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(1) MULBERRY COMMERCIAL DEVELOPMENTS LIMITED

(2) CORBY BOROUGH COUNCIL

(3) NORTHAMPTONSHIRE COUNTY COUNCIL

**PLANNING AGREEMENT
SECTION 106
TOWN AND COUNTRY PLANNING ACT 1990**

**relating to the development of land south of at
Cowthick Plantation, Stamford Road, Stanion,
Corby in the County of Northamptonshire**

Reference: 18/00817/OUT



Pinsent Masons

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THIS AGREEMENT is made on [REDACTED] 2020

AMONG:-

- (1) **MULBERRY COMMERCIAL DEVELOPMENTS LIMITED** (company registration number 04771583) whose registered office is at Nene House, 4 Rushmills, Northampton, England, NN4 7YB (the "**Owner**");
- (2) **CORBY BOROUGH COUNCIL** whose registered office is at The Corby Cube, George Street, Corby, Northants, NN17 1QG (the "**Council**"); and
- (3) **NORTHAMPTONSHIRE COUNTY COUNCIL** whose registered office is at County Hall, Northampton, NN1 1ED (the "**County Council**"),

collectively, the "**Parties**"

WHEREAS:-

- (A) The Council is the Local Planning Authority pursuant to section 1 of the Planning Act for the purposes of this Agreement for the area within which the Land is situated.
- (B) The County Council is the highway authority and the education authority for the purposes of this Agreement for the area within which the land is situated.
- (C) The Owner is the owner in fee simple in possession of the Land under Title Number NN293319 and NN330192.
- (D) The Planning Application has been made by the Owner (known as Greatline Developments Limited at the time that the Planning Application was made) to the Council for planning permission to carry out the Development.
- (E) The Council is minded to grant the Planning Permission subject to Planning Conditions and subject to the parties entering into this Agreement without which the Planning Permission would not have been granted.
- (F) The Parties are satisfied that the obligations secured by this Agreement are necessary to make the Development acceptable in planning terms; directly related to the Development; and fairly and reasonably related in scale and kind to the Development.

IT IS AGREED as follows:-

1. **DEFINITIONS AND INTERPRETATION**

- 1.1 In this Agreement (including for the avoidance of doubt the Recitals hereto) the following expressions shall have the following meanings:-

"Agreement" means this deed including its Recitals, Schedules, Annexures and Plans

"Beneficial Occupation" means the occupation of any Unit or Units or any part of any Unit or Units comprising the Development for the use or uses authorised by the Planning Permission and "**Beneficially Occupied**" shall be construed accordingly

"Commencement of Development" means the time when the Development (other than any Preparatory Operation) is begun by the carrying out of any of the operations specified in section 56(4) of the Planning Act pursuant to the Planning Permission and

"Commence" or **"Commenced"** shall be construed accordingly

"Community Impact Mitigation Purposes"

means all or any of the following to mitigate the impacts of the Development, including catering for increased demand on community services and facilities as a result of the direct or indirect effects of the Development:-

- i. community facilities provision, improvements, management and maintenance;
- ii. community public realm provision, improvements, inspection and maintenance;
- iii. community path and signage provision, improvements, management and maintenance;
- iv. traffic calming measures along roads through and approaching communities;
- v. community infrastructure and electronic communications provision, improvements and management and maintenance;
- vi. community carbon offset or reduction measures;
- vii. community ecological education programmes or initiatives to increase awareness of local green and blue infrastructure;
- viii. community facilities to host community ecological education programmes or initiatives

"Community Impact Mitigation Contribution"

means the sum calculated in accordance with paragraph [8.1 of Schedule 1] to be paid to the Council towards Community Impact Mitigation Purposes PROVIDED THAT

the Council may apply the Community Impact Mitigation Contribution (or part thereof) directly towards the Community Impact Mitigation Purposes or arrange for onward transmission of the Community Impact Mitigation Contribution (or part thereof) to affected Parish Councils or other community bodies nominated by the Council for expenditure towards the Community Impact Mitigation Purposes and after such onward transmission by the Council the transmitted sums are treated for the purposes of paragraph 1.3 of Schedule 2 to be committed for expenditure

"Construction Training Programme"

means a programme in accordance with that outlined in paragraph [3] of Appendix 1, to include:-

- (a) measures to facilitate an enhanced understanding of different development construction skills; and
- (b) measures to engage with Tresham College (or such alternative training provider as may from time to time be agreed with the Council) to provide a formal programme of construction education for students such programme may include (i) site visits

- (ii) project briefings with main contractors and / or
- (iii) technical workshops

