

DATED

11th July

2003

BROADLAND DISTRICT COUNCIL

- AND -

NORFOLK COUNTY COUNCIL

- AND -

THE SECRETARY OF STATE FOR HEALTH

- AND -

COFTON LAND & PROPERTY (NORWICH) LIMITED

-AND-

COFTON LIMITED

AGREEMENT

Made pursuant to Section 106 and 299A of the Town and Country Planning Act (as amended) 1990 and any other enabling power relating to the development of land at Hospital Road, Little Plumstead, Norfolk

Steele & Co
2 The Norwich Business Park
Whiting Road
Norwich NR4 6DJ

THIS AGREEMENT is made the ~~12th~~ day of ~~July~~ Two thousand and three

BETWEEN

1. BROADLAND DISTRICT COUNCIL of Thorpe Lodge Yarmouth Road Thorpe St Andrew Norwich in the County of Norfolk (hereinafter called "The Council")
2. NORFOLK COUNTY COUNCIL of County Hall Martineau Lane Norwich Norfolk (hereinafter called "the County")
3. THE SECRETARY OF STATE FOR HEALTH of Richmond House 79 Whitehall London SW1 2NS (hereinafter called "The Owner")
4. COFTON LAND & PROPERTY (NORWICH) LIMITED whose registered office is situate at Cofton House Firwood Road Garretts Green Birmingham B33 0ST (hereinafter called "the Contractual Purchaser")
5. COFTON LIMITED whose registered office is situate at Cofton House Firwood Road Garretts Green Birmingham B33 0ST (hereinafter called "the Applicant")

RECITALS

- (A) (1) In this Agreement unless the context otherwise requires the following words shall have the following meanings:-

"Affordable Dwellings" shall mean the Shared Ownership Dwellings and the Rental Dwellings to be constructed on the Affordable Housing Land and which shall comprise a minimum of twenty nine (29) per cent of the dwellings on the Land by or on behalf of a Housing Association or the Council or any other party approved by the Council (such approval not to be unreasonably withheld or delayed) and "Affordable Dwelling" shall mean any one of the Affordable Dwellings

“ Affordable Housing”	housing of a type which having regard to its rent or other consideration is suitable for occupation by people who are in Housing Need
“Affordable Housing Land”	the areas of land within the Development upon which the Affordable Dwellings are to be constructed
“Application”	the application for outline planning permission to develop the Land and dated 1 st August 2001 submitted to the Council in accordance with the Application plans and other materials deposited with the Council and bearing reference no 011059
“Approved Maintenance Scheme”	the maintenance scheme including provision for public access by foot and cycle approved by the Council for the maintenance of and public access to the Woodland and Lake Area to be submitted prior to the Commencement Date
"Commencement Date"	the date upon which the Development shall be commenced by the carrying out on the Land pursuant to the Planning Permission of a material operation specified in Section 56(2) of the Act
“Conditional Contract”	a contract for the sale of the Affordable Housing Land made between the Owner and either Council or an RSL or a Housing Association exchanged on the condition that the consent of the Council is required as to the identity of the purchasing RSL or Housing Association and the style type or mix of properties forming the Shared Ownership Dwellings or the Rental Dwellings

“the Cycleway”	A cycleway of 2.5m width along the route shown by a thick black dot and dashed line on Plan 2 or such other route as the County may approve (such approval not to be unreasonably withheld or delayed)
“Footway and Cycleway Contribution”	The sum of One Hundred and Twenty Thousand Pounds as increased by the Inflation Provision
“Deed of Covenant”	a deed of covenant to be entered into with the Owner in the form of the draft annexed
“the Developer”	either the Contractual Purchaser or the Applicant as appropriate
“Development”	the development permitted by the Permission
“Dwelling”	a dwelling forming part of the Development
“the Footway”	A footway typically 2.0m or 1.8m wide with a minimum width of 1.2m along the route shown as a dashed line on Plan 2 or such other route as the County may approve (such approval not to be unreasonably withheld or delayed)
“High School Contribution”	the sum of fifty thousand pounds as increased by the Inflation Provision
“Housing Association”	a housing association within the meaning of the Housing Associations Act 1985 or a social landlord within the meaning of the Housing Act 1996 registered with the Housing Corporation pursuant to those Act

“Housing Need” A person has a housing need if they meet the criteria contained in the Council’s policies relating to housing allocation (as amended from time to time) as formulated pursuant to the provisions of the Housing Acts 1985 and 1996

“Inflation Provision” the increase (if any) in the RICS All In Tender Price Index between the date of this Agreement and the date upon which a payment of money is made or play equipment provided in accordance with the requirements of the provisions of this Agreement

“Occupation” when a Completion Certificate is issued by the NHBC and the term "Occupied" shall be construed to mean that Occupation has occurred

“the Owner” the owner for the time being of the Land

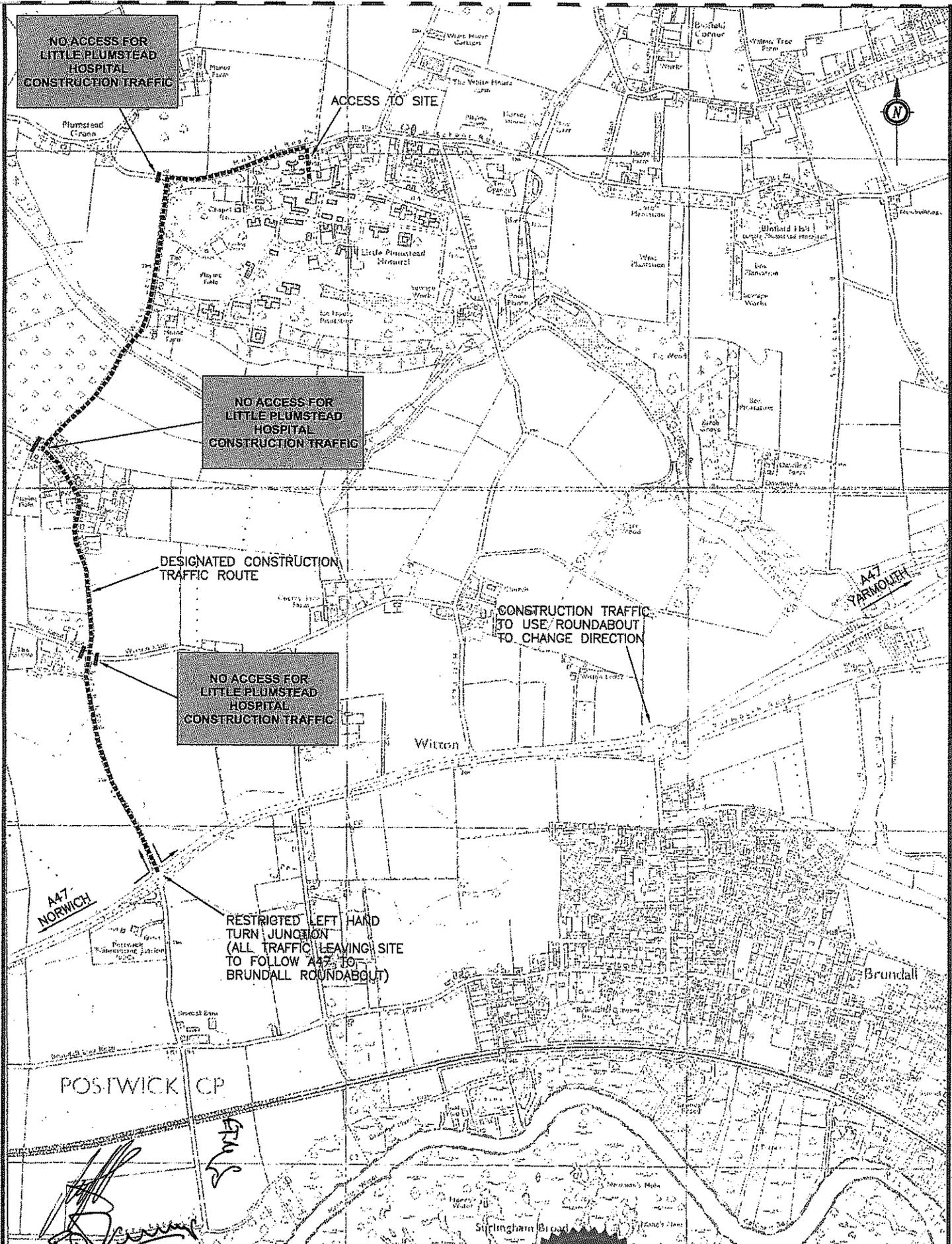
“Permission” the planning permission granted pursuant to the Application together with any renewal or modification thereof

