



DATED 1st August 2023

HAMPSHIRE COUNTY COUNCIL

- and -

TRISTMIRE SUB LIMITED

- and -

BARCLAYS BANK PLC

Deed of Agreement for Highway Works at
Silvey Court, North Street Arcade, Havant
pursuant to (inter alia) S.278 and S38 Highways Act 1980

HCC Legal File Ref:
HCC MasterGov Ref:

[Legal/142140/ESD v11.21]
[Insert file reference here]

David Kelly
Assistant Director for Legal Services
and Monitoring Officer
Hampshire County Council
The Castle
Winchester
Hampshire SO23 8UJ

HAMPSHIRE COUNTY COUNCIL

SECTION 278 AND S38 DEED OF AGREEMENT

Date: 1st August 2023

PARTIES:

1. **HAMPSHIRE COUNTY COUNCIL** of The Castle Winchester
Hampshire SO23 8UJ ("**the County Council**")
2. **TRISTMIRE SUB LIMITED** company registration number 10852229
whose registered office address is situated at Unit 7 Horizon Business
Village 1 Brooklands Road Weybridge Surrey KT13 OTJ ("**the Developer**")
3. **BARCLAYS BANK PLC** company registration 01026167 whose
registered office address is situated at 1 Churchill Place, London, E14
5HP ("**the Mortgagee**")

WHEREAS

- A. The County Council is the Highway Authority for Hampshire
- B. The Developer is the registered proprietor with title absolute of those parts of the Land (for the benefit of which Land the Works hereinafter referred to are carried out) registered at Land Registry under Title Number(s) HP30850 subject to a Charge in favour of the Mortgagee
- C. The Developer is desirous of entering into this Agreement for the purposes of securing the carrying out of the Works as defined herein in accordance with the Planning Permission and the Developer has agreed that it will pay the cost of construction and maintenance of the Works
- D. The Planning Permission is accompanied by a section 106 agreement dated 31 March 2021 (the Section 106 Agreement) which contains an obligation at paragraph 5.1 of the schedule thereof requiring the Developer not to implement or permit the implementation of the development permitted by the Planning Permission until it has entered into an agreement under section 278 of the Highways Act 1980 in respect of the Works and this agreement is entered into in satisfaction of that condition

- E. The Developer now wishes to dedicate as public highway that part of the Land upon which the Works are to be constructed which does not currently form part of the public highway and the County Council agrees to accept such dedication and adopt that part of the Land and the Works as highway maintainable at public expense on the terms and conditions hereinafter contained
- F. The County Council is satisfied pursuant to Section 278 of the Highways Act 1980 that it will be of benefit to the public for the County Council to enter this Agreement for the execution of the Works at the expense of the Developer which Works the County Council is authorised to execute pursuant to the Highways Act 1980 or are the subject of the Planning Permission
- G. The Mortgagee has an interest in the Land pursuant to the Charge

NOW THIS DEED OF AGREEMENT WITNESSETH as follows:

Definitions

1. In this Agreement the following expressions shall have the following meanings:
- | | |
|--|---|
| “Assistant Director for Legal Services and Monitoring Officer” | Means the County Council’s Assistant Director for Legal Services and Monitoring Officer or such other officer or officers as may from time to time be primarily responsible for the provision of legal advice to the County Council |
| “Bond” | Means such sum of £46,006.40 (FORTY SIX THOUSAND AND SIX POUNDS AND FORTY PENCE) pursuant to clause 8 hereof |
| “CDM Regulations” | Means the Construction (Design and Management) Regulations 2015 |
| “Certificate of Completion” | Means a certificate issued by the County Council confirming the Works: |

	(a) have been executed to its satisfaction and in accordance with the approved drawings, specification and any recorded and agreed changes during the Works; and
	(b) can be placed on maintenance
"Certificate of Maintenance"	Means a certificate issued by the County Council following the expiry of the Maintenance Period
"Charge"	Means a legal charge dated 9 th April 2019 in favour of the Mortgagee
"Competent Engineer"	Means a qualified engineer, who has the technical knowledge and practical experience to satisfy the requirements to be employed under a Construction Contract in accordance with Schedule 2, paragraph 5.2 and who is independent from the Contractor
"Chartered Engineer"	Means a person registered as an engineer with the Engineering Council as having the technical knowledge and practical experience to satisfy its preferred requirements
"Contractor"	Means a contractor who complies with the Section 278 Guidance for Developers document June 2021 ("Appointing a Contractor") prepared by the Director of Universal Services (as modified and extended by any supplements and revisions) appointed by the Developer to undertake the Works

"Construction Contract"	Means the contract between the Developer and the Contractor for the purposes of providing the Works which provides for the appointment of a Competent Engineer
"Director of Universal Services"	Means the County Council's Director of Universal Services or such other officer or officers as may from time to time be primarily responsible for the County Council's functions duties and responsibilities as a Highway Authority pursuant to the Highways Act 1980
"Guidance Notes"	Means the "Highway Development Agreements Guidance" and "Section 278 Guidance for Developers" prepared by the Director of Universal Services to inform the Developer of the processes practices and procedures required by the County Council when undertaking design and works on a highway under s278 Highways Act 1980
"Hampshire County Permit Scheme"	Means the Traffic Management (Hampshire County Council) Permit Scheme Order 2019 dated 31st January 2019 made pursuant to the Traffic Management Act 2004
"Hampshire Street Lighting PFI Contract"	Means the contract relating to the provision and maintenance of street lighting and illuminated traffic signage pursuant to the Government's Private Finance Initiative
"Highway Condition Survey"	Means a highway condition survey which will identify the current condition of the highway in the vicinity of the Land (the extent of which shall be agreed by the County Council) and

	such condition survey is in accordance with "Section 278 Guidance for Developers" document published by the County Council
"Inspection Deposit"	a sum equal to 5% per cent of the cost of the Works as estimated by the County Council or £2,000 (whichever is the greater) being a sum on account of the County Council's reasonable costs incurred in inspecting and administering the Works
"Land"	Means the land for the purposes of identification only shown edged red on plan 16-2199-103 Rev P3 attached hereto having the benefit of the Planning Permission
"Maintenance Period"	Means a period of at least 12 months following the date of the Certificate of Completion
"Management Plan"	Means a Works management plan produced by the Developer showing how in the course of planning and construction of the Works the Developer will: (i) minimise disruption to all types of traffic; (ii) avoid instances of newly surfaced highway having to be re-excavated or have further works carried out on them; (iii) minimise the number of closures/diversions required by the Works; (iv) ensure that it takes into consideration the safety of all types of traffic that

may be diverted or affected by the Works.

