible to the Landlord and the tenants and occupiers of the other Lettable Units as is reasonably practicable; and

promptly make good (to the satisfaction of the Landlord) any damage caused to the Common Parts (or to any property belonging to or used by the Landlord) by reason of the Tenant exercising that Right.

Except as mentioned in this clause 3, neither the grant of this Lease nor anything in it confers any right over the Common Parts or any Lettable Unit or any neighbouring property nor is to be taken to show that the Tenant may have any right over the Common Parts or any Lettable Unit or any neighbouring property, and section 62 of the Law of Property Act 1925 does not apply to this Lease.

#### 4. Rights Excepted And Reserved

The following rights are excepted and reserved from this Lease to the Landlord (the "Reservations"):

rights of light, air, support and protection as those rights are capable of being enjoyed at any time during the term;

the right to use and to connect into Service Media at, but not forming part of, the Property; the right to install and construct Service Media at but not in the Property to serve any part of the Building or any neighbouring property (whether or not such Service Media also serve the Property); and the right to re-route any Service Media mentioned in this paragraph Subject To the Landlord causing as little damage and inconvenience as possible in the exercise of this right and making good any such damage caused;

the right to develop any neighbouring property (whether or not belonging to the Landlord);

[the right to attach any structure, fixture or fitting to any boundary of the Property;]

the right to re-route any means of access to or egress from the Property or the Building and to change the areas over which the Rights mentioned in clause 3.1.2 to clause 3.1.8 are exercised Provided such re-routing does not make access to and egress from the Property or exercise of the Rights referred to significantly more difficult;

the right to re-route and replace any Service Media over which the Rights mentioned clause 3.1.9 are exercised Provided such re-routing or replacement does not prevent provision of any service to the Property previously enjoyed;

[the right to erect scaffolding at, and attach it to any part of the Building in connection with any of the other Reservation;]

[ANY OTHER SPECIFIC RIGHTS THAT NEED TO BE RESERVED;]

the right to enter the Property:

to repair, maintain, install, construct, re-route or replace any Service Media or structure relevant to any of the other Reservations; or

to carry out any works to any other Lettable Unit; or

in connection with any of the Services; or

for any other purpose mentioned in this Lease; or

for any other purpose connected with this Lease or with the Landlord's interest in the Building or any neighbouring property.

The Reservations may be exercised by the Landlord and by anyone else who is or becomes entitled to exercise them and by anyone authorised by the Landlord.

The Reservations may be exercised notwithstanding that any works carried out in connection with the exercise of those rights result in a reduction in the flow of light or air to the Property or the Common Parts or loss of amenity for the Property or the Common Parts but not so that the ability of the Tenant or other authorised occupier of the Property to use the Property for the Permitted Use is materially adversely affected.

The Reservations mentioned in clause 4.1.2 apply to Service Media in existence at the date of this Lease and to any that are installed or constructed during the perpetuity period.

The Tenant shall allow all those entitled to exercise any right to enter the Property, to do so with their workers, contractors, agents and professional advisors, and to enter the Property at any reasonable time and, except in the case of an emergency, after having given not less than 48 hours notice in writing to the Tenant.

No one exercising any of the Reservations, nor its workers, contractors, agents and professional advisors, shall be liable to the Tenant or to any undertenant or other occupier of or person at the Property for any loss, damage, injury, nuisance or inconvenience arising by reason of its exercising any of the Reservations except for:

physical damage to the Property; or

any loss, damage, injury, nuisance or inconvenience in relation to which the law prevents the Landlord excluding liability.

#### 5. Third Party Rights

The Tenant shall comply with all obligations on the Landlord relating to the Third Party Rights insofar as those obligations relate to the Property and shall not do anything (even if otherwise permitted by this Lease) that may interfere with any Third Party Right.

The Tenant shall allow the Landlord and any other person authorised by the terms of the Third Party Right to enter the Property in accordance with its terms.

#### 6. The Annual Rent

The Tenant shall pay the Annual Rent and any VAT in respect of it by four equal instalments in advance on or before the Rent Payment Dates. The payments shall be made by banker's standing order or by any other method that the Landlord requires at any time by giving notice to the Tenant.

The first instalment of the Annual Rent and any VAT in respect of it shall be made on [the date of this Lease and shall be the proportion, calculated on a daily basis, in respect of the period from the date of this Lease until the day before the next Rent Payment Date] OR [the Rent Commencement Date and shall be the proportion, calculated on a daily basis, in respect of the period from the Rent Commencement Date until the day before the next Rent Payment Date].

**7. Services And Service Charge**

The "Services" are:

cleaning, maintaining and repairing the Common Parts including all Service Media forming part of the Common Parts [(and remedying any inherent defect)];

cleaning the outside of the windows of the Building;

lighting the Common Parts and cleaning, maintaining, repairing and replacing lighting machinery and equipment on the Common Parts;

cleaning, maintaining, repairing and replacing refuse bins on the Common Parts;

cleaning, maintaining, repairing and replacing signage for the Common Parts;

cleaning, maintaining, repairing, operating and replacing security machinery and equipment (including closed circuit television) on the Common Parts;

cleaning, maintaining, repairing, operating and replacing fire prevention, detection and fighting machinery and equipment and fire alarms on the Common Parts;

cleaning, maintaining, repairing and replacing a signboard showing the names and logos of the tenants and other occupiers [in the entrance hall of the Building];

[maintaining the landscaped and grassed areas of the Common Parts;]

[cleaning, maintaining, repairing [and replacing] the lifts and lift machinery and equipment on the Common Parts;]

decorating the internal areas of the Common Parts;

cleaning, maintaining, repairing and replacing the floor coverings on the internal areas of the Common Parts;

cleaning, maintaining, repairing and replacing the furniture and fittings on the Common Parts;

[cleaning, maintaining, repairing and replacing the furniture, fittings and equipment in the lavatories [and washrooms ] on the Common Parts and providing hot and cold water, soap, paper, towels and other supplies for them;]

heating the internal areas of the [Common Parts][Building] and cleaning, maintaining, repairing and replacing heating machinery and equipment serving the [Common Parts][Building];

[cleaning, maintaining, repairing and replacing air conditioning equipment if any serving the [Common Parts][Building];

[providing [security] [reception] [cleaning and maintenance] staff for the Building;]

[ANY OTHER SPECIFIC SERVICES REQUIRED]; and

any other service or amenity that the Landlord may in its [reasonable] discretion [acting in accordance with the principles of good estate management] provide for the benefit of the tenants and occupiers of the Building.

The "Service Costs" are the total of:

the whole of the costs of:

providing the Services;

the supply and removal of electricity, gas, water, sewage and other utilities to and from the [Common Parts][Building];

complying with the recommendations and requirements of the insurers of the Building (insofar as those recommendations and requirements relate to the Common Parts);

complying with all laws relating to the Common Parts, their use and any works carried out at them, and relating to the use of all Service Media, machinery and equipment at or serving the Common Parts and to any materials kept at or disposed of from the Common Parts;

complying with the Third Party Rights insofar as they relate to the Common Parts; and

taking any steps (including proceedings) that the Landlord considers necessary to prevent or remove any encroachment over the Common Parts or to prevent the acquisition of any right over the Common Parts (or the Building as a whole) or to remove any obstruction to the flow of light or air to the Common Parts (or the Building as a whole);

the costs, fees and disbursements (on a full indemnity basis) of:

managing agents employed by the Landlord for the carrying out and provision of the Services or, where managing agents are not employed, a management fee for the same; and

accountants employed by the Landlord to prepare and audit the service charge accounts;

all rates, taxes and impositions payable in respect of the Common Parts, their use and any works carried out on them (other than any taxes payable by the Landlord in connection with any dealing with or disposition of its reversionary interest in the Building); and

any VAT payable by the Landlord in respect of any of the items mentioned above except to the extent that the Landlord is able to recover such VAT.

[Subject to the Tenant paying the Service Charge, the Landlord covenants with the Tenant :

to repair [the structural parts of] the Common Parts;

to provide heating [and air conditioning if any ] to the internal areas of the Common Parts [and the Property] during such periods of the year as the Landlord considers appropriate;

[to provide electricity [and water] to the Property;]

to keep the internal areas of the Common Parts clean, and to clean the outside of the windows of the Building as often as the Landlord considers appropriate;

to keep the internal areas of the Common Parts [reasonably well] lit;

[to supply hot and cold water, soap, paper, towels and other supplies for the lavatories [and washrooms] on the Common Parts;] [and]

[to keep the lifts in reasonable working order].

The Landlord may, but shall not be obliged to, provide any other Services. The Landlord shall not be obliged to carry out any works where the need for those works has arisen by reason of any damage or destruction by a risk against which the Landlord is not obliged to insure.

The Landlord shall not be obliged to provide any of the Services outside the Permitted Hours.

The Landlord shall not be liable for:

any interruption in, or disruption to, the provision of any of the Services for any reason that is outside the reasonable control of the Landlord; or

any injury, loss or damage suffered by the Tenant as a result of any absence or insufficiency of any of the Services or of any breakdown or defect in any Service Media, except where due to the negligence of the Landlord.

Before [or as soon as possible after] the start of each Service Charge Year, the Landlord shall prepare and send the Tenant an estimate of the Service Costs for that Service Charge Year and a statement of the estimated Service Charge for that Service Charge Year.

The Tenant shall pay the estimated Service Charge for each Service Charge Year in four equal instalments on each of the Rent Payment Dates.

In relation to the Service Charge Year current at the date of this Lease, the Tenant's obligations to pay the estimated Service Charge and the actual Service Charge shall be limited to an apportioned part of those amounts, such apportioned part to be calculated on a daily basis for the period from the date of this Lease to the end of the Service Charge Year. The estimated Service Charge for which the Tenant is liable shall be paid in equal instalments on [the date of this Lease and] the [remaining] Rent Payment Days during the period from the date of this Lease until the end of the Service Charge Year.

As soon as reasonably practicable after the end of each Service Charge Year, the Landlord shall prepare and send to the Tenant a certificate showing the Service Costs and the Service Charge for that Service Charge Year. [The certificate shall be in accordance with the service charge accounts prepared [and audited] by the Landlord's [independent accountants] [or] [managing agents].] [The Tenant may inspect the accounts and the supporting invoices and receipts by appointment with the Landlord (or its [accountants] [or] [managing agents]).]

If any cost is omitted from the calculation of the Service Charge in any Service Charge Year, the Landlord shall be entitled to include it in the estimate and certificate of the Service Charge in any following Service Charge Year. Otherwise, and except in the case of manifest error, the Service Charge certificate shall be conclusive as to all matters of fact to which it refers.

Without prejudice to clause 9.4.6, where the Landlord provides any Service by reason of the damage to or destruction of the Common Parts by [a risk against which the Landlord is obliged to insure][an Insured Risk], the costs of that Service shall not be included in the Service Charge.

If, in respect of any Service Charge Year, the Landlord's estimate of the Service Charge is less than the Service Charge, the Tenant shall pay the difference on demand. If, in respect of any Service Charge Year, the Landlord's estimate of the Service Charge is more than the Service Charge, the Landlord shall credit the difference against the Tenant's next instalment of the estimated Service Charge (and where the difference

exceeds the next instalment then the balance of the difference shall be credited against each succeeding instalment until it is fully credited).

## **8. Insurance**

Subject to clause 9.2, the Landlord covenants with the Tenant to keep [the Building] [other than any plate glass] insured against loss or damage by the Insured Risks for its full reinstatement cost (taking inflation of building costs into account). The Landlord shall not be obliged to insure any part of the Property installed by the Tenant.

The Landlord's obligation to insure is subject to:

any exclusions, limitations, excesses and conditions that may be imposed by the insurers; and

insurance being available in the London insurance market on reasonable terms acceptable to the Landlord.

The Tenant shall pay to the Landlord on demand:

the Insurance Rent;

a fair proportion of any amount that is deducted or disallowed by the insurers pursuant to any excess provision in the insurance policy in respect of the Building insofar as it relates to the Property; and

[a fair proportion] [the Tenant's Proportion] of any costs that the Landlord incurs in obtaining a valuation of the Building for insurance purposes.

The Tenant shall:

give the Landlord notice immediately any matter occurs in relation to the Tenant or the Property that any insurer or underwriter may treat as material in deciding whether or on what terms to insure or to continue to insure the Building;

not do or omit anything as a result of which any policy of insurance of the Building or any neighbouring property may become void or voidable or otherwise prejudiced, or the payment of any policy money may be withheld, nor (unless the Tenant has previously notified the Landlord and has paid any increased or additional premium) anything as a result of which any increased insurance or additional premium may become payable;

comply at all times with the requirements and recommendations of the insurers relating to the Property and the use by the Tenant of the Common Parts;

give the Landlord immediate notice of the occurrence of any damage or loss relating to the Property arising from an Insured Risk;

not effect any insurance of the Property [(except any plate glass at the Property)], but if it becomes entitled to the benefit of any insurance proceeds in respect of the Property [(other than in respect of plate glass)] pay those proceeds or cause them to be paid to the Landlord; and

pay the Landlord an amount equal to any insurance money that the insurers of the Building refuse to pay (in relation to the Building) by reason of any act or omission of the Tenant or any undertenant, their workers, contractors or agents or any person at the Property or the Common Parts with the actual or implied authority of any of them.

The Landlord covenants with the Tenant, subject to obtaining all necessary planning and other consents, to use all insurance money received (other than for loss of rent) in connection with any damage to the Building to repair

the damage for which the money has been received or (as the case may be) in rebuilding the Building. The Landlord shall not be obliged to:

provide accommodation or facilities identical in layout or design so long as accommodation reasonably equivalent to that previously at the Property and its access, services and amenities is provided; or

repair or rebuild if the Tenant has failed to pay any of the Insurance Rent; or

repair or rebuild the Building after a notice has been served pursuant to clause 9.7 [or clause 9.8].

If the Property is damaged or destroyed by [a risk against which the Landlord is obliged to insure][an Insured Risk] so as to be unfit for occupation and use or if the Common Parts are damaged or destroyed by [a risk against which the Landlord is obliged to insure][an Insured Risk] so as to make the Property inaccessible or unusable then, unless the policy of insurance in relation to the Property or the Common Parts has been vitiated in whole or in part in consequence of any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any other person on the Property or the Common Parts with the actual or implied authority of any of them, payment of the Annual Rent, or a fair proportion of it according to the nature and extent of the damage, shall be suspended until the Property has been reinstated and made fit for occupation and use or the Common Parts have been reinstated so as to make the Property accessible or useable (as the case may be)

[Provided that the Tenant has complied with its obligations in this clause, the Tenant may terminate this Lease by giving notice to the Landlord if, following damage or destruction of the Property or the Common Parts by an Insured Risk, the Property has not been reinstated so as to be fit for occupation and use or the Common Parts have not been reinstated so as to make the Property accessible or useable within [three] years after the date of damage or destruction. On giving this notice this Lease shall determine but this shall be without prejudice to any right or remedy of the Landlord in respect of any breach of the tenant covenants of this Lease. Any proceeds of the insurance shall belong to the Landlord.]

#### 9. Rates And Taxes

The Tenant shall pay all present and future rates, taxes and other impositions payable in respect of the Property, its use and any works carried out there, other than:

any taxes payable by the Landlord in connection with any dealing with or disposition of the reversion to this Lease; or

any taxes, other than VAT and Insurance premium tax, payable by the Landlord by reason of the receipt of any of the rents due under this Lease.

If any such rates, taxes or other impositions are payable in respect of the Property together with other land (including any other part of the Building) the Tenant shall pay a fair proportion of the total.

The Tenant shall not make any proposal to alter the rateable value of the Property or that value as it appears on any draft rating list, without the approval of the Landlord.

If, after the end of the term, the Landlord loses rating relief (or any similar relief or exemption) because it has been allowed to the Tenant, then the Tenant shall pay the Landlord an amount equal to the relief or exemption that the Landlord has lost.

#### 10. Utilities

The Tenant shall pay all costs in connection with the supply (but not installation of) [electricity, gas, water, sewage,] telecommunications [and] data [and other services and utilities] to [or from] the Property.]

The Tenant shall comply with all laws and with any recommendations of the relevant suppliers relating to [the use of those services and utilities] [the supply and removal of electricity, gas, water, sewage, telecommunications, data and other services and utilities to or from the Property].

#### 11. Common Items

The Tenant shall pay the Landlord on demand [a fair proportion] [the Tenant's Proportion] of all costs payable by the Landlord for the maintenance, repair, lighting, cleaning and renewal of all Service Media, structures and other items not on the Building but used or capable of being used by the Building in common with other land.

The Tenant shall comply with all reasonable regulations the Landlord may make from time to time in connection with the use of any of those Service Media, structures or other items.

#### 12. VAT

All sums payable by the Tenant are exclusive of any VAT that may be chargeable. The Tenant shall pay VAT in respect of all taxable supplies made to it in connection with this Lease on the due date for making any payment or, if earlier, the date on which that supply is made for VAT purposes.

Every obligation on the Tenant under or in connection with this Lease to pay, refund or to indemnify the Landlord or any other person any money or against any liability includes an obligation to pay, refund or indemnify against any VAT, or an amount equal to any VAT, chargeable in respect of it.

#### 13. Default Interest And Interest

If any Annual Rent or any other money payable under this Lease has not been paid by the date it is due, whether it has been formally demanded or not, the Tenant shall pay the Landlord interest at the Default Interest Rate (both before and after any judgment) on that amount for the period from the due date to and including the date of payment.

If the Landlord does not demand or accept any Annual Rent or other money due or tendered under this Lease because the Landlord reasonably believes that the Tenant is in breach of any of the tenant covenants of this Lease, then the Tenant shall, when that amount is accepted by the Landlord, also pay interest at the Interest Rate on that amount for the period from the date the amount (or each part of it) became due until the date it is accepted by the Landlord.

#### 14. Costs

The Tenant shall pay the costs and expenses of the Landlord including any solicitors' or other professionals' costs and expenses (incurred both during and after the end of the term) in connection with or in contemplation of:

the enforcement of the tenant covenants of this Lease;

serving any notice in connection with this Lease under section 146 or 147 of the Law of Property Act 1925 or taking any proceedings under either of those sections, notwithstanding that forfeiture is avoided otherwise than by relief granted by the court;

serving any notice in connection with this Lease under section 17 of the Landlord and Tenant (Covenants) Act 1995;

the preparation and service of a schedule of dilapidations in connection with this Lease; and



any consent or approval applied for under this Lease, whether or not it is granted [(unless the consent or approval is unreasonably withheld by the Landlord in circumstances where the Landlord is not unreasonably to withhold it )].

Where the Tenant is obliged to pay or indemnify the Landlord against any solicitors' or other professionals' costs and expenses (whether under this or any other clause of this Lease) that obligation extends to those costs and expenses assessed on a full indemnity basis.

15. Compensation On Vacating

Any right of the Tenant or anyone deriving title under the Tenant to claim compensation from the Landlord on leaving the Property under the Landlord and Tenant Act 1927 or the 1954 Act is excluded, except to the extent that the legislation prevents that right being excluded.]

16. No Deduction, Counterclaim Or Set-off

The Annual Rent and all other money due under this Lease are to be paid by the Tenant or any guarantor (as the case may be) without deduction, counterclaim or set-off.

