

DATED

5th May

2020

CHERWELL DISTRICT COUNCIL

-and-

OXFORDSHIRE COUNTY COUNCIL

-and-

JANET BROWNE, DEANA BARBOUR and ROBERT THOMAS ALEXANDER BROWNE

-and-

SCENIC LAND DEVELOPMENTS LIMITED

-and-

PEVERIL SECURITIES LIMITED

PLANNING OBLIGATION BY DEED OF AGREEMENT

under Section 106 of the Town and Country Planning Act 1990 (as amended)

**relating to Land North of Bicester Avenue Garden Centre, Oxford Road, Bicester
otherwise known as Bicester Office Park**

DLM/52095

*Nick Graham
Director of Law & Governance
Oxfordshire County Council
County Hall
New Road
Oxford OX1 1ND*

DATE

5th May

2020

PARTIES

- (1) **CHERWELL DISTRICT COUNCIL** of Bodicote House, Bodicote, Banbury, Oxfordshire OX15 4AA ("the District Council");
- (2) **OXFORDSHIRE COUNTY COUNCIL** whose principal office is at County Hall, New Road, Oxford OX1 1ND ("the County Council");
- (3) **JANET BROWNE, DEANA BARBOUR and ROBERT THOMAS ALEXANDER BROWNE** all of Oddington Grange, Weston-on-the-Green, Bicester Oxfordshire OX25 3QW (together "the First Owner");
- (4) **SCENIC LAND DEVELOPMENTS LIMITED** (Company Registration Number 06240511) whose registered office is situate at Oddington Grange, Weston-on-the-Green, Bicester Oxfordshire OX25 3QW ("the Second Owner"); and
- (5) **PEVERIL SECURITIES LIMITED** (Company Registration Number 00516739) whose registered office is at High Edge Court, Heage Belper, Derbyshire, DE56 2BW ("the Developer").

INTRODUCTION

1. The District Council is the local planning authority for the purposes of the Act for the area in which the Site is situated.
2. For the purposes of the Act the County Council is the county planning authority for the area which includes the Site and for the purposes of the Highways Act 1980, the Road Traffic Regulation Act 1984 and the Traffic Management Act 2004 the County Council is the highway authority and the traffic authority for certain highways in the area which includes the Site.
3. The First Owner is the freehold owner of that part of the Site falling within title number ON123348 subject to a conditional contract for sale dated 2 August 2017 in favour of the Developer but otherwise free from incumbrances as the First Owner hereby warrants.
4. The Second Owner is the freehold owner of that part of the Site falling within title number ON233809 which is also subject to the conditional contract for sale in favour of

the Developer but otherwise free from incumbrances as the Second Owner hereby warrants.

5. The Second Owner has submitted the Application to the District Council and the District Council has resolved to grant planning permission for the Development subject to the prior completion of this Deed which is required to mitigate the impact of the Development.

NOW THIS DEED WITNESSES AS FOLLOWS

OPERATIVE PART

1. DEFINITIONS

For the purposes of this Deed the following expressions shall have the following meanings:

“Act”	the Town and Country Planning Act 1990 (as amended)
“Application”	the application for outline planning permission submitted by the Second Owner to the District Council for the Development and allocated reference number 17/02534/OUT
“Development”	the development of the Site by the construction of a business park of up to 60,000 sq.m (GEA) of flexible Class B1(a) office / Class B1(b) research & development floorspace; associated vehicle parking, landscaping, highways, infrastructure and earthworks as referred to in the Application
“Implementation”	the carrying out of any material operation (as defined in Section 56(4) of the Act) pursuant to the Planning Permission or a Section 73 Permission other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or

other adverse ground conditions, diversion and laying of services, landscaping works, the erection of any temporary means of enclosure, provision of site access and temporary internal roads, the temporary display of site notices or advertisements. the construction of a marketing/ management facility relating to the Development and for which planning permission has been granted to a maximum floorspace of 500 square metres or as otherwise approved by the District Council and "Implement" "Implemented" and "Implementing" shall be construed accordingly

"Interest" interest at 4% per annum above the base lending rate of Lloyds Bank plc from time to time

"Occupation" and "Occupied" occupation for the purposes permitted by the Planning Permission or a Section 73 Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and "Occupy" and "Occupied" shall be construed accordingly

"the Original Agreement" an agreement dated 26 October 2010 made between R S Browne, J Browne and J D Cox (1) and the County Council (2) pursuant to Section 106 of the Act as amended by supplemental agreements dated 12 November 2013 between R S Browne, J Browne and J D Cox (1) Tesco Stores Limited (2) the Second Owner (3) the District Council (4) and the County Council (5) and 22 November 2017 between the First Owner (1) and the County Council (2)

"the Original Permission" the outline planning permission issued by the District Council on 26 October 2010 and given reference 07/01106/OUT

“the Owner”	the First Owner together with the Second Owner
“Plan”	the plan numbered 1105_P_004 Rev C attached to this Deed
“Planning Permission”	the outline planning permission subject to conditions to be granted by the District Council pursuant to the Application as may from time to time be amended by the approval of a non-material amendment pursuant to Section 96A of the Act
“Reserved Matters Approval”	an approval of matters reserved by the Planning Permission or a subsequent Section 73 Permission for the whole or part of the Development
“Section 73 Permission”	a planning permission which may be granted by way of approval of an application under Section 73 of the Act permitting the Development subject to conditions which differ from the conditions of the Planning Permission as may from time to time be amended by the approval of a non-material amendment pursuant to Section 96A of the Act
“the Site”	the land against which this Deed may be enforced as shown edged red and edged blue on the Plan and as set out in the First Schedule

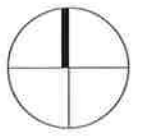
2. CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeably in that manner.
- 2.4 Wherever there is more than one person named as a party and/or where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.
- 2.5 "Including" means including without limitation or prejudice to the generality of any preceding description defined term phrase or word(s) and "include" shall be construed accordingly.
- 2.6 Words denoting an obligation on a party to do any act or matter or thing include an obligation to procure that it is done and words placing a party under a restriction include an obligation not to cause permit or allow infringement of that restriction.
- 2.7 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.8 Reference to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party and in the case of the District Council and the County Council the successors to their respective statutory functions and any duly appointed employee or agent of the District Council and the County Council or such successor.

3. LEGAL BASIS

- 3.1 This Deed (which the County Council is satisfied will be of benefit to the public) is made pursuant to Section 106 of the Act, Section 278 of the Highways Act 1980, Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers.
- 3.2 To the extent that the covenants, restrictions and requirements imposed upon the Owner under this Deed fall within the terms of Section 106 of the Act such covenants, restrictions and requirements are planning obligations pursuant to Section 106 of the Act which bind the Site and are, subject to the exceptions set out in this Agreement, enforceable by the District Council and the County Council as the case may be as planning authorities against the Owner in respect of the Site.



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Revisions	By	Chk
A 170815 First Issue	DW	LS
B 190611 Boundaries amended	JS	RB
C 190619 Boundaries amended	JS	GP

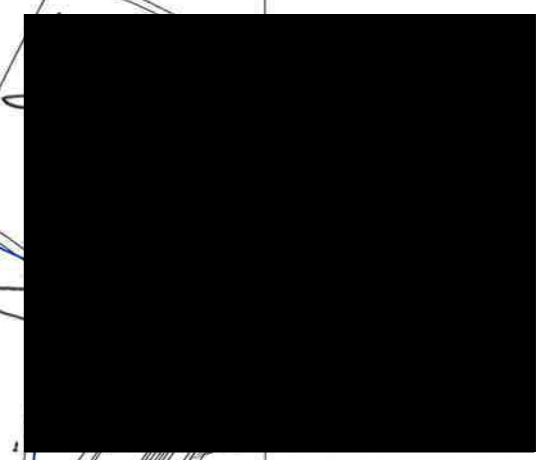
Notes

- Land within planning application boundary
- For landscaping and ecological measures

Site application area: 13.1 Hectares



Chief Legal Officer/Designated Officer



BENNETTS ASSOCIATES

1 Rawlstone Place, London EC1V 7NL
T +44(0)207 5203300 • www.bennettsassociates.com
E mail@bennettsassociates.com

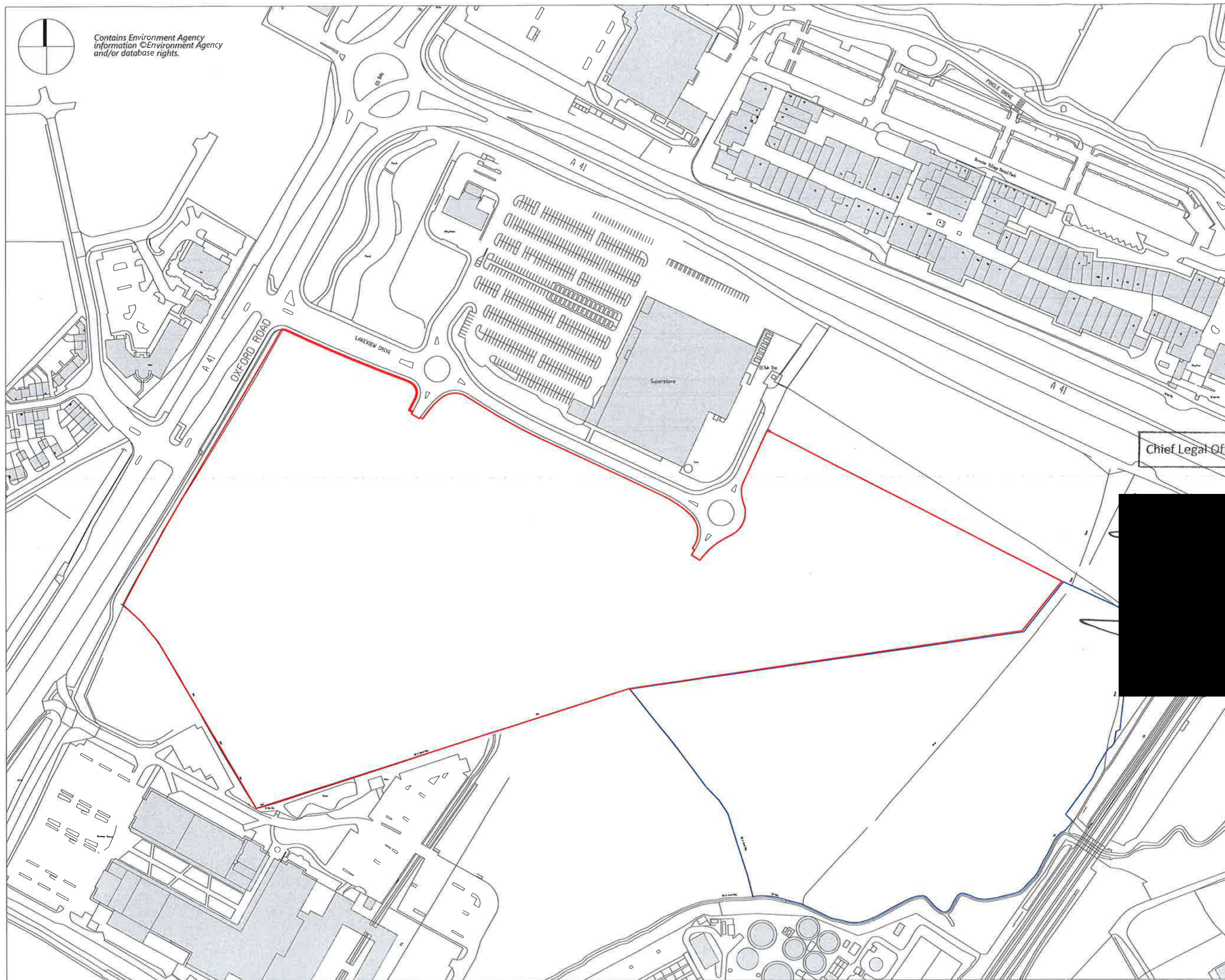
Project No. 1105
Bicester Office Park
Scienc Land Developments Limited

Drawing Title
Planning Application Boundary

Drawing Number
1105_P_004

Revision/Suitability
C

Scale @ A3 1 : 2500
Scale @ A1 1 : 1250
Revision Date 190619
YY MM DD



- 3.3 To the extent that any of the covenants restrictions and requirements contained in this Deed are not planning obligations within the terms of Section 106 of the Act they are entered into pursuant to Section 111 Local Government Act 1972, Section 1 Localism Act 2011 and all other enabling powers.