- (v) comply with the Hampshire County Permit Scheme pursuant to the Traffic Management Act 2004
- (vi) prevent deposits on the highway of earth mud and subsoil from the Land

"Mud Method Statements" Means method statements submitted by the Developer for approval by the County Council of the detailed measures to be taken during the construction works consequent to the Planning Permission to prevent earth and subsoil on vehicles leaving the Land and adjacent development land being deposited on the public highway.

"Orange Land" Means that part of the Land shown coloured orange on the drawing number 045.5006.102 rev A attached to this Agreement such land to be dedicated pursuant to this Agreement

"OPIs" Means the construction output price indices for all construction published by the Office for National Statistics

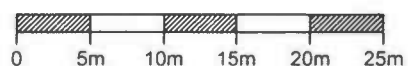
"Planning Permission" means the planning permission reference APP/20/00251 granted on 31st March 2021 by Havant Borough Council for the development of the Land requiring the Works

NOTES

GENERAL NOTES:
 1 THIS DRAWING IS TO BE READ IN CONJUNCTION WITH THE OTHER RELEVANT CONSULTANT'S DRAWINGS
 2 ALL FINISHES ARE TO CONFORM TO THE CURRENT BUILDING REGULATIONS
 3 REFER TO A SEPARATE DOCUMENT FOR THE DESIGN RISK ASSESSMENT
 4 ALL WORKS OR MATERIALS INDICATED ON THIS DRAWING ARE TO BE TO THE LATEST RELEVANT BRITISH STANDARDS AND CARRIED OUT IN ACCORDANCE WITH THE BRITISH STANDARDS CODES OF PRACTICE OR RECOGNIZED INSTITUTE OR TRADE ASSOCIATION RECOMMENDATIONS AND PUBLICATIONS

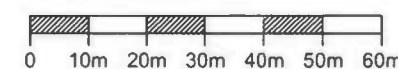


1:500 scale



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1:1250 scale



Revision	Date	Description	Drawn	Checked
P3	April 2018	Planning Application	TH	

PLC
 ARCHITECTS
 Lansdowne House
 25-26 Hampshire Terrace
 Portsmouth PO1 2QF
 Hampshire England
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Client:

Project:
 North Street Arcade
 North Street
 Havant

Drawing Title:
 Location plan
 Block plan

Drawn By	Date	Checked By	Date	Approved By	Date
TH	Jan17				

Drawing No.	Revision	Scale
16 - 2199 - 103	P3	As Shown @ A3

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Barclays Bank PLC
 Lending Operations, PO Box 299, Birmingham, B1 3PF

LAUREN ATKINS
 TRIST HIRE SUB LIMITED

371101025

"Programme"

Means the programme for execution of the Works agreed in writing by the County Council pursuant to Schedule 2 paragraph 1.1 and shall include but not be limited to;

- start dates, access dates, key dates and completion dates.
- the order and timing of operations of the contractor employed to undertake the Works.
- traffic management operations and resources employed.
- allowances for others as required for undertaking Works.

"Specification"

Means the 'Manual of Contract Documents for Highway Works: Volume 1 Specification for Highway Works' published by TSO as modified and extended by any supplements and revisions and further as modified and extended by Hampshire County Council's Model Contract Specification (available at www.hants.gov.uk/transport/developers/standard-details), Hampshire County Council's Highway

	Construction Standard Details (available at www.hants.gov.uk/transport/developers/standard-details), Hampshire County Council's Technical Guidance Notes (available at www.hants.gov.uk/transport/developers/technical-guidance) and Hampshire County Council's Companion Document to Manual for Streets where applicable (available at http://documents.hants.gov.uk/transport/manual_for_streets.pdf) all as in force at the date of commencement of the Works
"Structures"	Means any structure or structures (as the context so requires) as defined in Design Manual for Roads and Bridges – Document CG 300 – Technical Approval of Highway Structures
"TSO"	Means The Stationery Office Limited (company number: 03049649) and whose registered office is at 1-5 Poland Street, Soho, London, England, W1F 8PR being formerly Her Majesty's Stationery Office
"Working Day"	Means any day Monday to Friday inclusive excluding bank holidays between the hours of 0830 and 1630 and the expression 'Working Days' shall be construed accordingly
"Works"	Means the highway works described in Schedule 1 hereto

Statutory Powers

2. This Deed of Agreement is made pursuant to Sections 278 38 and 251 of the Highways Act 1980 Section 111 of the Local Government Act 1972 and Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and all other enabling powers including the Localism Act 2011

General Matters

3. For the purposes of Section 251 of the Highways Act 1980 the County Council certifies that this Agreement is made in connection with its functions as Highway Authority under the Highways Act 1980
4. Where any agreement certificate or approval is to be given by the County Council under the terms of this Agreement then the same shall be in writing and not be unreasonably withheld or delayed
5. Any notice or other communication to be served by the Developer under the terms of this Agreement shall be in writing referencing the following Legal/142140/ESD / DEF1334 and shall not be deemed to be given until received by the County Council at The Castle, Winchester, Hampshire SO23 8UJ and addressed to the Assistant Director for Legal Services and Monitoring Officer or to such addressee as the County Council may from time to time stipulate

Developer's Covenants

6. The Developer hereby covenants with the County Council as follows:

Execution of Works

- 6.1. To carry out at its own expense and at no cost to the County Council the Works described in Schedule 1 as contractor for the County Council in a good and workman like manner and with proper materials and in accordance in all respects with the terms and conditions described in Schedule 2
- 6.2. To notify the County Council in writing as to the date the Works are opened to the public no later than one month

following such opening in addition to and without prejudice to the issuing of the Certificate of Completion

Street Lighting

- 6.3. To maintain access to all apparatus that is part of the Hampshire Street Lighting PFI Contract and where this is not possible the maintenance responsibility for that apparatus shall be removed from the Hampshire Street Lighting PFI Contract and shall pass to the Developer and FURTHER where the Developer removes or relocates any apparatus that is part of the Hampshire Street Lighting PFI Contract the maintenance responsibility for that apparatus shall be removed from the Hampshire Street Lighting PFI Contract and shall pass to the Developer

