

DATED

31st July

2008

BROADLAND DISTRICT COUNCIL

and

NORFOLK COUNTY COUNCIL

and

THE SECRETARY OF STATE FOR HEALTH

and

COFTON LAND & PROPERTY (NORWICH) LIMITED

AGREEMENT

made pursuant to Sections 106 and 106A
and 229A 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

SHAKESPEARE PUTSMAN LLP
Somerset House
Temple Street
Birmingham
B2 5DJ

THIS AGREEMENT is made the
and eight

31st

day of

July

Two thousand

BETWEEN:

1. **BROADLAND DISTRICT COUNCIL** of Thorpe Lodge, Yarmouth Road, Thorpe St Andrew, Norwich NR7 0DU in the County of Norfolk (hereinafter called "The Council");
2. **NORFOLK COUNTY COUNCIL** of County Hall, Martineau Lane, Norwich, NR1 2DH in the County of Norfolk (hereinafter called "the County");
3. **THE SECRETARY OF STATE FOR HEALTH** of Richmond House, 79 Whitehall, London, SW1A 2NS (hereinafter called 'SOSH'); and
4. **COFTON LAND & PROPERTY (NORWICH) LIMITED** (Company Registration no 02579657) whose registered office is situate at Cofton House, Firwood Road, Garretts Green, Birmingham, B33 0ST (hereinafter called "the Current Owner")

RECITALS

- (1) In this Agreement unless the context otherwise requires words appearing herein shall bear the same meaning as in the Original Agreement (as hereinafter defined) unless the contrary appears hereunder or otherwise herein and the following words and terms shall bear the following meanings herein:

"the Original Agreement" means an agreement made pursuant to the provisions of (inter alia) Sections 106 and 299A of the Town and Country Planning Act 1990 between (1) Broadland District Council, (2) Norfolk County Council, (3) the Secretary of State for Health, (3) Cofton Land & Property (Norwich) Limited and (4) Cofton Limited dated 11 July 2003

"the Original School Site" means the land shown edged red on Plan 1 (which is attached to the Original Agreement)

"the Substitute School Site" means the area of land shown for identification purposes only edged and hatched purple on Plan A

"the New Application" means the application for planning permission (Reference Number 20080199) to develop the New Development Proposals Site dated 30th January 2008 for outline consent for a primary school at Little Plumstead Hospital West and development of the Original School Site at Little Plumstead Hospital East for 75 residential units

"the New Development Proposals" means the proposals contained in the New Application

"the New Development Proposals Site" means the land on which the New Development Proposals are intended to be carried out including the Original School Site which is shown edged in red on Plan A (as hereinafter defined)

"Commencement of the New Development Proposals" means the date on which any material operation (as defined in Section 56(4) of the 1990 Act) forming part of the New Development Proposals begins to be carried out other than (for the purposes of this Agreement 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 roads and services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and any works to construct the primary school the subject of the New Application and "Commence the New Development Proposals" and "Commenced" shall be construed accordingly

"Plan A" means the plan marked A attached hereto showing (inter alia) the New Development Proposals Site

"the Road" has the meaning set out in Clause 8 hereto

and for the purposes of this Agreement the grant of planning permission for the New Development Proposals becomes unchallengeable if no application for judicial review is made to the Administrative Court within three months of the date of issue of the planning permission for the New Development Proposals or (if such application is made) on permission to bring proceedings being finally refused to the applicant or if such permission is given on the final disposal of those proceedings by the dismissal of the application for judicial review

- (2) The New Application has been made to the Council validated on 19th February 2008 pursuant to the Act for the New Development Proposals
- (3) By virtue of the Original Agreement the Owner (as therein defined) covenanted (inter alia) not to commence the Development (as therein defined) until an option agreement in the form annexed to the Original Agreement had been entered into by the freehold owner of the Original School Site with the County to the effect that the freehold ownership of the Original School Site would transfer to the County
- (4) The Current Owner is now the freehold owner of that part of the New Development Proposals Site shown hatched orange on Plan A which includes part of the Land as defined in the Original Agreement and also the whole of the Original School Site which land comprises all of the land registered at HM Land Registry under freehold title numbers NK340526 and part of the land registered at HM Land Registry under freehold title numbers NK304181
- (5) George Wimpey East Anglia Limited (Company Registration Number: 00804617, registered office: Saint Davids Court Union Street Wolverhampton West Midlands WV1 3JE) is now the owner of that part of the New Development Proposals Site (being part of the land registered at H M Land Registry under freehold title number NK 306460) shown hatched blue on Plan A which also includes part of the Land as defined in the Original Agreement
- (6) SOSH is the freehold owner of the remainder of the New Development Proposals Site being part of the land registered at H M Land Registry under freehold title number NK 349174
- (7) The Current Owner now wishes to retain ownership of and to develop (inter alia) the Original School Site in accordance with the New Development Proposals and has requested the Council and the County pursuant to Section 106A of the 1990 Act to modify the Original Agreement to permit and facilitate that by substituting the

Substitute School Site for the Original School Site and to agree to certain consequential modifications as appear herein

- (8) The County as local education authority would recommend and the Council as local planning authority would refuse to grant planning permission pursuant to the Act for the New Development Proposals unless the Current Owner and SOSH were prepared to covenant with them as herein appears but on the Current Owners and SOSH undertaking as hereinafter appears the County would raise no objection to and the Council as local planning authority will grant planning consent for the New Development Proposals
- (9) The Council and the County have agreed to the said modifications in consideration of the covenants contained herein on behalf of the Current Owner and SOSH and for the avoidance of doubt agree that as the modifications and covenants herein do not affect that part of the New Development Proposals Site owned by George Wimpey East Anglia Limited that the said George Wimpey East Anglia Limited need not be a party to this Agreement

NOW THIS AGREEMENT WITNESSES as follows:

- 1. This Agreement is made pursuant to Sections 106, 106A and 299A of the 1990 Act with the intent that it should both modify the Original Agreement and create further obligations in respect of the New Development Proposals Site and pursuant to all other appropriate powers of the Council and/or the County with the intent that the obligations so modified and those hereby created are enforceable by the Council and the County
- 2. It is the intention of the parties hereto that the Original Agreement and this Agreement should be read and construed as if they were one document but in the event that there is any conflict between them the provisions hereof shall prevail
- 3. The provisions contained in Clauses 1.3 through to 1.8 inclusive, 1.10, 1.12 through to 1.16 inclusive, Clauses 2.1 through to 2.3 inclusive and Clauses 3 and 4 in their entirety of the Original Agreement apply to this Agreement and to the New Development Proposals Site as they apply to the Land
- 4. The obligations in Clause 7 and 8 of this Agreement shall only become enforceable on
 - a. the grant of planning permission for the New Development Proposals and

- b. the said grant of planning permission becoming unchallengeable
- but in any event subject always to the provisions of Clause 5 hereof
- 5. This Agreement shall cease to have effect insofar only as it creates new obligations which have not already become enforceable if the planning permission for the New Development Proposals shall be (without the consent of both the Current Owner and SOSH) quashed, revoked or otherwise withdrawn by any statutory procedure or expires prior to the Commencement of the New Development Proposals but for the avoidance of doubt the provisions of the Original Agreement will remain in force.
- 6. Subject always to Clause 5 above It is hereby agreed between the parties hereto that the Original Agreement shall be modified and shall be construed as if any obligations contained therein which were to be performed in respect of the New Development Proposals Site or any part or parts of it or were to be performed by any party by reference to anything to be done or any restriction on anything that was to be done on the New Development Proposals Site are discharged and that any liability that may have already fallen on any party to perform any obligation in respect of or by reference to the New Development Proposals Site is hereby discharged.
- 7. The Current Owner and SOSH (subject to the provisions of clause 10.6) hereby covenant with the County as regards their individual interests in the New Development Proposals Site as follows:
 - 7.1. Prior to the Commencement of the New Development Proposals
 - a. there shall be submitted to the County for approval a scheme for the clearance of any buildings or other structures contamination debris or other material on the Substitute School Site or in the vicinity of it for the purpose of facilitating that part of the New Development Proposals to be carried out on the Substitute School Site and:
 - i. such scheme shall include a timetable for implementation PROVIDED THAT such timetable shall demonstrate that the said works in the scheme shall be completed no later than 31 December 2008 and the County shall be under no obligation to approve any scheme submitted to it that does not in the reasonable opinion of the County demonstrate that the works can be completed by that date;
 - ii. once submitted such scheme may be amended or substituted by agreement with the County;

- iii. approval for such scheme shall not be unreasonably withheld or delayed and if not approved within two weeks of the submission thereof (or of the last amendment or substitution) shall be referred to arbitration in accordance with Clause 3 of the Original Agreement;
 - iv. once approved the scheme shall be implemented within the time scale contained in the scheme as approved and the scheme as approved shall be enforceable by the County as if part of this Obligation
- b. There shall be submitted to the County for approval a scheme showing a secure boundary fence on the boundary of the Substitute School Site and:
 - i. such scheme shall include a timetable for implementation PROVIDED THAT such timetable shall demonstrate that the said works in the scheme shall be completed no later than 31 December 2008 and the County shall be under no obligation to approve any scheme submitted to it that does not in the reasonable opinion of the County demonstrate that the works can be completed by that date;
 - ii. once submitted such scheme may be amended or substituted by agreement with the County;
 - iii. approval for such scheme shall not be unreasonably withheld or delayed and if not approved within two weeks of the submission thereof (or of the last amendment or substitution) shall be referred to arbitration in accordance with Clause 3 of the Original Agreement;
 - iv. once approved the scheme shall be implemented within the time scale contained in the scheme as approved and shall be enforceable by the County as if part of this Obligation
- c. an Option Agreement in substantially the form annexed hereto shall be executed by the owners of the Substitute School Site and delivered to the County

