Dated 16th February **2026**

1. Parties:

1.1 the "**Developer**" means **LEGAL AND GENERAL (STRATEGIC LAND NORTH HORSHAM) LIMITED** (Company Registration No.: 11711423) whose registered office is at One Coleman Street London EC2R 5AA

1.2 the "**Council**" means **WEST SUSSEX COUNTY COUNCIL** of County Hall Chichester West Sussex PO19 1RQ

1.3 the "**Surety**" means **MARKEL INTERNATIONAL INSURANCE COMPANY LIMITED** (Company Registration No.: 00966670) whose registered office is at 20 Fenchurch Street London EC3M 3AZ

2. Interpretation:

2.1 **IN** this Agreement unless otherwise stated the following expressions where the context so admits shall have the following meanings:

2.2 The "**CDM**" means the Construction (Design and Management) Regulations 2015 and any successor legislation

2.3 a **"Competent Person in Health and Safety"** means an employee/contractor/ consultant with health and safety training experience and qualifications

2.4 the **"Director of Law and Assurance"** means the Director of Law and Assurance for the time being of the Council or any other officer of the Council authorised by him

2.5 the **"Drawing"** means the Drawing numbered MOW-GLA-MRE-PH1-D-C-2100 Rev A1 annexed to this Agreement and signed by or on behalf of the parties to this Agreement and any amended such Drawing signed by or on behalf of the Proper Officer

2.6 the **"Electrical Connection Certificate"** means schedule of test results and particulars of electrical installation confirming compliance with the Electricity at Work Regulations 1989

2.7 the **"Estimated Section 38 Works Cost"** is the sum of Three Hundred and Twenty Thousand Pounds (£320,000.00) being the amount which is in the opinion of the Proper Officer the cost of carrying out the Section 38 Works within the period specified in Clause 5.1

2.8 the **"Final Certificate"** means the certificate to be issued on satisfactory completion of the Section 38 Works in accordance with Clause 22

2.9 the **"Highway"** means an existing highway maintainable at the public expense

2.10 the **"Illuminated Equipment"** means the lighting and/or electrical bollards or beacons referred to in Clause 12 which is to be installed by the Developer under this Agreement

2.11 the **"Land"** means land at Moat Road Extension, North Horsham in the County of West Sussex which is shown for the purpose of identification only by red edging on the annexed plan

2.12 the **"Maintenance Period"** means the periods specified in Clause 20

2.13 the **"Management Company"** means a body established by the Developer to carry out the long term management and maintenance of the 11 trees to be planted within the Road.

2.14 the **"Part 1 Certificate"** means the certificate to be issued on satisfactory completion of the Part 1 Works in accordance with Clause 16

2.15 the **"Part 1 Works"** means the works referred to in Part 1 of the First Schedule

2.16 the **"Part 2 Certificate"** means the certificate to be issued on satisfactory completion of the Part 2 Works in accordance with Clause 20

2.17 the **"Part 2 Works"** means the works referred to in Part 2 of the First Schedule

2.18 the **"Proper Officer"** means any officer of the Council for the time being appointed for the purposes of this Agreement or of any provision contained in this Agreement

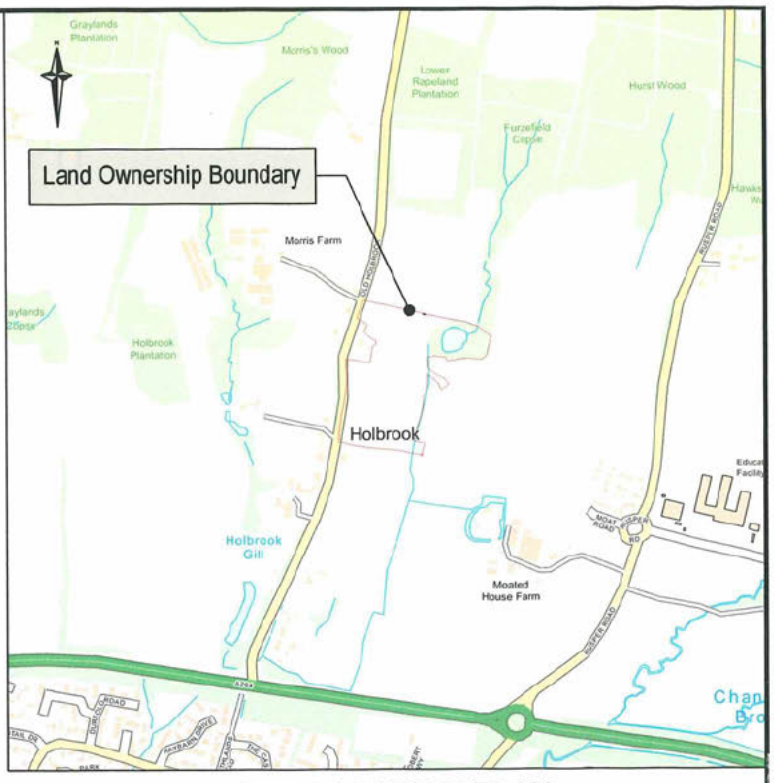
2.19 the **"Road"** means the carriageways and footways of the Road referred to in this Agreement including any off-site highway drainage shown on the Drawing and includes the footpaths street lighting all verges service strips service margins vehicular crossings road surface water drainage system (if any) and all other ancillary items

