

DATED

5<sup>th</sup> December

2006

**BROADLAND DISTRICT COUNCIL (1)**

- and -

**NORFOLK COUNTY COUNCIL (2)**

- and -

**PICEES INVESTMENTS LIMITED (3)**

**AGREEMENT UNDER SECTION 106 OF THE  
TOWN AND COUNTRY PLANNING ACT 1990  
Relating to the Development of Land at  
Mansom Plantation Shortthorn Road  
Stratton Strawless, Norfolk**

\*berwin leighton paisner

Adelaide House London Bridge London EC4R 9HA  
tel +44 (0) 20 7760 1000 fax +44 (0) 20 7760 1111

26459



**THIS AGREEMENT** is made the 5<sup>th</sup> day of December 2006

**BETWEEN:**

**BROADLAND DISTRICT COUNCIL** of Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich NR7 0DU ("the Council");

**THE NORFOLK COUNTY COUNCIL** of County Hall Martineau Lane Norwich NR1 2SG ("the County Council"); and

**PICEES INVESTMENTS LIMITED** whose registered office is at 39-40 Broad Street, St Helier, Jersey, Channel Islands ("the Developer")

**WHEREAS**

- A The Council is the local planning authority for the purposes of the Act for the area within which the Land is situated
- B The County Council is the local highway authority for the area which includes the Land
- C The Developer is the freehold owner of the Land with title absolute registered at Kingston upon Hull District Land Registry with title number NK116552
- D The Developer has submitted the Application for planning permission to develop the Land
- E On 15 June 2005 the Council's Planning Committee resolved to approve the Application subject (inter alia) to the completion of this Agreement

**1 DEFINITIONS**

In this Agreement unless the context otherwise requires the following expressions shall have the following meanings:-

"Act"	the Town and Country Planning Act 1990 (as amended)
"Agreement"	this deed of agreement
"Application"	the planning application submitted by the Developer to the Council on 19 October 2004 for



detailed Planning Permission for the Development and given reference number 2004- 1641

"Bus Infrastructure Contribution"

the sum of twenty thousand pounds (£20,000)

"Bus Infrastructure Works"

provision of bus stop infrastructure comprising a weather proof hard standing to a minimum width of 1.5 metres to wait on, a minimum kerb height of 150mm, bus stop flag and timetable case, adequate drainage of the bus stop area, tactile paving to assist the visually impaired a dropped kerb to enable easy access onto the raised kerb and hard standing and bus shelter this infrastructure to be provided both sides of the A140 in the vicinity of the junction of Shortthorn Road

"Commencement Date"

the date upon which the Development shall be commenced by the carrying out on the Land of a material operation as defined in Section 56(2) of the Act (but not including any operations relating to the demolition of any existing buildings or clearance of the Land ground investigations or site surveys archaeological investigations or construction of hoardings or fencing) pursuant to the Planning Permission

"Commuted Maintenance Sum"

sum to be agreed between the parties upon adoption of the Bus Infrastructure Works but which shall not exceed sixteen thousand pounds (£16,000)