4. CONDITIONALITY

- 4.1 This Deed is conditional upon:

- (i) the grant of the Planning Permission; and
- (ii) Implementation

save for the provisions of Clauses 8, 9, 10, 11, 14, 15 and 16 (miscellaneous, waiver, no fetter, notifications, jurisdiction, delivery and data protection) which shall come into effect immediately upon completion of this Deed and paragraphs 1.1, 1.2, 1.4, 1.5 and 1.6 of the Second Schedule and paragraphs 1.1, 1.2 and 1.10 of the Third Schedule which shall come into effect upon the grant of the Planning Permission.

5. OWNER'S COVENANTS

- 5.1 The Owner covenants with the District Council as set out in the Second Schedule.
- 5.2 The Owner covenants with the County Council as set out in the Third Schedule.

Non-implementation of Original Permission and Revocation of Original Agreement

- 5.3 The Owner covenants with the County Council with effect from the date of Implementation of the Development not to Implement or carry out any part of the development permitted by the Original Permission and the parties agree that upon the Implementation of the Development the Original Agreement shall be immediately revoked save in so far as it has already been complied with.

6. DISTRICT COUNCIL'S COVENANTS

The District Council covenants with the Owner as set out in the Fourth Schedule.

7. COUNTY COUNCIL'S COVENANTS

The County Council covenants with the Owner as set out in the Fifth Schedule.

8. MISCELLANEOUS

- 8.1 The Owner will:
- 8.1.1 on completion of this Deed pay to the District Council and the County Council their respective reasonable legal costs incurred in the negotiation, preparation and execution of this Deed;
 - 8.1.2 on completion of this Deed pay to the County Council the sum of Ten Thousand One Hundred and Thirty Pounds (£10,130) as a contribution towards the cost of monitoring and administration of this Deed;
 - 8.1.3 on completion of this Deed pay to the District Council the sum of One Thousand Pounds (£1,000) as a contribution towards the cost of monitoring and administration of this Deed;
 - 8.1.4 reimburse the District Council and the County Council in respect of all legal and administrative costs reasonably and properly incurred in connection with the enforcement of any of the provisions in this Deed should the need for enforcement arise in the reasonable opinion of the District Council or the County Council.
- 8.2 No provisions of this Deed shall be enforceable under the Contracts (Right of Third Parties) Act 1999 (other than by the parties and their successors in title and assigns and any successor to the District Council's or the County Council's functions).
- 8.3 This Deed shall be registrable as a local land charge by the District Council.
- 8.4 Where the agreement, approval, consent or expression of satisfaction of any party is required under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed.
- 8.5 Any notice required to be given under this Deed shall be in writing and shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party, or as specified by notice in writing to the other parties and shall be deemed to be delivered the second working day after posting and any notice or notification to be given under this Deed to the County Council shall be sent to the Director for Planning & Place of the County Council (Reference 17/02534/OUT) at County Hall, New Road, Oxford OX1 1ND or to such other person at such other address as the County Council shall direct from time to time and to the District Council shall be sent to the Assistant Director – Planning and

Development at Bodicote House, Bodicote, Banbury, Oxfordshire OX15 4AA or to such other person at such other address as the District Council shall direct from time to time.

- 8.6 Following the performance and satisfaction of all the obligations contained in this Deed the District Council shall note this in the Register of Local Land Charges in respect of this Deed.
- 8.7 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed and insofar as reasonably practicable the parties shall amend that clause or clauses in such reasonable manner as achieves the intention of the parties without illegality.
- 8.8 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission and all Section 73 Permissions shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) they are modified by any statutory procedure or expire prior to Implementation PROVIDED ALWAYS that the Planning Permission and any Section 73 Permissions have not been Implemented.
- 8.9 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site or in the part of the Site in respect of which the breach was committed but without prejudice to liability for any subsisting breach arising prior to parting with such interest PROVIDED THAT it is agreed that the obligations in paragraphs 1 and 2 of the Third Schedule (financial contributions and highway works) and paragraph 1 of the Second Schedule (apprenticeships) shall bind each and every part of the Site and the obligations in paragraph 2 of the Second Schedule (biodiversity) shall bind each and every part of the Blue Land.
- 8.10 This Deed shall not be enforceable against any public utility company or statutory undertaker having an interest in the Site for the sole purpose of providing utility services to the Site.
- 8.11 No owner (including an owner of a leasehold interest) or occupier of a single unit which has a Floorspace of less than 5,000 square metres (and no other property) within the Development (or any mortgagee or chargee of such a person) shall be liable for performance of or for any breach of the covenants contained in this Deed PROVIDED THAT this shall not apply to any provisions placing a restriction on the occupation of units forming part of the Development..

No owner of a leasehold interest in, or occupier of, a single unit which has a Floorspace of 5,000 square metres or more within the Development (or any mortgagee or chargee of such a person) shall be liable for performance of or for any breach of the covenants contained in this Deed where such leasehold or occupational interest is for a maximum aggregate term (including any renewals extensions or further leases tenancies or licences) of less than 25 years PROVIDED THAT this shall not apply to any provisions placing a restriction on the occupation of units forming part of the Development.

- 8.12 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission other than the Planning Permission or a Section 73 Permission granted (whether or not on appeal) after the date of this Deed.

9. WAIVER

No waiver (whether expressed or implied) by the District Council or the County Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the District Council or the County Council from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

10. NO FETTER

Nothing in this Deed shall prejudice or affect the rights powers duties and obligations of the District Council or the County Council in the exercise of their respective functions in any capacity.

11. NOTIFICATIONS

- 11.1 The Owner agrees with the District Council and the County Council:

11.1.1 to give the District Council and separately the County Council written notice within ten (10) working days of any change in ownership of any interest in the Site and any lease of the whole or part of the Site or a unit or units on the Site occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's/lessee's full name and registered office if a company or usual address if not together with the area of the Site or unit of occupation purchased/leased by reference to a plan PROVIDED THAT this obligation does not apply to any disposal of any part or parts of the Site to any public utility company or statutory undertaker for the sole purpose of providing utility services to the Site

11.1.2 to notify the District Council and separately the County Council in writing within ten (10) working days of the occurrence of each of the following events and to specify in the notification the date on which it occurred:

11.1.2.1. Implementation;

11.1.2.2. the first Occupation of the first unit to be Occupied on the Development.

11.1.3 to notify the District Council and separately the County Council within fourteen (14) days of the each of the usual quarter days (25 March, 24 June, 29 September and 25 December) of the number of units on the Development which have been Occupied on that quarter day and their addresses/plot numbers together with a plan showing plot numbers.

12. INTEREST

If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.

13. VAT

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

14. JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and the parties submit to the exclusive jurisdiction of the courts of England.

15. DELIVERY

The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

16. DATA PROTECTION

The parties to this Deed acknowledge and agree that information as to compliance with obligations pursuant to this Deed (including as to whether or not contributions have

been paid) may be passed to any person when so required in order to comply with statutory requirements including the Freedom of Information Act 2000

17. CONSENT OF DEVELOPER

The Developer consents to the First Owner and the Second Owner entering into this Deed and acknowledges that the Site is bound by the obligations contained herein to the intent that its interest in such land shall take effect subject to this Deed but it is declared that it shall not be liable to comply with the obligations in this Deed unless it acquires a freehold or leasehold interest in such land or any part of it, or takes possession of such land or any part of it or undertakes any part of the Development on it.

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

FIRST SCHEDULE

THE SITE

Land north of Bicester Avenue Garden Centre, Oxford Road, Bicester, Oxfordshire otherwise known as Bicester Office Park, shown edged red and edged blue on the Plan; as to the land edged red, forming part of the title registered under Title Number ON123348 and the whole of the title registered under Title Number ON233809; as to the land edged blue, forming part of the title registered under Title Number ON123348.



SECOND SCHEDULE

COVENANTS WITH THE DISTRICT COUNCIL

Definitions

In this part of this Schedule the following additional definitions shall apply (for the avoidance of doubt any definition which does not appear below shall be given the meaning allocated to it in the main body of this Deed):

"the Blue Land" the land forming part of the Site shown edged blue on the Plan

"TEMP" a training and employment plan which shall (as a minimum) include the arrangements by which the Owner will provide an appropriate number of construction (and related trades) apprenticeship starts (with a minimum of 180 such apprenticeship starts or such other figure as shall be agreed at the time through the approval process pursuant to paragraph 1.1 of this Second Schedule) during the construction of the Development in accordance with the following:

- the apprenticeships may be delivered through an accredited Apprenticeship Training Agency or other equivalent approach
- all apprenticeship opportunities arising shall be initially advertised within the administrative area of the District Council and if there are no suitable applicants identified as a result of such advertisements the opportunities shall be advertised to people residing in Oxfordshire and then the surrounding locality (e.g. Milton Keynes, Aylesbury and Northamptonshire)
- how the Owner and its appointed contractor will work directly with local employment/training agencies including Job Centre Plus and Bicester Job Club or any

successor initiatives to identify employment opportunities related to the construction of the Development and skills and training to assist local people residing in Bicester and within 5 miles thereof to access job opportunities

- how the Owner will deliver local supply chain events to promote opportunities for companies local to Bicester and how such opportunities shall be advertised

1. The Owner covenants with the District Council as follows:

Construction Apprenticeships

- 1.1 not to cause or permit Implementation of the Development until a TEMP has been submitted to the District Council and it has been approved in writing by the District Council.
- 1.2 from the date of its written approval by the District Council to implement and fully comply with the TEMP as approved.
- 1.3 on each anniversary of the date of Implementation until the construction of the Development has been completed to submit to the District Council a report which demonstrates the progress made towards achieving the outputs identified in the TEMP including the provision of at least the minimum number of apprenticeships identified therein.

Biodiversity

- 1.4 Not to use the Blue Land or any part of it otherwise than for the purposes of nature conservation and for the promotion of biodiversity and for any use for outdoor recreation (including business park recreational uses) compatible with these uses which has previously been approved in writing by the District Council or in the event that planning permission is required which has been granted planning permission by the District Council PROVIDED THAT such use shall not include the erection of any buildings on the Blue Land save where planning permission has been granted by the District Council for the erection of such building (which for the avoidance of doubt shall not include any deemed planning permission granted by virtue of the Town & Country Planning (General Permitted Development) (England) Order 2015 or similar statutory instrument)

- 1.5 Not to convey or transfer the freehold of any part of the Blue Land separately from the remainder of the Blue Land.
- 1.6 Save where the proposed use has been approved by the District Council through the grant of planning permission and approval to the scheme of landscaping and ecological mitigation/enhancement measures (including long-term management plan) required under condition 25 of the Planning Permission or the corresponding condition on a Section 73 Permission, not to grant a tenancy or lease of or otherwise part with possession of any part of the Blue Land separately from the remainder of the Blue Land and FOR THE AVOIDANCE OF DOUBT the restriction in this paragraph 1.6 shall not apply where the grant of the tenancy or lease or other occupancy rights in any part of the Blue Land is for a use in accordance with such planning permission and landscaping and ecological mitigation/enhancement scheme.