2.20 the **"Section 38 Works"** means the works under Section 38 Highways Act 1980 specified in the First Schedule for the making up of the Road

2.21 the **"Section 38 Works Specification"** means the Specification for Highway works and WSCC standard details which are available on the West Sussex County Council's website

2.22 the **"Stage 3 Safety Audit"** means an audit as defined in the Department of Transport Design Manual for Roads and Bridges 1991: Volume 5 Section 2 Part 2 GG119 as amended by the WSCC Safety Audit Adopted Policy

2.23 the **"Statutory Undertaker"** means a "statutory undertaker" as defined in Section 329(1) of the Highways Act 1980 and shall include persons authorised under any enactment to carry on an undertaking for the supply of electricity gas water and any sewerage undertaking and shall also include the Environment Agency the holder of a



SITE LOCATION PLAN

Scale 1:10,000 @ A1

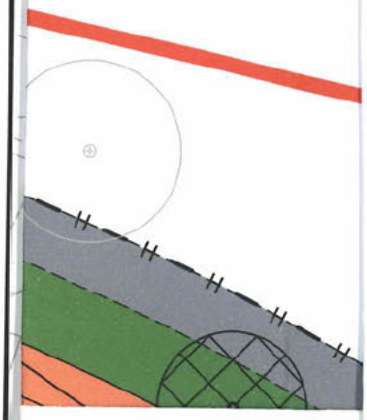
NOTES

Survey > Plan > Engineer

Civil Engineering
Structural Engineering
Transport Planning
Highways Engineering
Building Surveying
Geomatics

Hertfordshire | Oxfordshire | Cambridgeshire | Bristol

[redacted]



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Scale = 1:2

Client : Legal & General (Strategic Land North Horsham) Ltd	
Project : Mowbray (Land North of Horsham)	
Title : Moat Road Extension S38 Agreement Plan	
Engineer : C. Salt	Date : June 2024
Director : J. Birch	Scale : 1:250 @ A1
Status : APPROVED FOR CONSTRUCTION	

Drawing No.	Rev
MOW-GLA-MRE-PH1-D-C-2100	A1

licence to operate telecommunication systems the Civil Aviation Authority and the holder of a licence to supply cable television

2.24 the **"Street Lighting Service Provider"** means the approved service provider for the ongoing management of the Illuminated Equipment

2.25 **references** to clauses sub-clauses annexures and schedules are unless otherwise stated references to clauses sub-clauses recitals annexures and schedules to this Agreement

2.26 **the** singular number shall include the plural number and the masculine and neutral genders shall include the feminine gender and vice-versa

[redacted]

3. Background:

3.1 **THE** Council is the Local Highway Authority for highways in West Sussex [redacted]

3.2 **THE** Developer is the estate owner in fee simple absolute in possession ~~(Subject to XX but otherwise free from encumbrances)~~ of the Land which includes the site of the proposed Road shown coloured brown grey and dark green on the annexed Drawing and all other land required for the Section 38 Works referred to in this Agreement and wishes to make up the Road so that it shall become a highway or highways maintainable at the public expense

3.3 **THE** Developer has requested that when the Section 38 Works have been executed and maintained the Council shall undertake the maintenance of the Road as a highway maintainable at the public expense which the Council have agreed to do upon terms and conditions contained in this Agreement

3.4 **NOTICE** of this Agreement and the terms and conditions contained within it shall be entered in the Register of Local Land Charges

THIS Agreement is made pursuant to Section 38 of the Highways Act 1980 and Section 1 of the Localism Act 2011 and Section 87 of the New Roads and Street Works Act 1991 and Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and Section 106 of the Town and Country Planning Act 1990

IT IS HEREBY AGREED AND DECLARED by and between the parties to this Agreement as follows:

4. Not Used

5. Developer's Liability:

5.1 **THE** Developer shall carry out and complete the Works at the Developer's expense in a good and workmanlike manner and with proper materials in accordance in all respects with the Specification and the Drawing to the satisfaction of the Proper Officer within 24 calendar months from the date of this Agreement

5.2 **THE** Part 1 Works shall be completed within 12 calendar months from the date of this Agreement and the Part 2 Works shall be completed within 24 calendar months of the date of this Agreement

5.3 **THE** Developer shall notify the Proper Officer in writing by letter not less than 7 days prior to the commencement of the Works

5.4 **WITHOUT** prejudice to any other remedy of the Council the Proper Officer may at any time by notice to the Developer grant an extension of time to complete the Works for such period of time as he shall in his absolute discretion determine provided always that the Surety does not object to any such extension

5.5 **THE** Developer shall cause all foul sewers surface water sewers highway drains gas and water mains electricity cables television communication cables and/or ducting to be laid under the Road together with all necessary connections from them to the Highway boundary to the satisfaction of the Proper Officer before the foundations of the Works are laid and also cause the connections from electricity cables to the street lighting columns to be laid before the paving of any footway or cycleway is carried out and the Council acknowledges that the subsequent excavation of the Road or any footway or cycleway forming part of it or ancillary to it by or on behalf of a statutory undertaker shall not be in breach of this obligation subject to the Developer procuring that any damage caused is made good to the satisfaction of the Proper Officer PROVIDED THAT the Developer shall only be required to make good where such excavation has been carried out in connection with services installed or to be installed by the relevant Statutory Undertaker to serve the development of the Land by the Developer and are carried out prior to the issue of the Final Certificate.