AND FOR THE AVOIDANCE OF DOUBT it is hereby agreed and declared that nothing in this sub-clause c. shall prevent or restrict the carrying out or the continuance of the Development or of the New Development Proposals once the Option Agreement has been duly executed and delivered to the County and the remaining provisions of this said sub-clause have been complied with notwithstanding that the transfer of the Substitute School Site

to the County in accordance with the Option Agreement has not been completed due to no fault or actions or omissions on behalf of the SOSH or the Current Owner

- d. there shall be paid to the County:
 - i. as local education authority the sum of FOUR HUNDRED AND TWENTY-THREE THOUSAND ONE HUNDRED AND TEN POUNDS ONLY (£423,110-00) for the purpose of facilitating the provision of education facilities
 - ii. on behalf of the Fire Authority the sum of ONE THOUSAND TWO HUNDRED AND SIXTY-TWO POUNDS ONLY (£1,262-00) for the provision and maintenance of fire hydrants;

to serve the area of the New Development Proposals and which are made necessary by the New Development Proposals

- e. there shall be paid to the Council the sum of ONE HUNDRED THOUSAND POUNDS ONLY (£100,000-00) for the provision or equipping (whether by the maintenance and/or improvement of current facilities and/or new provision) of open amenity and/or recreational space available for the use of the public made necessary by the New Development Proposals
- 7.2. None of the residential units comprised in the New Development Proposals shall be Occupied (save for the purposes of construction marketing and security) until there has been paid to the County the sum of TWENTY-SIX THOUSAND TWO HUNDRED AND FIFTY POUNDS ONLY (£26,250-00) for the County to prepare and operate a travel plan
 - 7.3. Not to Occupy (save for the purposes of construction marketing and security) or suffer or permit the Occupation of more than 19 of the residential units comprised in the New Development Proposals until there has been paid to the County as Library Authority the sum of THREE THOUSAND SEVEN HUNDRED AND FIFTY POUNDS ONLY (£3,750-00) to facilitate the provision of improved library services to serve the area of the New Development Proposals and which are made necessary by the New Development Proposals
 - 7.4. Not to Occupy (save for the purposes of construction marketing and security) or suffer or permit the Occupation of more than 15 of the residential units which are not Affordable Housing Dwellings comprised in the New Development Proposals until the

provisions obligations and restrictions contained in the First Schedule hereto relating to the provision of affordable housing have been complied with.

- 7.5. Not to Commence the New Development Proposals on the Original School Site until the Option has been released in accordance with Clause 11.1
8. The Current Owner and SOSH (subject to the provisions of clause 10.6) hereby further covenant with the County as regards their individual interests in the New Development Proposals Site as follows:
 - 8.1. To construct a roadway to base course level in the position shown shaded yellow on Plan A ("the Road") between points 1 and 2 shown on Plan A by the 31st December 2008 and between points 3 and 4 by the 1st February 2009 and in accordance with the Specification annexed hereto with the intent that the Road should provide access to the Substitute School Site and shall
 - a. be capable of carrying both vehicular and pedestrian traffic of a type and number expected to be associated with the use of the Substitute School Site (and in particular shall be able to accommodate coaches capable of carrying up to 70 passengers which are up to 12m in length) once developed pursuant to the New Development Proposals; and
 - b. include pipes, cables and all other appropriate conduits and service media whether under, over or through it or otherwise for the carriage or passage of water, waste water and sewerage, gas, electricity and telecommunications capable of serving the Substitute School Site once developed pursuant to the New Development Proposals all in accordance with the Specification; and
 - c. be constructed to such a standard that the County will when it is completed accept dedication of the Road as a highway and ultimately adopt it as maintainable at public expense.
 - 8.2. Not to commence the final wearing course of the Road until receipt of notice from the County to do so and then to complete the same within one month from receipt of such notice
 - 8.3. On the Road being completed to allow the public to pass and repass along the Road with or without vehicles at all hours for the purpose of allowing the public to gain access to and egress from the Substitute School Site, the New Development Proposals and the area of the Land generally and to maintain the Road in a state fit for such traffic and in accordance with the provisions in the Option Agreement until

the Road shall be dedicated as highway and adopted as maintainable at public expense.

- 8.4. For the avoidance of doubt; to obtain all necessary consents and approvals for the construction of the Road (whether from the County as highway authority or the Council as local planning authority or otherwise) at no cost to the County and to take all reasonably necessary steps whether before construction starts during it or thereafter to ensure that the Road is adopted as highway maintainable at public expense
9. The Current Owner and SOSH (subject to the provisions of clause 10.6) hereby further covenant with the County that on the New Development Proposals becoming unchallengeable or on Commencement of the New Development Proposals whichever is the earlier there shall be delivered to the County a Bond in the form set out in the Second Schedule or in such other form as the County may approve in substitution therefor to secure
- a. the decontamination clearance and securing of the Substitute School Site as required by Clause 7.1. a. and b. hereof; and
 - b. the construction and maintenance of the Road until the same shall be dedicated as highway and adopted as maintainable at public expense as required by Clause 8 hereof
9. As regards any sums to be paid pursuant to Clause 7 above:
- 9.1. if the number of residential units comprised in the New Development Proposals exceeds 75 for each residential unit in excess of 75
- a. the sum payable pursuant Clause 7.1.d.i (provision of education facilities) shall be increased as follows:
 - i. for each residential unit which is a house bungalow or maisonettes having more than one bedroom by the sum of £6,436 and
 - ii. for each residential unit which is a flat or apartment having more than one bedroom by the sum of £3,218
 - b. the sum payable pursuant to Clause 7.3 (Library facilities) shall be increased by the sum of £50

9.2. save for the provisions of Clause 7.1.e (play provision) the amount to be paid shall be increased by the Inflation Provision substituting the date hereof for the date of the Original Agreement

9.3. any monies paid shall be held by the receiving party in an interest bearing account until such sums have been expended or committed and

a. any sum paid pursuant to Clause 7.1.e (play provision) not so expended or committed within the period of ten years and

b. any other sum paid pursuant hereto not so expended or committed within the period of five years

from the date of payment shall be returned to the paying party together with such actual interest as shall have been earned and for the avoidance of doubt:

i. sums paid for the purposes of future maintenance shall be deemed committed notwithstanding that the sum has not been entirely expended provided that there is an identified asset or assets to be maintained;

ii. any sum to be repaid shall be repaid to the actual paying party and not to any successor in title to such party

iii. any sums paid shall only be expended or committed to facilitate or achieve the purpose for which payment was made and shall not be diverted to any other purpose save with the express consent of the paying party and further to that the receiving party shall on receipt of any reasonable request in that regard inform the paying party or any other party hereto of the amount of any payment still held and how much has been spent and how.

10. **IT IS HEREBY FURTHER AGREED** between the parties hereto that

10.1. as regards the option to purchase part of the Original School Site given by the Current Owners to the County on the twenty-fourth day of April 2008 substantially in the form annexed to the Original Agreement (and therein and hereinafter referred to as 'the Option') the Option shall be released by the County and any purported exercise of the Option by the County shall be of no effect once:

a. planning permission for the New Development Proposals has become unchallengeable; and