“Perpetuity Period” the period of eighty (80) years from the date hereof

"Plan 1" the plan annexed and titled S106 Plan Drawing Number LPL/S106P Rev ^R and prepared by Cofton _F   

"Plan 2" The plan annexed and titled “Improvements to existing right of way location plan & detail” drawing number 2465/03/018 Rev ^B and prepared by Millard Consulting Engineers    

"Plan 3"	The plan annexed an titled "Construction Traffic Route Plan" drawing number 2465_03_014 and prepared by T A Millard Partnership
"Play Areas"	the areas hatched red on Plan 1
"Primary School Contribution"	The sum of Two-Hundred and Twenty Five Thousand Pounds as increased by the Inflation Provision
"Recycling Centre"	coloured yellow on Plan 1
"Rental Dwellings"	fifty (50) per cent of the Affordable Dwellings to be let by or on behalf of a Housing Association or the Council in accordance with its objects and "Rental Dwelling" shall mean any one of the Rental Dwellings
"RSL"	shall have the meaning ascribed by the Housing Act 1996
"Scheme"	means a copy of the exchanged Conditional Contract
"Shared Ownership Dwellings"	fifty (50) per cent of the Affordable Dwellings to be disposed of in the first instance on a shared ownership leasehold basis at no more than 75% of the open market value to a person or persons with a Housing Need unable to acquire similar property in the open market and "Shared Ownership Dwelling" shall mean any one of the Shared Ownership Dwellings
"Traffic Measures"	The preparation and implementation of a scheme of off-site traffic management by the County from the options set out in the report entitled "Off Site Traffic Management Options" by the T A Millard Partnership and dated September 2001 together with the carrying