5.6 **THE** Developer covenants with the Council that upon the completion of this Agreement the Developer will pay the legal costs of the Council involved in the preparation and execution of this agreement

6. Suspension of the Works:

6.1 **THE** Developer shall in the event of it suspending construction of the Works for a period of more than two weeks give to the Proper Officer notice in writing of such suspension not less than seven days prior to the commencement of such suspension and shall give to the Proper Officer notice in writing by letter of its intention to re-commence the Works not less than seven days prior to such re-commencement

6.2 **IN** the event of failure by the Developer to notify the Proper Officer in accordance with Clauses 5.3 and 6.1 the administration and inspection fee referred to in Clause 31 shall be increased by such amount as the Proper Officer in his absolute discretion may consider necessary to reimburse to the Council any additional cost incurred by it in inspecting the Works by reason of such failure and any such additional amount shall be paid by the Developer within twenty-eight days of receipt of an invoice

7. Features:

7.1 **THE** Developer undertakes that in the event of the Proper Officer employing a suitably qualified agent to check any feature (including structures) (the "Features") included as any part of the Works or that is under or over the Highway and/or the Road and which in his sole judgment requires specialist knowledge to check the design of the Features in order to gain technical approval of the Features it shall reimburse to the Council all costs incurred by it in its endeavours to gain any such technical approval within twenty-eight days of receipt of an invoice

7.2 **THE** Developer shall notify the Proper Officer in writing by letter not less than 48 hours prior to the commencement of all stages of excavation and concrete operations concerned with the Features

8. Declaration:

THE Developer declares and warrants to the Council that he has and will throughout the duration of this Agreement maintain full right liberty and consent to carry out such works as may be necessary to connect the Road to a vehicular Highway

9. **Variation of Design:**

THE Developer undertakes that it will at no cost to the Council vary the design of the Road should any unforeseen circumstance prejudice the integrity of the Road if the Road were to be constructed in the position and format shown on the Drawing and any such revised design shall be to the satisfaction of the Proper Officer

10. **Statutory Undertakers – Connections to Existing Services:**

10.1 **THE** Developer shall before connecting the Road with any Highway give notice to each person board or authority being the Statutory Undertaker for the time being of any service or services laid in upon or under such Highway of the proposal to make such connection as if the connection were a work to be executed for road purposes or were mentioned in Sections 48(3) and 84(1) of the New Roads and Street Works Act 1991

10.2 **THE** Developer shall indemnify the Council in respect of the cost of any works or measures considered necessary by any Statutory Undertaker in consequence of the proposal to make such connection as set out in Clause 5.5 and shall notify the Proper Officer in writing not less than 28 days prior to the commencement of any work connected with Statutory Undertakers' equipment located in on or under any Highway

11. **Traffic Regulation Orders & Recovery of Costs**

THE Council agrees that subject to its statutory duties from time to time it will use its best endeavours to publish and make such Order or Orders for the restrictive use of that part of the Road which will become publicly maintainable highway in accordance with Clause 22 to facilitate the carrying out of the Works to facilitate the implementation of double yellow lines on the Road as shown on the Drawing and shall serve notice or letter in lieu thereof upon the Developer for the making of such Order or Orders **AND** the Developer **HEREBY UNDERTAKES** that it will pay to the Council the Council's proper costs (including any incurred by its consultants) associated with the making of such Order or Orders

12. **Illuminated Equipment Inspection**

WITHIN 14 days of receipt of an invoice the Developer must pay to the Council the cost of any Illuminated Equipment inspection that has been carried out by the Council's Street Lighting Service Provider

13. **Keeping the Highway Clean:**

PRIOR to the commencement of the Works the Developer shall provide suitable vehicle and wheel cleaning apparatus on the Land and shall ensure that such apparatus is maintained in good and usable condition and used by all vehicles immediately before leaving the Land to prevent mud or other materials being deposited on the Highway

14. **Access to the Site:**

THE Developer shall during the carrying out of the Works give to the Proper Officer and any other officer of the Council access to every part of the Land for the purpose of inspecting the Works and all materials used or intended to be used for the purpose of the Works

15. **Procedure for Inspection and Issue of Certificates:**

WITHIN fourteen days of receipt of a written application by letter from the Developer for the issue of a Part 1 Certificate or Final Certificate pursuant to this Agreement and within twenty-eight days of a written application by letter from the Developer for the issue of a Part 2 Certificate pursuant to this Agreement the Proper Officer shall inspect the works to which the application relates and where necessary provide the Developer with a definitive list in writing by letter of any remedial works required to be carried out before the issue of that Certificate and any such remedial works shall be subject to the same inspection procedure detailed in this Agreement until such time as they shall be completed to the satisfaction of the Proper Officer who within twenty-eight days shall issue the relevant Certificate

16. **Part 1 Certificate:**

ON the completion of the Part 1 Works to the satisfaction of the Proper Officer shall issue his Part 1 Certificate to the Developer

17. **Occupation of Buildings:**

NO building erected by the Developer or on its behalf or other land to be developed which is accessed solely by the Road shall be occupied or otherwise brought into use until:

