01078/18

Dated 11 June 2018

LINCOLNSHIRE COUNTY COUNCIL (1)

and

HAYCROFT HOMES LIMITED (2)

and

NATIONAL HOUSE BUILDING COUNCIL (3)

AGREEMENT

---

made under s38 of the Highways Act 1980 and section 33 of the Local Government (Miscellaneous provisions) Act 1982 relating to High Road Whaplode, Lincolnshire

Lincolnshire County Council
County Offices
Newland
Lincoln
Lincolnshire LN1 1YL

CERTIFIED AS TRUE COPY OF THE ORIGINAL
SIGNED
DATE 11.06.18
SOLICITOR, LINCOLNSHIRE COUNTY COUNCIL

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THIS AGREEMENT is made the 11th day of June 2018

Between

(1) Lincolnshire County Council of County Offices Newland Lincoln Lincolnshire LN1 1YL ("the Council").

(2) HAYCROFT HOMES LIMITED incorporated and registered in England and Wales with company number 05577605 whose registered office is at Browns Yard Seas End Road Moulton Seas End Spalding PE12 6JX ("the Landowner").

(3) NATIONAL HOUSE BUILDING COUNCIL incorporated and registered in England and Wales with company number whose registered office is at NHBC House Davy Avenue Knowlhill Milton Keynes Buckinghamshire MK5 8FP ("the Surety").

1. Definitions

1.1 In this Agreement the following expressions shall have the following meanings:-

"Actual Cost of the Works"

means the costs of constructing and completing the Works (or any outstanding part or parts thereof)

"Advance Payments Code"

means the advance payments code as defined in S329(1) of the Highways Act 1980

"Bond"

means the performance bond to be provided by the Developer under clause 11

"Bond Figure/Deposit Bond"

shall be £557027 (FIVE HUNDRED AND FIFTY SEVEN THOUSAND AND TWENTY SEVEN POUNDS)being the sum calculated by the Council as representing the estimated Actual Cost of the Works as at the date of this Agreement and inflated to cover the first three years of this Agreement

"CDM Regulations"

means the Construction (Design and Management) Regulations 2015

"Client"

means the client as defined in the CDM Regulations

"Commuted Sum"

shall be £3793 (THREE THOUSAND SEVEN HUNDRED AND NINETY THREE POUNDS) being the sum of money required to be paid by the Developer to the Council to cover future maintenance of the Highway Drainage. Being such part or parts of the Works which are built to a higher specification than as set out in the Specification as calculated by the Council in accordance with the Council's guidance note HAT 40

"CRC"

means the emissions trading scheme as defined in section 2(1) of the Carbon Reduction Commitment Order 2010.

"CRC Costs"

means any costs, charges, fees, penalties or any other liability attributable to the participation by the Developer in the CRC and relating to the energy consumption of the Street Lighting

"Default Notice"

means the notice served on the Developer by the Council under the provisions of clause 12

"Default Work"

means the work required to rectify the non-performance and or non-observance of this Agreement by the Developer

"the Development Road Fee"

means the sum of £36525 (THIRTY SIX THOUSAND FIVE HUNDRED AND TWENTY FIVE POUNDS) being a contribution to be made by the Developer towards the costs incurred by the Council in the preparation and administrative implementation of this Agreement and the inspection and testing of the Works

"Electrical Test Certificates"

means an electrical installation certificate in accordance with BS7671: Requirements for Electrical installations and shall be provided for all electrical equipment associated with the Works

"Health and Safety File"

means the health and safety file as required by the CDM Regulations

"Key Stage" means each Key Stage of construction and inspection of the Roads referred to in Appendix 1 of the Specification

"Key Stage Certificate"

means a certificate issued upon the completion of each Key Stage

"the Land" means the land registered at the Land Registry under title number LL373919 LL370837 LL354035 LL356361

"Legal Costs"

means the sum which shall be no less than £650 to be paid by the Developer to the Council representing the legal costs and disbursements in carrying out the appropriate checks title, the preparation completion and registration of this Agreement and the transfer of the Road Land to the Council under clause 10

"the Maintenance Period"

means the period of twelve months or such longer period as referred to in clause 7 of this Agreement

"the Plan"

means the plans and drawings numbered 26115/23 G attached to this Agreement or such other plan or plans and drawings as the Developer shall submit and the Proper Officer may agree in writing shall be used in substitution thereof

"Private Drives"

means drives serving two or more properties that are not intended to be adopted as highways maintainable at the public expense

"the Proper Officer "

means the officer or such other officer of the Council from time to time who is responsible for the provision of the Council's highway authority function or the officer of the Council holding that appointment or such suitably qualified person as he may from time to time nominate

"Risk Payments "

means the payments made by the Developer to the Council to cover any future risk to the Council associated with the lack of inspection and/or testing at the correct stage in accordance with clause 3.4

"Road Land"

means the freehold estate in the land on which the Road is constructed.