"Contributions"	means the Travel Plan Monitoring Contribution, the Logistics and Construction Training Contribution, the Community Purposes Contribution
"Delivery and Management Details"	<p>means details governing:</p> <ul style="list-style-type: none"> (a) the laying out of the approved nature trail; (b) the erection of the approved public information boards; (c) the arrangements for public access; (d) the arrangements for ongoing maintenance and management; <p>in connection with the Nature Scheme.</p>
"Delivery Strategy"	means the broad strategy for bringing forward the Development comprised of different employment land uses as set out in Appendix 2 or such amendment or replacement strategy as may be approved by the Council in writing in connection with its approval of the Reserved Matters Application or otherwise
"Development"	means the development of the Land pursuant to the Planning Permission for employment use (use classes B1/B2 and B8) with ancillary parking highway infrastructure engineering works
"Escrow Account"	means an interest bearing account in the name of the County Council where all interest that accrues from time to time in respect of the account's credit balance shall be deemed to be part of that balance
"Final Certificate"	means the certificate issued by the County Council in respect of the Residual Mitigation Measures following expiry of the Maintenance Period and inter alia satisfactory completion of any remedial works required by the County Council and "Final Certification" shall be construed accordingly
"First Occupation"	means the first date upon which a Phase or the Development (as context requires) is first Beneficially Occupied pursuant to the Planning Permission and the term "First Occupied" shall be interpreted accordingly
"Full Occupation"	means the first date on which at least 90% of the floorspace comprised in a Phase or the Development (as context requires) has been Beneficially Occupied and the term "Fully Occupied" shall be interpreted accordingly
"Index Linked"	means increased by applying the percentage increase (if any but in any event only upward increases apply) in the RICS Building Cost Information Service All-items Tender Price Index or, in the event that the said index ceases to be published, such other equivalent index as may be agreed in writing by the Owner and the Council or in default of agreement to be determined in accordance with Clause 9 of

this Agreement from the date of this Agreement to the date of payment SAVE THAT in respect of the Community Impact Mitigation Contribution and Logistics and Construction Training Contribution indexation runs from Q3 in 2017 to the date of payment

"Intra Phase Monitoring"	means the monitoring of the effectiveness of the Mitigation Measures carried out between First Occupation of a Phase and Final Occupation of a Phase in accordance with paragraph [] of Schedule 1
"Intra Phase Monitoring Notice"	means the notice to be served by the Owner on the County Council pursuant to paragraph [2.2] of Schedule requesting the County Council to confirm in writing whether or not it requires Intra Phase Monitoring to be carried out in respect of that Phase
"Intra Phase Monitoring Report"	means the report presenting the results of the Intra Phase Monitoring submitted to and approved by the County Council under paragraph [2.8] of Schedule 1
"Intra Phase Monitoring Scope"	means the scope, format, times and duration for the Intra Phase Monitoring to be submitted to and approved by the County Council under paragraph [2.5.1 of Schedule 1
"Land"	means the land edged red on Plan A that is the subject of the Planning Permission and bound by the obligations in this Agreement
"Logistics and Construction Training Contribution"	means the sum calculated in accordance with the formula in paragraph [4.1] of Schedule 1 to be paid to the Council towards the Logistics and Construction Training Contribution Purposes
"Logistics and Construction Training Contribution Purposes"	means construction or logistics skills courses and apprenticeships or related measures consistent with the broad principles set out in Appendix 1
"Logistics Training Programme"	means a programme in accordance with that outlined in paragraph [4] of Appendix 1, to include measures designed to encourage engagement between occupiers of the Development and local providers of logistics training and / or recruitment programmes
"Maintenance Period"	means the defects monitoring and correction period between Practical Completion of the Residual Mitigation Measures and adoption of the Residual Mitigation Measures as highway maintainable at the public expense
"Mitigation Measures"	means the highway junction and network capacity mitigation measures (including but not limited to walking, cycling, connectivity and public transport enhancements) to address the Transport Effects required under the Phased Transport Assessments

"Nature Scheme"	means a scheme delivering enhancements to local green infrastructure in accordance with paragraph [10.1] of Schedule 1
"Phase"	means any phase of the Development to be approved pursuant to Planning Condition [4] to the Planning Permission
"Phased Monitoring Reports"	means the post Beneficial Occupation surveys, counts and reports assessing the performance of the Mitigation Measures submitted to and approved by the Council (in consultation with the County Council) under Planning Conditions [17, 19, 21 and 23 and 23B mutatis mutandis]
Phased Transport Assessments	means the assessment of Transport Effects in connection with each Phase of the Development to be submitted to and approved by the Council (in consultation with the County Council) under Planning Conditions [16, 18, 20, 22]
"Plan A"	means the plan annexed to this Agreement and marked as Plan A
"Planning Act"	means the Town and Country Planning Act 1990 including any statutory modification or any successor thereto
"Planning Application"	means the planning application for the Development assigned Council reference number 18/00817/OUT
"Planning Condition"	means a condition attached to the Planning Permission (or equivalent or replacement condition attached to a S73 Permission)
"Planning Permission"	means the planning permission granted by the Council pursuant to the Planning Application
"Post Occupation Monitoring"	means monitoring of the Transport Effects following Beneficial Occupation of a Phase carried out pursuant to Planning Conditions [19, 21, 23]
"Practical Completion"	means practical completion of the Residual Mitigation Measures confirmed by the certificate or certificates issued by the County Council
"Preparatory Operation"	means an operation or item of work of or connected with or ancillary to: <ul style="list-style-type: none"> (a) Archaeological investigation; (b) Exploratory boreholes and trial pits; (c) Survey of existing structures; (d) Site clearance and excavation (including associated temporary works) and / or site preparation; (e) Site reclamation and site remediation works;

