

DATED 1 MAY 2024

MID SUFFOLK DISTRICT COUNCIL

-and-

SUFFOLK COUNTY COUNCIL

-and-

BLACKACRE (GREAT BLAKENHAM) LTD

-and-

PORT ONE (LAND) LIMITED

-and-

PORT ONE (MANAGEMENT COMPANY) LIMITED

-and-

THE RIGHT HONOURABLE MARCIA PERSEPHONE VISCOUNTESS BLAKENHAM and THE
HONOURABLE CASPAR JOHN HARE as Trustees of The Right Honourable Michael John
Viscount Blakenham Will Trust

-and-

SECURE TRUST BANK PLC

Agreement under Section 106 of the Town and Country Planning Act 1990
relating to
Port One Business and Logistics Park, Blackacre Hill, Bramford Road, Land Mill Lane (Easting
611893 & Northing 251038), Great Blakenham, IP6 0RL (DC/22/06288)



1 Byrom Place • Spinningfields • Manchester • M3 3HG
Tel: 0845 402 0001 • Fax: 01618281819 • DX: 14372 Manchester 1

(Ref: 633122C.42)

TABLE OF CONTENTS

1.	INTERPRETATION	2
2.	STATUTORY PROVISIONS	5
3.	CONDITIONALITY.....	5
4.	COVENANTS TO THE COUNCIL AND COUNTY COUNCIL	5
5.	COVENANTS BY THE COUNCIL	6
6.	MORTGAGEE'S CONSENT	6
7.	RELEASE	6
8.	DETERMINATION OF DEED	6
9.	LOCAL LAND CHARGE	6
10.	COUNCILS' COSTS	6
11.	OWNERSHIP	7
12.	CANCELLATION OF ENTRIES	7
13.	DISPUTES	7
14.	NO FETTER OF DISCRETION	7
15.	WAIVER	8
16.	FUTURE PERMISSIONS	8
17.	AGREEMENTS AND DECLARATIONS	8
18.	NOTICES	9
19.	THIRD PARTY RIGHTS	9
20.	VALUE ADDED TAX	9
21.	INTEREST ON PAYMENT.....	10
22.	INDEXATION.....	10
23.	COUNCIL'S OPTION.....	10
24.	GOVERNING LAW	11
25.	COUNTERPARTS	12
	SCHEDULE 1 The Gipping Meadow Owner and Port One (Management Company) Ltd Covenants with The Council	16
	PART 1	16
	SCHEDULE 2 Covenants to the County Council	19
	SCHEDULE 3 Covenants by the Council.....	18
	SCHEDULE 4 Covenants by the County Council.....	19

THIS DEED is made on the 1st day of MAY 2024

- (1) **Mid Suffolk District Council** of Endeavour House, 8 Russell Road, Ipswich, Suffolk, IP1 2BX ("the **Council**"); and
- (2) **Suffolk County Council** of Endeavour House, 8 Russell Road, Ipswich Suffolk IP1 2BX ("the **County Council**"); and
- (3) **Blackacre (Great Blakenham) Limited** (Company Registration Number 09247071) whose registered address is at The Octagon Suite E2, 2nd Floor, 17 Middleborough, Colchester, Essex, England, CO1 1TG ("the **First Owner**"); and
- (4) **The Right Honourable Marcia Persephone Viscountess Blakenham and The Honourable Caspar John Hare** both of Cottage Farm, Little Blakenham, Ipswich, Suffolk, IP8 4LZ as Trustees of The Right Honourable Michael John Viscount Blakenham Will Trust ("the **Second Owner**"); and
- (5) **Secure Trust Bank Plc**, a company incorporated and registered in England and Wales with company number 00541132 whose registered office is at Arleston Way, Solihull, B90 4LH ("the **Mortgagee**"); and
- (6) **Port One (Land) Limited** (Company Registration Number 14234394) whose registered address is at Suite E2, 2nd Floor, The Octagon, 27 Middleborough, Colchester, England, CO1 1TG ("the **Gipping Meadow Owner**"); and
- (7) **Port One (Management Company) Limited** (Company Registration Number 13403635) whose registered address is at The Octagon, Suite E2, 2nd Floor, Middleborough, Colchester, Essex, England, CO1 1TG.