THIRD SCHEDULE

COVENANTS WITH THE COUNTY COUNCIL – CONTRIBUTIONS AND WORKS

Definitions

In this Schedule the following additional definitions shall apply (for the avoidance of doubt any definition which does not appear below shall be given the meaning allocated to it in the main body of this Deed):

"Baxter Index"	means a composite index comprised of the following indices of the BCIS Price Adjustment Formulae (Civil Engineering) 1990 Series as made available through the Building Cost Information Service (BCIS) of the Royal Institution of Chartered Surveyors weighted in the proportions below set out against each such index namely: Index 1 Labour & Supervision 25%; Index 2 Plant & Road Vehicles 25%; Index 3 Aggregates 30%; Index 9 Coated Macadam & Bituminous Products 20% or if at any time or for any reason it becomes impracticable to use this Index such alternative Index as may be agreed between the Owner and the County Council
"Floorspace"	the amount of floorspace (gross external area or GEA) permitted by a Reserved Matters Approval measured in square metres
"Index Linked"	in relation to the Public Transport Contribution and the Travel Plan Monitoring Fee adjusted according to any change occurring between October 2018 and the date of payment in the All Items Retail Prices Index excluding mortgage interest payments (RPIX) published by the Office for National Statistics and in relation to the Public Transport Infrastructure Contribution and the Strategic Highway Infrastructure Contribution adjusted according to any change

"Notification (Reserved Matters)"	<p>occurring between October 2018 and the date of payment in the Baxter Index</p> <p>written notification of each Reserved Matters Approval containing a copy of that approval and details of the gross external area of the Floorspace within the Development permitted by that approval</p>
"Public Transport Contribution"	<p>the sum of £364,000 Index Linked towards the improvement of bus services serving the Site payable in eight equal instalments of £45,500 each Index Linked</p>
"Public Transport Infrastructure Contribution"	<p>the sum of £1,000 Index Linked towards bus stop infrastructure on Lakeview Drive</p>
"Section 278 Agreement"	<p>an agreement under Section 278 of the 1980 Act substantially in the form of the draft agreement annexed to this Deed (subject to any additions and amendments that the circumstances may reasonably and properly require) which provides for the execution of the Works by the Owner at the Owner's expense</p>
"Strategic Highway Infrastructure Contribution"	<p>the sum of £1,825,700 Index Linked towards the provision of the western section of the proposed Bicester south east perimeter road or if that does not proceed as expected an alternative scheme or schemes which are expected to deliver similar or greater mitigation of the potential transport impacts of cumulative development at the Site and elsewhere at Bicester (such development being identified in the Cherwell Local Plan 2011-2031) payable in one or more instalments in accordance with paragraph 1.4 of this Third Schedule</p>
"Strategic Highway Infrastructure Instalment"	<p>the sum representing an instalment of the Strategic Highway Infrastructure Contribution calculated as follows:</p> <p>A x £40.57 Index Linked</p>

Where A = the amount of Floorspace (gross external area or GEA) permitted by a Reserved Matters Approval in square metres

PROVIDED THAT when the cumulative total of Floorspace permitted by a Reserved Matters Approval taken together with all previous Reserved Matters Approvals would exceed 45,000 square metres then the instalment payable in connection with that Reserved Matters Approval shall be the final instalment and shall be calculated as follows:

$B = \text{£}1,825,700 - C \text{ Index Linked}$

Where B is the amount of the final instalment and C is the cumulative total of all previous instalments due to the County Council

"Travel Plan Monitoring Fee"

the sum of £2,100 Index Linked towards the monitoring of the travel plan(s) associated with the Development

"Works"

the following principal works together with the preparatory and ancillary works and the amenity and accommodation works set out in paragraphs (2) and (3) of the Schedule to the draft agreement (Section 278 Agreement) annexed to this Deed:

the provision and construction in the positions indicated in principle on the Works Plan(s) (as defined in the Section 278 Agreement) (indicative drawings 170211 04 170211 07 Rev B and 170211 08 Rev A by Motion attached but in-principle drawings to be supplied to and approved by the County Council) of the following works:

- (a) Improvements (to include 3 metre widening) of the section of the shared footway/cycleway along the eastern side of the A41/Oxford Road between Lakeview Drive junction and the pedestrian crossing leading to Pioneer Way

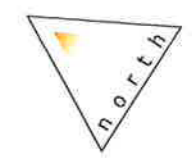
- (b) Improvement of the Middleton Stoney Road/Oxford Road/Kings End mini-roundabout to widen the Kings End arm of the roundabout and accommodate an additional approach lane
- (c) Works on the A41 Oxford Road:
 - a. provision of an additional right turn filter lane to flare after a minimum distance of 30m on the northeast-bound approach to the traffic signals at the A41 junction with Lakeview Drive, with associated kerbing, relocation of splitter island and traffic signals equipment
 - b. provision of a three-lane exit south west bound carriageway to tie into the three-lane approach carriageway of the A41 junction with Lakeview Drive, with associated kerbing and traffic signals equipment
 - c. adjustment of splitter/refuge island to accommodate an additional lane into Lakeview Drive from the A41 north east bound right turn lane
 - d. adjustments to traffic signals timing and phasing and commissioning of adjusted traffic signals

Owner's Covenants

1. The Owner covenants with the County Council as follows:

Contributions

- 1.1 To give to the County Council a Notification (Reserved Matters) within fourteen (14) days of the issue of each Reserved Matters Approval.
- 1.2 Not to cause or permit Implementation of the Development until a Notification (Reserved Matters) has been given to the County Council in respect of the first Reserved Matters Approval to be issued for the Development or part of the Development.



Legend

— Highway Boundary

Chief Legal Officer/Designated Officer



84 North Street
Guildford
Surrey
GU1 4AU

Cargo Works
1-2 Hatfields
London
SE1 9PG

T: 01483 531 300 T: 020 8065 5208

www.motion.co.uk

Project:
Bicester Office Park

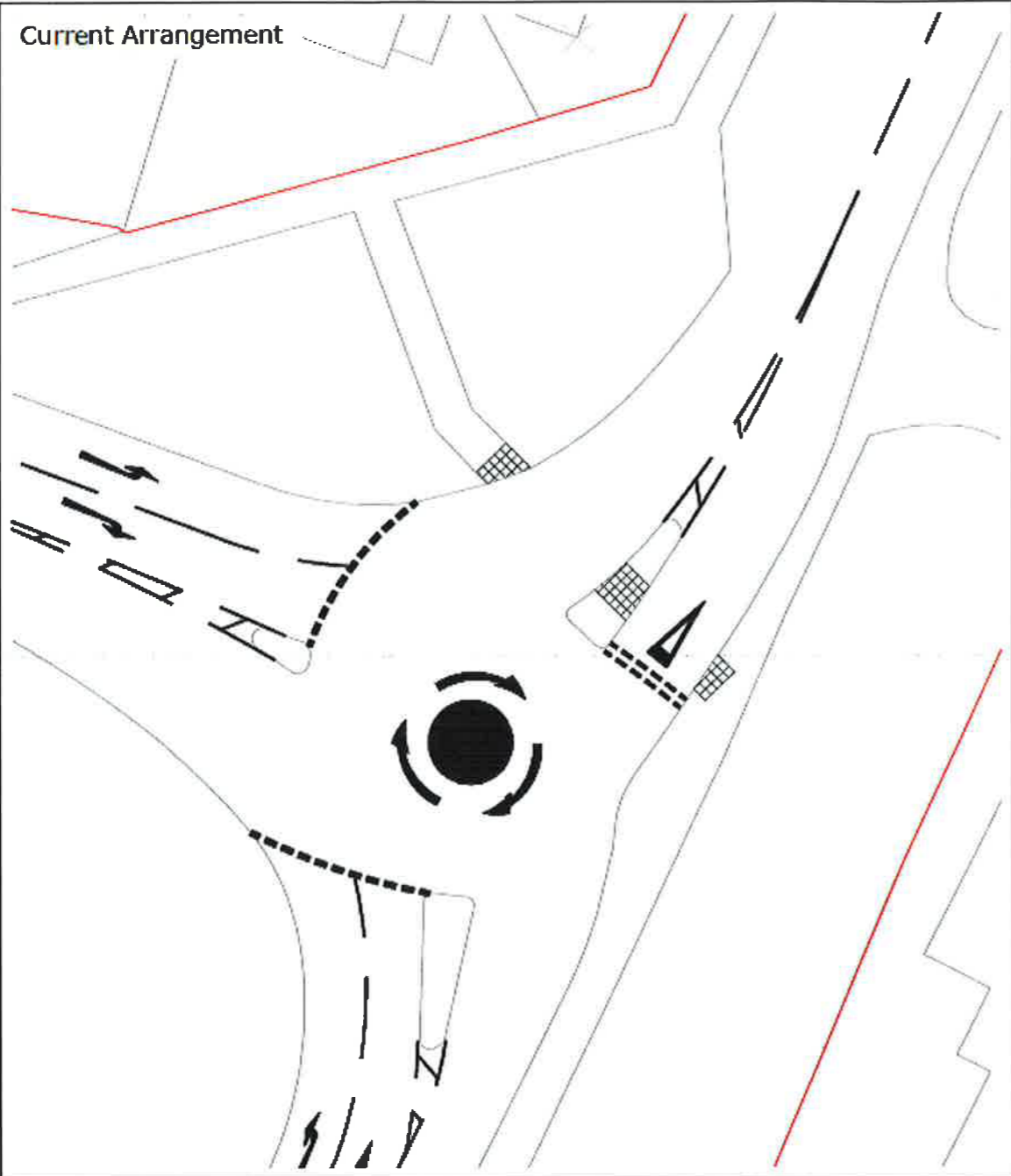
Title:
Proposed Highway Arrangement

Scale: 1:1000 (@ A3)

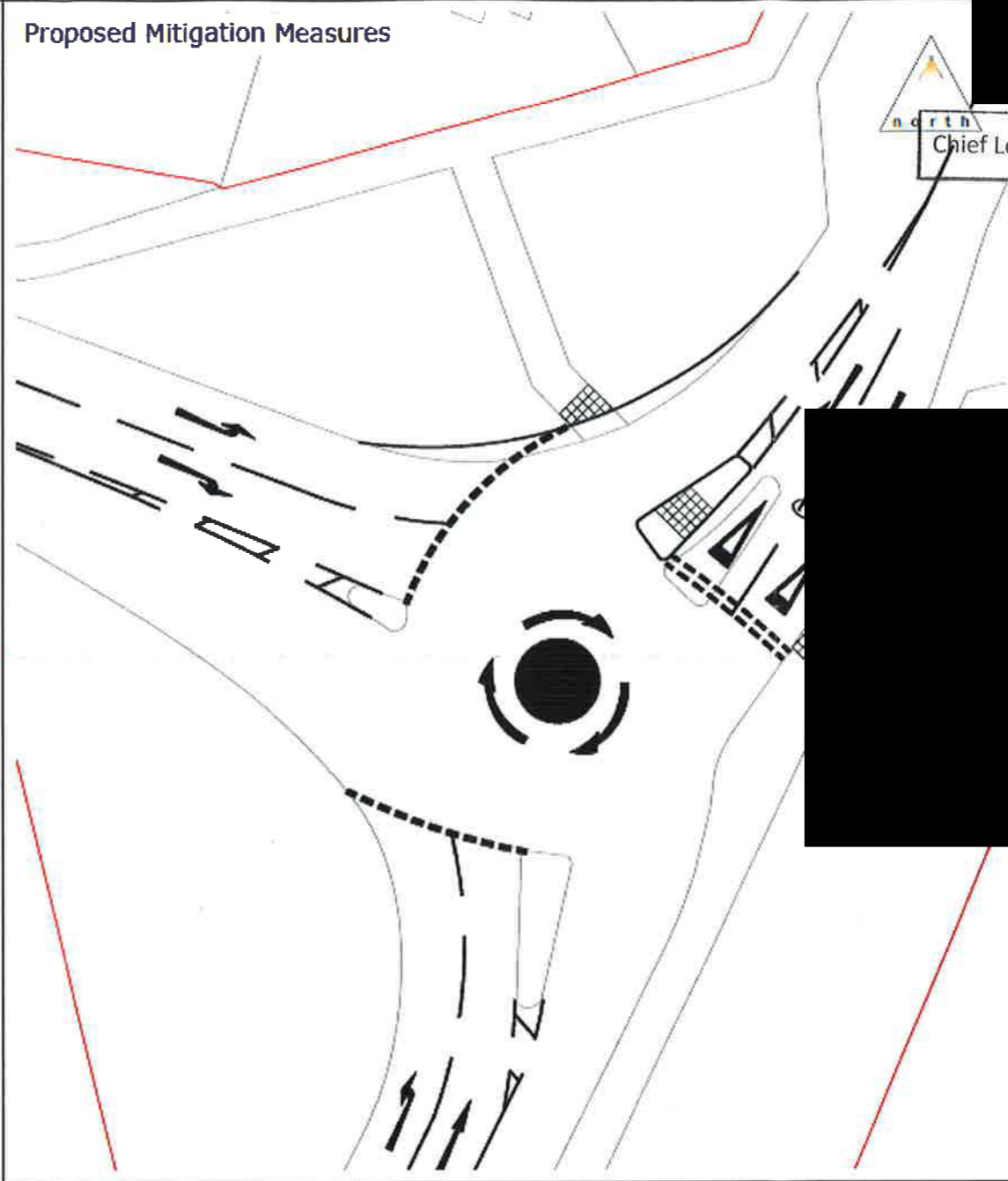
Drawing:
170211-07

Revision:
B

Current Arrangement



Proposed Mitigation Measures



Chief Legal Officer/Designated Officer

Legend:
 Highway Boundary



84 North Street
 Guildford
 Surrey
 GU1 4AU
 T: 01483 831 300

Gables Cross House
 8 Duncannon Street
 London
 WC8H 4DF
 T: 020 7031 8941

www.motion.co.uk

Project:
 Bicester Office Park

Title:
 Oxford Road/Middleton Stoney Mini Roundabout
 Mitigation Scheme

Scale: 1:250 (A3)