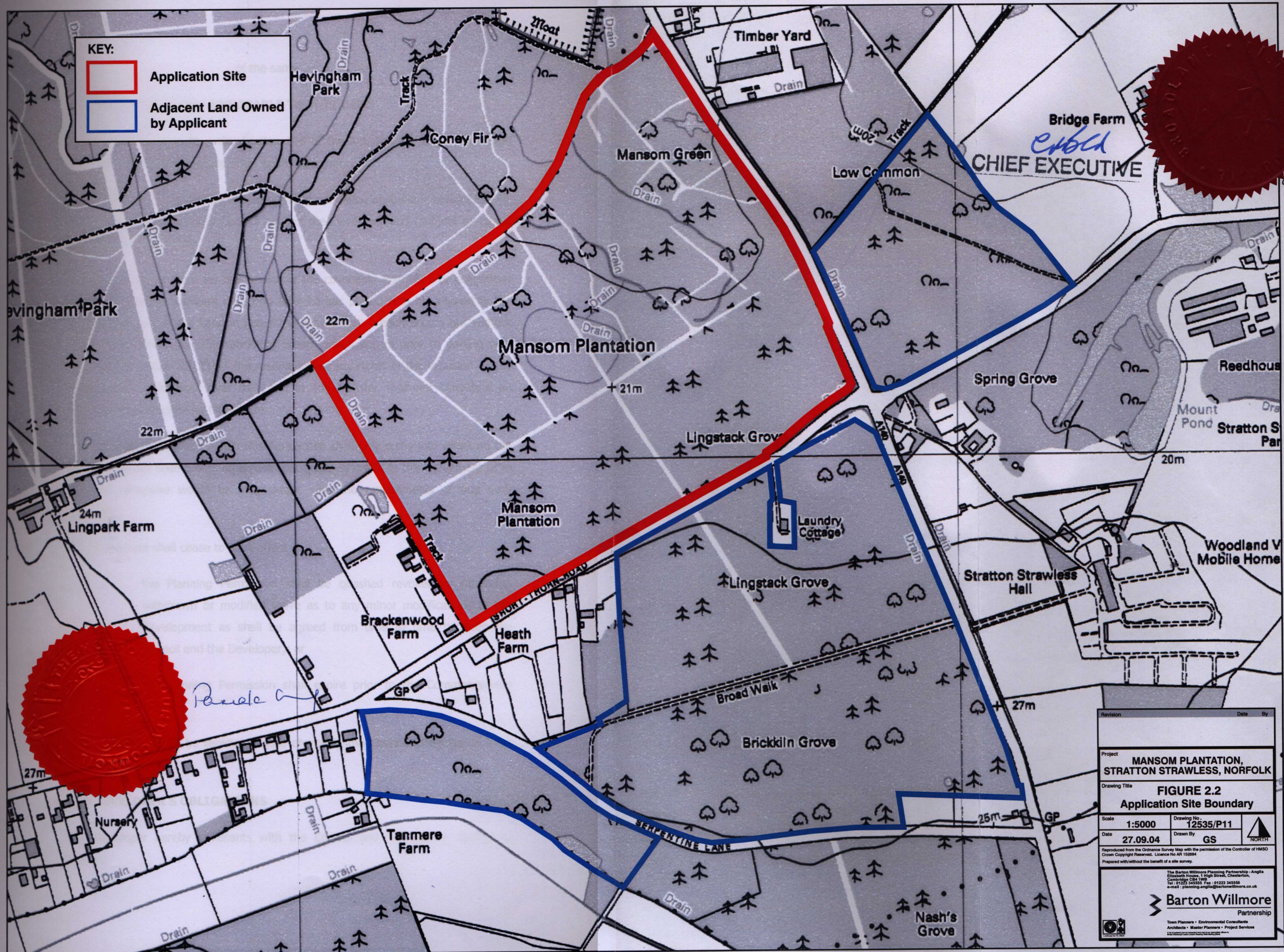
"Development"

the development of a holiday lodge park comprising 98 holiday lodges, amenity building comprising swimming pool, restaurant, reception area and office accommodation, sales office/shop, security lodge, 2 tennis courts and pavilion, children's play areas, landscaping and new vehicular and pedestrian access, car parking and associated works



"Holiday Lodge Units"	the holiday lodges to be constructed pursuant to the Development
"Junction Improvement Works"	the County Council's programmed works to the Shortthorn Road/Holt Road Junction designed to remediate accidents at this junction
"Junction Improvement Works Contribution"	the sum of four thousand and twenty pounds (£4,020)
"Land"	the land at Mansom Plantation Shortthorn Road Stratton Strawless which is shown for the purposes of identification only edged red on the Plan
"Landscape Management Plan"	a plan covering a minimum period of 25 years from the Commencement Date for the management and maintenance of existing and proposed landscaping on the Land to include protective measures for trees to be retained, new trees and regenerated growth, restored and created heathland, enhancement and retention of ponds and habitat restoration
"Occupation"	occupation of the Development for the purposes of bringing the Development into beneficial use (the expression "Occupied" and "Occupier" shall be construed accordingly and shall include Occupation of part)
"Occupation Date"	the date upon which the first Holiday Lodge Unit to be occupied is first Occupied
"Plan"	the plan annexed to this Agreement
"Planning Permission"	the detailed Planning Permission to be granted pursuant to the Application
"Surface Water Drainage Scheme"	a scheme for the phasing and drainage of surface water on the Land to comprise a series of linear soakaways and swales and on-going maintenance