17. Registration Of This Lease

Promptly following the grant of this Lease, the Tenant shall apply to register this Lease at HM Land Registry. The Tenant shall ensure that any requisitions raised by HM Land Registry in connection with that application are dealt with promptly and properly. Within one month after completion of the registration, the Tenant shall send the Landlord official copies of its title.

18. Assignments

The Tenant shall not assign the whole of this Lease without the consent of the Landlord, such consent not to be unreasonably withheld.

The Tenant shall not assign part only of this Lease.

The Landlord and the Tenant agree that for the purposes of section 19(1A) of the Landlord and Tenant Act 1927 the Landlord may give its consent to an assignment subject to all or any of the following conditions:

a condition that the assignor (and any former tenant who because of section 11 of the Landlord and Tenant (Covenants) Act 1995 has not been released from the tenant covenants of this Lease) enters into an authorised guarantee agreement which:

is in respect of all the tenant covenants of this Lease;

is in respect of the period beginning with the date the assignee becomes bound by those covenants and ending on the date when the assignee is released from those covenants by virtue of section 5 of the Landlord and Tenant (Covenants) Act 1995;

imposes principal debtor liability on the assignor (and any former tenant);

requires (in the event of a disclaimer of liability of this Lease) the assignor (or former tenant as the case may be) to enter into a new tenancy for a term equal to the unexpired residue of the Contractual Term; and

is otherwise in a form reasonably required by the Landlord;

The Landlord and the Tenant agree that for the purposes of section 19(1A) of the Landlord and Tenant Act 1927 the Landlord may refuse its consent to an assignment if any Annual Rent or other money due under this Lease is outstanding.

Nothing in this clause shall prevent the Landlord from giving consent subject to any other reasonable condition, nor from refusing consent to an assignment in any other circumstance where it is reasonable to do so.

#### 19. Underlettings

The Tenant shall not underlet the whole or any part of the Property except in accordance with this clause nor without the consent of the Landlord, such consent not to be unreasonably withheld.

The Tenant shall not underlet the Property:

together with any property or any right over property that is not included within this Lease;

at a fine or premium or reverse premium; nor

allowing any rent free period to the undertenant [that exceeds the period as is then usual in the open market in respect of such a letting].

a covenant by the undertenant, enforceable by and expressed to be enforceable by the Landlord (as superior landlord at the date of grant) and its successors in title in their own right, to observe and perform the tenant covenants in the underlease and any document that is supplemental or collateral to it and the tenant covenants in this Lease, except the covenants to pay the rents reserved by this Lease; and

provisions requiring the consent of the Landlord to be obtained in respect of any matter for which the consent of the Landlord is required under this Lease,

and shall otherwise be consistent with and include tenant covenants no less onerous (other than as to the Annual Rent) than those in this Lease.

#### 20. Sharing Occupation

The Tenant may share occupation of the Property with any company that is a member of the same group (within the meaning of section 42 of the 1954 Act) as the Tenant for as long as that company remains within that group and provided that no relationship of landlord and tenant is established by that arrangement.

#### 21. Charging

The Tenant shall not charge the whole of this Lease without the consent of the Landlord, such consent not to be unreasonably withheld.

The Tenant shall not charge part only of this Lease.

#### 22. Prohibition Of Other Dealings

Except as expressly permitted by this Lease, the Tenant shall not assign, underlet, charge, part with or share possession or share occupation of this Lease or the Property or hold the lease on trust for any person (except pending registration of a dealing permitted by this Lease at HM Land Registry or by reason only of joint legal ownership) Provided That this shall not prevent the hiring out of appropriate parts of the Property for functions social events and other activities compatible with the user of the Demised Premises authorised by clause 30 of this Lease

23. Registration And Notification Of Dealings And Occupation

In this clause a "Transaction" is:

- any dealing with this Lease or the devolution or transmission of, or parting with possession of any interest in it;  
or
- the creation of any underlease or other interest out of this Lease, or out of any interest, underlease derived from it, and any dealing, devolution or transmission of, or parting with possession of any such interest or underlease; or
- the making of any other arrangement for the occupation of the Property.

In respect of every Transaction that is registrable at HM Land Registry, the Tenant shall promptly following completion of the Transaction apply to register it (or procure that the relevant person so applies). The Tenant shall (or shall procure that) any requisitions raised by HM Land Registry in connection with an application to register a Transaction are dealt with promptly and properly. Within [one month] of completion of the registration, the Tenant shall send the Landlord official copies of its title (and where applicable of the undertenant's title).

No later than one month after a Transaction the Tenant shall:

- give the Landlord's solicitors notice of the Transaction; [and]
- deliver two certified copies of any document effecting the Transaction to the Landlord's solicitors; and
- pay the Landlord's solicitors a registration fee of £30 (plus VAT).

If the Landlord so requests, the Tenant shall promptly supply the Landlord with full details of the occupiers of the Property and the terms upon which they occupy it.

24. Closure Of The Registered Title Of This Lease

[Within one month] [Immediately] after the end of the term (and notwithstanding that the term has ended), the Tenant shall make an application to close the registered title of this Lease and shall ensure that any requisitions raised by HM Land Registry in connection with that application are dealt with promptly and properly; the Tenant shall keep the Landlord informed of the progress and completion of its application.

25. Repairs

The Tenant shall keep the Property in good repair [and condition].

The Tenant shall not be liable to repair the Property to the extent that any disrepair has been caused by an Insured Risk, unless and to the extent that:

- the policy of insurance of the Property has been vitiated or any insurance proceeds withheld in consequence of any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any person on the Property with the actual or implied authority of any of them;* or
- the insurance cover in relation to that disrepair is excluded, limited, is unavailable or has not been extended, as mentioned in clause 9.2.]

26. Decoration

The Tenant shall decorate the Property as often as is reasonably necessary and also in the last three months before the end of the term.

All decoration shall be carried out in a good and proper manner using good quality materials that are appropriate to the Property and the Permitted Use and shall include all appropriate preparatory work.

All decoration carried out in the last three months of the term shall also be carried out to the satisfaction of the Landlord and using materials, designs and colours approved by the Landlord.

27. Alterations And Signs

The Tenant shall not make any structural alteration to the Property without the consent of the Landlord, such consent not to be unreasonably withheld[, other than as mentioned in clause 28.2].

[The Tenant may install and remove non-structural, demountable partitioning, without the consent of the Landlord provided that it makes good any damage to the Property and to any part of the Common Parts.]

The Tenant shall not install nor alter the route of any Service Media at the Property without the consent of the Landlord, such consent not to be unreasonably withheld.

The Tenant shall not attach any sign, fascia, placard, board, poster or advertisement to the Property so as to be seen from the outside of the Building except with the approval of the Landlord (such approval not to be unreasonably withheld).

28. Returning The Property To The Landlord

At the end of the term the Tenant shall return the Property to the Landlord in the repair and condition required by this Lease.

[If the Landlord gives the Tenant notice [no later than three months before the end of the term], the Tenant shall remove items it has fixed to the Property, remove any alterations it has made to the Property and make good any damage caused to the Property by that removal.]

At the end of the term, the Tenant shall remove from the Property all chattels belonging to or used by it.

The Tenant irrevocably appoints the Landlord to be the Tenant's agent to store or dispose of any chattels or items it has fixed to the Property and which have been left by the Tenant on the Property for more than ten working days after the end of the term. The Landlord shall not be liable to the Tenant by reason of that storage or disposal. The Tenant shall indemnify the Landlord in respect of any claim made by a third party in relation to that storage or disposal.

If the Tenant does not comply with its obligations in this clause, then, without prejudice to any other right or remedy of the Landlord, the Tenant shall pay the Landlord an amount equal to the Annual Rent at the rate reserved immediately before the end of the term for the period that it would reasonably take to put the Property into the condition it would have been in had the Tenant performed its obligations under this clause. The amount shall be a debt due on demand from the Tenant to the Landlord.

29. Use

The Tenant shall not use the Property for any purpose other than the Permitted Use.

The Tenant shall not operate the Property other than as a not for profit facility and shall use any profit generated for the maintenance and improvement of the Property

[The Tenant shall not use the Property outside the Permitted Hours [without the approval of the Landlord].]

[If the Landlord gives its approval to the Tenant using the Property outside the Permitted Hours, the Tenant shall comply with any regulations that the Landlord makes relating to that use and shall pay the Landlord all costs incurred by the Landlord in connection with that use, including the whole of the cost of any Services provided by the Landlord attributable to the use by the Tenant of the Property outside the Permitted Hours.]

The Tenant shall not use the Property for any illegal purpose nor for any purpose or in a manner inconsistent with the Permitted Use that would cause loss, damage, injury, nuisance or inconvenience to the Landlord, the other tenants or occupiers of the Lettable Units or any owner or occupier of neighbouring property.

The Tenant shall not overload any structural part of the Building nor any Service Media at or serving the Property.

### 30. Management Of The Building

The Tenant shall observe all [reasonable and proper] regulations made by the Landlord from time to time in accordance with the principles of good estate management and notified to the Tenant relating to the use of the Common Parts and the management of the Building.

Nothing in this Lease shall impose or be deemed to impose any restriction on the use of any other Lettable Unit or any neighbouring property.

### 31. Compliance With Laws

The Tenant shall comply with all laws relating to:

the Property and the occupation and use of the Property by the Tenant;

the use of all Service Media and machinery and equipment at or serving the Property;

any works carried out at the Property; and

all materials kept at or disposed from the Property.

Without prejudice to any obligation on the Tenant to obtain any consent or approval under this Lease, the Tenant shall carry out all works that are required under any law to be carried out at the Property whether by the owner or the occupier.

Within five working days after receipt of any notice or other communication affecting the Property or the Building (and whether or not served pursuant to any law) the Tenant shall:

send a copy of the relevant document to the Landlord; and

in so far as it relates to the Property, take all steps necessary to comply with the notice or other communication

The Tenant shall supply the Landlord with all documents relating to the Property that are required under the Construction (Design and Management) Regulations 1994 to be kept in the health and safety file for the Building.

As soon as the Tenant becomes aware of any defect in the Property, it shall give the Landlord notice of it. The Tenant shall indemnify the Landlord against any liability under the Defective Premises Act 1972 in relation to the Property by reason of any failure of the Tenant to comply with any of the tenant covenants in this Lease.

The Tenant shall keep the Property equipped with all fire prevention, detection and fighting machinery and equipment and fire alarms which are required under all relevant laws or required by the Insurers of the Property or reasonably recommended by them or reasonably required by the Landlord and shall keep that machinery, equipment and alarms properly maintained and available for inspection.

### 32. Encroachments, Obstructions And Acquisition Of Rights

The Tenant shall not grant any right or licence over the Property to any person nor permit any person to make any encroachment over the Property.

The Tenant shall not obstruct the flow of light or air to the Property.

The Tenant shall not make any acknowledgement that the flow of light or air to the Property or any other part of the Building or that the means of access to the Building is enjoyed with the consent of any third party.

The Tenant shall immediately notify the Landlord if any person takes or threatens to take any action to obstruct the flow of light or air to the Property.

### 33. Remedy Breaches

The Landlord may enter the Property upon not less than 48 hours notice in writing to inspect its condition and state of repair and may give the Tenant a notice of any breach of any of the tenant covenants in this Lease relating to the condition or repair of the Property.

If the Tenant has not begun any works needed to remedy that breach within two months following that notice (or if works are required as a matter of emergency, then immediately) or if the Tenant is not carrying out the works with all due speed, then the Landlord may enter the Property and carry out the works needed.

The costs incurred by the Landlord in carrying out any works pursuant to this clause (and any professional fees and any VAT in respect of those costs) shall be a debt due from the Tenant to the Landlord and payable on demand.

Any action taken by the Landlord pursuant to this clause shall be without prejudice to the Landlord's other rights, including those under clause 38.

### 34. Indemnity

The Tenant shall keep the Landlord indemnified against all expenses, costs, claims, damage and loss (including any diminution in the value of the Landlord's interest in the Building and loss of amenity of the Building) arising from any breach of any tenant covenants in this Lease, or any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any other person on the Property or the Common Parts with the actual or implied authority of any of them.

### 35. Landlord's Covenant For Quiet Enjoyment

The Landlord covenants with the Tenant that, so long as the Tenant pays the rents reserved by and complies with its obligations in this Lease, the Tenant shall have quiet enjoyment of the Property without any lawful interruption by the Landlord or any person claiming under the Landlord.

**36. Condition For Re-entry**

The Landlord may re-enter the Property at any time after any of the following occurs:

any rent is unpaid 21 days after becoming payable whether it has been formally demanded or not;

any breach of any condition of, or tenant covenant, in this Lease;

the taking of any step in connection with any voluntary arrangement or any other compromise or arrangement for the benefit of any creditors of the Tenant ; or

the making of an application for an administration order or the making of an administration order in relation to the Tenant ; or

the giving of any notice of intention to appoint an administrator, or the filing at court of the prescribed documents in connection with the appointment of an administrator, or the appointment of an administrator, in any case in relation to the tenant ; or

the appointment of a receiver or manager or an administrative receiver in relation to any property or income of the Tenant ; or

the commencement of a voluntary winding-up in respect of the Tenant , except a winding-up for the purpose of amalgamation or reconstruction of a solvent company in respect of which a statutory declaration of solvency has been filed with the Registrar of Companies; or

the making of a petition for a winding-up order or a winding-up order in respect of the Tenant ; or

the striking-off of the Tenant from the Register of Companies or the making of an application for the Tenant to be struck-off; or

the Tenant otherwise ceasing to exist except in the case of local government reorganisation;

where the Tenant is an individual:

the taking of any step in connection with any voluntary arrangement or any other compromise or arrangement for the benefit of any creditors of the Tenant ; or

the presentation of a petition for a bankruptcy order or the making of a bankruptcy order against the Tenant.

If the Landlord re-enters the Property pursuant to this clause, this Lease shall immediately end, but without prejudice to any right or remedy of the Landlord in respect of any breach of covenant by the Tenant .

**37. Liability**

At any time when the Landlord or the Tenant is more than one person, then in each case those persons shall be jointly and severally liable for their respective obligations arising by virtue of this Lease. The Landlord may release or compromise the liability of any one of those persons or grant any time or concession to any one of them without affecting the liability of any other of them.

The obligations of the Tenant arising by virtue of this Lease are owed to the Landlord and the obligations of the Landlord are owed to the Tenant.

In any case where the facts are or should reasonably be known to the Tenant, the Landlord shall not be liable to the Tenant for any failure of the Landlord to perform any landlord covenant in this Lease unless and until the Tenant has given the Landlord notice of the facts that give rise to the failure and the Landlord has not remedied the failure within a reasonable time.

### 38. Entire Agreement And Exclusion Of Representations

This Lease constitutes the entire agreement and understanding of the parties relating to the transaction contemplated by the grant of this Lease and supersedes any previous agreement between the parties relating to the transaction.

[The Tenant acknowledges that in entering into this Lease it has not relied on] [The Tenant and the Guarantor acknowledge that in entering into this Lease neither has relied on], nor shall have any remedy in respect of, any statement or representation made by or on behalf of the Landlord.

Nothing in this Lease constitutes or shall constitute a representation or warranty that the Property or the Common Parts may lawfully be used for any purpose allowed by this Lease.

Nothing in this clause shall, however, operate to limit or exclude any liability for fraud.

### 39. Notices, Consents And Approvals

Except where this Lease specifically states that a notice need not be in writing, or where notice is given in an emergency, any notice given pursuant to this Lease shall be in writing.

A written notice shall be delivered by hand or sent by pre-paid first class post or recorded signed for post. A correctly addressed notice sent by pre-paid first class post shall be deemed to have been delivered at the time at which it would have been delivered in the normal course of the post.

Section 196 of the Law of Property Act 1925 shall otherwise apply to notices given under this Lease.

Where the consent of the Landlord is required under this Lease to an assignment of this Lease, a consent shall only be valid if it is given by deed

Where the consent of the Landlord is required under this Lease other than to an assignment of this Lease, a consent shall only be valid if

it is given in writing and signed by a person duly authorised on behalf of the Landlord

Where the approval of the Landlord is required under this Lease, an approval shall only be valid if it is in writing and signed by or on behalf of the Landlord, unless:

the approval is being given in a case of emergency; or

this Lease expressly states that the approval need not be in writing.

If the Landlord gives a consent or approval under this Lease, the giving of that consent or approval shall not imply that any consent or approval required from a third party has been obtained, nor shall it obviate the need to obtain any consent or approval from a third party.

### 40. Governing Law And Jurisdiction

This Lease shall be governed by and construed in accordance with the law of England and Wales.



The Landlord, and the Tenant, irrevocably agree to submit to the exclusive jurisdiction of the courts of England and Wales over any claim or matter arising under or in connection with this Lease or the legal relationships established by it.

41. Contracts (Rights Of Third Parties) Act 1999

No term of this Lease shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party [but this does not affect any right or remedy of a third party which exists or is available apart from under that Act].

42. Landlord And Tenant (Covenants) Act 1995

This Lease creates a new tenancy for the purposes of the Landlord and Tenant (Covenants) Act 1995.

This lease has been executed and delivered as a Deed by the parties on the date first above written

Signed as a deed by [NAME OF LANDLORD] acting by [NAME OF FIRST DIRECTOR] and [NAME OF SECOND DIRECTOR/SECRETARY] .....  
Director  
.....  
Director/Secretary

Signed as a deed by [NAME OF TENANT] acting by [NAME OF FIRST DIRECTOR] and [NAME OF SECOND DIRECTOR/SECRETARY] .....  
Director  
.....  
Director/Secretary

.....  
Director

.....  
Director/Secretary

**ANNEX 5**  
**BOVIS HOMES**  
**EXTRA CARE HOUSING SPECIFICATION**  
at  
**Filton North Field**

**DESIGN BRIEF**  
**EXTRA CARE HOUSING SCHEME**

## **CONTENTS**

- 1. Introduction**
- 2. Extra Care – The Concept**
- 3. Funding**
- 4. Design**
- 5. Intermediate Care Provision**
- 6. Sustainability**
- 7. Service Provision**

## 1. INTRODUCTION

This brief identifies the main elements of the 50 place facility to be provided by Bovis Homes at North Field Filton. Such provision will be made on a commercial basis reflecting the residential nature of the site.

## 2. THE CONCEPT

It is envisaged, that the scheme should provide a home for life, should their level of support and care needs increase. It gives people the independence of living in their own self-contained flat within an environment that enables them to live lives that are as full and independent as they wish, whilst being able to readily access high quality support and care services on site.

## 3. FUNDING

The revenue costs of accommodation and housing services for any Extra Care scheme would be met through rents and service charges. The care costs will be met in the main by the resident but the local authority may provide help in funding this where the resident is eligible.

## 4. DESIGN

### i) the Concept

High quality innovative design is seen as vital but design flare needs be matched by practicality and economy in construction and maintenance.