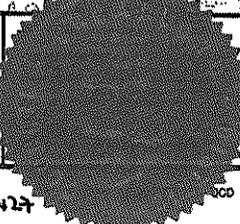
Rev	Amendment	Drawn	Approved	Date

Project
LITTLE PLUMSTEAD HOSPITAL

Drawing Title
CONSTRUCTION TRAFFIC ROUTE PLAN

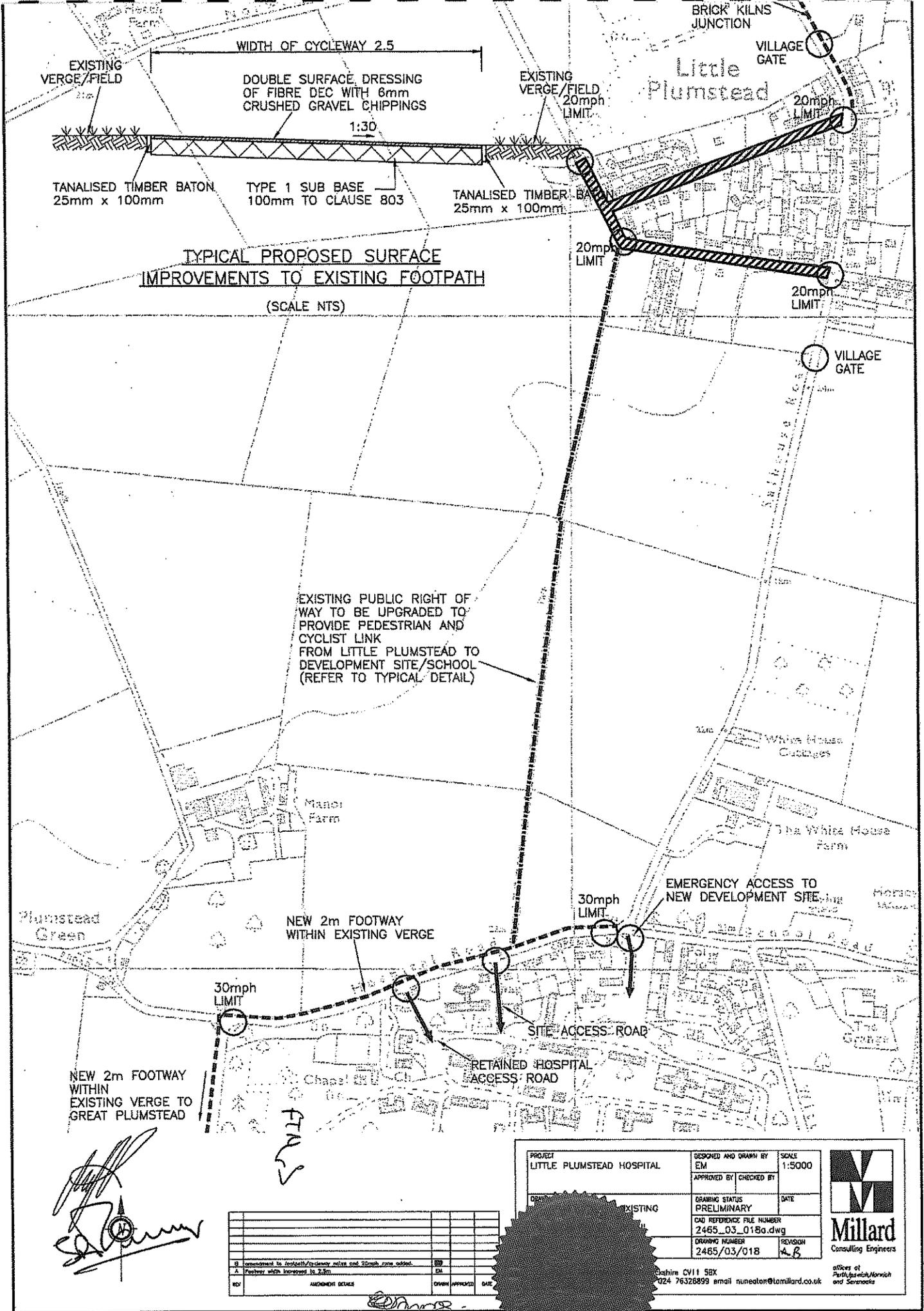
Client
COFTON LTD

[Signature]
HEAD OF CORPORATE SERVICES & MONITORING OFFICER



The TA MILLARD
Partnership
CHARTERED CIVIL AND DEVELOPMENT ENGINEERS

Drawn by NDH	Designed by EM
Checked by EM	Approved by
Scale 1:10000	Date 28/2/02
Drawing No. 2485_03_014	Rev. --



[Handwritten signature]

REV	DESCRIPTION	DATE	BY	CHKD

PROJECT LITTLE PLUMSTEAD HOSPITAL	DESIGNED AND DRAWN BY EM	SCALE 1:5000	
APPROVED BY	CHECKED BY	DATE	
DRAWING STATUS EXISTING	DRAWING STATUS PRELIMINARY	DATE	Millard Consulting Engineers
CAD REFERENCE FILE NUMBER 2465_03_018a.dwg	DRAWING NUMBER 2465/03/018	REVISION A, B	
Dorsetshire CV11 5BX 024 76326899 email suneton@tamillard.co.uk			

offices at
Purton, Dorset, Norwich
and Sevenoaks

out a review and determination of the optimum routes for the passage of heavy goods vehicles through the Rackheath area taking the effect of the Development into account together with promoting and implementing a 20mph zone along Sandhole Lane and Crowes Loke

- “Traffic Measures Contribution” The sum of Fifty Thousand Pounds in respect of the cost of the Traffic Measures increased by the Inflation Provision
- "School Site" The area of land of 1.5ha shown for identification purposes only edged red on Plan 1 and shall include any amendment thereto as is approved by the County
- “Woodland Management Area” the area of land containing woodland and a lake shown for the purposes of identification only edged green on Plan 1
- “1990 Act” means the Town and Country Planning Act 1990 (as amended)

(2) In this Agreement unless the context otherwise requires:

- (i) words importing the masculine gender shall where appropriate include the feminine gender and the neuter gender or vice versa as the case may be and words importing the singular number shall where appropriate include the plural number and vice versa.
- (ii) “party” or “parties” means a party or parties to this Agreement.
- (iii) references to any party shall include the successors in title and assigns of that party or a successor in statutory function.
- (iv) where a party includes more than one person any obligations of that party shall be joint and several.

- (v) headings in this Agreement shall not form part of or affect its construction.
 - (v) references to clauses and schedule are references to clauses in and schedules to this Agreement.
 - (vi) where a party or any officer or employee is required to give its consent approval or agreement in any specific provision in this Agreement such approval or agreement shall not be unreasonably withheld or delayed.
 - (vii) any mention herein of any Act or of any Section Regulation or Statutory Instrument shall be deemed to refer to the same source as at any time amended and where such Act, Section, Regulation or Statutory Instrument has been replaced, consolidated or re-enacted with or without amendment such mention shall be deemed to refer to the relevant provision of the updating consolidating or re-enacting Act or Section or Regulation or Statutory Instrument.
- (B) The Council and the County are Local Planning Authorities for the purposes of the 1990 Act and the County is the Highway Authority within the meaning of the Highways Act 1980 ("the Highways Act") for the area within which the Land is situated.
- (C) The Owner is the freehold owner of the land (hereinafter called "the Land") shown for the purpose of identification only edged blue on Plan 1 annexed hereto as the same is contained in a conveyance dated 13th October 1928 and made between D G L' Estrange Astley (1) and Norfolk County Council (2) subject to the matters contained or referred to in the said conveyance and the Deed of Covenant
- (D) The Contractual Purchaser has entered into a contract with the Owner to purchase the Land dated 23rd November 2001 (and varied by a supplemental agreement dated 8th November 2002 ("the Contract"))

- (E) The Developer is the Parent Company of the Contractual Purchaser and has made the Application to the Council for Permission in the terms of the Application
- (F) Having regard to the Development Plan and other material considerations the Council consider it expedient in the interests of the proper planning of their area that provision should be made for regulating or facilitating the Development of the Land in the manner hereinafter appearing and the Council is satisfied the Permission can only be granted subject to and upon completion of this Agreement.

NOW THIS DEED WITNESSETH as follows:-

1. GENERAL

- 1.1 This Agreement and the covenants that appear hereinafter are made pursuant to Section 106 and 299A of the 1990 Act Section 111 of the Local Government Act 1972 and any other enabling power.
- 1.2 The covenants that appear hereinafter are planning obligations for the purposes of Section 106 and 299A of the 1990 Act and are enforceable by the Council and the County.
- 1.3 This Agreement is a Deed and may be modified or discharged in part or in total at any time after the date of this Agreement by agreement between the parties in the form of a Deed.
- 1.4 This Agreement is a local land charge and upon completion shall be registered by the Council as such.
- 1.5 Subject to completion of the Contract no waiver (whether express or implied) by the Council of any breach or default by the Developer in performing or observing any of the covenants in this Agreement shall constitute a continuing waiver and no such waiver

shall prevent the Council from enforcing any of the covenants or from acting upon any subsequent breach or default in respect thereof.

- 1.6 Any provision of this Agreement which is or may be unlawful void or unenforceable shall to the extent of such unlawfulness invalidity or unenforceability be deemed severable and shall not affect any other provision of this Agreement.
- 1.7 This Agreement shall be governed by the laws of England.
- 1.8 No party shall be liable for any breach of the covenants restrictions or obligations contained in this Agreement after that party has parted with its interest in the Land or the part of the Land in respect of which such breach occurs provided that liability will still remain for any breach occurring prior to the parting of any party's interest in the Land or any part thereof in respect of which any such breach has taken place PROVIDED THAT neither the exception or reservation of a right nor the benefit of a restrictive covenant amounts to an interest in the Land
- 1.9 The covenants in this Deed shall only come into effect on the Commencement Date unless otherwise specifically indicated in this Deed or to construe otherwise would be inconsistent with the requirements of any such covenants
- 1.10 The covenants in this Agreement shall bind the Land and each and every part thereof into whomsoever hands the same may come and shall (subject to this clause and clause 1.11) be enforceable against all persons with a private interest deriving from the Crown interest of the Owner in the Land or any part thereof PROVIDED THAT the enforcement of the covenants hereunder shall be subject to the consents required pursuant to Section 299(A)5 of the 1990 Act
- 1.11 This Agreement shall cease to have effect if the Permission is quashed revoked or otherwise withdrawn.
- 1.12 Any notices or other written communication to be served or given by one party upon or to any other party under the terms of this Agreement shall be deemed to have been validly served or given if received by facsimile, delivered by hand or sent by recorded