	(f) Any preliminary landscaping which is not part of a Phase;
"Public Transport Service "	means an agreed level of public transport provision to and from the Development along a prescribed route and at an agreed time, duration and frequency as set out in the Public Transport Strategy
"Public Transport Service Strategy"	means the strategy to be submitted to and approved by the County Council in accordance with paragraph [4] of Schedule 1
"Reserved Matters Application"	means an application for reserved matters submitted to the Council pursuant to the Planning Permission
"Residual Mitigation Measures"	means the additional mitigation measures identified as necessary pursuant to the Intra Phase Monitoring to effectively mitigate the Transport Effects
"Residual Mitigation Measures Sum"	means the sum agreed with the County Council under paragraphs [1.4 to 1.5] of Schedule 1 representing the reasonable worst case estimate of the cost of the likely Residual Mitigation Measures required in connection with each Phase
"S73 Permission"	means a planning permission granted under Section 73 of the Planning Act to carry out the Development otherwise than in accordance with Planning Conditions originally approved
["Security"	means a cash deposit in an Escrow Account or a performance bond from a surety or bondsman approved by the County Council]
"Sustainable Construction Methods"	means energy and resource efficient construction methods endorsed by national trade associations and compatible with achieving compliance with the requirements of Planning Conditions [38] to [40]
"Transport Effects"	means without limitation the transport effects of the Development to be assessed under the Phased Transport Assessments (and updates thereto) in accordance with the Planning Permission including and not limited to: <ul style="list-style-type: none"> • The realigned Stamford Road priority junction • A43/A6116/A4300/Long Croft Rd junction (800 two-way flow at A43 arm). • A427/A6086 junction (100 two-way flow at A6086 South arm). • A427/A43/Corby Rd junction (40 two-way flow at A43 South arm). • A43/A6003 junction (400 two-way flow at A43 North arm). • Crucible Road priority junction • Gainsborough Road priority junction

- A43/A6116/ Long Croft Rd junction
- A427/A6086 junction
- A427/A43/Corby Rd junction
- A43/A6003 junction
- A14 junction 12 with A6116
- A43/ Prologis Park / Weekley Wood Avenue
- A43/ Rockingham Road/ A6183
- A14 Junction 7
- A43/A6116 Arnsley Road
- A6116 junctions between the A43/A4300 and the A14

"Travel Plan"	means a travel plan or plans to be submitted to and approved by the Council under Planning Condition [24] containing appropriate measures to encourage the use of means of transport other than private motor vehicles and which shall also include targets to reduce single private car occupancy during peak hours to be achieved over the Travel Plan Monitoring Period
"Travel Plan Monitoring Contribution"	means the sum of [£] Index Linked to be paid [in accordance with paragraph [3] of Schedule 2 to the County Council
"Travel Plan Monitoring Period"	means the period specified in the Travel Plan to be approved under Planning Condition [24]
"Unit(s)"	means any building to be erected on the Land as part of the Development and authorised pursuant to a Reserved Matters Application [but not including any buildings that are ancillary to the primary employment uses]
"Updated Transport Assessment"	means a Phased Transport Assessment which has been updated by the Owner to have regard to the findings of the Phased Monitoring Report for the preceding Phase
"Update Works"	means alternative, additional or remedial works to the access works and mitigation works approved under Planning Conditions [18, 20, 22]
"Working Days"	means Monday to Friday inclusive but excluding days which are public holidays (Christmas Eve, Christmas Day, Boxing Day, Good Friday, Easter Monday and any other statutory bank holiday)

1.2 In this Agreement:-

- 1.2.1 words importing the masculine gender shall be deemed to include the feminine and the neuter and the singular the plural and vice versa and words denoting natural persons shall include legal persons and vice versa unless the contrary is expressly provided or the context otherwise requires;

- 1.2.2 obligations and liabilities of a party comprising more than one person are obligations and liabilities of such persons jointly and severally provided that no person shall be liable in respect of any breach (and for this purpose breach shall include the failure to perform any positive obligation) other than in respect of land in his legal or beneficial ownership;
- 1.2.3 any reference to any numbered Clause or Sub-Clause or to a Schedule is (except where indicated to the contrary) a reference to the corresponding Clause or Sub-Clause or a Schedule to this Agreement;
- 1.2.4 any reference to any statute or any section thereof includes any amendment modification consolidation or re-enactment thereof and any statutory instrument direction or regulation made thereunder for the time being in force;
- 1.2.5 the Clause headings in this Agreement are for ease of reference only and shall not affect the construction thereof;
- 1.2.6 the expressions the "**Council**", the "**County Council**" and the "**Owner**" shall where the context so admits include their respective successors and assigns or, in the case of the Council or the County Council, any successors to any of their relevant statutory functions;
- 1.2.7 no failure or delay by the Council or County Council to exercise any right power or remedy will operate as a waiver of it nor will any partial exercise preclude or otherwise fetter any further exercise of the same or for some other right or power of the relevant Council officers or County Council officers; and
- 1.2.8 each of the parties to this Agreement shall act in good faith and shall co-operate with each of the other parties to facilitate the discharge and performance of all obligations on them contained in this Agreement and the Owner shall comply with any reasonable requests of the Council and the County Council to provide documentation within its possession within 14 days of a written request (such documentation to be provided by the Owner at its own expense) for the purposes of monitoring compliance with the obligations contained in this Agreement.