(a) the Proper Officer has issued his Part 1 Certificate in respect of the Road or such part of the Road as will provide the occupier with access to a vehicular Highway

and where applicable a base course pedestrian access to or across such Highway has been provided and

(b) the Road or such part of the Road has operational street lighting columns erected in accordance with the Specification and the Drawing

18. The Stage 3 Safety Audit:

18.1 **THE** Developer shall at its own expense appoint an independent company/consultant to carry out the Stage 3 Safety Audit of Works

18.2 **ON** completion of the Stage 3 Safety Audit the Developer shall:-

(a) submit to the Proper Officer the independent company's/consultant's report on the Stage 3 Safety Audit detailing its findings

(b) carry out at its own expense the Stage 3 Safety Audit remedial works to the satisfaction of the Proper Officer prior to the issuing of the Part 2 Certificate

19. Section 142 Licence

The Developer shall procure that the Management Company shall enter into a licence at no cost to the Council and substantially in the form of "Annex A" annexed hereto in connection with the planting area shown on the Drawing such licence is to be entered on or prior to the issue of the Final Certificate

20. Part 2 Certificate:

ON completion of the Part 2 Works to his satisfaction the Proper Officer shall:

(a) on receipt (in electronic format unless agreed otherwise by the Proper Officer) of an Electrical Connection Certificate; and

(b) on confirmation of a satisfactory Illuminated Equipment Inspection; and

(c) on completion of the Stage 3 Safety Audit remedial works to his satisfaction issue his Part 2 Certificate to the Developer and from the date of the Part 2 Certificate:

(i) the Maintenance Period shall commence to run for a period of twelve calendar months or in the event of construction vehicles continuing to travel along the Road such longer period as the Proper Officer may determine

(ii) the Road or Roads shall become a highway and remain forever open for use by the public at large

(iii) the Developer shall remain the street manager for the purposes of Section 49(4) of the New Roads and Street Works Act 1991 and any statutory modification or re-enactment thereof until such time as the Road shall become a highway maintainable at the public expense

21. **Obligations During the Maintenance Period:**

DURING the Maintenance Period:

(a) the Developer at its own expense shall maintain the Works including all grassed and planted areas and carry out such routine maintenance as may be necessary to facilitate use by vehicles and pedestrians

(b) the Council at its own expense shall undertake routine maintenance of and be responsible for payment for energy for all street lights and illuminated traffic signs

22. **Final Certificate:**

PRIOR to the expiration of the Maintenance Period the Developer shall without delay and at its own expense reinstate and make good any defect or damage which may have arisen from any cause whatsoever or be discovered during the Maintenance Period (including any defect in or damage to the road surface water system) of which it has been notified in writing by the Proper Officer so that the Works comply with the Specification

and then provided that:

(a) the Developer has paid to the Council all amounts due to the Council under this Agreement; and

(b) any necessary reinstatement or other works (including the Stage 3 Safety Audit remedial works if any) have been completed to the satisfaction of the Proper Officer; and

(c) the Road connects directly to an adopted or publicly maintainable highway; and

(d) the Developer has delivered to the Proper Officer drawings showing the Section 38 Works as constructed and an electronic plan showing the layout of the Road in accordance with the format described in the Second Schedule; and

(e) the Council's Street Lighting Service Provider has provided confirmation of a satisfactory Illuminated Equipment Inspection the Proper Officer shall issue his

Final Certificate relating to Works to the Developer and shall release the Surety from all liability in connection with Works

23. Adoption:

UPON the issue of the Final Certificate the Road shall become a highway maintainable at the public expense

24. Part or Parts:

24.1 **DESPITE** anything previously contained in this Agreement the Developer may from time to time during the currency of this Agreement apply to the Proper Officer for his Part 1 Certificate or his Part 2 Certificate in respect of any part of the Road (being the whole width of the Road between points to be defined in the application) and if the Proper Officer shall be satisfied that the part so defined is in all respects suitable to be treated as a separate road for the purposes of construction and adoption in accordance with the several provisions contained in this Agreement then he shall issue a separate Part 1 Certificate or Part 2 Certificate as the case may be in respect of that part

24.2 **THE** same proceedings may then be taken in respect of the said part of the Road as if the said part were the subject of a separate Agreement under which the terms of this Agreement applied to the said part separately from the remainder of the Road but without prejudice to the application of this Agreement to the remainder of the Road and the liability of the Surety shall be reduced as agreed by the Proper Officer with the Developer

25. Grants of Rights of Drainage:

25.1 **BEFORE** the issue of his Final Certificate by the Proper Officer the Developer shall without cost to the Council execute or procure the execution by all necessary parties of such deeds as are in the opinion of the Council necessary to secure to the Council full drainage rights in respect of such parts of the surface water drainage system of the Road that are situate outside the limits of the Road

25.2 **THE** Council shall not be liable for the payment of compensation or legal or any other costs or fees arising on account of the execution of any such deeds referred to in Clause 25.1

26. Proper Officer's Powers:

SUBJECT to Clause 40 any decision of the Proper Officer under the provisions of this Agreement shall be final and binding upon the parties to this Agreement

27. The Management of Health and Safety at Work:

27.1 **THE** Developer shall comply with the Health and Safety at Work etc Act 1974 and all other current relevant legislation approved codes of practice British-European Harmonised Standards and relevant industry best guidance applicable to the safe undertaking of the Works