KEY:

- Application Site
- Adjacent Land Owned by Applicant

Revision		Date	By
Project <b>MANSOM PLANTATION, STRATTON STRAWLESS, NORFOLK</b>			
Drawing Title <b>FIGURE 2.2 Application Site Boundary</b>			
Scale <b>1:5000</b>	Drawing No. <b>12535/P11</b>	NORTH	
Date <b>27.09.04</b>	Drawn By <b>GS</b>		
<small>Reproduced from the Ordnance Survey Map with the permission of the Controller of HMSO Crown Copyright Reserved. Licence No AR 152884 Prepared with/without the benefit of a site survey.</small>			
<small>The Barton Willmore Planning Partnership - Anglia Elizabeth House, 1 High Street, Chesteron, Cambridge CB4 1WS Tel: 01223 345555 Fax: 01223 345550 e-mail: planning.anglia@bartonwillmore.co.uk</small>			
<b>Barton Willmore</b> Partnership			
<small>Town Planners • Environmental Consultants Architects • Master Planners • Project Services</small>			



of the same

## **2 GENERAL PROVISIONS APPLICABLE TO THIS DEED**

- 2.1 This Agreement is made under Section 106 of the Act, Section 111 of the Local Government Act 1972 and any other enabling power
- 2.2 The obligations of the Developer hereunder are planning obligations enforceable by the Council and the County Council against the Developer and (subject to clause 2.3) its successors in title
- 2.3 No person shall be liable for any breach of the covenants restriction or obligations contained in this Agreement occurring after he has parted with his interest in the Land or the part of the Land in respect of which such breach occurs but without prejudice to liability for any subsisting breach which occurs prior to parting with such interest PROVIDED THAT the reservation of any rights or the inclusion of any covenants or restrictions over the Land in any transfer shall not constitute an interest for the purpose of this clause
- 2.4 The obligations contained within this Agreement shall only come into effect on the Commencement Date unless otherwise specifically indicated in this Agreement or to construe otherwise would be inconsistent with the requirements of any such covenants
- 2.5 This Agreement shall cease to have effect if:
- 2.5.1 the Planning Permission shall be quashed revoked or otherwise withdrawn or modified (save as to any minor modifications to the Development as shall be agreed from time to time between the Council and the Developer); or
  - 2.5.2 the Planning Permission shall expire prior to the Commencement Date
- 2.6 This Agreement shall be registered as a charge in the Council's Register of Local Land Charges

## **3 THE DEVELOPER'S OBLIGATIONS**

The Developer hereby covenants with the Council and the County Council as follows:



### 3.1 ***Holiday Lodges***

- 3.1.1 Not to Occupy or permit or allow Occupation of any Holiday Lodge Unit or part thereof other than as for holiday accommodation purposes and not to use any Holiday Lodge Unit or part thereof as the sole or main residence of their occupiers (and for the avoidance of doubt this restriction shall apply not just to the first Occupier of any of the Holiday Lodge Units but also to all subsequent Occupiers of them);
- 3.1.2 Not to Occupy or permit or allow Occupation of any Holiday Lodge Unit or part thereof by any one person for a period exceeding eight consecutive weeks and such person not to return within three weeks of that period;
- 3.1.3 The Developer further agrees:
  - 3.1.3.1 not to transfer the interest in any individual Holiday Lodge Unit and/or the plot upon which such individual Holiday Lodge Unit is sited other than by way of a lease and to include in the said lease occupancy restrictions equivalent to those in this Clause 3.1;
  - 3.1.3.2 if requested to do so by the Council to provide the Council with a copy of any lease of any Holiday Unit Lodge and to make that evidence available to the Council upon receipt of a written request;
  - 3.1.3.3 in the event that the Developer becomes aware of a breach of the occupancy restrictions in any lease of a Holiday Lodge Unit it will (unless otherwise agreed with the Council) forthwith use all reasonable endeavours in its capacity as landlord to enforce the terms of the lease against the tenant of the Holiday Lodge Unit to the full extent permitted by the lease;
  - 3.1.3.4 (without prejudice to Clause 3.1.3.3 above) to notify the Council in writing as soon as reasonably possible if and when it becomes aware of a breach of the occupancy restrictions in the lease by a tenant of any Holiday Lodge Unit and to confirm for the Council the full names



and addresses (for the sake of certainty being the address of the Holiday Lodge Unit and the sole or main place of residence) of the parties in breach;