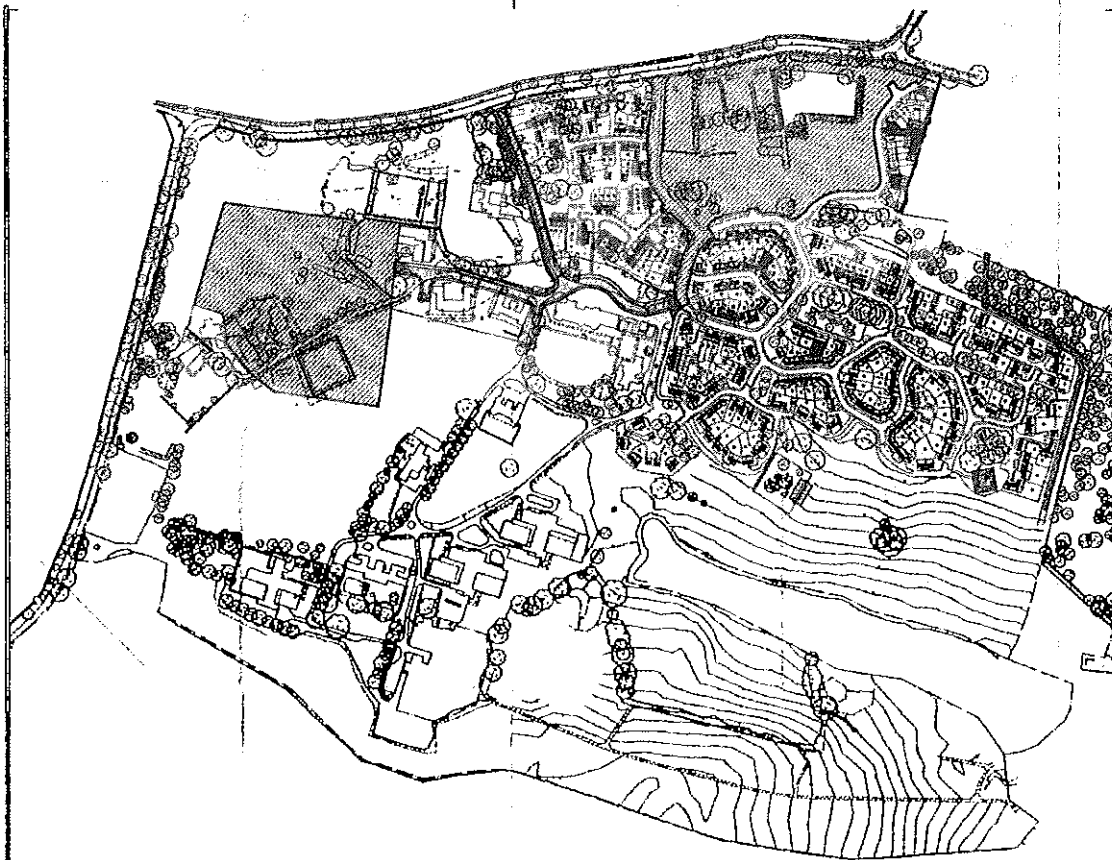
- b. the schemes required by Clauses 7.1 a and b hereof have been submitted to the County and have been approved (either by the County or after having been referred to arbitration in accordance with Clause 3 of the Original Agreement); and
- c. the Option Agreement required by Clause 7.1 c hereof is executed and delivered to the County;
- d. the Bond as required by Clause 9 hereof is entered into and delivered to the Council the County and SOSH; and
- e. on the County certifying that the Current owner or any successor in title is in compliance with clauses 7.1.a.iv. and 7.1.b.iv., such certificate not to be unreasonably withheld and to be issued promptly upon request and if not issued within 5 working days of receipt of a written request to be referred to arbitration in accordance with clause 3 of the Original Agreement

and the County shall thereafter take all necessary steps to remove any Unilateral Notice appearing on the Land Registry title to the Original School Site to protect the Option and shall take such further steps as shall be in the County's control as the Current Owners may reasonably require to allow the Current Owners to dispose of and otherwise deal with the Original School Site to whomsoever the Current Owners may choose with a clean title and so to allow any other person to become the unencumbered freehold owner of the Original School Site PROVIDED THAT nothing in this clause or this Agreement shall prevent the County from exercising the Option before the requirements in clause 10.1 have been satisfied

- 10.2. nothing herein shall prevent or restrict or delay the development of the Substitute School Site in accordance with the New Development Proposals
- 10.3. Save as modified by this Agreement (whether expressly or by necessary implication) the Original Agreement shall remain in full force and effect and unless specified otherwise herein any breach or non-observance of the Original Agreement whether by the parties hereto or any party or parties to the Original Agreement or any person obtaining title to any of the Land through or under any party to the Original Agreement shall be enforceable by the Council and the County to the same extent after the execution hereof as before
- 10.4. For the avoidance of doubt it is hereby confirmed that no person shall be liable for any breach of any of the planning obligations or other provisions of this Agreement after it shall have parted with its entire interest in the New Development Proposals

Site (but without prejudice to liability for any subsisting breach arising prior to parting with such interest) to the same extent as any party would be released from the provisions of the Original Agreement after parting with its interest.

- 10.5. On the execution hereof the Current Owner will pay to the County and to the Council their respective reasonable legal costs incurred by each such party in negotiating and executing this Agreement but limited to
- a. in respect of the County £3,000-00
 - b. in respect of the Council £3,500-00
- 10.6. SOSH enters into the Agreement for the purposes of binding that part of the New Development Proposals Site which is now owned by SOSH but save for the obligation to deliver the Option Agreement as referred to in Clause 7.1.c not so as to incur any personal liability for SOSH or any person or persons obtaining title to any part of the New Development Proposals Site through or under SOSH to carry out any works or pay any sum of money (whether in pursuance of a direct obligation herein or as a result of any failure to comply with or breach of any other obligation herein) or otherwise to perform or comply with any of the provisions hereof PROVIDED THAT nothing herein shall prevent the County carrying out any works itself by virtue of Section 106 (6) of the 1990 Act but PROVIDED FURTHER and for the avoidance of doubt neither SOSH nor any person or persons obtaining title to any part of the New Development Proposals Site through or under SOSH shall incur liability to the County for the costs of carrying out any such works
- 10.7. For the purposes of this Agreement and for no other purposes (including but not limited to proving or guaranteeing to the County or any other person title to the Substitute School Site)
- a. The Current Owner hereby covenants that it is the freehold owner of that part of the New Development Proposals Site shown hatched orange on Plan A and as referred to in Recital (4);
 - b. SOSH hereby covenants that save for that part of the New Development Proposals Site shown hatched in blue on Plan A (which is in the ownership of George Wimpey East Anglia Limited as set out in Recital (5) above) he is the freehold owner of the remainder of the New Development Proposals Site as referred to in ^{Recital}~~Recital~~ (6) *S. MS m GAT*.
- and each such party for themselves and only in respect of the part of the New Development Proposals Site that each owns (as referred to in the Recitals)



Scale
1 inch = 100 feet

North Arrow

William
Fisher
Almond

Area	1000
Volume	1000
Weight	1000
Length	1000
Width	1000
Height	1000
Depth	1000
Surface Area	1000
Volume	1000
Weight	1000
Length	1000
Width	1000
Height	1000
Depth	1000

Legend

Symbol	Description
■	Water
■	Shaded Area
■	Contour Lines
■	Other

Scale 1 inch = 100 feet

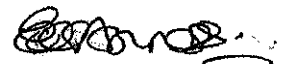
William Fisher Almond

DATED 2008

THE SECRETARY OF STATE FOR (1)
HEALTH

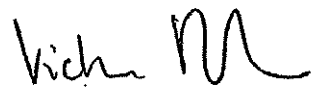
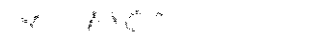
and

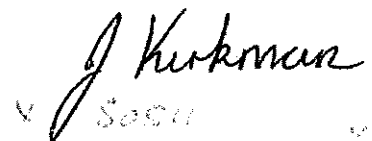
THE NORFOLK COUNTY COUNCIL (2)

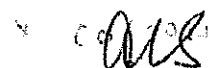
x  x

OPTION AGREEMENT

relating to land for a school at Little
Plumstead Hospital (west side),
Norwich


x  x


x  x

x  x



MILLS & REEVE

Contents

1	Definitions and interpretation	3
2	Option	6
3	Exercise of option	6
4	Registration of the Option	7
5	Rights of entry.....	8
6	Incumbrances	8
7	Standard Conditions	8
8	Title guarantee.....	9
9	Title.....	10
10	Sale with vacant possession	11
11	Transfer	11
12	Completion.....	11
13	Notices.....	12
14	Entire agreement	13
15	No representations.....	13
16	Non-merger.....	14
17	Expiry of Option	14
18	Third party rights.....	14
19	Removal of entries on expiration or termination	14
20	Severability	15
	Schedule 1	16
	(Additional Provisions for Transfer – Section 13 TP1 form)	16
1	Definitions and interpretation	16
2	Incumbrances	17
3	Rights Granted.....	18
4	Rights Reserved	20
5	Restrictive covenants.....	21

6	Agreements and declarations	21
7	Indemnity covenants	22
Schedule 2		23
(The Buyer's Notice)		23

THIS OPTION AGREEMENT is made on

2008

BETWEEN:

- (1) THE SECRETARY OF STATE FOR HEALTH of Richmond House 79 Whitehall London SW1 2NS ("Seller")
- (2) THE NORFOLK COUNTY COUNCIL of County Hall Martineau Lane Norwich ("Buyer")

1 Definitions and interpretation

1.1 In this agreement:

"Buyer's Solicitors" means Head of Law ref. CB/25020 of County Council Norwich or such other firm of solicitors as the Buyer from time to time appoints and of whose appointment the Buyer has advised the Seller in writing;

"Completion Date" means the twentieth Working Day after the date of the delivery by the Buyer of an Option Notice;

"Condition" refers to a condition in the Standard Conditions;

"Expiry Date" means the fifth anniversary of the date of this agreement or (if earlier) the date when a school opens on the east side of the Little Plumstead Hospital site or such later date as the Seller and the Buyer agree pursuant to clause 17.2;

"Incumbrance" means any estate or interest which takes effect as an incumbrance on the Property and

- (a) which is capable of registration with its own title number at the Land Registry but excluding any transfer of a freehold estate in the Property or the Retained Land; or
- (b) whose grant gives rise to a registrable disposition as defined in section 27 Land Registration Act 2002; or
- (c) which is capable of protection at the Land Registry by the registration of a notice or restriction; or

- (d) which may exist as a matter within schedules 1 or 3 (as amended by schedule 12) to the Land Registration Act 2002; or
- (e) which takes effect as a licence; or
- (f) which will bind any person who is at any time the Seller or occupier of the Property or the Retained Land and which is not subject to the provisions of any enactment requiring registration of interests in charges over or any other obligation affecting land;