Notes:

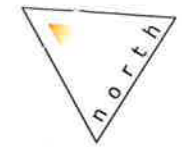
Drawing:
 170211-04

Revision:
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Legend

— Highway Boundary



Chief Legal Officer/Designated Officer



84 North Street
 Guildford
 Surrey
 GU1 4AU

Golden Cross House
 8 Duncannon Street
 London
 WC2N 4JF

T: 01483 531 300

T: 020 7031 8141

www.motion.co.uk

Project:
 Bicester Office Park

Title:
 Proposed Highway Arrangement

Scale: 1:500 (@ A3)

Drawing:
 170211-08

Revision:
 A

- 1.3 Not to cause or permit the Occupation of any unit forming part of the Development until it has paid the Public Transport Infrastructure Contribution and the Travel Plan Monitoring Fee to the County Council and to pay the Public Transport Infrastructure Contribution and the Travel Plan Monitoring Fee to the County Council prior to the first Occupation of the first unit to be Occupied on the Development.
- 1.4 Following the issue of a Reserved Matters Approval to pay the Strategic Highway Infrastructure Instalment applicable to that Reserved Matters Approval to the County Council within one month of the first Occupation of the first of the units permitted by that Reserved Matters Approval to be Occupied and not to cause or permit the Occupation of any further units permitted by that Reserved Matters Approval until the relevant Strategic Highway Infrastructure Instalment has been paid to the County Council PROVIDED THAT in the event that a Reserved Matters Approval is granted for the whole of the Floorspace permitted by the Planning Permission (or a Section 73 Permission if applicable) or for the first 45,000 square metres or more of such Floorspace then there shall be one Strategic Highway Infrastructure Instalment payable for the total amount of the Strategic Highway Infrastructure Contribution.
- 1.5 To pay the first instalment of the Public Transport Contribution to the County Council prior to the first Occupation of the first unit to be Occupied on the Development if that unit has a Floorspace of 5,000 square metres or more or if it does not prior to the first Occupation of the next unit to be Occupied which taken together with previous units has a Floorspace of 5,000 square metres or more and not to cause or permit the Occupation of the relevant unit which brings the total Floorspace to be Occupied to 5,000 square metres or more until the first instalment of the Public Transport Contribution has been paid to the County Council.
- 1.6 To pay the second and third instalments of the Public Transport Contribution to the County Council upon the first and second anniversaries respectively of the date upon which the first instalment was due and not to cause or permit the Occupation of any further units on the Development following the relevant anniversary until the relevant instalment of the Public Transport Contribution has been paid to the County Council.
- 1.7 To pay the fourth fifth and sixth instalments of the Public Transport Contribution to the County Council prior to the later of:
 - 1.7.1 first Occupation of the first unit to be Occupied on the Development if that unit has a Floorspace of 10,000 square metres or more or if it does not prior to the first Occupation of the next unit to be Occupied which taken together with previous units has a Floorspace of 10,000 square metres or more; and

1.7.2 respectively the third fourth and fifth anniversaries of the date upon which the first instalment of the Public Transport Contribution was due;

and not to cause or permit the Occupation of the relevant unit or any subsequent units until the relevant instalment of the Public Transport Contribution has been paid to the County Council.

1.8 To pay the seventh and eighth instalments of the Public Transport Contribution to the County Council prior to the later of:

1.8.1 first Occupation of the first unit to be Occupied on the Development if that unit has a Floorspace of 15,000 square metres or more or if it does not prior to the first Occupation of the next unit to be Occupied which taken together with previous units has a Floorspace of 15,000 square metres or more; and

1.8.2 respectively the sixth and seventh anniversaries of the date upon which the first instalment of the Public Transport Contribution was due;

and not to cause or permit the Occupation of the relevant unit or any subsequent units until the relevant instalment of the Public Transport Contribution has been paid to the County Council.

1.9 To permit the County Council and persons authorised by the County Council on reasonable notice to enter the Site and/or Lakeview Drive as applicable to install a bus stop on Lakeview Drive in the vicinity of the roundabout.

Works

1.10 Not to cause or permit Implementation of the Development until:

1.10.1 there has been submitted to the County Council and approved in writing by it in principle drawings of the Works, duration of construction, commuted maintenance sum in respect of costs of future maintenance of the Works and a Dedication Plan (as defined in the Section 278 Agreement);

1.10.2 title to the land to be dedicated (as shown on the Dedication Plan) has been deduced to the satisfaction of the County Council; and

1.10.3 a Section 278 Agreement incorporating such matters has been entered into by the Owner and all parties with an interest in the land to be dedicated and any mortgagee has released the land to be dedicated further to such agreement from the charge.

- 1.11 Not to cause or permit any unit forming part of the Development to be brought into use before the works described in paragraphs (a) and (c) of the definition of the Works have been completed pursuant to and in accordance with the Section 278 Agreement.

- 1.12 Not to cause or permit the Occupation of any new unit to take place where that unit would take the total occupied Floorspace of the Development on the Site above 25,000 square metres before the works described in paragraph (b) of the definition of the Works have been completed pursuant to and in accordance with the Section 278 Agreement and have been made available for public use.



FOURTH SCHEDULE

DISTRICT COUNCIL'S COVENANTS

Discharge of Obligations

1. At the written request of the Owner, the District Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed.

FIFTH SCHEDULE

COUNTY COUNCIL'S COVENANTS

1. **Application of Monies Received**

The County Council shall not apply any of the contributions described in the Third Schedule for any purpose other than as set out in the definitions of those contributions.

2. **Repayment**

Following written request from the person who paid the relevant contribution the County Council will repay to that person the balance (if any) of such contribution which at the date of receipt of such written request has not been expended together with interest which has accrued on the balance after deduction of tax where required and any other sum required to be deducted by law provided always that no such request shall be made prior to the expiry of 10 years from the due date for payment or the date of receipt by the County Council (whichever is the later) of (the last instalment of) such contribution and provided also for the avoidance of doubt the travel plan monitoring fee shall not be a contribution for the purposes of this paragraph. Any contribution or part of a contribution which the County Council has contracted to expend prior to the date of receipt of such request shall be deemed to have been expended by the County Council prior to that date.

3. **Discharge of Obligations**

At the written request of the Owner, the County Council shall provide written confirmation of the discharge of the obligations contained in the Third Schedule to this Deed when satisfied that such obligations have been performed.

THE COMMON SEAL of
CHERWELL DISTRICT COUNCIL
was affixed in the presence of:-

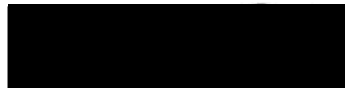


Authorised Signatory:



CDC/20272

THE COMMON SEAL of
OXFORDSHIRE COUNTY COUNCIL
was affixed in the presence of:-

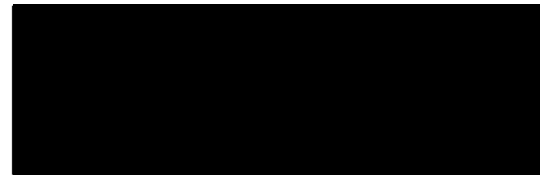


Director of Law and Governance/Designated Officer:

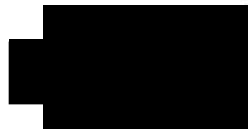


29/20

EXECUTED AS A DEED by
JANET BROWNE
in the presence of



Witness Signature:



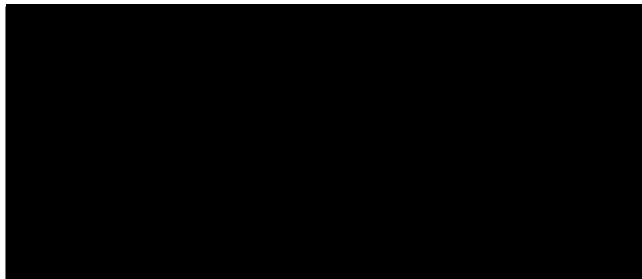
Witness Name:

JOANNE BUTLER

Witness Address:

3 MILL CLOSE
CHARLTON ON OTMOOR
OXON
OX5 2UE

EXECUTED AS A DEED by
DEANA BARBOUR
in the presence of



Witness Signature:

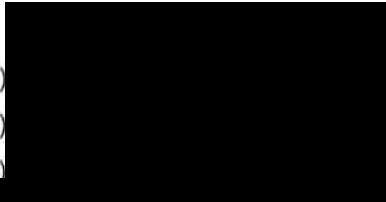
Witness Name:

JOANNE BUTLER

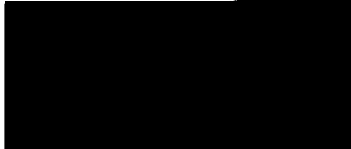
Witness Address:

3 MILL CLOSE
CHARLTON ON OTMOOR
OXON
OX5 2UE

EXECUTED AS A DEED by
ROBERT THOMAS ALEXANDER BROWNE
in the presence of



Witness Signature:



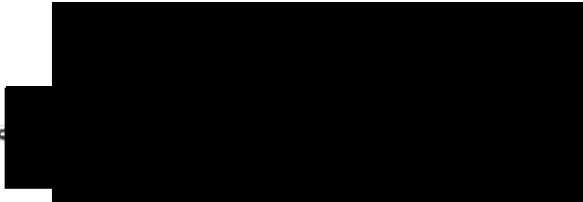
Witness Name:

JOANNE BUTLER

Witness Address:

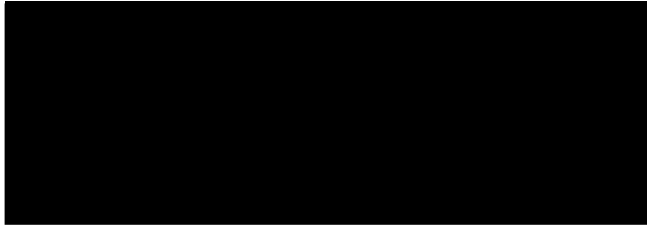
3 MILL CLOSE
CHARLTON ON OTMOOR
OXON
OX5 2UE

EXECUTED AS A DEED by
SCENIC LAND DEVELOPMENTS LIMITED
acting by two directors or one
director and the secretary



Director:

Director/Secretary:



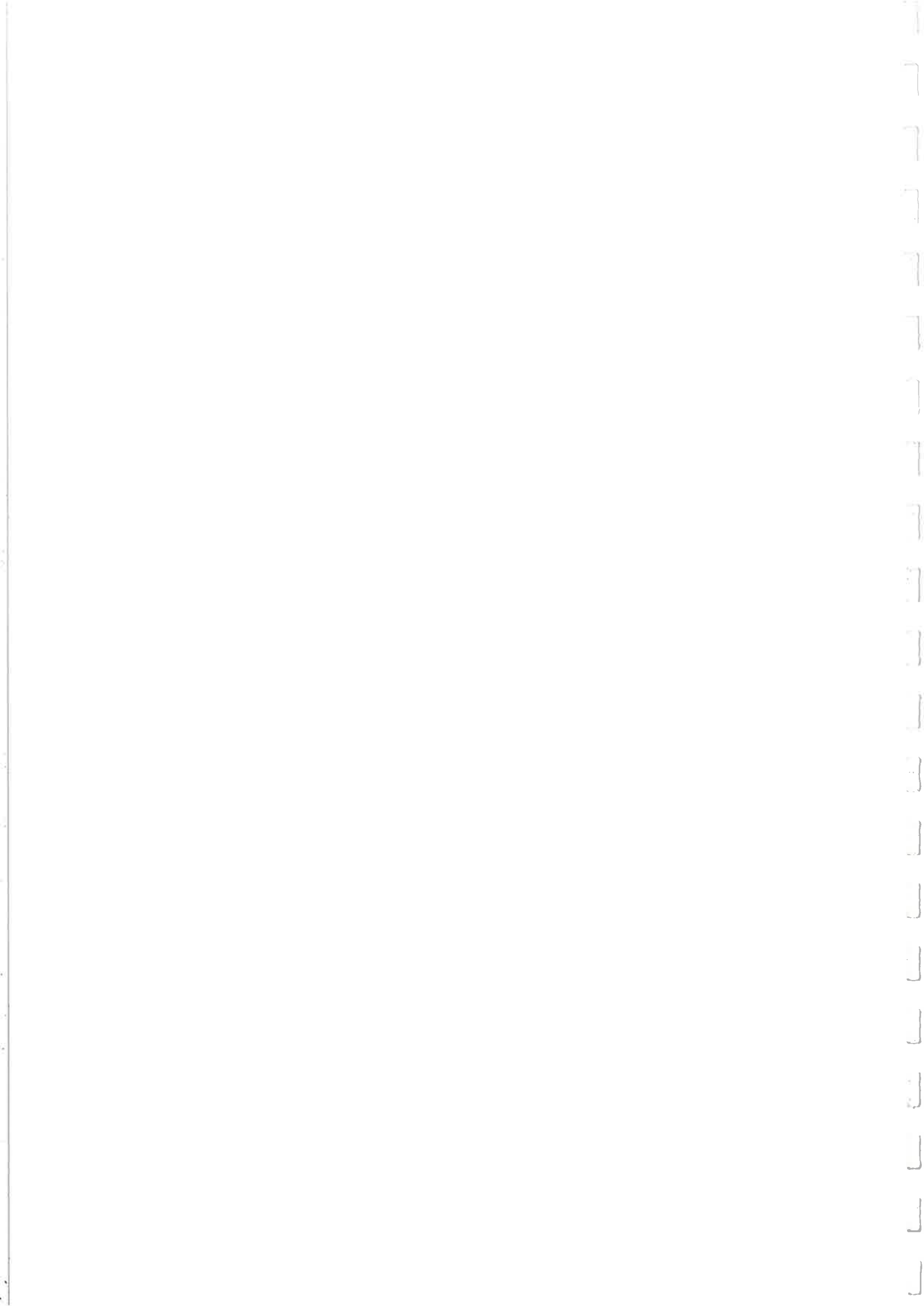
EXECUTED AS A DEED by
PEVERIL SECURITIES LIMITED
acting by two directors or one
director and the secretary

)
)
)
)

Director:

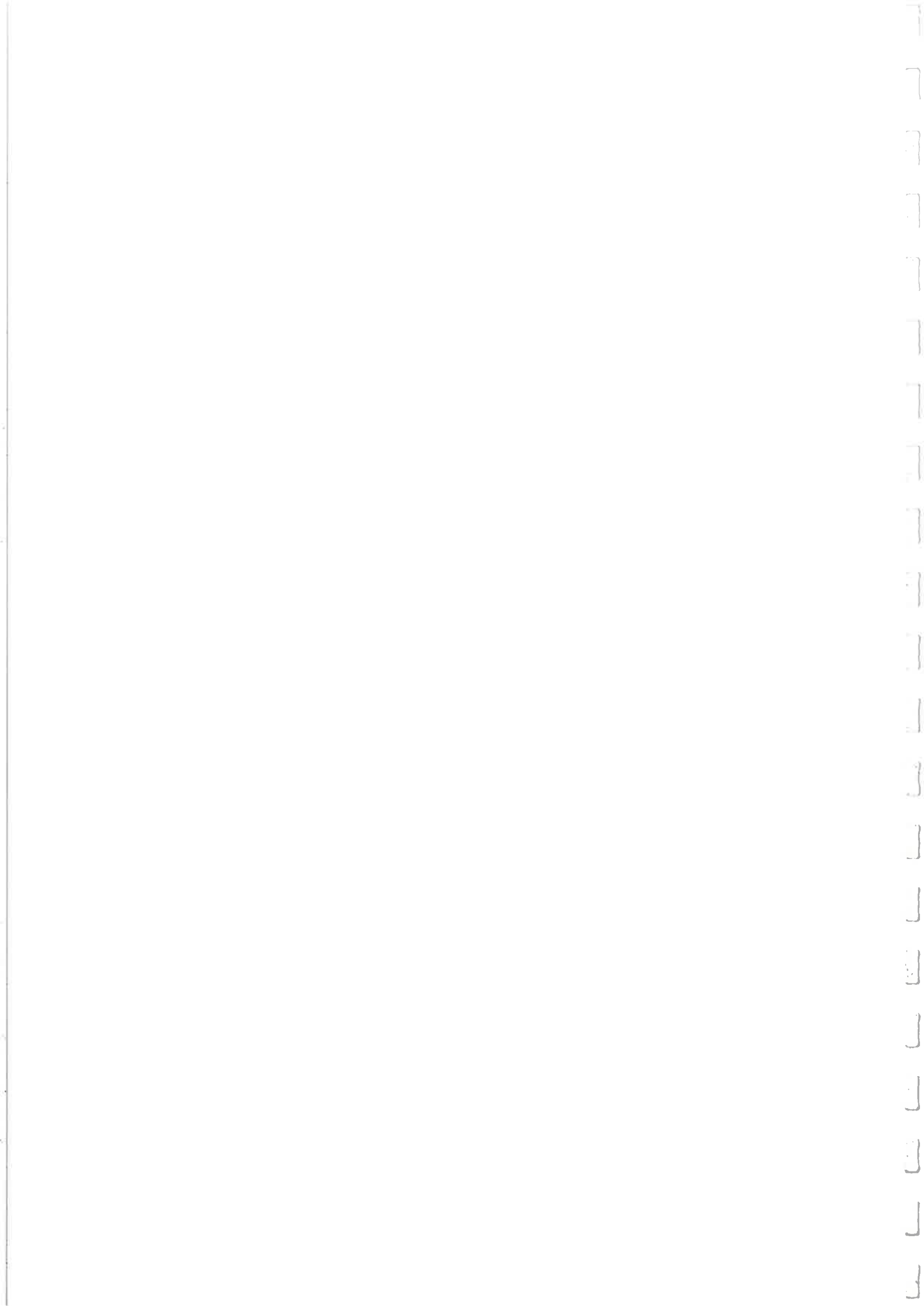


Director/Secretary:



ANNEX

**SECTION 278 AGREEMENT TEMPLATE
INCLUDING STANDARD CONDITIONS**



DATED

201[]

THE OXFORDSHIRE COUNTY COUNCIL

- and -

(OWNER)

-and-

(MORTGAGEE)

draft

Agreement relating to highway works at [] Oxfordshire
to be undertaken by Developer

DLM/

Nick Graham
Director of Law & Governance and Monitoring Officer
Oxfordshire County Council
County Hall
New Road
Oxford OX1 1ND

THIS DEED is made on the _____ day of

Two Thousand and [_____]

BETWEEN:-

- (1) **THE OXFORDSHIRE COUNTY COUNCIL** ("the Council")
- (2) _____ (company registration
number _____) ("the Owner")
- (3) _____ (company registration
number _____) ("the Mortgagee")

1. **Interpretation**

In this Deed:-

- 1.1 "the 1980 Act" means the Highways Act 1980
- 1.2 "the 1990 Act" means the Town and Country Planning Act
1990
- 1.3 "As-Built Drawings" means detailed plans and drawings
showing the Works in the form in which they have actually
been executed and completed required under Condition 29
of the Standard Conditions
- 1.4 "Certificate of Completion" means a certificate issued under
Condition 30 of the Standard Conditions
- 1.5 "the Council" means the said Oxfordshire County Council
whose principal office is at County Hall New Road Oxford
OX1 1ND and any successor to its statutory functions as
highway authority or planning authority and any duly
appointed employee or agent of the Council or such
successor

1.6 "the Dedication Plan" means the plan marked 'B' annexed to this Deed or such other plan as the Owner [the Mortgagee] and the Council agree should be substituted for it

1.7 "the Development" means the development of the Site by [] further to the Planning Permission

1.8 "Dwelling" means a dwelling constructed or to be constructed pursuant to the Planning Permission

1.9 "Implementation" means the carrying out of a material operation as defined in section 56(4) of the 1990 Act and "Implement" and "Implemented" shall be construed accordingly

1.10 "including" means including without limitation and 'include' shall be construed accordingly

1.11 "Index-Linked" means adjusted according to any increase occurring between [] and the date of payment to the Council in a composite index comprised of the following indices of the BCIS Price Adjustment Formulae (Civil Engineering) 1990 Series as made available through the Building Cost Information Services (BCIS) of the Royal Institution of Chartered Surveyors weighted in the proportions below set out against each such index namely:-

Index 1	Labour & Supervision	25%
Index 2	Plant & Road Vehicles	25%
Index 3	Aggregates	30%
Index 9	Coated Macadam & Bituminous Products	20%

or if at any time for any reason it becomes impracticable to compile the said composite index then an index compiled in such other manner as may be agreed in writing by the Owner and the Council

1.12 “the Maintenance Costs” means the sum of []

Index-Linked to cover the cost of future maintenance of the Works

1.13 [“the Mortgagee” means the said of/whose

registered office is at and its

successors in title and assigns]

1.14 “Occupation” means the first occupation of a Dwelling for

residential purposes and “Occupy” and “Occupied” shall be

construed accordingly

1.15 “the Off-Site Works” means such part of the Works (if any)

as is to be executed outside the Site

1.16 “the Owner” means the said of/whose

registered office is at

and its successors in title and assigns

1.17 “the Planning Permission” means planning permission

reference number [] for the Development

1.18 “the Site” means the land at []

Oxfordshire shown edged in red on the Site Plan

1.19 “the Site Plan” means the plan marked “Plan A” annexed to

this Deed

- 1.20 “the Standard Conditions” means the Council’s Standard Conditions for the Control of Highway Works in Conjunction with Development (2016 Edition) a copy of which is annexed to this Deed
- 1.21 “the Works” means the works specified in the Schedule
- 1.22 “the Works Plan” means the plan marked “Plan C” annexed to this Deed
- 1.23 Any reference to an enactment includes any amendments to or modifications of it and the version of it for the time being in force shall apply
- 1.24 Headings in this Deed are for convenience only and shall not be taken into account in its construction and interpretation
- 1.25 References to clauses sub-clauses and schedules are references to clauses sub-clauses and schedules in this Deed
- 1.26 Where the context so requires:-
- 1.26.1 the singular includes the plural and vice versa
 - 1.26.2 the masculine includes the feminine and vice versa
 - 1.26.3 persons includes bodies corporate associations and partnerships and vice versa
- 1.27 Where a party comprises more than one person the obligations and liabilities of that party shall be joint and several obligations and liabilities of those persons

1.28 Where more than one party enters into any obligation or liability those parties are jointly and severally liable

1.29 Words denoting an obligation on a party to do any act matter or thing include an obligation to procure that it is done and words placing a party under a restriction include an obligation not to cause permit or allow infringement of this restriction

2. **Preliminary**

2.1 The Owner is the owner of the freehold of the Site [subject to a Charge in favour of the Mortgagee but otherwise] free from incumbrances as the Owner hereby warrants