3.1.3.5 If requested to do so by the Council to procure from the Occupiers of any Holiday Lodge Unit reasonably satisfactory documentary evidence demonstrating that they have a principal or main place of residence or residences other than the Holiday Lodge Unit and to make that evidence available to the Council upon receipt of a written request; and

3.1.3.6 to provide notice of the terms of this Clause 3.1 to any tenant of a Holiday Lodge Unit and to procure from that tenant a signed acknowledgement of receipt of the notification which shall be made available to the Council upon receipt of a written request

3.1.4 The Developer shall keep an up to date register of the sole or main residence of the owner or lessee of each Holiday Lodge Unit and shall keep a register of the full names of any tenants of Holiday Lodge Units and an address for service and shall make such registers available for inspection to the Council at all reasonable times

## 3.2 ***Bus Infrastructure Works***

3.2.1 to pay to the County Council the Bus Infrastructure Contribution within fourteen days of the Commencement Date;

3.2.2 notwithstanding Clause 3.2.1 the County Council shall have the option at any time prior to the payment of the Bus Infrastructure Contribution in accordance with Clause 3.2.1 above to require the Developer to enter into an agreement pursuant to section 278 of the Highways Act 1980 for the carrying out of the Bus Infrastructure Works (substantially in the form annexed hereto at Schedule 3) provided that the reasonably and properly <sup>§5</sup>insured cost to the Developer of carrying out the Bus Infrastructure Works shall not exceed the sum of twenty thousand pounds (£20,000.00). *ewb*

3.2.3 In the event that the County Council requires the Developer to enter into an agreement pursuant to section 278 of the Highways Act 1980



in accordance with clause 3.2.2 above upon completion of such agreement the Bus Infrastructure Contribution shall cease to become payable.

### 3.3 **Commuted Maintenance Sum**

- 3.3.1 In the event of adoption of the Bus Infrastructure Works by the County Council to pay the Commuted Maintenance Sum to the County Council such sum to be paid within twenty eight days of the Developer receiving notice of the adoption of the Bus Infrastructure Works by the County Council.

### 3.4 ***Junction Improvement Works***

- 3.4.1 To pay the Junction Improvement Works Contribution to the County Council within fourteen days of the Commencement Date

### 3.5 ***Landscape Management Proposals***

- 3.5.1 not to Commence the Development until it has prepared and secured the written approval (which shall not be unreasonably withheld) of the Council to a Landscape Management Plan;
- 3.5.2 the Landscape Management Plan covering a minimum of period of 25 years will be based (inter alia) on the objectives set out in Schedule 1 hereof and shall cover (inter alia) the implementation, monitoring and review provisions set out in Schedule 2 hereof and upon approval the said Landscape Management Plan shall be deemed to be incorporated into the provisions of this Agreement;
- 3.5.3 upon Commencement of the Development to implement the provisions of the Landscape Management Plan approved by the Council pursuant to Clause 3.5.1.

### 3.6 ***Surface Water Drainage***

- 3.6.1 not to Commence the Development until it has submitted to the Council a plan showing how the implementation of the surface water drainage forming part of the Development is to be phased;
- 3.6.2 prior to Commencing each phase of the Development to prepare and secure the written approval (which shall not be unreasonably



withheld) of the Council to a Surface Water Drainage Scheme for that phase of the Development;

- 3.6.3 to construct and implement the Surface Water Drainage Scheme approved pursuant to Clause 3.6.2 prior to the date upon which the first Holiday Lodge Unit or other structure or building to be Occupied in the relevant phase of Development is first Occupied or comes into use and to maintain the same thereafter in accordance with the approved Surface Water Drainage Scheme.

