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Title Number HP763307

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Land Registry  
Transfer of part of registered title(s)

TP1



If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

<p>1 Title number(s) out of which the property is transferred:</p> <p>HP653741</p>
<p>2 Other title number(s) against which matters contained in this transfer are to be registered or noted, if any:</p>
<p>3 Property:</p> <p>Land and buildings on Clarendon Farm Anmore Road Denmead Waterlooville PO7 6HN</p> <p>The property is identified</p> <p><input checked="" type="checkbox"/> on the attached plan and shown: edged red</p> <p><input type="checkbox"/> on the title plan(s) of the above titles and shown:</p> <p style="text-align: right;">We hereby certify this to be a true copy of the original</p> <p style="text-align: right;"><i>Mr Verisona</i> Dated <u>19/8/13</u> Verisona Solicitors and Advocates 1000 Lakeside, North Harbour Portsmouth, Hampshire, PO6 3EN</p>
<p>4 Date:</p> <p style="text-align: center;">12 August 2013</p>
<p>5 Transferor:</p> <p><b>DAPHNE ELIZABETH WALDER</b></p> <p><u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix:</p> <p><u>For overseas companies</u> (a) Territory of incorporation:</p> <p>(b) Registered number in England and Wales including any prefix:</p>

6 Transferee for entry in the register:

**INVESTACC PENSION TRUSTEES LIMITED and ROBERT MITCHELL as TRUSTEES OF THE MINERVA SIPP FOR MR ROBERT MITCHELL (1644)**

For UK incorporated companies/LLPs

Registered number of company or limited liability partnership including any prefix:

INVESTACC PENSION TRUSTEES LIMITED: 02875892

For overseas companies

(a) Territory of incorporation:

(b) Registered number in England and Wales including any prefix:

7 Transferee's intended address(es) for service for entry in the register:

Robert Mitchell: Clarendon Farm Cottage Anmore Road Denmead Waterlooville Hampshire PO7 6HN

InvestAcc Pension Trustees Limited: Minerva House Port Road Industrial Estate Carlisle CA2 7AF

8...The transferor transfers the property to the transferee

9 Consideration

The transferor has received from the transferee for the property the following sum (in words and figures): Three hundred and sixteen thousand and sixty one pounds (£316,061.00)

The transfer is not for money or anything that has a monetary value

Insert other receipt as appropriate:

10 The transferor transfers with

full title guarantee

limited title guarantee

11 Declaration of trust. The transferee is more than one person and

- they are to hold the property on trust for themselves as joint tenants
- they are to hold the property on trust for themselves as tenants in common in equal shares
- they are to hold the property on trust:

The Transferees declare that they hold the property upon the trusts contained in a Trust Deed made 1<sup>st</sup> August 2003 between (1) Newcastle Building Society and (2) InvestAcc Limited and Supplemental Deeds made between InvestAcc Pension Trustees Limited and Robert Mitchell

12 Additional provisions

### 12.1 DEFINITIONS

In this transfer the following words and expressions shall have the following meanings:

- 12.1.1 "1994 Act" the Law of Property (Miscellaneous Provisions) Act 1994
- 12.1.2 "Access Road" the road which is proposed to allow access to and from the Anmore Road to and from the Property and the Retained Land shown coloured yellow and coloured orange on the Plan
- 12.1.3 "Agreement" means an agreement dated 29 July 2013 and made between the Transferor (1) and the Transferee (2)
- 12.1.4 "Plan" the plan annexed to this transfer
- 12.1.5 "Retained Land" the land comprised in Title Number HP653741 excluding the Property
- 12.1.6 "Riding School" means the informal equine riding school consisting part of the Retained Land
- 12.1.7 "Services" water soil gas oil electricity telephone television radio facsimile telecommunications data communications and other similar services and supplies
- 12.1.8 "Service Media" all sewers drains pipes gullies gutters ducts mains channels wires cables conduits flues watercourses and any other conducting media and associated equipment for the supply of Services
- 12.1.9 "Track" the road which provides a means of access to and from the Riding School to and from the Access Road shown coloured blue on the Plan.

### 12.2 INTERPRETATION

- 12.2.1 The clause headings do not affect the interpretation of this transfer

12.2.2 Where two or more persons are included in the respective expressions the "Transferor" and/or the "Transferee" the covenants and agreements which are respectively expressed to be made by the Transferor and/or the Transferee shall be deemed to be made by such persons jointly and severally

12.2.3 Words importing one gender are to be construed as importing any other gender

12.2.4 Words importing the singular are to be construed as importing the plural and vice versa and words importing persons are to include firms companies and corporations and vice versa

12.2.5 Any reference to any legislation (whether specifically named or not) is to include any modification extension amendment or re-enactment of that legislation for the time being in force and all instruments orders notices regulations directions byelaws permissions and plans for the time being made issued or given thereunder or deriving validity therefrom

### **12.3 TRANSFER**

The Transferor transfers the Property to the Transferee subject to the matters contained or referred to in the Agreement.

