

DATED 24<sup>th</sup> APRIL 2013

(1) **ROSSENDALE BOROUGH COUNCIL**

(2) **HARRON HOMES LIMITED**

-----  
**AGREEMENT**  
-----

under Section 106 Town and Country Planning Act 1990  
relating to land on the south side of New Line, Bacup, Lancashire  
(Planning reference 2012/0385)

Stuart Sugarman  
Director of Business  
The Business Centre,  
Futures Park,  
Bacup  
OL13 0BB

Ref CLB/Z12/001629

THIS AGREEMENT is made on the *24th* day of April 2013

**BETWEEN:**

(1) **ROSSENDALE BOROUGH COUNCIL** of The Business Centre, Futures Park, Bacup OL13 0BB ("the Council") and

(2) **HARRON HOMES LIMITED (Company Number 03012678)** whose registered office is at Colton House Temple Point, Bullerthorpe Lane, Leeds, West Yorkshire, LS15 9JL ("the Owner")

**BACKGROUND**

- (A) For the purposes of the 1990 Act, the Council is the local planning authority for the area within which the Site is located and the person who is entitled to enforce the obligations contained in this Agreement
- (B) The County Council is the Highway Authority for the area in which the Site is located
- (C) The Owner is the owner of the whole of the freehold Site registered at H. M. Land Registry with title absolute under title number LA417278 and with good leasehold title under title numbers LA425868 and LA662225 free from encumbrances which would prevent the Owner entering into this Agreement but subject to the charge dated 1<sup>st</sup> September 2011 in favour of Bank of Scotland PLC ("the Mortgagee").
- (D) The parties have agreed to enter into this Agreement with the intention that the obligations contained in this Agreement may be enforced by the Council against the Owner and its successors in title
- (E) The Owner has by application reference 2012/0385 ("the Planning Application") applied to the Council for permission to develop the Site in the manner and for the uses set out in the Planning Application and in the plans

- specifications and particulars deposited with the Council and forming part of the Planning Application more particularly set out in the Second Schedule ("the Development")
- (F) The Council has decided to grant planning permission for the Development in accordance with the Planning Application subject to the making of this Agreement without which planning permission for the Development would not have been granted.
- (G) The Owner agrees to pay the sum of £6500.00 to the Council in accordance with the Third Schedule together with the Council's reasonable legal fees in the sum of £750.00
- (H) The Mortgagee hereby consents to the terms of this Agreement and acknowledges that subject as herein provided the Site will be bound by restrictions and obligations contained in this Agreement, provided always that the Mortgagee shall not incur any liability for any breach of the Owner's obligations contained in this Agreement unless it shall become a mortgagee in possession of the Site

## **OPERATIVE PROVISIONS**

### **1. INTERPRETATION**

- 1.1 In this Agreement, the following words and expressions have the following meanings:

<b>"1990 Act"</b>	the Town and Country Planning Act 1990 as amended by Section 12 of the Planning and Compensation Act 1991
<b>"Planning Application"</b>	an application for full planning permission

	for the development of the Site made by the Owners carrying the reference 2012/0385
<b>“County Council”</b>	Lancashire County Council as highway authority
<b>“Commencement Date”</b>	the date on which the Development commences by the carrying out on the Site pursuant to the Permission of a material operation as specified in section 56(4) of the 1990 Act
<b>“Development”</b>	the development of the Site in accordance with the Permission and described in the Second Schedule
<b>“Highways Commuted Sum “</b>	a non-refundable financial contribution of £6500.00 to the Council to fund the Traffic Regulation Order to restrict parking and waiting of vehicles on highways in the vicinity of the Site and the relocation of the bus stop and provision of a bus shelter to the front of the Site by the County Council
<b>“Permission”</b>	the planning permission which may be granted in pursuance of the Planning Application
<b>“Plan”</b>	The plan attached to this Agreement

**“Site”**

the land known as land on the south side of New Line, Bacup Lancashire OL13 9RX described in the First Schedule and shown for the purposes of identification only edged red on the Plan

2. **NOW THIS DEED** is made in pursuance of Section 106 of the Town and Country Planning Act 1990 and is a planning obligation for the purposes of that section to the intent that it shall bind all interests in the Site into whosoever hands the same may come and the Owner and his successors in title and assigns and all persons claiming under or through them:-