2.2 For the purposes of the 1990 Act the Council is the county planning authority for the area which includes the Site

2.3 For the purposes of the 1980 Act, the Road Traffic Regulation Act 1984 and the Traffic Management Act 2004 the Council is the highway authority and the traffic authority for certain highways in the area which includes the Site

2.4 The district planning authority granted the Planning Permission for the Development on []

2.5 The Owner has agreed by virtue of an agreement pursuant to Section 106 of the 1990 Act dated [] and made between [] that the Development shall not be implemented (as therein defined) prior to the completion of this Deed and shall not be occupied prior to the completion of the Works in accordance with this Deed

- 2.6 The Off-Site Works are works which the Council is authorised to execute by virtue of Part V of the 1980 Act
- 2.7 It has been agreed between the Owner and the Council that in lieu of the Owner paying the cost of the Off-Site Works the Off-Site Works should be executed by the Owner in conjunction with the carrying out of the Development
- 2.8 This Deed (which the Council are satisfied will be of benefit to the public) is made under Sections 38 72 and 278 of the 1980 Act, Section 106 of the 1990 Act, Section 111 of the Local Government Act 1972 and all other enabling powers and is a planning obligation for the purposes of Section 106 of the 1990 Act entered into by the Owner [and the Mortgagee] in respect of the Site and enforceable by the Council

3. **Covenants**

The Owner covenants:-

- 3.1 not to cause or permit the Occupation of any Dwelling before the Works have been completed
- 3.2 to execute the Works entirely at its own expense and to the satisfaction of the Council
- 3.3 in executing the Works to observe and perform all the obligations which fall on "the Developer" under the Standard Conditions and

- 3.4 to complete the Works not later than _____ and
in any event within _____ from the date on
which the Works started
- 3.5 not to commence the Works until the Maintenance Costs
have been paid to the Council and to pay the Maintenance
Costs to the Council prior to commencing the Works
- 3.6 to give the Council written notice of any disposal of an
interest in the Site and of the name and address of the new
owner and the date of the disposal within 14 days of such
disposal

4. **Adoption as Highway**

- 4.1 On the issue of a Certificate of Completion for the Works
the whole of the land shown [coloured pink] on the
Dedication Plan (subject to modification as provided in
clause 4.2) shall be deemed to have been dedicated as
public highway (for all public highway purposes including
use by mechanically propelled vehicles) and shall thereafter
subject to Conditions 34 and 35 of the Standard Conditions
be a highway maintainable at public expense
- 4.2 The Council may after consideration of the As-Built
Drawings require the substitution of a modified dedication
plan in which event that shall be agreed with the Owner [and
the Mortgagee] and the dedication as provided in clause 4.1
shall have effect in respect of the modified area

4.3 The Owner [and the Mortgagee] consent to the noting of the provisions of clause 4 of this Deed on the register under title number []

5 **Act Reasonably**

Where a matter falls within a party's discretion that party shall exercise such discretion in a reasonable and expeditious manner and shall give any requisite notice of that decision and any other notice provided for by this Deed (including the Standard Conditions) without undue delay

6 **[Mortgagee's Consent**

The Mortgagee acknowledges that the Site is bound by the obligations contained in this Deed and in the event that the dedication area is revised further to clause 4.2 the Mortgagee agrees that any part of the dedication area which is subject to its charge shall be released from such charge on dedication pursuant to clause 4.1 and the Mortgagee will execute such further documentation as may be required to effect this]

7 **Costs**

7.1 The Owner shall on completion of this Deed pay the reasonable legal costs of the Council in connection with the preparation and completion of Deed

7.2 The Owner will reimburse the Council in respect of all legal and administrative costs in connection with the enforcement of any of the provisions of this Deed including correspondence monitoring and site visits by or on behalf of the Council

7.3 The Owner will not claim any compensation in respect of the provisions of this Deed

8 Third Party Rights

This Deed does not create any right enforceable by any person not a party to it except that it may be enforced by the successors in title and assigns of the parties and by any successor to the Council's statutory functions

9 Notice

Any notice or notification to be given to the Council under this Agreement shall be sent to the Director for Planning and Place of the Council (Ref) County Hall, New Road, Oxford OX1 1ND or to such other person at such other address as the Council shall direct from time to time [and any notice or notification to be given to [] shall be sent to [] or to such other person at such address as the [] shall notify in writing to the Council from time to time

10 No Waiver

No alteration in the terms of this Deed nor any forbearance or forgiveness on the part of the Council in or in the extent or nature of any matter or thing concerning this Deed shall in any way release the Owner/the Mortgagee from any liability under this Deed

11 No Fetter

Nothing in this Deed shall prejudice or affect the rights powers duties and obligations of the Council in the exercise of its functions in any capacity

12 **VAT**

All works undertaken pursuant to and all payments made in accordance with the terms of this Deed shall be exclusive of value added tax and the Owner shall pay the Council any value added tax properly payable on any sums paid to the Council or works undertaken under this Deed upon presentation of an appropriate value added tax invoice addressed to the Owner

13 **Jurisdiction**

This Deed is governed by and interpreted in accordance with the Law of England

14 **Delivery**

The provisions of this Deed shall be of no effect until this Deed has been dated

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

SCHEDULE

The Works

(1) **Principal Works**

The provision and construction in the position indicated in principle on the Works Plan(s) of the following works ("the Principal Works"):

[TO BE COMPLETED]

(2) **Preparatory and Ancillary Works**

The provision and construction of all such preparatory and ancillary works (or in the case of existing works or features necessarily affected by any part of the Works such alteration thereof) as the Council shall consider requisite for the proper construction and functioning of the Principal Works including:-

- (a) all earthworks and other things necessary to prepare the site and provide proper support for the Principal Works
- (b) all culverts ditches and other things necessary to ensure the satisfactory movement of surface water
- (c) all gullies channels grips drains sewers and other things necessary for the permanent drainage of the Principal Works
- (d) all ducts cables columns lamps and other things necessary for the permanent lighting of the Principal Works and the illumination of traffic signs
- (e) all kerbs islands verges and reservations including the grading and seeding of grassed areas

- (f) all measures necessary to ensure visibility for drivers at any bend or junction
- (g) all traffic signs road markings bollards and safety barriers
- (h) all tapers joints and reinstatements necessary where the Principal Works abut the existing highway

(3) **Amenity and Accommodation Works**

The provision and construction of all such amenity and accommodation works as the Council shall consider requisite for the protection of the local environment and private and public rights and property in consequence of the Principal Works including:-

- (a) any earth bunds and/or planting necessary to screen the Principal Works
- (b) all fences gates hedges and other means of separation of the Principal Works from adjoining land
- (c) any necessary alteration of any private access or private or public right of way affected by the Principal Works
- (d) any necessary embankments retaining walls or other things necessary to give support to adjoining land

[STANDARD CONDITIONS]

THE COMMON SEAL of)

was affixed to this Deed in the)

presence of:-)

Director

Director/Secretary

[THE COMMON SEAL of)

was affixed to this Deed in the)

presence of:-)

Director

Director/Secretary]

THE COMMON SEAL of **THE**)

OXFORDSHIRE COUNTY COUNCIL)

was affixed to this Deed)

in the presence of:-)

Director of Law &
Governance/
Designated Officer

OXFORDSHIRE COUNTY COUNCIL

STANDARD CONDITIONS FOR THE CONTROL OF HIGHWAY WORKS IN CONJUNCTION WITH DEVELOPMENT

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General

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4. Approvals and Certificates etc
5. Council to act in Default or Emergency
6. Indemnity
7. Health and Safety
8. Payments

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10. Undertakers' Apparatus
11. Authorisations
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16. Pre-Conditions to Letting Works Contract

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36. Release of Bond

Nick Graham
Director of Law & Governance and Monitoring
Officer
County Hall
New Road
Oxford OX1 1ND

Director of Planning & Place
County Hall
New Road
Oxford OX1 1ND

2016 Edition

OXFORDSHIRE COUNTY COUNCIL

STANDARD CONDITIONS FOR THE CONTROL OF HIGHWAY WORKS IN CONJUNCTION WITH DEVELOPMENT

GENERAL

1 INTERPRETATION

In these Conditions:-

- 1.1 "the Agreement" means any agreement or other instrument by which these Conditions are applied.
- 1.2 "Authorisations" has the meaning given in Condition 11.1.
- 1.3 "the Bond" means the bond referred to in Condition 12.
- 1.4 "the Certificate of Completion" means the certificate issued under Condition 30.
- 1.5 "Contractor" includes an agent and any sub-contractor or agent of a main contractor.
- 1.6 "the Council" means the Oxfordshire County Council of County Hall New Road Oxford OX1 1ND and, so far as the context admits, includes any employee or contractors duly appointed by them.
- 1.7 "the Developer" means the person or persons by whom the Agreement requires the Works to be executed.
- 1.8 "including" means including without limitation or prejudice to the generality of any preceding description defining term phrase or word(s) and 'include' shall be construed accordingly.
- 1.9 "Safety Audit" means a safety audit in accordance with Oxfordshire Safety Audit Guideline as revised from time to time and incorporating H.D. 19/15 (Road Safety Audit Volume 5 design manual for roads and bridges)
- 1.10 "the Scheme of Works" means the matters specified in Conditions 9.1 – 9.3 as may for the time being have been varied and/or augmented under Condition 11 and/or Condition 23.
- 1.11 "statutory requirements" means the requirements of any enactment (being any act and any subordinate legislation as defined in the Interpretation Act 1978) national guidance or good practice guides.
- 1.12 "the Works" means the works which the Agreement requires to be executed in accordance with these Conditions and references to "the Works" includes each and every part of them.
- 1.13 The headings are for ease of reference and shall not affect the construction or interpretation of these Conditions.

1.14 References to the Construction (Design and Management) Regulations are to the Construction (Design and Management) Regulations 2015 as varied or replaced from time to time.

1.15 Any reference to any enactment includes any amendments to or modification of it and the version of it for the time being in force shall apply.

2 RELATIONSHIP WITH AGREEMENT

These Conditions shall be construed together with and subject to the Agreement and in the event of any inconsistency between the Conditions and the Agreement the latter shall prevail.

3 COMMUNICATIONS WITH THE COUNCIL

Any notice or other communication required by these Conditions to be given by the Developer to the Council shall be given in writing to the Council's Director for Environment & Economy at his main office at County Hall, New Road, Oxford OX1 1ND or to such other person and/or at such other place as he may identify in writing to the Developer.

4 APPROVALS AND CERTIFICATES

4.1 No approval consent authorisation or payment as specified in Condition 4.3 shall create any contractual relationship between the Developer and the Council beyond that contained in the Agreement or operate in any way as a warranty or otherwise imply that the subject matter of such approval consent authorisation or payment is fit for its intended purpose nor shall it relieve the Developer or any professional adviser or contractor engaged in connection with the Works from their respective obligations to use all proper skill and care in respect of the Works.

4.2 The Council will not be liable for any loss damage or injury which the Developer may sustain arising from action taken in consequence of such approval consent authorisation or payment.

4.3 The matters referred to in Condition 4.1 are:

4.3.1 any approval or consent given by the Council in respect of the discharge by the Developer of its obligations under these Conditions; or any technical approval or consent issued by the Council in respect of the Works.

4.3.2 any authorisation given or implied by or under these Conditions in respect of anything done or to be done by the Developer on or in relation to any highway; or any payment made by the Developer to the Council under these Conditions.

5 COUNCIL TO ACT IN DEFAULT OR EMERGENCY

5.1 In the event that either of the following circumstances occur:-

5.1.1 if the Developer shall be materially in default in respect of any of the provisions of the Agreement including these Conditions requiring work to be done or not done, or to be done in a particular manner or by a particular time and if such default continues after the Council have given to the Developer not less than 21 days' written notice of the steps they require to be taken to remedy such default; or

5.1.2 if it shall appear to the Council at any time during the course of execution of the Works that danger to persons or prejudice to the structure or stability of the public highway or of adjoining land exists or is imminent, and that it is not reasonably practicable to cause the Developer to take the necessary remedial steps forthwith;

the Council may take such steps themselves to the exclusion of the Developer and charge the expenses incurred (including their reasonable administrative costs) against the Developer.