27.2 **THE** protection of the general public is to be given paramount importance by the Developer and the particular attention of the Developer is drawn to the following non-exhaustive list of legislation most applicable to highway works and with which the Developer is to comply as a condition of this Agreement:

1. Chapter 8 – Traffic Signs Manual 2009
2. The New Roads and Street Works Act 1991 and Approved Code of Practice – Safety at Street Works and Road Works (2013)
3. The Construction (Design and Management) Regulations 2015 and any successor legislation
4. Traffic Signs (Amendments) Regulations and General Directions 2017
5. The Lifting Operations and Lifting Equipment Regulations 1998
6. Provision and Use of Work Equipment Regulations 1998
7. The Management of Health and Safety at Work Regulations 1999
8. The Control of Substances Hazardous to Health Regulations 2002
9. The Control of Substances Hazardous to Health (amendments) Regulations 2004

FOR THE AVOIDANCE OF DOUBT by entering into this Agreement the Developer confirms that he has provided to the Council evidence in writing of his informing the Health and Safety Executive that the Developer has been appointed as Client for the purposes of the CDM AND that the County Council shall have no responsibility to act as Client under the said CDM

28. Competence of Contractors Engaged on Highway Works:

28.1 **THE** Developer shall have suitable and sufficient safe working systems in place for ensuring that all contractors engaged on Works are competent to fulfil their relevant

functions pursuant to the CDM and any other applicable legislation and subsequent amending legislation and evidence of the existence of such systems shall be provided to the satisfaction of the Proper Officer at the Proper Officer's request

28.2 **THE** Developer shall ensure that a Competent Person in Health and Safety is employed until the issue of the Final Certificate

28.3 **THE** Developer shall appoint a supervisor qualified in accordance with the provisions of Section 67 of the New Roads and Street Works Act 1991 and any subsequent amending legislation until the issue of the Final Certificate

29. <u>Periodic Inspection of the Works</u>:

29.1 **THE** Developer shall permit the Proper Officer to have unfettered access to all parts of the Works and the Land for the purpose of the giving of health and safety advice and taking any action deemed necessary by him to ensure the protection of the general public employees of the Council and others as applicable having regard to the principal/main contractor's obligations and responsibilities under health and safety legislation

29.2 **THE** right of the Proper Officer to enter upon the site of the Works and his taking or requesting actions that in his absolute discretion are necessary for reasons of health and safety shall not in any way lessen the primary obligation of the Developer or that of any contractor in its employ to comply with all health and safety legislation

30. <u>Health and Safety File:</u>

30.1 **THE** Developer confirms that he has the competence to perform the duties imposed on a client by the CDM

30.2 **THE** Developer is hereby appointed pursuant to regulation 4 of the CDM to act as the only client in respect of the Works

30.3 **UPON** the issue of the Final Certificate the Developer shall provide the Council with information from the health and safety file (as defined by the CDM) which is relevant to the Works

30.4 **THE** information content shall be proposed by the contractor for approval by the Proper Officer and as specified by the Proper Officer

31. Administration and Inspection Fee:

31.1 **ON** or before the execution of this Agreement the Developer shall pay to the Council the sum of Thirty Two Thousand Pounds (£32,000.00) less the deposit paid of Sixteen Thousand Pounds (£16,000.00) leaving monies owed at Sixteen Thousand Pounds (£16,000.00) in respect of the costs incurred by the Council in administration and in inspecting the Section 38 Works being 10% of the total of the Estimated Section 38 Works Cost

31.2 **RECEIPT** by the Council of the payment of such sum shall not create any contractual relationship between the Council and the Developer nor absolve the Developer from any liability or obligation imposed upon it by the terms of this Agreement or by statute or at common law and the Council will not be liable for any loss damage or injury which the Developer may sustain by reason of insufficient or faulty inspection of the Section 38 Works by the Council **UNLESS**

a) the Council was specifically invited to inspect a particular element of the Works; and

b) the Council failed to inspect those Works in accordance with the terms of this Agreement or carried out an inspection of that element of the Works but did not uncover any fault; and

c) the loss damage or injury was specifically related to the element of the Works that the Council was invited to inspect; and

d) the fault in the Works would have been identified in the normal course of an inspection carried out by a local highway authority acting reasonably.

32. Surety's Obligations:

32.1 **IF** the Developer at any time fails to perform or observe any of the conditions stipulations or obligations on its part contained in this Agreement or if a receiving order in bankruptcy is made in respect of the Developer's estate or if the Developer is being wound up or if the Developer enters into a composition or scheme of arrangement (otherwise than for the purpose of reconstruction or amalgamation) the Director of Law and Assurance may without prejudice to any statutory rights or powers or any other right claim or remedy under this Agreement send to the Surety notice in writing (the "Default Notice") containing details of the work (the "Default Work") to be carried out in order that the Works may be executed or completed as the case may be in accordance with this Agreement together with the following sums (the "Default Cost"):-

(a) an estimate by the Proper Officer of the cost of carrying out the Default Work; and

(b) the cost of maintaining the Works for the Maintenance Period; and

(c) a statement of the amount of the usual establishment charges of the Council

which cost

AND the Default Cost shall not exceed:-

(i) the sum of Three Hundred and Twenty Thousand Pounds (£320,000.00) being the Estimated Cost

