

DATED 22 October 2004

MID SUFFOLK DISTRICT COUNCIL (1)

- and -

SUFFOLK COUNTY COUNCIL (2)

- and -

HILARY GWYNTH HAYDON (3)

- and -

CREST NICHOLSON (EASTERN) LIMITED (4)

PLANNING OBLIGATION AND AGREEMENT

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THIS AGREEMENT is made the *22nd* day of *October* 2004

BETWEEN:

- (1) **MID SUFFOLK DISTRICT COUNCIL** of the Council Offices High Street Needham Market Suffolk IP6 8DL (hereinafter called "the District Council") of the first part
- (2) **SUFFOLK COUNTY COUNCIL** of Endeavour House 8 Russell Road Ipswich Suffolk IP1 2BX (hereinafter called "the County Council") of the second part
- (3) **HILARY GWYNTH HAYDON** of 44 Crown Street Bury St Edmunds Suffolk IP33 1QX (hereinafter called "the Owner") of the third part
- (4) **CREST NICHOLSON (EASTERN) LIMITED** whose registered office is situate at 39 Thames Street Weybridge Surrey KT13 8JG (hereinafter called "Crest Eastern ") of the fourth part

WHEREAS:

Background

- (1) As a result of alterations to the structure plan for the county of Suffolk the town of Stowmarket was designated for housing and employment growth and the local plan for the district of Mid Suffolk (which was adopted by the District Council on 1 September 1998) contains policies for the Strategic Development Area to accommodate such housing and employment growth

Proposals

- (2) **The Site forms part of the Strategic Development Area**
- (3) Crest Eastern wishes to undertake residential development on the Site
- (4) The County Council is promoting the construction of the B1115 Relief Road

Other Agreements and Planning Permissions

- (5) The District Council the County Council Crest Homes and the Owner entered into the 1993 Superstore Agreement in relation to the Tesco Superstore Development which 1993 Superstore Agreement provided inter alia for the payment of a sum of money to

the County Council to be held in a fund for application towards certain highways works (including the improvement of the A1120 Bulb Junction)

- (6) Planning permission was granted by the District Council for the Tesco Superstore Development (including the construction of the Distributor Road and the Service Road) and the Tesco Superstore Development has been undertaken
- (7) The District Council the County Council Crest Homes and the Owner and other parties entered into the 1995 Planning Framework Agreement relating to further development in the Strategic Development Area
- (8) The District Council the County Council and Crest Homes entered into the 1995 Stowmarket Transport Fund Agreement relating inter alia to the establishment and operation of a fund to assist in improving the transport network in and around Stowmarket
- (9) The District Council the County Council Crest Eastern and the Owner entered into the 1999 Phase 2B and C S106 Detailed Housing Agreement in relation to the Phase 2B and C residential development and amongst other things that agreement provides for construction of an extension to the Distributor Road (in part) and contributions to the Stowmarket Transport Fund from the proposed residential development to which the said 1999 Agreement relates)
- (10) By an application dated 4 May 2000 and given the reference number 488/00 Crest Eastern applied to the District Council for planning permission for the construction of an extension to the Distributor Road and the construction of a principal balancing pond and planning permission for the same was issued and Crest Eastern is implementing such a permission so as to connect to the roads to be provided as part of the residential development for which provision is made in this Agreement
- (11) By an application for planning permission dated 14th September 2000 Crest Eastern has applied to the District Council and given the reference number OL/73/00 for development of the Site for residential purposes by the erection of Dwellings with associated roads drainage and parking

Highway Works

- (12) The A1120 Cedars Link has been improved by (inter alia) the construction of the A1120 Roundabout and the provision of road lighting
- (13) The Distributor Road has in part been adopted as a highway maintainable at the public expense and agreements under Section 38 of the Highways Act 1980 are proposed for the remainder of the Distributor Road and the Distributor Road Extension (Phase 3)
- (14) It was agreed separately between the District Council the County Council and Crest Homes that the works for the improvement of the A1120 Bulb Junction provided for under the 1993 Superstore Agreement should be deferred to allow for the possibility of other parties making additional finance available (otherwise than from the fund established under the 1993 Superstore Agreement or from the Stowmarket Transport Fund) so as to enable the County Council to carry out works greater than those required under the 1993 Superstore Agreement and the County Council obtained additional finance and improved the A1120 Bulb Junction
- (15) The highway arrangements and works for the improvement of the A1120 Cedars Link and construction of the Distributor Road were designed to enable development of the south-eastern part of the Strategic Development Area to take place in addition to the Tesco Superstore Development and in particular so that the A1120 Cedars Link (via the A1120 Roundabout) forms a primary access to the Strategic Development Area and so that the Distributor Road is capable of ultimate connection to the B1115 Relief Road

Satisfaction of Planning and Transport Requirements

- (16) This Agreement is made pursuant to the Planning Framework Agreement and the Transport Fund Agreement which were designed to make satisfactory provision for the connection of the Site to Stowmarket and its facilities and the transport network in and around Stowmarket
- (17) A master plan for the Strategic Development Area was approved by the District Council as supplementary planning guidance for the Strategic Development Area on 4 March 1999 and the District Council and the County Council are satisfied that it is appropriate that (subject to completion of this Agreement) planning permission may be granted for residential development of the Site

- (18) On the basis of
- (18.1) the highway arrangements and works described in recitals (5) (9) (10) (11) (12) (14) and (15)
- (18.2) the completion of the 1995 Planning Framework Agreement and the 1995 Stowmarket Transport Fund Agreement the 1999 Phase 2A S106 Detailed Housing Agreement and the 2001 Phase 2B and C Detailed Housing Agreement and the 2001 Phase 2B and C Detailed Housing Agreement and the 2002 Phase 7/8 Marshall Housing Agreement as varied by the 2003 Phase 7A Agreement and the 2003 Phase 3 Agreement
- (18.3) the completion of this Agreement
- the District Council and the County Council have accepted that satisfactory provision is made for the connection of the Site to Stowmarket and its facilities and the transport network in and around Stowmarket

N O W T H I S D E E D W I T N E S S E T H as follows:-

1 INTERPRETATION

1.1 In this Deed where the context permits words and expressions shall have the meanings attributed to them below:-

- "1993 Superstore Agreement" - the planning obligation and agreement between the District Council the County Council Crest Homes and the Owner and another party dated 23 July 1993 and relating to the application for outline planning permission for the Tesco Superstore Development.
- "1995 Planning Framework Agreement" - the agreement between the District Council the County Council Crest Homes and the Owner and other parties dated 14 August 1995 providing a planning framework for development in the Strategic Development Area