RECITALS

- (A) The Council is the local planning authority for the purposes of the TCPA 1990 for the area in which the Site is situated.
- (B) The First Owner is the freehold owner of the First Property subject to a mortgage in favour of the Mortgagee.
- (C) That part of the First Property comprising Title Number SK421179 is land pending registration as a new title number following a transfer completed prior to this deed.
- (D) The Second Owner is the freehold owner of the Second Property.
- (E) The Gipping Meadow Owner is the freehold owner of the Gipping Meadow (Mill Lane) Nature Area Land.
- (F) Port One (Management Company) Limited is providing obligations in accordance with Schedule 1 so as to provide the Gipping Meadow (Mill Lane) Nature Area Management Plan and responsibility for the Gipping Meadow (Mill Lane) Nature Area Land.
- (G) Curzon de Vere Limited has made the Planning Application and the First Owner is proposing to carry out the Development.
- (H) The Mortgagee is the registered proprietor of the charge dated 12 January 2023 which will be referred to in the charges register of Title number SK408772 and has agreed to enter into this deed to give its consent to the terms of this deed.
- (I) The Council having regard to the provisions of the Local Plan and to all other material considerations resolved at its meeting on 17 January 2024 that Planning Permission should be granted for the Development subject to the prior completion of this deed.

IT IS HEREBY AGREED

1. INTERPRETATION

The following definitions and rules of interpretation apply in this deed:

1.1 Definitions:

Annual Maintenance Sum: the yearly sum payable to the Council in relation to the maintenance of Gipping Meadow (Mill Lane) Nature Area Land.

BCIS index: the "All in Tender Price Index" published by the Building Cost Information Service or any successor organisation or (if that index shall cease to be published or is otherwise unavailable) such alternative basis of indexation as may be agreed between the Council the County Council and the Owner.

Commencement of Development: the carrying out in relation to the Development of any material operation as defined by section 56(4) of the TCPA 1990 but disregarding for the purposes of this deed and for no other purpose, the following operations:

- demolition works;
- site clearance;
- ground investigations;
- site survey works;
- temporary access construction works;
- archaeological investigation; and
- erection of any fences and hoardings around the Site.

Commence and Commences shall be construed accordingly.

Commencement Date: the date Development Commences.

Community Trust: means for the purposes of this deed, a democratic, non-profit organisation or other similar trust, that may own or manage the Gipping Meadow (Mill Lane) Nature Area Land with reference to an applicable and relevant deed of trust that requires that land to be owned or managed in accordance with the Gipping Meadow (Mill Lane) Nature Area Management Plan.

Commuted Maintenance Sum: means a lump sum payment comprising aggregated Annual Maintenance Sum payments with 3% interest on that sum per annum over twenty-five (25) years diminishing yearly from the date that is ten (10) years after the date of the Planning Permission payable by the Owner to the Council upon the Council triggering the Commuted Maintenance Sum in accordance with Clause 4 of Part 1 of Schedule 1 of this agreement.

Development: the development of the Site authorised by the Planning Permission.

First Property: the part of the Site which forms part of the land registered at the Land Registry with freehold title absolute under Title Numbers SK421179, SK408772 and SK286697 and is shown for identification purposes edged blue on the plan attached to this deed as Appendix 2.

Gipping Meadow (Mill Lane) Nature Area Land: means the land edged blue on the plan attached to this deed as Appendix 3 and registered at HM Land Registry with absolute title under title number SK420382.

Gipping Meadow (Mill Lane) Nature Area Management Plan: means a management plan which provides for a mandatory 5 yearly review period and an annual review capability if felt necessary by the Council and which shall include inter alia basic specification to include tree planting, pathways, fencing, description and evaluation of features to be managed for biodiversity and people; ecological trends and constraints on site that might influence management; aims and objectives of management; the appropriate management options for achieving aims and objectives; prescriptions for management actions; a work schedule (including an annual work plan capable of being rolled forward over a five-year period to ensure management will be in perpetuity); signage, interpretation, footpath improvement (designated and permissive), details of the body or organisation responsible for implementation of the plan; and ongoing monitoring and remedial measures.

Gipping Meadow Notice: written notice exercising the Gipping Meadow Option served by the Council on the Gipping Meadow Owner in the form annexed to this agreement at Appendix 6.

Gipping Meadow Option: an option granted to the Council during the Option Period to buy the Gipping Meadow (Mill Lane) Nature Area Land at the Purchase Price in line with Clause 23.

Index Linked: the increase in any sum referred to in the Schedules 1 or 2 by an amount equivalent to the increase in the RPI Index or BCIS Index (as the case makes clear) to be calculated in accordance with Clause 22 of this deed and RPI Index Linked and BCIS Index Linked shall be construed accordingly.

Interest: Interest at four (4) per cent above the base lending rate of the Bank of England from time to time.

Intended Purpose: the use of the Gipping Meadow (Mill Lane) Nature Area Land in accordance with the Gipping Meadow (Mill Lane) Nature Area Management Plan.

Local Plan: Babergh and Mid-Suffolk Joint Local Plan November 2023.