2. FINANCE

- 2.1 The Developer further agrees that any rights to claim compensation arising from any limitations or restrictions on the planning use of the Land under the terms of the Agreement are hereby waived.
- 2.2 All works and activities to be carried out under the terms of this Agreement (including for the avoidance of doubt such works as are of a preparatory ancillary or of a maintenance nature) are (save where expressly provided otherwise) to be at the sole expense of the Developer (subject to completion of the Contract) or the Owner and at no cost to the Council or the County.
- 2.3 All consideration given and payments made in accordance with the provisions of this Agreement shall be exclusive of any VAT properly payable in respect thereof and in the event of VAT becoming chargeable at any time in respect of any supply made in accordance with the terms of this Agreement then to the extent that VAT had not presently been charged in respect of that supply the person making the supply shall raise a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly.
- 2.4 The Developer shall pay the County's reasonable legal costs on this Agreement

3. ARBITRATION

- 3.1 The parties will attempt in good faith to resolve any dispute or claim arising out of or relating to this Agreement promptly through negotiations between the respective senior executives of the parties who have authority to settle the same
- 3.2 Any dispute or difference arising between the parties as a result of this Agreement shall be referred to the arbitration of a single arbitrator to be agreed upon between the parties, or failing agreement within fourteen (14) days after any of the parties has given to the other parties a written request requiring the appointment of an Arbitrator, to a person to

be appointed at the request of any of the parties by the President of The Institution of Civil Engineers for the time being.

- 3.3 Any reference to arbitration shall be undertaken in accordance with and subject to the provisions of the Arbitration Act 1996 save as follows:-
- 3.3.1 the seat of the arbitration shall be at the Council's offices in Norwich;
 - 3.3.2 where appropriate the Arbitrator may consolidate arbitral proceedings; and
 - 3.3.3 with the parties agreement the Arbitrator may appoint experts or legal advisers.
- 3.4 Any of the parties mentioned in clause 3.2 concerned in any such dispute or difference arising from this Agreement wishing to refer any such dispute or difference to arbitration shall notify the other parties in writing of such intention without delay.
- 3.5 The Arbitrator shall act as a referee and not as an expert except in any case where the parties to a dispute or difference agree on the Arbitrator when such parties may also agree that such Arbitrator shall act as an expert.
- 3.6 Subject to Sections 67, 68 and 69 of the Arbitration Act 1996, the parties agree to be bound by the decision of the Arbitrator.
- 3.7 The Arbitrator shall give the parties an opportunity to make representations to him and to comment upon each others representation before making his decision and will make his decision within the parameters of the parties representations
- 3.8 The Arbitrator shall be entitled to obtain opinions from others if he so wishes but shall give the parties an opportunity to comment upon any opinion so obtained
- 3.9 The Arbitrator shall make his determination within one month of his appointment or such longer period as shall be agreed between the parties and shall give reasons for his decisions and his costs shall be in his award

4. RIGHTS OF THIRD PARTIES

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and no person who is not a party to this Agreement (other than a successor in title to one of the original parties) shall be entitled in that person's own right to enforce any provisions of this Agreement pursuant to the provisions of the said Act.

5. COVENANTS

The Owner and Developer

- 5.1 The Owner and the Developer hereby covenants and undertakes with the Council and the County so as to bind the Land and each and every part thereof to carry out and comply with the obligations on its part set out in clauses 6, 7, 8, 9, 10 11, 12, 13, 14, 15, 16 and 17 of this Agreement PROVIDED THAT in the case of the Developer enforcement for any breach of this covenant is subject to completion of the Contract
- 5.2 The Owner and the Developer hereby covenants and undertakes with the County so as to bind the Land and each and every part thereof to carry out and comply with the obligations on its part set out in clause 13, 14, 16 and 17 of this Agreement PROVIDED THAT in the case of the Developer enforcement for any breach of this covenant is subject to completion of the Contract

6. PLAY AREAS

- 6.1 The Developer shall prior to the Commencement Date submit to the Council for approval a plan and specification for the laying out of the Play Areas together with a detailed programme for the implementation of such works and upon approval the plan specification and phased programme shall be deemed to be incorporated in the terms of this Agreement as if the same had been fully set out herein.
- 6.2 The Developer shall commence and thereafter complete in accordance with the plan specification and programme the works for the completion of the Play Areas.

- 6.3 The Developer shall complete the works to provide the Play Areas and maintain them for a period of twelve (12) months after completion to the satisfaction of the Council who when so satisfied shall issue a certificate ("the Certificate") accordingly.
- 6.4 Within twenty eight (28) days of receipt of written application from the Developer for the issue of the Certificate pursuant to this Agreement the Council shall inspect the works and where necessary provide the Developer with a definitive list in writing of any remedial works required to be carried out before the issue of the Certificate. Any remedial works shall be subject to the same inspection procedure detailed herein until such time as they shall be completed to the reasonable satisfaction of the Council who within twenty eight (28) days thereafter shall issue the Certificate.
- 6.5 Forthwith upon issue of the Certificate the Developer will transfer to the Council (and the Council will accept such transfer) the freehold of all the Play Areas with full title guarantee subject to the matters contained or referred to in the Developers title together with all necessary rights and easement for the consideration of the covenants given by the Council not to use the land otherwise than for Play Areas to the Developer and the Developer shall pay to the Council all reasonable and proper legal costs involved in the transfer.
- 6.6 The Developer shall pay to the Council upon transfer of the Play Areas to it in accordance with the above clause a sum calculated in accordance with the formula as adopted by the Council for the calculation of the maintenance of play areas current at the time of this Agreement by way of a commuted sum (increased by the Inflation Provision) in respect of the Play Areas which sum is to be applied by the Council towards the expenses it will incur in respect of the subsequent maintenance of the Play Areas.

7. ENVIRONMENTAL OBLIGATIONS

- 7.1 The Developer shall provide one litter bin and one dog waste bin at the entrance points of all recreation areas.

7.2 The Developer shall prior to the Commencement Date submit to the Council a scheme for the provision of litter and dog waste bins on the Land and upon approval such scheme shall be deemed to be incorporated in the terms of this Agreement as if the same had been fully set out herein.