- "1995 Stowmarket Transport Fund Agreement" - the agreement between the District Council the County Council and Crest Homes dated 14 August 1995 providing for the establishment and operation of the Stowmarket Transport Fund to assist in improving the transport network in and around Stowmarket
- "1999 Phase 2A S106 Detailed Housing Agreement" - the Agreement between the District Council the County Council Crest Homes and the Owner dated 13 August 1999 providing for contributions from the Phase 2A residential development and for an emergency vehicular access connection with the C486 Creeting Road and for pedestrian and cyclist facilities
- "2001 Phase 2B and C Detailed Housing Agreement" - the Agreement between the District Council the County Council and Crest Homes dated 20th April 2001 providing for contributions from the Phase 2B and 2C Residential Development and for an emergency vehicular access connection with the C486 Creeting Road and for pedestrian and cyclist facilities
- "2002 Phase 7/8 Marshall Housing Agreement" - the Agreement between the District Council the County Council and Crest Homes dated 22nd March 2002 providing for contributions from the Phase 8 7A and 7B Residential Development
- "2003 Phase 3 Agreement" - the Agreement between the District Council the County Council Crest Homes and Wilson Connolly Limited dated 24th February 2003 providing for contributions from the Phase 3 and Phase 5D Residential Development

- "2003 Phase 7A Agreement" the Agreement between the District Council the County Council and Crest Homes dated 22nd May 2003 providing for the release of restrictions on residential occupations in Phase 7A
- "A1120 Bulb Junction" - the junction of the A1120 A1308 and B1113
- "A1120 Cedars Link" - that length of the road classified and numbered A1120 from its grade-separated junction with the A14 trunk road to the A1120 Bulb Junction
- "A1120 Roundabout" - the roundabout on the A1120 Cedars Link connecting the Distributor Road and the Service Road to the A1120 Cedars Link
- "A1308 Road" - that length of the road classified and numbered A1308 from the A1120 Bulb Junction through Stowmarket to its grade-separated junction with the A14 trunk road to the west of the town
- "B1113 Road" - that length of the road classified and numbered B1113 from Needham Market to the A1120 Bulb Junction
- "B1115 Existing Road" - that road classified and numbered B1115 running from the village of Stowupland through Stowmarket to the village of Great Finborough and beyond
- "B1115 Relief Road" - a new road proposed to be constructed by the County Council as a highway maintainable at the public expense pursuant to its powers as a highway authority (including Section 24 of the Highways Act 1980) from the A1308

Road near the town centre of Stowmarket (and in the vicinity of the cul-de-sac road known as Milton Road by the ATCO offices) across the River Gipping and the railway line and across the road classified and numbered C486 (known as Creeting Road) and across the unclassified road known as Old Stowupland Road (local number U4649) to the existing road known as Stowupland Road and presently classified and numbered B1115 (at a point in the north-western corner of the Strategic Development Area)

- "C486 Creeting Road" - that length of the road classified and numbered C486 and known as Creeting Road from its junction with the B1115 Existing Road (near the level crossing over the Norwich-London railway line) to the bridge over the A1120 Cedars Link (where it becomes known as Mill Road)
- "Act" - the Town and Country Planning Act 1990 as amended
- "Application" - the application for planning permission (submitted by Crest Eastern to the District Council and dated 14th September 2000 and given the reference number OL/73/00 for development of the Site for residential purposes by the erection of Dwellings with associated roads drainage and parking
- "Condition" - the condition referred to in Clause 4.2
- "Contribution" - the sum of four hundred and forty seven thousand nine hundred and thirty nine pounds and eighty two pence (£447,939.82)

payable under Sub-Clause 5.1.

- "Crest Homes" - Crest Nicholson Residential PLC whose registered office is situate at 39 Thames Street Weybridge Surrey KT13 8JG (formerly known as Crest Homes PLC)
- "Development" - the development authorised to be carried out pursuant to the Permission
- "Distributor/Relief Road Link (South)" - the road linking the Distributor Road Extension and the B1115 Relief Road shown for the purposes of identification only coloured orange on Plan 2
- "Distributor Road" - the length of distributor road shown for the purposes of identification only coloured brown on Plan 2 and marked accordingly and which leads from the A1120 Roundabout and gives access to the Tesco Superstore Development and land beyond
- "Distributor Road Extension (Phase 3)" - the extension to the Distributor Road to be constructed within that part of the Site shown for the purposes of identification only coloured blue on Plan 2 and marked accordingly (the detail of which shall be the subject of a separate agreement under Section 278 and Section 38 of the Highways Act 1980)
- "Dwelling(s)" - any unit(s) of residential accommodation to be constructed on the Site pursuant to the Permission
- "Highway Works" - the highway works the subject of this Deed and of related agreements under section 38

and/or 278 of the Highways Act 1980

- "Housing Area 5c" - that part of the Site shown for purposes of identification only marked on Plan 2 as "Phase 5c"
- "Housing Area 9" - that part of the Site shown for purposes of identification only marked on Plan 2 as "Phases 9a and 9b"
- "Index" - the road construction tender price index as published from time to time by Her Majesty's Secretary of State for Transport
- "LAP" - means a local area for play which accords with the minimum requirements of the national playing fields association guidelines of a size and with a range of equipment (if applicable) which is appropriate to the catchment which it serves
- "Location Plan 1" - the plan annexed hereto and numbered "Location Plan 1"
- "Permission" - a planning permission to be granted pursuant to the Application
- "Phase" - any of the numbered phases of existing and proposed development within the Stowmarket Development Area shown by way of identification only on Plan 4
- "Phase 4b/4c Contribution" - the sum of three hundred and eighty four thousand pounds (£384,000) being a financial contribution in respect of the B1115 Relief Road on account of planned future development of Phase 4b and Phase

4c

- "Plan 2" - the plan annexed hereto and marked "Plan 2"
- "Plan 3" - the plan annexed hereto and marked "Plan 3"
- "Plan 4" - the plan annexed hereto and marked "Plan 4"
- "Relief Road / Station Road Contribution" - the sum of five hundred thousand pounds (£500,000)
- "Relief Road - Southern Section" - that section of the B1115 Relief Road shown for the purposes of identification coloured yellow within the corridor shown on Plan 2 (being as shown in provisional design form on Plan 3)
- "Relief Road Third Section" - that section of the B1115 Relief Road shown for the purposes of identification coloured green within the corridor shown on Plan 2 (being as shown in provisional design form on Plan 3)
- "Relief Road Transfer" - a transfer of the Relief Road Third Section and the Distributor/Relief Road Link (South) in the form annexed in Schedule 1
- "Services or Service Media" - any roads tracks footways verges cycle tracks bridleways footpaths pipes wires cables ducts conduits drains sewers gas water electricity foul and surface water television telephones and telecommunications and any plant and equipment relating thereto or required therefor or any other equipment or any other services and conducting media whether the property of a statutory undertaker utility

company service provider or otherwise

- "Site" - the land shown edged red on Plans 2 and 3
- "Stowmarket Transport Fund" - The fund established under the provisions of the 1995 Stowmarket Transport Fund Agreement
- "Strategic Development Area" - The area bearing the notation "Stowmarket Strategic Development Area" on inset map 73A of the local plan adopted by the District Council on 1 September 1998 and now represented in the master plan approved by the District Council as described in recital (17)
- "Strategic Open Space" - the area of land referred to in Clause 6.1.2 below
- "Tesco Superstore Development" - the food superstore development off the A1120 Cedars Link authorised to be undertaken by the outline planning permission reference number OL/174/92 dated 23 July 1993 and the reserved matters approval thereunder dated 10 November 1993
- "VAT" - value added tax