#### 4 **THE COUNCIL'S AND COUNTY COUNCIL'S OBLIGATIONS**

The Council hereby covenants with the Developer as follows:

##### 4.1 ***Planning Permission***

forthwith upon the completion of this Agreement to issue the Planning Permission in the form of the draft Planning Permission

The County Council hereby covenants with the Developer that:

##### 4.2 ***Contributions***

- 4.2.1 it will not use any part of the Bus Infrastructure Contribution otherwise than for the Bus Infrastructure Works
- 4.2.2 it will not use any part of the Junction Improvement Works Contribution otherwise than for Junction Improvement Works
- 4.2.3 it will not use any part of the Commuted Maintenance Sum other than for the on-going maintenance of the Bus Infrastructure Works
- 4.2.4 it will when reasonably requested by the Developer from time to time provide the Developer with evidence of expenditure paid from the Bus Infrastructure Contribution and the Junction Improvement Works Contribution
- 4.2.5 if the County Council carries out the Bus Infrastructure Works instead of the Developer then any part of the Bus Infrastructure Contribution not used will be refunded to the Developer.



## 5 **AGREEMENTS AND DECLARATIONS**

It is hereby agreed and declared between the parties that:

### 5.1 ***No Fetter of Discretion***

Save insofar as legally or equitably permitted nothing contained or implied in this Agreement shall prejudice or affect the rights powers duties and obligations of the Council or the County Council in the exercise of their respective functions as local planning authority or local highway authority and the rights powers duties and obligations under all public and private statutes bylaws and regulations may be as fully and effectively exercised as if the Council or the County Council were not a party to this Agreement

### 5.2 ***Invalidity or Unenforceability of any of the Terms of this Agreement***

If any provision in this Agreement shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions hereof shall not in any way be deemed thereby to be affected or impaired

### 5.3 ***Effect of any waiver***

No waiver (whether expressed or implied) by the Council and/or the County Council of any breach or default by the Developer in performing or observing any of the terms of conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council and/or the County Council from enforcing any of the said terms or conditions or from acting upon any subsequent breach or default in respect thereof by the Developer

## 6 **NOTICES**

Any notice document or other correspondence required to be served or given under the provisions of this Agreement shall be sent by first class post to each party's address as noted at the front of this Agreement or as may be notified from time to time in a notice served on the other parties to this Agreement pursuant to this clause

## 7 **DISPUTE RESOLUTION**

7.1 In the event of any dispute between the parties to this Agreement concerning the performance of an obligation or matters to be agreed under any of the provisions of this Agreement the matter may, at the written option of any party to this



Agreement (notice of which shall be given to the other party or parties), be referred to such expert as they may agree or (in default of agreement within 20 working days from the date of the giving of the notice) appointed by the Chairman for the time being of the Planning and Environment Bar Association whose appointment shall be conducted on the following terms:

7.2 The person to be appointed pursuant to this clause 7 shall if possible be a person having five years or more relevant post-qualification experience of the issue in dispute and projects comprising works of the scale and nature of the Development and of the particular issue in dispute

7.3 The reference to the expert shall be on terms that:

7.3.1 the expert shall afford the parties to the dispute an opportunity to make representations to him/her in writing and if he/she so directs to make submissions on one another's representation;

7.3.2 the expert shall be able to stipulate periods of time for the making of such submissions and representations;

7.3.3 the expert shall be bound to have regard to the said submissions and representations;

7.3.4 the expert shall have the power to award the costs of the determination in favour of either party at the expense of the other in the event that the expert 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;

7.3.5 the expert shall be limited in his findings to the proposals put by either party or a proposal falling between both of them; and

7.3.6 the findings of the expert shall save in the case of manifest material error be final and binding on the parties to this Agreement, save that the parties retain the right to refer to the Courts on matters of law

7.4 This clause 7 shall not apply to the payment of any liquidated sums under this Agreement



8 **THIRD PARTIES**

- 8.1 Unless the right is expressly provided it is not intended that a third party should have the right to enforce a term of this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999