### **12.4 RIGHTS GRANTED**

12.4.1 The Property is transferred together with for the benefit of each and every part of the Property the rights set out in the First Schedule

12.4.2 The rights set out in the First Schedule shall where the context admits be exercisable in common with the Transferor its successors in title and all persons authorised by it or them or having a like right

### **12.5 RIGHTS RESERVED**

12.5.1 There are excepted and reserved out of the Property for the benefit for the benefit of the Transferor and its successors in title to each and every part of the Retained Land the rights set out in the Second Schedule

### **12.6 COVENANTS BY THE TRANSFEEE**

12.6.1 The Transferee covenants with the Transferor to the intent that the burden of this covenant may run with and bind each and every part of the Property into whosoever hands the same may come and to the intent that the benefit thereof may be annexed to and run with each and every part of the Retained Land to observe and perform the obligations set out in the Third Schedule

12.6.2 Any obligation not to do any act or thing shall include an obligation not knowingly to permit or suffer that act or thing to be done by another person

### **12.7 COVENANTS BY THE TRANSFEROR**

12.7.1 The Transferor covenants with the Transferee to the intent that the burden of this covenant may run with and bind each and every part of the Access Road within the Retained Land into whosoever hands the same may come and to the intent that the benefit thereof may be annexed to and run with each and every part of the Property to observe and perform the obligations set out in the

#### Fourth Schedule

- 12.7.2 Any obligation not to do any act or thing shall include an obligation not knowingly to permit or suffer that act or thing to be done by another person

#### 12.8 DECLARATIONS

- 12.8.1 Section 62 of the Law of Property Act 1925 will not apply to this transfer and except for any rights expressly granted by this transfer nothing will (whether by implication of law or otherwise) operate or be deemed to operate to confer on the Transferee any easement quasi-easement privilege or advantage whatsoever over or against the whole or any part of any adjoining or neighbouring land of the Transferor
- 12.8.2 The Transferee and its successors in title shall not be or become entitled to any right of access of light and air or any other easement or right which would or might restrict or interfere with the free use of the whole or any part of the Retained Land for building development or any other purpose
- 12.8.3 Upon any disposal of all of its interest in the whole or any part of the Property the Transferee shall be automatically released from all liability arising in connection with the obligations set out in the Third Schedule (save in respect of any antecedent breach of covenant) in so far as they relate to the property disposed of but **PROVIDED THAT** no such release shall operate in respect of the obligations set out in Part II of the Third Schedule unless the disponent has first entered into a direct covenant with the Transferor or its successors in title to observe and perform the obligations therein set out in so far as they relate to the property acquired by the disponent
- 12.8.4 Upon any disposal of all of its interest in the whole or any part of the Access Road within the Retained Land the Transferor shall be automatically released from all liability arising in connection with the obligations set out in the Fourth Schedule (save in respect of any antecedent breach of covenant) in so far as they relate to the property disposed of **PROVIDED THAT** no such release shall operate in respect of the obligations set out in Part II of the Fourth Schedule unless the disponent has first entered into a direct covenant with the Transferee or their successors in title to observe and perform the obligations therein set out in so far as they relate to the property acquired by the disponent

#### 12.9 INDEMNITY COVENANT

The Transferee with the object and intent of affording to the Transferor a full and sufficient indemnity (but not further or otherwise) covenants with the Transferor that the Transferee and its successors in title will perform and observe all the covenants agreements restrictions stipulations provisions and conditions and other matters contained or referred to in the Registers of Title Number HP653741 as at the date hereof so far as the same relate to the Property and are still subsisting and capable of taking effect and to indemnify and keep indemnified the Transferor from and against all actions, claims demands losses costs expenses damages and liability in any way relating to any non-observance or non-performance thereof from and including the date of this transfer

#### 12.10 IMPLIED COVENANTS

- 12.10.1 The covenant set out in section 2(1)(b) of the Law of Property (Miscellaneous

Provisions) Act 1994 shall not extend to the words "at his own cost" which shall be deemed to be deleted therefrom and the following words substituted therefor "at the cost of the person to whom he disposes of the property"

12.10.2 The covenant set out in section 3(1) of the Law of Property (Miscellaneous Provisions) Act 1994 shall not extend to the words "and could not reasonably be expected to" which shall be deemed to be deleted therefrom