2. **STATUTORY BASIS**

- 2.1 This Agreement is made pursuant to section 106 of the Planning Act section 111 of the Local Government Act 1972 and section 1 of the Localism Act 2011 and in pursuance of all other powers enabling the parties hereto with the intention that the covenants and restrictions are planning obligations and are enforceable by the Council and the County Council as applicable.
- 2.2 Nothing in this Agreement restricts or is intended to restrict the proper exercise at any time by the Council or the County Council of any of their statutory powers, duties, functions or discretions in relation to the Land or otherwise.

3. **PLANNING OBLIGATIONS**

- 3.1 All of the obligations created by this Agreement are planning obligations for the purposes of section 106 of the Planning Act and are enforceable by the Council and the County Council.
- 3.2 To the extent that any of the obligations are not planning obligations within the meaning of the Planning Act they are entered into pursuant to the powers contained in section 111 of the Local Government Act 1972 or section 1 of the Localism Act 2011 and all other enabling powers.

4. **CONDITIONALITY**

This Agreement is conditional upon:-

- 4.1 the grant of the Planning Permission; and
- 4.2 the Commencement of Development,

save for the provisions of Clauses [1, 4, 9, 10, 12, 13, 14, 15, 17 and 18] which shall take effect on the date hereof.

5. **THE OWNER'S COVENANTS**

The Owner covenants with the Council and the County Council to comply with the obligations set out in Schedule 1.

6. **THE COUNCIL'S AND COUNTY COUNCIL'S COVENANTS**

6.1 The Council covenants with the Owner to comply with the obligations set out in Schedule 2.

6.2 The County Council covenants with the Owner to comply with the obligations set out in Schedule 2.

7. **INTEREST**

Should any of the sums payable by the Owner under this Agreement be more than 30 days in arrears then the sum payable shall attract interest calculated at a rate of 4% per annum above Barclays Bank Plc base rate on a daily basis from the day after it becomes due.

8. **REGISTRATION AS A LOCAL LAND CHARGE**

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

9. **DISPUTES**

9.1 Any dispute (save for any disputes as to matters of law) shall be referred at any time by any party to the dispute to a person having appropriate professional qualifications and experience in such matters (the "**Expert**") (and which in the case of the obligations in paragraph [1 to 4] of Schedule 1 shall be the a member of CIHT and ICE) appointed jointly by the parties to the dispute or in default of agreement within five Working Days of either party to the dispute giving to the other a written request requiring the appointment of the Expert by the President for the time being of the Royal Institution of Chartered Surveyors or the President of such other professional body as shall be relevant for the nature of the dispute in question (and which in the case of the obligations in paragraph [1 to 4] of Schedule 1 shall be the President of CIHT and ICE) (as appropriate)

9.2 The Expert shall have at least 10 years post qualification experience in the area of the dispute in question.

9.3 The Expert shall act as an expert and not as an arbitrator and the decision of the Expert shall be final and binding upon the parties (except where there is a manifest error and/or on a matter of law) and the following provisions shall apply to the Expert:-

9.3.1 the charges and expenses of the Expert shall be borne between the parties in such proportions as the Expert may direct;

9.3.2 the Expert shall give each of the parties an opportunity to make representations to him before making his decision provided always that such representations will be made within 10 Working Days;

9.3.3 the Expert shall be entitled to obtain opinions from others if he so wishes;

9.3.4 the Expert shall be required to make his decision within 15 Working Days of any representations being made by the parties;

9.3.5 if the Expert is unable or unwilling to accept his appointment or to carry out his functions then either party to the dspute may apply for a replacement to be appointed in his place and this procedure may be repeated as often as necessary; and

9.3.6 the decision of the Expert must be given in writing setting out the reasons behind such decision.

10. **NOTICES**

10.1 Any notice, notification, consent, approval, agreement, request or statement or details to be made, given or submitted under or in connection with this Agreement shall be in writing shall not be unreasonably withheld or delayed and shall be sent by recorded delivery to the following address of the relevant party:-

10.1.1 in the case of the Council to be addressed to the Head of Planning and Environmental Service, Corby Borough Council, Deene House, New Post Office Square, Corby, Northants, NN17 1GD, unless otherwise confirmed in writing;

10.1.2 in the case of the County Council to be addressed to the Distance Director, Environment, Planning and Transport, Northamptonshire County Council, One Angel Square, Angel Street, Northampton, NN1 1ED, unless otherwise confirmed in writing;

10.1.3 in the case of the Owner to its registered office or such other address as it shall provide in this regard; and

11. **MONITORING**

11.1 The Owner hereby covenants with the Council and County Council to serve written notice upon the Council and the County Council advising them of the date of Commencement of each Phase within 10 Working Days of the occurrence of the same provided that default in giving notice shall not prevent Commencement occurring.

11.2 For the purposes of monitoring compliance with this Agreement the Owner shall notify the Council and the County Council of First Occupation of each Phase within 10 Working Days of the occurrence of the same and further shall inform the Council and the County Council in writing within 10 Working Days of the occurrence of Full Occupation of each Phase.

11.3 The Owner agrees with the Council and the County Council to give the Council and the County Council written notice of any change in ownership of any of its interest in the Land occurring before all the obligations under this Agreement have been discharged. Such notice is to give details of the new owner(s) full name and Registered Office (if a company) or usual address (if not a company), together with the relevant area of the Unit(s) by reference to a plan.