Indemnity

- 6.4. That it hereby indemnifies and shall keep indemnified the County Council in respect of all actions claims demands fees charges expenses and proceedings arising out of or in connection with or incidental to the carrying out of the Works and any works required by any statutory undertaker including (but not limited to) any costs expenses and penalties incurred by the County Council in the event the Developer exceeds the timescale specified in the Programme other than those arising under Parts I and II of the Land Compensation Act 1973 in respect of which the provisions of below shall apply

Public Liability

- 6.5. That it shall without prejudice to its liability under Clause 6.4 and 6.6 hereof to indemnify the County Council be insured against public liability risks for a sum of at least £10,000,000 in respect of any one claim and shall ensure that any person or persons carrying out the Works on its behalf is similarly insured against public liability risks and the Developer or any person authorised by it to carry out the Works shall (without prejudice to the requirements of Schedule 2 paragraph 1.8 of

this Agreement) on request by the County Council produce for inspection evidence of the relevant policies of insurance

Land Compensation Claims

- 6.6. That it hereby indemnifies the County Council against all costs associated with its responsibilities and all claims under section 10 of the Compulsory Purchase Act 1965 and pursuant to Part I and Part II of the Land Compensation Act 1973 (as amended) and regulations made there under (including claims the County Council determine should be met under the provisions of Regulation 4 of the Noise Insulation Regulations 1975) arising out of the use of the Works

Dedication

7. The Developer hereby dedicates the Orange Land as public highway including where appropriate a right for mechanically propelled vehicles such dedication to take effect from issue of the Certificate of Completion PROVIDED THAT on default by the Developer of any of the terms of the Agreement the County Council shall have the right to enter the Orange Land to complete the Works and in this case dedication shall be effective from the date of such entry

Bond

8. The Developer shall not commence the Works until it has provided to the County Council a Bond by a surety acceptable to the Assistant Director for Legal Services and Monitoring Officer to the effect that if the Developer fails at any time to carry out or observe any of the terms conditions and stipulations on its part contained in this Agreement or in the event of the Developer becoming bankrupt or going into liquidation or entering administrative receivership or entering into a deed of arrangement for the benefit of its creditors the surety shall pay to the County Council on demand such sum as may be certified by the County Council to be required in order to complete the Works or reinstate the highway or complete such alternative works as the County Council considers appropriate and remedy any defects prior to the Works becoming maintainable at the public

expense or occurring or discovered during the Maintenance Period and the cost of any other sums due under the terms of this Agreement and such further sum as the Assistant Director for Legal Services and Monitoring Officer may certify to be necessary to fully reimburse the County Council in respect of any costs and expenses incurred by the County Council in the enforcement of the obligations on the part of the Developer under this Agreement together with the cost to the County Council of preparing an alternative contract and of supervising the execution of this alternative contract PROVIDED THAT upon issue of the Certificate of Completion the Bond may be reduced by 50% or to the sum of £5,000.00 whichever is the greater value as agreed by the County Council and PROVIDED FURTHER that upon issue by the County Council of the Certificate of Maintenance the Bond shall be released

Payments

9. The Developer further covenants with the County Council to pay to the County Council:

On the date of the Agreement

- 9.1. On the date hereof the whole of the reasonable costs incurred by the Assistant Director for Legal Services and Monitoring Officer and the Director of Universal Services in the preparation of this Deed.

Prior to commencement of the Works

- 9.2. On demand and in any event prior to commencement of the Works the reasonable cost to the County Council of approving the detailed contract drawings, specification and any relevant reports for the Works including the cost of approval of preliminary design check drawings and structural approvals (less any pre-check fees already paid to the County Council) on account of such costs
- 9.3. On demand and in any event prior to commencement of the Works the Inspection Deposit and further shall pay any

reasonable additional sum incurred by the County Council's in inspecting and administering the Works within 30 days following receipt of an invoice from the County Council

- 9.4. Prior to commencement of the Works the full cost to the County Council of any road traffic orders required to facilitate the Works
- 9.5. Prior to commencement of the Works the full cost to the County Council of any permanent traffic regulation orders or road hump notices

Prior to issue of Certificate of Completion

- 9.6. Prior to the issue of the Certificate of Completion and in accordance with Schedule 3 any commuted sums due in respect of the future maintenance of the Works and in the event that Rate B as set out in Schedule 3 applies the Developer elects to pay a fixed rate of 4% interest adjustment for inflation as set out Schedule 3
- 9.7. On demand and in any event prior to the issue of the Certificate of Completion the costs of all design checks and inspections together with any accrual payment incurred or to be incurred at the time of adoption by the County Council in respect of the Works pursuant to the Hampshire Street Lighting PFI Contract
- 9.8. Prior to the issue of the Certificate of Completion any sums incurred by the County Council pursuant to the requirements of Schedule 2

Prior to the Reduction of the Bond

- 9.9. On demand and in any event prior to the reduction of the Bond the sum of £200 for costs incurred in approving and administering reducing the Bond

Prior to the Release of the Bond

- 9.10. On demand and in any event prior to the release of the Bond the sum of £200 for costs incurred in approving and administering releasing the Bond

Prior to issue of Certificate of Maintenance

- 9.11. On demand and in any event prior to the issue of the Certificate of Maintenance the costs of all design checks and inspections together with any accrual payment incurred or to be incurred at the time of adoption by the County Council in respect of the Works pursuant to the Hampshire Street Lighting PFI Contract
- 9.12. Prior to the issue of the Certificate of Maintenance any outstanding sums due pursuant to this Agreement

Payment on Demand

- 9.13. Where any payment due to the County Council under this Agreement is outstanding the Developer covenants with the County Council that the Developer shall pay all outstanding payments to the County Council within ten working days of the County Council's written demand ("the demand") as well as the interest at a rate of 4% per annum above the base lending rate of the HSBC at the date of the demand on the sum outstanding from the due date under this Agreement until the actual date of payment to the County Council

County Council's Covenants

10. The County Council hereby covenants with the Developer as follows:
- 10.1. That it hereby authorises the Developer and the Contractor to carry out the Works within the public highway subject to and strictly in accordance with the terms conditions and stipulations in Schedule 2
- 10.2. That upon completion of the Works in accordance with the approved drawings, specification and any recorded and agreed changes during the Works to the satisfaction of the County Council the County Council will issue a Certificate of Completion and as from the date of the Certificate of Completion that part of the Works as are at the date of this Agreement within the public highway or which are on that part of the Land which will become public highway pursuant to