Occupation: occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and "Occupied" and "Occupy" shall be construed accordingly

Option Period: from the date of the grant of the Planning Permission until such time as the Council has acquired the Gipping Meadow (Mill Lane) Nature Area Land in accordance with the Gipping Meadow Option

Original Section 106 Agreement: means the agreement dated 16 November 2016 entered into by the Council (1) the County Council (2) the First Owner (3) Lendinvest Private Finance General Partners Limited (Company Registration Number 07156408) (4) and Lendinvest Capital S.A.R.L (being a company incorporated in Luxembourg) (5) pursuant to section 106 of the TCPA 1990 for the purpose of securing specific planning obligations against part of the Site as varied by deeds of variation dated 12 April 2019, 12 February 2021, 15 April 2021 and 26 October 2023.

Owner or Owners: means collectively for the purposes of this deed, the First Owner, the Second Owner and the Gipping Meadow Owner;

Plan: the plan attached to this deed as Appendix 1.

Planning Application: the application for planning permission for "Hybrid Planning Application: 1. Full Planning Application. Erection of 3no. warehouses and new vehicular access. Extension of estate roads, boundary landscaping, nature reserve and SUDS. 2. Outline Planning Application.

(Access and Landscaping to be considered) for further estate roads and 6no. warehouse plots" validated by the Council on 21 December 2022 under reference number DC/22/06288.

Planning Permission: the planning permission with reference number DC/22/06288 which may be granted by the Council in respect of the Planning Application.

Purchase Price: One pound (£1).

RPI Index: the "All Items" index figure of the Index of Retail Prices published by the Office for National Statistics from time to time or any successor organisation or (if that index shall cease to be published or is otherwise unavailable) such alternative basis of indexation as may be agreed between the Council the County Council and the Owner

Second Property: means the part of the Site which forms part of the land registered at the Land Registry with freehold title absolute under Title Number SK109780 and is shown for identification purposes edged blue on the plan attached to this deed as Appendix 4.

Site: the land at Port One Business and Logistics Park, Blackacre Hill, Bramford Road, Land Mill Lane (Easting 611893 & Northing 251038), Great Blakenham, IP6 0RL edged red on the Plan being the First Property and the Second Property, registered at HM Land Registry with absolute title under title numbers SK421179, SK408772, SK286697 and SK109780.

TCPA 1990: Town and Country Planning Act 1990.

Travel Plan Evaluation and Support Contribution: the sum of £1,000 (one thousand pounds) per annum RPI Indexed.

TRO Contribution: £40,000 (forty thousand pounds) BCIS Index Linked to fund legal work including officer time for assessment, consultation and introduction of traffic management measures in the vicinity of the development including any necessary orders and notices and together with any physical works required to introduce such measures.

VAT: value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax.

Working Day: any day which is not a Saturday, a Sunday, a bank holiday, or a public holiday in England.

- 1.2 Clause headings shall not affect the interpretation of this deed.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a **company** shall include any company, corporation, or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to any party shall include that party's personal representatives, successors and permitted assigns and in the case of the Council or the County Council the successors to their respective statutory functions.
- 1.8 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended, or re-enacted from time to time.

- 1.9 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 A reference to **writing** or **written** includes fax but not e-mail.
- 1.11 A reference to **this deed** or to any other deed or document referred to in this deed is a reference to this deed or such other deed or document as varied or novated (in each case, other than in breach of the provisions of this deed) from time to time.
- 1.12 References to clauses and Schedules are to the clauses and Schedules of this deed.
- 1.13 An obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.14 Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.15 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

2. STATUTORY PROVISIONS

- 2.1 This deed constitutes a planning obligation for the purposes of section 106 of the TCPA 1990, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and any other enabling powers.
- 2.2 The covenants, restrictions and obligations contained in this deed are planning obligations for the purposes of section 106 of the TCPA 1990 and are entered into by the Owner with the intention that they bind the interests held by those persons in the Site and their respective successors and assigns.
- 2.3 The covenants, restrictions and obligations contained in this deed are enforceable by the Council and County Council in accordance with section 106 of the TCPA 1990.

3. CONDITIONALITY

- 3.1 With the exception of clause 2, clause 3, clause 7, clause 10, clause 11, clause 13, clause 14, clause 15, clause 16, clause 17, clause 19, clause 20, and clause 23 (which take effect immediately), this deed is conditional on the later of the grant and issue of the Planning Permission.
- 3.2 Subject to the unconditional clauses listed above, the Owners shall have no liability under this deed prior to Commencement of Development.

4. COVENANTS TO THE COUNCIL AND COUNTY COUNCIL

- 4.1 The Owner and the Mortgagee covenant with the Council to:
 - 4.1.1 observe and perform the covenants, restrictions and obligations contained in Schedule 1.
 - 4.1.2 give at least 10 Working Days written notice to the Council of the intended Commencement Date with the exclusion of Unit 5 which has Commenced.
 - 4.1.3 give at least 10 Working Days written notice to the Council of the expected first Occupation of the Site.
 - 4.1.4 give written notice to the Council within 7 Working Days of the first Occupation of the final unit.

jl ~~4.1.5~~

- 4.2 The Owner and the Mortgagee (subject always to Clause 6 below) covenant with the County Council to:
- 4.2.1 Observe and perform the covenants, restrictions and obligations contained in Schedule 2.
 - 4.2.2 give at least 10 Working Days written notice to the County Council of the intended Commencement Date with the exclusion of Unit 5 which has Commenced.
 - 4.2.3 give at least 10 Working Days written notice to the County Council of the expected first Occupation of the Site.
 - 4.2.4 give written notice to the County Council within 7 Working Days of the first Occupation of the final unit.