12.10.3 The covenant set out in section 2(1)(a) of the Law of Property (Miscellaneous Provisions) Act 1994 shall not extend to matters now recorded in registers open to public inspection which for the purposes of section 6(2) thereof are considered to be within the actual knowledge of the person to whom the disposition is made

#### **12.11 OVERAGE COVENANTS**

12.11.1 The Transferor and the Transferee mutually covenant to observe and perform their respective obligations set out in the Fifth Schedule

12.11.2 Any obligation not to do any act or thing shall include an obligation not knowingly to permit or suffer that act or thing to be done by another person

#### **12.12 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

For the purposes of the Contracts (Rights of Third Parties) Act 1999 the Transferor and the Transferee do not intend that any term contained in this transfer is to be enforceable by any person who is not a party to this transfer

#### **12.13 RESTRICTIONS**

The Transferee shall when registering this transfer to contemporaneously apply to the Land Registry (if necessary submitting Form RXI or in any other superseding form, which may be current on the date hereof) for entry of the following Restriction in the proprietorship register of the registers of title being applied for the Property:

"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by a Conveyancer confirming that the provisions of paragraph 4 of the Third Schedule, Part II and paragraph 4.1 of the Fifth Schedule to a transfer dated *12 August* 2013 made between Daphne Elizabeth Walder (1) and InvestAcc Pension Trustees Limited and Robert Mitchell as Trustees of the Minerva SIPP for Mr Robert Mitchell (1644) (2) have been complied with or that they do not apply to the disposition."

#### **12.14 LIMITATION OF LIABILITY**

The parties agree that the liability of InvestAcc Pension Trustees Limited shall be limited to the extent of the assets for the time being which are under their control as trustees of the Minerva SIPP: Mr Robert Mitchell (1644) and that InvestAcc Pension Trustees Limited shall have no such liability after they respectively cease to be a trustee of that trust.

## THE FIRST SCHEDULE

### (Rights Granted)

1.1 The right in common with the owners of the Retained Land and those authorised by them to use and at the Transferee's cost to connect to, use and upgrade or increase the capacity of any Service Media in, on, under or over the Access Road within the Retained Land for the passage of Services to and from the Property but subject to the Transferor's right to divert or alter or (provided that adequate alternative provision is made) to stop up any of the same. The benefit of this right is subject to the owners of the Property complying with all reasonable regulations provided to them by the owners of the Access Road within the Retained Land as to the routes levels points and manner of connection. The Transferee shall not be entitled to use any capacity available in connection with such Service Media that is intended for the use or development of the Retained Land Provided such use or development has been made known to the Transferee and the Transferor (or her successors in title) has consented to the same (such consent not to be unreasonably withheld or delayed).

1.2 The owners of the Retained Land may withhold the Transferee's right to connect into and use the Service Media in accordance with paragraph 1.1 where, in their reasonable opinion which shall be based on expert evidence which shall be provided to the Transferee, the Service Media have insufficient capacity for the use or development of the Retained Land or would be overloaded by the additional passage of Services in or through them following connection to them by the owners of the Property provided that in withholding consent in such circumstances the owners of the Retained Land shall provide to the owners of the Property such information as shall be reasonably requested to enable the Transferee to exercise its right to upgrade or increase the capacity of the Service Media under paragraph 1.1.

## 2 New Services

2.1 The right in common with the owners of the Retained Land and those authorised by them to install and use new Service Media under the Access Road within the Retained Land for the passage of Services to and from the Property. The benefit of this right is subject to:

2.1.1 the owners of Property obtaining the prior written consent of the owners of the Access Road within the Retained Land (such consent not to be unreasonably withheld or delayed) before exercising the right to install new Service Media; and

2.1.2 the owners of the Property repairing, maintaining, replacing, renewing and cleaning any Service Media installed pursuant to this right, whether or not the Service Media are used in common between the Retained Land and the Property; and

2.1.3 the right for the owners of the Retained Land and those authorised by them to connect to, use and upgrade or increase the capacity of any Service Media installed pursuant to this right provided that they shall join the owners of the Property in repairing, maintaining, replacing, renewing and cleaning any Service Media installed pursuant to this right

## 3 Right of way

3.1 A right of way at all times and for all purposes in common with the owners of the



Retained Land and those authorised by them with or without vehicles over and along the carriageway of the Access Road within the Retained Land and on foot only over and along such of the footpaths of the Access Road within the Retained Land (if any)

**4 Entry**

4.1 The right for the owners of the Property and those authorised by them to enter and remain upon so much as is necessary of the Access Road within the Retained Land on reasonable prior notice (except in case of emergency) with or without workmen, plant and equipment to:

4.1.1 repair, maintain, replace, renew, clean, connect to and sever connections with any Service Media over which rights are granted by this Transfer; and

4.1.2 lay further Service Media and apparatus in accordance with the rights granted in paragraph 2; and

4.1.3 exercise the rights granted in this First Schedule.