(ii) shall not exceed the sum of One Hundred and Sixty Thousand Pounds (£160,000.00) on and after the issue of the Part 1 Certificate

(iii) the sum of Eighty Thousand Pounds (£80,000.00) on and after the issue of the Part 2 Certificate

32.2 **WITHIN** twenty-eight days after the Surety has received the Default Notice the Surety shall –

(a) pay the Default Cost to the Council; or

(b) send to the Council notice in writing (the "Surety's Counter Notice") of the intention of the Surety to carry out the Default Work

32.3 **IF** the Surety having sent the Surety's Counter Notice to the Council fails to start the Default Work within fifty-six days after the Surety received the Default Notice the Surety shall without delay pay the Default Cost to the Council with simple interest thereon at a rate of two per cent above the three month London Interbank Offer Rate calculated from the date on which the Surety received the Default Notice

32.4 **IF** the Surety having sent the Surety's Counter Notice to the Council starts the Default Work and the Default Work is not completed within four months after the Surety's Counter Notice was received by the Council or within such further period as may be agreed by the Proper Officer the Surety shall subject to Clause 32.5 on demand by the Director of Law and Assurance pay to the Council without delay such sum as the Proper Officer may determine as being the cost of carrying out any Default Work not carried out by the Surety or the cost of maintaining the Works for a period of twelve months prior to the Road becoming maintainable at the public expense as may be the case (or as being the cost of both) and also pay to the Council the amount determined by the Proper Officer and the Director of Law and Assurance as being the amount of the appropriate usual establishment charges of the Council

32.5 **THE** sum payable under Clause 32.4 shall not exceed the Default Cost and the covenant in Clause 35 shall apply with respect to such sum and on the issue of the Final Certificate the Surety shall be released from all liability under this Agreement

33. Determination by the Council:

IF the Developer fails to perform or observe any of the conditions stipulations or obligations on its part contained in this Agreement or if a receiving order in bankruptcy is made against it or if the Developer is being wound up or if the Developer enters into a composition or scheme of arrangement (otherwise than for the purpose of amalgamation or reconstruction) the Council may without prejudice to any of their rights claims or remedies against the Developer in respect of such non-performance or non-observance determine this Agreement (except for Clauses 32 34 and 35) by notice in writing signed by the Director of Law and Assurance and delivered to the Developer or sent by post to the address stated in this Agreement

34. Power to Execute Works in Default:

WITHOUT prejudice to Clauses 5 and 33 if the Developer fails to execute or complete the Works in accordance with the Developer's obligations contained in this Agreement the Council shall after not less than twenty-eight days notice in writing to the Developer be entitled to execute or complete the Works in default by its own employees or by contract or otherwise and to recover the cost as certified by the Proper Officer from the Developer

35. Council's Covenants:

THE Council hereby covenants with the Developer and with the Surety for the benefit of all building plots fronting adjoining or abutting or having access onto the Road and for each and every one of them:

(a) to use its best endeavours in consultation with the Surety to mitigate any loss or damage sustained by reason of any default by the Developer by taking such reasonable steps as the Council shall think fit

(b) to apply all monies received from the Surety towards the expenditure involved in executing or completing the works to which the payment relates and maintaining and making good all defects for a period of twelve months after completion and the amount so received shall be deducted from any sum which would otherwise

be recoverable from the owners of premises fronting the Road under the provisions of the Highways Act 1980 or any other Act for the time being in force replacing or amending the same

(c) in the event of the sum paid by the Surety to the Council exceeding the cost of executing or completing the Works and maintaining and making good all defects as set out in this Agreement together with the amount of the Council's usual establishment charges to repay to the Surety within twenty-eight days after the Road become maintainable at the public expense the amount of such excess

(d) that the Final Certificate will be issued in accordance with this Agreement and that the Surety will be released from all liability under this Agreement in accordance with this Agreement

36. <u>Specification to Take Precedence:</u>

IN the event of any conflict between any provision of the Specification and anything shown on the Drawing including any details or particulars the provisions of the Specification (together with any applicable supplemental specification details not covered by the Specification) shall take precedence over any such thing details or particulars and over any specification produced by the Developer or its agent

37. <u>Indemnities:</u>

37.1 **THE** Developer shall indemnify the Council in respect of any actions charges claims costs damages demands expenses or proceedings (including claims relating to the infringement or disturbance or destruction of any right easement or privilege) arising out of or in connection with or incidental to the carrying out of the Works and their subsequent use other than those arising out of or in consequence of any act or default of the Council

37.2 **THE** Developer shall indemnify the Council in respect of claims for compensation under Section 10 of the Compulsory Purchase Act 1965 and claims under Parts I and II of the Land Compensation Act 1973 arising out of or in connection with or incidental to the carrying out of the Works and their subsequent use other than those arising out of or in consequence of any act or default of the Council

37.3 **FOR** the avoidance of doubt such indemnification referred to in Clause 37.2 includes compensation payments under Part I of the Land Compensation Act 1973 and all fees reasonably incurred by claimants and those of the Council or its agent or contractor in

negotiating any claims (together with Value Added Tax payable upon the claimants' professional advisors' fees) and statutory interest payments to claimants and their professional advisors together with the Council's reasonable legal costs in making such payments of compensation fees and interest

37.4 In agreeing or contesting any claims referred to in clauses 37.1 and 37.2 the Council shall if reasonably practicable:

37.4.1 consult with the Developer in writing;

37.4.2 take account of any reasonable submissions made by the Developer; and

37.4.3 keep the Developer reasonably informed as to the progress of such claims

38. Materials Sampling and Testing:

THE Developer shall pay for the cost of sampling and testing the materials used or intended to be used in the Works as required by the Proper Officer whether carried out by the Developer or in his absolute discretion by the Proper Officer and the Developer shall if it has carried out such sampling and testing send to the Proper Officer without delay the results of such tests for his approval

39. Adherence to the Specification:

THE Developer shall at its own expense produce any evidence that the Proper Officer may require in order to verify that it has constructed the Works in accordance with the Specification

40. Arbitration:

IN the event of any dispute as to the construction of the Works the dispute shall be referred to an independent expert who shall be a chartered civil engineer to be agreed between the parties or failing agreement to be appointed by the President for the time being of the Institution of Civil Engineers and whose decision shall be final and binding on the parties to this Agreement and in this respect this Agreement shall be construed as a submission to arbitration within the meaning of the Arbitration Act 1996 or any statutory re-enactment or modification

41. Transfer of Land:

41.1 **FOLLOWING** the completion of this Agreement the Developer shall without delay and at its own cost if called upon to do so by the Council execute and complete or procure

the execution and completion by all parties of a transfer with full title guarantee and at nil consideration to the Council or its nominee for a consideration of one pound of the freehold estate in the land comprising the Road (the "Road Land") and the Developer shall assist in any application to the Chief Land Registrar both for the noting of the right granted by this Clause and for the registration of the Council with title absolute in respect of the Road Land

41.2 **THE** Developer shall not without the consent in writing of the Council make a disposal of the whole or any part of the Road Land to any other person or persons or grant any rights thereover except a right of way for all purposes in accordance with any planning permission granted by the local planning authority in respect of the Road Land

42. Making up of Private Streets:

NOTHING in this Agreement shall prevent or restrict the exercise by the Council of their powers under Part XI of the Highways Act 1980 or any other statutory provision except that this Agreement is intended to be such an agreement as is mentioned in Section 219 (4) of the said Act

43. Rights of Third Parties:

FOR the avoidance of doubt it is agreed and declared that:-

43.1 **NOTHING** in this Agreement shall be construed as expressly providing a right for any third party within the meaning of the Contracts (Rights of Third Parties) Act 1999; and

43.2 **NOTHING** in this Agreement is intended to confer any benefit on any third party (whether referred to herein by name class description or otherwise) or any right to enforce a term contained in this Agreement

43.3 **NOTWITHSTANDING** the provisions contained in Clauses 43.1 and 43.2 a party who is the permitted successor to or an assignee of the rights of a party is deemed to be a party to this Agreement

43.4 **THIS** Agreement may be rescinded or varied without the consent of or the need to give any notice to any person not a party to it

44. Assignment:

THIS Agreement may not be assigned by the Developer without the consent of the Council which consent shall not be unreasonably withheld

ANNEX A

WEST SUSSEX COUNTY COUNCIL

HIGHWAYS ACT 1980 - SECTION 142

LICENCE TO PLANT IN THE HIGHWAY

1. IN this Licence:

(a) "the Act" means the Highways Act 1980

(b) "the Council" means West Sussex County Council

(c) "the highway" means XX

(d) "the Licensee" means XX the owner of XX West Sussex (and his successors in title)

(e) "the plants" mean XX

2. THE Council as highway authority for the highway HEREBY GRANT to the Licensee under Section 142 of the Act a LICENCE to plant and maintain/to retain and maintain the plants in the highway as indicated on the plan annexed hereto upon the terms and subject to the conditions hereinafter specified and subject also to the relevant conditions contained in the said Section 142 and to the other provisions of that section and the Licensee hereby accepts the Licence aforesaid upon and subject to the terms conditions and provisions aforesaid

3. SAVE where the plants require a deeper planting depth no hole shall be dug to a greater depth than 200 millimetres in connection with the planting of plants under this licence unless otherwise agreed with the Council

4. NO plants which are of a poisonous nature (whether by reason of fruit flowers leaves or otherwise howsoever) or are otherwise likely to constitute a source of danger to persons or animals on the highway shall be planted under this Licence

5. THE Licensee shall keep the part of the highway to which this Licence relates in a trim and tidy condition and all grass planted or maintained in pursuance of this Licence shall be regularly cut or mown

6. THE Licensee shall not remove any soil from the part of the highway to which this Licence relates or otherwise do anything which would interfere with the support given to the rest of the highway

7. THE Licence hereby granted shall be annexed to the premises mentioned in clause 1 above and shall remain in full force until withdrawn by the Council under Section 142 of the Act or surrendered to the Council by the Licensee

10. PERSONS authorised by the Council or by any statutory undertakers sewerage authorities or British Telecom or any other bodies having similar rights may at any time enter the part of the highway to which this Licence relates without notice to the Licensee in order to carry out works for the purposes of the highway or the undertaking in question

8. THE Licensee shall inform the highway authority within one month after any change in the ownership of the premises takes place

Dated the 20XX

Signed on behalf of the Council .....

Authorised Signatory

Signed by the Licensee .....

In the presence of .....

Address .....

.....