"Option" means the option referred to in clause 2.1;

"Option Fee" means one pound (£1.00);

"Option Notice" means the notice exercising the Option served in accordance with clause 3;

"Option Period" means the period which begins on the date of this agreement and ends on and includes the Expiry Date;

"Plan" means the plan attached to this agreement;

"Price" means one pound (£1.00);

"Property" means the freehold land which is shown edged red and hatched red on the Plan and which is part of the land registered at the Land Registry under title number NK349174;

"Retained Land" means the freehold land at Little Plumstead Hospital (west side) as shown edged blue on the Plan and being the remainder of the land (after excluding the Property) which is registered at the Land Registry under title number NK349174

"Seller's Solicitors" means Mills & Reeve LLP registered in England & Wales with number OC326165 of 1 St James Court Whitefriars Norwich NR3 1RU (ref: NBWN/3000078-1959) or such other firm of solicitors as the Seller from time to time appoints and of whose appointment the Seller has advised the Buyer in writing;

"Standard Conditions" means the Standard Commercial Property Conditions (Second Edition);

"Transfer" means a transfer of the Property to the Buyer in Land Registry Form TP1;

"**Value Added Tax**" includes any tax charged in addition to or in substitution for it;

"**VAT Act**" means the Value Added Tax Act 1994;

"**Working Day**" means any day from Monday to Friday inclusive which is not Christmas Day Good Friday or a statutory Bank Holiday and "**Working Days**" will be construed accordingly.

1.2 In this agreement:

1.2.1 where the expression "**Buyer**" refers to more than one person or company:

- (i) any reference in this agreement to "**Buyer**" is a reference to each and every party comprising the Buyer;
- (ii) any covenant required by this agreement to be given by the Buyer will be given jointly and severally by all persons or companies comprising the Buyer;
- (iii) the liability of the Buyer under this agreement is the joint and several liability of all persons or companies comprising the Buyer;

1.2.2 words importing:

- (i) the singular number also include the plural and vice versa;
- (ii) any gender include every gender;
- (iii) natural persons include firms companies corporations and vice versa;

1.2.3 the clause and schedule headings are for ease of reference only and are not to be taken into account when construing this agreement;

1.2.4 references to:

- (i) numbered clauses and schedules are references to the relevant clause in or schedule to this agreement;
- (ii) numbered paragraphs are to the paragraphs in the schedule in which the reference occurs.

1.2.5 "writing" or "written" does not include facsimile or e-mail.

2 Option

2.1 In consideration of the Buyer's payment of the Option Fee the receipt of which the Seller acknowledges the Seller grants the Buyer the option until the Expiry Date of purchasing the freehold title to the Property at the Price on the terms of this agreement.

2.2 The Option may be exercised only:

2.2.1 at the time and in the manner provided by clause 3;

2.2.2 in respect of the whole of the Property and not in respect of part only.

2.3 Unless with the consent of the Seller which consent the Seller will not unreasonably withhold where the assignee is another school provider or enabler or statutory successor to the Buyer the Buyer may not assign share or part with the benefit or declare a trust of or charge the Buyer's interest in the Option or any part of it.

2.4 The Seller may not be required to:

2.4.1 transfer the Property or any part of it to anyone other than the Buyer unless the transferee is a school provider or enabler or statutory successor to the Buyer and it would be reasonable to transfer the Property to that person; or

2.4.2 transfer the Property in more than one parcel or by more than one transfer.

2.5 The Option Fee is not refundable.

2.6 The perpetuity period for this agreement is twenty-one years beginning on the date of this agreement.

3 Exercise of option

3.1 The Buyer may exercise the Option only by delivering an Option Notice within the Option Period to the Seller's Solicitors.

3.2 There will be no deposit.

- 3.3 The Option Notice must be in the form or substantially in the form set out in Schedule 2.
- 3.4 Time is of the essence in terms of the Buyer delivering the Option Notice on or before 4-00 pm on the Expiry Date.
- 3.5 On exercise of the Option in accordance with this clause 3 the Seller must sell and the Buyer must buy the freehold of the Property for the Price on the terms of this agreement.
- 3.6 By exercising the Option the Buyer will be acknowledging that:
- 3.6.1 the Seller has given the Buyer and others authorised by the Buyer, permission and opportunity to inspect survey and carry out investigations as to the condition of the Property; and
- 3.6.2 the Buyer has formed its own view as to the condition and suitability of the Property for the Buyer's purpose.

4 Registration of the Option

- 4.1 The Buyer agrees:
- 4.1.1 within twenty Working Days beginning on the first Working Day after the exchange of this agreement to apply to the Land Registry for the registration of a notice against the title to the Property in respect of this agreement;
- 4.1.2 to use all reasonable endeavours to answer any requisitions which the Land Registry may raise concerning the application to register the notice;
- 4.1.3 as soon as practicable after completion of the registration of the notice to supply evidence to the Seller's Solicitors of the registration.
- 4.2 The Seller consents to the registration of an Agreed Notice against the title to the Property.

5 Rights of entry

5.1 During the Option Period the Buyer may have access to the Property at reasonable times on prior reasonable notice only for the purpose of carrying out surveys (excluding soil surveys) and preparing drawings and conditional upon the Buyer:

5.1.1 entering at its own risk;

5.1.2 making good any damage to the Property resulting from access;

5.1.3 leaving the Property in a safe condition;

5.1.4 causing as little inconvenience as is reasonably practicable to the Seller and any occupants of the Property;

5.1.5 indemnifying the Seller against all liability which may arise as a consequence of the Buyer's access to the Property.

5.2 The Buyer's presence on the Property pursuant to this clause 5 is on the basis that:

5.2.1 the Buyer is a licensee whose licence is revocable without notice;

5.2.2 the access will be for a limited period of hours during the Working Day upon the expiration of which if the Buyer is still on the Property the Buyer will be there as a trespasser;

5.2.3 the access will not constitute the Buyer being treated as being let into occupation.

6 Incumbrances

6.1 The Seller agrees not to create or permit the creation of any Incumbrance over the Property without the prior written consent of the Buyer.

7 Standard Conditions

7.1 This agreement incorporates Part 1 of the Standard Conditions except in so far as they are varied by or inconsistent with any of the provisions of this agreement.

7.2 Whenever the phrases "exchange of contracts", "exchange" or "the date of the contract" or similar phrases are used in the Standard Conditions they refer in the

context of this agreement to the moment when the Buyer has delivered to the Seller the Option Notice as required by the terms of this agreement.

7.3 Conditions 1.4, 3.3, 6.4.2, 6.6.1, 7.1.2(b) and 7.1.4(b) are excluded from this agreement.

7.4 There is added to the definition of "direct credit" in Condition 1.1.1(g) the words "but excluding any transfer by Bankers Automated Clearing Services".

7.5 In Condition 6.1.3 the Seller's obligations extend only to documents in the possession of the Seller or its mortgagees.

7.6 In Condition 7.1.2(d) the words "obtain or" are deleted.

7.7 Condition 8.5.1 is amended to authorise the Seller to retain the documents of title:

7.7.1 until the Buyer has tendered all compensation payable on completion; or

7.7.2 if the Buyer is in material breach of this agreement and the Seller lawfully refuses to complete on that ground.

8 Title guarantee

8.1 The Seller sells with full title guarantee varied as set out in clause 8.2;

8.2 The covenants set out in section 3 (3) Law of Property (Miscellaneous Provisions) Act 1994 shall not extend to include the words "since the last disposition for value" but shall extend to replace them with the words "since the Seller became entitled to transfer the Property" in both cases where these words occur.

8.3 The covenant set out in section 2(1)(b) Law of Property (Miscellaneous Provisions) Act 1994 shall not extend to costs arising from the Buyer's failure to:

8.3.1 make the proper searches; or

8.3.2 raise requisitions on title or on the results of the Buyer's searches prior to the date of this agreement (or by completion in the case of searches referred to in clause 9.3).

9 Title

9.1 Title consists of the production of official copies of NK349174 dated 29 April 2008 at 11:37:15:

9.1.1 the title register; and

9.1.2 the title plan; and

9.1.3 any document referred to in the register of which the Land Registry has a copy but not those documents which will be discharged or overridden on or before completion.

9.2 The title to the Property is freehold and the Property is sold subject to:

9.2.1 any covenants restrictions stipulations declarations and agreements which affect the Property and are disclosed by the title or referred to in this agreement;

9.2.2 the matters mentioned or contained in Condition 3.1.2;

9.2.3 any registered local land charges and any matter capable of being registered as a local land charge even if not so registered at the date of actual completion;

9.2.4 any notice order or proposal given or made by a government department or any public or local authority statutory undertaker or other competent body or person;

9.2.5 all charges orders proposals restriction agreements notices or other matters arising under town and country planning or highways legislation which affect or relate to the Property and to any orders or regulations made under that or any other legislation;

9.2.6 all rates charges and other outgoings which affect or are charged on the Property except for any mortgage or legal charge relating to money secured on the Property;

9.2.7 all public or private rights of way and other rights easements or quasi-easements and wayleaves affecting the Property but without any liability on the Seller to define them;

- 9.2.8 all liability to repair and maintain roads paths conduits fences and other like matters or to contribute to the cost of their repair and maintenance but without any liability on the Seller to provide evidence of or to apportion liability;
- 9.2.9 all unregistered interests which under schedule 3 (as amended by schedule 12) to the Land Registration Act 2002 override a registered disposition;
- 9.3 The Buyer having been supplied prior to the date of this agreement with official copies of the documents listed in clause 9.1 purchases with knowledge of the title and will not make or raise any objection or requisition in respect of it save as regards any matters disclosed by the results of any HM Land Charges Registry Land Registry or Companies' Registry searches against the Seller or the Property or arising in the period between the date of the exercise of the option pursuant to clause 3 and the date of actual completion.