9 **COSTS**

- 9.1 The Developer shall on completion of this Agreement pay the Council's legal and administrative costs incurred in the preparation negotiation and completion of this Agreement
- 9.2 The Developer shall on completion of this Agreement pay the County Council's reasonable legal and administrative costs incurred in the preparation negotiation and completion of this Agreement

10 **PAYMENT OF INTEREST**

The Developer shall pay interest at the rate of 3% above HSBC Bank base rate for the time being in force on any monies due under the provisions of this Agreement in the event of late payment for the period from the date the monies should have been paid to the date the money is received by the relevant Council

11 **VAT**

- 11.1 All consideration given in accordance with the terms of this Agreement shall be exclusive of any VAT properly payable
- 11.2 If at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this Agreement, then to the extent that VAT has not previously been charged in respect of that supply, the person making the supply shall have the right to issue a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly

12 **INDEX-LINKING OF PAYMENTS**

- 12.1 Any such sums to be paid pursuant to this Agreement shall be increased by reference to the change in the Department of Trade and Industry Tender Price Index of Road Construction ("the Index") from the date of this Agreement until the date such sums are paid



12.2 If there shall be no such Index during the period from the date of this Agreement until the said sums are paid or the increase shall for any other reason be incapable of ascertainment then the payment shall be increased by such a sum as shall be determined by an independent Chartered Surveyor as being the sum to which its payment would have been increased had there been an Index at the time on which the relevant calculation should have been applied

13 **JURISDICTION**

This Agreement is to be governed by and interpreted in accordance with the law of England and Wales.

Executed by the parties hereto as a deed on the date written above



## **SCHEDULE 1**

The objectives to be adopted in the management of the Land are set out below:

- 1 To implement a programme of landscape management works to enhance the landscape amenity of the plantation to provide a more attractive setting for the proposed development and to improve species diversity;
- 2 To retain and diversify existing woodlands and trees, which contribute to the appearance of the landscape of the Land, and to perpetuate their life through sound management techniques, including appropriate tree surgery;
- 3 To retain, protect and enhance the ponds and drainage ditches of the Land;
- 4 To retain, enhance or recreate landscape "buffers" between the Proposed Development on the Land and adjacent, roads and public rights of way, and to minimise the visual effect of the Development on the wider countryside;
- 5 To use vegetation as a sympathetic "psychological" and physical barrier in preference to hard landscaping, wherever possible;
- 6 To use a native indigenous species (where possible of local provenance);
- 7 To create/restore heathland habitat;
- 8 To provide an integrated footpath/cycleway network for "residents" of the scheme which links into the wider public rights of way network;
- 9 To ensure that appropriate management follows the successful establishment of the landscape proposals; and
- 10 To provide a mechanism for monitoring and reviewing the Landscape Management Plan and the specified operations.



## **SCHEDULE 2**

### **Implementation, Monitoring and Review of the Landscape Management Plan**

- 1 The Developer shall, if appropriate, take account of any comments made by the Council with respect to the Landscape Management Plan.
- 2 The strategy set out in this Landscape Management Plan incorporates the objectives and prescriptions for the approach to be adopted in the maintenance and management of the Landscape associated with the proposed holiday lodge development at the Land. The management procedures will be undertaken with professional landscape design and management advice and will be implemented following the completion of the landscape proposals for the grounds in conjunction with the Developer (or its representative) who will be responsible for programmes of operations and monitoring.
- 3 The management operations specified in this report are based on an initial five-year period of works, but should ideally extend for 25 years and beyond. However, during the course of the operation of this Plan, a programme of monitoring should be initiated on an annual basis to appraise the effectiveness of the works, and to establish any changes in site conditions. Within the Plan periodic minor management variations in response to local changes can be accommodated, but any major changes will necessitate a review of the scope of the operations.
- 4 A review of the Management Plan will be undertaken on behalf of the Developer on the expiration of a period of five years from the date from which the new landscape works were implemented. This review will assess the extent to which the measures undertaken in the previous five years have achieved the objectives of the Plan and will identify whether the same measures should continue or different methods introduced in order to achieve such objectives. It is envisaged that this 5 yearly review will continue over a period of 25 years.