5.2 Such expenses will be a debt due to the Council and recoverable by them by action or otherwise and for the avoidance of doubt the Council may recover such expenses under the Bond where the Council has taken such steps because the Developer is in default as provided in Condition 5.1.1 or where the Council has taken such steps in an emergency further to Condition 5.1.2 and in the latter case the Developer has failed to discharge the Council's expenses.

6 INDEMNITY

The Developer shall indemnify the Council and keep them indemnified against;

6.1 all actions, liabilities, claims, costs and proceedings which may arise from the execution and completion of the Works (except insofar as may arise from the negligence or default of the Council) and from anything done or not done by the Developer or by its employees or contractors in connection with the Works;

6.2 all actions, liabilities, claims, costs and proceedings arising in connection with or incidental to or in consequence of the lawful use of the highway following upon the carrying out or completion of the Works under the Land Compensation Act 1973 or under regulations made pursuant to Section 20 of the Land Compensation Act 1973 (insulation against noise) and any grants made by the Council under such regulations in accordance with its established policy. The Council may by advertisement invite claims under the Land Compensation Act 1973 and under regulations made pursuant to Section 20 of that Act.

7 HEALTH AND SAFETY

The Developer shall act as the only client in respect of the Works for the purposes of The Construction (Design and Management) Regulations.

8 PAYMENTS

Where the Council seeks any payment further to these Conditions then save where there is express provision as to timing for payment such payment shall be due within 28 days of written request from the Council and if payment is not made within such 28 day period (or where applicable such other period as expressly provided) then interest at 4% per annum above the base rate from time to time of Lloyds Bank PLC shall be payable from the expiration of the 28 day period until the date of payment.

PRELIMINARIES

9 SUBMISSIONS TO THE COUNCIL

The Developer shall submit to the Council the information and other matters specified in column 1 below in accordance with the timetable set out in column 2 below and the notes set out in column 3 below: -

Highway Matters

9.1

Information	Timetable	Notes
Detailed plans (which shall include a layout plan to a scale of 1:1250 or 1:2500 according to whichever is the Ordnance Survey base scale for the area), drawings and specifications of the Works (including the drainage of them) and the materials to be used to comply with the relevant standards and specifications of the Council for the time being in force, together with such structural and drainage calculations as the Council may consider necessary having regard to the nature of the Works;	No later than 3 months before any tender is invited for the execution of the Works	There shall be paid to the Council on the submission a sum equal to 0.4% of the estimated gross cost of the Works as identified in Condition 12

9.2

<p>A detailed programme designed to ensure the orderly and timely execution and completion of the Work with the minimum of disturbance and disruption to use of the highway and occupiers of property and to facilitate the implementation of any such measures in respect of undertaker's apparatus as may be identified pursuant to Condition 10.</p>	<p>No later than 2 weeks after the acceptance of any tender for the execution of the Works</p>	<p>Significant programme changes to be identified not less than 2 weeks prior to the change</p>
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9.3

<p>(a) Measures for the control of vehicles and plant to be used in the course of execution of the Works (including vehicles engaged on the transport of materials and equipment to and from the Works) and measures for traffic regulation in order to minimise and/or alleviate damage to the highway disturbance to occupiers of property and disturbance and disruption to use of the highway (including traffic congestion) ;and (b) traffic safety measures and measures including lights, guards, fencing and warning signs in order to protect the Works and/or for the safety and convenience of the public</p>	<p>No later than 2 weeks before the Works are expected to commence</p>	
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9.4

<p>Safety Audit Stage 2 Report</p>	<p>No later than 3 months before any tender is invited for the execution of the Works</p>	
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9.5

<p>Details in accordance with Condition 15 of the persons proposed to be invited to tender.</p>	<p>No later than 1 month before any tender is invited for the execution of the Works.</p>	
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Other Matters

9.6

Details of the bondsman proposed to be given pursuant to Condition 12, together with any bills of quantities or tenders which the Developer wishes the Council to take into account under that Condition.	No later than 1 month before the Works are expected to commence.	
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9.7

Details of the insurances required by Condition 14.	No later than 1 month before the Works are expected to commence.	
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9.8

<p>Part 1 Noise survey and assessment and modelling sufficient to establish whether any properties will be eligible for noise insulation according to regulation 3 or regulation 4 (as applied by the Council) of the Noise Insulation Regulations 1975 applying the requirements of the Design Manual of Roads and Bridges Volume 11 – Environmental Assessment and the Calculation of Road Traffic Noise 1988 to be undertaken by a noise expert approved by the Council.</p> <p>Part 2 If the assessment concludes that there will be any property eligible for noise insulation to submit to the Council:</p> <p>(a) a map and list of all eligible properties. ¹</p> <p>(b) a list of all occupiers and landlords</p> <p>(c) a survey and assessment for each eligible property of the work to be carried out to comply with requirements of the Noise Insulation Regulations 1975 and the specification for that work</p>	<p>No later than 1 month before the Works are expected to commence or earlier than 3 months before the Works are expected to commence.</p> <p>As above</p>	<p>Precise timing of survey to be agreed with the Council. Location of the survey/testing to be advised to the Council and if applicable adjusted to ensure regulatory compliance.</p>
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9.9

<p>Condition survey (comprising photographs) of land and highway adjoining and neighbouring the site of the Works together with such further areas as the Council may require.</p>	<p>No later than 1 month before the Works are expected to commence.</p>	
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9.10

<p>Notification of the identity of the contractor who has submitted a successful tender.</p>	<p>No later than 2 weeks after the acceptance of any tender for the</p>	
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¹ Dwellings and other buildings used for residential purposes which will be not more than 300 metres from the edge of the carriageway of the highway after completion of the work.

In any particular case any information or matter may be submitted to the Council at such later time as the Council may consider expedient subject to the Council identifying such later time in writing.

10 UNDERTAKERS' APPARATUS

10.1 The Developer shall in preparing the Scheme of Works consult every undertaker within the meaning of the New Roads and Street Works Act 1991 whose apparatus or services lie in, on, under or over the site of the Works or may otherwise be affected by the Works (whether or not it is intended to connect into such services in connection with the Works), with a view to the identification and implementation of any measures considered necessary by the undertakers for the protection of, or otherwise in relation to, their apparatus or services, and shall be responsible for all dealings with such undertakers in respect of the implementation of such measures and for all costs payable to the undertakers in that behalf.

10.2 For the avoidance of doubt the Developer shall comply with statutory requirements relating to street works (as defined in the 1991 Act).

11 AUTHORISATIONS

11.1 Authorisations signifies all rights, approvals and consents and any other requisite action to enable the Works to be properly and lawfully executed and completed (in accordance with the Agreement including these Conditions) and the subsequent implementation and functioning of the Works including (but not so as to provide an exhaustive list of examples)²:-

11.1.1 planning permission for the Works;

11.1.2 authority for stopping up diversion or other alteration of any existing highway so far as necessary to enable the Works to proceed and / or be implemented and function;

11.1.3 authority or agreement for stopping up (including relocating) any private access to any existing highways which is necessary in the opinion of the Council to enable the Works to proceed and / or be implemented and function³ ;

11.1.4 street works licence further to the New Roads and Street Works Act 1991;

11.1.5 authorisation for any traffic regulation measures including prohibitions, restrictions and controls where necessary in

² Examples may also include noise consent from district council

³ This relates to for example Section 127HA.

the Council's opinion to enable the Works to proceed and/or to be implemented and function⁴; and

- 11.1.6 any rights and easements which in the Council's opinion are necessary to ensure the permanent and satisfactory drainage or lighting of the Works such rights and easements to be in a form previously approved by the Council.
- 11.2 The Developer shall be responsible for ensuring that all Authorisations are secured in timely manner at its own cost.
- 11.3 Save in so far as any consent is expressly granted under the Agreement nothing in the Agreement shall prejudice or affect in any way the exercise by the Council of its powers and duties relating to any application for an Authorisation including the consideration and processing of an application, the carrying out of any procedural requirements (pursuant to any enactment or Council policies or protocols) and the determination as to whether or not the Authorisation should be made, granted or confirmed.
- 11.4 Any costs incurred by the Council relating to any application for an Authorisation - and any related matters shall be discharged by the Developer.
- 11.5 Where the procedures for securing any Authorisation entail consultation and in consequence of such consultation the Council determines that the Works / the Scheme of Works shall be varied and / or augmented then any reference to the Works and / or the Scheme of Works shall be construed as a reference to the Works and / or the Scheme of Works as so varied and / or augmented.
- 11.6 Forthwith on securing any Authorisation the Developer shall supply evidence of this to the Council to the Council's reasonable satisfaction.

⁴ This is directed at securing any requisite TROs which are integral to the Works e.g. bus lanes and also there may be various works such as traffic calming and signals where consultation is mandatory.

12 BOND

12.1 The Developer and a bondsman satisfactory to the Council shall enter into a Bond in such form as shall have been approved by the Council guaranteeing the execution and completion of the Works in accordance with the Agreement including these Conditions.

12.2 The amount of the Bond shall be

12.2.1. the gross cost of the Works (including any costs payable to undertakers pursuant to Condition 10) as then (being one month before the Works are proposed to be commenced) estimated by the Council and such estimate may take into account any bills of quantities prepared or tenders received by the Developer in respect of the Works and submitted by it to the Council; and

12.2.2. adjusted to take account of inflation for the duration of the Works (and subsequently) as reasonably estimated by the Council; and

12.2.3. adjusted to reflect the full costs that may be incurred by the Council as provided in Condition 5.1 (Council to act in default or emergency).

13 MONITORING AND OTHER COSTS

13.1 The Developer shall pay to the Council in respect of the costs to be incurred by the Council in monitoring the execution and completion of the Works (and administration of the Agreement) a sum equal to 9% of the amount of the Bond, subject to a minimum payment of £2,150

Note: The provisions of Condition 27.2 also apply

13.2 The Developer shall pay to the Council legal costs reasonably incurred in connection with the drafting and completion of the Bond.

14 INSURANCE

The Developer shall take out and maintain, until two years after the date on which the Council issues the Certificate of Completion (or if later the date on which all defects and outstanding works have been made good and completed as mentioned in Condition 33), such insurances satisfactory to the Council in the sum of £10million (or such higher sum as the Council may require) as may be appropriate to cover the liability of the Developer and of its employees and contractors in respect of any injury or damage to persons or property which may arise from or in connection with the execution and completion of the Works.

15 CONTRACTORS

15.1 The Developer shall not employ any contractor or agent for the execution of the Works except such contractor or agent as shall be recognised by the Council as being of proven competence and good standing in the field of civil and electrical engineering and experienced in the type and scale of the work which is to be the subject of the contract, and for that purpose the Developer shall not invite tenders for the execution of the Works except from persons proposed to and approved in writing by the Council before any such tender is invited; The employment of a contractor or agent shall not remove or abate any obligation on the part of the Developer arising from the Agreement including these Conditions.

15.2 The Developer shall appoint a contractor to undertake the Works in compliance with the following:-

15.2.1 advertising/publication of the proposed contract for carrying out the Works sufficient to open up the market to competition and for the transparency and impartiality of the procurement procedure to be reviewed such advertising/publication to include the essential details of the contract to be awarded and of the award methodology;

15.2.2 awarding the contract for the Works further to competition applying such transparent and impartial procurement procedures and award methodology.

15.2.3 the Developer shall without cost to the Council supply such information as the Council may reasonably require to demonstrate compliance with this Condition.

16 PRECONDITIONS TO LETTING CONTRACT

The Developer shall not let any contract for the execution of Works unless and until:-

16.1 The Scheme of Works has been approved by the Council; and

16.2 Safety Audit Stage 2 Report has been approved by the Council.

IMPLEMENTATION OF THE WORKS

17 COMMENCEMENT OF WORKS

The Developer shall only undertake the Works at such times as have previously been approved by the Council

18 NO WORK PENDING APPROVALS ETC

18.1 The Works shall not be commenced before the following have occurred:

- 18.1.1 the Council has issued written approval of the Scheme of Works;
- 18.1.2 Safety Audit Stage 2 Report has been approved;
- 18.1.3 evidence of all Authorisations have been supplied to the Council;
- 18.1.4 the Bond duly executed as a deed by the Developer and the approved guarantor has been delivered to the Council;
- 18.1.5 the costs referred to in Condition 13 have been paid to the Council;
- 18.1.6 the Council has given its written approval to the insurances referred to in Condition 14;
- 18.1.7 the noise survey assessment and modelling in accordance with Condition 9.8 has been supplied to the Council and if appropriate the information referred to in the second part of that Condition has been supplied to the Council
- 18.1.8 the surveys referred to in Condition 9.9 (condition survey) has been supplied to the Council.