IMPORTANT - The attention of the Licensee is drawn to the notes printed on pages 3 and 4.

NOTE: The attention of the Licensees is drawn to the following:-

(i) subsection (6) of Section 142 of the Highways Act 1980 which states as follows:-

"A highway authority may by notice served on the licensee withdraw a licence granted by them under this section -

(a) on the expiration of such period as may be specified in the notice, being a period of not less than 7 days beginning with the date of service of the notice on the licensee, if any condition of the licence is contravened by the licensee;

(b) on the expiration of such period as may be so specified, being a period of not less than 3 months beginning with the said date, if the authority consider the withdrawal of

the licence is necessary for the purpose of the exercise of their functions as a highway authority."

(ii) subsection (7) of Section 142 of the Highways Act 1980 which states that:

"Where a licence under this section expires or is withdrawn or surrendered, the highway authority by whom it was granted -

(a) may remove all or any of the trees, shrubs, plants or grass to which the licence relates and reinstate the highway and may recover the expenses reasonably incurred by them in so doing from the last licensee; or

(b) if satisfied that the last licensee can, within such reasonable time as they may specify, remove such trees, shrubs, plants or grass or such of them as they may specify and reinstate the highway, may authorise him to do so at his own expense.

In this sub-section "the last licensee" means the person who immediately before the expiration, withdrawal or surrender of the licence in question was the licensee or, if that person has died, his personal representatives"

(iii) subsection (8) of Section 142 of the Highways Act 1980 which states that:-

"The licensee and the person who immediately before the expiration, withdrawal or surrender of a licence under this section was the licensee or, if that person has died, his personal representatives shall indemnify the highway authority against any claim in respect of injury, damage or loss arising out of –

(a) the planting or presence in a highway of trees, shrubs, plants or grass to which the licence relates, or

(b) the execution by any person of any works authorised by the licence or by the highway authority under subsection (7) above, or

(c) the execution by or on behalf of the highway authority of any works under subsection (7) above;

but this subsection is not to be taken as requiring any person to indemnify the highway authority against any claim in respect of injury, damage or loss which is attributable to the negligence of that authority."

THE FIRST SCHEDULE

Part 1 Works

1. All road drainage
2. All other drainage contained within the Road
3. All kerb foundations and where appropriate kerbs including lowering at vehicle crossings and pram-ramps
4. Carriageway sub-base; base; and any supporting structures to the same
5. Carriageway base course surfacing where appropriate
6. Demarcation of sight lines and clearance of vision splays
7. Operational street lighting

Part 2 Works

8. All outstanding kerbing not completed in Part 1
9. Pedestrian ways
10. Carriageway surface course
11. Vision splays and verges
12. All outstanding street lighting and street furniture
13. Street name plates
14. Road markings and signing
15. All other works described in the Specification and shown in the Drawing

THE SECOND SCHEDULE

Specifications for as "As built" AutoCAD (or DXF or PDF) drawings:-

1. The model units of the drawing must be in accurate OS national grid co-ordinates (ie in the British National Grid Co-ordinate System).
2. The electronic drawings must only contain the layers/features that show the position of the new road(s) and properties - not additional engineering items such as street lighting/ drainage etc. Additionally, existing map data must not be included. Alternatively, all new features must be collaborated into distinct layers ie drainage as one layer, properties in one layer, property boundaries in one layer, thus enabling the County Council to turn the other unwanted layers off.
3. The extent of the AutoCAD (or DXF or PDF) drawings must not be larger than the actual extent of the features.
4. Any text must be in a simple Truetype font.
5. The drawing must be in 2D, not a 3D model.

   The drawing should be emailed to the Proper Officer in accordance with the provisions of Clause 22.

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

EXECUTED as a **DEED** by **LEGAL AND GENERAL (STRATEGIC LAND NORTH HORSHAM) LIMITED** acting by one director

Director [redacted]

In the presence of: [redacted]

Witness Signature:

Witness Name: Mark Wild

Witness Address: Moathouse Farm
Rusper Road
Horsham
West Sussex
RH12 4QR

THE COMMON SEAL of **WEST SUSSEX COUNTY COUNCIL** was hereunto affixed in the presence of:

[redacted]

Authorised Signatory

345481/9/50/2026

EXECUTED and delivered as a **DEED on the date stated at the beginning of this document** [redacted] DAMIAN MANNING

as authorised signatory of MARKEL INTERNATIONAL INSURANCE COMPANY LIMITED in the presence of:

Witness Signature: [redacted]

Witness Name: VICTORIA NORTHEDGE

Witness Occupation: UNDERWRITER

Bond Number: CU3453A25CZA

MARKEL INTERNATIONAL INSURANCE COMPANY LIMITED

Authorised Signatory

DS

DATED 16th February 2026

LEGAL AND GENERAL (STRATEGIC LAND NORTH HORSHAM) LIMITED

- and -

WEST SUSSEX COUNTY COUNCIL

- and -

MARKEL INTERNATIONAL INSURANCE COMPANY LIMITED

AGREEMENT

under Section 38 of the Highways Act 1980 and Section 1 of the Localism Act 2011 and Section 87 of the New Roads and Street Works Act 1991 and Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and Section 106 of the Town and Country Planning Act 1990 in connection with Land at Moat Road Extension North Horsham West Sussex

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CC803.17345/TM

PSI: 3472-23