12. **CONTINGENCIES**

12.1 If the Planning Permission expires or is revoked or quashed or otherwise ceases to exist or is withdrawn before the Commencement of Development this Agreement (save for the provisions of Clause 15 which shall remain in force) shall cease to have effect and as from such time there shall be no further obligations on any party in relation to any matter that has occurred or may arise under this Agreement.

12.2 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Agreement.

12.3 If any provision of this Agreement is or becomes illegal, void, invalid or unenforceable the legality and enforceability of the other provisions in this Agreement shall not be affected.

13. **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and no person other than the parties to this Agreement or their successors in title or assigns shall have any rights under it nor shall it be enforceable by any person other than the parties to it or their successors in title.

14. **VAT**

14.1 All consideration given in accordance with the terms of this Agreement shall be exclusive of any VAT properly payable in respect thereof.

14.2 If at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this Agreement then the extent that VAT has not been previously been charged in respect of that supply the person making the supply shall have the right to issue a VAT invoice to the person to whom the supply is made and the VAT shall be paid accordingly.

15. **COSTS**

15.1 The Owner shall pay the Council's legal costs incurred in the negotiation preparation and execution of this Agreement.

15.2 The Owner shall pay the County Council's legal costs incurred in the negotiation preparation and execution of this Agreement.

15.3 The Owner shall pay to a monitoring fee of £[] ([] Pounds Sterling) to the Council prior to Commencement of Development to be used for monitoring and reviewing compliance with the terms of this Agreement, Planning Conditions and the impact of the Development.

16. **CANCELLATION OF LOCAL LAND CHARGE**

Following the performance and satisfaction of all the obligations contained in this Agreement the Council shall on written request effect the cancellation of all entries made in the register of local land charges in respect to this Agreement.

17. **JURISDICTION**

17.1 This Agreement is governed by and interpreted in accordance with the law of England and the parties submit to the non-exclusive jurisdiction of the Courts of England and Wales.

17.2 No waiver (whether expressed or implied) by the Council or the County Council of any breach or default by the Owner in complying with any obligation, covenant or undertaking in this Agreement will constitute a continuing waiver and no waiver will prevent the Council or the County Council from enforcing any obligation, covenant or undertaking or from acting upon any subsequent breach or default of any obligation, covenant or undertaking by the Owner.

18. **MISCELLANEOUS**

18.1 No person shall be liable for a breach of covenant or other obligation contained in this Agreement after it shall have parted with all interest in the Land or that part of the Land in respect of which such breach occurred but without prejudice to liability for any subsisting breach of covenant by such person prior to parting with such interest.

18.2 The obligations in this Agreement automatically bind a subsequent S73 Permission and the terms Development and Planning Application shall be construed accordingly by reference to the application for and development permitted by the S73 Permission PROVIDED THAT this does not fetter the Council's discretion to require modified or additional obligations in connection with a S73 Permission whether by way of a supplemental agreement or deed of variation to this Agreement entered into under sections 106 and 106A of the Planning Act or otherwise

18.3 This Agreement entered into as a deed may be executed in any number of separate counterparts, each of which when executed and delivered shall be an original, and such counterparts taken together shall constitute one and the same deed.

SIGNED BY or on behalf of by the parties on the date which first appears in this Agreement.

SCHEDULE 1

OWNER'S COVENANTS

1. HIGHWAY INFRASTRUCTURE AND JUNCTION CONTRIBUTION

1.1 Background

1.2 The parties hereto acknowledge and agree that:

1.2.1 a framework has been agreed through Planning Conditions [16 to 23B] to monitor and manage the Transport Effects of the Development which will be implemented in Phases;

1.2.2 the Transport Effects will be addressed through:

- (a) Mitigation Measures secured pursuant to the Phased Transport Assessments; and
- (b) Residual Mitigation Measures established through Intra Phase Monitoring and secured pursuant to this Agreement

1.2.3 the Phased Monitoring Reports shall have regard to Intra Phase Monitoring Reports;

1.2.4 this Agreement provides a mechanism for securing:

- (a) the Updated Transport Assessment and any Update Works;
- (b) Intra Phase Monitoring and the Residual Mitigation Measures established through Intra Phase Monitoring.

2. The Owner covenants with the Council and the County Council to undertake and comply with the following provisions:-

2.1 Intra Phase Monitoring – Need and Scope

2.2 Prior to the Commencement of any Phase the Owner shall serve the Intra Phase Monitoring Notice on the County Council

2.3 The County Council shall respond to the Owner's Intra Phase Monitoring Notice within [6 weeks] of receipt confirming in writing whether or not Intra Phase Monitoring is required to be carried out in connection with that Phase

2.4 If the County Council does not respond to the Owner's Intra Phase Monitoring Notice within [6 weeks] of receipt Intra Phase Monitoring shall be deemed not to be required in connection with that Phase

2.5 In the event Intra Phase Monitoring is required by the County Council in connection with a Phase (the "**Relevant Phase**"):

2.5.1 Prior to Commencement of the Relevant Phase, to submit to the County Council for its written approval and secure the written approval of the County Council:

- (a) the Intra Phase Monitoring Scope for the Relevant Phase
- (b) the format the Intra Phase Monitoring Report for the Relevant Phase

2.6 **Intra Phase Monitoring**

2.7 To carry out the Intra Phase Monitoring in accordance with the agreed Intra Phase Monitoring Scope

2.8 On completion of the Intra Phase Monitoring in accordance with the Intra Phase Monitoring Scope, to submit the Intra Phase Monitoring Report to the County Council for its written approval and to obtain the County Council's written approval of:

2.8.1 the Intra Phase Monitoring Report

2.8.2 the Residual Mitigation Measures

2.9 **Residual Mitigation Measures**

2.10 In the event Residual Mitigation Measures are required pursuant to the approved Intra Phase Monitoring Report:

2.10.1 To carry out any Residual Mitigation Measures prior to the First Occupation of any subsequent Phase (or such later time as may be agreed in writing with the County Council)

2.10.2 The following provisions shall apply [(unless the County Council in its absolute discretion elects to accommodate the Residual Mitigation Measures in any agreement under section 278 of the Highways Act 1980 entered into in connection with the Mitigation Measures or otherwise in connection with the Development)]:

(a) Following Practical Completion of the Residual Mitigation Measures for any Phase, [80%] of the Security for that Phase shall be released by the County Council or at the Owner's discretion rolled forward towards the Residual Mitigation Measures Sum for the subsequent Phase

(b) Following Final Certification of the Residual Mitigation Measures for any Phase, the remaining [20%] of the Security for that Phase shall be released by the County Council to the Owner or at the Owner's discretion rolled forward towards the Residual Mitigation Measures Sum for the subsequent Phase

2.11 In the event that the Residual Mitigation Measures for that Phase are not carried out in accordance with the timeframes specified in paragraph [2.10.1] above the County Council may call upon the Security to carry out (or procure or fund the carrying out of) the Residual Mitigation Measures for that Phase

2.12 In the event the approved Intra Phase Monitoring Report establishes that no Residual Mitigation Measures are required in connection with the Relevant Phase the Security in respect of that Phase shall be released

2.13 **Residual Mitigation Measures Sum**

2.14 In the event Intra Phase Monitoring is required in connection with a Phase (the "**Relevant Phase**") the following shall apply:

2.14.1 Prior to the [Commencement] of the Relevant Phase to agree with the County Council the Residual Mitigation Measures Sum for the Relevant Phase

2.14.2 Not to [Commence] the Relevant Phase until the Residual Mitigation Measures Sum for the Relevant Phase has been agreed with the County Council

2.14.3 Prior to the First Occupation of the Relevant Phase to provide Security for the Residual Mitigation Measures Sum for the Relevant Phase

2.14.4 Not to First Occupy the Relevant Phase unless and until Security has been provided for the Residual Mitigation Measures Sum for the Relevant Phase

2.15 The parties agree that the cost of the Owner's contribution to the Residual Mitigation Measures for a Phase shall not exceed the Residual Mitigation Measures Sum for that Phase

2.16 **Updates to Phase access works and Mitigation Measures following approval of Phased Monitoring Reports**

2.17 In the event the Phased Transport Assessment for any Phase (the "**Relevant Phase**") is approved before approval of the Phased Monitoring Report for the preceding Phase under the Planning Permission then the Owner shall:

2.17.1 as soon as reasonably practicable following approval of the Phased Monitoring Report for the preceding Phase, submit to the County Council for its written approval and obtain the County Council's written approval to the Updated Transport Assessment

2.17.2 Practically Complete any Update Works prior to First Occupation of the Relevant Phase (unless a longer timeframe to Practical Completion is agreed in writing by the County Council)

2.17.3 not Occupy or permit First Occupation of the Relevant Phase unless and until Update Works have been Practically Completed (unless a longer timeframe to Practical Completion is agreed in writing by the County Council)

3. **TRAVEL PLAN**

3.1 To pay the Travel Plan Monitoring Contribution Index-Linked to the County Council in accordance with the mechanism set out below []

3.1.1 []

4. **[PUBLIC TRANSPORT SERVICE**

4.1 Prior to Commencement of any Phase, to submit to the County Council for its written approval and secure the written approval of the County Council of the Public Transport Service Strategy

4.2 Not to Commence any Phase until the Public Transport Service Strategy in respect of that Phase has been approved by the County Council in writing

4.3 To procure Public Transport Services in accordance with the approved Public Transport Strategy]

5. **LOGISTICS AND CONSTRUCTION TRAINING CONTRIBUTION**

5.1 To calculate the Logistics and Construction Training Contribution attributable to each Phase in accordance with the following formula:

Gross Unit floorspace (GEA) (sqm) x 0.32 Index Linked

5.2 To pay the Logistics and Construction Training Contribution attributable to each Phase to the Council prior to Commencement of Development in that Phase

5.3 Not to Commence Development or permit Commencement of Development of any Phase until the Logistics and Construction Training Contribution for that Phase has been paid to the Council.

6. **CONSTRUCTION EDUCATION**

6.1 In respect of each Phase of the Development:

6.1.1 To submit to the Council for approval and obtain the written approval of the Council to a Construction Training Programme covering those elements set out in paragraph [3] of Appendix 1 prior to the Commencement of the construction of any Unit within a Phase and

thereafter to carry out the measures in the approved Construction Training Programme for that Phase.