4.2 The rights of entry granted by this Transfer are subject to the persons exercising such rights:

4.2.1 as regards any Services Media constructed pursuant to paragraph 4.1 above placing the same within and/or adjacent to any existing services corridors or along a route designated at the sole discretion of the Transferor

4.2.2 obtaining the approval of the Transferor (such approval not to be unreasonably withheld or delayed) to the position of any new connection with the Service Media and agreement as to the capacity available to the Transferee

4.2.3 obtaining the consent of the relevant competent statutory undertaker authority or public utility company (as the case may be) to the connection with any use of such Service Media prior to making any connection therewith

4.2.4 causing as little inconvenience as reasonably practicable to the owners of the Retained Land in the exercise of these rights;

4.2.5 making good as soon as reasonably practicable all damage caused to the Retained Land and any buildings from time to time on it to the reasonable satisfaction of the owners of the Retained Land;

4.2.6 indemnifying any person affected by any damage caused by the exercise of the rights;

4.2.7 giving previous reasonable written notice to the Transferor or his successors in title (as the case may be) of their intention to enter upon the Access Road within the Retained Land for the purpose of carrying out any such works as specified in paragraph 4.2.5; and

4.2.8 not knowingly overloading the Service Media or requiring any connections which would overload the Service Media.

**PROVIDED ALWAYS** that in the event that the owners of the Property shall default in the performance of the obligations contained in this paragraph 4.2 the owner of the Access Road within the Retained Land may carry out such remedial works necessary to

remedy the breach with all proper and reasonable costs of remedying such breach payable by the owner of the Property.

- 4.3 The grant to the Transferee of the rights set out in paragraph 2 above shall not operate so as in any way to restrict impede or fetter the Transferor in its use of the Retained Land or any part thereof for building or other development purpose.

**5 Right of Support**

The right of support from the Retained Land for the Property and the buildings now or hereafter erected on the Property

**SECOND SCHEDULE**

(Rights Reserved)

**1 Right of way**

- 1.1 A right of way at all times and for all purposes in common with the owners of the Property and those authorised by them with or without vehicles over and along the carriageway of the Access Road within the Property and on foot only over and along such of the footpaths of the Access Road (if any)
- 1.2 A right of way at all times and for all purposes in connection with the use and enjoyment of the Retained Land and in common with the owners of the Property and those authorised by them with or without vehicles over and along the Track
- 1.3 A right of way at all times for agricultural purposes in common with the owners of the Property and those authorised by them with or without vehicles over and along the route highlighted green on the Plan and without prejudice to the generality the right to use the foregoing for access to the Retained Land with a combined harvester provided that the Transferor or her successors in title pay a fair and proper contribution, as calculated by the Transferee acting reasonably, to the repair, maintenance and upkeep of the route highlighted green on the Plan

**2 Existing Services**

The right to the free and uninterrupted passage and running of Services from and to the Retained Land and any buildings which for the time being are on the Retained Land through the Service Media which are now or which may at any time be laid in on over under or through the Property and the right to make connections thereto

**3 New Services**

- 3.1 The right in common with the owners of the Property and those authorised by them to install and use new Service Media under the Access Road within the Property for the passage of Services to and from the Retained Land. The benefit of this right is subject to:
- 3.1.1 the Transferor or her successors in title obtaining the prior written consent of the owners of the Property (such consent not to be unreasonably withheld or delayed) before exercising the right to install new Service Media; and
- 3.1.2 the Transferor or her successors in title contributing in equal proportion together with the Transferee and their successors in title for the repair, maintenance,

replacement, renewal and cleansing of any Service Media installed pursuant to this right; and

- 3.1.3 the right for the owners of the Property and those authorised by them to connect to, use and upgrade or increase the capacity of any Service Media installed pursuant to this right provided that they shall join the Transferor or her successors in title in repairing, maintaining, replacing, renewing and cleaning any Service Media installed pursuant to this right

#### **4 Entry**

- 4.1 The right at all reasonable times and on giving reasonable prior notice (except in case of emergency) for the Transferor its successors in title and all persons authorised by it or them to enter onto the Property with or without workmen, plant and equipment to:

- 4.1.1 repair, maintain, replace, renew, clean, connect to and sever connections with any Service Media over which rights are granted by this Transfer; and
- 4.1.2 lay further Service Media and apparatus in accordance with the rights granted in paragraph 3; and
- 4.1.3 exercise the rights granted in this Second Schedule.