5. COVENANTS BY THE COUNCIL

- 5.1 The Council covenants with the Owner to observe and perform the covenants, restrictions and obligations contained in Schedule 3.
- 5.2 The County Council covenants with the Owner to observe and perform the covenants, restrictions and obligations contained in Schedule 4.

6. MORTGAGEE'S CONSENT

- 6.1 The Mortgagee consents to the completion of this deed and declares that its interest in the Site shall be bound by the terms of this deed as if it had been executed and registered as a land charge prior to the creation of the Mortgagee's interest in the Site.
- 6.2 The Mortgagee shall not be personally liable for any breach of the obligations in this deed unless committed or continuing at a time when the Mortgagee is in possession of all or any part of the Site to which such obligations relate.

7. RELEASE

No person shall be liable for any breach of a covenant, restriction or obligation contained in this deed after parting with all of its interest in the Site, except in respect of any breach subsisting prior to parting with such interest.

8. DETERMINATION OF DEED

- 8.1 The obligations in this deed (with the exception of clause 10) shall cease to have effect if before the Commencement of Development, the Planning Permission:
- 8.1.1 expires;
 - 8.1.2 is varied or revoked other than at the request of the Owner; or
 - 8.1.3 is quashed following a successful legal challenge.

9. LOCAL LAND CHARGE

This deed is a local land charge and shall be registered as such by the Council.

10. COUNCILS' COSTS

- 10.1 The Owner shall pay to the Council on or before the date of this deed:

- 10.1.1 the Council's reasonable and proper legal costs together with all disbursements incurred in connection with the preparation, negotiation, completion, and registration of this deed.
 - 10.1.2 the sum of £1800 as a contribution towards the Council's costs of monitoring the implementation of this deed.
- 10.2 The Owner shall pay to the County Council on or before the date of this deed:
- 10.2.1 the County Council's reasonable and proper legal costs together with all disbursements incurred in connection with the preparation, negotiation, completion, and registration of this deed.
 - 10.2.2 the sum of £952 as a contribution towards the County Council's costs of monitoring the implementation of this deed.

11. OWNERSHIP

- 11.1 The First Owner warrants that no person other than the First Owner and the Mortgagee has any legal or equitable interest in the First Property.
- 11.2 The Second Owner warrants that no person other than the Second Owner has any legal or equitable interest in the Second Property.
- 11.3 The Gipping Meadow Owner warrants that no person other than the Gipping Meadow Owner has any legal or equitable interest in the Gipping Meadow (Mill Lane) Nature Area Land.

12. CANCELLATION OF ENTRIES

- 12.1 On the written request of the First Owner or the Second Owner at any time after each or all of the obligations have been performed or otherwise discharged (and subject to the payment of the Council's or County Council's reasonable and proper costs (as the case may be) the Council or County Council (as the case may be) will issue a written confirmation of such performance or discharge.
- 12.2 Following the performance and full satisfaction of all the terms of this Agreement or if this deed is determined pursuant to clause 89 (and subject to the payment of the Council's reasonable and proper costs and charges) the Council will on the written request of the First Owner or the Second Owner cancel all entries made in the local land charges register in respect of this deed.

13. DISPUTES

- 13.1 Any dispute, controversy or claim arising out of or relating to this deed, including any question regarding its breach, existence, validity or termination or the legal relationships established by this deed, shall be finally resolved by arbitration in accordance with the Arbitration Act 1996. It is agreed that:
 - 13.1.1 the tribunal shall consist of one arbitrator appointed jointly by the parties;
 - 13.1.2 in default of the parties' agreement as to the arbitrator, the arbitrator shall be appointed on either party's request by the President for the time being of the Royal Institution of Chartered Surveyors;
 - 13.1.3 the costs of the arbitration shall be payable by the parties in the proportions determined by the arbitrator (or if the arbitrator makes no direction, then equally); and
 - 13.1.4 the seat of the arbitration shall be London.

14. NO FETTER OF DISCRETION

Nothing (contained or implied) in this deed shall fetter or restrict the Council's or County Council's statutory rights, powers, discretions, and responsibilities.