- 6.1.2 Not to Commence or permit the Commencement of the construction of any Unit within a Phase until a Construction Training Programme satisfying the requirements of paragraph [6.1.1] above has been approved in writing by the Council for that Phase.

7. LOGISTICS TRAINING

7.1 In respect of each Phase of the Development:

- 7.1.1 To submit to the Council for approval and obtain the written approval of the Council a Logistics Training Programme for that Phase covering those elements set out in paragraph [4] of Appendix 1 prior to First Occupation of that Phase and thereafter to use all reasonable endeavours to implement the said framework with the purpose of maximising opportunities for local recruitment and assisting in the development and delivery of logistics education programmes by education providers in connection with that Phase.
- 7.1.2 Not to First Occupy or permit First Occupation of that Phase until a Logistics Training Programme for that Phase covering those elements set out in paragraph [4] of Appendix 1 has been approved in writing by the Council.

8. COMMUNITY IMPACT MITIGATION CONTRIBUTION

8.1 To calculate the Community Impact Mitigation Contribution attributable to each Phase prior to the Commencement of that Phase in accordance with the following formula:

Gross Unit floorspace (GEA) (sqm) x £3.81 Index Linked

- 8.2 To pay the Community Impact Mitigation Contribution payable in respect of that Phase to the Council prior to First Occupation of that Phase.
- 8.3 Not to First Occupy or permit First Occupation of a Phase until the Community Impact Mitigation Contribution payable in respect of that Phase has been paid to the Council.

9. SUSTAINABLE CONSTRUCTION METHODS

- 9.1 To use (and use all reasonable endeavours to procure that any third party uses) Sustainable Construction Methods when constructing the Development.
- 9.2 To submit to the Council for its written approval and obtain the written approval of the Council of a method statement setting out the Sustainable Construction Methods applicable to each Phase prior to Commencement of that Phase.
- 9.3 Not to Commence the Development in any Phase until the Council has approved the method statement for that Phase submitted pursuant to paragraph [8.2] above.

10. ECOLOGICAL ENHANCEMENTS

10.1 The Nature Scheme for the Development shall comprise a permissive nature trail through the Land together with public information boards which shall have the following objectives:

- 10.1.1 to serve as an enhancement of an existing green assets;
- 10.1.2 to improve linkages between existing green infrastructure;
- 10.1.3 to improve accessibility along existing green corridors;

balanced against appropriate nature conservation and safety interests as reasonably specified by the Council

- 10.2 To submit to the Council for its written approval and obtain the written approval of the Council of the Nature Scheme and the Delivery and Management Details prior to Commencement of Development
- 10.3 Not to Commence the Development until the Council has approved the Nature Scheme and the Delivery and Management Details.
- 10.4 Prior to First Occupation of the Development to provide the approved Nature Scheme in accordance with the approved Delivery and Management Details.
- 10.5 Not to First Occupy the Development until the approved Nature Scheme has been provided in accordance with the approved Delivery and Management Details.
- 10.6 To maintain and manage the Nature Scheme in accordance with the approved Delivery and Management Details.
- 11. **DELIVERY STRATEGY**
- 11.1 The Owner shall use all reasonable endeavours to comply with and procure compliance with the Delivery Strategy.

DRAFT

SCHEDULE 2

THE COUNCIL'S AND COUNTY COUNCIL'S COVENANTS WITH THE OWNER

1. The Council covenants with the Owner:-
 - 1.1 to use all Contributions paid to the Council pursuant to this Agreement only for the purposes for which they are specified to be applied;
 - 1.2 to provide to the Owner on request written confirmation and evidence (if requested and available) that the relevant Contributions paid to the Council have been used for the purposes outlined in this Agreement PROVIDED THAT such request is not made more than once every six calendar months; and
 - 1.3 if any Contribution (or part thereof) which is paid to the Council has not been used for the purposes outlined in this Agreement or committed for expenditure within a period of 10 years after the payment of the respective contribution, the monies shall be repaid to the person that originally paid the Contribution provided that any monies paid to any other party pursuant to the terms of this Agreement shall be considered to have been used.

2. The County Council covenants with the Owner:-
 - 2.1 to use all Contributions paid to the County Council pursuant to this Agreement only for the purposes for which they are specified to be applied;
 - 2.2 to provide to the Owner on request written confirmation and evidence (if requested and available) that the relevant Contributions paid to the County Council have been used for the purposes outlined in this Agreement PROVIDED THAT such request is not made more than once every six calendar months; and
 - 2.3 if any Contribution (or part thereof) which is paid to the County Council has not been used for the purposes outlined in this Agreement within a period of [10] years after the payment of the respective contribution, the monies shall be repaid to the person that originally paid the Contribution.

APPENDIX 1

CONSTRUCTION AND LOGISTICS TRAINING PROGRAMME

1. INTRODUCTION

1.1 The parties to this Agreement acknowledge and agree that this document offers a guide to the future drafting of details in connection with paragraphs [4-6] of Schedule 1.

1.1.1 It is not prescriptive given the scope for change and variable training and education needs arising during construction and Beneficial Occupation.

