

Please Don't Date
DATED *23rd June* 2015

NORFOLK COUNTY COUNCIL

- and -

LOTHBURY PROPERTY TRUST COMPANY LIMITED

and

PERSIMMON HOMES LIMITED

- and -

RBC TRUSTEES (CI) LIMITED

A G R E E M E N T

Under Section 106 of the
Town and Country Planning Act 1990
relating to land at Bankside 100, Broadland Business Park, Yarmouth Road,
Thorpe St Andrew, Norfolk

nplaw
Norfolk County Council
County Hall
Martineau Lane
Norwich
NR1 2DH

NF/47008

PLEASE PRINT NAME DATE
THIS DEED OF AGREEMENT ("this Deed") is made the 23rd day of June 2015

BETWEEN:

- (1) NORFOLK COUNTY COUNCIL of County Hall Martineau Lane
Norwich Norfolk NR1 2DH ("the County Council")
- (2) LOTHBURY PROPERTY TRUST COMPANY LIMITED of 135
Bishopsgate London EC2M 3UR ("the Freeholder")
- (3) PERSIMMON HOMES LIMITED of Persimmon House Fulford York
YO19 4FE ("the Developer")
- (4) RBC TRUSTEES (CI) LIMITED of Le Gallais Chambers 54 Bath Street
St Helier Jersey GE4 8YD ("the Owner")

together "the Parties"

RECITALS

- (1) The County Council is a local planning authority for the purposes of the
Act for the area in which the Site is situated.
- (2) The Freeholder is the freehold owner of the Site registered at H M
Land Registry under title number NK199906.
- (3) The Developer has the benefit of a contract for sale of the Site.
- (4) the Owner has the benefit of lease over the Site.
- (5) The Developer has submitted the Application to Broadland District
Council who have resolved to grant the Planning Permission subject to
the prior completion of this Deed.

NOW THIS DEED WITNESSES AS FOLLOWS:

1 DEFINITIONS

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

"Act"

The Town and Country Planning Act 1990 as
amended

"Application"

The application dated 8th December 2014 for
planning permission for offices with car parking and
servicing area on the Site in accordance with the
plans and particulars submitted to the Broadland
District Council and allocated reference number

4 MCL

2015/1985

"Commencement"

The date on which any material operation as defined in Section 56(4) of the Act forming part of the Development begins to be carried out other than operations consisting of site clearance demolition work archaeological investigations or investigations for the purpose of assessing ground conditions remedial work in respect of any contamination or other adverse ground conditions erection of any temporary means of enclosure the temporary display of site notices or advertisements or erection of any fences and hoardings around the Site and "Commenced" shall be construed accordingly

"Development"

The Development of the Site to be carried out pursuant to the Planning Permission

Index Linked"

Means index linked from the date of this Deed until such time that payment of any sum specified in this Deed is made such index linking to be equivalent to any increase in such sums in proportion to the increase in the Retail Price Index (All Items) published by the Office for National Statistics (or if such index ceases to be published such other index as the County Council shall reasonably determine)

"Occupation"

Occupation of any building for any purposes authorised by the Planning Permission but excluding occupation for the purposes of construction internal and external refurbishment decoration fitting-out marketing or any other activity preparatory to the use of the Site for the purposes as authorised by the Planning Permission and the words "Occupy and Occupied" shall be construed accordingly

"Plan"

The plan attached to this Deed at the First Schedule

"Planning Permission"

The planning permission to be granted subject to conditions by Broadland District Council or on appeal to the Secretary of State (or the successor in title to his statutory functions) pursuant to the Application for the Development

"Secretary of State"

The Secretary of State or any other minister or authority for the time being entitled to exercise the powers given under sections 77, 78 and 79 of the Act

"Site"

The land known as bankside 100, Broadland

Business Park, Thorpe St Andrew, Norwich, Norfolk
shown edged red on the Plan against which this
Deed may be enforced