Clause 7 of this Agreement shall become maintainable at public expense SAVE THAT for the Maintenance Period the Developer shall maintain the Works and after the expiry of the Maintenance Period and PROVIDED ALWAYS that the Works have been fully maintained as aforesaid and that any defects appearing or safety issues identified during the Maintenance Period have been made good and all sums due under this Agreement have been paid the County Council shall thereupon issue a Certificate of Maintenance PROVIDED FURTHER THAT the County Council shall be at liberty to delay the issue of the Certificate of Maintenance if in its opinion the Works are likely to be subjected to heavy loading or used by construction vehicles driven by or on behalf of the Developer or his or its servants and agents or contractors or other developers in connection with road or building works carried out on the Land or on adjoining land in any which cases the Maintenance Period shall be extended accordingly

Further Agreement Between Parties

11. It is further agreed between the parties that:
 - 11.1. In accordance with Regulation 4(8) of the CDM Regulations the Developer hereby elects to be the only client for the purposes of the CDM Regulations for any part of the Works as may be within the public highway and the County Council consents to such an election and for the avoidance of doubt the County Council shall have a duty only under Regulations 4(4), 8(4) and 8(6) of the CDM Regulations insofar as those duties relate to health and safety information in the County Council's possession as a Highway Authority
 - 11.2. If the estimated value of the contract for the Works equals or exceeds the threshold identified in Regulation 5(1) of the Public Contracts Regulations 2015 (as amended from time to time) then the Developer as contractor for the County Council shall in appointing an economic operator to carry out the

Works comply with the Public Contracts Regulations 2015 (as amended from time to time).

Non-Compliance

12. Without prejudice to the terms hereof:
 - 12.1. If the Developer fails to execute or complete the Works in accordance with its obligations hereunder the County Council shall after not less than fourteen (14) days notice in writing to the Developer (or immediately in any case of emergency or danger) be entitled to complete the Works or reinstate the highway or complete such alternative works as the County Council considers appropriate in default with its own employees or by contract or otherwise (entering the Land if necessary to do so) and to recover the full costs as certified by the County Council from the Developer
 - 12.2. After the expiry of the notice period in clause 12.1 above or immediately in the case of emergency or danger the authority given to the Developer under clause 10.1 shall be revoked immediately upon the County Council exercising its powers at 12.1 above
 - 12.3. If the Developer fails to comply with the approved Mud Method Statements the County Council reserves the right to close any access to the Land until such time as the public highway is made safe

Arbitration

13. Save for matters of interpretation of this Agreement (which shall be matters for the Court) in the event of any dispute arising between the parties hereto in respect of any matter contained in this Agreement including questions of value and any question of reasonableness the same shall be referred to an expert ("Expert") to be agreed upon between the parties hereto or at the request and option of either of them to be nominated at their joint expense by or on behalf of the President for the time being of the Institution of Civil Engineers and the Expert's decision shall be final and binding on the parties hereto

and whose costs (including the re-imbursement of the costs of any other experts' fees) shall be at his discretion

13.1 The Expert shall have at least ten years post qualification experience in the subject matter of the dispute and shall:

13.1.1 be appointed subject to an express requirement that he reaches a decision and communicates it to the parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than 30 Working Days from the date of his appointment to act

13.1.2 be required to give notice to each of the third parties inviting each of them to submit to him within such period as he shall reasonably determine within 10 Working Days of his appointment written submissions and supporting material and shall afford to each of the said parties an opportunity to make counter submissions within a further 5 Working Days in respect of any such submission and material and the Expert shall disregard any representations made out of time and the Expert's decision shall be given in writing within 15 Working Days from receipt of any counter submissions or in the event that there are no counter submissions within 15 Working Days of receipt of the written submissions and supporting material with reasons and in the absence of manifest error the Expert's decision shall be final and binding on the said parties

14. It is hereby declared and agreed between the parties hereto that nothing in Clause 13 shall be taken to fetter the ability of the County Council to seek legal redress of any breach of the obligations entered into by the Developer in this Agreement

Miscellaneous

15. The Developer hereby agrees that the Works are for the benefit of the Land

16. If the Works have not commenced in accordance with the terms of this Agreement within two (2) years of the date hereof this Agreement (save always for any outstanding liabilities on the part of the Developer) shall absolutely determine and cease to have any effect unless otherwise agreed in writing
17. For the avoidance of doubt reference wherever it appears in this Agreement to the Developer shall not include any successor in title thereto in respect of the authority granted to the Developer to carry out the Works pursuant to this Agreement
18. Reference whenever it appears in this Agreement to any statute or other legislation shall include any amendment thereto or other regulations Codes of Practice or other directions made or given there under
19. Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 nothing in this Agreement confers or purports to confer any rights to enforce any of the terms and provisions herein on any person who is not a party hereto or a successor in title to a party hereto
20. In no event shall any delay, neglect or forbearance on the part of the County Council in enforcing (in whole or in part) any provision of this Agreement be or be deemed to be a waiver of that provision or any other provision or shall in any way prejudice the right of that party under this Agreement.
21. This Agreement shall be registered as a Local Land Charge

Mortgagee's Consent

22. The Mortgagee hereby consents to the Developer entering this Deed

Consent for the noting of Agreement on title of Land

23. The Developer consents to the noting of this Agreement in the charges register of title number(s) HP30850 being the title to the Orange Land

SCHEDULE 1
Description of Works

The Works referred to in this Agreement and shown in principle on Drawing(s) 045.5006.101 rev C and 045.5006.102 rev A attached hereto shall comprise the provision of:-