"Road"

means the carriageway or carriageways or any part thereof shown coloured GREEN and outlined RED on the Plan including:-

(a) any off-site highway drainage shown coloured BLUE on the Plan and

(b) the footways, Street Lighting, all verges, Service Margins, vehicular crossings, highway drainage systems and

(c) all other ancillary items excluding equipment and apparatus belonging to statutory undertakers

"Sewer Adoption Agreement"

means an agreement made under S104 of the Water Industry Act 1991

"the Specification"

means the current "Lincolnshire Design Guide for Residential Areas" and the Lincolnshire County Council "Development Road Specification and Construction" document as may be approved by the Council in such modified or extended form as the Council may communicate to the Developer

"Service Margins"

means grassed margins that are provided in place of footways which contain public utilities apparatus

"Statutory Undertakers"

means a body or person entitled by virtue of a statutory right or street works licence to undertake street works

"the Street" means any highway and any road, lane, footpath, square, court, alley or passage whether a thoroughfare or not and includes any part of a street

"Street Furniture" means objects placed or fixed in the street for public use

"Street Lighting"

means a system of lighting including illuminated bollards and signage to illuminate the Works where the equipment specification and illumination levels are to the satisfaction of the Council

"Street Works" means any works for the sewering, levelling, paving, metalling, flagging, channelling and making good a street and includes the provision of property means for lighting a street

"Surety's Counter Notice"

means the Counter Notice served by the Surety under the provisions of clause 12 hereof

"Working Days"

means any week days Monday to Friday inclusive (excluding bank holidays)

"the Works"

means the street works more particularly described in Clause 2. to this Agreement and shall include any necessary works within the highway maintained at the public expense

"the Council" "the Developer" and "the Surety"

these expressions shall include their respective successors in title or assigns

1.2 This Agreement is made under S38 of the Highways Act 1980 and S33 of the Local Government (Miscellaneous Provisions) Act 1982

1.3. In this Agreement where the context so admits

1.4 words importing persons shall include firms companies and corporations and vice versa

1.5 words importing one gender shall be construed as importing the other gender

1.6 words importing the singular number shall include the plural number and vice versa and where the Council and/or the Developer consists of two or more persons all covenants by the Council and Developers shall be deemed to be made by such

persons jointly and severally

1.7 reference to any statute shall include any legislation amending or replacing the same and any statutory instruments orders or rules or regulations having effect t hereunder

1.8 every covenant not to do any act shall include an obligation not to allow that act to be done

1.9 references to "this Agreement" are to this agreement as varied or supplemented

1.10 the clause headings shall not affect the construction of the agreement

2. Developer's Obligations to Carry Out the Works

2.1 The Developer for itself and its successors in title covenants with the Council as follows:-

2.1.1 before the Work is commenced to provide to the Council the name and contact details of a nominated person who will be responsible for managing the construction and quality of the Road and ensuring compliance with the specification and certification of the Key Stages. This nominated person will be the principal contact for the Council and the Developer shall provide the Council with any changes of details of the nominated person

2.1.2 to give the Proper Officer not less than 5 Working Days written notice of the date of starting the Work

2.1.3 that it and all contractors and subcontractors working on its behalf shall have the appropriate public liability insurance of £5 million which shall conform to the requirements of this Agreement and the Specification

2.1.4 that the Developer shall at its own cost carry out and complete the Work:

2.1.4.1 in a good and workmanlike manner;

2.1.4.2 using only materials approved by the Proper Officer;

2.1.4.3 in accordance with this agreement, the Specification and the Plan;

2.1.4.4 to the Proper Officer's satisfaction; and

2.1.4.5 within 36 calendar months following the date of this Agreement or within 3 calendar months from the date when construction commenced on the penultimate dwelling or building on the Land (whichever is the sooner) to be reviewed and extended as appropriate