2. CONSTRUCTION OF THE DEED

- 2.1 Where in this Deed reference is made to any clause paragraph schedule or recital such reference unless the context otherwise requires is a reference to a clause paragraph schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless an express provision indicates otherwise.
- 2.5 A reference to an Act of Parliament shall include any later modification extension or re-enactment of that Act of Parliament and shall include all statutory instruments orders and regulations made under that Act of Parliament or deriving validity from it.
- 2.6 References to any Party to this Deed shall include the successors in title to that Party and to any persons deriving title through or under that party and in the case of the County Council the successors to it's statutory functions.
- 2.7 Any approval consent certification direction or permission to be or made by the County Council shall not be unreasonably made withheld or delayed

3. LEGAL BASIS

- 3.1 This Deed is made pursuant to Section 106 of the Act and in so far as any provision contained herein is not a planning obligation it is made pursuant to section 111 of the Local Government Act 1972 and all other enabling powers.

3.2 The covenants restrictions and requirements contained in this Deed are planning obligations for the purposes of section 106 of the Act and are enforceable by the County Council.

4. COVENANTS

4.1 With effect from Commencement of the Development the Freeholder and the Developer covenant with the County Council to comply with the obligations and restrictions contained in this Deed.

4.2 The Freeholder further covenants that they are the freehold owners of the Site and have full power to enter into this Deed and that the Site is free from mortgages charges or other encumbrances and that there is no person having any interest in the Site other than as notified in writing to the County Councils solicitors prior to the date hereof.

4.3 The County Council covenants to comply with the obligations and restrictions contained within the Fourth Schedule to this Deed.

5. LIABILITY

5.1 No person shall be liable for any breach or non-performance of the covenants contained herein in respect of the whole or any part of the Site in which they no longer have a legal interest save in respect of any prior subsisting breach.

5.2 The County Council shall not be liable to any person under this Agreement after that person has parted with all interest in the Site save in respect of any prior subsisting breach.

5.3 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission or any renewal thereof or any reserved matters approval with respect thereto) granted after the date of this Deed in respect of which development this Deed will not apply.

5.4 The covenants, restrictions and requirements contained in this Deed shall not be enforceable against any statutory undertaker or other person who acquires any part of the Site or an interest in it for the purposes of the supply of electricity gas water telecommunications or highways in connection with the Development of the Site.

5.5 In the event of the Planning Permission being quashed revoked or withdrawn before the Commencement of Development or expiring and not being renewed without the Development having been Commenced or in the event of the revocation of the Planning Permission the obligations under this Deed shall cease absolutely

- 5.6 in the event of determination of this Deed under Clause 5.5 above the above the County Council shall upon request procure that any entry referring to this Deed in the Register of Local Land Charges shall be removed
- 5.7 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed which shall continue in full force and effect.
- 5.8 No waiver (whether express or implied) by the County Council of any breach or default by the Developer or the Freeholder or their successors in title in performing or observing any of its obligations under this Deed shall constitute a continuing waiver or prevent the County Council from enforcing those obligations or from acting upon any subsequent breach or default

6. DISPUTES

- 6.1 Wherever there is a dispute between the Parties arising from the terms of this Deed which shall not be resolved within two months of any of the Parties having notified the others that any such dispute exists then any of the Parties may require the dispute to be determined by a professional person having at least ten years professional standing in a relevant professional discipline ("the Professional") which Professional shall be agreed between the Parties or in default of agreement appointed by the President for the time being of the Royal Institution of Chartered Surveyors and:

- 6.1.1 the Professional shall act as an expert;
- 6.1.2 the Professional shall afford the Parties to the dispute an opportunity promptly to make representations in writing and if they so direct to make submissions on one another's representations;
- 6.1.3 the Professional shall be able to stipulate periods of time for the making of such submissions and representations;
- 6.1.4 the Professional shall be bound to have regard to the said submissions and representations;
- 6.1.5 the Professional shall have the power to award the costs of the determination in favour of any of the Parties at the expense of any other Party in the event that the Professional shall consider that the said other Party has acted unreasonably and the extent of the costs awarded shall reflect the extent and effect of said unreasonable behaviour;
- 6.1.6 the Professional shall be limited in his findings to the determination of the dispute put by any Party;

6.1.7 the findings of the Professional shall save in the case of manifest material error be final and binding on the Parties save that the Parties retain the right to refer to the Courts on a matter of law; and

6.1.8 the Professional shall be required to issue his decision as soon as reasonably practicable.