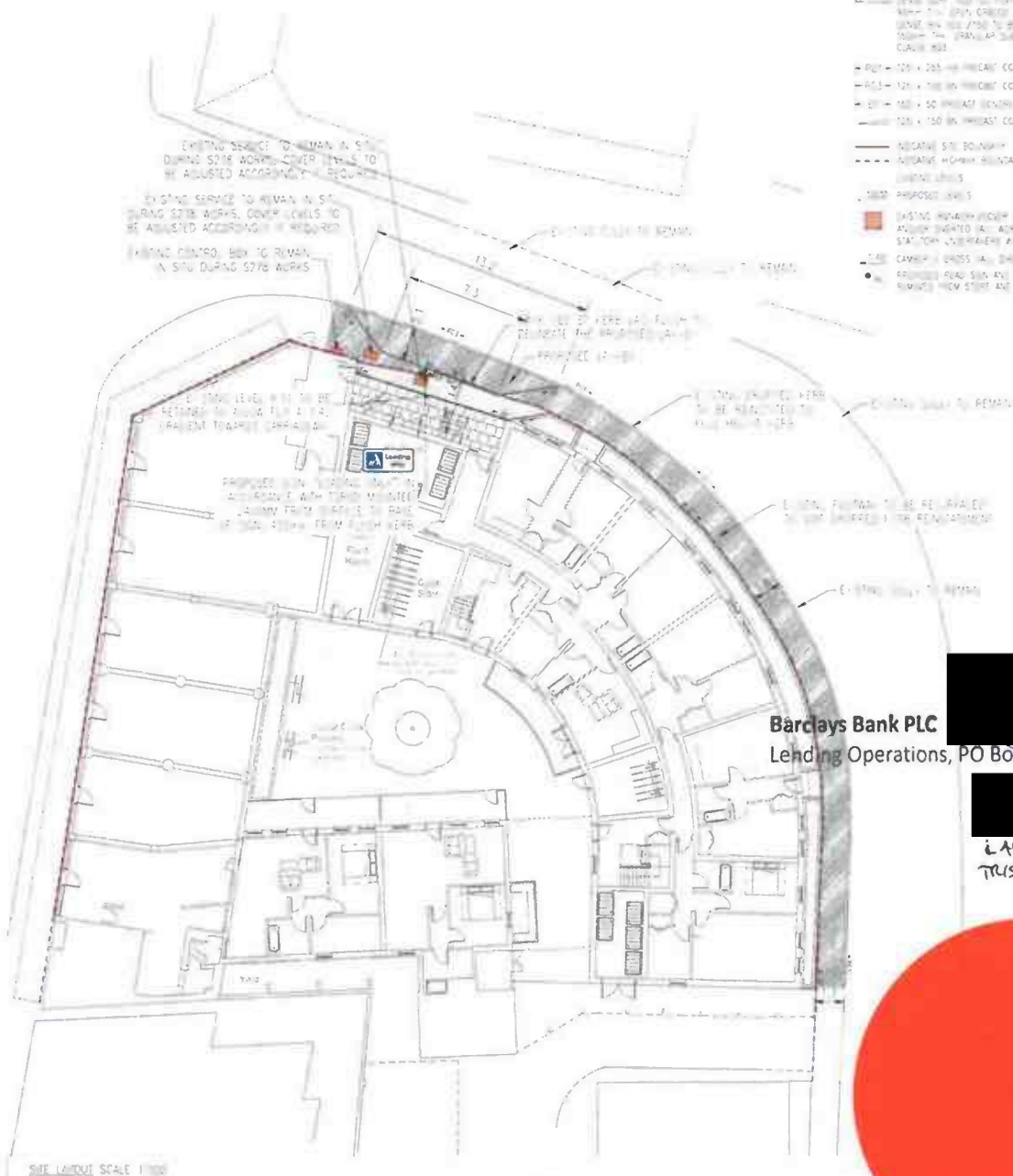
1. Construction of new kerb and footway and provision of loading bay TOGETHER WITH such ancillary works as may be required by the County Council which ancillary works may include inter alia the provision of street lighting traffic signs carriageway markings footways street furniture and drainage and any necessary alterations to statutory undertakers equipment PROVIDED THAT if the Department for Transport Technical Design Standards, Advice or HCCs Technical Guidance is amended after the date of this Agreement the County Council shall be at liberty to review the Works and require any amendments deemed necessary to ensure that the Works comply with the revised standards and advice SAVE THAT in circumstances where detailed contract drawings have been approved in writing by the County Council and the Works are commenced within three months of the date of the written approval thereof then SUBJECT ALWAYS TO AND WITHOUT PREJUDICE to Schedule 2 hereof the County Council shall not seek any amendments to the Works



SECTION 278
SCALE 1:100

SCALE 1:100

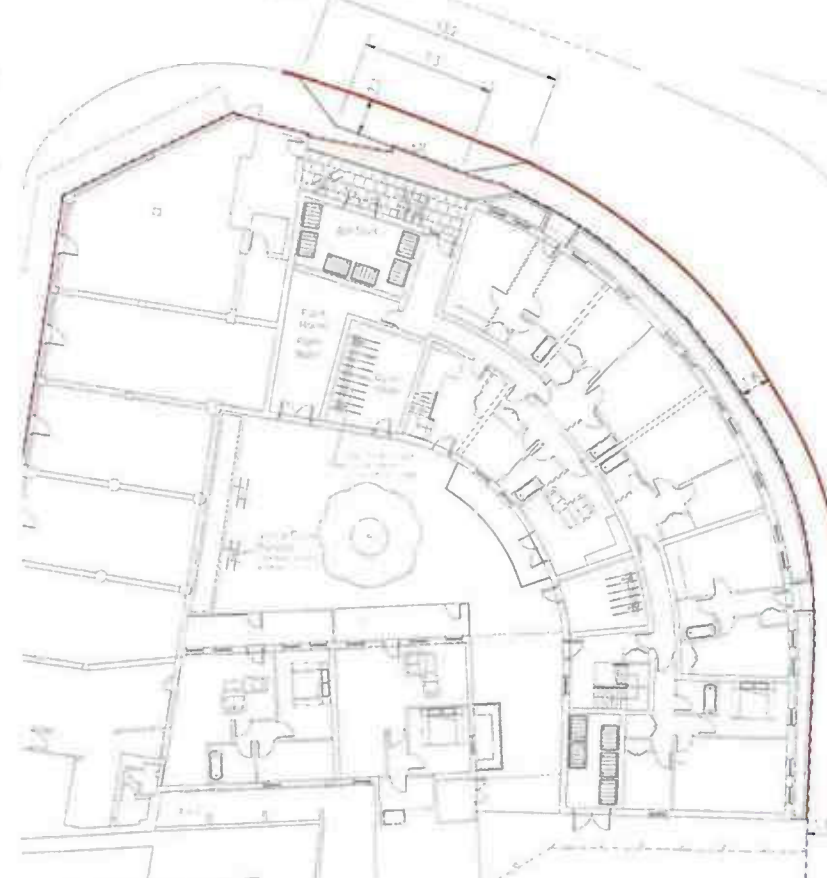
SCALE 1:100



Barclays Bank PLC
Leasing Operations, PO Box 299, Birmingham, B1 3PF

LAUREN ATKINS
TRUSTMIR SUB LIMITED

37101075



SCALE 1:100

CONSTRUCTION DETAILS FOOTWAY TIE-IN WITH
LAY-BY RESURFACING

CONSTRUCTION DETAILS FOOTWAY TIE-IN

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FOR
CONSTRUCTION

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Paul Basham Associates

THE HAUNTS GROUP

NORTH STREET ARCADE
HAYAT

SECTION 278
ENGINEERING LAYOUT & SITE CLEARANCE

CONSTRUCTION

CL 11 11 2021 EK 10 11 2021

AS SHOWN (AT A1 SIZE)