### ii) Minimum Accommodation Requirement

- Optimum of 40-50 self-contained flats together with staff accommodation and a variety of community facilities;
- A mixture of one bed (2 person) flats (min 51m<sup>2</sup>) and two bed (3 person) flats (min 65m<sup>2</sup>);
- Common parts must consist of at least the following facilities appropriately sized to the normal occupation of the building;

#### Communal Facilities

- entrance foyer
- main restaurant lounge
- restaurant
- communal toilets with lobby
- commercial catering kitchen facility
- assisted bathroom
- laundry
- lift
- estate managers office
- care staff office and rest room
- care staff sleepover accommodation with en-suite
- electric buggy/wheelchair store
- residents sub-lounge(s)
- refuse room
- cleaner's store

Suitable space should also be provided for plant and equipment as follows:

- central boiler room;
- electrical intake/meter room;
- lift motor room;
- warden call equipment cupboard;
- TV aerial amplifier cupboard.
- IT server storage facilities.
- Category five cabling storage facilities

## Flats

- kitchen
- bathroom (en-suite to bedroom)
- bedroom
- hall (with storage facilities)
- lounge/dining room

### iii) Design Principles and Aspirations

The facility will be a high quality housing scheme for frail older persons. In preparing proposals the design should reflect the following, although this list should not be viewed as exhaustive:

- the building should be aesthetically pleasing and provide residents with high quality flats, the client would welcome design features such as bay windows or balconies to flats;
- the design must focus on providing residents with a secure and safe environment;
- the design must enable and promote independent living for frail elderly persons;
- the design must focus on providing a homely residential environment and avoid institutional design features;
- Design and décor of communal areas and corridors should enable people to easily identify their location e.g. use of different colour schemes for different corridors.
- the design should have a well defined main entrance and make a feature of the entrance foyer area which should lead into the main communal parts of the building;
- the main communal facilities (excepting sub-lounges) should form the core of the building and be centrally located to minimise walking distances;
- communal facilities should create good visual contact between spaces and good natural lighting particularly on circulation areas and the use of innovative features like atria should be considered to enhance communal areas;
- It is not usual for all the residents to use the restaurant at one time (meals would generally be served over a 2 hour period in multiple sittings). Similarly the common room would generally not be occupied by all the residents at once, although provision needs to be made for occasional events like parties and meetings; same day service users may be accommodated in the restaurant;
- Communal rooms need to be flexible in use but need to avoid becoming capacious and impersonal spaces. They need to create 'cosy' inviting areas for smaller groups of residents. To this end designers should give consideration to breaking up larger rooms into informal but distinct areas that would be attractive to small groups of people.
- adopt the principles of progressive privacy ensuring clear separation between public, visitors, staff, and residents;
- corridors should have passing bays for wheelchairs and features to promote interesting vistas and to help with orientation, recognition and familiarity;
- residents should be able to personalise their flat entrance area and consideration should be given to recessed doorways;
- flats should be to full wheelchair standards but avoid an institutional feel by assimilating typical residential property design features;
- each resident's bathroom shall have a level access shower with space for future conversion to accommodate a bath instead;
- where site conditions allow flats should face East/West rather than North/South;
- flat layouts should make provision for the definition and partial separation of the kitchen, dining and lounge areas, whilst allowing for ease of access and good ergonomic design avoiding unnecessary physical barriers;
- the design should be developed with particular regard to economy in construction and build ability;
- the design should provide maximum flexibility in terms of future use and ease of future remodelling;
- pedestrian access should be separated from vehicular traffic with car parking (18 spaces including 3 disabled bays or local planning requirements) ideally located away from the garden and communal areas;
- suitable turning space and setting down point for ambulances, mini-buses and taxis should be incorporated in the main entrance;
- Landscaped areas need to incorporate terraces for residents and staff, raised planters, drying area, water feature, and pathways and sitting areas.

### iv) Design Standards

- Will comply where necessary with the Wheelchair Design Guide;

- Will achieve a minimum Eco Homes rating of "Very Good" ;
- All common parts must comply with the requirements of the Disability Discrimination Act;
- The building must obtain Secure by Design accreditation;
- Pay due regard to CDM Regulation 13 and ensure that access for cleaning/maintenance is carefully considered.

The design principles and standards are to be regarded as a 'minimum' to be achieved. It is possible that enhancements to individual schemes will be identified and implemented (subject to sufficient funding).

#### v) **Designing for Cultural Diversity**

Aspects of home life for those older people from minority ethnic groups will be considered.

#### vi) **Designing for Visual Impairment**

- Many older people suffer from a visual impairment and so scheme design must take this into account.

#### vii) **Designing for Hearing Impairment**

Most people will suffer from a hearing impairment as they grow older and recognition of this will be made in the design and internal layout

### 5. **INTERMEDIATE CARE PROVISION**

Intermediate care can be delivered in order to provide a resource to enable residents or other elderly clients to rehabilitate after a stay in hospital, or conversely, help prevent unnecessary admission (thus assisting with local 'bed blocking'). The development will present an opportunity to incorporate intermediate care into the schemes.

### 6. **SUSTAINABILITY**

Sustainability is an integral part of the development which will be constructed to Eco Homes Very Good

### 7. **SERVICE PROVISION**

The housing scheme will usually be a collaboration between a housing provider and a care provider.

#### **Housing Provider Responsibilities:**

- To build the complex, furnish the communal areas and lay out the grounds.
- Provide a scheme manager\* (35 hours a week) who manages the scheme on a day to day basis, deals with building maintenance, responds to emergencies in working hours, liaises on behalf of tenants, encourages independence of tenants, encourages links with the wider community, enables and encourages tenants to have a full social life, day to day monitoring of site services and well being of tenants.
- Provide a 24 hour alarm system linked to individual flats for calling assistance (on care and building issues). Provision of out of hours response to building related emergencies.
- Cleaning of tenants' flats and communal areas, window cleaning, heating of communal areas, maintenance of grounds and communal gardens.
- Provision of a midday meal in communal dining room.
- Provide and enable tenants to take part in social activities.
- Provide office, staff room and sleeping in accommodation for care provider staff.

#### **Care Provider responsibilities:**

- Provide a care service, maintaining a presence in the scheme 24/7, ensuring individual tenants' assessed needs are accommodated.
- Co-ordinate rotas of staff to provided services. The level of service will vary throughout the day. An on site supervisor will be required.
- Deliver assessed care, monitor service users and seek re assessment/review should needs change.
- Assist service users during the midday meal service.
- Range of care duties to include: personal care, laundry, shopping, meal preparation, minor household chores, independent living tasks, supervision, guidance and emotional support.

\*note: The Scheme Manager could also be the manager of care services depending on the choice of providers of care and housing. Experience elsewhere had indicated that the fewer the number of providers involved with the operation of a scheme is preferable. A joint manager would avoid many of the potentially difficult interface issues.

## ANNEX 6

### Surface Water Infrastructure Types of Surface Water Attenuation Facilities

Type	Requirement for Engineer's Report
Ponds (dry)	Yes
Underground tanks	Yes
Oversize surface water pipelines	Yes
Major watercourse channel	Yes
Basins	No
Swales	No
Infiltration trenches	No
Filter drains	No

Note - assumed dams, embankments and flow control structures included in Ponds.



**ANNEX 7**

**SURFACE WATER ATTENUATION INSTALLATIONS**

**NORTHFIELD**

**DRY POND ATTENUATION**

**MAINTENANCE COSTS OVER 25 YEAR PERIOD (PER POND)**

	Cost Over 25 Years    £
Silt Trap/Basin Clearance and disposal @ £500 per annum	12,500
Monthly Routine Inspection (Recorded) @ £960 per annum	24,000
Control Features Inspection/Measurement And Function Check @ £150 per annum	3,750
Spillway Maintenance and Repair @ £200 per annum	5,000
Repair Safety Fencing/Trash/Metalwork and Signage @ £300 per annum	7,500

ANNEX 8

DRAFT HIGHWAY AGREEMENT

DATED \_\_\_\_\_ 200

SOUTH GLOUCESTERSHIRE DISTRICT COUNCIL (1)

XX INSERT OWNERS NAME XX (2)

XX INSERT DEVELOPERS NAME XX (3)

XX INSERT MORTGAGEE'S NAME XX (4)

AGREEMENT

under Section 106 of the Town and Country Planning Act 1990  
Sections 38 and 278 of the Highways Act 1980  
Sections 111 and 120 of the Local Government Act 1972 and other  
statutory provisions relating to land at Northfield Filton Aerodrome Patchway

Angela Harwood  
Head of Legal & Democratic Services  
The Council Offices  
Castle Street  
Thornbury  
Bristol BS35 1HF  
Reference L3/SAGR/PT.

(Note The Owner's/Developer's attention is drawn to the Council's Practice/Procedure Note on Section 106 Agreements)

**THIS AGREEMENT** is made the \_\_\_\_\_ day of \_\_\_\_\_ two thousand and \_\_\_\_\_ BETWEEN SOUTH GLOUCESTERSHIRE DISTRICT COUNCIL of The Council Offices Castle Street Thornbury South Gloucestershire BS35 1HF ("the Council") of the first part *XX INSERT OWNERS NAME XX* whose registered office is at *XX Insert Owner's Registered Office XX* ("the Owner") of the second part *XX INSERT DEVELOPERS NAME XX* whose registered office is at *XX Insert Developers Address XX* ("the Developer") of the third part and *XX INSERT MORTGAGEE'S NAME XX* whose registered office is at *XX Insert Mortgagee's Address XX* ("the Mortgagee") of the fourth part

**INTERPRETATION**

In this Agreement unless the context indicates otherwise

1. Any reference to the parties or any other legal or natural person shall include his her its or their heirs assigns and successors in title and in the case of any local authority shall also include any successor in function
2. Any covenants obligations or other commitments given by more than one party shall be joint and several
3. Where the Owner/Developer is not a body corporate then neuter words shall include the masculine or feminine gender (as the case may be) and singular words shall include their plural numbers
4. The headings throughout this agreement are for convenience only and shall not be taken into account in the construction and interpretation of this Agreement

**DEFINITIONS**

The words and expressions below shall mean as follows:

- 1.1 The "Act" shall mean the Town and Country Planning Act 1990 and that and any other reference to the Act shall include any amending or replacing legislation for the time being in force
- 1.2 The "Application Land" shall mean the land situate at Northfield Filton Aerodrome Patchway in South Gloucestershire shown edged red on Plan Number 1 in respect of which the Owner/Developer has made the Planning Application
- 1.3 The "Director" shall mean the Council's Director of Planning Transportation and Strategic Environment for the time being or his duly appointed agent
- 1.4 The "Land" shall mean the Application Land and the Highway Dedication Land as defined in Part 1 of the Schedule to this Agreement
- 1.5 The "Mortgage" shall mean a mortgage/legal charge dated the \_\_\_\_\_ and made between the Owner/Developer (1) and the Mortgagee (2).
- 1.6 "Plan Number 1" shall mean the plan annexed to this Agreement and numbered 1
- 1.7 "Plan Number 2" shall mean the plan annexed to this Agreement and numbered 2
- 1.8 The "Planning Application" shall mean the application made by the Owner/Developer to the Council (reference number PT03/3142/O) for planning permission to develop the Application Land by major mixed use development across 81.25 hectares of land comprising 2,200 new dwellings 66,000 square metres of employment floor space (B1,B2, and B8) 1,500 square metres of A1,A2 and A3 floor space together with the provision of supporting infrastructure and facilities including new vehicular and pedestrian accesses alterations to Highwood Road new link road public open space primary school community building hotel and public house and shall include any application relating to the Application Land which in the reasonable opinion of the Director is substantially similar to the Planning Application
- 1.9 The "Planning Permission" shall mean the permission granted by the Council on • 2008 pursuant to the Planning Application and the "Development" shall mean such development that may be authorised by it or any development which in the reasonable opinion of the Director is substantially similar
- 1.10 The "Section 106 Agreement" shall mean the agreement between the Council (1) BAE Systems plc (2) and Bovis Homes Limited (3) dated \_\_\_\_\_ and relating to the Planning Permission

#### **WHEREAS:**

- (1) The Owner/Developer is registered at HM Land Registry as proprietor with freehold title *XX Insert Title No XX* in respect of the Land subject only to the Mortgage but otherwise free from incumbrances.
- (2) By the Mortgage the Land (with other land) was charged by way of legal mortgage to the Mortgagee to secure the principal and other monies mentioned in it
- (3) The Council is the local planning authority for the area in which the Application Land is situated and has entered into the Section 106 which requires that the local highway network is constructed and improved to accommodate the additional traffic likely to be generated by the Development and/or ensure that highway safety is maintained on the local highway network and provides for the parties to enter into this further agreement to secure the Highway Works as set out therein

#### **NOW THIS DEED WITNESSES** as follows:

##### **1 STATUTORY POWERS**

THIS Agreement will be registered as a Local Land Charge and is entered into pursuant to Section 106 of the Act Sections 38 and 278 of the Highways Act 1980 Sections 111 Local Government Act 1972 and Section 2 Local Government Act 2000 all other statutory and other enabling powers and shall be enforceable accordingly but without prejudice to all and any other means of enforcing them at law or in equity or by statute

##### **2 ENFORCEMENT**

THE covenants and obligations created by this Deed are planning obligations for the purposes of Section 106 of the Act and are enforceable as such by the Council

##### **3 THIRD PARTIES**

IN accordance with Sections 1(2) and 2(3)(a) of the Contracts (Rights of Third Parties) Act 1999 no term of this Agreement shall be enforceable by a third party and any term may be rescinded or varied without the consent of any third party

##### **4 SUBSTANTIVE COVENANTS**

THE Owner/Developer for and on behalf of itself and its heirs assigns and successors in title with the intention that the following provisions shall bind the Land and every part of it into whosoever's hands it may come covenants with the Council that it will comply with the covenants contained in the Schedule annexed to this Agreement

##### **5 RIGHT OF ENTRY**

IF pursuant to a breach the Council requires to carry out all or any part of the works required under the terms of this Agreement the Owner/Developer and the Mortgagee (if in possession or if a receiver has been appointed) irrevocably authorises the Council and anyone appointed on its behalf (on giving reasonable notice except in the case of an emergency) to enter any part of the Land reasonably required for that purpose

##### **6 CHANGE OF OWNERSHIP**

UNTIL the obligations enforceable by the Council have been complied with the Owner/Developer will furnish the Council with full details (including a plan if appropriate) of any conveyance transfer lease assignment mortgage or other

disposition of all or any part of the Land including the name and address of the person to whom the disposition was made and the nature and extent of the interest disposed of to them within fourteen days of such disposal SAVE THAT in the event of a disposition of any individual dwelling comprising part of the Development this obligation will apply only if the information is specifically requested by the Council

#### **7 WARRANTY**

THE Owner/Developer warrants that it is entitled to carry out all the works provided for in this Agreement in and upon the Land

#### **8 NOTICES**

ANY notices to be served on or document to be submitted on or to any party to this Agreement shall be delivered or posted to that party at the address specified as theirs at the head of this Agreement and in the case of the Council addressed to the Council's Head of Legal and Democratic Services and quoting the planning reference number

#### **9 CONFIRMATION OF INTERESTS**

THE Owner/Developer confirms that apart from the parties to this Agreement there are no other persons with any interest (legal or equitable) in the Land or any part thereof

#### **10 LOCAL AUTHORITY'S STATUTORY POSITION**

NOTHING herein contained or implied shall limit prejudice or affect the rights duties and obligations of the Council under all statutes byelaws statutory instruments orders and regulations in the exercise of its function as a local authority

#### **11 OPERATIVE DATE**

SAVE in respect of obligations requiring compliance prior to commencement of Development this Agreement shall not become operative until the commencement of Development which shall be determined by the carrying out of a "material operation" (as defined in Section 56 of the Act)

#### **12 COMMENCEMENT OF DEVELOPMENT**

THE Owner/Developer shall give to the Council seven days written notice of its intention to commence the Highway Works PROVIDED that failure to provide the said notification shall not render this Agreement inoperative

#### **13 LEGAL COSTS**

THE Owner/Developer shall pay to the Council on the date hereof its reasonable legal costs incurred in connection with this Agreement

#### **14 INDEMNITY**

THE Owner/Developer will without prejudice to the Council's statutory and common law powers and rights hold the Council harmless and keep the Council indemnified from and against:

- 14.1 any claim for compensation charge expense or other demand (including any sums which the Council may be required to pay to any statutory undertaker under the provisions of the New Roads and Street Works Act 1991) arising at any time prior to the issue of Certificate No 2 in connection with or incidental to the carrying out or use of the Highway Works or the Development
- 14.2 any charge expense claim for compensation or other demand arising under or in connection with Part I or Section 20 of the Land Compensation Act 1973 resulting from the carrying out or use of the Highway Works or the Development and any charge or expense incurred by the Council arising out of any such claim
- 14.3 any claim in connection with or incidental to the carrying out of any works required by this Agreement or in respect of any other requirement of or covenant with the Council contained in this Agreement

#### **15 INTEREST**

If any sum payable under this Agreement is not paid within fourteen days of the date when it is due then save in the case of a manifest error by the Director or the Director of Community Services or the Director of Community Services or the Director of Community Services or the Director for Children and Young People in calculating the due sum the Owner/Developer shall in addition to any payment in respect of the sum due pay interest on the sum from the due date until actual payment at the rate of 3% above the base rate from time to time of National Westminster Bank Plc

#### **16 POSITION OF MORTGAGEE**

- 16.1 THE Mortgagee consents to the Owner/Developer entering into this Agreement
- 16.2 Subject to sub clause 17.3 the Mortgagee shall be bound by and take effect subject to this Agreement
- 16.3 The Mortgagee shall not be personally liable for any breach of the obligations in this Agreement unless committed or continuing at a time when the Mortgagee is in possession of or has appointed a receiver or has foreclosed in respect of all or any part of the Land

EXECUTED as a deed by the parties and delivered the day and year first before written

## THE SCHEDULE : HIGHWAY IMPROVEMENTS

### Part 1 : Definitions relating to Highway Works

- 1.1. "Certificate No 1" and "Certificate No 2" shall mean the certificates of completion referred to respectively in Paragraphs 12 and 14 of Part 4 of this Schedule
- 1.2. "Highway Dedication Land" shall mean the land at XX Insert area highway dedication land is in XX shown hatched black on Plan Number 2 or such other area as may be agreed by the Council and the Owner/Developer
- 1.3. The "Highways Maintenance Period" shall mean a period of twelve months from the date of the issue of Certificate No 1 but if at the end of that period the Director forms the view that he cannot issue Certificate No 2 the Highways Maintenance Period shall include such further period as shall elapse until the issue of Certificate No 2
- 1.4. The " Highway Works" shall mean the works described in Part 3 of this Schedule and shall be treated as if they were street works for the purposes of the New Roads and Street Works Act 1991 and "associated works" shall mean all related works properly required by the Council to assimilate the Highway Works into the existing highway network
- 1.5. The "HMSO Specification" shall mean the "Specification for Highway Works" in force at the time of the execution of the Highway Works published by The Stationery Office and shall where appropriate include any standard specifications or requirements identified by referred to in or incorporated into those specifications
- 1.6. The "Programme" shall mean the programme agreed by the Owner/Developer with the Council for carrying out the Highway Works
- 1.7. The "Safety Audit" shall mean an audit of the safety aspects of the design of the Highway Works which shall be carried out in accordance with the approved procedures of the Institute of Highways and Transportation and the "Auditor" shall mean the auditor approved under Part 4 paragraph 1.2 of this Schedule
- 1.8.