10 Sale with vacant possession

- 10.1 The sale is with vacant possession at completion.

11 Transfer

- 11.1 The Seller's Solicitors are to prepare the Transfer and the parties must execute it in duplicate.
- 11.2 Section 13 of the Transfer (the "Additional Provisions" section) must be in the form of Schedule 1.

12 Completion

- 12.1 Completion of the sale and purchase of the Property is to take place at the offices of the Seller's Solicitors (or as they may reasonably otherwise direct) on the Completion Date when against payment of:

- 12.1.1 the Price (less the Deposit) adjusted to take account of any:
- (i) apportionments;
 - (ii) compensation for delayed completion;

- (iii) other sum which the parties agree under the terms of this Option should be paid or allowed on completion;

12.1.2 any Value Added Tax payable under the provisions of this agreement

the Seller must give vacant possession of the Property and complete the Transfer.

13 Notices

13.1 In this clause 13:

13.1.1 "Sender" refers to the party serving a notice under this agreement;

13.1.2 "Recipient" refers to the party on whom a notice is served.

13.2 Any notice served under this agreement:

13.2.1 must be in writing;

13.2.2 must be sent:

- (i) to the address of the Recipient shown at the head of this agreement; or (as the case may be)

- (ii) to an alternative address notified in writing (before service of the notice) by the Recipient to the Sender as being the Recipient's address for service of notices under this agreement;

13.2.3 may be served by the Sender's solicitors acting as agent for the Sender.

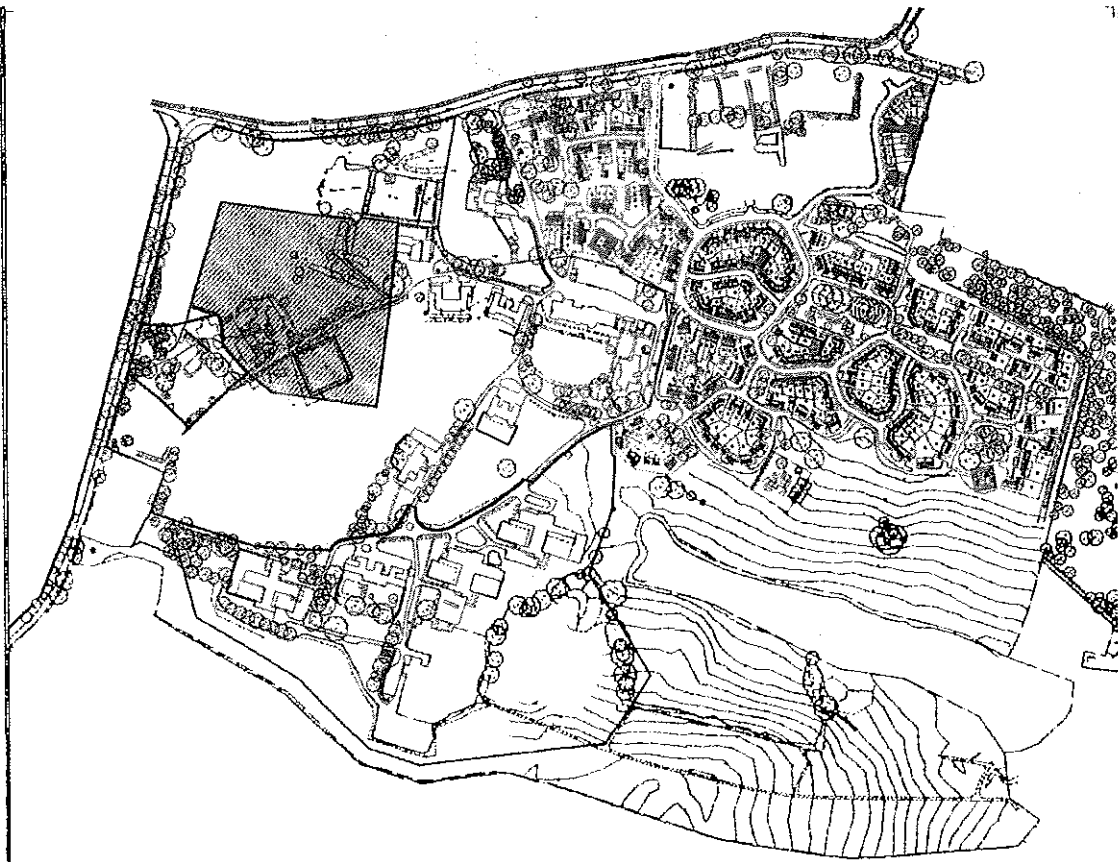
13.3 Instead of serving a notice directly on the other party the Sender or the Sender's solicitors acting as the Sender's agent may choose to serve it on the Recipient's solicitors by post or document exchange.

13.4 A notice under this agreement may be served by:

13.4.1 personal delivery of the notice to the Recipient's address;

13.4.2 post;

13.4.3 document exchange.



cofion
1:50,000
Scale
1:50,000
Scale

Title Printed	
Went Island	
Coastal Plan	
Scale	1:50,000
Author	USMC
Date	1960
Sheet	1
UNCLASSIFIED	

13.5 A notice served in accordance with this agreement will for the purposes of this agreement be deemed to be delivered:

13.5.1 in the case of a notice delivered personally at the Recipient's address—on the date upon which it is physically deposited at the address;

13.5.2 in the case of a notice sent by post—in accordance with the presumptions as to delivery set out in rule 107 of the Land Registration Rules 2003;

13.5.3 in the case of a notice sent through a document exchange—at the time it is available for collection (which unless the time of receipt is proved means before 4.00 p.m. on the first Working Day after which it would normally be available for collection by the addressee).

13.6 All notices take effect upon the date of delivery and in respect of any period of notice referred to in this agreement the day of delivery of the notice counts as the first day of the notice period.

14 Entire agreement

14.1 This agreement constitutes the entire agreement between the parties and they may only vary it in writing.

15 No representations

15.1 The Buyer admits that the Buyer has inspected the Property and enters into this agreement relying solely on that inspection. The Buyer irrevocably and unconditionally waives any right that the Buyer may have to claim damages for any misrepresentation or warranty not contained in this agreement unless such misrepresentation or warranty either:

15.1.1 was made fraudulently; or

15.1.2 was not capable of independent verification and was made in writing by the Seller's Solicitors before the date of this agreement in response to written preliminary enquiries made by the Buyer's Solicitors.

16 Non-merger

- 16.1 The provisions of this agreement will not merge in the Transfer of the Property to the Buyer so far as they remain to be observed or performed or are intended to continue in effect.

17 Expiry of Option

- 17.1 This agreement will expire if the Buyer:
- 17.1.1 serves notice on the Seller at any time before service of an Option Notice stating that the Buyer no longer wishes to exercise the Option;
- 17.1.2 does not exercise the Option within the Option Period.
- 17.2 The parties may change the Expiry Date from the date given in clause 1.1 by written agreement. Upon conclusion of any written agreement the new date will become the Expiry Date for the purpose of this agreement. The parties may make further changes to the choice of date for the Expiry Date and upon conclusion of any further written agreement the new date will be the Expiry Date.

18 Third party rights

- 18.1 The parties do not intend that any of the rights under this agreement will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999.

19 Removal of entries on expiration or termination

- 19.1 The Buyer undertakes within fifteen Working Days of expiry or termination of this agreement to:
- 19.1.1 apply to the Land Registry for the cancellation of any notice registered against the title to the Property;
- 19.1.2 supply to the Seller's Solicitors a certified copy of such application;
- 19.1.3 procure the return to the Seller's Solicitors by the Buyer's Solicitors of any papers provided by them to the Buyer's Solicitors in connection with this Option.
- 19.2 The Buyer undertakes to produce to the Seller evidence of the cancellation referred to in clause 19.1.1 and if the Buyer fails to do so within a reasonable period after

expiry or termination of this agreement the Seller may apply for the cancellation acting as the agent of the Buyer and the Buyer undertakes to use best endeavours to support any application for cancellation.

19.3 This clause 19 survives any termination or expiry of this agreement.

20 Severability

20.1 The provisions of this agreement are severable to the intent that if any of them are held to be unenforceable they may be severed and the remainder of the agreement will remain in force.