045.5006.101 C



GENERAL NOTES

1. THIS DRAWING IS INTENDED TO BE VIEWED IN COMBINATION WITH ALL RELEVANT ARCHITECTS, ENGINEERS, SERVICES AND SPECIALIST DRAWINGS AND SPECIFICATION.
2. ANY VARIATIONS OR DISCREPANCIES BETWEEN THESE DRAWINGS IN TERMS OF DIMENSIONS OR DETAILS SHOULD BE DRAWN TO THE ATTENTION OF THE ARCHITECT AND/OR THE ENGINEER FOR CLARIFICATION.
3. PAUL BASHAM ASSOCIATES ACCEPTS NO RESPONSIBILITY FOR THE ACCURACY OF BACKGROUND INFORMATION PRODUCED BY THIRD PARTIES - THIS MUST BE TREATED AS INDICATIVE ONLY.
4. ALL DIMENSIONS AND LEVELS ARE IN METRES. DO NOT SCALE THIS DRAWING, PRINT, PLOT OR DISK.
5. THIS DRAWING SHOULD ONLY BE USED FOR CONSTRUCTION IF THE PROJECT PHASE IN THE TITLE FRAME BELOW IS SHOWN AS "CONSTRUCTION". PAUL BASHAM ASSOCIATES TAKE NO RESPONSIBILITY FOR CONSTRUCTION WORKS UNDERTAKEN TO DRAWINGS WHICH ARE NOT MARKED UNDER THIS PHASE.

LEGEND

-  LAND TO BE DEDICATED AS PUBLIC HIGHWAY
-  INDICATIVE SITE BOUNDARY
-  INDICATIVE HIGHWAY BOUNDARY

1:250 0m 10m

APPROVED

A	ISSUED FOR CONSTRUCTION	21.02.22	EK	CL
Rev	Description	Date	By	Chkd

Project Name
NORTH STREET ARCADE
HAVANT

Project Phase
CONSTRUCTION

Title
SECTION 278
LAND DEDICATION PLAN

 **paulbasham**
associates
Paul Basham Associates Ltd
The Bumpy, 2000 High Street, Havant, PO15 8UP
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Client



THE MALINS GROUP

CL

Drawn By

EK

Checked Date

11.11.2021

Drawn Date

10.11.2021

Scale

1:250

Client Drawing No.

-

PBA Drawing No.

045.5006.102

(AT A3 SIZE)

Revision

A

SCHEDULE 2

Terms and Conditions of Works

The Works shall be carried out in accordance with the following terms and conditions:

1. The Works shall not be commenced until:
 - 1.1. Detailed design drawings, specification, Programme, Method Statement and traffic management measures have been prepared by the Developer and approved by the County Council in writing.
 - 1.2. The Developer has demonstrated to the satisfaction of the County Council how it will comply with the Code of Practice for the Co-ordination of Street Works for Road Purposes and Related Matters 1992 and has submitted to the County Council a Management Plan and such Management Plan has been approved in writing by the County Council.
 - 1.3. Where the estimated value of the contract for the works equals or exceeds the threshold provided in Regulation 5(1) of the Public Contracts Regulations 2015 (as amended from time to time) tenders shall have been invited under the Open Procedure and copies of the Contract Award Notice, independent financial tender and evaluation report justifying the selection of the economic operator in accordance with Regulation 58 has been submitted to the County Council
 - 1.4. The Developer has:-
 - 1.4.1 Obtained any necessary licences and given any necessary notices pursuant to the New Roads and Street Works Act 1991; and
 - 1.4.2 Obtained any necessary consents and permissions from any railway canal, inland navigation, dock or harbour undertakers or any other party or organisation where the consent or permission of the undertaker, party or organisation is required for the Works to be lawfully undertaken and completed

- 1.5. Where in accordance with Regulation 4(8) of the CDM Regulations the Works are notifiable the Developer as the only client has provided to the County Council:-
 - 1.5.1 a copy of the notice to be served under Reg 6(2) of the CDM Regulations and a copy of the Notification of Project (form HSE10) to the HSE
 - 1.5.2. confirmation that duties under Reg 4(4) and 4(5) of the CDM Regulations are being carried out
- 1.6. Where in accordance with Regulation 5(1) of the CDM Regulations there is more than one contractor or it is foreseeable that there will be more than one contractor the Developer as the only client shall provide to the County Council written details of the principal designer and the principal contractor who will undertake these roles during the construction phase of the works
- 1.7. The Developer has paid all sums due prior to commencement of the Works pursuant to Clause 10
- 1.8. The original insurance policy and receipts referred to in Clause 6.5 or copies thereof certified by a solicitor have been produced
- 1.9. A noise survey and assessment in respect of the Works has been undertaken by a competent noise expert in accordance with the advice and instruction contained in the technical memorandum entitled '*Calculation of Road Traffic Noise*' published June 1988 by the TSO as may be amended from time to time and a copy of the survey and assessment has been submitted to the County Council and all and any requirements arising therefrom have been undertaken by the Developer at its own expense
- 1.10. The Developer has provided in writing to the satisfaction of the County Council measures to ensure the highway remains adequately lit at all times during the works and supply temporary lighting when required

- 1.11. The Developer has submitted to the County Council and the County Council has approved a Highway Condition Survey
 - 1.12 the Developer has prepared for the County Council with regard to any Structures detailed contract drawings for technical approval in accordance with the relevant section of the Design Manual for Roads and Bridges (CG 300 Technical approval of highway structures) Technical Approval of Highways Structures and the HMMP or any amendment/replacement thereof
2. The Developer shall ensure that the structure design and checking procedure for any Structure is carried out by a Chartered Engineer familiar with Department for Transport Standards who shall state on "Form AIP" or any amendment/replacement thereof the documents which will be applicable and which will need to be agreed. The procedure document HMMP applicable to highway structures shall be obtained from the County Council before details are submitted for approval
3. The Developer shall notify the County Council as follows:
 - 3.1. In accordance with the provisions of the Hampshire County Permit Scheme
 - 3.2. At least 24 hours prior to the commencement of each and every stage of excavation and construction operations associated with highway structures
4. At least 3 months prior to commencement of the Works the Developer shall give notice to each statutory undertaker for the time being of any service(s) which may be affected by the Works of the proposal to carry out the Works or which might be required in consequence of the Works and shall place orders and pay any costs to all statutory undertakers for all works to their mains or services necessitated by the Works and shall relocate all street furniture affected to the satisfaction of the County Council
5. The Works shall be signed and protected to at least the standards of the Traffic Signs Manual Chapter 8 2nd Edition published by TSO in

and the Safety at Street Works and Road Work A Code of Practice published by Department of Transport and the proposed arrangements shall be approved in writing by the County Council before the Works commence