6.2 If for any reason the Professional shall fail to make a decision and give notice thereof within two months of the deadline for submissions and representations given by the Professional in clause 6.1.3 above any of the Parties may apply to the President or the Vice President for the time being of the Royal Institution of Chartered Surveyors for a substitute to be appointed in his place which procedure may be repeated as many times as necessary;

6.3 Nothing in this clause 6 shall be taken to fetter the ability of the County Council to carry out their statutory functions as local planning authority with powers to enforce breaches of planning control arising from any breach of any of the obligations entered into by the Owner in this Deed or any other planning breach in respect of the Site.

6.4 no party shall be obliged by virtue of this clause 6 to engage in the resolution envisaged by this clause 6 where the issue relates to the non-payment of financial contributions; and

6.5 the Parties shall comply in full with any award decision or direction made by the Professional including any as to costs.

7. OWNER CONSENT

The Owner consents to this Deed so that its interest in the Site shall be bound by the obligations contained in this Deed and in the event that it Commencements or carries on the Development it shall be bound by the obligations contained in this Deed

8. LATE PAYMENTS

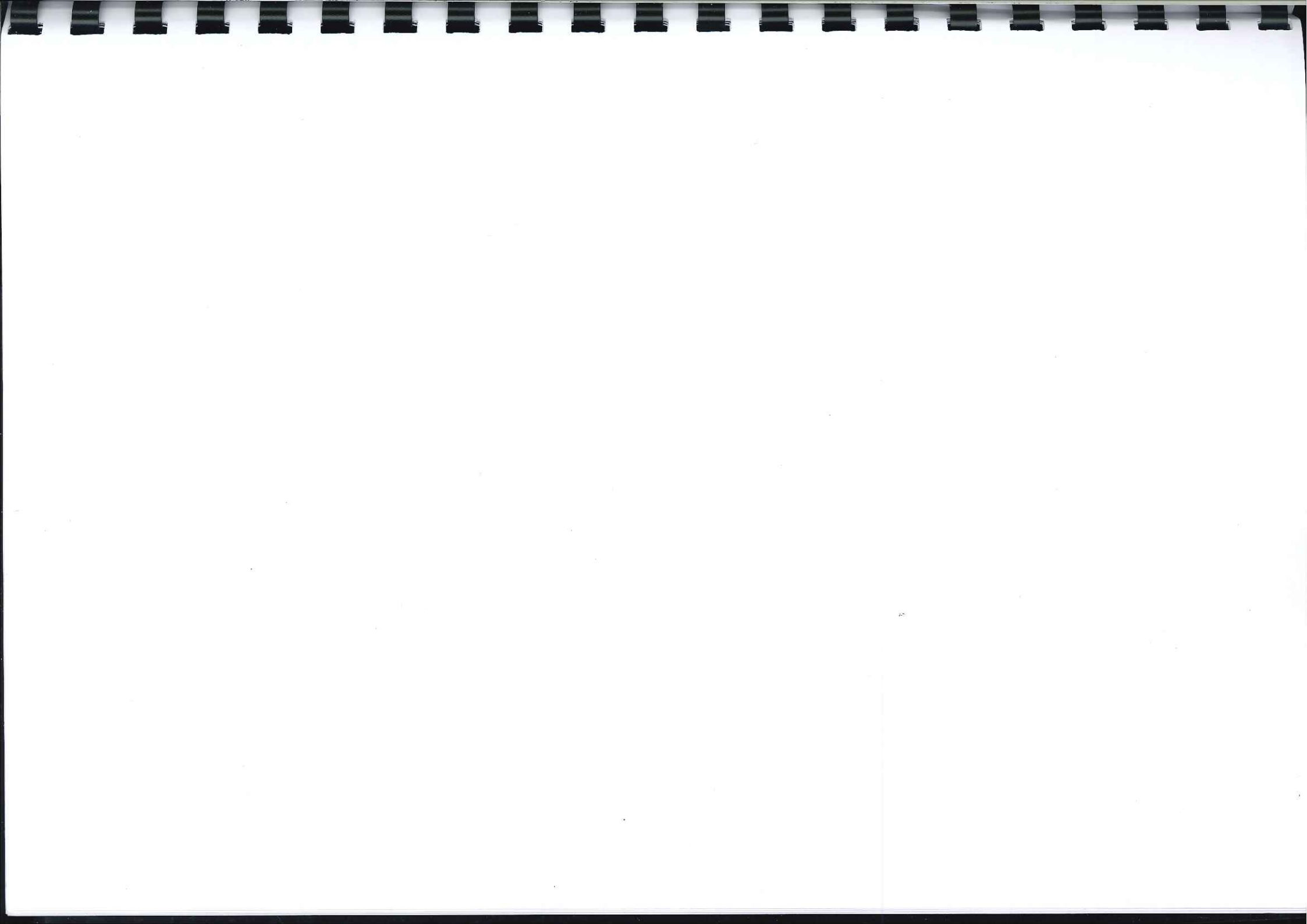
If any payment of any sum referred to in this Deed shall have become due to the County Council but shall remain unpaid for a period exceeding 28 days, the party responsible for payment shall pay on demand to the County Council interest thereon (at a rate of four percent above the base rate of National Westminster Bank Plc from time to time in force) until payment of the outstanding sum has been paid.