7.3 The Developer shall commence and thereafter complete in accordance with the programme set out in the scheme required by clause 7.1 hereof the works for the provision of the litter and dog waste bins

8. RECYCLING CENTRE OBLIGATION

8.1 The Developer shall submit for approval to the Council prior to Occupation of any Dwellings a scheme for the provision of the Recycling Centre, and following approval to complete construction of the Recycling Centre (but not any equipment for recycling to be included therein) by or no later than the occupation of the twenty fifth (25th) Dwelling.

8.2 The Recycling Centre shall be transferred to the Council (and the Council will accept such transfer) within six (6) weeks of the Developer notifying it of its completion and the consideration for such transfer shall be one pound (£1) and the transfer shall contain such other rights and provisions as the Owner reasonably considers necessary

9. WOODLAND MANAGEMENT AREA

9.1 The Owner will during the Perpetuity Period manage the Woodland Management Area in accordance with the Approved Maintenance Scheme to the satisfaction of the Council

10 CHURCH CAR PARK

10.1 Prior to the occupation of the twenty fifth (25th) Dwelling the Developer shall lay out in accordance with a Specification previously agreed with the Council the car park and associated accessway on the land coloured pink on Plan 1.

10.2 The Owner shall permit upon completion of the works shall permit the use of the car park and accessway by the public at large as if the same were publicly owned land without any restriction on access

11. OLD COURTYARD AREA

11.1 Neither the owner nor the Developer shall undertake any works of demolition to the Old Courtyard Area (labelled "Old Courtyard Area" on Plan 1) or the buildings comprising it without first obtaining written consent from the Council.

12. AFFORDABLE HOUSING OBLIGATIONS

12.1 Not to permit the Occupation of more than twenty Dwellings (or such other number as shall be approved in writing by the Council) on the Land without first having submitted to and received approval from the Strategic Director (Community Services) of the Council the Scheme and upon approval the Scheme shall be deemed to be incorporated in the provisions of this agreement

12.2 The Owner shall keep the Council informed of the progress of the negotiation of the Conditional Contract including details of the RSL or Housing Association purchaser

12.3 The Council shall not be entitled to unreasonably withhold or delay consent as to the identity of the RSL and/or Housing Association or the style, type or mix of properties to form either the Shared Ownership Dwellings or the Rental Dwellings

13. HIGHWAY AND ACCESS OBLIGATIONS

13.1 The Owner and the Developer hereby covenant with the County that with effect from Commencement Date the Land shall not be used for the purposes authorised by the Planning Permission unless:-

13.1.1 All vehicles operated by the Owner the Developer or their employees or otherwise under the direct control of the Owner or Developer approach and leave the Land via the route shown by a thick black broken line on Plan 3 (the "Permitted Route")

- 13.1.2 In relation to vehicles not under the direct control of the Owner or the Developer all reasonable endeavours shall be used to ensure that such vehicles approach and leave the Land via the Permitted Route
- 13.1.3 there are affixed and displayed and maintained on the Land such signs approved by the County in writing (such approval not to be unreasonably withheld or delayed) as to locations numbers size and legend and as shall be required from time to time by the County (including any modifications, additions or subtractions to those first or subsequently approved by the County)
- 13.2 It is hereby agreed and declared for the purposes of **clause 13.1.2** that the requirement to use reasonable endeavours:
- 13.2.1 requires the Owner and the Developer to incorporate in all contracts with persons likely to visit the Land a term having the same effect as **clause 13.1.1**
- 13.2.2 requires the Owner and Developer to communicate in writing with persons whose vehicles from time to time regularly visit the Land informing them of the Permitted Route and requesting that their vehicles follow it at all times when visiting the Land at a method and frequency as shall be reasonably likely to secure co-operation with the use of the Permitted Route such method and frequency to be determined by the Developer and disclosed to the County as requested or at the Countys discretion shall be as reasonably determined by the County
- 13.2.3 requires the Owner or Developer on receiving information that any driver of a vehicle shall have taken any route to or from the Land other than the Permitted Route to take all necessary and lawful action possible against the Driver to ensure future compliance
- 13.2.4 will be breached if an employee of the Owner or the Developer uses a route other than the Permitted Route
- 13.3 The Developer and the Owner hereby Covenant and Agree with the County that:

13.3.1 Prior to the Commencement Date the Owner shall deposit with the County the Footway and Cycleway Contribution and procure the dedication of any part of the Cycleway as does not form part of the adopted highway network as public highway to the reasonable satisfaction of the County and:

13.3.1.1 In the event the cost of constructing the Footway and the Cycleway (including all costs design costs claims overheads expenses and disbursements) exceeds the Footway and Cycleway Contribution the Owner will pay any additional sum within 30 days following the receipt from the County of an invoice for that sum

13.3.1.2 In the event the cost of constructing the Footway and the Cycleway (including all costs design costs claims overheads expenses disbursements) is less than the Footway and Cycleway Contribution the County will repay any additional sum within 30 days following completion of construction of the Cycleway and the Footway

13.3.2 No Dwelling constructed on the Land shall be Occupied until the Owner has paid to the County the cost of providing the public transport provision for the Development agreed in accordance with clause 13.3.3 ("the Transport Cost") and this cost shall be based on the following:

13.3.2.1 The bus service shall run from the Land to and from Norwich City Centre (with the location of bus stops to be approved by the County such approval not to be unreasonably withheld or delayed);

13.3.2.2 The service is to commence prior to the Occupation of the first Dwelling and until 100 Dwellings have been Occupied shall run on an hourly basis Monday to Saturday between the hours of 0700 and 1900 and shall use Disability Discrimination Act 1995 compliant vehicles with a minimum seating capacity of 27 people

13.3.2.3 Following the Occupation of the 100th Dwelling the service shall run on a half hourly basis between 0700 and 1900 Monday to Saturday an hourly service between the hours of 1900 to 2300 Monday to Saturday and an hourly service between the hours of 0700 and 1900 on Sundays and the buses shall be Disability Discrimination Act 1995 compliant vehicles with a minimum seating capacity of 35 people

13.3.2.4 The period of the provision of public transport as above shall be five years from the date of first Occupation of any Dwelling

13.3.3 The Transport Cost shall be agreed between the parties acting reasonably and in the event of a dispute shall be dealt with under **clause 3** of this Agreement

13.3.4 No Dwelling constructed on the Land shall be Occupied until raised-kerb bus-stops appropriate shelters and real time information signs within the shelters have been provided on Hospital Road close to the vehicular entrance of the Land ("the HRBS") to the reasonable satisfaction of the County and the County agrees to provide reasonable assistance at no cost to the County to facilitate the objectives of this clause

13.3.4.1 It is agreed between the parties that in connection with clause 13.3.4 the County may require at in the event that all Dwelling's are not within 400 metres of the HRBS

(a) that the bus service be routed through the Land to additional bus-stops to the same specification as in clause 13.3.4 and;

(b) that the route through the Land to the additional bus-stops will be first constructed to a six metre width to accommodate 12 metre long buses

in each case within this clause 13.3.4.1 to the reasonable satisfaction of the County