18.2 The Developer must have readily available at the site of the Works a copy of the insurances and approved Scheme of Works and shall retain them at the site for the duration of the Works and produce them to any representative of the Council on request.

19 GENERAL CONDUCT

19.1 The Developer shall execute and complete the Works in compliance with the approved Scheme of Works, in a sound and workmanlike manner with proper materials and in accordance with good engineering practice and in compliance with all statutory requirements and the provisions of the Agreement including these Conditions.

19.2 Without prejudice to the generality of Condition 6.2 and Condition 19.1 the Developer shall provide the Council with such assistance, information and documentation as the Council shall require to comply with any obligations under the Noise Insulation Regulations 1975 including assistance in responding to any claims made under Regulation 13 of those Regulations.

20 MONITORING OF SITE AND MATERIALS

20.1 The Developer shall at all reasonable times give to the Council free access to every part of the Works and shall permit them to monitor them and inspect all materials used or intended for use in the Works.

20.2 Where the Council require any such materials to be tested the Developer shall reimburse the Council the reasonable cost of such testing.

21 ERRORS AND DEFECTS

If in the course of execution of the Works it shall appear to the Council:

21.1 that any error has arisen in the position, levels, dimensions or alignment of the Works; or

21.2 that any work carried out or materials used for the purpose of the Works are defective to such extent as to prejudice in any respect the structure, stability, durability or subsequent functioning of the Works; or

21.3 that any damage has occurred in respect of the Works; or

21.4 that in any other respect the Works are not in accordance with the Scheme of Works;

and the Council notify the Developer in writing of this then the Developer shall, at its own expense and to the satisfaction of the Council, forthwith take such remedial steps as the Council shall specify in the notice. For the avoidance of doubt this Condition is without prejudice to Condition 19.

22 SUSPENSION OF WORK

If in the opinion of the Council some part of the Works ought not properly to be commenced or continued by reason either of:-

22.1 the dependence of that part on the completion of remedial steps specified in a notice given under Condition 21; or

22.2 adverse weather conditions such as to prejudice the structure or stability of that part if executed under those conditions;

the Developer shall on the written order of the Council suspend the progress of that part of the Works for such time or times and in such manner as the Council may consider necessary, and shall during such suspension properly protect and secure the Works so far as is necessary in the opinion of the Council.

23 VARIATIONS AND ADDITIONS

In the event that any of the following circumstances arising in the course of execution of the Works,:-

- 23.1 if discovery is made of adverse ground conditions or artificial obstruction or any other unforeseen factor which in the opinion of the Council necessitate a modification of the Works to avoid or compensate for such conditions, obstruction or other factor in the interests of the satisfactory completion and subsequent functioning of the Works; or
- 23.2 if it shall appear to the Council requisite, in accordance with good engineering practice and to ensure satisfactory completion and subsequent functioning of the Works that any work or materials should be added, or that any such work or materials proposed by the Developer to be done or used should be omitted or changed; or
- 23.3 if it shall appear to the Council expedient that any obligation arising from the approved Scheme of Works should be deferred by reason of delay incurred by the Developer arising from some cause not within the Developer's control; or
- 23.4 otherwise if in a particular case the Developer and the Council so agree;

the Scheme of Works shall be varied and/or augmented in manner notified in writing by the Council to the Developer, and in the application of these Conditions any reference to the Scheme of Works shall be construed as a reference to the Scheme of Works as so varied and/or augmented.

24 PREVENTION OF NOISE, DISTURBANCE ETC

- 24.1 All work shall be carried out without unreasonable noise and disturbance and in such manner as not to interfere unnecessarily or unreasonably with the use and enjoyment of property adjoining or near the Works by their owners and occupiers.
- 24.2 Without prejudice to the generality of Condition 24.1, no work shall be carried on between the hours of 8.00pm and 7.00am the following day or on any Sunday or public holiday except insofar as:-
 - 24.2.1 any operations are necessary to avoid disruption to or for the control of traffic on any highway; or
 - 24.2.2 any work is unavoidable or absolutely necessary for the safety of life or property or the safety of the Works; or
 - 24.2.3 the Council have in writing otherwise agreed.

25 PROTECTION OF HIGHWAY

- 25.1 Insofar as the Works affect in any respect the existing highway such part shall be executed with the minimum of disturbance to that highway and traffic using that highway consistent with the work in hand.
- 25.2 In the event of it appearing to the Council at any time that such disturbance has occurred or is likely to occur to such extent as to prejudice the structure of the highway or the safety of users the Developer shall forthwith take such remedial steps as the Council may require.
- 25.3 Prior to the commencement of the Works the Developer will provide suitable vehicle and wheel cleaning apparatus and ensure that such apparatus is maintained in good and useable condition and used by all vehicles immediately before leaving the site of the Works to prevent mud or other materials being deposited on the adjoining existing highway.
- 25.4 In the event of Developer receiving any complaint it will promptly notify the Council.

26 SAFEGUARDING OF COMPLETED WORK

The Developer shall until the Council have issued the Certificate of Completion take all steps necessary to protect and maintain those parts of the Works which have been executed, so that upon substantial completion of the whole of the Works every part of the Works is in a sound and workmanlike condition and free from any damage and any material wear and tear.

COMPLETION AND CONSEQUENTIAL MATTERS

27 COMPLETION OF WORKS

- 27.1 The Works shall be executed and completed within such period as the Agreement may define (whether by duration or by reference to a specified date or both), provided that in the event of delay to the work arising from some cause not within the Developer's control the Developer shall be entitled to a reasonable extension of such period.
- 27.2 Without prejudice to any right or remedy of the Council, the Council may at any time by notice to the Owner permit an extension of time as the Council shall in its discretion determine and the Developer shall pay within 14 days of demand such additional monitoring fees (in addition to that provided for in Condition 13) as is necessary to reimburse to the Council the additional cost incurred in monitoring the Works by reason of the grant of such extension of time

28 PRE COMPLETION - CLEARANCE OF SITE AND STAGE 3 SAFETY AUDIT

28.1 On substantial completion of the Works the Developer shall clear away and remove from the site of the Works all plant, surplus material, rubbish and temporary works and items of every kind, and shall leave the whole of the site of the Works clean and in a workmanlike condition to the satisfaction of the Council.

28.2 On substantial completion of the Works (and clearance of the site of the Works) the Developer shall lodge a stage 3 Safety Audit report together with the 'Designer's response' with the Council and the Developer shall execute and complete all works as advised by the Council arising from the Safety Audit recommendations.

29. HEALTH AND SAFETY

29.1 The Developer shall furnish to the Council the Health and Safety File prepared in accordance with Interim Advice Note 105/08 - Implementation of Construction (Design and Management) 2007 issued by the Highways Agency (now Highways England) as revised and/or replaced from time to time. The Health and Safety File shall include detailed plans and drawings showing the Works as the same have actually been executed and completed and the Developer shall at his own cost ensure that the Council shall not be prevented by copyright or otherwise from reproducing such plans and drawings or part of them as the Council may require for purposes relating only to the Works and the highway and the Developer shall furnish satisfactory evidence to the Council that this has been done. The plans and drawings furnished under this Condition shall be no less detailed than the plans and drawings submitted under Condition 9.1 unless the Council shall in writing otherwise agree.

30. COMPLETION CERTIFICATE

Subject always to prior compliance with the pre completion requirements (Condition 28) and with Condition 29 the Council shall issue the Certificate of Completion forthwith if the Council is satisfied that the Works (save for such minor outstanding works as the Council shall agree) have been completed in accordance with the Agreement including these Conditions

31. DEDICATION AS HIGHWAY

Upon the issue of the Certificate of Completion unless the Agreement provides otherwise the whole of the land comprised in the Works (so far as not already forming part of the public highway and excluding such part as the Developer and the Council may in writing agree) shall be deemed to have been dedicated as public highway and shall thereafter subject always to compliance with Conditions 34 & 35 be a highway maintainable at public expense.

32. EASEMENTS

- 32.1 The Developer shall forthwith following the issue of the Certificate of Completion:-
- 32.1.1 transfer to the Council all those rights and easements (so far as the same do not at that time already subsist in favour of the Council) referred to in Condition 11.1.6; and
- 32.1.2 grant to the Council any easement which in the Council's opinion is necessary to ensure the permanent and satisfactory drainage or lighting of the Works in respect of any land which is retained by the Developer and such easement shall be in a form previously approved by the Council and the Developer will procure that any person with an interest in the relevant land joins in the deed of easement for the purpose of consenting to and confirming such easement.
- 32.2 The Council shall not be liable for the payment of compensation or legal or any other costs or fees arising from any such transfer or grant of easement.

33. NOISE INSULATION

The Developer shall within 1 month after the opening of the Works to public traffic supply to the Council an update of the information required pursuant to part 2 of Condition 9.8 (noise survey assessment and modelling- map lists and works) which relates to all eligible properties at the date of the opening of the Works to public traffic.

34. REMEDYING OF DEFECTS AND OUTSTANDING WORKS

- 34.1 If at any time during the period of two years following the date on which the Council issue the Certificate of Completion:-
- 34.1.1 any defect in the Works becomes manifest (not being a defect arising solely from normal use by the public as a highway or from accidental or wilful damage by any third party); or
- 34.1.2 the Developer shall fail to complete any of the outstanding works mentioned in Condition 30 (minor outstanding Works on issue of Certificate of Completion) and the Council notify the Developer in writing of this
- then the Developer shall at his own expense cause such defect to be made good or outstanding works to be completed (as the case may be) to the satisfaction of the Council.
- 34.2 Forthwith on receipt of any notification from the Council further to Condition 34.1 the Developer will agree with the Council the timing of the carrying out of such remedial or outstanding works and unless otherwise agreed shall secure their completion within one

month of receipt of such notification (except in the event of delay arising from some cause not within the Developer's control when the Developer shall be entitled to a reasonable extension of time).

35. STAGE 4 ROAD SAFETY AUDIT

35.1 The Council may require the Developer to carry out a Safety Audit Stage 4 at any time within 36 months from the opening of the Works and to lodge the report with the Council together with the "Designer's response" within 2 months and the Council shall notify the Developer of all works required to be undertaken arising from the Safety Audit recommendations

35.2 In the event that notification of works is given by the Council further to Condition 35.1 prior to the full release of the Bond the Developer shall execute and complete all the works as advised by the Council. The Developer will agree with the Council the time that he will be carrying out such works and unless otherwise agreed shall secure their completion within 1 month of receipt of such notification (except in the event of delay arising for some cause not within the Developers control, when the Developer shall be entitled to a reasonable extension of time).

35.3 In the event that notification of works is given by the Council further to Condition 35.1 subsequent to the full release of the Bond the Developer shall pay to the Council within 28 days of written request from the Council the costs incurred or to be incurred by the Council in carrying out such works.

36. RELEASE OF BOND

36.1 Upon the issue of the Certificate of Completion the Bond shall be deemed to be released by eighty per cent (80%) of its original value;

36.2 The Bond shall be deemed to be fully discharged at the latest of the following:

36.2.1 the date two years after the date on which the Council issue the Certificate of Completion; and

36.2.2 the date on which all defects and outstanding works have been made good and completed as referred to in Condition 34; and

36.2.3 the date on which all works have been completed as referred to in Condition 35.2

36.2.4 the Council have recovered their full expenses in all cases where Condition 5 applies (Council may act in default or emergency);

36.2.5 the date on which the Council have received the transfers or grants further to Condition 32;

36.3 Conditions 36.1 and 36.2 are without prejudice to the Council's absolute discretion from time to time upon application of the

Developer to release the Bond to an extent commensurate with the proportion of the Works that have been executed and completed at such time.