1.2 For the purposes of this Agreement

- 1.2.1 References to statutes regulations orders bye-laws and delegated legislation shall include any statute regulation order bye-law or delegated legislation re-enacting or made pursuant to the same
- 1.2.2 Words denoting the singular number only shall include the plural and vice versa and words denoting the masculine gender shall be deemed to include (as appropriate) the feminine and neuter genders and vice versa

- 1.2.3 Any covenant contained herein whereby the relevant party is to do an act or thing shall also be construed as if it were a covenant to do or permit or suffer to be done such act or thing
- 1.2.4 Any covenant contained herein whereby the relevant party is not to do an act or thing shall also be construed as if it were a covenant not to permit or not to suffer to be done such act or thing
- 1.2.5 The expression the District Council the County Council Crest Eastern shall save as provided in Clause 10 include their respective successors in title and assigns including in the case of the District Council and the County Council any successor to their rights and obligations under this Agreement
- 1.2.6 References to any clause sub-clause schedule or annexure are to a clause sub-clause schedule or annexure of or to this Agreement
- 1.2.7 The headings in this Agreement are inserted for convenience only and shall not affect the construction hereof
- 1.2.8 The Location Plan 1 is for the purpose of identification of features only and shall not otherwise affect the construction of this Agreement

2 **PRELIMINARY**

The Authorities

- 2.1 The District Council is the local planning authority for the area in which the Site is situated for the purposes of granting planning permission for development (other than for mineral and waste disposal purposes)
- 2.2 The County Council is the highway authority for the county of Suffolk for all highways other than trunk roads

Ownership

- 2.3 For the purposes of paragraphs (b) and (c) of Sub-Section (9) of the Section of the Act the Owner is the freehold owner of the Site and Crest Eastern has the benefit of an option to acquire Housing Area 9 and Housing Area 5c and the Strategic Open Space

Development of the Site

- 2.4 Crest Eastern has made the Application to the District Council
- 2.5 This Agreement taken with the 1995 Planning Framework Agreement and the 1995 Stowmarket Transport Fund Agreement and the 1999 Phase 2A S106 Detailed Housing Agreement and the 2001 Phase 2B and 2C Detailed Housing Agreement and the 2002 Phase 7/8 Housing Agreement and the 2002 Phase 7A Agreement and the 2003 Phase 3 Agreement is intended to satisfy the requirements of the District Council and the County Council in respect of the completion of an agreement under Section 106 of the Act
- 2.6 This Agreement and the obligations and covenants contained in it are made and entered into pursuant to Section 106 of the Act and:
- 2.6.1 the obligations and covenants contained in this Agreement are planning obligations for the purpose of Section 106 of the Act
- 2.6.2 the obligations and covenants undertaken and given by the Owner in this Agreement shall be enforceable by the District Council as local planning authority for the area of the Site
- 2.6.3 the obligations and covenants contained in this Agreement shall also be enforceable by and against the County Council as a contracting party

3 EXTENT OF LIABILITY

- 3.1 Neither the Owner nor Crest Eastern nor any of their successors in title shall be liable for any breach of the obligations and covenants contained in this Agreement occurring either pre-acquisition or after they shall have parted with the freehold interest in that part of the Site to which the said obligations and covenants relate **PROVIDED THAT** this provision shall be without prejudice to the rights of the District Council and the County Council to take action in respect of any breach which occurs prior to that person parting with such right title and interest in the relevant part of the Site **AND FOR THE AVOIDANCE OF DOUBT** Mrs Hilary Gwynth Haydon shall have no residual liability to pay any of the sums referred to in Clause 5 after she shall have parted with her freehold interest in the Site

4 **CONDITION**

4.1 Subject as provided in Clause 15 and Sub-Clause 4.3 below this Agreement shall take effect only in the event that the Condition shall have been satisfied

4.2 This Agreement shall have full force and effect when the decision notice granting the Permission shall have been issued PROVIDED THAT this Agreement shall cease to have effect and all monies paid to the County Council pursuant hereto (together with any accrued interest or notional interest credited under the provisions of the 1995 Stowmarket Transport Fund Agreement) shall be returned to the party who shall have paid the same if following any judicial challenge the Permission shall be quashed or set aside

4.3 Notwithstanding the terms of Sub-Clause 4.1. the following provisions shall have full force and effect from the date of this Agreement:

4.3.1 this Clause 4

4.3.2 any other provisions of this Agreement required to give effect to this Clause 4

5 **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants and agrees for herself and her successors in title for the benefit of the District Council and the County Council in respect of her freehold interests in the Site and each and every part of it as follows:-

Contribution

5.1 to pay the Contribution of £447,939.82 (four hundred and forty seven thousand nine hundred and thirty nine pounds eighty two pence) to the County Council upon the first residential occupation of the 90th Dwelling to be occupied

5.2 to immediately notify the County Council of the date of the first residential occupation of the 90th Dwelling to be occupied and to provide the County Council with documentary evidence thereof

Handwritten notes:
bills to new
148
JB
SW
WM
FP

4b/4c
5.3 to pay the Phase ~~4b/c~~ Contribution and the Relief Road / Station Road Contribution to the County Council upon first residential occupation of the 90th Dwelling to be occupied

PROVIDED ALWAYS THAT if at any time after 30th March 2005 any instalments of the Contribution payable under this Sub-Clause 5.1 and 5.3 remain unpaid as at the first anniversary of the date on which the County Council lets the contract which provides for the construction of the B1115 Relief Road from its Junction with the A1308 Road to the Creting Road then all such unpaid instalments shall become due and payable in full within fourteen days of the County Council serving written notice on Crest Eastern confirming the expiry of the first anniversary of the letting of the said contract

Monitoring

5.4 to immediately notify the County Council of the date of the first residential occupation of the 90th Dwelling to be occupied and to provide the County Council with documentary evidence thereof

Indexation

5.5 the Contribution payable under Sub-Clause 5.1 shall be increased at the time of payment by the percentage by which the Index shall have increased between 28th February 2002 and the last date of publication of the Index immediately prior to the date of payment of the Contribution

4b/4c
5.6 the Phase ~~4b/c~~ Contribution and the Relief Road / Station Road Contribution payable under Sub-Clause 5.3 shall be increased at the time of payment by the percentage by which the Index shall have increased between its publication in the first quarter of 2004 and the last date of publication of the Index immediately prior to the date of payment of the relevant contribution

Handwritten notes:
bills to Crest
148
JB
SW
WM
FP

B1115 Relief Road - Physical Works

5.7 To construct the Distributor/Relief Road Link (South) and the Relief Road Third Section and the Distributor Road Extension (Phase 3) to wearing course level within in 30 months of the commencement of the Development in accordance with Sub-Clause 4.2 and in any event not later than:

(a) the earlier of:

- (i) 12 months from the date of the County Council letting a contract for the remainder of the B1115 Relief Road; or
- (ii) 1st September 2007;