6. The Works shall be constructed:
 - 6.1 Under the terms of a Construction Contract, unless agreed otherwise by the County Council
 - 6.2 Under the direction and instructions of a Competent Engineer. The Competent Engineer shall be authorised to issue instructions to the Contractor in the normal execution of duties under the Construction Contract;
 - 6.3 In accordance with the Specification, detailed contract drawings and programme, prepared in accordance with the Guidance notes, unless any changes to the Works are agreed by the County Council during the course of construction. The Competent Engineer shall be responsible for negotiating, agreeing and implementing any required changes;
- 7 During the progress of the Works the County Council shall have free access to every part of the Works to inspect the same as they proceed and all materials used or intended to be used therein and the Developer shall give effect to any reasonable requirements made or reasonable direction given by the County Council to conform to the approved detailed contract drawings the Specification and the Programme
- 8 The Developer shall not cover up any works without the approval of the County Council and shall afford full opportunity for it to examine and measure any work which is about to be covered up and to examine foundations before permanent work is placed thereon and shall give at least three (3) working days' notice to the County Council whenever any such work or foundations is or are ready for examination
- 9 The County Council shall have power in its reasonable discretion to test or require the testing of materials plant and workmanship used or proposed to be used in the Works and to reject any materials plant or

- workmanship so tested which it may reasonably find to be not in accordance with the approved detailed contract drawings and the Specification
- 10 The Developer shall as soon as is reasonably practicable replace or repair any materials, plant or workmanship which have been found to be not in accordance with the approved detailed design drawings and Specification.
- 11 Immediately prior to the issue of the Certificate of Completion and (also if required by the County Council prior to issue of the Certificate of Maintenance) on site road safety audits in accordance with the relevant section of the Design Manual for Roads and Bridges (GG 119 Road safety audit) and Hampshire County Councils Technical Guidance Note TG18 shall be carried out by the Developer in the presence of the County Council and arising therefrom the County Council shall be at liberty to require such alterations to the approved detailed contract drawings and to the Works at the expense of the Developer as may be reasonably required to ensure the safety of users of the highway
- 12 The Works shall be completed to the satisfaction of the County Council in accordance with the timescale specified in the Programme or any variation thereof agreed by the County Council
- 13 To protect the County Council's legitimate interest as Highway Authority and the effective operation of the public highway, should the Works not be completed to the satisfaction of the County Council in accordance with the timescale specified in the Programme; the Developer shall, if required by the County Council, pay to the County Council on demand a sum proportionate the disruption caused to the public highway by the delayed works of up to £2,000 as stipulated by the County Council per Working Day for each day the Works continue on the public highway past the timescale specified in the Programme or any other fines associated with non-compliance with Hampshire County Permit Scheme (Refer to Technical Guidance Note TG22).
- 14 The Developer shall not at any time give consent to the erection by any telecommunications operator of telegraph poles or telephone

- poles or to the erection by any statutory undertaker or public or private company firm or individual of any overground or underground equipment without the consent in writing of the County Council
- 15 The Developer shall fully maintain the Works for the Maintenance Period and shall make good any defects or damage which may arise or be discovered during such period
- 16 The Developer shall provide the County Council with the following
- 16.1 Prior to issue of the Certificate of Completion
- 16.1.1 CCTV Drain Survey together with details of gully manhole and catchpit locations in an agreed GPS format; and
- 16.1.2 an up-to-date Electrical Installation Certificate and schedule of test results in respect of any street lighting in accordance with BS7671 or any amendment/replacement thereof and which certificate shall be signed by a competent person in accordance with Appendix 6 of the BS7671 in a format approved by the County Council; and
- 16.1.3 written confirmation from the Developer that the street lighting apparatus complies with the 'Accrual Required Standards' issued by the County Council pursuant to the Hampshire Street Lighting PFI Contract
- 16.1.4 in respect of highway structures a maintenance manual to include suitable scale electronic data sets and paper sets (if required) of "as built" drawings soil reports records of materials tested Health and Safety file and revised forms AIP and associated certificates
- 16.1.5 accurate 1:500 scale of "as built" drawings supplied dwg format (packaged with any associated cross references) and PDF format
- 16.1.6 records of the earthworks showing sources of material used in areas of fill, description of fill materials descriptions of sub-grades in cut areas copies of

results of tests of material carried out as part of the supervision of the construction of the earthworks

- 16.1.7 records of the sources of supply of all other manufactured materials (e.g. drainage goods fencing materials traffic signs electrical components and cables etc)

SCHEDULE 3**Commuted Sums**

Item	From the date of the completion of the agreement to the date the site is placed onto maintenance (issue of Certificate of Completion)		Unit/Basis for Calculation	Notes
	0 to 2 Years	>2		
	Unit Rate A	Unit Rate B		
Unusual paving, surfacing and HFS				
HFS	£31.85	Unit Rate A + interest adjustment for inflation*	per m ²	One-off replacement cost
Block paving 80mm on sand and sub-base in carriageway	£149.26	Unit Rate A + interest adjustment for inflation*	per m ²	One-off replacement cost
Block paving 80mm on resin and concrete in carriageway	£178.13	Unit Rate A + interest adjustment for inflation*	per m ²	One-off replacement cost
Block paving 60mm on sand and sub-base in Footway	£117.60	Unit Rate A + interest adjustment for inflation*	per m ²	One-off replacement cost
Permeable Pavements	TBC	Unit Rate A + interest adjustment for inflation*	per m ²	One-off replacement cost
Traffic signals including Controlled Crossing				
Traffic signals including controlled crossing	20% of works cost	Unit Rate A + interest adjustment for inflation*		Rate should include TM costs
Illuminated Signs				
Illuminated signs	£2,214.45	Unit Rate A + interest adjustment for inflation*	per item	One-off replacement cost
Illuminated Signs >4m ²	£596 per m2	Unit Rate A + interest adjustment for inflation*	per item	One-off replacement cost
Decorative – Non-Standard Lighting				
Decorative non-standard lighting < 6m	£3,398.85	Unit Rate A + interest adjustment for inflation*	per item	One-off replacement cost
Decorative non-standard lighting > 6m	£3,897.60	Unit Rate A + interest adjustment for inflation*	per item	One-off replacement cost
Street Furniture				
Bus Stop (Poles and Flags) ONLY	£262.50	Unit Rate A + interest adjustment for inflation*	per item	One-off replacement cost
Pedestrian Guardrail	£149.10	Unit Rate A + interest adjustment for inflation*	per /lm	One-off replacement cost
Cycle Rack (All Types)	£339.05	Unit Rate A + interest adjustment for inflation*	per item	One-off replacement cost
Seating and Benches	£1,652.70	Unit Rate A + interest adjustment for inflation*	per item	One-off replacement cost
Bollards (Dragons Teeth)	£97.13	Unit Rate A + interest adjustment for inflation*	per item	One-off replacement cost