### Part 2 : Covenants relating to the Highway Works

The Owner/Developer shall :-

- 1.1. *[trigger for commencing relevant Highway Works to be taken from Northfield Outline S106]* until he has carried out and substantially completed the Highway Works (to the stage when Certificate No 1 may be issued) at the Owner's/Developer's expense and to the satisfaction of the Council and that in doing so the Owner/Developer will observe the terms and requirements set out in Part 4 of this Schedule
- 1.2. Before commencing any part of the Highway Works enter into a Bond in the form annexed hereto with a reputable surety approved beforehand by the Council for *[value of relevant Highway Works as certified by Director]* to the effect that if the Owner/Developer defaults in any way in carrying out its obligations under this Schedule then the Council may demand the sum of money necessary to remedy the default from the surety and the surety shall pay such sum to the Council within five working days
- 1.3. Before commencing any part of the Highway Works pay to the Council *[supervision fee to be advised by Director]* towards the expenses to be incurred by the Council in supervising the execution of the Highway Works
- 1.4. If it commences any part of the Highway Works without producing a Bond in accordance with Paragraph 1.2 of this Part or complying with such alternative arrangements as the Council shall previously have agreed in writing forthwith pay to the Council in cash the amount of the deposit specified in Paragraph 1.2 ("the Deposit") the amount of the supervision fee specified in Paragraph 1.3 (if not already paid) and an additional sum of 10 per centum of both those sums to cover the Council's costs of administration in respect of such payment PROVIDED THAT on the issue of Certificate No 2 the Council shall refund the amount of the Deposit to the Owner/Developer less any costs that the Council may have incurred in carrying out the obligations of the Owner/Developer under this Agreement
- 1.5. Before commencing any part of the Highway Works and without prejudice to the Owner's/Developer's responsibilities as set out in this Agreement submit to the Director for his approval (which will not be unreasonably withheld or delayed) the plan the drawings the Programme and details of the contractor the Owner/Developer proposes to use for the Highway Works
- 1.6. Comply with the provisions of Part III of the New Roads and Street Works Act 1991 and associated codes of practice and co-operate with the Director in the carrying out of his duty to co-ordinate street works
- 1.7. Pay the Council its proper costs in connection with the issue of a substantial street works notice under Section 58 of Part III of the New Roads and Street Works Act 1991 to be notified to the Owner/Developer by the Director
- 1.8. Effect and maintain such insurance as the Council may require with reputable insurers approved beforehand by the Council in respect of any claims arising from the carrying out of the Highway Works and before commencing the Highway Works furnish the Council with certification of the insurance cover in such manner as the Council shall require and if called upon at any time by the Council supply the Council with a copy of the insurance policy and proof that it is in force and such other information relating to the policy as the Council shall reasonably require
- 1.9. Without prejudice to the Council's right to take action under Section 59 of the Highways Act 1980 (or otherwise) either reimburse to the Council the cost of repairing any damage caused to any highway maintainable at the public expense by any traffic arising from the carrying out of the Highway Works or of the Development or alternatively (at the option of the Council) effect such remedial works as may be required by the Director

- 1.10. Before commencing any part of the Highway Works to obtain at the Owner's/Developer's expense any temporary or permanent orders closing or altering any roads, bridleways or footpaths which cross the Land or which will be affected by the Development or which may otherwise be required to enable it to be implemented
- 1.11. Pay to the Council its reasonable costs in connection with any traffic regulation orders or consultation procedures required for the Development or the Highway Works and carry out forthwith any consequent physical works including associated works
- 1.12. On substantial completion of the Highway Works (prior to the issue of Certificate No 1) pay to the Council as a commuted sum in respect of the traffic signals and signalized pedestrian crossings and comprised in the Highway Works and thereafter the responsibility of the Owner/Developer for such traffic signals and signalized pedestrian crossings shall cease and for the avoidance of doubt the terms "traffic signals" and "signalized pedestrian crossings" shall refer only to the specialist electrical equipment and street furniture associated with the signals and pelican crossings and not to paving, kerbing, ducting or works of a civil engineering nature (which shall remain the responsibility of the Owner/Developer as part of the Highway Works) until the issue of Certificate 2
- 1.13. If the Highway Works or any part of them fall within the scope of the Construction (Design and Management) Regulations 1994 (SI 1994 No: 3140) comply at all times with those Regulations and with any request by the Director for him to inspect the Health and Safety file and prior to the issue of Certificate No 2 supply the Director with a copy of the sections of the Health and Safety file which relate to the Highway Works. With effect from the commencement of the Highway Works dedicate the Highway Dedication Land to the public for use as a highway for all traffic
- 1.14. If the title to the Highway Dedication Land is registered at HM Land Registry forthwith upon commencement of the Highway Works at its own expense procure that a notice of this Deed including a reference to this dedication is recorded on that title and that a copy of the Land Registry entries is produced to the Council demonstrating that this has been done
- 1.15. If title to the Highway Dedication Land is not registered at HM Land Registry forthwith procure at its own expense that this Agreement is registered in HM Land Charges Registry and that proof of this is produced to the Council forthwith upon commencement of the Development
- 1.16. Immediately prior to the issue of Certificate No 1 provide the Council with a plan showing the agreed highway boundaries

### **Part 3: The Highway Works**

*XX Insert details of the highway works XX*

### **Part 4: Terms and conditions for the execution of the Highway Works**

#### **1 SPECIFICATION**

- 1.1 The Highway Works shall be designed and executed in accordance with the current HMSO Specification together with any modifications thereto which in the opinion of the Director are appropriate and applicable to the Highway Works on the day upon which execution of the Highway Works begins
- 1.2 Before commencing any part of the Highway Works the Owner/Developer shall submit the completed design to a reputable auditor approved beforehand by the Council for a Safety Audit. The Safety Audit and any report on the recommendations shall be submitted to the Council for final approval. The Owner/Developer shall amend the design in accordance with any direction given by the Council pursuant to such audit.

#### **2 ACCESS**

The Owner/Developer shall during the progress of the Highway Works give the Director and anyone duly authorised by him free access to every part of the Highway Works and the site thereof and permit him or them to inspect the same as the Highway Works proceed and all materials used or intended to be used in the Highway Works and shall give effect to any requirements made or direction given by the Director to conform to the approved plans of the Highway Works and their specification

#### **3 FACILITIES**

The Owner/Developer shall provide or make available for the Director the use of a weatherproof shelter at the site of the Highway Works with (if practicable) the use of a telephone

#### **4 TESTING OF MATERIALS**

- 4.1 The Director shall have full power without any obligation to do so to test all materials, plant and workmanship at the Owner's/Developer's expense to ensure that they comply with the terms of the HMSO Specification or the publications referred to therein
- 4.2 The Owner/Developer shall forthwith replace or repair any materials, plant or works which have been found unsatisfactory
- 4.3 The Director shall for the purposes of this Agreement be allowed access to the places where materials or plant for the Highway Works may be stored or are in the course of preparation, manufacture or use

#### **5 OPENING OF HIGHWAY WORKS**

- 5.1 The Director may issue instructions to the Owner/Developer to open up or expose any work which has been covered up without previously being inspected by the Director
- 5.2 Should the Owner/Developer fail to comply with any instructions for the taking up or exposing of any work the Council may take up or expose the work in question

5.3 The Owner/Developer shall reimburse to the Council the full cost of any work done by the Council under this paragraph unless the Owner/Developer has first requested the Council to carry out an inspection which the Council has not carried out within five working days of receiving such request and on the Council subsequently taking up or exposing the work in question no defects have been discovered

#### **6 EXISTING STREET FURNITURE**

The Owner/Developer shall remove all existing street furniture affected by the Highway Works and any materials of a conservation nature and either relocate it/them or deliver it/them for storage as directed by the Director

#### **7 DIVERSION OF STATUTORY UNDERTAKERS' APPARATUS**

Should any of the statutory undertakers require all or any part of their underground or overhead plant or apparatus to be removed or diverted as a consequence of the Development or the Highway Works such removal or diversion shall be carried out in accordance with the provisions of the New Roads and Street Works Act 1991 and the costs of any such removal or diversion (as certified by the statutory undertaker affected) shall be borne by the Owner/Developer

#### **8 PREVENTION OF MUD BEING CARRIED ON TO THE PUBLIC HIGHWAY**

The Owner/Developer shall make provision to the Director's satisfaction at the site of the Highway Works to prevent mud and other materials from being carried on to adjacent highways by vehicles and plant leaving the Land or the site of the Highway Works (including the provision and use of on-site wheel washing facilities if required by the Director) and shall sweep the highway in the vicinity of the Land and the Highway Works at the end of each working day

#### **9 TRAFFIC CONTROL**

During the period when the Highway Works are being executed the Owner/Developer shall institute at its own expense measures required or approved by the Director to maintain the best possible traffic flows on the highways in the vicinity of the Land.

#### **10 ROAD SAFETY**

10.2 During the period when the Highway Works are being carried out the Owner/Developer will comply with the provisions of Chapter Eight of the Road Signs Traffic Manual (published by the Department of Transport) for lighting and signing the Highway Works and the Development

10.3 During the period when the Highway Works are being carried out and also during the Highways Maintenance Period the Owner/Developer will comply with any directions that the Director gives it with regard to measures to control traffic parking storage of materials and any matter relating to the preservation of public safety

10.4 If the Owner/Developer fails to comply with a direction given by the Director under paragraph 10.3 above or in the case of an emergency the Director may forthwith arrange for the taking of any necessary steps and recover the cost of doing so from the Owner/Developer and/or the surety

#### **11 SUBSTANTIAL COMPLETION OF THE HIGHWAY WORKS**

11.1 When the Highway Works have been substantially completed the Owner/Developer shall give notice to the Auditor requesting the Auditor to carry out a final audit of all safety aspects of the Highway Works and shall carry out any amendments to the Highway Works pursuant to such audit and shall procure a certificate from the Auditor certifying that he is satisfied that all the requirements of the Safety Audit have been satisfactorily complied with

11.2 If the Highway Works or any part of them to be carried out by the Owner/Developer under this Agreement are not carried out or not completed to the satisfaction of the Director in accordance with the terms of this Agreement and the Programme the Council after giving fourteen days notice of its intention to the Owner/Developer (except in cases of emergency) may execute or complete the Highway Works by its own employees or by contractors or in such manner as it thinks fit and recover the proper cost as certified by the Director from the Owner/Developer or the surety and no completion certificate shall be issued in respect of the Highway Works until all such works have been executed and the cost of any such works carried out by or on behalf of the Council has been paid by or on behalf of the Owner/Developer

#### **12 CERTIFICATE OF SUBSTANTIAL COMPLETION**

12.1 When the Highway Works have been substantially completed to the satisfaction of the Director and are available for use by the public he shall issue Certificate No 1 to that effect on behalf of the Council

12.2 Upon issue of Certificate No 1 the Director will authorise the reduction of the Bond by up to ninety per centum of the Bond figure

12.3 If the Highway Works are constructed in phases the Director may authorise the phasing of the issuing of Certificate No 1 (and subsequently Certificate No 2) with appropriate reductions in the Bond which the Director may agree

#### **13 HIGHWAYS MAINTENANCE PERIOD**

13.1 During the Highways Maintenance Period the Owner/Developer shall remain responsible at his own expense for remedying to the Director's satisfaction any defect or damage arising from faulty workmanship design or materials and the Owner/Developer shall on being given notice in writing specifying such defect or damage at its own expense and within one month from the date of the notice (unless a longer period is agreed with the Director) make good the same to the Director's satisfaction

13.2 During the Highways Maintenance Period and until a Certificate No 2 is issued in accordance with the next following paragraph the Owner/Developer shall maintain the Highway Works (including scavenging sweeping cleaning and grass-cutting) to the Director's satisfaction

13.3 During the Highways Maintenance Period the Owner/Developer shall provide to the Director's satisfaction any pedestrian hardstandings and connections required to facilitate the use of public transport in the immediate vicinity of the Highway Works and/or the Development

**14 CERTIFICATE OF ADOPTION**

- 14.1 After the expiration of the Highways Maintenance Period and after the Owner/Developer has made good any defects or damage as therein provided to the Director's satisfaction the Director shall issue Certificate No 2 and from the issue of that certificate the Highway Works shall become highways maintainable at the public expense and the Owner/Developer shall cease to be required to have a Bond PROVIDED THAT
- 14.2 The Council's obligation to adopt and issue Certificate No 2 shall in the case of road gullies and their connections extend only as far as their points of entry to the surface water sewers where these are not being adopted by the Council as highway drains and, PROVIDED ALSO THAT
- 14.3 No certificate shall be issued under this Agreement until the Highway Works have been joined to an existing publicly maintained highway in accordance with the approved plan
- 14.4 On the issue of Certificate 2 the remainder of the Bond shall be released

**15 MINOR ALTERATIONS**

- 15.1 If at any time during the progress of the Highway Works the Director considers it necessary and reasonable he may require the Owner/Developer to incorporate minor alterations or additions to the design or construction of the Highway Works
- 15.2 The Owner/Developer may request the Director to agree minor alterations or additions to the Highway Works and PROVIDED that the Director is satisfied (a) that the benefit to the public will not substantially be decreased by the alteration and (b) (where appropriate) that the Owner's/Developer's request is reasonable the Director will comply with such a request
- 15.3 The terms and provisions of this Agreement shall apply to the altered Highway Works as they apply to the Highway Works as originally planned

**16 AS-BUILT DRAWINGS**

Upon completion of the Highway Works (including remedial works) the Owner/Developer will provide the Council with a negative of the as-built drawings of the Highway Works

EXECUTED AS A DEED BY AFFIXING THE )  
COMMON SEAL of SOUTH )  
GLOUCESTERSHIRE DISTRICT COUNCIL )  
in the presence of:

Head of Legal and Democratic Services

EXECUTED AS A DEED BY AFFIXING THE )  
COMMON SEAL of XX INSERT OWNERS NAME )  
XX in the presence of:

Director

Secretary

EXECUTED AS A DEED BY AFFIXING THE )  
COMMON SEAL OF XX INSERT DEVELOPERS )  
NAME XX in the presence of:



Director

Secretary

EXECUTED AS A DEED BY AFFIXING THE )  
COMMON SEAL of XX INSERT MORTGAGEE'S )  
NAME XX in the presence of: )

Director

Secretary

**ANNEX 10**

**NOMINATIONS AGREEMENT  
DATED \_\_\_\_\_ 200**

**XX**  
***[Insert details of Affordable Housing Provider ("AHP")]***  
**and**  
**SOUTH GLOUCESTERSHIRE DISTRICT COUNCIL**

**THIS AGREEMENT** is made the \_\_\_\_\_ day of  
Two thousand and [ ] **BETWEEN XX** [Insert details of ("AHP")] whose registered office is at XX ("the Association") and South Gloucestershire District Council of Council Offices Castle Street Thornbury BS35 1HF ("the Council")

**NOW IT IS AGREED AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATION**

1. In this Deed:

- 1.1 "the Land" means all that piece of parcel of land at XXX shown edged in red on the Plan attached to this Deed
- 1.2 "the Association" includes its Successors in Title to the freehold of the Land
- 1.3 Word importing one gender shall be construed as importing any other gender
- 1.4 Word importing the singular shall be construed as importing the plural and vice versa
- 1.5 The clause headings do not form part of this Deed and shall not be taken into account in its construction or interpretation

**2. RECITALS**

2.1 By a Transfer of dated the [???] has transferred the Land to the Association

2.2 The Provider intends to redevelop part of the Land by building/procuring construction of xx dwellings for rent on it ("the Rental Units") and to make the Rental Units available for rent to persons nominated by the Council

2.3 This Deed is one to which the provisions of Section 106 of the Town & Country Planning Act 1990 ("the Act") applies and may be registered as a Local Land Charge pursuant to Section 1(1)(d) of the Local Land Charges Act 1975

**3. ENFORCEABILITY OF COVENANTS**

This Deed is made pursuant to Section 106 of the Act and ( subject to clauses 15 16 18 and 19 ) the covenants on the part of the Provider shall be enforceable without any limit of time against any person deriving title from the original covenantee or in respect of its interest in the Land and any person deriving title under it in respect of any lesser interest in the Land as if that person had also been an original covenanting party in respect of the interest for the time being held by him

**4. NOMINATION RIGHTS**

The Provider grants to the Council the right to nominate 100% of the first tenants of the Rental Units and covenants with the Council that the Provider will let each of the Rental Units on an assured tenancy or such other form of tenancy agreement as shall be permissible from time to time for a Provider landlord ("a Tenancy Agreement") to a nominee of the Council for whom the Rental Unit in question is appropriate in the opinion of the Council having regard to the Provider's qualifying criteria except as provided in Clause 12

**5. NOTICE OF HANDOVER**

The Provider shall give to the Council's Director of Community Care and Housing or other nominated Officer of the Council (the name of such nominated Officer to be notified to the Provider in writing) at least six weeks prior notice ("Notice of Availability") of the date of the expected handover of each of the Rental Units to be built upon the Land

**6. THE COUNCIL'S NOMINATIONS**

The Council shall within fourteen working days of service of a Notice of Availability in respect of a Rental Unit supply to the Provider in respect of such Rental Unit two names and addresses of applicants from the Council's Housing Needs Register or such other persons as the Council thinks fit (each individual applicant or other person to be known as a "Nominee" (and "Nominees") shall be construed accordingly)

**7. EARLIER NOTIFICATION OF NOMINEES**

If the Council so wishes it may notify to the Provider the names of Nominees at a date earlier than that required by Clause 6 and where the Council does so provide names of Nominees the Provider undertakes with the Council:

- 7.1 To use its reasonable endeavours to assess the Nominees and to decide which Nominees are Nominees to whom offers will be made in due course in accordance with Clauses 8 and 9
- 7.2 To notify the Council's Director of Community Care and Housing or other nominated Officer of the Council (the name of such nominated officer to be notified to the Provider in writing) of the names of those Nominees to whom the Provider intends to make offers and of the names of those Nominees to whom the Provider will not make offers and of the reasons therefore such notification to be within ten working days of receiving the notification referred to above and
- 7.3 That the Council may at any time prior to the date by which the names of Nominees must be provided pursuant to Clause 6 supply the Provider with the names of additional Nominees to replace some or all of those rejected and notified to the council pursuant to Clause 7.2

**8. THE PROVIDER'S CHOICE OF NOMINEES**

The Provider may choose any Nominee and offer to grant to that Nominee a Tenancy Agreement of a Rental Unit

**9. ASSESSMENT OF PROSPECTIVE TENANTS**

The Provider shall not be obliged to offer any Rental Unit to a Nominee unless and until the Provider has assessed such Nominee as being an appropriate person (as reasonably defined by the Provider) who has priority of need for such a tenancy in accordance with the usual lettings criteria and allocations policy adopted by the Provider for the assessment of prospective tenants ("the Qualifying Criteria for a Tenancy")

**10. FURTHER NOMINATIONS**

If a Nominee rejects the offer in Clause 8 or does not accept the offer within 5 working days the Provider shall make a second offer of the Rental Unit in question to a second Nominee and if such second Nominee rejects the offer to take a Tenancy the Provider shall make a third offer of the Rental Unit in question to a third Nominee and if such third Nominee rejects the offer to take a Tenancy Agreement then the Provider shall have the right to offer the Rental Unit in question to any person it chooses in its absolute discretion but will offer the Council the next vacancy of an equivalent Rental Unit