2.1.5 to obtain permission from the Proper Officer for any necessary off site works carried out in the existing highway maintained at the public expense that require permits under the New Roads and Street Works Act (NRSWA) 1991 and permission from the Council as Highway Authority under the Highways Act 1980. All such works will be carried out and maintained to the satisfaction of the Proper Officer

2.1.6 during the period of works within the existing highway maintained at the public expense the Developer shall comply with the provision of the Councils Code of Practice for Safety of Roadworks and the Traffic Signs Manual 2009 Chapter 8 "Traffic Safety Measures and Signs for Roadworks and Temporary Situations" (published by the Department of Transport) and any amendment thereto or any provisions replacing the same for lighting or signing the Works

2.1.7 the Developer shall give effect to any reasonable and proper requirements made or directions given by the Proper Officer (or in his name) to ensure the Works conform to the Plan and the Specification. In particular the Developer shall ensure that the Council is informed in sufficient time (being a minimum of five Working Days notice) to allow the Proper Officer (or persons authorised by him) facility to carry out the inspections and testing specified under the Key Stages. And it shall be the Developers responsibility to ensure that the necessary certification is obtained at each Key Stage

2.1.8 to be responsible for the energy costs of the Street Lighting and will indemnify the Council in respect of the replacement of any part of the installation found to be defective (including parts labour and all other charges) prior to the adoption of the Road as highway maintainable at the public expense pursuant to clause 8 of this Agreement

2.1.9 that nothing will be erected or planted within any Service Margins unless agreed in writing with the Proper Officer

2.1.10 before connecting the Road to the carriageway of a highway maintainable at the public expense, the Developer shall give notice to the relevant Statutory Undertaker of any service or services laid in, on, or under the existing highway of the proposal to make such connection as if the connection were works for road purposes or major highway works as defined in section 86 of the New Roads and Street Works Act 1991.

2.1.11the Developer shall:

2.1.11.1carry out, at its own cost, any works or measures required by a Statutory Undertaker as a result of the Works; and

2.1.11.2 indemnify the Council for the cost of any works or measures carried out, as a result of the Works, by the Council at the request of the Statutory Undertaker.

2.2 In any cases of ambiguity between the Specification and the Plan the Specification shall take precedence unless it has been specifically agreed otherwise in writing by the Proper Officer

3. Inspection, Testing and Rectification of Defective Works and Materials

3.1 The Proper Officer shall have power in his reasonable discretion to test or require the testing of materials plant and workmanship used or proposed to be used in the Works and to reject any materials plant or workmanship so tested which he may reasonably and properly find to be not in accordance with the Plan and the Specification. In particular the specified inspections and testing will be required at the first eight Key Stages

3.2 The Developer shall immediately replace or repair any materials plant or workmanship which have been found to be not in accordance with the Plan and the Specification with such as are so in accordance

3.3 During the construction of the Roads the Proper Officer may issue instructions to the Developer to open up or expose any of the Works which have been covered up without previously being inspected by the Proper Officer and should the Developer fail to comply with any such instructions the Council may so take up or expose the

relevant part of the Works causing as little damage or inconvenience as is possible to or in respect of any other part or parts of the Works and the reasonable and proper cost of such taking up or exposure and reinstatement is to be met by the Developer

3.4 Should the Developer fail to give five Working Days notice to the Proper Officer to carry out the critical inspections and tests specified in the Key Stages and allow facility for the Proper Officer (or persons authorised by him) to carry out the said inspections and tests, then the Council will require the Developer, at its expense, to carry out retrospective testing (at the Council's discretion). In addition and irrespective of any retrospective testing or the outcome of such tests, should the Developer fail to obtain the relevant certificate for any Key Stage and/or proceed without the consent of the Proper Officer (or persons authorised by him), then the Council will require the Developer to pay a sum to the Council (as deemed necessary by the Council) (called Risk Payments) to cover any possible future risk to the Council associated with the lack of inspection and/or testing at the correct stage

4. CDM Regulations

4.1The Developer elects to be treated for the purposes of the CDM Regulations as the only Client. The Council agrees with such election by the Developer.

4.2 The Developer agrees to undertake all the obligations of a Client and to use all reasonable endeavours to ensure that the Works are carried out in accordance with the CDM Regulations.

4.3 Before commencement of the Works, the Developer shall ensure that the Works are properly notified to the Health and Safety Executive in accordance with the CDM Regulations and shall give the Council a copy of the notification and any acknowledgement from the Health and Safety Executive.