Bollard (Plastic Socketed)	£532.35	Unit Rate A + interest adjustment for inflation*	per item	One-off replacement cost
Bollards (Concrete)	£359.10	Unit Rate A + interest adjustment for inflation*	per item	One-off replacement cost
Bus Shelters, Including Passenger Information and Variable Message Signs				
Bus shelters, including passenger information and variable message signs	£17,333.93	Unit Rate A + interest adjustment for inflation*	per item	One-off replacement cost
Bus Shelter	£4,905.60	Unit Rate A + interest adjustment for inflation*	per item	One-off replacement cost
Structures Including Culverts Over 900 Diameters, Head Walls and Retaining Walls				
Structures including culverts over 900 diameters, head walls and retaining walls	20% of works cost	Unit Rate A + interest adjustment for inflation*		Rates should include TM and should be confirmed with the QS team if there are any concerns.
Trees – new				
Trees - new	£1,019.55	Unit Rate A + interest adjustment for inflation*	per tree	
Trees – Existing				
Trees (Semi Mature)	£1,272.60	Unit Rate A + interest adjustment for inflation*	per tree	
Trees (Mature)	£2,198.70	Unit Rate A + interest adjustment for inflation*	per tree	
Landscaping				
Shrub Beds	£30.45	Unit Rate A + interest adjustment for inflation*	m ²	Based on maintenance cost over 25 years.
Verge (Grass)	£40.85	Unit Rate A + interest adjustment for inflation*	m ²	Based on maintenance cost over 25 years.
Soakaways				
Soakaways <=5m ³	£3,941.70	Unit Rate A + interest adjustment for inflation*	per item	One-off replacement cost.
Soakaways >5m ³	£788 per m ³	Unit Rate A + interest adjustment for inflation*	m ³	One off replacement cost
Hydrobrakes				
Vortex Flow Control	£5,760.30	Unit Rate A + interest adjustment for inflation*	per item	One-off replacement cost
Petrol Interceptor				
Petrol interceptor <=8m ³	£21,576.45	Unit Rate A + interest adjustment for inflation*	per item	One-off replacement cost
Petrol Interceptor >8m ³	£37,294.43	Unit Rate A + interest adjustment for inflation*	per item	One-off replacement cost
Pebble Drains and Linear Ditches				
Pebble drains and linear ditches	£246.75	Unit Rate A + interest adjustment for inflation*	per/lm	Replacement and maintenance cost.
Linear ditches	£236.25	Unit Rate A + interest adjustment for inflation*	per/lm	Replacement and maintenance cost.

- 1) Commuted sums as per the table are payable prior to the issue of the Certificate of Completion
- 2) If the Certificate of Completion is issued within 2 years of the date of this Agreement then unit rate A will be payable for any applicable items within the schedule.
- 3) If the Certificate of Completion is issued after 2 years of the date of this Agreement then unit rate B will be payable for any applicable items within the schedule.
- 4) Unit rate B allows an annual compound interest rate to be applied to rate A to make an allowance for inflation and will only be applicable in the instance that issue of the Certificate of Completion is after 2 years from the date of this Agreement.
- 5) The form of the interest rate, applied after 2 years, can be selected by the Developer and "locked in" via the agreement, as either a fixed rate or a rate based on the Construction Output Price Indices for All Construction and the Developer's election is set out in clause 9.6.
- 6) If the interest rate used to calculate Rate B is to be fixed, an interest rate of 4% calculated on a compound annual basis shall be applied to Rate A for the period from the date of 2 years after the agreement until the date of payment
- 7) If the interest to calculate Rate B is to be based on the Construction Output Price Indices (OPI) for All Construction, an average OPI rate for each financial year will be calculated by HCC based on the Construction Output Price Indices for All Construction indices published by the Office for National Statistics. The interest rate calculated for each financial year will be applied to rate A for any subsequent corresponding years. Where there is no calculated average for the current financial year, the previous annual average rate will be applicable.
- 8) In the event that the average OPI rate for each financial Construction Output Price Indices (OPI) for All Construction, for any given financial year is negative (i.e. shrinks) no interest will be applicable and rates will revert back to Rate A.

To calculate rate B (interest charged after 2 years). HCC will use the below formula.

Defined terms are:

- (a) The Base Date Index (B) is the index at the *base date*.
- (b) The Latest Index (L) is the index at the anniversary of the *base date*.
- (c) The Price Adjustment Factor is $(L - B)/B$ for the index linked to it.
- (d) The index used to calculate the Price Adjustment Factor is the Construction Output Price Indices for All Construction (OPI) published by The Office of National Statistics

The Base Date for indices is January (The final index figures for this month shall be used).

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

EXECUTED as a DEED by affixing the)
COMMON SEAL of **HAMPSHIRE**)
COUNTY COUNCIL in the presence of:-)

Authorised Signatory
Name
Position

EXECUTED as a DEED by **TRISTMIRE**)
SUB LTD acting by LAUREN ATKINS,)
a director)

Signature of Witness

Name of Witness (block capitals) MATTHEW BAKER

Address 3 GRANGE PARK ROAD, TWICKENHAM

JULIA PERRY
EXECUTED as a DEED by ~~affixing the~~)
~~COMMON SEAL of BARCLAYS BANK PLC~~)
~~in the presence of:-~~ as attorney for Barclays)
Bank plc pursuant to a Power of Attorney dated
15 February 2023, in the presence of:
Signature of Witness

Name (block capitals) SAMIRA RANI

Address

Barclays Bank PLC
Lending Operations, PO Box 299, Birmingham, B1 3PF