15. WAIVER

No failure or delay by the Council or County Council to exercise any right or remedy provided under this deed or by law shall constitute a waiver of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

16. FUTURE PERMISSIONS

16.1 Nothing in this agreement shall prohibit or limit the right to develop any part of the Site in accordance with any planning permission (other than the Planning Permission or modification, variation, or amendment thereof) granted after the date of the Planning Permission.

16.2 In the event that any new planning applications are made in respect of the Development pursuant to Section 73 of the 1990 Act then with effect from the date that the new planning permission is granted pursuant to Section 73 of the 1990 Act:

16.2.1 Unless the local planning authority requires otherwise the planning obligations in this Agreement shall in addition to binding the Site in respect of the Planning Permission shall also bind the Site in respect of any planning permission granted pursuant to Section 73 of the 1990 Act; and

16.2.2 the definitions of "Application", "Development" and "Planning Permission" shall be assumed to include references to any applications under Section 73 of the 1990 Act, the planning permissions granted thereunder and the development permitted by such subsequent planning permissions PROVIDED THAT nothing in this clause 16 shall fetter the discretion of the District Council in determining any applications under Section 73 of the 1990 Act and the appropriate nature and/or quantum of planning obligations in so far as they are materially different to those contained in this Agreement and required pursuant to a determination under Section 73 of the 1990 Act (whether by way of a new Deed or supplemental Deed pursuant to Section 106 of the 1990 Act or a modification pursuant to Section 106A of the 1990 Act).

17. AGREEMENTS AND DECLARATIONS

17.1 The parties agree that:

17.1.1 nothing in this deed constitutes a planning permission or an obligation to grant planning permission; and

17.1.2 nothing in this deed grants planning permission or any other approval, consent or permission required from the Council or County Council in the exercise of any other statutory function; and

17.1.3 nothing in this deed is intended to represent a release or waiver of any obligations set out in the Original Section 106 Agreement as varied.

17.2 The liability of the Trustees of The Right Honourable Michael John Viscount Blakenham Will Trust Trustees for the time being under this deed is limited in amount to the realisable value of the assets of The Right Honourable Michael John Viscount Blakenham Will Trust for the time being vested in the Trustees.

17.3 Nothing contained in this deed entitles any party to any right or remedy against:

- 17.3.1 the personal estate, property, effects or assets of any of the trustees or any successor trustee for the time being or their respective personal representatives; or
- 17.3.2 any assets for the time being vested in the trustees that are not part of The Right Honourable Michael John Viscount Blakenham Will Trust's assets.

17.4 It is acknowledged and agreed amongst the parties to this deed that the First Owner and the Second Owner will not be liable for any obligations that do not relate or are not required on the land that each owns.

18. NOTICES

18.1 Any notice or other communication to be given under this deed must be in writing and must be:

- 18.1.1 sent by first class recorded signed for post.

18.2 Any notice or other communication to be given under this deed must be sent to the relevant party as follows:

- 18.2.1 to the Council at The Chief Planning Officer, Growth and Sustainable Planning, Mid Suffolk District Council, Endeavour House, 8 Russell Road, Ipswich, Suffolk, IP1 2BX and marked for the attention of Philip Isbell, Chief Planning Officer;
- 18.2.2 to the County Council at Suffolk County Council, Endeavour House, 8 Russell Road, Ipswich, Suffolk, IP1 2BX and marked for the attention of the Executive Director of Growth Highways and Infrastructure;
- 18.2.3 to the First Owner at Unit 2, Port One, Great Blakenham IP6 0FQ marked for the attention of Matt Slater;
- 18.2.4 to the Mortgagee at One Arleston Way, Solihull, West Midlands, B90 4LH] marked for the attention of Richard Lynn;
- 18.2.5 To the Second Owner at Cottage Farm, Little Blakenham, Ipswich, Suffolk, IP8 4LZ;

or as otherwise specified by the relevant party by notice in writing to each other party.

18.3 Any notice or other communication given in accordance with clause 18.1 and clause 18.2 will be deemed to have been received:

- 18.3.1 if sent by first class recorded signed for post at 9 a.m. on the second Working Day after posting.

18.4 A notice or other communication given under this deed shall not be validly given if sent by e-mail.

18.5 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

19. THIRD PARTY RIGHTS

A person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed.

20. VALUE ADDED TAX

20.1 Each amount stated to be payable by the Council, County Council or the Owner to the other under or pursuant to this deed is exclusive of VAT (if any).

20.2 If any VAT is at any time chargeable on any supply made by the Council, County Council or the Owner under or pursuant to this deed, the party making the payment shall pay the other an amount equal to that VAT as additional consideration on receipt of a valid VAT invoice.

21. INTEREST ON PAYMENT

21.1 If any payment due under this deed is paid late Interest will be payable from the date payment is due to the date of payment.