4.4 The Developer shall ensure that the Health and Safety File is maintained correctly and is available for inspection in accordance with the CDM Regulations.

4.5 The Developer warrants it has taken or shall take all reasonable steps to be satisfied that all contractors engaged on the Works are suitable and competent having regard to their responsibilities in relation to the Works and the CDM Regulations.

4.6 The Developer shall indemnify and keep the Council indemnified against any breach of the Developer's obligations under this clause 4.

5. The Site Waste Management Plans Regulations 2008

5.1 The Council agrees that the Developer is the Client in respect of the Works within the meaning of Regulation 2 of the Site Waste Management Plans Regulations 2008

5.2 The Developer shall comply with all aspects of the Site Waste Management Plans Regulations 2008 and in particular shall ensure that all obligations imposed on the Developer are satisfied

6. Key Stage 9 Certificate

6.1 The Proper Officer shall issue the Key Stage 9 Certificate to the Developer provided that:

6.1.1 the Developer has paid to the Council all amounts due to the Council under this agreement including any Legal Fees or Commuted Sum payable under clause 19;

6.1.2 the Road connects directly to a highway maintainable at public expense;

6.1.3 where the Developer fails to obtain satisfactory certificates for all the Key Stages of construction, it shall pay the amounts as calculated in accordance with clause 3.4 and specified by the Council to cover the possible future risk to the Council due to the lack of testing and inspection at the correct time.

6.1.4 the Developer has delivered to the Proper Officer each of the following:

6.1.4.1 Two coloured drawings of the as built layout to a scale of 1:500;

6.1.4.2 one copy of the Health and Safety File;

7. Maintenance Period

7.1 From the date of the issue of the Key Stage 9 Certificate the Maintenance Period shall commence to run for a period of twelve calendar months or for

such longer period as the Proper Officer may reasonably determine ("the Maintenance Period")

7.2 During the Maintenance Period, the Developer shall, at its own cost and to the satisfaction of the Proper Officer:

7.2.1 maintain the Works, including all grassed and planted areas, and carry out routine maintenance of the Road, including sweeping, gully emptying and snow clearance on roads used as bus routes; and

7.2.2 clear all abandoned vehicles, rubbish, or other unauthorised materials from the Road; and

7.2.3 undertake routine maintenance of all Street Furniture; and

7.2.4 be responsible for, the supply of energy and all associated costs including for the avoidance of doubt any CRC Costs for all the Street Lighting

7.3 Before the Maintenance Period expires, the Developer shall, without delay and at its own expense, reinstate and make good any defect or damage to the Road, which may have arisen from any cause or be discovered, during the Maintenance Period (including any defect in, or damage to, the road surface water drainage system) of which the Developer has been notified in writing by the Proper Officer, so that the Works comply with the Specification and the Plan.

8. Key Stage 10 Certificate

8.1 Before the Proper Officer issues a Key Stage 10 Certificate, the Developer shall, without cost to the Council, prove that they have completed or procured the execution and completion of any deeds of easement that have been deemed

necessary to secure for the Council full drainage rights to such parts of the surface water drainage system of the Road Land that are not within the Road Land;

8.2 The Developer shall pay the Council's proper and reasonable legal costs and disbursements in connection with the grant of any deeds of easement.

8.3 The Council shall not be liable for the payment of compensation or legal or any other costs or fees arising on account of the completion of any deeds of easement referred to in clause 8 or due to the subsequent use of the easement.

8.4 Prior to issue of the Key Stage 10 Certificate the Developer shall provide Electrical Test Certificates for all associated electrical equipment

8.5 The Developer shall remove any unauthorised structures and/or planting in the Service Margins before the issue of the Key Stage 10 Certificate

8.6 Where instructed by the Council prior to the adoption of the Roads as highways maintainable at the public expense pursuant to clause 8.7 of this Agreement the Developer shall clean and re-lamp each street lighting unit

8.7 Subject to the provisions of clause 8.6, from and including the date of issue of the Key Stage 10 Certificate, the Road or any part of the Road, as the case may be, shall become a highway maintainable at the public expense.