**11. GENERAL APPLICATION OF THE PROCEDURE**

The procedure set out in Clauses 5 to 10 inclusive shall be carried out in respect of every Rental Unit for which the Council has nomination rights

**12. ALTERNATIVE OFFERS BY THE PROVIDER**

For the avoidance of doubt if the Provider is unable to make or continue to make offers to Nominees pursuant to Clause 8 because a Nominee or the remaining Nominees do not meet the Qualifying Criteria for a Tenancy or the remaining approved Nominees have rejected the Provider's offer of a Tenancy Agreement or have not accepted the Provider's offer of a Tenancy Agreement within 5 working days of the offer of a Tenancy Agreement, or the Council has failed to make nominations in accordance with the procedures set out in the Agreement then the Provider may offer to grant a Tenancy Agreement to any person in its absolute discretion on such terms as the Provider acting reasonably thinks fit, on discussion with the Council

**13. CONTINUATION OF THE COUNCIL'S NOMINATION RIGHTS**

The Provider undertakes that after the first Tenancy Agreement of a Rental Unit has been granted in accordance with this Agreement the Council shall continue to have nomination rights in respect of seventy five per cent of the Rental Units that become available for letting in the future the Council having the nomination rights in respect of the first three out of every four vacancies that arise and the Provider shall give notice of every vacancy that arises to the Council

**14. COUNCIL'S NOTICE TO THE PROVIDER**

If the Council wishes to exercise the right conferred by Clause 13 it shall give to the Provider the names and addresses of two Nominees within seven working days of the Director Community Care and of Housing or other Officer nominated for the purpose being so requested by the Provider and in all other respects the provisions of Clauses 8 to 10 of this Agreement shall apply

**15. MORTGAGEE IN POSSESSION**

15.1 A mortgagee or chargee of an Affordable Housing Unit seeking to transfer the Affordable Housing Unit pursuant to any default under the terms of its security by an AHP or AHM (as appropriate) shall procure a sale of the Affordable Housing Unit to another AHP or AHM (as appropriate) nominated in writing by the Council or (at the request of the Council) by the Housing Corporation within 56 days of the said mortgagee or chargee notifying the Council in writing of its intention to exercise its power of sale or other remedies and such mortgagee or chargee shall complete the sale not later than six months after such nomination PROVIDED THAT in the event of a nomination not being made or a sale not being completed within the time limit set out in the foregoing provisions of this paragraph such mortgagee or chargee shall sell the Affordable Housing Unit to an AHP or AHM nominated in writing by the mortgagee or chargee and notified to the Council within 28 days of the occurrence of the earlier of the said events and approved by the Council within 56 days of such notification whereupon the mortgagee or chargee shall complete the sale not later than six months after such notification PROVIDED FURTHER THAT in the event of any sale not taking place in accordance with the foregoing provisions of this paragraph any mortgagee or chargee (or any receiver appointed by such mortgagee or chargee) shall be entitled to sell the relevant Affordable Housing Unit pursuant to its or their power of sale or other remedies under the mortgage or charge in question on the open market and shall not be bound by the provisions of this Agreement.

**16. RELEASE**

Forthwith upon completion of the sale or disposal of the Land in accordance with Clause 15 the Council will procure the release of the Land (and the Provider and its successors in title) from the terms of this Agreement and thereafter this Agreement shall become null and void

17. **NOTICE OF TENANCY AGREEMENT**

The Provider shall give notice to the Council of every Tenancy Agreement made pursuant to the terms of this Agreement

18. **ACQUISITION BY TENANTS**

The terms of this Agreement shall not be binding upon a tenant who acquires a freehold or leasehold interest in a Rental Unit or any mortgagee or chargee holding a legal charge on the said Rental Unit nor any purchaser therefrom. And forthwith upon completion of the acquisition the Council will procure the release of the said Rental Unit and the tenant from the terms of this Agreement

19. **SHARED EQUITY SCHEMES**

The terms of this Agreement shall not be binding upon the purchaser of a freehold or leasehold interest in a Rental Unit or any mortgagee or chargee holding a legal charge on the said Rental Unit nor any purchaser therefrom. And forthwith upon completion of the purchase of the said Rental Unit the Council will procure the release of the said Rental Unit from the terms of this Agreement

ANNEX 11

EXTRACTS FROM SHARED OWNERSHIP LEASE

SCHEDULE 4

Calculation Of Specified Rent

In this Schedule the following expressions have the following meanings:

- 1 "the Review Date" shall mean [] and each successive [1<sup>st</sup> October] during the term
- 1.2 "the Relevant Percentage" shall mean at any time 100% less the aggregate of the Initial Percentage and any Portioned Percentage or Portioned Percentages paid for pursuant to Clause 2 and Schedule 4 hereto
- 1.3 "RPI" shall mean the United Kingdom General Index of Retail Prices or in the event that such ceases to be published (as to which the Landlord's decision shall be conclusive) or if the said Index or the basis on which it is calculated or published is altered to a material extent (as to which the Landlord's decision shall be conclusive) then the Landlord may give written notice to the Leaseholder of some other published index of general prices or the value of money as a substituted index and in that case the substituted index so selected shall thereupon be the RPI
- 1.4 "New Gross Rent" shall mean the Gross Rent increased pursuant to Paragraph 2 hereof on each Review Date
- 2 On each Review Date the New Gross Rent shall be calculated by increasing the Gross Rent on the Commencement Date by a percentage equivalent to the percentage increase of the RPI published for the month of July {\*\*\*\*} to the RPI published for the month of July prior to the relevant RPI Review Date  
  
[\*\*\*\* refers to the July one year prior to the first review date, e.g. for October 2004 reviews, July 2003]
- 3 On each Review Date the Specified Rent payable hereunder shall be reviewed to an amount equal to the Relevant Percentage of the New Gross Rent as at the relevant Review Date or the amount of the Specified Rent previously payable whichever is the greater
- 4 Immediately following each Review Date the Landlord shall serve written notice on the Leaseholder specifying the amount of the Specified Rent then payable

## SCHEDULE 5.

### Staircasing Provisions

1. In this Schedule and in Clause 8 the following expressions have the following meanings respectively:
  - 1.1 "Market Value" shall at the date hereof mean the Initial Market Value and shall at any subsequent date mean the price which the interest of the Leaseholder would then fetch if sold on the open market by a willing vendor upon the terms and conditions contained herein and on the assumption that the Relevant Percentage is nil (the Leaseholder having acquired 100% of the shares in the Premises) AND disregarding the following matters:
    - 1.1.1 any mortgage of the Leaseholder's interest
    - 1.1.2 any interest in or right over the Premises created by the Leaseholder
    - 1.1.3 any improvement made by the Leaseholder or any predecessor in title of his and
    - 1.1.4 any failure by the Leaseholder or any predecessor in title to carry out the obligations contained in Clauses 3.3 and 3.4 hereof 1.1.5 the provisions of Paragraph 3 hereof
  - 1.2 "a Portioned Percentage" shall mean at any relevant time (including for the avoidance of doubt on the Final Staircasing) a portion of the then Market Value of the Premises up to a maximum of 100 per cent, being a minimum of at least 10% of the Market Value
  - 1.3 "the Relevant Percentage" shall mean at any relevant time 100% less the aggregate of the Initial Percentage and any Portioned Percentage or Percentages paid for pursuant to Paragraph 2.4 hereof
  - 1.4 "the Valuer" means an independent expert who is an associate or fellow of the Royal Institution of Chartered Surveyors agreed between the Landlord and the Leaseholder or in default of agreement appointed on the application of either Landlord or Leaseholder by or on behalf of the President of the Royal Institution of Chartered Surveyors
  - 1.5 "Final Staircasing" shall mean the purchase of such Portioned Percentage as reduces the Relevant Percentage to nil
  - 1.6 "The Relevant Date" shall mean the date three months after completion of the Final Staircasing
2.
  - 2.1 At any time or times during the term the Leaseholder may serve notice in writing on the Landlord stating the Portioned Percentage he proposes to acquire PROVIDED THAT this Paragraph 2.1 shall apply to any mortgagee of the Leaseholder of whom the Landlord has received proper notice pursuant to Clause 3.18 hereof
  - 2.2 The Landlord shall apply to the Valuer to determine the Market Value as at the date of service of the Leaseholder's notice served pursuant to Paragraph 2.1 (upon which the price of acquisition will be based) within fourteen days of receipt of the said notice and shall notify the Leaseholder of the amount of the Valuer's determination in writing within seven days of receipt of the said determination
  - 2.3 At any time within three months of the said determination by the Valuer the Leaseholder may pay for a Portioned Percentage in accordance with the provisions of Paragraph 2.4 of this Schedule
  - 2.4 The Leaseholder may pay for a Portioned Percentage by paying to the Landlord a sum equal to that Portioned Percentage and as from the date of such payment the Specified Rent payable hereunder shall be a rent equal to the Relevant Percentage of the Gross Rent or the New Gross Rent where the date of payment falls after a Review Date
  - 2.5 On completion of the payment for a Portioned Percentage in addition to the sum or the price payable as hereinbefore provided the Leaseholder shall pay any arrears of rent and any other sums due to the Landlord

hereunder. The Landlord and the Leaseholder shall, save as provided in Paragraph 5 hereof pay their own costs and expenses in connection with such payment or purchase

- 2.6 Whenever the Leaseholder completes the payment for a Portioned Percentage the Landlord and the Leaseholder shall forthwith complete in duplicate a Memorandum as in the form annexed and attach one to the original and one to the counterpart of this Lease specifying the Portioned Percentage paid for and the Specified Rent then payable
- 2.7 The provisions of this Paragraph 3 shall take effect only if on the Relevant Date the Leaseholder is not the same person or persons or the personal representative(s) of the same person or persons who was or were the Leaseholder immediately prior to the completion of the Final Staircasing PROVIDED THAT this Paragraph 3 shall have no effect in the event that a mortgagee of the Leaseholder of whom the Landlord has received proper notice pursuant to Clause 3.18 hereof exercised the right to complete the Final Staircasing
- 2.8 The Landlord shall instruct the Valuer to determine the Market Value of the Premises as at the Relevant Date within 14 days of the Relevant Date
- 2.9 Within seven days of receipt of the Valuer's Determination obtained pursuant to Paragraph 3.2 the Landlord shall notify the Leaseholder of the amount of the said Determination in writing together with the amount determined as the Market Value of the Premises by the Valuer for the purposes of the Final Staircasing
- 2.10 Within 28 days of receipt of the notification from the Landlord pursuant to Paragraph 3.3 the Leaseholder shall pay the Landlord the amount (if any) by which the Market Value of the Premises as at the Relevant Date exceeds the Market Value of the Premises determined by the Valuer for the purposes of the Final Staircasing

Upon payment of the sum referred to in Paragraph 3.4 or upon the Relevant Date if there is no sum payable to the Landlord pursuant to Paragraph 3.4 or if Paragraph 3 as a whole is inapplicable the following provisions of this Lease shall no longer have effect:

Clauses 1.2.7  
1.2.8  
3.15.2  
3.16  
8 and 9

Schedule 4  
Schedule 5 (except this paragraph 4)  
Schedule 7

5The costs of any determination by the Valuer pursuant to the provisions of this Schedule shall be paid by the Leaseholder to the Landlord on demand


6It is hereby agreed and declared that the decision of the Valuer shall be final and binding on the parties hereto"




**ANNEX 12**

**Council's Approved List of RSLs**  
South Gloucestershire Council's List of Approved Registered Social Landlord Partners

August 2007

<p><b>The Homes West partners are:</b></p> <ul style="list-style-type: none"><li>• Arcadia Housing Group</li><li>• Aster Group</li><li>• Somer Housing Group</li><li>• Sovereign Housing Group</li></ul>	 The logo for Homes West features a stylized silhouette of a house with a chimney on the left and a gabled roof. The word "West" is written in a bold, white, sans-serif font across the front of the house silhouette.
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<p><b>The South Gloucestershire Housing Partnership members are:</b></p> <ul style="list-style-type: none"><li>• Bromford Housing Group</li><li>• Arcadia Housing Group</li><li>• Solon South West Housing Association</li><li>• Sovereign Housing Group</li><li>• Spectrum Housing Group</li><li>• United Housing Association</li></ul>	 The logo for the South Gloucestershire Housing Partnership shows three stylized houses of varying heights and styles. Below the houses, the text "SOUTH GLOUCESTERSHIRE HOUSING PARTNERSHIP" is written in a bold, sans-serif font, with a horizontal line underneath the text.
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**ANNEX 13**

**DATED**

**2007**

**AFFORDABLE HOUSING PROVIDER [XXX]**

**And**

**HOME BUY AGENT**

**NOMINATION AGREEMENT**

THIS AGREEMENT is made the \_\_\_\_\_ day of \_\_\_\_\_  
Two thousand and BETWEEN [xx AFFORDABLE HOUSING PROVIDER] whose registered office is at xx ("the AHP")  
and HOMEBUY AGENT of [address]  
NOW IT IS AGREED AS FOLLOWS:

**1. DEFINITIONS AND INTERPRETATION**

1. In this Agreement:

- 1.1 "the Land" means all that piece of parcel of land at xx shown edged in red on the Plan attached to this Agreement
- 1.2 "the AHP" includes its Successors in Title to the freehold of the Land
- 1.3 Word importing one gender shall be construed as importing any other gender
- 1.4 Word importing the singular shall be construed as importing the plural and vice versa
- 1.5 The clause headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation

**2. RECITALS**

- 2.1 By a Transfer of even date the [BOVIS] has transferred the Land to the [AHP]
- 2.2 The [AHP] intends to [redevelop the Land by building xx dwellings] for shared ownership ("the Shared Ownership Units") and to make the Shared Ownership Units available for purchase to persons nominated by the HOMEBUY AGENT
- 2.3 This Agreement is one to which the provisions of Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act") applies and will be registered as a Local Land Charge pursuant to Section 1(1)(d) of the Local Land Charges Act 1975

**3. ENFORCEABILITY OF COVENANTS**

This Agreement is made pursuant to Section 33 of the 1982 Act and ( subject to clauses 15 16 18 and 19 ) the covenants on the part of the Association shall be enforceable without any limit of time against any person deriving title from the original covenantee or in respect of its interest in the Land and any person deriving title under it in respect of any lesser interest in the Land as if that person had also been an original covenanting party in respect of the interest for the time being held by him

**4. NOMINATION RIGHTS**

The AHP grants to the HOMEBUY AGENT the right to nominate 100% of purchasers of the Shared Ownership Units and covenants with the HOMEBUY AGENT that the [AHP] will grant leases for each of the Shared Ownership Units in a form as shall be permissible from time to time for a [AHP] ("a Shared Ownership Lease") to a nominee of the HOMEBUY AGENT for whom the Shared Ownership Unit in question is appropriate in the opinion of the HOMEBUY AGENT having regard to the [AHP]'s qualifying criteria except as provided in Clause 12

**5. NOTICE OF HANDOVER**

The [AHP] shall give to the HOMEBUY AGENT at least six weeks prior notice ("Notice of Availability") of the date of the expected handover of each of the Shared Ownership Units to be built upon the Land

**6. THE HOMEBUY AGENT'S NOMINATIONS**

The HOMEBUY AGENT shall within fourteen working days of service of a Notice of Availability in respect of a Shared Ownership Unit supply to the [AHP] in respect of such Shared Ownership Unit two names and addresses of applicants from the HOMEBUY AGENT'S Register (each individual applicant or other person to be known as a "Nominee" (and "Nominees) shall be construed accordingly))

**7. EARLIER NOTIFICATION OF NOMINEES**

If the HOMEBUY AGENT so wishes it may notify to the [AHP] the names of Nominees at a date earlier than that required by Clause 6 and where the HOMEBUY AGENT does so provide names of Nominees the [AHP] undertakes with the HOMEBUY AGENT:

- 7.1 To use its reasonable endeavours to assess the Nominees and to decide which Nominees are Nominees to whom offers will be made in due course in accordance with Clauses 8 and 9
- 7.2 To notify the HOMEBUY AGENT of the names of those Nominees to whom the [AHP] intends to make offers and of the names of those Nominees to whom the [AHP] will not make offers and of the reasons therefor such notification to be within ten working days of receiving the notification referred to above and
- 7.3 That the HOMEBUY AGENT may at any time prior to the date by which the names of Nominees must be provided pursuant to Clause 6 supply the [AHP] with the names of additional Nominees to replace some or all of those rejected and notified to the HOMEBUY AGENT pursuant to Clause 7.2

**8. THE [AHP]'S CHOICE OF NOMINEES**

The [AHP] may choose any Nominee and offer to grant to that Nominee a lease of a Shared Ownership Unit

**9. ASSESSMENT OF PROSPECTIVE TENANTS**

The [AHP] shall not be obliged to offer any Shared Ownership Unit unless and until the [AHP] has assessed such Nominee as being an appropriate person (as reasonably defined by the Section 106 Agreement or Unilateral Undertaking of – Between X and X ) in accordance with the usual criteria and allocations policy adopted by the [AHP] for the assessment of prospective lessees ("the Qualifying Criteria for a Lease")

**10. FURTHER NOMINATIONS**

If a Nominee rejects the offer in Clause 8 or does not accept the offer within 5 working days the [AHP] shall make a second offer of the Shared Ownership Unit in question to a second Nominee and if such second Nominee rejects the offer to take a Lease the [AHP] shall make a third offer of the Shared Ownership Unit in question to a third Nominee and if such third Nominee rejects the offer to take a Lease then the [AHP] shall have the right to offer the Shared Ownership Unit in question to any person it chooses in its absolute discretion who meets the Qualifying Criteria for a Lease but will offer the HOMEBUY AGENT the next vacancy of an equivalent Shared Ownership Unit

**11. GENERAL APPLICATION OF THE PROCEDURE**

The procedure set out in Clauses 5 to 10 inclusive shall be carried out in respect of every Shared Ownership Unit for which the HOMEBUY AGENT has nomination rights

**12. ALTERNATIVE OFFERS BY THE [AHP]**

For the avoidance of doubt if the [AHP] is unable to make or continue to make offers to Nominees pursuant to Clause 8 because a Nominee or the remaining Nominees do not meet the Qualifying Criteria for a Lease or the remaining approved Nominees have rejected the [AHP]'s offer of a Lease or have not accepted the [AHP]'s offer of a Lease within 5 working days of the offer of a Lease, or the HOMEBUY AGENT has failed to make nominations in accordance with the procedures set out in the Agreement then the [AHP] may offer to grant a Lease to any person in its absolute discretion on such terms as the Association acting reasonably thinks fit, on discussion with the HOMEBUY AGENT

**13. MORTGAGEE IN POSSESSION**

A mortgagee or chargee of an Affordable Housing Unit seeking to transfer the Affordable Housing Unit pursuant to any default under the terms of its security by an AHP or AHM (as appropriate) shall procure a sale of the Affordable Housing Unit to another AHP or AHM (as appropriate) nominated in writing by the Council or (at the request of the Council) by the Housing Corporation within 56 days of the said mortgagee or chargee notifying the Council in writing of its intention to exercise its power of sale or other remedies and such mortgagee or chargee shall complete the sale not later than six months after such nomination PROVIDED THAT in the event of a nomination not being made or a sale not being completed within the time limit set out in the foregoing provisions of this paragraph such mortgagee or chargee shall sell the Affordable Housing Unit to an AHP or AHM nominated in writing by the mortgagee or chargee and notified to the Council within 28 days of the occurrence of the earlier of the said events and approved by the Council within 56 days of such notification whereupon the mortgagee or chargee shall complete the sale not later than six months after such notification PROVIDED FURTHER THAT in the event of any sale not taking place in accordance with the foregoing provisions of this paragraph any mortgagee or chargee (or any receiver appointed by such mortgagee or chargee) shall be entitled to sell the relevant Affordable Housing Unit pursuant to its or their power of sale or other remedies under the mortgage or charge in question on the open market and shall not be bound by the provisions of this Agreement.