22. INDEXATION

22.1 Any sum referred to in Schedule 1 or Schedule 2 (unless the context reads otherwise) shall be increased by an amount equivalent to the increase in the RPI Index or BCIS Index (as the context makes clear) from the date hereof until the date on which such sum is payable using the application of the formula $A=B \times C/D$ where:

22.1.1 A is the sum payable under this deed;

22.1.2 B is the original sum calculated as the sum payable;

22.1.3 C is the RPI Index or BCIS Index (as the context makes clear) for the month 2 months before the date on which the sum is payable;

22.1.4 D is the RPI Index or BCIS Index (as the context makes clear) before the date of this deed; and

22.1.5 C/D is greater than 1

23. COUNCIL'S OPTION

23.1 The Gipping Meadow Owner grants the Council an option during the Option Period to buy the Gipping Meadow (Mill Lane) Nature Area Land at the Purchase Price ("the **Gipping Meadow Option**")

23.2 Subject to the Council having fully complied with its obligations at Schedule 1 Part 1 clause 2 hereunder the Council may exercise the Gipping Meadow Option at any time during the Option Period by serving the Gipping Meadow Notice on the Gipping Meadow Owner.

23.3 The Gipping Meadow Option may only be exercised in respect of the whole of the Gipping Meadow (Mill Lane) Nature Area Land and not in respect of part only except where it transpires the Owner does not own title to any of the Gipping Meadow (Mill Lane) Nature Area Land, in which case the Council may exercise the Gipping Meadow Option on that part/those parts that are within the Owners title.

23.4 The grant of the Gipping Meadow Option is personal to the Council. The Council may not assign, transfer, mortgage, charge, subcontract, declare a trust (save for a Community Trust), over or deal in any other manner with any of its rights and obligations under this agreement or any part of it, unless otherwise formally agreed in writing by the Owner.

23.5 If the Gipping Meadow Option is exercised in accordance with the terms of this agreement, the Gipping Meadow Owner will sell and the Council will buy the Gipping Meadow (Mill Lane) Nature Area Land at the Purchase Price on the terms of this agreement.

23.6 The Council is deemed to have full knowledge of the Gipping Meadow Owner's title to the Gipping Meadow (Mill Lane) Nature Area Land and is not entitled to raise any enquiry, objection, rejection or claim in relation to any of them.

23.7 The Gipping Meadow Owner will sell the Gipping Meadow (Mill Lane) Nature Area Land free from incumbrances other than:

- 23.7.1 the Charge[s] contained or referred to in the entries or records made in registers maintained by HM Land Registry under title number SK420382 as at 08:35:06 on 22 March 2024;
 - 23.7.2 any matters discoverable by inspection of the Gipping Meadow (Mill Lane) Nature Area Land before the date of exercise of the Gipping Meadow Option.
 - 23.7.3 any matters which the Gipping Meadow Owner does not and could not reasonably know about;
 - 23.7.4 any matters disclosed or which would have been disclosed by the searches and enquiries which a prudent buyer would have made before exercise of the Gipping Meadow Option.
 - 23.7.5 the Owner and where applicable and relevant, the Gipping Meadow Owner. shall not create or allow to be created any new encumbrance on the Gipping Meadow Nature Land Site and will not use or allow it to be used for any unauthorised purpose.
- 23.8 The transfer of the Gipping Meadow (Mill Lane) Nature Area Land will be in a form to be agreed between the parties both acting reasonably.
- 23.9 In the event of the exercise of the Gipping Meadow Option completion will take place within 12 months following the date of service of the Gipping Meadow Notice.
- 23.10 The Gipping Meadow Owner will pay the Council's reasonable and proper costs and disbursements incurred in connection with the preparation of the transfer of Gipping Meadow (Mill Lane) Nature Area Land.
- 23.11 Any notice given under this clause 23 shall be in writing and signed by or on behalf of the party giving it.
- 23.12 Any notice or document to be given or delivered under this clause must be:
- 23.12.1 sent by pre-paid first class recorded signed for post or other next Working Day signed for delivery service.
- 23.13 Any notice or document to be given or delivered under this clause must be sent to the relevant party as follows:
- 23.13.1 to the Gipping Meadow Owner at:
 - (a) Unit 2 Venture Way, Great Blakenham, IP6 0FQ
 - (b) marked for the attention of Matt Slater;
- 23.14 or as otherwise specified by the relevant party by notice in writing to the other party.
- 23.15 Any notice or document given or delivered in accordance with this clause 23 will be deemed to have been received:
- 23.16 if sent by pre-paid first class recorded signed for post or other next Working Day signed for delivery service, at 9.00 am on the second Working Day after posting.
- 23.17 A notice given or document delivered under this agreement will not be validly given or delivered if sent by email.

24. GOVERNING LAW

This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England.

25. COUNTERPARTS

This deed may be executed in any number of counterparts, each of which when executed and delivered, shall be an original, and all counterparts together shall constitute one and the same instrument.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Signed as a deed by **BLACKACRE (GREAT BLAKENHAM) LTD** in the presence of:

.....