8.8 Before the issue of the Key Stage 10 Certificate the Developer will at its own expense provide the Proper Officer with copies of the vesting declarations in respect of any sewers constructed in or under the Road, in accordance with a Sewer Adoption Agreement

8.9 Once the Key Stage 10 Certificate has been issued the Council will issue a letter to the Developer and Bond Guarantor confirming the date on which the Road has become highway maintainable at public expense and that the Bond Guarantor is released from all liability and the Bond is cancelled

9. Occupation of Buildings

9.1No buildings erected by or on behalf of the Developer that front, adjoin, abut or have access to the Road shall be occupied until:

9.1.1 a binder course pedestrian and carriageway access (where applicable) to such highway has been provided;

9.1.2 the Road or that part of the Road referred to in this clause has operational street lighting columns erected in accordance with the Specification and the Plan; and

9.1.3 the Road or that part of the Road referred to in this clause has street name plates erected as agreed with the Proper Officer.

10. Transfer of Road Land

10.1Following the date that the Road or any part of the Road, as the case may be, shall become a highway maintainable at the public expense under the provisions of clause 8, the Developer shall without delay and at its own cost, if requested by the Council, execute and complete, or procure the execution and completion by all

necessary parties of, a transfer to the Council of the Road Land with full title guarantee and at nil consideration.

10.2The transfer of the Road Land shall be free from encumbrances, other than those created prior to the date of this agreement (with the exception of any purely financial charge), which are consistent with the use of the Road Land for highway purposes or the proper management and maintenance of the Road Land.

10.3The Developer shall assist in any application to the Chief Land Registrar for the registration of the Council with title absolute in respect of the Road Land.

10.4Following the date of this Agreement the Developer shall not, without the Council's prior written consent, make a disposal of the whole or any part of the Road Land to any other person or persons, or grant any rights over it, except a right of way required for any development authorised by any planning permission granted by the local planning authority in respect of the Road Land.

11. Bond/Deposit Bond

11.1 The Developer shall prior to the completion of this Agreement at the option of the Developer either:

11.2 deliver to the Council a Bond from a provider approved by the Council in the amount of the Bond Figure for its performance of this Agreement,

11.3 upon the execution of this Agreement lodge with the Council the Deposit Bond which shall be placed by the Council in an interest bearing account.

12. Default by the Developer and recovery of Bond Figure

12.1 In the event of the Developer being in default of clause 2.1.4 of this Agreement and the default shall give rise to any highway safety issue the Proper Officer may (after the Council has given notice to the Developer and the Surety of its intention to do so) enter onto the Road and complete the Works or any part thereof and charge the expense thereof to the Developer and recover such expenses from it

12.2 In the event of non-observance omission or breach by the Developer of any of the terms covenants conditions or stipulations herein contained, the Proper Officer, without affecting any statutory rights or powers or any other right, claim or remedy under this Agreement for such non-performance or non-observance, may give to the Surety a Default Notice;

12.2.1 specifying the Default Work; and

12.2.2 demanding payment of the Bond Figure.

12.3 Within 28 Working Days following the date of receipt of the written demand, the Surety shall:

12.3.1 pay the Bond Figure to the Council or

12.3.2 send the Surety's Counter Notice to the Council.

12.4 If the Surety, having sent the Surety's Counter Notice to the Council, fails to start the Default Work within 28 Working Days from and including the date of receipt by the Council of the Surety's Counter Notice, the Surety shall without delay, pay the Bond Figure to the Council

12.5 If the Surety, having sent the Surety's Counter Notice to the Council, starts the Default Work, and the Default Work is not completed within three calendar months from and including the date the Surety's Counter Notice was received by the Council, or within such further period or periods as may be agreed by the Proper Officer, the Surety shall forthwith on demand by the Proper Officer, pay to the Council the Bond Figure

12.6 The Council shall apply the Bond Figure received by it from the Surety to the costs involved in the completion of the Default Work and to remedy any defects prior to the adoption of the Road as highways maintainable at the public expense and the vesting of the said highway drains in the Council or to cover possible future risk to this Council due to the lack of certification, testing or inspection of the Key Stages as determined by the Council and any amounts so received shall be deducted by the Council from any demand or charges which may be made by the Council on the frontagers of the Streets in respect of any street works carried out under the Highways Act 1980 or any amendment thereof and in the event of any surplus as between the amount paid by the Surety and the final cost of the street works and the monies calculated by the Council to cover possible future risk due to the lack of certification testing or inspection of the Key Stages (including the Council's establishment inspection and supervision charges) before the Road is adopted as highways maintainable at the public expense such surplus monies shall be refunded to the Surety