**14. RELEASE**

Forthwith upon completion of the sale or disposal of the Land in accordance with Clause 13 the HOMEBUY AGENT will procure the release of the Land (and the [AHP] and its successors in title) from the terms of this Agreement and thereafter this Agreement shall become null and void

**15. NOTICE OF TENANCY AGREEMENT**

The [AHP] shall give notice to the HOMEBUY AGENT and South Gloucestershire Council of every Lease granted pursuant to the terms of this Agreement

**16. SHARED EQUITY SCHEMES**

The terms of this Agreement shall not be binding upon the purchaser of a freehold or leasehold interest in a Shared Ownership Unit or any mortgagee or chargee holding a legal charge on the said Shared Ownership Unit nor any purchaser therefrom. And forthwith upon completion of the purchase of the said Shared Ownership Unit the HOMEBUY AGENT will procure the release of the said Shared Ownership Unit from the terms of this Agreement

IN WITNESS where of the parties have executed this Agreement as a Deed the day and year first before written

Executed as a Deed by )  
Xx AHP )  
acting by its duly authorised signatories )

**Authorised Signatory**

Authorised Signatory

HOMEBUY AGENT )  
acting by its duly authorised signatories )

Authorised Signatory

## Annex 14

### Mobility Standard for Mobility Dwellings

- 1.0 These notes provide details of the features which the Council would consider to be part of the design of an adaptable, accessible dwelling. The features are split into two groupings. First *visitability* i.e. those which achieve a dwelling capable of being visited by a person with a disability. Second, *full mobility* housing, where all the standards are applied to the dwelling and it is useable by anyone who may live in it, (and want to visit it). It is the aim of the Policy that the full mobility standard should be applied wherever practicable. The visitability standard represents a lower, sensible grouping of features where the full mobility standard is impracticable for possibly a variety of reasons relating to the design of the dwellings.

#### Visitability Standard

##### 1.1 External

###### *Entrances*

The principal entrance to have a doorset of at least 900mm wide. 300mm clear wall space to be provided to the opening edge of door. Thresholds to have a maximum upstand of 26mm where it is shown one is required due to climatic conditions. A ramp to the principal entrance to be constructed where a level approach is not provided.

###### *Paths and driveways ..*

All paths and/or driveways to be hard surfaced laid with flush-fitting joints. The use of gravel or a similar loose granular material would not be acceptable.

No gradient to exceed 1:12.

##### Parking

Where visitor car parking spaces are included in the design of the scheme, an appropriate space for disabled car-users on level ground and at least 5.0m by 3.5m., should be provided with access to the adjacent properties.

###### *House Specific*

All paths relating to the Mobility Dwelling to include the following features:

- at least 1.2m wide
- no gradient exceeding 1:12
- non-slip surfaces and no loose granular materials

Play equipment to be at least accessible to parents/carers with disabilities.

Dropped and low profile kerbs should be provided where appropriate

##### 1.2 Internal

Where properties include the provision of a downstairs toilet it should be accessible, complying with the details and layout attached at the end of this Annex entitled 'Internal Features – W.C's' [p1]

#### Mobility Standard

##### 1.3 External

All external areas should comply with the standards shown for the *Visitability* criteria contained in paragraphs 1.1 and 1.2.

###### In addition

###### *Bin stores*

The height to the aperture should not exceed 950mm and 1200mm to any handle.

###### *Car Parking*

Car parking space of at least 5.0m by 3.3 m should be provided on level ground in close proximity to the property. A car-port or garage should be provided where appropriate. Alternatively, space to construct one should be available.

###### *Entrances*

All entrances to be accessible in accordance with the criteria under entrances for *Visitability* at 1.1 and 1.2, except for internal garage doors where the need to meet safety codes result in no alternative being available.

Principal entrance to have a porch or shelter.

##### 1.4 Internal

###### *Doors*

All doors should a doorset of at least 900mm wide.

300mm clear wall space to be provided to the opening edge of door

Level thresholds.

*Circulation Areas*

Lobbies and halls to have a clear turning circle of at least 1.5m in diameter.

Corridors to provide a space at least 900mm deep outside room entrances.

*Kitchens and bathrooms*

Space to be provide to allow wheelchair access to all facilities in the room.

*Access to upper floors*

Stairs to be structurally capable of installation of a stair lift and a power point to be available at foot of stairs.

*Windows*

In principle rooms the window cill should not exceed 800mm high with any

window controls no higher than 1.2m. all controls should be operable by someone with limited dexterity.

*Electrical controls*

Sockets and other similar controls, such as thermostats, should be located between 0.900m and 1.2m above the floor.

*Statutory services*

Access to consumer units and stop valves to be available to a wheelchair user.

**INTERNAL FEATURES  
 -W.C.'S**

Possible layout for a toilet cubicle

to a sliding or inward-opening door.

Toilets should be able to accommodate a wheel chair both alongside and in front of the pedestal. There are many different layouts of the cubicle that -are acceptable, and also different sizes of cubicle quoted as being adequate for wheelchair use. The information given here is intended to act as guidance, alternative layouts which may be found in other publications are also acceptable so long as the minimum cubicle size is observed.

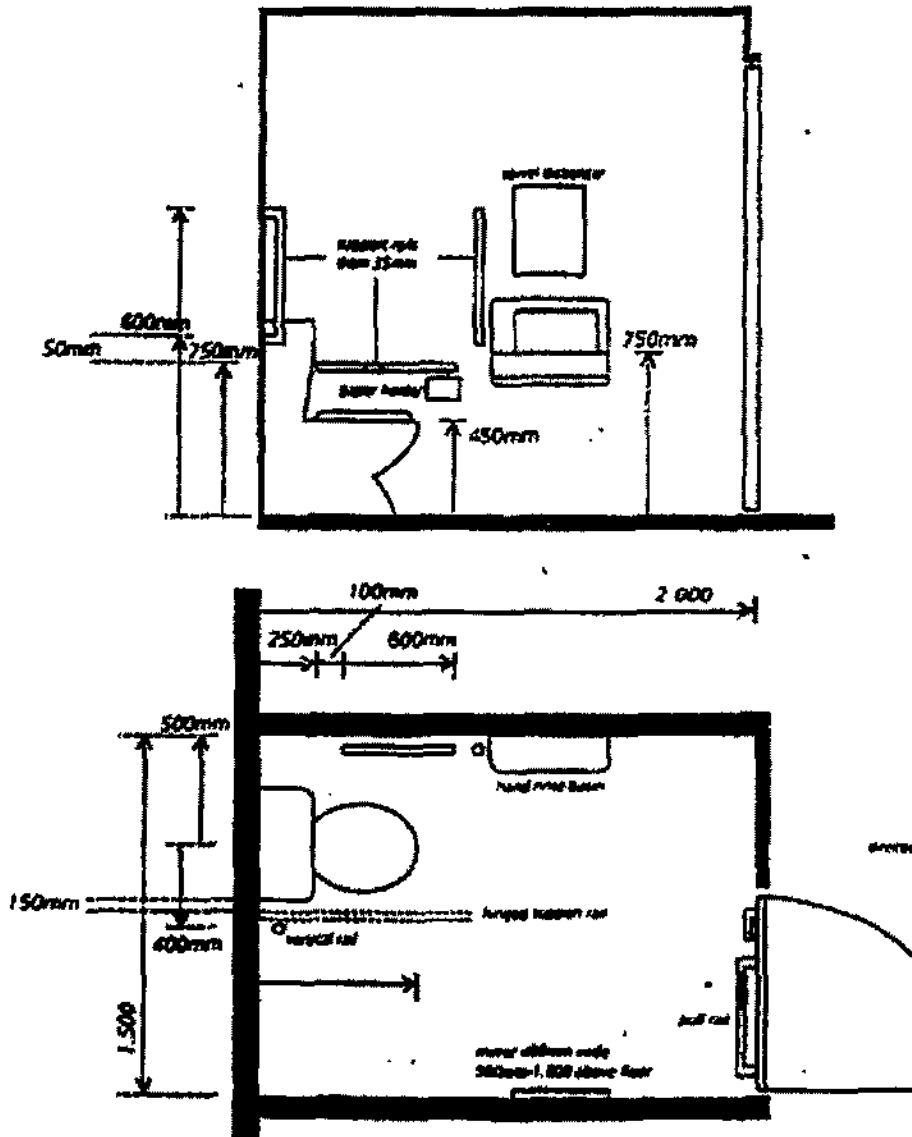
The basic principles to be observed in designing a toilet for use by the disabled are:-

i) Level access is essential. If there is a ramp the level platform at its head should be large enough to rest the wheelchair on whilst opening the toilet door.

ii) Wherever possible the WC should be unisex, not entered through any adjoining male or female WC areas. This permits the person with a disability to be assisted by a member of the opposite sex if necessary. Any lobby should be at least 1.5m x 1.5m if one door opens in, or 1.5m x 2.0m if both of the doors open in (refer to the information on lobbies).

- iii) The compartment should be at least 2m x 1.5m. An out-ward opening door is preferred
- iv) The compartments' layout should allow transfer from a chair in front of or beside the WC pedestal. Handrails should not obstruct an able-bodied person assisting the disabled person.

Design Data - Toilet Facilities





Annex 15

FORM OF PLANNING PERMISSION

DRAFT  
TOWN AND COUNTRY PLANNING ACT 1990  
PERMISSION FOR DEVELOPMENT

Mr Simon Prescott  
Barton Willmore  
101 Victoria Street  
Bristol  
BS1 6PU

APP REF: PT03/3143/O  
DATE VALID: 6 October 2003  
DATE OF DEC: 8 November 2007  
PARISH: Patchway Town Council

NOTICE OF DECISION

South Gloucestershire Council in pursuance of powers under the above mentioned Act hereby PERMIT:

APPLICATION NO: PT03/3143/O

DESCRIPTION OF DEVELOPMENT: Major mixed-use development across 81.25 hectares of land comprising 2,200 new dwellings, 66,000 sq m of employment floor space (B1, B2 and B8), 1,500 sq m of A1, A2, A3, A4 and A5 floor space: together with the provision of supporting infrastructure and facilities including: new vehicular and pedestrian accesses to Highwood Road, new link road, public open space, primary school, community building, hotel (C1).

APPLICANT: Bovis Homes Ltd & BAE Systems

LOCATION: North Field, Filton Aerodrome, Patchway, South Gloucestershire

CONDITIONS

1. Approval of the details of the siting, design and external appearance of the buildings and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before development on land to which the reserved matters relate commences. Development shall thereafter be carried out in accordance with the approved details.

Reason

To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended).

2. Applications for approval of the reserved matters shall be made to the local planning authority before the expiration of ten years from the date of this permission.

Reason

To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).

3. The development hereby permitted shall be begun either before the expiration of ten years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason

To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).

4. Applications for the approval of the reserved matters shall be in accordance with the principles and parameters described and illustrated in the North Field Site Wide Design and Access Statement (December 2007 Final Edition) and with the approved detailed master plan and design code for the geographical phase to which the reserved matters application relates, unless otherwise agreed in writing by the local planning authority. A statement shall be submitted with each reserved matters application, which demonstrates that the application proposals comply with the Site Wide Design and Access Statement and with the relevant detailed master plan and design code, or (where relevant) explaining why they do not.

**Reason**

To ensure that high standards of urban design and comprehensively planned development, designed and phased to ensure maximum practical integration between different land uses within and beyond the site is achieved to accord with policies D1 and M1 of the adopted South Gloucestershire Local Plan (adopted January 2006).

5. Unless otherwise agreed in writing with the local planning authority no development, except that associated with exempt infrastructure and site preparation works, shall take place in any of the geographical phases identified in the approved North Field Site Wide Design and Access Statement (December 2007 Final Edition) until there has been submitted to and approved in writing by the local planning authority a detailed master plan and a design code for the geographical phase in question. The detailed master plan and design code shall be so approved before the submission of applications for the approval of the reserved matters within that geographical phase (excluding applications relating to exempt infrastructure works). The detailed master plans and design codes for the various geographical phases shall be in accordance with the principles and parameters described and illustrated in the North Field Site Wide Design and Access Statement (December 2007 Final Edition), unless otherwise agreed in writing by the local planning authority.

**Reason**

To ensure that high standards of urban design and comprehensively planned development, designed and phased to ensure maximum practical integration between different land uses within and beyond the site is achieved to accord with policies D1 and M1 of the adopted South Gloucestershire Local Plan (adopted January 2006).

6. The detailed master plan for each geographical phase, submitted pursuant to condition 5 above shall be the regulating plan for the associated design code. The design code for each geographical phase shall include detailed codes for all of the matters listed below.

- Character areas.
- Street types and street materials.
- Block types and block principles.
- Building types and uses.
- Building heights.
- Boundary treatments.
- Feature spaces (including squares).
- Architectural and sustainable construction principles.
- Relationships between existing trees/hedges and built form.

The design code for each geographical phase shall also include:

- Details of code testing undertaken prior to finalization, and
- Proposals for monitoring and review.

**Reason**

To ensure that high standards of urban design and comprehensively planned development, designed and phased to ensure maximum practical integration between different land uses within and beyond the site is achieved to accord with policies D1 and M1 of the adopted South Gloucestershire Local Plan (adopted January 2006).

7. No development, except that associated with exempt infrastructure and site preparation works, shall take place in any of the strategic master plan components listed below, and identified in the North Field Site Wide Design and Access Statement (December 2007 Final Edition) Figure 1.6 until there has been submitted to and approved in writing by the local planning authority a design brief relating to the component in question. The design brief shall be so approved before the submission of applications for the approval of the reserved matters within the component in question (excluding applications relating to exempt infrastructure works).

- i. Patchway Town Centre extension (including Patchway Square).
- ii. Highwood Road.
- iii. Hotel site.
- iv. Central Green Spine.
- v. School site.

**Reason**

To ensure that high standards of urban design and comprehensively planned development, designed and phased to ensure maximum practical integration between different land uses within and beyond the site is achieved to accord with policies D1 and M1 of the adopted South Gloucestershire Local Plan (adopted January 2006).

8. Applications for the approval of the reserved matters relating to the design components identified in condition 7 above shall be in accordance with the requirements set out in the approved design brief for the component in question.

**Reason**

To ensure that high standards of urban design and comprehensively planned development, designed and phased to ensure maximum practical integration between different land uses within and beyond the site is achieved to accord with policies D1 and M1 of the adopted South Gloucestershire Local Plan (adopted January 2006).

9. Prior to the submission of any reserved matters applications (excluding applications relating to exempt infrastructure and site preparation works) a site wide affordable housing plan and an accompanying schedule shall be submitted to and approved in writing by the local planning authority showing the distribution of 733 affordable dwellings across the site in the residential land parcels shown in the approved Site Wide Design and Access Statement (December 2007 Final Edition) Figure 6.29. For each development parcel the plan and the accompanying schedule shall show the number of affordable dwellings to be provided, together with the mix of dwellings in terms of the number of bedrooms and the proportion of houses and flats, broken down between social rented affordable housing units and shared ownership units. The plan and the accompanying schedule shall also show the approximate locations of wheelchair and mobility affordable dwellings, and these will be located as close as practicable to public transport services and local shops and services. Development shall thereafter be carried out in accordance with the site wide affordable housing plan and the accompanying schedule unless otherwise agreed in writing by the local planning authority.

**Reason**

To ensure that the distribution of affordable housing assists the creation of an inclusive mixed community to accord with the supporting text to policy M1 of the adopted South Gloucestershire Local Plan (adopted January 2006).

10. The detailed master plan for each geographical phase, submitted pursuant to condition 5 above, shall show the approximate location of every cluster of affordable dwellings located within the geographical phase in question. Unless otherwise agreed in writing by the local planning authority the distribution of affordable dwellings shown on each of the detailed master plans shall accord with the site wide affordable housing plan and the accompanying schedule submitted and approved pursuant to condition 9 above. Development shall thereafter be carried out in accordance with the approved affordable housing distribution details unless otherwise agreed in writing by the local planning authority.

**Reason**

To ensure that the distribution of affordable housing assists the creation of an inclusive mixed community to accord with the supporting text to policy M1 of the adopted South Gloucestershire Local Plan (adopted January 2006).

11. No residential development on land to which the reserved matters relate shall take place until a scheme detailing how the 150 dwellings that comprise geographical phase 1a, identified on the phasing plan and described in the phase components table contained within the North Field Site Wide Design and Access Statement (December 2007 Final Edition), shall achieve at least BRE EcoHomes 2006 "Very Good" has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in full accordance with the approved scheme unless otherwise agreed in writing by the local planning authority.

**Reason**

To achieve improved energy conservation and the protection of environmental resources and to accord with Policy D1 of the adopted South Gloucestershire Local Plan (adopted January 2006).

12. With the exception of the 150 dwellings that comprise geographical phase 1a no residential development on land to which the reserved matters relate shall take place until the local planning authority has been provided with, and approved in writing, a Pre-Assessment carried out by a Building Research Establishment (BRE) Licensed Code for Sustainable Homes Assessor, proving that each dwelling proposed as part of the reserved matters application in question has been designed to achieve at least Level 3 of the Code for Sustainable Homes (or the equivalent level of such national measure of sustainability for house design that replaces the Code). This information shall be submitted with each reserved matters application that includes residential development. Each residential building, to which the reserved matters application in question relates, shall then be subject to a post-completion check by the Licensed Assessor (after the Design Stage Report has been carried out and an interim certificate obtained) and issue of a final Code certificate of compliance prior to its first occupation, unless otherwise agreed in writing by the local planning authority.

**Reason**

To achieve improved energy conservation and the protection of environmental resources and to accord with Policy D1 of the adopted South Gloucestershire Local Plan (adopted January 2006).

13. No development, except that associated with the exempt infrastructure and site preparation works, shall take place in geographical phases 1, 2 and 3, identified on the phasing plan and described in the phase components table contained within the North Field Site Wide Design and Access Statement (December 2007 Final Edition), until there has been submitted to and approved in writing by the local planning authority a sustainability strategy for the geographical phase in question. In each case the sustainability strategy will include detailed proposals for the delivery of at least 20 prototype sustainable building types, which include technologies for on-site generation of renewable energy. The sustainability strategy for the geographical phase in question shall be so approved before the submission of applications for the approval of the reserved matters within that geographical phase (excluding applications for exempt infrastructure works). The development shall thereafter be carried out in full accordance with the approved schemes unless otherwise agreed in writing by the local planning authority.

**Reason**

To achieve improved energy conservation and the protection of environmental resources and to accord with Policy D1 of the adopted South Gloucestershire Local Plan (adopted January 2006).