Director

.....

[SIGNATURE OF WITNESS]

[NAME, ADDRESS AND OCCUPATION OF WITNESS]

Signed as a deed by **THE RIGHT HONOURABLE MARCIA PERSEPHONE VISCOUNTESS BLAKENHAM and THE HONOURABLE CASPAR JOHN HARE** as Trustees of The Right Honourable Michael John Viscount Blakenham Will Trust, in the presence of:

.....

.....

.....

[SIGNATURE OF WITNESS]

[NAME, ADDRESS AND OCCUPATION OF WITNESS]

Signed as a deed by **PORT ONE (LAND) LIMITED**

.....

in the presence of:

Director

.....

[SIGNATURE OF WITNESS]

[NAME, ADDRESS AND OCCUPATION OF WITNESS]

Signed as a deed by **PORT ONE (MANAGEMENT COMPANY) LIMITED**

in the presence of:

.....

.....

Director

[SIGNATURE OF WITNESS]

[NAME, ADDRESS AND OCCUPATION OF WITNESS]

Executed as a deed by as attorney for **Secure Trust Bank PLC** duly appointed Attorney under a Power of Attorney dated

..... as attorney for **Secure Trust Bank PLC**

in the presence of:

Signature of witness:

Name (IN BLOCK CAPITALS):

Address:

THE COMMON SEAL of)
MID SUFFOLK DISTRICT COUNCIL)
was hereunto affixed to this deed)
in the presence of:)

Authorised Signatory:

Name of Authorised Signatory:

Position of Authorised Signatory:

EXECUTED AS A DEED by
affixing **THE COMMON SEAL** of
SUFFOLK COUNTY COUNCIL
in the

)
)
)
)

Autho



SCHEDULE 1

The Gipping Meadow Owner and Port One (Management Company) Ltd Covenants with The Council

PART 1

1. The Gipping Meadow Owner covenants with the Council:
 - 1.1.1 to retain and not transfer the freehold in the Gipping Meadow (Mill Lane) Nature Area Land in accordance with the terms of this Deed (i.e. paragraph 2 below).
 - 1.1.2 Not to lease, rent or otherwise provide a legal interest in any part of the Gipping Meadow (Mill Lane) Nature Area Land to any other party (unless otherwise agreed in writing by the Council).
2. Following the grant of the Planning Permission, a written Gipping Meadow (Mill Lane) Nature Area Management Plan shall be produced by the Council in discussion with the Port One (Management Company) Ltd.

The Gipping Meadow (Mill Lane) Nature Area Management Plan shall include:

- inter alia a five yearly mandatory review period and an annual review capability if felt necessary by the Council;
 - basic specification to include tree planting, pathways, fencing, description and evaluation of features to be managed for biodiversity enhancement and people; ecological trends and constraints on site that might influence management; aims and objectives of management;
 - the appropriate management options for achieving aims and objectives; prescriptions for management actions;
 - a work schedule (including an annual work plan capable of being rolled forward over a five-year period to ensure management will be in perpetuity);
 - signage, interpretation, footpath improvement (designated and permissive), details of the body or organisation responsible for implementation of the plan;
 - ongoing monitoring and remedial measures; and
 - such other elements as may be relevant for its management for the Intended Purpose.
3. Port One (Management Company) Ltd covenants with the Council at its own (i.e. Port One (Management Company) Ltd's) cost to maintain and manage the Gipping Meadow (Mill Lane) Nature Area Land for the benefit of the general public strictly in accordance with the Gipping Meadow (Mill Lane) Nature Area Management Plan and the Planning Permission until the date the Council exercises its option to purchase.
 4. In the event that the Council acquires the Gipping Meadow (Mill Lane) Nature Area Land pursuant to the Gipping Meadow Option then Port One (Management Company) Ltd covenants to continue to maintain and manage the land in accordance with clause 3 of this schedule. In such instance the Council may, at any time after 10 years of the date of the Planning Permission, and at its absolute discretion (having regard to the Owners' comments), require Port One (Management Company) Ltd to either i) pay an Annual Maintenance sum for 25 years following the date that is 10 years after the date of the Planning Permission, or or ii) pay the Commuted Maintenance Sum in discharge of the Annual Maintenance Sum. The Annual Maintenance Sum and the Commuted Maintenance Sum shall be calculated as the real annual cost of managing and maintaining the Gipping Meadow (Mill Lane) Nature Area Land in the condition existing under the relevant management plan at the time of

the exercise of the Gipping Meadow Option. The real annual cost will be calculated having regard to historic costs provided by Port One (Management Company) Ltd a schedule of which shall be provided in writing to the Council on an annual basis during the period in which Port One (Management Company) Ltd is responsible for the maintenance and management of the Gipping Meadow (Mill Lane) Nature Area Land at its own cost and in accordance with the Gipping Meadow (Mill Lane) Nature Area Management Plan. The Annual Maintenance Sum and the Commuted Maintenance Sum shall be calculated for a 25-year period. In the case of the Commuted Maintenance Sum this sum is to diminish from the date that is ten years after the date of the Planning Permission. Once the Annual Maintenance Sum and the Commuted Maintenance Sum have been calculated, both will be increased by 3% per annum in order to account for inflation.