OR

- (b) such other date as may be agreed between the District Council the County Council and Crest as appropriate in the context of the further development of the Strategic Development Area and the transport network and transport conditions in and around Stowmarket then prevailing in the event that the B1115 Relief Road is not open to public traffic on 1st September 2007

- 5.8 Not to object to any compulsory purchase order made in respect of the Relief Road third section or the B1115 Relief Road or any related side road orders
- 5.9 Unless otherwise agreed Crest Eastern shall within 1 month of it becoming the owner of the Site complete the Relief Road Transfer to the County Council duly executed AND shall notify the County Council in writing within 7 days of the date on which it becomes the owner of the Site AND Mrs Hilary Gwynth Haydon hereby agrees with Crest Eastern and the County Council to join in and execute the said transfer in so far as necessary to perfect the same and to release any restrictions or restrictive covenants over the land the subject of the transfer so as to enable the County Council to construct the B1115 Relief Road over the said land
- 5.10 Not to construct more than 20 Dwellings in Housing Area 5c.
- 5.11 Not to occupy or cause or permit occupation of any Dwellings in Housing Area 5c until 1st April 2006 unless otherwise agreed in writing by the County Council

Covenants with the District Council

Open Space Provision

- 6 Crest Eastern hereby covenants for itself and its successors in title to the Site and each and every part of it for the benefit of the District Council that:-

6.1 unless otherwise agreed in writing by the District Council it shall with the submission of the reserved matters applications for the Development (in the context of a comprehensive landscape and open space design for the whole of the area coloured purple and hatched mauve on Plan 2) include:

6.1.1 a LAP within Housing Area 9 and in Housing Area 5c; and

6.1.2 an area of open space on the land shown for the purposes of identification only coloured purple on Plan 2 (but subject to any minor modification of its boundaries as may be agreed with the District Council) for use as open space and/or sports leisure and/or recreational purposes

6.2 following approval and upon the laying out of the two LAPs and the Strategic Open Space respectively Crest Eastern hereby covenants with the District Council that it shall maintain them in strict accordance with the terms of the Permission pending their adoption by the District Council or its nominee

6.3 it shall prepare a comprehensive landscape and open space strategy in conjunction with the District Council for the Site and all of those parts of the remainder of the Strategic Development Area which when approved agreed shall be deemed to form part of the approved Master Plan for the Strategic Development Area

PROVIDED ALWAYS THAT:

Nothing in this Agreement shall or shall be deemed to bind or require the District Council to take over or adopt or accept a transfer of the two LAPs and/or all or any of the Strategic Open Space comprised in the Development; and

It is recognised and acknowledged by the parties hereto that in the event of the District Council agreeing to take over or adopt or accept a transfer of the two LAPs and/or any of the Strategic Open Space comprised in the Development then this will need to be the subject of a separate agreement with the District Council and that the District Council will (as consideration for it agreeing to take over or adopt the said two LAPs or Strategic Open Space as public open space) require the owner for the time being of the two LAPs or Strategic Open Space as appropriate to maintain the same following its completion to the satisfaction of the District Council for a 12 month period and will require payment of a commuted sum the amount of which shall be a matter for separate negotiations outside the scope of this Agreement based on the precise nature

extent and specification of the open space and any planting mowing and maintenance regime relating to it.

7 OBLIGATIONS OF THE COUNTY COUNCIL

7.1 The County Council hereby covenants with the District Council and Crest Eastern (which expression shall for the purposes of this Sub-Clause exclude its successors in title and assigns) that:-

7.1.1 upon receipt of the Contribution the County Council shall hold the same in the Stowmarket Transport Fund in accordance with the provisions of the 1995 Stowmarket Transport Fund Agreement and apply the same in accordance with the provisions of the 1995 Stowmarket Transport Fund Agreement save that (1) the provisions of Sub Clauses 10.4 and 10.8 shall apply to such Contributions and any interest earned thereon

7.2 County Council for itself and any successor to its statutory functions hereby covenants with acknowledges and declares to Crest Homes and Crest Eastern that in consideration of the obligation to pay the Phase 4b/4c Contribution under this Deed that:

7.2.1 if any development is proposed or applied for in respect of Phase 4b and/or Phase 4c it will not seek demand or enforce any further payment consideration or financial contribution or rights other than the reservation of the necessary rights and transfer of a sufficient area of land to enable the construction of abutments and approaches to a footbridge to be constructed over the A14 Trunk Road from the Owner Crest Eastern or Crest Homes or any of their respective successors in title and assigns to Phase 4b and Phase 4c towards the provision of any highway works outside Phase 4b and 4c or in respect of any other works services and facilities for which the County Council is responsible (other than highway works within and immediately adjoining Phase 4b and 4c which are directly required to link the estate roads within Phase 4b and 4c with the immediately adjoining highway network and any reasonable costs associated with section 38 agreements for the adoption of estate roads within Phase 4b and 4c)

8 **CONSENT OF CREST EASTERN**

Crest Eastern hereby consents to the completion of this Agreement in relation to that part of the Site the subject of its interest and acknowledges that subject to the satisfaction of the Condition each and every part of its interest in the Site shall be bound by the restrictions and obligations contained in this Agreement and applicable to any such part

9 **VALUE ADDED TAX**

9.1 The payments due under this Agreement are not considered by the parties to give rise to a requirement to pay VAT

9.2 Any payments made in accordance with the terms of this Agreement shall be exclusive of any VAT payable in respect thereof

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

10 **MISCELLANEOUS**

It is hereby agreed and declared between the parties that:-

10.1 Nothing in this Agreement shall or shall be deemed to prevent constrain or fetter the discretion of the District Council and the County Council in carrying out any of their statutory functions or in determining any future planning application in relation to the Strategic Development Area or elsewhere on its planning merits

10.2 Nothing in this Agreement shall restrict inhibit or prevent the Owner or Crest Eastern or any person authorised by either of them from laying maintaining repairing replacing up-sizing diverting cleansing or connecting to and using any Services and Service Media in on under or over any part of the Site Save That in so far as the public are entitled to use any part of the Site Crest Eastern and the Owner as appropriate shall take the appropriate action to protect the public from any harm which may arise from the execution of the works for the said purposes and shall procure the temporary

closure of any highway by means of a notice or order under the Road Traffic Regulation Act 1984 for the execution of such works if such be necessary.