### **SCHEDULE 3**



NORFOLK COUNTY COUNCIL

-and-

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**HIGHWAY AUTHORITY DESIGN AND BUILD**

**A G R E E M E N T**

under Section 278 of the Highways Act 1980

relating to land at

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Head of Law

Norfolk County Council

County Hall

Martineau Lane

Norwich

NR1 2DH



T H I S   A G R E E M E N T is made the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_  
B E T W E E N NORFOLK COUNTY COUNCIL of County Hall Martineau Lane Norwich  
Norfolk (the "County Council") (1) and \_\_\_\_\_ whose registered office is  
(the "Owner") (2)

RECITALS:-

- (1) The County Council is the highway authority in respect of (the "Roads")
- (2) The Owner wishes to develop the land edged red on the attached plan (the "Land") for the purposes of [insert description of development] and in connection therewith has requested the County Council to carry out the works specified in the Schedule 1 (the "Works") on the Roads in exercise of their powers under Section 278 of the Highways Act 1980 (the "1980 Act")
- (3) The County Council are willing to construct the Works subject to the terms of this Agreement and are satisfied that this Agreement will be of benefit to the public
- (4) The Works afford an access or other facility to the development of the Land by authorised by the Council under reference

AGREEMENT:-

## 1 Owners Obligations

### Payment for Works and costs

- 1.1 The Owner shall pay to the County Council:-
  - 1.1.1 prior to the letting of the contract for the Works a sum equivalent to the target cost of the Works ("the Target Cost") for the Works together with an element for contingencies to be determined by the County Council acting reasonably
  - 1.1.2 a sum to cover the actual staff costs (plus overheads) associated with the carrying out of the Works reasonably and properly incurred which costs shall include:-
    - 1.1.3 planning supervisor duties including preparation of the Health and Safety files
    - 1.1.4 resident engineer duties in supervising the Works



- 1.1.5 a sum to cover the costs reasonably incurred by the County Council associated with the making and implementation of any traffic regulation orders determined by the County Council as required in connection with the Works ("TROs")]
- 1.1.6 in the event that the actual cost of the Works is more than the Target Cost the balance of the actual cost
- 1.1.7 on completion of this Agreement the sum of £ as a contribution to the maintenance cost of the Works
- 1.1.8 the cost of any compensation properly paid by the County Council under Parts I and II of the Land Compensation Act 1973 or Regulations made thereunder as a result of the carrying out of or use of the Works
- 1.1.9 any damages for nuisance or negligence or claims under the Human Rights Act 1998 properly paid or met by the County Council as a result of the carrying out of the Works
- 1.1.10 together in each case with all fees costs and expenses reasonably and properly incurred by the County Council in connection therewith
- 1.1.11 on completion of this Agreement the County Councils reasonable legal costs on this agreement
- 1.1.12 on completion of this agreement an administrative fee of £
- 1.2 The sums set out in Clauses 1.2 [1 .3] 1.4 and 1.6 shall be as certified by the County Council acting reasonably and the sums in clauses 1.2 [1.3] 1.4 and 1.6 shall be paid within 30 days of receipt of an invoice from the County Council

2 The Owner hereby further agrees:-

#### Access

- 2.1 to permit the County Council and their Contractors reasonable access at all times to the Land for the purpose of performing their obligations under this Agreement



### New Highway

- 2.2 to deduce title to the County Council prior to the commencement of the Works in respect of the land shown coloured pink on the plan annexed hereto and marked "Dedication Plan" (the "Dedication Land")
- 2.3 that on commencement of the Works the Dedication Land shall become dedicated to the public as highway

### Easements

- 2.4 to enter into the deed of grant at schedule 3

### Works Liaison

- 2.5 to liaise and co-operate with the County Council regarding the provision of services so as to facilitate the construction of the Works

### Health and Safety

- 2.6 to make available to the County Council its Health & Safety file so far as it relates to the Works

### **Council Obligations**

- 3 The County Council agrees:-
  - 3.1.1 Works
  - 3.1.2 Subject to compliance by the Owner with its obligations in this Agreement that it will construct the Works [and promote theTROs]
- OR
  - 3.1.3 Subject to compliance by the Owner with its obligations in this Agreement and subject to the making of the TROs it will construct the Works and it will promote the TROs
    - 3.1.3.1 adoption of new highway
- 3.2 Upon the date that all parts of the Works shall be substantially complete as certified by the County Council the Land dedicated as public highway pursuant to clause 2.2 shall be maintainable at the public expense