13.4 The Developer and the Owner further covenants with the County and the County covenants with the Owner and the Developer as follows:

13.4.1 Prior to the Commencement Date the Owner shall deposit with the County the Traffic Measures Contribution

13.4.2 In the event the cost of the Traffic Measures (including all costs claims overheads expenses and disbursements) exceeds the Traffic Measures Contribution the Owner will pay any additional sum within 30 days following the receipt from the County of an invoice for that sum

13.4.3 In the event the cost of the Traffic Measures (including all costs claims overheads expenses and disbursements) is less than the Traffic Measures Contribution the County will repay any additional sum within 30 days following completion of the Traffic Measures

13.4.4 The Developer and the Owner shall provide reasonable assistance to the County in carrying out the Traffic Measures

13.5 The Owner and the Developer further covenant with the County that:

13.5.1 prior to the Commencement of the Development the Owner in conjunction with the County shall undertake a survey of the highway within the Permitted Route ("the Road") and produce a condition report for the approval of the County

13.5.2 during the carrying out of the Development the Road will be kept clean and clear of all soil sand gravel oil or other substances or materials whatsoever arising from the Land or vehicles accessing or egressing the Land in connection with the Works

13.5.3 within six months following practical completion of the Development (as evidenced under the contract for their construction) to restore the Road to the same state and condition or repair and order (excluding an allowance determined by the County acting reasonably for ordinary wear and tear) as it was prior to Commencement Date to the reasonable satisfaction of the County

13.5.4 to pay to the County its reasonable and proper costs as certified by its Director of Planning and Transportation in carrying out the survey within 28 days of receipt of an invoice for that sum

14. EDUCATION OBLIGATIONS

The Owner hereby covenants with the County that:

- 14.1 Prior to the Occupation of any Dwellings on the Land the School Site shall be cleared of any contamination debris or other material to the reasonable satisfaction of the County.
- 14.2 Prior to the Occupation of any Dwellings on the Land there shall be constructed a secure boundary fence on the boundary of the School Site to the reasonable satisfaction of the County
- 14.3 The Development shall not be commenced within the meaning of Section 56 of the Act until the freehold owner of the School Site has entered into an option agreement in the form annexed hereto (the plan to be attached to the Option is to be agreed between the County and the Owner (such agreement not to be unreasonably withheld or delayed)) ("the Option") with the County for the transfer of the School Site to the County and it is agreed the County shall not be required to enter into the Option unless:
 - 14.3.1 There are no charges incumbrances burdens restrictions adverse rights or interests or any other matters which in the sole opinion of the County acting reasonably would affect the development of the School Site as a school and in the event that there are matters which would affect the ability to be used and developed as a school the Owner shall use all reasonable endeavours to remove or release the burden restriction adverse right or interest or any other matter to the reasonable satisfaction of the County following which the County shall comply with its covenant contained in clause 14.3.2 below
 - 14.3.2 Title to the School Site has been deduced to the reasonable satisfaction of the County and subject to clause 14.3.3 below the County covenants to enter into the Option as soon as reasonably practicable (but within one month at the latest) once the title has been satisfactorily deduced and there are no matters referred to in clause 14.3.1 in existence
 - 14.3.3 Clauses 14.1 and 14.2 have been complied with

- 14.4 Prior to the Occupation of any Dwellings on the Land the Owner shall pay to the County the Primary School Contribution as increased by the Inflation Provision in respect of the provision of primary school education facilities in accordance with the requirements of the County
- 14.5 The Owner shall notify the County in writing as soon as practicable following Occupation of the 40th Dwelling on the Land
- 14.6 Prior to the Occupation of the 50th dwelling on the Land the Owner shall pay to the County the High School Contribution as increased by the Inflation Provision in respect of the provision of high school education facilities in accordance with the requirements of the County
- 14.7 It is agreed that in the event of the Transfer of the School Site to the County the planning obligations and covenants herein (save as relate to the School Site) shall not bind the School Site

15. COUNTY'S COVENANTS

- 15.1 The County covenants with the Owner to deposit the High School Contribution in a bank account and to the extent the High School Contribution is not used within 5 years of its payment for a purpose relating to the improvement of high school education facilities in the locality of the Development to repay that part of the High School Contribution to the person who made the payment together with whatever interest has accrued
- 15.2 The County covenants with the Owner to deposit the Primary School Contribution in a bank account and to the extent that the Primary School Contribution is not used within 12 years of payment for a purpose relating to the improvement of primary school education facilities either by the provision of a new school on the Site or by the improvement of existing facilities in the locality of the Development to repay that part of the Primary School Contribution to the person who made the payment together with whatever interest has accrued

16. FIRE HYDRANT OBLIGATION

16.1 The Owner hereby covenants with the County that prior to the Occupation of any Dwellings on the Land the Owner shall pay the sum of One Thousand Eight Hundred pounds (£1,800.00) as increased by the Inflation Provision in respect of the provision of fire hydrants in accordance with the requirements of the County and the Owner shall provide reasonable assistance to the County in the installation of the fire hydrants

17. LIBRARY OBLIGATION

17.1 The Owner hereby covenants with the County that prior to the Occupation of any Dwellings on the Land the Owner shall provide the sum of *Six Thousand Eight Hundred Pounds* (£6,800.00) as increased by the Inflation Provision in respect of the provision of library facilities in accordance with the requirements of the County.

IN WITNESS whereof this Agreement has been executed and delivered as a Deed on the date first written above

Call option agreement for sale of the whole of freehold property at a fixed price

THIS AGREEMENT is made the day of BETWEEN:

- (1) [Freehold Owner of School Site][of whose registered office is at (address)] ('the Seller') and
- (2) THE NORFOLK COUNTY COUNCIL [of (address) or whose registered office is at (address)] ('the Buyer')

1 Definitions and interpretation

In this Agreement:

- 1.1 'the Buyer's Solicitors' means *Head of Law Legal Services Norfolk County Council*
- 1.2 'the Completion Date' means the twentieth working day after the date of service of the Option Notice
- 1.3 'the General Conditions' means the Standard Commercial Property Conditions (1st Edn)
- 1.6 'the Option' means the option granted to the Buyer by clause 2
- 1.7 'the Option Period' means the period of 12 years from the date of this Agreement
- 1.8 'the Option Notice' means the notice served by the Buyer pursuant to clause 3
- 1.9 'the Property' means the property described in the first schedule
- 1.10 'the Purchase Price' means the sum of £1 which is inclusive of VAT at the standard rate as at the date of actual completion
- 1.11 'the Seller's Solicitors' means []
- 1.13 where the context so admits the expressions 'the Seller' and 'the Buyer' includes their respective successors in title
- 1.14 words importing one gender shall be construed as importing any other gender
- 1.15 words importing the singular shall be construed as importing the plural and vice versa
- 1.16 words importing persons shall be construed as importing a corporate body and/or a partnership and vice versa
- 1.17 where any party comprises more than one person the obligations and liabilities of that party under this Agreement shall be joint and several obligations and liabilities of those persons
- 1.18 the clause headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation
- 1.19 any reference to a clause or a paragraph or a schedule is to one in this Agreement so numbered