13. Review of Bond Figure

13.1 Upon certification of any of the Key Stages (subject to all previous certificates being satisfactorily obtained) the Council will, if requested by the Developer, review

the Bond Figure accordingly **PROVIDED THAT** at no time will the Council reduce the Bond Figure by more than 50 % of the original figure at Key Stage 5 (excluding any Commuted Sum payable under the provisions of clause 19) until the issue of the Key Stage 9 Certificate where the Bond Figure will automatically be reduced to 10% of the original figure (excluding any Commuted Sum payable under the provisions of clause 19) on commencement of the Maintenance Period.

14. Access for the Council

14.1 The Developer will during the progress of the said Works give to the Proper Officer (and or persons authorised by him) free access to every part of the Works and the Road and permit the inspection of the same as they proceed and of all materials used or intended for use therein and

14.2 The Developer hereby grants full right and licence to the Council and its agents contractors and employees to enter onto and remain on its land together with all machinery plant and materials if the Council shall consider it necessary to do so in order to complete the Works and remedy any defects pursuant to clause 12 above

14.3 The Proper Officer shall for the purposes of clauses 3.1 and 3.2 of this Agreement be allowed reasonable access and admission to the Works or the places where materials or plant for the Works may be stored or be in the course of preparation manufacture or use. In particular the Developer shall notify in sufficient time (being a minimum of five Working Days) and allow facility for the Proper Officer (or persons authorised by him) to carry out the critical inspections and tests specified in the Key Stages of construction and obtain the relevant certificates

15. Arbitration

15.1 Subject to clause 15.3, if there is a dispute between the Developer and the Council that cannot be resolved at local level it shall be referred to a senior officer of the Council and a senior representative of the Developer for resolution.

15.2 Subject to clause 15.3, if any dispute is not resolved within 20 working days of a referral under clause 15.1 (or such longer period as the Council and the Developer may agree) then the parties may attempt to settle it by mediation by asking the Centre for Effective Dispute Resolution or other reputable mediation body to suggest the names of accredited mediators from whom the parties should select one as the mediator for the dispute. To initiate the mediation, a party must firstly give notice in writing to the other requesting mediation in accordance with this clause. Should mediation fail, any dispute shall be resolved by legal proceedings.

15.3 Where under this Agreement provision is made for any dispute to be referred to expert determination the same shall if such referral is invoked in accordance with this Agreement be referred to a third party agreed by the parties or in default of agreement within 10 working days of an invitation from one party to the other to identify an expert nominated by the President for the time being of the Institution of Chartered Engineers. The third party shall act as an expert and not as an arbitrator and his decision shall be final and binding on the parties. The costs of appointing the expert shall unless the expert orders otherwise be shared equally by the parties and each party shall bear its own costs of the referral.

16. Notices

16.1 Any notice or other written communication to be served by one party upon any other pursuant to the terms of this Agreement shall be deemed to have been validly

served if transmitted by facsimile or delivered by hand or sent by registered or recorded delivery post to the party to be delivered at their address herein specified or such other address as may from time to time be notified for the purpose by notice in writing **AND** any such notice or other written communication to be given by the Council shall be deemed valid and effectual if on its face value it is signed on behalf of the Council or by an officer or duly authorised signatory thereof

17. Indemnity

17.1 The Developer hereby covenants with the Council pursuant to Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 to indemnify the Council from and against all claims actions demands or proceedings arising out of or in connection with the Works to include but not limited to claims for personal injury loss or damage to property claims under Land Compensation Act 1973 or Regulations made under the said Act or any re-enactment or amendment thereof and against all damages liabilities costs charges losses compensation awards (to include awards of interest) and expenses including the Council's expenses in managing and investigating any claim arising in respect thereof or in relation thereto PROVIDED THAT such indemnity shall not apply in respect of any action costs claim demand charge or expenses arising out of or incidental to any negligent act or default or omission on the part of the Council

18. Council Powers

18.1 Except insofar as legally or equitably permitted this Agreement shall not prejudice or affect any statutory powers of the Council or of any Minister of the Crown

19. Payment of Fees and Commuted Sum

19.1 The Developer will upon or before execution of this Agreement pay to the Council the Development Road Fees the Legal Fees

19.2 The amount of the unpaid Commuted Sum shall be included in the Bond Figure/Deposit Bond. If the amount of the Commuted Sum has not been paid by the Developer to the Council prior to the issue of the Key Stage 10 Certificate the Council may call in and recover the amount of the unpaid Commuted Sum under the Bond or from the Deposit Bond.