9. MISCELLANEOUS

- 9.1 Immediately on completion of this Deed the Developer shall pay the County Council's reasonable legal costs properly incurred in connection with the negotiation preparation and execution of this Deed up to the sum of £1,500
- 9.2 The Freeholder and the Owner shall permit the County Council and its authorised employees and agents upon reasonable written notice to enter the Site at all reasonable times for the purpose of verifying whether or not any obligation arising pursuant to this Deed has been performed or observed.
- 9.3 In the event that the Freeholder disposes of its interest in the Site or any part thereof shall within twenty eight days of such disposal give written notice of the name and address of its successors in title to the County Council together with sufficient details of the part of the Site included in the disposal to allow its identification.
- 9.4 The Freeholder agrees to give the County Council notice in writing no later than 28 days prior to the anticipated Commencement of Development, first Occupation of the Development and the reaching of any other Occupation or completion threshold or trigger relating to the obligations contained in this Deed PROVIDED THAT default in giving the requisite notice shall not prevent the Commencement of Development occurring or the triggering of obligations contained herein.
- 9.5 Subject to Clause 2.6 above no provisions of this Deed shall be construed as creating any rights enforceable by a third party as defined by the Contracts (Rights of Third Parties) Act 1999 and any third party rights as may be implied by law or are deemed to be enforceable by the Contracts (Rights of Third Parties) Act 1999 are hereby excluded to the fullest extent permitted by law.
- 9.6 Save as provided for below any notice or communication to be given pursuant to this Deed shall be in writing and shall either be delivered personally or sent by registered post or recorded delivery service. The address for service on the Parties shall be those stated in this Deed or such other address in England for service as the Party to be served may have previously notified the other Parties in writing.
- 9.7 This Deed shall be registered as a local land charge.
- 9.8 This Deed is governed by and interpreted in accordance with the law of England

FIRST SCHEDULE

the Plan



SECOND SCHEDULE

TRAVEL PLAN

In this Schedule (and elsewhere in this Deed where the context permits) the following words and phrases shall have the following meaning:

"Approved Travel Plan" Means the Travel Plan submitted to the County Council ~~by the Owner~~ in accordance with the conditions of the Planning Permission and approved by the County Council in writing

"Bond Sum" Means the sum of £10,650 being the cost of implementation of and compliance with the Approved Travel Plan such sum to be Index Linked

"Travel Plan" Means a framework of options/measures to enable and encourage people to travel more sustainably and reduce the need to travel altogether being site and people specific and comprising a range of "hard" (built) and "soft" (behavioural change) measures to mitigate the traffic effects of the Development on the road network in accordance with the Travel Plan Guidance

"Travel Plan Bond" Means a bond in the form annexed at the Third Schedule

"Travel Plan Guidance" means the County Council document "Guidance Notes for the Submission of Travel Plans" and the Workplace Travel Plan Template generated from the Workplace Travel Plan Generator Tool at www.worktravelplan.net

"Travel Plan Update" Means a Mode of Travel Survey prepared in consultation with the County Council detailing how the Approved Travel Plan has operated during the relevant period and its effectiveness

The Developer and the Freeholder hereby covenant with the County Council as follows:

- 1 To monitor and review the Approved Travel Plan and submit a Travel Plan Update to the County Council on the 12 month anniversary after the date of first Occupation of the Development and on subsequent anniversaries or such other date as may be agreed with the County

12
(copy attached)
11.12

Council such monitoring to continue each year until the five year anniversary of first Occupation.

2 it will not allow first Occupation of the Development (by any party including the Owner) unless and until it has complied with Paragraph 2.1 or 2.2 as follows:

2.1 obtained and provided to the County Council the Travel Plan Bond with a Surety approved by the County Council for the Bond Sum being the cost of implementation and compliance with the Approved Travel Plan ("Approved Travel Plan Bond");

OR

2.2 deposited the Bond Sum with the County Council being the cost of implementation and compliance with the Approved Travel Plan ("the Travel Plan Deposit")

2.3 In the event that the Developer or the Freeholder (or the Owner if applicable) fails in the reasonable opinion of the County Council to perform the obligations and deliver the requirements of the Approved Travel Plan the County Council will serve notice on the Developer and the Freeholder confirming the actions required by the Developer and the Freeholder to comply with the obligations contained in this Deed ("the Performance Notice")

2.4 If after a period of 28 days the Developer and the Freeholder have failed in the reasonable opinion of the County Council to comply with the Performance Notice the County Council may call in the Approved Travel Plan Bond or utilise the Travel Plan Deposit as the case may be and carry out the requirements of the Approved Travel Plan without further recourse to the Developer or the Freeholder

THIRD SCHEDULE
TRAVEL PLAN BOND

DATED _____ 20

- and -

BOND

in respect of

Norfolk County Council
County Hall
Martineau Lane
NORWICH
NR1 2DH

THIS BOND reference number [ref no.] is made as a deed
this day of 20

By [] ("the Surety")

On behalf of: [] ("the Developer")

In favour of: THE NORFOLK COUNTY COUNCIL of County Hall Martineau
Lane Norwich Norfolk ("the County Council")

WHEREAS:

(A) by an agreement dated [] and made between the County Council and the Developer ("the Agreement") the Developer undertook to provide a bank bond issued in favour of the County Council in the sum of £[] ([] pounds) ("the Bond Sum")

(B) the Surety at the request of the Developer and with the approval of the County Council has agreed to become the surety for the Developer and will pay to the County Council the Bond Sum upon demand.