14. No employment development on land to which the reserved matters relate shall take place until a scheme detailing how each employment building, proposed as part of the reserved matters application in question, shall achieve at least BREEAM "Very Good" (or the equivalent level of such national measure of sustainability for employment building design that replaces BREEAM). This information shall be submitted with each reserved matters application that includes employment development. Each employment building, to which the reserved matters application in question relates, shall then be subject to a post-completion check by the assessor and issue of a final certificate of compliance prior to its first occupation unless otherwise agreed in writing by the local planning authority.

**Reason**

To achieve improved energy conservation and the protection of environmental resources and to accord with Policy D1 of the adopted South Gloucestershire Local Plan (adopted January 2006).

15. The development hereby approved shall contain no more than 66,000 sq m gross of employment floor space (B1, B1 and B8). (The Use Classes are those set out in the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

**Reason**

To ensure that the M5 trunk road continues to serve its purpose as part of a national system of routes for through traffic in accordance with the Highways Act 1980 by minimising disruption of the road resulting by traffic generated by the application site and in the interests of road safety.

16. The developer shall not occupy or otherwise bring into use more than 30,000 sq m gross of the Class B employment floor space hereby approved until a lane gain improvement scheme on the north-bound carriageway of the M5 motorway has been completed and opened for public use. The scheme shall be:
- (i) In accordance with drawings numbered 12866-119-R01 and 12866-119-V01 Rev B and containing a motorway queue detection and warning system comprising electronic message signs, traffic detection loops and associated infrastructure; or
  - (ii) In accordance with an alternative scheme broadly in accordance with condition 16. i) above which takes account of any works carried out to this section of the motorway network by the Highways Agency before the works specified in 16. i) above commence. Such a scheme is to be submitted to and agreed by the local planning authority (in consultation with the Secretary of State for Transport).

**Reason**

To ensure that the M5 trunk road continues to serve its purpose as part of a national system of routes for through traffic in accordance with the Highways Act 1980 by minimising disruption of the road resulting by traffic generated by the application site and in the interests of road safety.

17. The retail floor space (Class A1, A2, A3, A4 and A5) hereby approved shall not exceed 1,500 sq m unless otherwise agreed in writing by the local planning authority. The Use Classes are those set out in the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

**Reason**

The outline planning application proposed 1,500 sq m of retail floor space (Class A1, A2, A3, A4 and A5), which the Council considers sufficient to achieve the objectives of policy M1 of the adopted South Gloucestershire Local Plan (adopted January 2006). Any increase in the amount of retail floor space would require express planning permission.

18. As part of the reserved matters application for (a) the Patchway Centre and (b) the employment area at the south west part of the site, details shall be submitted to and approved in writing by the local planning authority of waste recycling facilities on an area not exceeding 225 sq m. Such details shall in each case include a timetable for implementation and proposals for the provision of a variety of recyclable materials banks, including banks for paper, cans, separated glass, textiles, books and plastic bottles. Such details submitted in respect of (b) above shall also include, if appropriate, additional provision for community composting. The provision of waste recycling facilities at each location shall be carried out in accordance with the approved details and implementation plan, unless otherwise agreed in writing by the local planning authority.

**Reason**

To ensure that adequate provision is made for the storage and collection of waste and recyclable materials and to accord with policy D1 of the adopted South Gloucestershire Local Plan (adopted January 2006).

19. No development comprising any of the Class B1, B2 and B8 floor space hereby approved shall commence until an overall Travel Plan Framework covering all the Class B1, B2 and B8 floor space has been submitted to and approved in writing by the local planning authority. The Travel Plan Framework shall set out:
- a. The aims and objectives of the Framework, including reducing the need to travel by car, encouraging healthy commuting and work related journeys
  - b. A monitoring strategy and targets for the reduction of single occupancy car related journeys over the first five years of the development
  - c. An intervention strategy for achieving the approved aims, objectives and targets in the event that monitoring reveals that those targets are not being achieved

The agreed Travel Plan Framework shall be implemented before any part of the Class B1, B2 and B8 floor space is first occupied, or otherwise as agreed in the Travel Plan Framework.

**Reason**

To encourage means of transportation other than the private car and to accord with policy T10 of the adopted South Gloucestershire Local Plan (adopted January 2006).

20. The relevant Class B1, B2 or B8 floor space hereby approved shall not be occupied until an Occupier Travel Plan based on the Travel Plan Framework has been submitted to and approved in writing by the local planning authority (the 'relevant Class B1, B2 or B8 floor space' being the floor space to which the Occupier Travel Plan relates). The Occupier Travel plan shall include provision for:
- a. a staff travel survey to be carried out;
  - b. an assessment of operational constraints such as out of hours travel;
  - c. an assessment of opportunities for intervention such as car sharing, subsidised travel on public transport and travel information;
  - d. allocation of parking spaces for specific user needs such as pool cars and car sharers; and Shall set individual Occupier Travel Plan targets for reducing single occupancy car related journeys with procedures and timetables for implementation, monitoring and reporting.

**Reason**

To encourage means of transportation other than the private car and to accord with policy T10 of the adopted South Gloucestershire Local Plan (adopted January 2006).

21. No development shall take place until there has been submitted to and approved in writing by the local planning authority a programme of archaeological investigation and recording for the site. Thereafter, the approved programme shall be implemented in all respects, unless the local planning authority agrees in writing to any variation.

**Reason**

In the interest of archaeological investigation and/or recording and to accord with policy L11 of the adopted South Gloucestershire Local Plan (adopted January 2006).

22. No development shall take place on land to which the reserved matters relate until a Waste Management Audit has been submitted to and approved by the local planning authority in writing. The Waste Management Audit shall include details of:-
- a. The volume and nature of the waste which will be generated through the demolition and/or excavation process
  - b. The volume of that waste which will be utilised within the site in establishing pre-construction levels, landscaping features, noise attenuation mounds etc

- c. Proposals for recycling/recovering materials of value from the waste not used in schemes identified in (b), including as appropriate proposals for the production of secondary aggregates on the site using mobile screen plant
- d. The volume of additional fill material which may be required to achieve, for example, permitted ground contours or the surcharging of land prior to construction
- e. The probable destination of that waste which needs to be removed from the site and the steps that have been taken to identify a productive use for it as an alternative to landfill

Development shall be carried out in accordance with the agreed details.

**Reason**

To accord with policy 37 of the adopted South Gloucestershire Council Minerals and Waste Local Plan (adopted May 2002).

23. No development, except that associated with the exempt infrastructure and site preparation works, shall take place on land to which the reserved matters application in question relates until full details of both hard and soft landscaping works for the site covered by that application have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include: proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines, manholes); retained historic landscape features and proposals for restoration where relevant. *Soft landscape works shall include: planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and an implementation programme.*

**Reason**

To ensure that the landscape proposals for all external areas of the site form an integral part of the design for the site as a whole and to accord with policy D1 of the adopted South Gloucestershire Local Plan (adopted January 2006).

24. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of the final dwelling on land to which the reserved matter relates or in accordance with the programme agreed in writing with the local planning authority.

**Reason**

To ensure that the landscape proposals for all external areas of the site form an integral part of the design for the site as a whole and to accord with policy D1 of the adopted South Gloucestershire Local Plan (adopted January 2006).

25. The plans and particulars submitted in accordance with condition 1 above shall include:-
- a. A plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level exceeding 75mm, showing which trees are to be retained and the crown spread of each retained tree
  - b. Details of the species, diameter (measured in accordance with paragraph (a) above) and the approximate height, and an assessment of the general health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (c) and (d) below apply
  - c. Details of any proposed tree works to any retained tree or of any tree on land adjacent to the site
  - d. Details of any proposed alterations in existing ground levels, and of the position of any proposed excavation within the RPA (root protection area) as defined in BS5837:2005 of any retained tree or of any tree on land adjacent to the site

- e. Details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development

In this condition "retained tree" means an existing tree which is to be retained in accordance with the plan referred to in paragraph (a) above.

All fencing shall be in accordance with BS5837:2005, Trees in Relation to Construction and retained and maintained for the duration of the construction period.

**Reason**

To ensure that existing landscape features are properly protected and integrated into the development and to accord with policy D1 of the adopted South Gloucestershire Local Plan (adopted January 2006).

26. No development, except that associated with the exempt infrastructure and site preparation works, shall take place until the detailed design of each phase of the strategic sustainable drainage attenuation systems (SuDs) within the development, together with the details of phasing in relation to the development, have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in full accordance with the approved details and implemented in accordance with the approved phasing details unless otherwise agreed in writing by the local planning authority.

**Reason**

To ensure that the development incorporates strategic sustainable drainage systems (SuDs) and to accord with policy L18 of the adopted South Gloucestershire Local Plan (adopted January 2006).

27. No development, except that associated with the exempt infrastructure and site preparation works, shall take place on land to which the reserved matters relate until drainage details of proposals incorporating SuDs and confirmation of hydrological conditions (e.g. soil permeability, watercourses, mining culverts) within the development have been submitted to and approved in writing by the local planning authority. The scheme as approved shall be implemented in accordance with the approved details before the occupation of the final dwelling on land to which the reserved matters relate.

**Reason**

To ensure that the development incorporates sustainable drainage systems (SuDs) and to accord with policy L18 of the adopted South Gloucestershire Local Plan (adopted January 2006).

28. No development shall take place on land to which the reserved matters relate until a scheme to deal with contamination of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include an investigation and assessment to identify the extent of contamination, the measures to be taken to avoid the risk to the public and the environment when the site is developed and the timing of the implementation of the measures in relation to the development on land to which the reserved matters relate. The scheme shall be implemented as approved.

**Reason**

To ensure that adequate measures have been taken to mitigate against contaminated land and to accord with policy EP6 of the adopted South Gloucestershire Local Plan (adopted January 2006).

29. Prior to the commencement of development on land to which the reserved matters relate, except that associated with the exempt infrastructure and site preparation works, detailed plans showing the provision of car and cycle parking facilities in accordance with the standards set out in Policies T7 and T8 of the South Gloucestershire Local Plan (Adopted January 2006) (and in the case of Class B1 Office Use shall not exceed 1 space per 40 sq m of floor space) shall be submitted to and agreed in writing by the local planning authority. Thereafter, the development on land to which the reserved matters relate shall proceed in accordance with the agreed scheme, with the parking facilities provided prior to the occupation of the associated buildings and thereafter retained for that purpose.

**Reason**



To ensure the satisfactory provision of parking facilities in the interest of highway safety and the amenity of the area, to maximise the efficient use of land, and to accord with policies T7 and T8 of the adopted South Gloucestershire Local Plan (adopted January 2006).

30. The buildings on the land to which the reserved matters relate shall not be occupied until the associated parking areas and manoeuvring areas have been drained and surfaced in accordance with the details approved in writing by the local planning authority. The facilities so provided shall not thereafter be used for any purpose other than the parking and manoeuvring of vehicles, unless otherwise agreed in writing by the local planning authority.

**Reason**

To ensure the satisfactory provision of parking facilities in the interest of highway safety and the amenity of the area, to maximise the efficient use of land, and to accord with policies T7 and T8 of the adopted South Gloucestershire Local Plan (adopted January 2006).

31. Details of the means of access for construction traffic shall be submitted to and approved in writing by the local planning authority and provided before the development commences on land to which the reserved matter relates. No other access points for construction traffic shall be provided.

**Reason**

In the interests of highway safety and of the amenities of nearby residential occupiers and to accord with policies T11 and T12 of the adopted South Gloucestershire Local Plan (adopted January 2006).

32. The hours of working on site during the period of construction shall be restricted to 8.00am-6.00pm Mondays to Fridays, 8.00am-1.00pm on Saturdays, and no working shall take place on Sundays or Public Holidays. The term 'working' shall, for the purpose of clarification of this condition include: the use of any plant or machinery (mechanical or other), the carrying out of any maintenance/cleaning work on any plant or machinery deliveries to the site and the movement of vehicles within the curtilage of the site. Any 'working' outside these hours shall have the prior written consent of the local planning authority.

**Reason**

To minimize disturbance to occupiers of completed and nearby dwellings and to accord with policy EP1 of the adopted South Gloucestershire Local Plan (adopted January 2006).

33. No development shall take place on land to which the reserved matters relate until details of wheel-washing facilities to be provided on site have been submitted to and approved in writing by the local planning authority. These facilities shall be provided prior to development commencing on land to which the reserved matters relate and maintained during the period of construction. All commercial vehicles shall have their wheels washed before entering the public highway.

**Reason**

To safeguard the amenities of the locality and in the interests of road safety.

34. The Design Noise Criterion will be to achieve Exposure Category NEC B (Planning Policy Guidance 24) across the site to meet the agreed Noise Management Strategy as follows:-

**Internal Noise Levels:**

No development shall take place within the areas marked on Figure 3.1 of the DAS (identifying the areas within Noise Exposure Category C - Daytime) until a scheme for protecting the proposals from traffic noise has been submitted to and approved in writing by the local planning authority. Thereafter, the building envelope of all plots within this area shall be constructed so as to provide sound attenuation against noise, not less than 20 dB(A), with windows shut and other means of ventilation provided.

**External Noise Levels:**

Directly exposed private areas and gardens to residential properties in NEC C shall be protected by constructing continuous acoustic barriers (to include built form) to the boundaries not less than 2 metres in height or such measures that may be agreed in writing by the local planning authority.

**Reason**

To protect the amenities of the occupiers of completed dwellings and to accord with policies EP1 and EP4 of the adopted South Gloucestershire Local Plan (adopted January 2006).

35. The rating level of noise emitted from plant and machinery at the industrial and commercial development hereby approved shall not exceed the background noise level at any time. The noise level shall be determined on the boundary of the nearest residential areas shown on the approved strategic master plan and shall be measured and assessed in accordance with the British Standard BS4142: 1997 (as amended) 'Method for Rating Industrial Noise'.

**Reason**

To minimise disturbance to neighbouring occupiers and to accord with policy EP1 of the adopted South Gloucestershire Local Plan (adopted January 2006).

36. The directly exposed playing and external areas of the Primary School hereby approved shall be protected by constructing acoustic barriers (to include built form) not less than 2 metres in height at agreed strategic locations in order to meet the Building Bulletin Schools 93 noise criterion - BBS93 (i.e. 60 dB(A) LAeq 1 hour) or such measures that may be agreed in writing by the local planning authority.

**Reason**

To protect the amenities of the occupiers of the school and to accord with policy EP1 of the adopted South Gloucestershire Local Plan (adopted January 2006).

37. No development shall take place until an Ecological Management Plan for slow-worms has been submitted to and approved in writing by the local planning authority. The Management Plan shall include the results of a survey of slow-worms and any proposals for translocation of the same, together with a timetable for the implementation of the proposals. The requirements of the Management Plan shall subsequently be carried out in accordance with the approved timetable for implementation.

**Reason**

To ensure that adequate measures have been taken to translocate any slow-worms and to accord with policy L9 of the adopted South Gloucestershire Local Plan (adopted January 2006).

38. No development shall take place until a scheme for the protection of all retained hedgerows on the site has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the specification and position of all temporary fencing that will be erected to protect the retained hedgerows for the duration of the remediation and construction periods, together with a management plan for the buffer zones between the protective fencing and each of the retained hedgerows, and details of an appropriate monitoring regime. The development shall be carried out in accordance with the approved scheme.

**Reason**

To protect the character, appearance and bio-diversity of the area and the amenities of future occupiers and to accord with policies D1, L1 and L9 of the adopted South Gloucestershire Local Plan (adopted January 2006).

39. No development shall take place until a scheme for the protection of Filton Wood SNCI has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the specification and position of all temporary fencing that will be erected to protect the Wood and a buffer zone around it for the duration of the remediation and construction periods, together with a management plan for the Wood and buffer zone, and details of an appropriate monitoring regime. The development shall be carried out in accordance with the approved scheme.

**Reason**

To protect the character, appearance and bio-diversity of the area and the amenities of future occupiers and to accord with policies D1, L1 and L9 of the adopted South Gloucestershire Local Plan (adopted January 2006).

40. No development shall take place until an ecological management plan for the site has been submitted to and approved in writing by the local planning authority. The plan shall include the results of an ecological survey of the site and a detailed scheme of protection, mitigation and compensation measures to be incorporated within the development, together with a timetable for the implementation of the scheme and for the monitoring of the impact of the development on the ecological features. The development shall subsequently be carried out in accordance with the approved plan.

Reason

To protect the character, appearance and bio-diversity of the area and the amenities of future occupiers and to accord with policies D1, L1 and L9 of the adopted South Gloucestershire Local Plan (adopted January 2006).

41. No development, except that associated with the exempt infrastructure and site preparation works, shall take place until a scheme for the future responsibility and maintenance of the underground SuDs infrastructure (referred to in the section 106 agreement as underground storage features) has been submitted to and approved in writing by the local planning authority. The development shall subsequently be carried out in accordance with the details so approved.

Reason

To ensure that the development incorporates sustainable drainage systems (SuDs), to prevent pollution of the water environment, and to accord with policy L18 of the adopted South Gloucestershire Local Plan (adopted January 2006).

42. No development shall take place until a scheme for prevention of pollution during the construction phase has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the following:

- a. site security;
- b. fuel oil storage, bunding, delivery and use;
- c. how both minor and major spillage will be dealt with;
- d. containment of silt/soil contaminated run-off;
- e. disposal of contaminated drainage, including water pumped from excavations;
- f. site induction for workforce highlighting pollution prevention and awareness.

The development shall be carried out in accordance with the details so approved.

Reason

To prevent pollution of the water environment and to accord with policy EP1 of the adopted South Gloucestershire Local Plan (adopted January 2006).

43. There shall be no discharge of foul or contaminated drainage or trade effluent from the site into either groundwater or any surface waters, whether direct or via soakaways.

Reason

To prevent pollution of the water environment and to accord with policy EP1 of the adopted South Gloucestershire Local Plan (adopted January 2006).

44. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls, details of which shall be submitted in writing to the local planning authority for approval. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%; or 25% of the total volume which could be stored at any one time, whichever is the greater. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground, where possible, and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Reason

To prevent pollution of the water environment and to accord with policy EP1 of the adopted South Gloucestershire Local Plan (adopted January 2006).

45. No development shall take place on land to which the reserved matters relate until a list of exempt infrastructure and site preparation works has been submitted to and approved in writing by the local planning authority.

Reason

To ensure that development associated with an agreed list of exempt infrastructure and site preparation works can proceed in a timely fashion so that the site can be developed in accordance with policy M1 of the adopted South Gloucestershire Local Plan.

46. No development, except that associated with exempt infrastructure and site preparation works, shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of measures relating to the reserved matters application in question, which is aimed at addressing Government policy guidance on the planning system and crime prevention. The development shall thereafter be carried out in full accordance with the approved schemes unless otherwise agreed in writing by the local planning authority.

Reason

To ensure that the development takes account of personal safety, security and crime prevention to accord with policy D1 of the adopted South Gloucestershire Local Plan and 'Safer Places: The Planning System and Crime Prevention.'