Schedule 1

(Additional Provisions for Transfer – Section 13 TP1 form)

1 Definitions and interpretation

1.1 In this section:

"Conduits" means ducts shafts cisterns tanks radiators pipes wires cables sewers drains soakaways watercourses gutters gullies conduits laser optic fibres electronic data or impulse communication transmission or reception systems and other conducting media or ancillary equipment (excluding those which belong to the public utility companies or the local authority or any private Conduits which will be for the exclusive use of any individual property erected on the Retained Land) for the passage or transmission of soil gas electricity water air light or electronic information;

"Incumbrances" means the rights covenants and stipulations mentioned in entry numbers 1-4 on the charges register of the registered title of the Property;

"Plan" means the plan attached to this transfer;

"Perpetuity Period" means the period of eighty years beginning on the date of this transfer;

"Property" means the property edged and hatched red on the Plan including but not limited to the rights reserved by a transfer dated 5 January 2004 and referred to in entry 2 of the property register in title NK349174;

"Retained Land" means Retained Land 1 Retained Land 2 and Water Lane Access;

"Retained Land 1" means the freehold property shown edged purple on the Plan;

"Retained Land 2" means the freehold property shown edged blue on the Plan;

"Rights Granted" means the rights set out in the section of these Additional Provisions headed "Rights Granted";

"Rights Reserved" means the rights set out in the section of these Additional Provisions headed "Rights Reserved";

"Section 106 Agreement" means an agreement dated 2008 and made between Broadland District Council (1) Norfolk County Council (2) The Secretary of State for Health (3) and Cofton Land & Property (Norwich) Limited (4);

"Value Added Tax" includes any tax charged in addition to or in substitution for it;

"Water Lane Access" means the freehold property shown edged green on the Plan.

- 1.2 References in this Additional Provisions section of this transfer to **"Transferor"** include any assigns of or successors to the Transferor (or any of the parties comprising the Transferor) and references to **"Transferee"** include the Transferee's successors-in-title to the Property or any part of it.
- 1.3 In this Additional Provisions section of this transfer where the expression **"Transferee"** refers to more than one person or company:
 - 1.3.1 any covenant given by the Transferee is given jointly and severally by all persons or companies comprising the Transferee;
 - 1.3.2 the liability of the Transferee is the joint and several liability of all persons or companies comprising the Transferee.
- 1.4 Any covenant by the Transferee not to do something includes (so far as it is within the control of the Transferee) an obligation not to allow that thing to be done by another person.
- 1.5 Headings in this section are for ease of reference only and are not to be taken into account when construing this section.
- 1.6 Where the context admits the singular includes the plural and vice versa any gender includes all genders and references to persons include firms companies corporations and vice versa.
- 1.7 Any rights granted or reserved by this section will vest (if at all) within the Perpetuity Period.

2 Incumbrances

- 2.1 The Property is transferred subject to the Incumbrances.

3 Rights Granted

3.1 The Transferor grants to the Transferee (in common with other persons also entitled) for the benefit of the Transferee (and those expressly or impliedly authorised by the Transferee) and for the benefit of the Property and each and every part of it:

3.1.1 the right to the free and uninterrupted running of soil gas electricity water and electronic information to and from the Property through the Conduits on Retained Land 1 serving the Property (whether now on Retained Land 1 or constructed within the Perpetuity Period) such right to apply even if the Property is developed as a school subject to there being no use or attempt to use the Conduits to an extent which (in common with any other permitted use of the Conduits) is in excess of that which they are designed to bear (taking into account the intended development of the Property as a school) and provided that the Transferor may re-route any such Conduits at its cost whereupon this reservation shall apply to the Conduits in their new position provided that the Transferor shall cause as little interference as reasonably practicable in the carrying out of any such re-routing works and shall not in so doing reduce the capacity of those services;

3.1.2 the right to erect or alter any building now on the Property or erected within the Perpetuity Period even if the access of light and air (or either of them) to Retained Land 1 is affected;

3.1.3 the right upon not less than 14 days prior written notice (save in case of emergency) and in accordance with the Transferor's reasonable and proper directions to enter those parts of Retained Land 1 (excluding any buildings and their curtilages) as is reasonably and properly necessary:

- (i) to connect to any Conduits now or within the Perpetuity Period on Retained Land 1 and capable of serving the Property;
- (ii) to lay within the Perpetuity Period (but not within beneath or above any buildings or their curtilages) new Conduits capable of serving the Property;
- (iii) to maintain repair and (if necessary) renew and replace any Conduits on Retained Land 1 serving the Property;

subject to the person exercising the right and causing as little damage and disturbance as reasonably possible and making good any damage caused to Retained Land 1 occasioned by the exercise of the right to the reasonable satisfaction of the Transferor;

- 3.1.4 the right at all times and for all purposes in order to gain access to and egress from the Property (such right to apply even if the Property is developed as a school) with or without vehicles over roadways and on foot only over footpaths over all roads and footpaths not intended for exclusive private use on Retained Land 1 (whether now on Retained Land 1 or constructed within the Perpetuity Period) subject to contributing a fair and reasonable proportion of the costs of maintenance of the roads and footpaths and provided that the Transferor may re-route any such roads or footpaths at its cost whereupon this reservation shall apply to the roads and footpaths in their new positions (provided that the Transferor shall cause as little interference as reasonably practicable with the passage of vehicles and people in carrying out such re-routing works and provided further that the alternative route or routes are of equal standing and capacity and join up with the boundary of the Property at the same points as before);

- 3.1.5 the right upon not less than 14 days prior written notice (save in case of emergency) and in accordance with the Transferor's reasonable and proper directions to enter on those roads shown coloured yellow on the plan attached to the Section 106 Agreement within Retained Land 1 as is reasonably and properly necessary:

- (i) to carry out works of construction on those roads including their footways as envisaged by the Section 106 Agreement
- (ii) until those roads become maintainable at public expense to maintain repair and (if necessary) renew the same

subject to the person exercising the right and causing as little damage and disturbance as reasonably possible and making good any damage caused to Retained Land 1 occasioned by the exercise of the right to the reasonable satisfaction of the Transferor;

- 3.1.6 the right at all times for emergency vehicles and also for pedestrian and cycle access to and from the Property (such right to apply even if the Property is developed as a school) over the Water Lane Access subject to contributing a fair and reasonable proportion of the costs of maintenance of the Water Lane Access.

4 Rights Reserved

- 4.1 The Transferor excepts and reserves from the Property in fee simple to the Transferor (and those expressly or impliedly authorised by the Transferor) for the benefit of Retained Land 2 and Water Lane Access and each and every part of Retained Land 2 and Water Lane Access:

- 4.1.1 the right to the free and uninterrupted running of soil gas electricity water and electronic information to and from Retained Land 2 through the Conduits on the Property serving or capable of serving Retained Land 2 and Water Lane Access (whether now on the Property or constructed within the Perpetuity Period) such right to apply even if there is Retained Land 2 is developed for residential and/or commercial uses and/or Water Lane Access is developed as a road subject to there being no use or attempt to use the Conduits to an extent which (in common with any other permitted use of the Conduits) is in excess of that which they are designed to bear (taking into account future development of Retained Land 2 for residential and/or commercial uses and/or of Water Lane Access as a road) and provided that the Transferee may re-route any such Conduits at its cost whereupon this reservation shall apply to the Conduits in their new position provided that the Transferee shall cause as little interference as reasonably practicable in the carrying out of any such re-routing works and shall not in so doing reduce the capacity of those services;
- 4.1.2 the right to erect or alter any building now on Retained Land 2 or erected within the Perpetuity Period even if the access of light and air (or either of them) to the Property is affected;
- 4.1.3 the right upon not less than 14 days prior written notice (save in case of emergency) and in accordance with the Transferee's reasonable and proper directions to enter those parts of the Property (excluding any buildings and their curtilages) as are reasonably and properly necessary:

- (i) to connect to any Conduits now or within the Perpetuity Period on the Property and capable of serving Retained Land 2 and/or Water Lane Access;
- (ii) to lay within the Perpetuity Period (but not within beneath or above any buildings or their curtilages) new Conduits capable of serving Retained Land 2 and/or Water Lane Access;
- (iii) to maintain repair and (if necessary) renew and replace any Conduits on the Property serving Retained Land 2 and/or Water Lane Access;

subject to the person exercising the right and causing as little damage and disturbance as reasonably possible and making good any damage caused to the Property occasioned by the exercise of the right to the reasonable satisfaction of the Transferee.

5 Restrictive covenants

- 5.1 The Transferee covenants with the Transferor so as to benefit Retained Land 2 and Water Lane Access or any part or parts of them (but so that on any subsequent transfer of Retained Land 2 or Water Lane Access by the Transferor (unless to a NHS body or the secretary of state of another government department) the benefit will remain annexed to the part of Retained Land 2 or Water Lane Access transferred only if the benefit is expressly assigned by the Transferor (or other NHS body or secretary of state for another government department) and so as to bind the Property and each and every part of it not to use the Property or any part of it for any purpose other than as a school.

6 Agreements and declarations

- 6.1 The Transferor and the Transferee agree and declare that:
- 6.1.1 they do not intend that any of the rights under this Transfer are to be enforceable as a result of the Contracts (Rights of Third Parties) Act 1999;
 - 6.1.2 the Property enjoys no rights of light or air from Retained Land 2 or Water Lane Access and nothing in this transfer will hinder the right of the Transferor to develop Retained Land 2 or (subject to the rights granted in this Transfer) Water Lane Access in any manner the Transferor thinks fit;

- 6.1.3 the Transferee is not and the Transferee's successors-in-title are not and neither will become entitled to any easement or quasi-easement over any part of the Retained Land for the benefit of the Property other than the Rights Granted and section 62 Law of Property Act 1925 the Rule in *Wheeldon v Burrows* and any other form of implied grant of an easement is excluded from applying to this transfer.