- 2.1 The Owner covenants with the Council to comply with the obligations specified in the Third Schedule
- 2.2 The Council covenant to issue the Permission within 14 days of the date of this Agreement
- 2.3 It is agreed and declared as follows:-
- 2.4 The expressions "the Council" and "the Owner" shall include their successors in title and assigns
- 2.5 Words importing the singular number only shall include the plural number and vice versa and words importing any particular gender shall include masculine feminine and neuter genders
- 2.6 This Agreement is a local land charge and shall be registered as such
- 2.8 All notices served pursuant to this Agreement shall be in writing and shall be deemed duly served if delivered or sent by the recorded delivery service in the following manner:-

- 2.8.1 in the case of a notice to be served on the Council addressed to its Chief Executive at the above address
- 2.8.2 in the case of a notice to be served on the Owner to the Owner at the above address
- 2.9 If the Permission is not granted or if it is revoked or the Permission expires because it is not implemented this Agreement shall be annulled and of no effect and the Council shall immediately remove from its local register of local land charges any entry relating to this Agreement
- 2.10 Unless expressly stated nothing in this Agreement will create any rights pursuant to the Contracts (Rights of Third Parties) Act 1999 in favour of any person other than the parties hereto
3. Except as to matters of law and subject to the express provisions of this Agreement to the contrary any dispute or difference arising between the parties as to any of the provisions of this Agreement and/or their respective rights duties or obligations or as to any other matter or thing in any way arising out of or in connection with the subject matter of this Agreement shall forthwith be referred by the parties or any of them for determination by an independent person ("the Expert") to be agreed upon between the parties and failing such agreement within ten (10) Working Days of any party calling upon the other to agree to be appointed on the application of the parties or any of them by the President for the time being of The Royal Institution of Chartered Surveyors or any successor Institute ("the President")
- The Expert shall act as an expert and make his determination within twenty (20) Working Days from the date of his appointment such determination to be made in writing giving full reasons therefore and shall be binding upon the

parties

If the Expert shall die delay or become unwilling or incapable of acting or if for any reason the President shall in his absolute discretion think fit he may in writing discharge the Expert and appoint another in his place

It is hereby agreed and declared that:-

- (a) the Expert shall afford to the parties the opportunity to make representations in writing and consider any written representations made by or on behalf of the parties hereto which are received by him within ten (10) Working Days after the parties have been afforded such an opportunity and each party shall be entitled to receive a copy of any such written representations made by or on behalf of the other parties and within five (5) Working Days of such receipt to make written counter-representations
- (b) the Expert shall be entitled to call for such independent expert advice on such matters as he shall think fit
- (c) the Expert shall have an unfettered discretion to determine the reference to him
- (d) the fees and expenses of the Expert including the cost of his appointment shall be borne equally between the parties (and if any party shall pay the Expert's fees and expenses it shall be entitled to recover one half from the other) unless the Expert shall direct otherwise and he shall have power so to direct if he considers it reasonable to do so having had regard to the conduct of the parties during the course of the dispute in question

### **FIRST SCHEDULE**

All that plot of land shown edged red on the Plan annexed hereto which is situate on the south side of New Line/ Bacup Lancashire OL13 9RX including the properties known as 137 New Line Bacup and 139 New Line Bacup.

### **SECOND SCHEDULE**

The Development of the Site comprising of the erection of 30 houses.

### **THIRD SCHEDULE**

The Owner covenants with the Council as follows:

- (1) On the date of execution of this Agreement to pay to the Council the non-refundable Highways Commuted Sum of £6500.00 to fund a Traffic Regulation Order to restrict parking and waiting of vehicles on highways in the vicinity of the Site and the relocation of the bus stop and provision of a bus shelter to the front of the Site by the County Council
- (2) On the date of execution of this Agreement to pay the Council's reasonable legal fees in the sum of £750.00.