47. The circumstances in which more than 60% of the Market Dwellings in any Sub Phase may be Occupied despite all of the Affordable Dwellings in any given Sub Phase not having been transferred to an Affordable Housing Provider as required by paragraph 1.13 of Schedule 19 to the Deed made under section 106 of the Town and Country Planning Act 1990 between South Gloucestershire Council, Bovis Homes Limited and BAE Systems Plc and dated [ ] (the "Deed") are any occurrences which are both exceptional and unforeseen and beyond the control of the Developer and as a result of which an Affordable Housing Provider(s) is not obliged to (and confirms it will not) complete the transfer of and or accept practical completion of some or all of the Affordable Dwellings in a Sub Phase under the terms of the Affordable Housing Contract with the Affordable Housing Provider to be entered into in accordance with paragraph 1.10 of Schedule 19 to the Deed Provided That the Developer shall have used all reasonable endeavours to have constructed the Affordable Dwellings as required by the said Deed and shall have notified the Director of the programme and timetable within which the transfer of the Affordable Dwellings will be transferred to the Affordable Housing Provider in such circumstances and only so long as the revised date for the transfer under this condition has not passed the Occupation of Market Dwellings shall be permitted as follows:

- a having first provided to the Council full details of the plot numbers purchasers and date of completion such Market Dwellings in any Sub Phase the sale of which the Developer is contractually committed to complete as at the date of the occurrence referred to above
- b having first provided to the Council full details of the plot numbers purchasers and date of completion together with written confirmation from the prospective purchasers solicitor that a contract has been issued a date for completion agreed and that the prospective purchaser is in a position in all respects to proceed such Market Dwellings in any Sub Phase as the Developer has made an agreement before the occurrence of the circumstances set out above for the simultaneous exchange of contracts and completion of the purchase
- c such Market Dwellings in any Sub Phase as the Council may agree is reasonable to allow in the circumstances such agreement not to be unreasonably withheld or delayed

For the avoidance of any doubt the terms used in this condition are as defined in the Deed

Reason

To achieve a comprehensively planned development and ensure the timely provision of affordable housing in conjunction market housing to accord with Policies M1 and H6 of the adopted South Gloucestershire Local Plan (adopted January 2006).

### **REASON FOR GRANTING OF PLANNING PERMISSION**

01. Having regard to the details of the application proposals and the relevant provisions of the Development Plan as summarized below, it is considered that subject to compliance with the conditions attached in this permission the proposed development would be in accordance with the Development Plan.

This informative is intended only to be a summary of the reasons for the granting of planning permission. For further details on the decision please see the application report under the above reference.

[Insert relevant Development Plan policies]

02. This decision relates only to the plans identified below:
- Strategic Masterplan - drawing number 13957.60 Rev L
  - Transport Plan - drawing number 12866/104/019 Rev F
  - Site Wide Design and Access Statement (December 2007 Final Edition)
  - Environmental Statement Parameter Plans:
    - i. Land Use Plan - Figure 3.1a Rev E;
    - ii. Building Heights Plan - Figure 3.1b Rev E;
    - iii. Density Plan - Figure 3.1c Rev E;
    - iv. Strategic Landscaping and Open Space - Figure 3.1d Rev E;
    - v. Access and Movement Plan - Figure 3.1e Rev E;
    - vi. Phasing Plan - Figure 3.1f Rev E;
    - vii. Vehicle Access Strategy - Figure 9.9 Rev E; and
    - viii. Urban Design Strategy Plan - drawing number 13957.93 Rev A
03. This permission is to be read in conjunction with the AGREEMENT AND UNDERTAKING dated [date of the section 106 agreement to be inserted] in pursuance of section 106 of the Town & Country Planning Act 1990, as amended by section 12 of the Planning & Compensation Act 1991.
04. The highway proposals for the M5 motorway associated with this consent involve works within the public highway, which is land over which the applicant has no control. The Highways Agency therefore requires the applicant to enter into a suitable legal agreement to cover the detailed design and construction of the works. The applicant is advised to contact the Highways Agency's Area Performance Manager, Malcolm Wilkinson, on 0117 3728088 at an early stage to discuss the details of the highways agreement.
05. The Highways Agency has agreed to completion of the M5 motorway works in accordance with the scheme referred to in condition 16 (i) above. There is, however, uncertainty over the timing of the works required by condition 16 (i) above and the implementation of separate works that may be carried out by the Highways Agency to the network. It may therefore be necessary to amend the scheme to reflect changes to the network. This scenario is provided for in condition 16 (ii) above.
06. The applicant should be aware that an early approach to the Highways Agency is advisable to agree the detailed arrangements for financing the design and construction of the scheme. Commencement of the works will also need to be timed to fit in with other road works on the

motorway network or local road network to ensure there are no unacceptable impacts on congestion and road safety.

07. The applicant, future residents, employers and employees at North Field are advised that policy M1 of the adopted South Gloucestershire Local Plan (adopted January 2008), which sets out the proposals for a major mixed use development at North Field, requires the development to be planned on a comprehensive basis and designed to safeguard the existing commercial activities and authorised operation of the Aerodrome

**ADDITIONAL INFORMATION**

PLEASE NOTE: The development hereby permitted must be implemented in accordance with the plans hereby approved and any conditions specified above. The conditions may specify that works are to be carried out or details are required to be submitted for further approval, before all or part of the development is otherwise commenced. If the permission is commenced without these requirements being fully met, or in any other manner, the development may be unauthorised and the permission invalidated.

*Helen O'Connor*

**AREA PLANNING MANAGER (WEST)**

**DATE:**

## **APPEALS AGAINST THE DECISION OF THE LOCAL PLANNING AUTHORITY (LPA)**

If the applicant is aggrieved by the decision to refuse permission/consent for this proposal or to grant permission/consent subject to conditions, he may appeal to the Secretary of State for the Environment (SOS) in accordance with the provisions below. All appeals (except item (d) Tree Preservation Orders) should be submitted on a form obtainable from The Planning Inspectorate, at the address below.

- (a) Refusal of planning permission or permission granted subject to conditions - **within 6 months** (Section 78 Town & Country Planning Act 1990 (T & CPA) and Article 26 of the Town & Country Planning (General Permitted Development) Order 1995.
- (b) Refusal of Listed Building consent or consent granted subject to conditions. Refusal of Conservation Area consent or the decision of the LPA on an application to vary or discharge conditions attached to a Listed Building consent **within 6 months** (Regulation 8 of the Town & Country Planning (Listed Buildings and Conservation Areas) Regulations 1990 and Section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- (c) Refusal of consent for display of advertisement or consent granted subject to conditions - **within 8 weeks** of the date you receive the Council's decision - please refer to separate notice attached where necessary.
- (d) Refusal of Tree Preservation Order consent or consent granted subject to conditions. Issuing of an Article 5 certificate on refusing consent or an Article 6 direction on granting consent to fell any part of a woodland - **within 28 days** Town & Country Planning (Trees) Regulations 1999. If you wish to appeal against this decision, please write to Planning Team, Government Office for the South West, 2 Rivergate, Temple Quay, Bristol, BS1 6EH **within 28 days** of the date of this Decision Notice.

The SOS has power to allow a longer period for the giving of a notice of appeal but will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. He is not however required to entertain an appeal if it appears to him that permission for the proposals could not have been granted by the LPA, or could not have been granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements, to the provisions of the development orders and to any directions given under the orders.

In the case of refusal of permission to develop land or refusal of Listed Building consent or the granting of permission or Listed Building consent subject to conditions whether by the LPA or SOS and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development works which has been or would be permission, he may serve on the Council in which the land is situated a Purchase Notice (or Listed Building Purchase Notice) requiring the Council to purchase his/her interest in the land in accordance with the provisions of Part VI, Chapter 1 of the Town & CP Act 1990 and Part 1, Chapter III of the Planning (Listed Buildings and Conservation Areas) Act 1990.

In certain circumstances (not applicable to Advertisement proposals) a claim may be made against the LPA for compensation where permission is refused or granted subject to conditions by the SOS on appeal or on reference of the application to him.

### **NOTES IN RESPECT OF SUBMISSION OF APPEALS**

Data Protection: Please note all appeal documentation will appear on the Planning Casework Service website.

When submitting an appeal, please note that an identical set of documents should be sent to both the local authority and The Planning Inspectorate at the following addresses:

Director of Planning, Transportation & Strategic Environment	The Planning Inspectorate	
South Gloucestershire Council	Room 3/04 Kite Wing	
Castle Street	or High Street	2 The Square
Thornbury	Kingswood	Temple Quay
Bristol BS35 1HF	Bristol BS15 9TR	Bristol BS1 6PN

Please ensure this instruction is complied with in order to avoid any unnecessary delay.

#### **NOTES IN RESPECT OF APPLICATIONS FOR CONSENT TO DISPLAY ADVERTISEMENTS**

1. Under the provisions of Paragraph 4 of Schedule 1 of the Town & Country Planning (Control of Advertisements) Regulations 1992 before any advertisement is displayed, the permission of the owner of the land, or building on which the advertisement is to be displayed must be obtained.
2. If a conditions imposing a time limit has been expressly included as part of a consent, then that condition must be observed. If no such condition is imposed Regulation 13 (5) of the 1992 Regulations provides that any consent is granted for a period of FIVE YEARS from the date hereof.
3. Where the Authority grant consent for a period shorter than five years they shall (unless the application required such a consent) state in writing their reasons for doing so, and the limitation in respect of time shall for the purposes of these Regulations be deemed to be a condition imposed upon the granting of consent.
4. At any time within a period of 6 months before the expiry of a consent granted under these Regulations, application may be made for the renewal thereof and the provisions of these Regulations relating to applications for consent and to the determination thereof shall apply where application is made for such renewal.
5. Penalty for Contravention. The amount of the fine to which a person who displays an advertisement in contravention of these Regulations is liable on summary conviction as set out in Section 224 of the Town and Country Planning Act 1990 and Regulation 27 of the 1992 Advertisement Regulations.

#### **NOTES IN RESPECT OF ALL APPLICATIONS**

1. Attention is drawn to the need for strict compliance with the approved plan(s), failing which appropriate action will be taken.
2. If planning permission has been granted for the development, please note that should this involve any work within the highway, such as the construction of a vehicular access, the consent of the Highway Authority should be obtained.
3. WHERE PLANNING PERMISSION OR LISTED BUILDING CONSENT HAS BEEN GRANTED, APPROVAL MAY ALSO BE REQUIRED UNDER THE BUILDING REGULATIONS BEFORE ANY WORK IS COMMENCED.
4. Although planning permission may have been granted, should the proposed work involve the demolition, alteration or extension of a Listed Building or the demolition of an existing building in a Conservation Area, Listed Building or Conservation Area Consent will also be required before the work commences.
5. If the work authorised by this permission requires the supply of utility or other public services, you are requested to contact the appropriate statutory or other undertaker as soon as possible following the receipt of the decision. Failure to do so may result in delay in the provision of these services.



Any further information concerning this decision may be obtained from the Director of Planning, Transportation and Strategic Environment. Please quote the Reference Number of this permission in any correspondence.

**ANNEX 16**

**M5 WORKS AGREEMENT**

Dated \_\_\_\_\_ 200...

**THE SECRETARY OF STATE FOR TRANSPORT (1)  
AND  
BAE SYSTEMS PLC (2)**

**AND**

**BOVIS HOMES LIMITED**

---

Agreement under section 38 and section 278 Highways Act 1980 for  
the execution of highway works on the M5 Motorway

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Highways Agency  
Legal Division  
Great Minster House  
76 Marsham Street  
LONDON SW1P 4DR

DRAFT DATED

SUBJECT TO CONTRACT

**THIS AGREEMENT** is made as a Deed this ..... day of ..... 200...

**BETWEEN:**

- (1) **THE SECRETARY OF STATE FOR TRANSPORT** (the "Secretary of State") of Great Minster House 76, Marsham Street London SW1P 4DR and
- (2) **BAE SYSTEMS PLC** whose registered office is at 6 Carlton Gardens London SW17 5AD
- and
- (3) **BOVIS HOMES LIMITED** whose registered office is at The Manor House North Ash Road New Ash Green Longfield Kent D3 8HQ (who are together referred to as "the Developer")

**WHEREAS**

- (a) The Developer has been granted planning permission on under reference [ ] for residential and employment development at North Field Filton ("the Development") on land in the vicinity of the M5 Motorway ("the Trunk Road");

- (b) The Secretary of State is authorised by virtue of Part V of the Highways Act 1980 to carry out improvements in relation to the Trunk Road as illustrated on the plan numbered [ ] attached to this Agreement ("the Plan") and subject to the terms of this Agreement he would be prepared to carry out those improvements;
- (c) This Agreement is made pursuant to sections 38 and 278 of the Highways Act 1980;
- (d) The Secretary of State is satisfied that this Agreement will be of benefit to the public.
- (e) The Secretary of State proposes to enter into an agreement under section 4 of the Highways Act 1980 [ *add in any side road requirements* ]

**NOW IT IS HEREBY AGREED AS FOLLOWS:**

1. In this Agreement:
  - (1) a reference to a clause or recital followed by a number is a reference to the clause or, as the case may be, the recital of this Agreement bearing that number;
  - (2) a reference to "the Works" is a reference to the works described in the Schedule hereto and shown on the Plan (including where an associated agreement under section 4 of the Highways Act has been or will be entered into the works to which it relates) subject to any alterations which may be made pursuant to clause 2.
2. The Secretary of State may from time to time make such alterations to the Works as he may consider necessary. In so far as may be reasonably practicable the Secretary of State shall give the Developer an opportunity to comment on any such alterations which he proposes to make.
3. (1) The Developer shall make the following payments in respect of the Works:
  - (a) a sum equal to the whole of the costs which the Secretary of State incurs by, or in preparation for, the execution of the Works and in connection with the execution of the Works (including for the avoidance of doubt staff and other administrative costs);
  - (b) a sum equal to the whole of any expense to which the Secretary of State is put by reason of carrying out the Works including, without prejudice to the generality of the foregoing, all costs or expenses incurred in insulating buildings against noise or in satisfying claims made under Part I of the Land Compensation Act 1973 arising from the execution of the Works.
- (2) The sums referred to in subclause (1) above includes any value added tax which is payable by the Secretary of State in respect of such costs and expenses and for which he cannot obtain reimbursement from HM Revenue and Customs.
4. The Developer will make the payments referred to in clause 3 (1) (a) as follows:
  - (1) The Developer shall pay:
    - (a) a sum equal to one half of the estimate by the Secretary of State as at the date of this Agreement of the costs payable by the Developer under clause 3 (1) (a) ("the Estimated Costs") within 14 days of the date hereof;
    - (b) a further sum equal to one half of the Estimated Costs within 14 days of the date on which the Secretary of State gives notice to the Developer that he is ready to enter into a contract for the execution of the Works after receipt of such further sum.
  - (2) If, at any time or times after the payment referred to in subclause (1) (a) above has become payable, the Secretary of State estimates that the costs referred to in clause 3 (1) (a) will exceed the Estimated Costs he may give notice to the Developer of the amount by which he then estimates those costs will exceed the Estimated Costs ("the Excess") and the Developer shall pay to the Secretary of State within 14 days of the date of that notice a sum

equal to such proportion of the Excess as would be due under subclause (1) above at the date of that notice if the Estimated Costs had included the Excess.

- (3) As soon as may be after the Works have been completed the Secretary of State shall give the Developer a final account of the costs referred to in clause 3 (1) (a). Within 28 days from the date of that account:
  - (i) if the account shows a further sum as due to the Secretary of State the Developer shall pay to the Secretary of State the sum shown due to him in that final account;
  - (ii) if the account shows that the payment or payments previously made have exceeded those costs, the Secretary of State shall refund that excess.
- (4) The Developer shall pay to the Secretary of State any sum mentioned in clause 3 (1) (b) within 14 days of the date of his making a demand for that sum.
5. When the Works have been completed, the Developer shall pay to the Secretary of State a commuted lump sum in respect of the future maintenance costs of the Works. The payment shall be made within 14 days of the date on which it is demanded and shall satisfy any liability of the Developer in this respect.
6. The amounts of payments due under the provisions of this Agreement shall be certified on behalf of the Secretary of State. His decision as to the amounts shall be final, but he shall provide to the Developer any information relating to the amounts as the Developer may reasonably require.
7. (1) At any time before the Secretary of State gives notice as mentioned in clause 4 (1) (b)
  - (a) the Secretary of State may terminate this Agreement at any time by giving the Developer notice of his decision to terminate it; and
  - (b) the Developer may terminate this Agreement by giving notice to the Secretary of State that the Developer does not wish the Works to be carried out.(2) On any termination under this Clause the Secretary of State shall give the Developer an account of all abortive costs incurred by the Secretary of State in respect of this Agreement. Within 28 days from the date of that account:
  - (i) If that account shows that the payments made by the Developer under the foregoing provisions of this Agreement have exceeded those costs the Secretary of State shall refund that excess.
  - (ii) If that account shows that those costs exceed the payments made by the Developer under the foregoing provisions of this Agreement the Developer shall pay to the Secretary of State a sum equal to that excess.
8. The rights and liabilities of the Developer under this Agreement are not assignable.
9. If any payment due under any of the provisions of this Agreement is not made on or before the date on which it is due ("the Due Date"), the party from whom it was due shall at the same time as making the payment pay to the other party interest at one per centum above the rate payable in respect of compensation under section 32 of the Land Compensation Act 1961 for the period starting with the Due Date and ending with the date of payment of the sum on which interest is payable together with that interest.
10. If and only if:
  - (a) (where required) the Secretary of State has entered into the section 4 agreement referred to in recital (e);
  - (b) the Developer is not in default of any obligation hereunder; and

(c) this Agreement has not previously been terminated under Clause 7;

the Secretary of State will execute the Works, and having started the same will use his reasonable endeavours to complete them as soon as is reasonably practicable.

11. Without prejudice to the application of the Crown Proceedings Act 1947 any notice or demand required by this Agreement to be given or made shall be in writing and shall be sufficiently served on the Secretary of State by being forwarded by registered or recorded delivery post to him at the Highways Agency Temple Quay House 2 The Square Temple Quay Bristol BS1 6HA or such other address as he may notify in writing to the Developer. Similarly any notice shall be sufficiently served on the Developer if addressed to the Developer and left at or sent by registered or recorded delivery post to the usual or last known place of business in England and Wales of the Developer or the registered office of the Developer. Any notice so sent by post shall be deemed to be given at the time when it ought in due course of post to be delivered at the address to which it is sent.
12. The Works shall be constructed in accordance with the Manual of Contract Documents 1991 and the Design Manual for Roads and Bridges published by the Department of Transport and any amendment to or replacement thereof for the time being in force.
13. The land which is to be benefited by the Works is the land to which the planning permission referred to in Recital (a) relates.
14. English law is the law applicable to this Agreement.

**IN WITNESS** whereof the parties have delivered this Deed the day and year first above written

**THE SCHEDULE**  
(Description of the Works)

To be advised

**The Corporate Seal of**  
**THE SECRETARY OF STATE FOR**  
**TRANSPORT** hereunto affixed is  
authenticated by:

.....  
Authorised by the Secretary of State

**The Common Seal of**  
was hereunto affixed in the presence of:

.....  
*Company Secretary / Director*

.....  
Director

Signed and Delivered  
as a Deed by the said

.....  
in the presence of:

.....  
Witness' signature

.....  
Witness' name in capitals

.....  
Witness' address

.....  
Witness' occupation