7 Indemnity covenants

- 7.1 The Transferee covenants with the Transferor that the Transferee shall at all times observe and perform those of the Incumbrances breach of which would expose the Transferor to liability and shall indemnify the Transferor against all costs claims liabilities and expenses arising from any breach or non-observance of any of those Incumbrances.

Schedule 2

(The Buyer's Notice)

To: (Seller's name and address)

By an agreement ("**Agreement**") dated 2008 and made between (1) The Secretary of State for Health ("**Seller**") and (2) The Norfolk County Council ("**Buyer**") the Seller granted the Buyer an option to purchase the freehold estate of the Seller in property at Little Plumstead ("**Property**") on the terms and conditions specified in the Agreement.

Pursuant to clause 3 of the Agreement the Buyer exercises the option to purchase the Property on the terms and conditions set out in the Agreement.

Signed by or on behalf of the Buyer

.....

Dated

Signed by or on behalf of the Seller

.....

Signed by or on behalf of the Buyer

.....

ROAD SPECIFICATION

The Road will be built in accordance with the attached plans and drawings numbered 9518/03/001 Rev B and 9518/03/002.

The Road will be built to an adoptable standard in accordance with the Norfolk County Council's current specification for adoptable highways

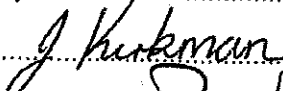
The capacity of the pipes, cables and all other appropriate conduits and service media constructed as part of the Road will be as follows:

- 225mm diameter foul water sewer pipe
- 450mm diameter surface water sewer pipe
- 90mm diameter water main
- 100mm gas main
- HV & 200A TPN LV electricity cables
- 90mm diameter BT duct

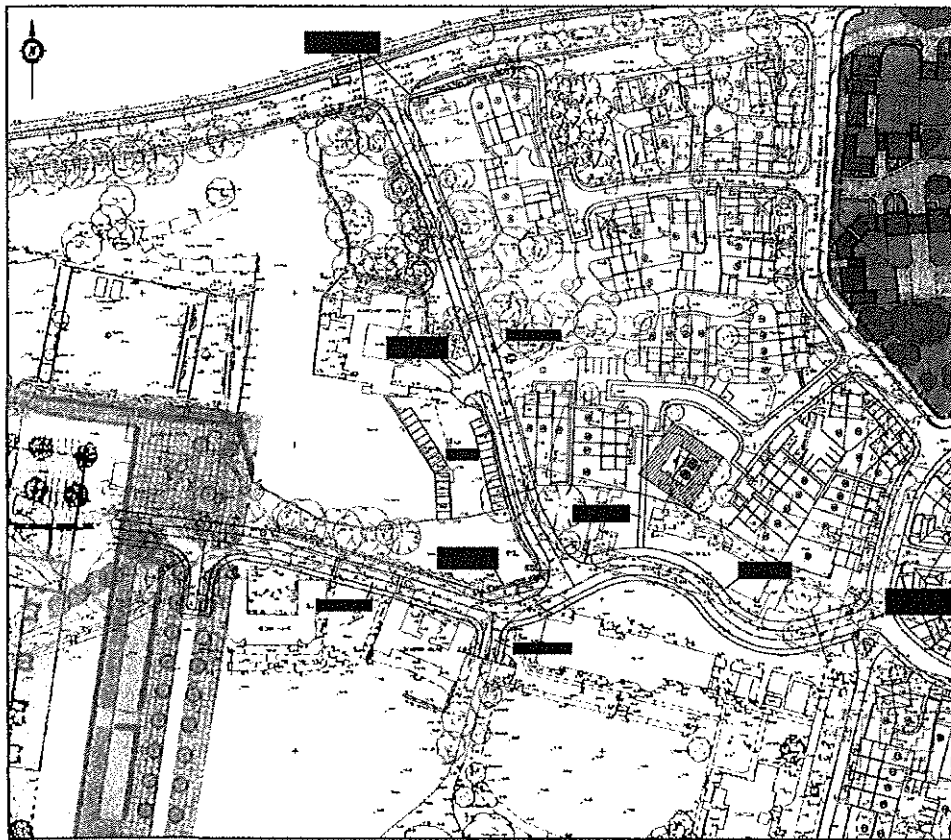
All such pipes, cables and all other appropriate conduits and service media shall be constructed at least up to the boundary line of the Substitute School Site with the intention that no further agreement, grant, waiver, lease, leave or licence is necessary to connect any building to be constructed on the Substitute School Site to such service media

Initialed on behalf of the Council 

Initialed on behalf of the County

Initialed on behalf of SOSH..... 

Initialed on behalf of the Current Owners 

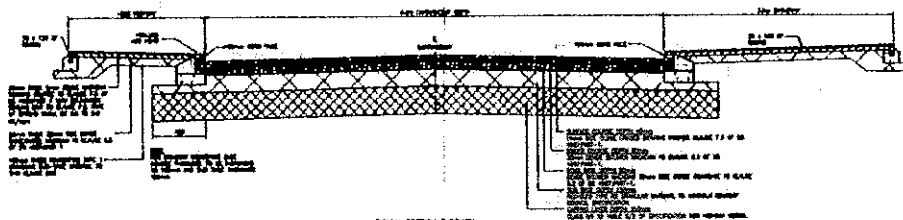


NOTES
 1. ALL DIMENSIONS ARE IN FEET AND INCHES
 2. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE
 3. THE EXISTING GRADE IS SHOWN BY THE DOTTED LINE

THIS DRAWING IS NOT TO BE USED
 FOR CONSTRUCTION

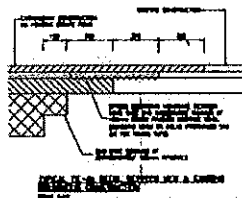
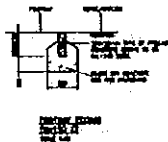
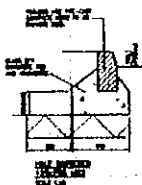
DATE	10/10/00	BY	W. J. BROWN
CHECKED		BY	
APPROVED		BY	
PROJECT NO.	00-0000	SHEET NO.	1
PROJECT NAME: [REDACTED]			
LOCATION: [REDACTED]			

PREPARED BY: [REDACTED]
 CHECKED BY: [REDACTED]
 APPROVED BY: [REDACTED]
 DATE: 10/10/00



NO. OF PILES	TYPE OF PILE	NO. OF PILES	TYPE OF PILE	NO. OF PILES	TYPE OF PILE
1	1	2	2	3	3

SEE DRAWING SECTION
FOR THE LOCATION OF THE PILES



NO.	DESCRIPTION	QUANTITY	UNIT
1	PILE	1	EA
2	PILE	2	EA
3	PILE	3	EA

DRAWN BY: []
 CHECKED BY: []
 DATE: []
 PROJECT: []
 SHEET: [] OF []

1. THE BRIDGE IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE FOLLOWING SPECIFICATIONS:
2. THE BRIDGE SHALL BE A SINGLE SPAN BRIDGE WITH A SPAN OF 100 FEET.
3. THE BRIDGE SHALL BE A STEEL GIRDER BRIDGE WITH A DECK OF 12 FEET.
4. THE BRIDGE SHALL BE A STEEL GIRDER BRIDGE WITH A DECK OF 12 FEET.
5. THE BRIDGE SHALL BE A STEEL GIRDER BRIDGE WITH A DECK OF 12 FEET.
6. THE BRIDGE SHALL BE A STEEL GIRDER BRIDGE WITH A DECK OF 12 FEET.
7. THE BRIDGE SHALL BE A STEEL GIRDER BRIDGE WITH A DECK OF 12 FEET.
8. THE BRIDGE SHALL BE A STEEL GIRDER BRIDGE WITH A DECK OF 12 FEET.
9. THE BRIDGE SHALL BE A STEEL GIRDER BRIDGE WITH A DECK OF 12 FEET.
10. THE BRIDGE SHALL BE A STEEL GIRDER BRIDGE WITH A DECK OF 12 FEET.

covenants that they have full power to give the Planning Obligations set out in this Deed and that there is no other person having an interest in the respective parts of the New Development Proposals Site whose consent is necessary to make this Deed binding on the relevant part of the New Development Proposals Site and all estates and interests in such part

IN WITNESS WHEREOF the parties hereto have executed this Agreement as a deed on the date first appearing above

THE FIRST SCHEDULE:

AFFORDABLE HOUSING

1. Prior to the Commencement of the New Development Proposals there shall be submitted to the Council (through its Strategic Director and Chief Planner or such other Officer of the Council as shall be notified to the parties hereto) for approval a scheme for the provision and long term maintenance of affordable housing ('the Affordable Housing Scheme') on the New Development Proposals Site such scheme to comply with the following criteria and on approval be deemed to be incorporated in the provisions of this Agreement and for the avoidance of doubt the Council shall be under no obligation whatsoever to approve the Affordable Housing Scheme unless the said criteria are complied with:
 - 1.1. The Affordable Housing Scheme shall identify which of the residential units comprised in the New Development Proposals and/or which of the Dwellings (as defined in the Original Agreement) are to be comprised in the Affordable Housing Scheme and hereinafter and in the Affordable Housing Scheme the said units/Dwellings are referred to as Affordable Housing Dwellings and for the avoidance of doubt the Council shall not be obliged to approve a scheme (but may at their discretion do so) which identifies any Dwelling which was part of the Scheme approved and implemented pursuant to the Original Agreement
 - 1.2. The Affordable Housing Scheme shall identify no less than 26 residential units or Dwellings to be Affordable Housing Dwellings on the New Development Proposals Site, each such unit or Dwelling to be of a type and size which in the reasonable opinion of the Council and subject to price and tenure is suitable to cater for the housing accommodation needs of persons not able to compete in the open market for such accommodation and who have a housing need (which the Council shall assess by reference to their housing allocation policies formulated pursuant to the Housing Acts 1985 to 1996) and which Dwellings will be built in accordance with

current NHBC standards and building regulations in force at the time of building and to the Housing Corporation Scheme Design and Quality Standards

- 1.3. In particular the Affordable Housing Scheme shall (unless the Council shall agree otherwise) identify at least the number of units set out in the second column in the table below of the type in the first column:

Type of residential unit	Number to be included in Scheme
1 bedroom flat	1
2 bedroom flat	2
2 bedroom house	9
3 bedroom house	14

- 1.4. The Affordable Housing Scheme shall further specify that 50% of the Affordable Housing Dwellings shall only be occupied pursuant to a weekly ^{or monthly} rental agreement ('for rent') and shall further specify which of the Affordable Housing Dwellings are for rent and which of them are to be occupied under a lease and shall not specify any of the Affordable Housing Dwellings to be occupied by persons who are to own the freehold thereof

- 1.5. with regard to those Affordable Housing Dwellings which are to be occupied under a lease the Affordable Housing Scheme shall specify the form of lease or shall set out its principle terms with sufficient particularity to allow the Council to satisfy itself that the premium for its grant or subsequent assignment will be no more than 75% of the premium expected to be demanded for a similar unit in the area offered on the open market

- 1.6. the Affordable Housing Scheme shall specify how the occupation of the Affordable Housing Dwellings is to be controlled and the Council shall not be obliged to approve an Affordable Housing Scheme unless it is satisfied that the proposed Affordable Housing Scheme shows such control to be exercised by a Registered Social Landlord which is to be:

- the freehold owner of the Affordable Housing Dwellings; or
- the leasehold owner of the Affordable Housing Dwellings under a lease which allows it to both rent and sub-lease any Affordable Housing Dwellings on terms set by the Registered Social Landlord;

and the Council shall be under no obligation to approve such a scheme (but may at their discretion do so) unless it includes a draft of a contract with a Registered Social Landlord demonstrating this

- 1.7. the Affordable Housing Scheme shall identify the Registered Social Landlord to take control of the Affordable Housing which Registered Social Landlord shall be subject to the approval of the Council (such approval not to be unreasonably withheld or delayed).
- 1.8. the Affordable Housing Scheme shall set out a timetable for its implementation which shall ensure that the Affordable Housing is provided, ready for occupation in the control of a Registered Social Landlord as set out in the Affordable Housing Scheme before more than 15 of the residential units comprised in the New Development Proposals which are not Affordable Housing Dwellings are Occupied
2. Once approved not to carry out the New Development Proposals except in accordance with the approved Affordable Housing Scheme unless otherwise permitted to do so by the Council
3. For the avoidance of doubt the Council shall be obliged to consider as many Affordable Housing Schemes as may be put before them and to consider any proposed amendments or alterations to any such schemes whether submitted before or after approval and if any such scheme amendment or alteration is rejected the matter may be dealt with in accordance with Clause 3 of the Original Agreement but until so dealt with the Affordable Housing Scheme as approved shall be construed as the Affordable Housing Scheme for the purposes of the enforcement of this agreement
4. Once ready to be Occupied not to suffer ^{OR}  permit the occupation of any of the Affordable Housing Dwellings except in accordance with the approved Affordable Housing Scheme
5. For the purposes of this Schedule, the term 'Registered Social Landlord' shall include a Housing Association and RSL (both as defined in the Original Agreement) and the Council

THE SECOND SCHEDULE: THE BOND

BY THIS BOND THE SECRETARY OF STATE FOR HEALTH of Richmond House, 79 Whitehall, London, SW1A 2NS (hereinafter called 'SOSH') and COFTON LAND & PROPERTY (NORWICH) LIMITED whose registered office is situate at Cofton House, Firwood road, Garretts Green, Birmingham, B33 0ST (hereinafter called 'Cofton') (hereinafter SOSH and Cofton together being called "the Owners") and [.....insert name of surety.....] (Company Registration Number.....) whose registered office is situate at [.....insert address.....] ("the Surety")

and their respective successors in title and assigns are bound jointly and severally to the **NORFOLK COUNTY COUNCIL** of County Hall, Martineau Lane, Norwich, Norfolk (hereinafter called "the County") for the payment to them of the sum of SEVEN HUNDRED AND FOURTEEN THOUSAND FIVE HUNDRED AND ELEVEN POUNDS ONLY (£714,511)

EXECUTED AS A DEED this day of 2008

WHEREAS

1. By an agreement ('the Agreement') dated [...insert date...] relating to land at Hospital Road, Little Plumstead, Norfolk and made between (1) **BROADLAND DISTRICT COUNCIL** of Thorpe Lodge, Yarmouth Road, Thorpe St Andrew, Norwich NR7 0DU in the County of Norfolk (hereinafter called "The Council") (2) **NORFOLK COUNTY COUNCIL** of County Hall, Martineau Lane, Norwich, Norfolk and the Owners the Owners covenanted with the County in Clauses 7 and 8 thereof to
 - a) carry out certain works to clear and secure the site referred to and defined in the Agreement as the Substitute School Site with the intent that the County could construct thereon a school without having to carry out further remedial decontamination and clearance work before the construction of the school begins; and
 - b) construct a roadway in the approximate position shown shaded yellow on Plan A (as defined in the Agreement) attached thereto ('the Road') with the intent that the Road should provide access and services to the Substitute School Site and should be:
 - i. be capable of carrying both vehicular and pedestrian traffic of a type and number expected to be associated with the use of the Substitute School Site (and in particular shall be able to accommodate coaches capable of carrying up to 70 passengers which are up to 12m in length) once developed pursuant to the New Development Proposals (as defined in the Agreement); and
 - ii. include pipes, cables and all other appropriate conduits and service media whether under, over or through it or otherwise for the carriage or passage of water, waste water and sewerage, gas, electricity and telecommunications capable of serving the Substitute School Site once developed pursuant to the New Development Proposals; and

- iii. be constructed to such a standard that the County will when it is completed accept dedication of the Road as a highway and ultimately adopt it as maintainable at public expense
2. It is intended that this Bond shall be construed as one with the Agreement
3. The Owners will carry out or secure the carrying out of works to clear the Substitute School Site and to secure it as required by Clause 7 of the Agreement and approved by the County pursuant thereto and will construct or cause the construction of the Road as required and detailed by Clause 8 of the Agreement and this Bond is in respect of those works as approved and detailed only
4. At the time of entering into this Bond and on the faith thereof the Surety has agreed to concur with the Owners in this Bond for the due performance and fulfilment of the obligations on behalf of the Owners to clear and secure the Substitute School Site and to construct the Road as defined and referred to in the Agreement

NOW THE CONDITION of the above written Bond is such that if the Owners their respective successors and assigns shall carry out the works to clear and secure the Substitute School Site and construct the Road all in accordance with the requirements of the Agreement or if in default by the Owners or their respective successors or assigns the Surety shall satisfy and discharge the cost to the County of carrying out all such works up to the amount of SEVEN HUNDRED AND FOURTEEN THOUSAND FIVE HUNDRED AND ELEVEN POUNDS ONLY (£714,511) then the above written Bond shall be void OTHERWISE to continue in full force and the giving by the County of any extension of time for the carrying out of the works to clear and secure the site and/or construct the Road as defined and referred to in the Agreement or anything therein mentioned or contained and on the part of the Owners to be performed or fulfilled or any other forgiveness or forbearance on the part of the County to the Owners or their successors or assigns shall not in any way release the Surety from the Surety's liability under the above written Bond

**THE OFFICIAL SEAL of THE
SECRETARY OF STATE FOR HEALTH**
hereto affixed was authenticated by

**EXECUTED as a DEED by COFTON LAND
& PROPERTY (NORWICH) LIMITED acting
by a Director and Secretary or two Directors**

THE COMMON SEAL OF [.....insert name
of surety.....] was hereunto affixed in the
presence of:

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


HEAD OF CORPORATE SERVICES
& MONITORING OFFICER

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



THE OFFICIAL SEAL of THE SECRETARY OF
STATE FOR HEALTH hereto affixed was
authenticated by



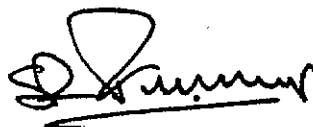
2008/54

61010

EXECUTED as a DEED by COFTON LAND &
PROPERTY (NORWICH) LIMITED acting by a
Director and Secretary or two Directors



Director



Director/Secretary