2 Grant of the Option

2.1 The Seller grants to the Buyer the Option to buy the freehold interest in the Property at the Purchase Price

3 Exercise of the Option

3.1 The Option shall be exercisable by the Buyer serving on the Seller at any time during the Option Period notice in writing in the form set out in the third schedule

3.2 On the valid exercise of the Option the Seller shall sell and the Buyer shall buy the Property at the Purchase Price on the terms of this Agreement

3.4 The Seller by way of security appoints the Buyer's Head of Law as his attorney for the sole purpose of signing the Option Notice for the Seller

3.5 The Buyer and the Seller respectively undertake to do all such things as may be necessary following service of the notice referred to above to ensure the existence of an enforceable contract for the sale and purchase of the Property in accordance with the provisions of Section 2 of the Law of Property (Miscellaneous Provisions) Act 1989

5 Completion

Completion of the sale and purchase and payment of the Purchase Price shall take place on the Completion Date at the offices of the Buyer's Solicitors or where they may direct

6 Title guarantee

The Seller sells with full title guarantee

7 Possession

The Property is sold with vacant possession on completion

8 Title

8.1 Title to the Property is registered at HM Land Registry with absolute title under title number (*number*) and title shall be deduced in accordance with the Land Registration Act 1925 Section 110

9. Encumbrances

9.1 The transfer to the Buyer shall be in the form of the annexed draft transfer

- 9.2 The Property is sold subject to and (where appropriate) with the benefit of the rights exceptions reservations covenants restrictions and other matters (if any) referred to in the annexed draft transfer and the property and charges register of title number (*number*) in so far as they are capable of affecting the Property AND in any disposition of any part of the Sellers other land in title number [NK] as at the date of this Agreement these rights will be reserved for the benefit of the Property
- 9.3 The Buyer or the Buyer's Solicitors having been supplied with copies of the matters (if any) referred to in clause 9.2 prior to the date of this Agreement shall be deemed to purchase with full notice and knowledge of them and shall not raise any requisition or make any objection in relation to them
- 9.4 The transfer shall be engrossed by the Seller's Solicitors and the engrossment shall be executed by the Buyer before the Completion Date

10 Matters affecting the Property

The Property is sold subject to the following matters:

- 10.1 all local land charges whether registered or not before the date of this Agreement and all matters capable of registration as local land charges whether or not actually so registered
- 10.2 all notices served and orders demands proposals or requirements made by any local public or other competent authority whether before or after the date of this Agreement
- 10.3 all actual or proposed charges notices orders restrictions agreements conditions contraventions or other matters arising under the enactments relating to town and country planning and environmental law
- 10.4 all easements quasi-easements rights exceptions or other similar matters whether or not apparent on inspection or disclosed in any of the documents referred to in this Agreement

11 Disclaimer

The Buyer admits that:

- 11.1 he has inspected the Property and enters into this Agreement with full knowledge of the actual state and condition of the Property
- 11.2 it enters into this Agreement solely as a result of its own inspection and on the basis of the terms of this Agreement and not in reliance upon any representation or warranty either written or oral or implied made by or on behalf of the Seller

(save for any representation or warranty contained in written replies given by the Seller's Solicitors to any preliminary inquiries raised by the Buyer or the Buyer's Solicitors)

11.3 this Agreement contains the entire agreement between the parties

12 Incorporation of conditions of sale

The General Conditions shall apply to this Agreement in so far as they are applicable to a sale by private treaty and are not varied by or inconsistent with the terms of this Agreement

13 Restriction on assignment

13.1 This Agreement is personal to the Buyer and shall not be capable of assignment

13.2 The Seller shall not be required to transfer the Property to anyone other than the Buyer named in this Agreement

14 Dealings by the Seller

14.1 Seller shall not create or dispose of any legal or equitable interest (including without limitation any charge incumbrance easement right or covenant) in on over or under nor create any right or licence to occupy or use the Property or any part of it except in favour of the Buyer without obtaining the prior written consent of the Buyer (such consent not to be unreasonably withheld or delayed)

15 Registration

15.1 The Seller shall within 3 working days after the date of this Agreement deposit the Seller's land certificate charge certificate relating to his title to the Property in HM Land Registry

15.2 The Seller consents to registration of a notice of this Agreement in the charges register of the Seller's title to the Property and shall do all things necessary to enable a notice under the Land Registration Act 1925 Section 49(1) to be registered

15.3 If the Option expires the Buyer shall forthwith cancel any registrations made by him in any registers to protect this Agreement and by way of security appoints the Seller his attorney for the purpose of effecting such cancellations

16 Merger on completion

The provisions of this Agreement shall not merge on completion of the transfer of the Property so far as they remain to be performed

17 Nature of this agreement

This Agreement is a deed and has been executed by the parties to it as a deed

18 Contracts (Rights of Third Parties) Act 1999

For the purposes of the Contracts (Rights of Third Parties) Act 1999 it is agreed that nothing in this Agreement shall confer on any third party any right to enforce or any benefit of any term of this Agreement

In witness whereof the parties hereto have executed this document as a Deed the day and year first written before

FIRST SCHEDULE

The Property

All that land edged red of the Drawing

THIRD SCHEDULE

Form of Option Notice

To: *(seller's name and address)*

From: *(buyer's name and address)*

Property: *All that land measuring 1.5ha or thereabouts and shown edged red on the attached plan*

In accordance with the terms of the Option Agreement dated *(date)* made between []

(1) and The Norfolk County Council (2) relating to the Property described above I GIVE NOTICE to you that I exercise my option to buy the Property at the price of £1

I enclose the deposit of £1

Signed on behalf of the Buyer:

Date: *(date)*

Signed on behalf of the Seller

Dated: *(date)*

Transfer of part of registered title	HM Land Registry	<h1>TP1</h1>
1. Stamp Duty		
<p><i>Place "X" in the box that applies and complete the box in the appropriate certificate</i></p> <p> <input type="checkbox"/> It is certified that this instrument falls within category <input type="checkbox"/> in the Schedule to the Stamp Duty (Exempt Instruments) Regulations 1987 </p> <p> <input checked="" type="checkbox"/> It is certified that the transaction effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value or the aggregate amount or value of the consideration exceeds the sum of £ 60,000 </p>		
2. Title number(s) out of which the Property is transferred <i>(leave blank if not yet registered)</i> [title number here]		
3. Other title number(s) against which matters contained in this transfer are to be registered <i>(if any)</i>		
4. Property transferred <i>(insert address including postcode or other description of the property transferred. Any physical exclusions e.g. mines and minerals should be defined. Any attached plan must be signed by the transferor and by or on behalf of the transferee)</i> All that land at Little Plumstead Norfolk measuring 1.5 ha or thereabouts and shown edged red on the attached plan The Property is defined: <i>(Place "X" in the box that applies and complete the statement)</i> <input checked="" type="checkbox"/> On the attached plan and shown <i>(state reference e.g. edged red)</i> edged red <input type="checkbox"/> On the Transferor's filed plan and shown <i>(state reference e.g. edged and numbered 1 in blue)</i>		
5. Date		
6. Transferor <i>(give full names and Company's Registered Number if any)</i>		