### Contract Surplus

- 3.3 that in the event that the Target Cost exceeds the actual cost it will repay the difference to the Owner together with any interest accrued thereon

### Final Account

- 3.4 to supply to the Owner a final account within 3 months after the end of the 12 month maintenance period following practical completion of the Works

### **Other Agreed Matters**

#### Arbitration

- 3.5 The parties will attempt in good faith to resolve any dispute or claim arising out of or relating to this Agreement promptly through negotiations between the respective senior executives of the parties who have authority to settle the same
- 3.6 If the matter is not resolved through negotiation the parties will attempt in good faith to resolve the dispute or claim through an Alternative Dispute resolution ("ADR") procedure as recommended to the parties by the Centre for Dispute Resolution
- 3.7 If the matter has not been resolved by an ADR procedure within 28 days of the initiation of such procedure or if either party will not participate in an ADR procedure the dispute shall be referred to arbitration for decision by a person appointed by agreement between the parties or in default of agreement by the President for the time being of the Institute of Civil Engineers who shall act as an expert and not as an arbitrator and whose decision shall be final and binding upon the parties
- 3.8 Nothing in clauses 4.1 to 4.3 shall apply to the recovery of a liquidated sum or prevent the parties from commencing or continuing court proceedings

### Late Payment

- 3.9 All sums payable by the Owner under this Agreement shall carry interest at the rate of 4% above the base rate of the Co Operative Bank PLC from the date due until payment



### Third Parties

- 3.10 The parties do not intend that any term of this Agreement shall be enforceable solely by virtue of the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement



## **SCHEDULE 1**

- 1 The formation, laying out and construction of as shown on Drawing Nos. attached or such other Drawings as may be approved by the County Council.
- 2 The reinstatement resurfacing re-grading re-seeding or where necessary the construction in full or in part of the existing highway disturbed by the carrying out of the Works described above all as reasonably required by the County Council.
- 3 The provision and laying of all road markings reasonably required by the County Council.
- 4 The re-siting or provision erection and connection of all street lighting columns where required including services for both temporary and permanent arrangements in connection with the works.
- 5 The re-siting or provision and erection of all traffic signs reasonably required by the County Council including services for both temporary and permanent arrangements in connection with the works.
- 6 All statutory undertakers' diversion works and the making good of any damage caused to any statutory undertakers' installation as a result of carrying out the Works.
- 7 The execution of any additional works or works of amendment as may be required following the completion by the County Council of a Stage 3 Road Safety Audit in respect of the Works in accordance with the Institute of Highways and Transportation Guidelines for the Safety Audit of Highways published in November 1996 and the Department of Transport Safety and Traffic Department Standard HD 19/94 and Advice Note HA 42/94 or any similar procedures from time to time in force.
- 8 All necessary ancillary highway works.



## **SCHEDULE 2**

Deed of Grant



I N W I T N E S S whereof the County Council and the Owner have executed and delivered  
this Deed the day and year first before written

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

Head of Law

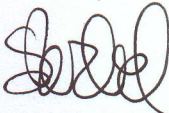

**THE COMMON SEAL** of )  
 )  
was hereunto affixed )  
in the presence of:- )

Director


Secretary



EXECUTED as a Deed by **PICEES INVESTMENTS LIMITED** acting by:

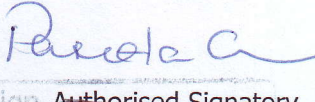
)  
)  
Director   
<sup>to</sup>  
Director/Secretary 

The Common Seal of **BROADLAND DISTRICT COUNCIL** was hereunto affixed in the presence of:

)  
)  
)   
**CHIEF EXECUTIVE**  
Head of Corporate Services and  
~~Monitoring Officer~~



The Common Seal of **THE NORFOLK COUNTY COUNCIL** was hereunto affixed in the presence of:

  
authorised to sign Authorised Signatory  
on behalf of: Head of Law