20. Third Parties

20.1 It is hereby agreed that the provisions of Section 1 of the Contracts (Rights of Third Parties) Act 1999 be expressly excluded from this Agreement

21. Advance Payments Code

21.1 On the completion of this Agreement the Council shall release the security given by the Developer to the Council under the Advance Payments Code

22. Local Land Charges register

22.1 As soon as practicable, following the date of completion of this agreement, the Council shall enter this agreement and its terms and conditions in the local land charges register.

23. Severance

23.1 If any court or competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-

provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this agreement shall not be affected.

23.2 If any invalid, unenforceable or illegal provision of this agreement would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable

24. Technical advice

24.1 If the Proper Officer determines that technical advice is required before any feature or structure included as part of the Works or that is under or over the Road can be approved, the Developer shall reimburse to the Council, within 28 Working Days following receipt of an invoice, all costs incurred by the Council in obtaining such technical advice.

25. Assignment

25.1 The Developer shall not be permitted to assign any of his liabilities under this Agreement to any third parties without the prior consent of the Council

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

THE COMMON SEAL of)

LINCOLNSHIRE COUNTY COUNCIL)

was hereunto affixed in the)

presence of:-)

Authorised Officer

Evan Gibson

No. in Seal Register 024151
Book

THE COMMON SEAL OF)

HAYCROFT HOMES LIMITED)

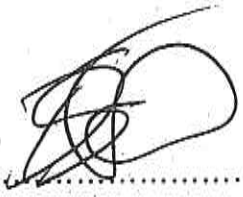
was hereunto affixed in the)

presence of:-)

Name

(Block Capitals) PETER ROBERT PITT
52 CLAUDIUS AVE
SPALDING.
PE11 1HU.

Signed as a deed by Debbie Sargent and Dawn Harris
as attorneys for
National House-Building Council under a
Power of Attorney dated 6th December 2016



CUSTOMER CONTACT MANAGER
CUSTOMER SERVICES

.....

As attorney for National House-Building Council



BUSINESS SUPPORT TEAM LEADER
CUSTOMER SERVICES

.....

As attorney for National House-Building Council

This is the Plan referred to in the Agreement dated 11 JUNE 2018 made between LINCOLNSHIRE COUNTY COUNCIL of the first part and HAYCROFT HOMES LIMITED of the second part and NATIONAL HOUSE BUILDING COUNCIL of the third part

Signed ..... for LINCOLNSHIRE COUNTY COUNCIL

Signed ..... for HAYCROFT HOMES LIMITED

Signed ..... for NATIONAL HOUSE BUILDING COUNCIL

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THE COMMON SEAL of LINCOLNSHIRE COUNTY COUNCIL was hereunto affixed in the presence of:

Authorised Officer

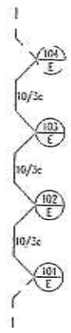


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Key:

No. in Seal
602415)
Book .....



Rev	Date	Remarks
G	20.02.18	Highways Comment Added.
F	30.01.18	Fence Adjacent To Road Removed.
E	19.01.18	Updated Following LCC Comments Dated 05/12/17 & 09/12/17.
D	15.11.17	Infiltration Channel/Bed Updated.
C	09.11.17	Updated For LCC Comments Dated 24/10/17.
B	07.10.17	Strategic Poles Added & Existing Manhole Sizes Updated.
A	21.08.17	Foul Water Layout, Infiltration Channel & Adoptable Area Updated.

Status: FOR INFORMATION

SIDEBOTTOM RICHARDSON CHENG LTD
CONSULTING STRUCTURAL AND CIVIL ENGINEERS
15 High Street, Spalding, Lincs. PE11 1TB
Tel: 01775 712680
Fax: 01775 712635
Email: src@srcltd.com

Project: Proposed Residential Development off High Road Whaplode, Spalding, Lincs. For D Brown Builders

Title: Section 38 Proposed Drainage Layout

Date	July '17	Scale	1:250 @ A0, 1:500 @ A2
Drawn	MP	Checked	SRC
Design	SRC	File Name	26115-23

DRG No. 26115/23 — Rev G

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