[Freehold Owner of School Site]

7. Transferee for entry on the register (Give full names and company's Registered Number if any)

THE NORFOLK COUNTY COUNCIL

8. Transferee's intended address(es) for service in the UK (including postcode) for entry on the register

County Hall
Martineau Lane
Norwich
Norfolk
NR1 2DH

9. The Transferor transfers the Property to the Transferee

10. Consideration (Place "X" in the box that applies. State clearly the currency unit if other than sterling. If none of the boxes applies insert an appropriate memorandum in the additional provisions panel)

The Transferor has received from the Transferee for the Property the sum of (in words and figures) (£) One Pound (£1.00)

(insert other receipt as appropriate)

The transfer is not for money or anything which has a monetary value

11. The Transferor transfers with (place "X" in the box which applies and add any modifications)

full title guarantee

limited title guarantee

12. Declaration of trust

The Transferees are to hold the Property on trust for themselves as joint tenants

The Transferees are to hold the Property on trust for themselves as tenants in common in equal shares

The Transferees are to hold the property (Complete as necessary)

13. Additional Provisions

1. Use this panel for:-

definitions of terms not defined above
rights granted or reserved
restrictive covenants
other covenants

*agreements and declarations
other agreed provisions
required or permitted statements certificates or applications*

2. *The prescribed subheadings printed in the form as set out in Schedule 1 to the Land Registration Rules 1925 may be inserted, added to, amended, repositioned or omitted*

13.1 The Property is sold with all rights appertaining thereto and subject to the matters mentioned in the Land Registry entries of the title number above so far as applicable at the date hereof but not further or otherwise

13.2 The Property is sold with the following rights:

(a) The right for the Transferee and its successors in title to the Property to run water soil gas fuel oil electricity telephonic signals data communications and other services through any sewers drains watercourses pipes cables wires and other channels or conduits ("Conduits") which are now or at any time during the period of eighty years from the date of this Transfer ("the Perpetuity Period") may be laid under or over the remainder of the land comprised in title number [] shown edged green on the Plan ("the Retained Land") with the power at all times on giving to the owner or occupier for the time being of the Retained Land reasonable notice (except in emergency when no notice is required) to enter onto so much as is reasonably necessary of the Retained Land for the purpose of repairing renewing maintaining inspecting and replacing or cleansing such Conduits and of laying any new Conduits and apparatus to obtain any such service as mentioned above PROVIDED THAT the rights contained in this paragraph are at all times subject to the persons exercising those rights:-

- (i) making good all damage caused to the Retained Land or any buildings for the time being erected on the Retained Land to the reasonable satisfaction of the owner for the time being of the property affected and
- (ii) paying reasonable compensation to any person affected for any damage not capable of being made good as mentioned above and

(iii) paying a fair proportion according to use of the costs of repairing renewing maintaining inspecting replacing and cleansing the Conduits which serve the Property in common with the Retained Land (or any part of parts of it) and paying all costs incurred in repairing renewing maintaining inspecting replacing and cleansing any part of the Conduits which serve only the Property

(iv) prior to laying any such new conducting media to obtain the prior written approval to the route of the new conducting media (such approval not to be unreasonably withheld or delayed)

(b) The right of support for the Property (and all buildings on it) from the Retained Land (and all buildings on it)

(c) A right of way for the owner or owners for the time being of the Property with or without vehicles at all times and for all purposes over and along the accessway the approximate position of which is coloured brown on the Plan between the Property and the public highway SUBJECT to payment by such owner or owners for the time being of the Property of a fair proportion according to use of the costs of maintaining and repairing such accessway to a reasonable standard

(d) The right to enter onto so much of the Retained Land as may be reasonably necessary at all reasonable times and on reasonable notice (except in emergency when as much notice as possible is required) for the purpose of inspecting maintaining repairing renewing replacing or cleaning the Property and any buildings and other constructions boundary walls and fences which may be erected on it

[(e) such other rights as agreed by the parties acting reasonably as may become necessary as a result of changes in the design or layout of the development to enable the Property to be economically developed as a school]

13.4 The Transferor covenants with the Transferees to keep the accessway coloured brown on the Plan in good and substantial repair and condition until it is adopted as public highway

13.5 The Transferee with the intent to bind the Property hereby covenants on behalf of itself and its successors in title with the Transferor and the Transferor's successors in title for the benefit of the Retained Land and each and every part of it not to use the Property or any part of it otherwise than as a school with associated community facilities

- 14.** *The Transferors and all other necessary parties (including the proprietors of all the titles listed in panel 3) should execute this transfer as a deed using the space below and sign the plan. Forms of execution are given in Schedule 3 to the Land Registration Rules 1925. If the transfer contains transferee's covenants or declarations or contains an application by them (e.g. for a restriction), it must also be executed by the Transferees.*

[SIGNING PROVISIONS OF FREEHOLD OWNER OF SCHOOL SITE]

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

HEAD OF LAW

gc/Transfers/Form TP1 (FoTP10p3)/2001

THE COMMON SEAL of
BROADLAND DISTRICT COUNCIL
was hereunto affixed in the presence of

)
)
)

[Handwritten signature]

HEAD OF CORPORATE SERVICES
& MONITORING OFFICER

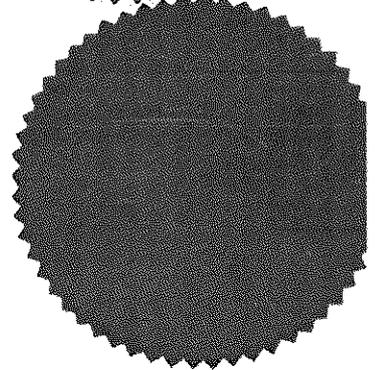


THE COMMON SEAL of
NORFOLK COUNTY COUNCIL
was hereunto affixed in the presence of

)
)
)

Keir Munn

HEAD OF LAW



The official seal
~~Executed as a Deed for an on~~
~~behalf of The Secretary of State~~
For Health hereunto affixed
was authenticated by
Ft MURPHY

)
)
)

Ft M S

Executed as a Deed for an on
behalf of Cofton Land & Property
(Norwich) Limited acting by:

Director

[Handwritten signature]

Director/Secretary

[Handwritten signature]



Executed as a Deed for an on
behalf of Cofton Limited acting by:

Director

[Handwritten signature]

Director/Secretary

[Handwritten signature]