- 10.3 The District Council and the County Council shall use best endeavours to procure that any person other than Crest Homes or Crest Eastern promoting applying for or executing any form of development within and/or neighbouring and/or adjoining the Strategic Development Area or which is likely to have any impact upon or benefit from the B1115 the proposed B1115 Relief Road and/or the Cedars Link Road the Gipping Way and/or any part of the highway network within and in the vicinity of the Town of Stowmarket shall pay contributions into the Stowmarket Transport Fund towards the costs of designing implementing and constructing of the B1115 Relief Road (including the actual or estimated costs of its design construction maintenance and any related land acquisition costs accommodation works supervision fees payments of compensation and the costs of any public inquiries) in so far as any of those works have not been completed as at the date of the relevant planning application AND the District Council and the County Council shall use best endeavours to maximise such contributions having regard to the provisions of the adopted development plan for the area and the likely traffic generation from such developments

Application of Surplus Funds

- 10.4 If after either:
- 10.4.1 the B1115 Relief Road and any related alterations or improvements (including works to the junction of Station Road and Gipping Way) shall have been completed; or
 - 10.4.2 the objects of the Stowmarket Transport Fund shall be deemed to have failed as a result of the County Council's failure to secure compulsory purchase and side road orders within the time allowed by the Transport Fund Agreement as amended or otherwise and the alternative highway and transportation measures contemplated by that agreement shall have been agreed and fully implemented

THEN

SHOULD THERE BE any surplus in the Stowmarket Transport Fund then the County Council shall pay to the person from whom it shall have received contributions under this Agreement (up to but not exceeding the amount received plus accrued interest) 50% of the remaining balance (including accrued interest) held in the Stowmarket Transport Fund and in the County Council's other funds and accounts relating to the construction of the Relief Road - Southern Section (or the works referred to in Sub-Clause 9.4.2) **AND** the County Council hereby covenants with Crest Eastern that it shall not unless otherwise required by the Secretary of State for Transport or any successor to his powers draw upon the Stowmarket Transport Fund in relation to the construction to any part of the B1115 Relief Road until it shall have exhausted all other available sources of funding **PROVIDED ALWAYS THAT** the first £500,000 (five hundred thousand pounds) of such surplus and the Council's 50% share of the balance of any such surplus shall be applied by the County Council towards the cost of constructing a new primary school on the Primary School Site.

- 10.5 None of the covenants or obligations in this Deed shall be enforceable by or against any individual purchaser, tenant or occupier of a Dwelling or the mortgagee of any such person nor shall the consent approval signature or seal of any such person or their mortgagee be required to vary the terms of this Deed

Co-operation and Grant/Reservation of Rights

- 10.6 It is hereby agreed and declared between the parties that they shall at all times co-operate with and act in good faith towards each other and that the County Council shall not (save as provided in this Deed) charge nor require any form of consideration (save for any reasonable legal administrative advertising and supervision costs of any necessary orders for any rights licences easements or wayleaves or other statutory consents or priority rights needed for the construction completion and use of the estate roads) for the Rights and Easements and or to construct repair maintain divert connect to and use the B1115 Relief Road - Second Section and any other part of the B1115 Relief Road and to lay construct repair maintain divert connect to and use any Services and Service Media in on under or over the B1115 Relief Road or the land on which it is proposed to be constructed at all times and for all purposes as vehicular cycling and pedestrian highway for all traffic and to gain access to and egress from the land to be developed and hereby grants all such rights subject only to Crest Eastern procuring the grant of planning permission and any other approval required by statute and in

particular shall upon request provide all such information and documentation in its possession relating to the position and extent of any statutory undertakers and telecommunications equipment in or under or over the highway or any neighbouring land

Reservation of Rights

- 10.7 Nothing in this Deed shall prevent Crest Homes or Crest Eastern (subject to it obtaining any necessary statutory approval including the provisions of the New Roads and Street Works Act 1991) from laying constructing maintaining repairing diverting cleansing replacing improving upsizing adjusting connecting to and using at all times and for all purposes any pipes wires drains sewers conduits cables culverts ditches soil gas electricity telecommunications and other conducting media and any foul and surface water drainage pulses signals fibre optics infra-red and all other services and service media which are now or may within eighty years of the date of this Deed (whether before or after the adoption of the Highway Works and shall if required enter into a deed of grant in a form proposed by Crest and approved by the County Council) be constructed erected or laid in or under or over the Highway Works subject to any obligation to cause as little disturbance as possible and thereafter to make good any damage caused and the rights and easements to do so are hereby expressly excepted and reserved (with the full agreement of the County Council) to Crest Homes and Crest Eastern for themselves and their successors in title and all others authorised by them for the benefit of the land the subject of the Planning Permission and such other parts of the Strategic Development Area and such other land neighbouring or adjoining the Highway Works and each and every part thereof as may in each such case be designated within 80 years of this Deed by Crest Homes

- 10.8 In the event of any inconsistency in the terms of this Deed and the 1995 Planning Framework Agreement or the 1995 Stowmarket Transport Fund Agreement then the terms of this Deed shall prevail

- 10.9 The County Council acknowledges that the development access to Housing Area 5c may be taken from the Distributor Road Extension (Phase 3) the exact position of which access is to be approved by the County Council

11 **NOTICES**

Any notice or other communication given or made under this Agreement shall be in writing and shall be delivered personally or sent by recorded delivery post to the other party at the address specified in this Agreement and any such notice or communication sent by recorded delivery post shall be deemed to be received the day after posting and in the case of the District Council such notice or communication shall be addressed to the Head of Environment and Planning or such other officer as may from time to time be notified to the parties by the District Council and in the case of the County Council to the Director of Environment and Transport or such other officer as may from time to time be notified to the parties by the County Council

12 **DEFAULT IN PAYMENT**

In the event of any delay in the making of any payment required under this Agreement simple interest shall be payable thereon in accordance with the Local Authority 7 day rate published in the Local Government Chronicle from time to time in force from the due date for payment to the date of actual payment less an allowance for any indexation which has been applied during the default period PROVIDED THAT in the event that the Local Authority 7 day rate ceases to be published an equivalent rate therefor shall be substituted

13 **DEFAULT ARRANGEMENTS**

Provided that the County Council shall have let the main contract which provides for construction of carriageway for the Relief Road - Southern Section THEN the parties hereby accept and acknowledge that in the event and to the extent that construction of the whole of the B1115 Relief Road - Third Section or the Distributor Road or the Distributor Road Extension (Phase 3) or the Distributor/Relief Road Link (South) the Local Centre Link shall not have been completed within 12 months of the County Council letting the said contract THEN the County Council shall (subject to 63 days notice in writing to enable Crest Eastern to complete the same) be entitled to enter that part of the Site on which the Distributor Road the Distributor Road Extension (Phase 3) and the Distributor/Relief Road Link (South) as appropriate is being constructed or is to be constructed in order to complete and forthwith adopt as highway maintainable at the public expense the remaining parts thereof as appropriate and shall be entitled to recharge the cost thereof to Crest Eastern and Crest Eastern hereby agrees to reimburse

the County Council in respect of the costs of such works incurred by the County Council Provided That the works are contained wholly within the Site and the County Council shall have provided detailed costings and invoices of all relevant expenditure incurred by it under the provisions of this sub-clause before demanding payment

14 DETERMINATION OF DISPUTES

14.1 Where any matter including any question of value or test of reasonableness falls to be agreed approved or determined by any party under this Agreement such approval or determination agreement shall not be unreasonably withheld or delayed and where any matter the subject of this Agreement including any dispute as to the occupation of Dwellings for the purposes of Sub-Clause 5.1. shall be in dispute the parties shall use their reasonable endeavours to resolve the same within twenty-eight days of the dispute arising