5. In the event that the Annual Maintenance Sum or the Commuted Maintenance Sum payment is paid to the Council under clause 4 of this schedule, then Port One (Management Company) Ltd is no longer required to maintain the Gipping Meadow (Mill Lane) Nature Area Land at its own expense.
6. Gipping Meadow (Mill Lane) Nature Area Land shall be retained in perpetuity for the purposes of nature conservation, biodiversity enhancement, informal recreation, grazing and shall, where permitted statutorily or by the Gipping Meadow (Mill Lane) Nature Area Management Plan, be publicly accessible.
7. The Gipping Meadow Owner covenants with the Council to grant the Council a permanent right of access onto all parts of the Gipping Meadow (Mill Lane) Nature Area Land at any time and to grant the Council the right to graze livestock on all or parts of the Gipping Meadow (Mill Lane) Nature Area Land.
8. The Gipping Meadow Option in the Council's favour will be Registered by the Gipping Meadow Owner as a Land Charge on the title of the Gipping Meadow (Mill Lane) Nature Area Land under title number SK420382 at HM Land Registry within 28 days of the issuing of the Planning Permission.

SCHEDULE 2

Owner's Covenants to the County Council

Part 1

1. With the exception of Unit 5 (as illustrated on the plan attached at Appendix 1), prior to the Occupation of any permitted unit within the Planning Permission the First Owner to pay to the County Council the first instalment of the Travel Plan Evaluation and Support Contribution of £1,000 (one thousand pounds) RPI Index Linked.
2. With the exception of Unit 5 (as illustrated on the plan attached at Appendix 1), the First Owner and the Second Owner not to Occupy or permit or allow Occupation of any permitted unit within the Planning Permission unless and until the first instalment of the Travel Plan Evaluation and Support Contribution has been paid to the County Council.
3. The First Owner to pay further instalments of the Travel Plan Evaluation and Support Contribution of £1,000 (one thousand pounds) RPI Index Linked annually prior to the anniversary of the date of Occupation of the first (1st) permitted unit within the Planning Permission SAVE THAT no further instalments of £1,000 (one thousand pounds) of the Travel Plan Evaluation and Support Contribution shall be payable by the Owner from the date of the fifth (5th) anniversary of the date that the final permitted unit within the Planning Permission is first Occupied.
4. Within one month of the date of the Planning Permission, the First Owner to pay to the County Council the TRO Contribution BCIS Index Linked.
5. The First Owner and the Second Owner not to commence any works on the highway unless and until the TRO Contribution BCIS Index Linked has been paid to the County Council.

SCHEDULE 3 Covenants by the Council

1. At the written request of the Owners the Council shall provide written confirmation of the discharge of one or more of the obligations contained within this Agreement when satisfied (acting reasonably) that such obligations have been performed.
2. To use all sums received from the Owners under the terms of this Agreement for the purposes specified in this Agreement for which they are to be paid.
3. The Council shall within 3 (three) months of written request provide written confirmation to the Owners of the extent to which any of the contributions payable to the Council have been spent or committed and details of what the said monies have been spent on or committed to.

SCHEDULE 4

Covenants By the County Council

The County Council covenants as follows:

1. Not to use or permit use of any part of the TRO Contribution other than for the purposes for which it was paid (whether by the County Council or another party).
2. That in the event that the TRO Contribution has not been spent or committed for expenditure by the County Council within ten (10) years of the date the Development is first Occupied with the exception of Unit 5 ("the Refund Date"), the County Council shall upon receipt of written request received within one year of the Refund Date refund to the party that paid the TRO Contribution or any part of the TRO Contribution which has not been spent or committed for expenditure, together with interest applied at the Bank of England Base Rate minus 2 basis points, compounding annually at financial year end and if for any period the Bank of England Base Rate is at or below 0.02% then no interest shall be payable for that period.

Appendix 1: Plan



■ Multi-Use
■ Application Site
■ Full Parking
■ Outline Planning
▲ Proposed Service Road/Connection

Ref	Issue	Description	Status
P1	17/02/17	Initial Review	02
P2	17/02/17	Initial Review - parking area marked	02
P3	16/02/17	Comments from client	02
P4	16/02/17	Comments from client	02
P5	16/02/17	Comments from client	02
P6	16/02/17	Comments from client	02

TEAM AB

Name: _____
 Position: _____
 Date: _____
 Signature: _____