NOW THIS DEED WITNESSES:

1. the Surety is held and firmly bound to the County Council in the sum of £(pounds)] ("the Bond Sum") to be paid to the County Council for which payment we bind ourselves and our successors and assigns by these presents
2. upon receipt by the Surety of the County Council's written demand stating "the Developer has failed to duly perform and observe all the terms of the Agreement" ("Demand") the Surety shall pay to the County Council within 28 days of receipt of the Demand such amount as certified by the County Council as is required to satisfy and discharge the damages sustained by the County Council (including without prejudice to the generality thereof any costs actually incurred by the County Council pursuant to the Agreement)
3. receipt of a Demand from the County Council shall be taken as conclusive evidence by the Surety for the purposes of this Bond that a breach has occurred and the sum demanded is properly due PROVIDED THAT the amount demanded does not exceed the Bond Sum.
4. Multiple Demands may be made pursuant to this Bond up to the Bond Sum
5. Subject to the Developer performing the Obligations the Bond Sum will reduce as follows:

- a) Upon receipt of written confirmation from the County Council the Bond Sum shall be reduced by one fifth of the original Bond Sum upon the first anniversary of first Occupation (as defined in the Agreement) and thereafter upon receipt of the County Council's written confirmation by a further one fifth on each subsequent anniversary of first Occupation
- b) To nil on the fifth anniversary of first Occupation PROVIDED THAT the County Council has provided its written confirmation that the Obligations have been complied with

6. This Bond shall expire upon the earlier of:

- a) The date upon which the Bond Sum is reduced to nil: or
- b) The date upon which the County Council confirms in writing that the Bond is no longer required and the same is formally released

7. This Bond is a continuing obligation and shall remain in full force until released or discharged in accordance with the provisions contained herein.

8. This Bond is personal to the County Council and is not transferable or assignable without the consent of the Surety such consent not to be unreasonably withheld PROVIDED THAT a Statutory successor in title to the County Council shall automatically be deemed to have the consent of the Surety and will benefit from this Bond

9. Subject to Clause 8 above no party who is not a party to this Bond shall be entitled to enforce any of its terms for his own benefit and the application of the Contracts (Rights of Third Parties) Act 1999 to the terms of this Bond are hereby expressly excluded .

10. This Bond shall be governed by and construed in accordance with the law of England.

SIGNED as a Deed by
the Surety acting by:-

AUTHORISED SEALING OFFICER

FOURTH SCHEDULE

County Council's Covenants

TRAVEL PLAN

1. the County Council hereby covenants with the Developer and the Freeholder that subject to the Developer and the Freeholder complying with the Approved Travel Plan it will:
 - 1.1 reduce the Bond Sum by one fifth upon the first anniversary of first Occupation and thereafter by a further one fifth of the original Bond Sum on a yearly basis PROVIDED THAT the Developer performs the obligations and delivers the requirements of the Approved Travel Plan
 - 1.2 upon the 5th anniversary of first Occupation and subject to the Developer complying with the Approved Travel Plan to the satisfaction of the County Council it will release the Approved Travel Plan Bond or Travel Plan Deposit as the case may be together with any interest accrued

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

THE COMMON SEAL OF Norfolk County Council
was affixed in the presence of:)
)



Head of Law

Executed as a deed by [] authorised to sign
on behalf of: HEAD OF LAW

17869

LOTHBURY PROPERTY TRUST COMPANY LIMITED pursuant to

a Power of Attorney dated 15 July
2008 by its Attorney in the presence
of:

Witness signature:

Witness name: MAREN O'MULLANE

Witness address 151 BISHOPSGATE, LONDON, EC2M 3YQ.

SIGNED as a DEED by
[PERSIMMON HOMES LIMITED]
Acting by its Attorneys

[ANDREW EDWARD KILLEY])
and)

[MAREK DIMITRIY DAVIDOV])
in the presence of:)

Attorney

Attorney

Witness Signature C. Reilly

Name of Witness C. REILLY

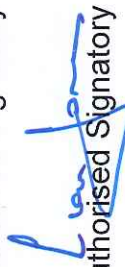
Address c/o PERSIMMON HOUSE

COLVILLE RD WORW

CAUTION BROAD NRSS 905.

EXECUTED as a DEED by
RBC TRUSTEES (CI) LIMITED
As Trustee of The Lothbury
Broadland Unit Trust acting by:


Authorised Signatory


Authorised Signatory