14.2 Failing the resolution of any such dispute disagreement or difference within twenty eight days of the same arising it may be referred for determination in accordance with the provisions of Sub-Clause 14.3. on the reference of any of the parties hereto

14.3 Any dispute disagreement or difference arising between the parties with regard to their respective rights and obligations as to any matter or thing in any way arising out of or connected with this Agreement (otherwise than as provided for in Sub-Clause 14.6.) shall be referred to the decision of a single expert qualified to deal with the subject matter of the dispute disagreement or difference who shall either be jointly nominated by the parties within a period of fourteen days of reference under paragraph (b) of this Sub-Clause 14.2. or failing agreement on such nomination the expert shall be nominated by the President for the time being of the Royal Institution of Chartered Surveyors

14.4 The determination of the expert (including any determination as to the responsibility for payment of his own costs and those of the parties) shall be final and binding upon the parties

14.5 The terms of reference of any expert appointed to determine a dispute disagreement or difference shall include the following:-

14.5.1 he shall call for and consider any written representations made by or on behalf of the parties which are received by him within twenty-one days of his

calling for such representations and at the expiry of this period shall give the parties a further period of fourteen days to make counter-representations

14.5.2 he shall provide the parties with a written decision (including his reasons) within twenty-eight days of the last date for receipt of counter-representations under Sub-Clause 14.5.1

14.5.3 he shall be entitled to call for such independent expert advice as he shall think fit

14.5.4 his costs and the costs of any independent expert advice called for by the expert shall be included in his award

14.6 For the avoidance of doubt the completion of an agreement with the County Council under Section 38 of the Highways Act 1980 for the adoption as highways maintainable at the public expense of any roads footpaths footways cycle tracks verges visibility splays or other land or does not constitute a matter which falls to be agreed under this Agreement and is not a matter which falls to be resolved under the terms of Sub-Clauses 14.1 to 14.5

15 **EFFECTIVENESS**

The provisions of this Agreement shall not have effect until this Agreement has been dated

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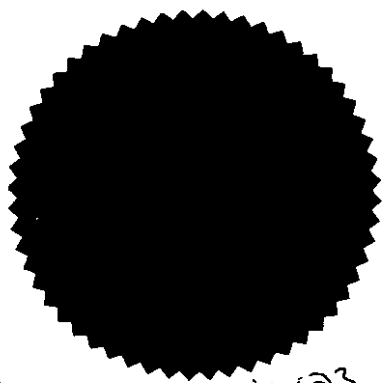
SCHEDULE 1
Relief Road Transfer

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

The COMMON SEAL of
MID SUFFOLK DISTRICT COUNCIL
was hereunto affixed in the
presence of:

Wendy Marchant

)
)
)
)

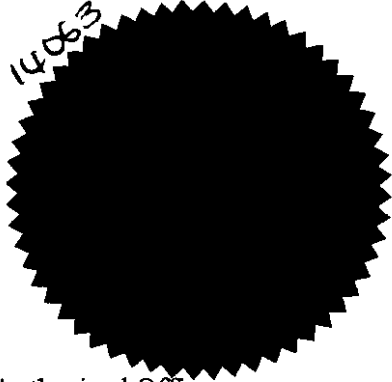


A Duly Authorised Officer

The COMMON SEAL of SUFFOLK
COUNTY COUNCIL was hereunto
affixed in the presence of:

E. S. Whitfield

)
)
)



A Duly Authorised Officer

Signed by the said
HILARY GWYNTH HAYDON in
the presence of:-

H. Gwynth Haydon

John Rice
Solicitor
24/26 Museum Street
Ipswich

Signed as a Deed by CREST
NICHOLSON
(EASTERN) LIMITED

)
)
)

Director

Secretary

M. J. Miller

Transfer of part of registered title(s)

HM Land Registry

TP1

(if you need more room than is provided for in a panel, use continuation sheet CS and staple to this form)

1	Stamp Duty It is certified that the transaction effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value or the aggregate amount or value of the consideration exceeds the sum of £ <input type="text"/>
2	Title number(s) out of which the Property is transferred <i>(leave blank if not yet registered)</i> Part of the Property is within part of Title No. SK217209
3	Other title numbers(s) against which matters contained in this transfer are to be registered <i>(if any)</i> SK154513 SK217209 SK223347 and SK255343
4	Property transferred <i>(Insert address, including postcode, or other description of the property transferred. Any physical exclusions, e.g. mines and minerals, should be defined. Any attached plan must be signed by the transferor and by or on behalf of the transferee.)</i> Land at Creeting Road Stowmarket and shown tinted pink on Plan 1 being the parcels numbered 59, 60, 61 and 63 Part of which comprises part of the land within Title No. SK217209
5	Date
6	Transferor <i>(give full names and Company's Registered Number if any)</i> Crest Nicholson (Eastern) Limited (1955005)
7	Transferee for entry on the register <i>(Give full names and Company's Registered Number if any; for Scottish Co. Reg. Nos., use an SC prefix. For foreign companies give territory in which incorporated.)</i> Suffolk County Council
8	Transferee's intended address(es) for service in the U.K. <i>(including postcode) for entry on the register</i> Endeavour House, 8 Russell Road, Ipswich, Suffolk IP1 2BX
9	The Transferor transfers the Property to the Transferee.
10	Consideration <i>(Place "X" in the box that applies. State clearly the currency unit if other than sterling. If none of the boxes applies, insert an appropriate memorandum in the additional provisions panel.)</i> ONE POUND (£1.00)
11	The Transferor transfers with <i>(place "X" in the box which applies and add any modifications)</i> X full title guarantee <input type="checkbox"/> limited title guarantee

12 Declaration of trust *Where there is more than one transferee, place "X" in the appropriate box*

- The Transferees are to hold the Property on trust for themselves as joint tenants.
- The Transferees are to hold the Property on trust for themselves as tenants in common in equal shares.
- The Transferees are to hold the Property (*complete as necessary*)

13 Additional Provision(s)

13.1 Definitions

"Adjoining Land" all that such parts of the Strategic Development Area and/or within 1.5 kilometres of such as Crest Nicholson (Eastern) Limited shall nominate within 20 years of the date hereof

"Anglian Water" means Anglian Water Services Limited having its registered office at Henderson House Lancaster Way Huntingdon Cambridgeshire PE29 6QX (Company number 2366656) or such other authority as shall have statutory responsibility for the procurement adoption maintenance or replacement of public surface water sewer systems

"B1115 Relief Road" means for the purposes of this Transfer that part of the scheme being promoted by the Transferee for a new highway maintainable at public expense (as identified in the planning permission granted on 22 November 2002 under reference number MS/1079/02 (but reference to such herein being without prejudice to any modification of the same) from the A1308 road known as Gipping Way (near the town centre of Stowmarket in the vicinity of the cul de sac road known as Milton Road by the ATCO-Bosch offices) across the River Gipping, the Norwich-London railway line, the C486 Creting Road and Old Stowupland Road to the existing B1115 Stowupland Road) as lies between the C486 Creting Road and a point 120 metres south-east of the centre point of the junction with the existing B1115 Stowupland Road (the first section of the B1115 Relief Road having already been constructed and adopted as highway maintainable at public expense) and for the avoidance of doubt such description shall be deemed to include all new side roads and other facilities provided for in the said planning permission

filled **"Mrs Haydon"** means Hilary Gwynth Haydon of ⁴⁴ Crown Street Bury St Edmunds Suffolk