**IN WITNESS** whereof this document has been executed as a DEED by the respective parties hereto in the appropriate manner with the intention of such document being Delivered on the part of each of them a DEED on ( but not before ) the day and year first before written



THE COMMON SEAL of ROSSENDALE  
BOROUGH COUNCIL was hereunto  
affixed in the presence of:-

)  
)  
)



Authorised Signatory



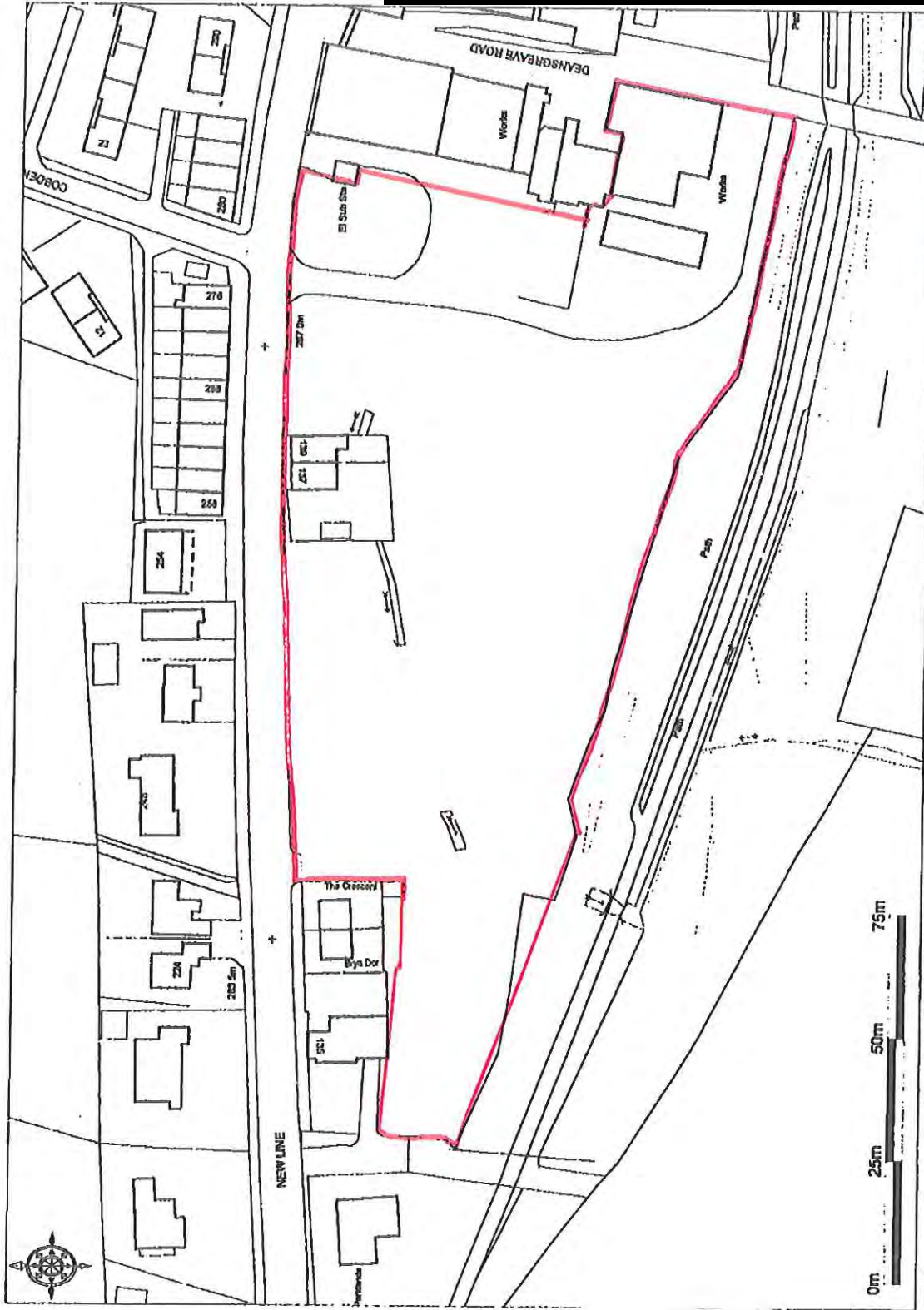
EXECUTED as a Deed by  
HARRON HOMES LIMITED  
acting by:-

Director

Director/Secretary



New Line, Bacup



Ordnance Survey © Crown Copyright 2012. All rights reserved. License number 10001049. Printed Scale - 1:1250

**Promap**

**Dacres**  
COMMERCIAL

The accuracy of this plan is not guaranteed and is expressly excluded from any contract.  
OS Licence No. 100013268