1.1.2 The initiatives are to be sponsored or carried out by the Owner, but this does not preclude the involvement of contractors, a local education provider, Job Centre Plus, the Skills Funding Agency, or other agencies.

2. SCOPE

2.1 This outline for future programmes sets a minimum expectation.

2.2 The Logistics and Construction Training Contribution represents an "incentive fund" distributable by the Council.

2.3 Limitations:-

2.3.1 the obligation will be on the Owner and will persist for the initial Beneficial Occupation of each Unit or other building only;

2.3.2 there is no expectation nor obligation on tenants or occupiers to take advantage of the training opportunities; and

2.3.3 the obligation is presented in general terms given the scope for changes in government or other funding.

2.4 Timing:-

2.4.1 work to establish recruitment and training programmes would start as soon as employment requirements have been identified;

2.4.2 the commencement of construction of any building is a trigger for submission of these programmes; and

2.4.3 site visits for construction education would take place during the construction phase of each building.

2.5 Funding:-

2.5.1 Support from the Logistics and Construction Training Contribution may be applied for by any party involved in the programme, and payments will only be made at the absolute discretion of the Council. The fund is intended to offer an incentive.

2.5.2 The main sponsors will be all or any of the following:-

(a) the Owner;

(b) the developer;

(c) contractors.

2.6 There will be no obligation on occupiers, but it is hoped that the ready availability of training will be an incentive to locate within the Development.

2.7 Much training is government funded and will not be a cost on the employer, other than to allow staff to attend or to make available information.

3. **CONSTRUCTION EDUCATION**

3.1 The Owner shall work with a local training provider to arrange a series of site visits for students across different construction skills.

3.2 These site visits are intended to provide useful insight into areas such as the management and scheduling of a construction project and the health and safety measures necessary on a large construction site.

3.3 The Owner shall fund transport to and from the Development.

3.4 The anticipated range of construction education activity could include:-

3.4.1 education work during the construction phase of each building (allowing a minimum six visits per building);

3.4.2 time input from the developer's project management team;

3.4.3 time input from main contractor (construction education provisions should be included in the tender documents for main contractor); and

3.4.4 the developer to work with a local training provider to share its experience of sustainable construction; this may involve working with students in a workshop environment or helping with project work on an individual basis.

4. **SUPPORT FOR LOGISTICS TRAINING**

4.1 The training programme will be designed to be flexible to suit the variable requirements of future occupiers of the Development.

4.2 The training programme could include courses for people who have experience of working in logistics; courses for people who are new to logistics, and apprenticeships for 16-24 year olds.

4.3 The anticipated range of logistics training and related support could include:-

4.3.1 logistics skills courses;

4.3.2 apprenticeships;

4.3.3 payment for unusual expenses, for example, licenses associated with training (for fork lift trucks or similar); and

4.3.4 pre-employment training which is co-ordinated by JobCentre Plus and funded by the Skills Funding Agency.

APPENDIX 2

DELIVERY STRATEGY

Mulberry Logistics Park is a logistics and industrial development which intends to provide best-in-class logistics facilities and warehousing in a strategic location.

The Development is intended to enable extra large build-to-suit facilities to the market. The Development is aimed at the logistics and industrial market, and it is intended that the Development is delivered to the requirements of the market primarily on a build-to-suit basis.

An outline planning permission enables the flexibility to deliver on the market's requirements, within the parameters set out in the planning permission.

It is recognised that the logistics and industrial sector can create a significant number of other job opportunities, including office-based jobs. It is likely that there will be some level of ancillary office use within the industrial and logistics development. The office use within the B8 buildings will be ancillary to the primary use. That is intended to enable office-based and administrative jobs to come forward alongside the logistics or industrial employment.

In addition, stand-alone office space may also form part of the development. This office space will be for tenants, occupiers and / or businesses that are also occupying the logistics and industrial floorspace on the site, or is otherwise related to the logistics and / or industrial use of the site including the supply chain. It is therefore proposed that the office floorspace will come forward alongside the logistics and / or industrial development as part of a complete package offering to businesses in the relevant sectors. It is likely that the B8 buildings and the offices will both be provided by the developer to be occupied by the same end user.

DRAFT

Executed as a Deed (but not delivered until the date of this Deed) by affixing the common seal of **CORBYPBOROUGH COUNCIL** in the presence of

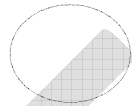
.....
Signature of Director

.....
Full Name (Director)

.....
Signature of Director/Secretary

.....
Full Name (Director/Secretary)

Common Seal



Executed as a Deed (but not delivered until the date of this Deed) by affixing the common seal of **NORTHAMPTONSHIRE COUNTY COUNCIL** in the presence of

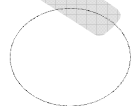
.....
Signature of Director

.....
Full Name (Director)

.....
Signature of Director/Secretary

.....
Full Name (Director/Secretary)

Common Seal



Executed as a Deed (but not delivered until the date of this Deed) by affixing the common seal of **MULBERRY COMMERCIAL DEVELOPMENTS LIMITED** in the presence of

.....
Signature of Director

.....
Full Name (Director)

.....
Signature of Director/Secretary

.....
Full Name (Director/Secretary)

Common Seal