"Mrs Haydon's Land" means the Land shown edged red on Plan 3 and each and every part thereof

"Parties" means the parties to this Transfer and Party shall mean either one of them as the context admits

"Perpetuity Period" means the period of eighty years from the date of this Transfer

"Plan 1" means the annexed plan numbered 1 (drawing No. 1578/CPO/04)

"Plan 2" means the annexed plan numbered 2 (drawing No. 1578/480/A)

"Plan 3" means the annexed plan numbered 3 (drawing No. SL007/ 01 ~~as amended by hand~~)

hatched

"Relevant Authorities" means foul and surface water drainage water supply electricity gas telecommunication and cable television companies and any other relevant authority utility company body corporation or organisation concerned with the adoption of Service Installations and the provision of Services and "Relevant Authority" means any one of them as the context may admit

"Restrictive Covenant" means the restrictive covenant created by clause 13.8 of the Transfer dated 11 June 2001 referred to at entry 1 of the charges register to title SK 217209 and made between Mrs Haydon (1) and the Transferor (2) restricting the use of the land hatched orange on the plan attached to that Transfer to be used only as open space

"Retained Land" means the land (other than the Property) at Stowmarket registered under title numbers SK154513, SK223347 and SK217209 and all that property at Stowupland and Stowmarket transferred to the Transferor by a transfer dated 2 July 2004 made between Margaret Elizabeth Farrow and Ernest James Farrow (1) and the Transferor (2) and all that land (other than the Property) at Creting Road at Stowmarket transferred to the Transferor by a transfer dated [] made between Mrs Haydon (1) and the Transferor (2)

"Roads" means roads carriageways footways footpaths verges embankments berms visibility splays junctions roundabouts bridges bus lay bys cycle tracks traffic management schemes street signing lighting street furniture landscaping and associated installations

"Service Installations" means sewers drains pipes manholes culverts gulleys channels soakaways outfalls conduits pipes outlets mains wires cables optic fibres ducts flues poles and all other ancillary equipment and apparatus now or within the Perpetuity Period to be constructed installed or laid maintained and used for the conduct of Services including (but not by way of limitation) any upgrading and improvement works and the culverting diversion and protection of existing systems

"Services" means the disposal of foul and surface water and the supply of water gas electricity telephone

telecommunications and cable television

"Strategic Development Area" means the area bearing the notation "Stowmarket Strategic Development Area" on inset map 73A of the local plan adopted by Mid Suffolk District Council on 1 September 1998 and now represented in the master plan approved by Mid Suffolk District Council on 4 March 1999 as supplementary planning guidance

"Surface Water Drains" means the surface water drain or drains (together with balancing tanks manholes and other associated facilities) to be constructed by the Transferor pursuant to its covenant in this Transfer

"Works Agreement" means an agreement or undertaking pursuant to Section 98 or section 104 of the Water Industry Act 1991 or any provision to the same or similar intent and/or any agreement with a water undertaker and/or a drainage undertaker (within the meaning of the Water Act 1989) or other appropriate authority as to water supply or drainage of surface water and/or foul water from the Property or an agreement with a Relevant Authority relating to the provision adoption of Services and Service Installations or for the diversion removal or undergrounding of existing Service Installations and/or any other similar agreement or deed of grant or requisition required for the carrying out provision maintenance cleansing protection and adoption of Services and Service Installations by a Relevant Authority

13.2 EXCEPTIONS AND RESERVATIONS

The Transferor hereby reserves for the benefit of Retained Land the Transferor its successors in title and owners and occupants of the Retained Land and each and every part thereof and the Transferee hereby grants for the benefit of the Adjoining Land the owners and occupants of the Adjoining Land and their successors in title from time to time (and all those authorised by them) to the Adjoining Land and each and every part thereof the rights over the Property set out below wherein all of the rights referred to below shall be referred to as "Rights"

13.2.1 Rights of way with or without vehicles at all times and for all purposes over the Property prior to the construction of any Roads and over any Roads now or within the Perpetuity Period constructed or to be constructed on the Property such rights to exist and be exercisable only in the period prior to such Roads becoming highways maintainable at public expense

13.2.2 To the passage of Services through all Service Installations:

- (a) existing as at the date of this Transfer but only in so far as such continue to exist following construction of the B1115 Relief Road and it becoming a highway maintainable at public expense; or

- (b) as provided during construction of the B1115 Relief Road prior to it becoming a highway maintainable at public expense; or
- (c) as provided within the Perpetuity Period but after the B1115 Relief Road becomes a highway maintainable at public expense (and including for the purposes of this paragraph (c) any augmenting diverting upgrading and upsizing) in so far as consent for such may be granted under the New Roads and Street Works Act 1991

PROVIDED THAT the Transferee shall not become liable for any costs or expenses related to the said right of passage other than as may be properly attributed to it in respect of the exercise of its functions as Highway Authority

13.2.3 Such rights to enter upon the Property at any time within the Perpetuity Period (but subject to the restrictions on exercise of the rights set out below) with or without workmen contractors equipment and materials and to do all things necessary for the purposes of

- (a) connecting to inspecting constructing installing laying reconstructing re-laying maintaining repairing cleansing augmenting diverting upgrading or upsizing Service Installations
- (b) diverting upgrading or widening constructing reconstructing connecting to inspecting maintaining repairing or cleansing Roads
- (c) constructing repairing and maintaining any buildings or fences or other structures to be erected on the Retained Land or the Adjoining Land adjacent to the Property and doing all things as may reasonably be expected to facilitate the development sale and occupation of the Retained Land and the Adjoining Land

Provided That

- (i) the Transferor shall use its reasonable endeavours to procure the provisions of Service Installations in or under the Property before laying surfacing materials on carriageways or cycle tracks or footways or bus laybys to be constructed within the Property

- (ii) in respect of the matters set out in sub-paragraph (a) the rights shall not be exercisable in respect of any part of the property which has become a highway maintainable at public expenses unless and until a consent has been issued under the New Roads and Street Works Act 1991 for the same and in any event shall be exercisable only so as to provide for Service Installations and Services in or under any Roads (excluding bridges for this purpose) forming part of the B1115 Relief Road and not over the same

- (iii) in respect of the matters set out in sub-paragraph (b) the rights shall cease to be exercisable over any part of the Property on which a Road (or part thereof) has been constructed (or over any part of the Property lying to either side of the Road) once that Road (or part thereof) has become highway maintainable at public expenses (but such cessation shall not prevent the continuation of any Road through the Property)

- (iv) in respect of the matters set out in sub-paragraph (c) the rights shall be exercised once the general public are invited onto Roads constructed on the Property only in so far as consistent with the use of Roads by the general public and shall cease to be exercisable at all once any Road (or part thereof) has become highway maintainable at the public expense.

- (v) nothing in the grant of such rights shall entitle the Transferor to discharge any surface water from the Retained Land or the Adjoining Land into the piped highway drains to be constructed or laid within the areas hatched black on Plan 2 for the purposes of draining the B1115 Relief Road constructed within the hatched area other than surface water directly from those parts of the B1115 Relief Road falling within that hatched area and for the avoidance of doubt any surface water from other roads to be constructed by the Transferor or any building to be constructed by the Transferor or from any other operation facility premises or use within the Retained Land or the Adjoining Land shall be discharged to a separate drainage system (which may for the avoidance of doubt be laid in the hatched area)

PROVIDED THAT the Transferee shall not become liable for any costs or expenses related to the said right of passage other than as may be properly attributed to it in respect of the exercise of its functions as Highway Authority

13.2.4 Rights of access from the Retained Land to highways maintainable at the public expense comprised in the B1115 Relief Road to be constructed on the Property subject to planning permission being granted for any such access

13.3 RIGHT GRANTED

The Transferor hereby grants for the benefit of the Transferee the Property and each and every part thereof and to its successors in title full right and liberty over such part or parts of the Retained Land through which any part of the Surface Water Drains serving the Property are laid to use the same for the passage or discharge of surface water from the Property and (until the Surface Water Drains have been adopted by Anglian Water as part of a public surface water sewer system) to enter onto such part or parts of the Retained Land to cleanse repair maintain and replace the Surface Water Drains (in the event that the Transferor has failed to do so and to the extent or in the manner which enables the Property to be drained satisfactorily and to recover the reasonable expenses thereof from the Transferor) PROVIDED THAT the right of entry shall be limited to those parts of the Retained Land through which the Surface Water Drains have been laid (2 metres either side of the centre line of the Surface Water Drains)

13.4 APPLICATION TO REGISTER RESTRICTION

The Transferee and Transferor hereby consent to a request that a Restriction is registered upon the title to the Property as follows:-

"No disposition by the proprietor of the estate is to be registered without a certificate signed by Crest Nicholson (Eastern) Limited or its conveyancer that the provisions of Clause 13.6 of a Transfer dated [] have been complied with"

13.5 POSITIVE COVENANTS BY TRANSFEROR

The Transferor covenants with the Transferee:

13.5.1 No later than the time of construction of Roads on the Property at its own expense to construct to the reasonable satisfaction of the Transferee the Surface Water Drains along the approximate route shown tinted blue on Plan 1 (or such alternative positions as reasonably required to allow for the development of the Retained Land) from the Property to the nearest available Anglian Water manhole such drain or drains to be of a suitable specification and suitable materials to provide for the satisfactory drainage of surface water from the Property (for the avoidance of doubt encompassing the B1115 Relief Road as fully constructed on the Property)

13.5.2 At its own expense to cleanse maintain repair or replace the Surface Water Drains until such time as the same are adopted by Anglian Water as part of a public surface water sewer

system

13.5.3 As soon as reasonably practicable and in any event no later than the time of construction of Roads on the Property at its own expense and to the reasonable satisfaction of the Transferee to divert the existing ditch around the western and southern perimeter of the roundabout in the parcels numbered 63B and 63C shown on Plan 1 (but not tinted pink) including culverting within parcel 63

13.6 POSITIVE COVENANT BY TRANSFEREE

The Transferee covenants with the Transferor that when requested by the Transferor (in this clause meaning Crest Nicholson (Eastern) Ltd or its nominees but not its successors in title) it will grant to the Transferor in respect of the Retained Land and the Adjoining Land (for the benefit also of successive owners and occupants thereof as required by the Transferor) for nil consideration or to the Relevant Authority such easements and other like rights or enter into such Works Agreements in each case as the Transferor shall reasonably require in order to grant lawful rights for the provision and continued presence of Service Installations and Services in or under (but not over) the Property subject to any necessary consent being obtained under the New Roads and Street Works Act 1991 in respect of any Service Installations or Services to be provided after any Roads forming part of the B1115 Relief Road have become highway maintainable at the public expense and subject also to any such deed of easement and other like rights Works Agreements indemnifying the Transferee in respect of any claims liabilities or expenses thereunder or the Transferor fully and effectively indemnifying the Transferee in respect thereof and subject also to the Transferee's reasonable legal costs being met

13.7 RESTRICTIVE COVENANTS

The Transferee so as to bind the Property and each and every part thereof covenants on behalf of itself and its successors in title for the benefit of the Transferor and Mrs Haydon and each and every part of the Retained Land and the Adjoining Land and Mrs Haydon's Land

13.7.1 Not to use or permit the Property or any part thereof to be used other than for the purposes of a Road or Service Installation

13.7.2 Not to dispose of any estate or interest in the whole or any part of the Property without procuring that such disponee enters into a direct covenant with the Transferor on terms identical to those in Clause 13.6

13.7.3 Not to grant any rights or easements or interests in the whole or part of the Property which would prevent interfere or obstruct the exercise of the rights granted or reserved by this Transfer Provided that this shall not be taken to prevent fetter or limit use of the Property for the purposes of a highway maintainable at public expense or to prevent fetter or limit the Transferee in the proper exercise of its powers as a highway authority in respect of its ownership occupation or use of the Property

13.7.4 Not to commit any act or refrain from any action which in either case would have the effect of delaying inhibiting or frustrating the commencement construction sale occupation and use of the Retained Land or Adjoining Land Provided that this shall not be taken to prevent fetter or limit the Transferee in its promotion construction maintenance or use of the B1115 Relief Road or any other action it may take or refrain from taking pursuant to its statutory powers

RELEASE OF RESTRICTIVE COVENANT

13.8 Mrs Haydon as sole owner of the land benefiting from the Restrictive Covenant with full title guarantee hereby releases the Transferee and all of the Property in so far as it is affected thereby from the Restrictive Covenant absolutely and covenants with the Transferor and the Transferee that she has full power to effect this release

DECLARATIONS

13.9 Save as expressly mentioned herein the parties do not intend that any of the terms of this Deed shall be enforceable by any third party pursuant to the Contracts (Rights of Third Parties) Act 1999

14 **The Transferors and all other necessary parties (including the proprietors of all the titles listed in panel 3) should execute this transfer as a deed using the space below and sign the plan. Forms of execution are given in Schedule 3 to the Land Registration Rules 1925. If the transfer contains transferees' covenants or declarations or contains an application by them (e.g. for a restriction), it must also be executed by the Transferees.**

EXECUTED AS A DEED by)
CREST NICHOLSON (EASTERN) LIMITED)
by two Directors:)

Director



Director / Secretary



THE COMMON SEAL OF SUFFOLK COUNTY)
COUNCIL was hereunto affixed in the presence of:-)

SIGNED as a DEED by)
HILARY GWYNTH HAYDON)
in the presence of:-)

Witness

Address

.....

.....

Occupation