- 4.2 The rights of entry granted by this Transfer are subject to the persons exercising such rights:

- 4.2.1 regarding any Services Media constructed pursuant to paragraph 4.1 above insofar as possible placing the same within and/or adjacent to any existing services corridors or along a route designated at the sole discretion of the Transferee acting reasonably;
- 4.2.2 obtaining the approval of the Transferee (such approval not to be unreasonably withheld or delayed) to the positions of any new connection with the Service Media and agreement as to the capacity available to the Transferor;
- 4.2.3 obtaining the consent of the relevant competent statutory undertaker authority or public utility company (as the case may be) to the connection with any use of such Service Media prior to making any connection therewith;
- 4.2.4 causing as little inconvenience as reasonably practicable to the owners of the Property in the exercise of these rights;
- 4.2.5 making good as soon as reasonably practicable all damage caused to the Property and any buildings from time to time on it to the reasonable satisfaction of the owners of the Property;
- 4.2.6 indemnifying any person affected by any damage caused by the exercise of the rights;
- 4.2.7 giving previous reasonable written notice to the Transferee or his successors in title (as the case may be) of their intention to enter upon the Access Road within the Property for the purpose of carrying out any such works as specified in paragraph 4.2.5; and
- 4.2.8 not knowingly overloading the Service Media or requiring any connections

which would overload the Service Media

**PROVIDED ALWAYS** that in the event that the Transferors or her successors in title shall default in the performance of the obligations contained in this paragraph 4.2 the owner of the Access Road within the Property may carry out such remedial works necessary to remedy the breach with all proper and reasonable costs of such remedial works payable by the Transferors or her successors in title

**5 Rights of light and air**

The right at any time to build develop rebuild alter or use the whole or any part of the Retained Land or any building for the time being on the Retained Land in such manner that the Transferor or its successors in title may wish notwithstanding that such building development rebuilding alteration or use may interfere with or diminish the amenity of the Property or the access of light and air to the Property

**6 Right of Support**

The right of support from the Property for the Retained Land and the buildings now or hereafter erected on the Retained Land

**7 Diversion**

The right to divert the Service Media laid in, under, through or over the Retained Land as may serve the Property at the expense of the Transferor to a location no less convenient than the existing Service Media (as determined by the Transferor acting reasonably)

**THE THIRD SCHEDULE**

(Restrictive Covenants)

- 1 Not to do anything in or upon the Property that may be or may grow to be a nuisance annoyance or disturbance to the Transferor its successors in title or the owners or occupiers for the time being of any part of the Retained Land Provided that, for the avoidance of all doubt, the use of the Property for any agricultural use or use connected or ancillary to the keeping of horses (so long as such use is exercised in a reasonable manner) shall not be limited in any way by this covenant
- 2 Not to knowingly overload the Service Media beyond their designated capacity having regard to the use and size of buildings now or in the future built upon the Retained Land
- 3 Not to park on or otherwise obstruct any part of the Access Road

**Part II**

**Part II – positive covenants**

- 1 To keep all external parts of the Property clean and tidy and where applicable landscaped areas properly cultivated and tended
- 2 To pay on demand a fair and reasonable proportion of all payments costs and expenses incurred by the Transferor or her successors in title in connection with the repair or resurfacing or other maintenance of the Access Road within the Retained Land and

maintaining, renewing, replacing and improving the Service Media or the Access Road

- 3 Upon any disposal of any of its interest in the Property including the Access Road within the Property to procure from the disponent a direct covenant with the Transferor or her successors in title to observe and perform the relevant obligations on the part of the Transferee contained in this Transfer
- 4 The Transferee will provide meter readings on a six monthly basis of the sub-meters to be installed at approximately the points marked "Y" and "Z" on the Plan and the cost will be charged to the Transferor at the water authority's standard charge per cubic metre from time to time
- 5 To maintain the part of the Access Road within the Property

#### THE FOURTH SCHEDULE

##### Part I

##### Part I - restrictive covenants

- 1 Not to park on or otherwise obstruct any part of the Access Road within the Property
- 2 Not to knowingly overload the Service Media beyond their designated capacity having regard to the use and size of buildings now or in the future built upon the Property

##### Part II

##### Part II – positive covenants

- 3 The Transferor shall pay within 28 days of receipt of written required for the water supplied to the Retained Land based on the readings of the sub-meters to be installed at approximately the points marked "Y" and "Z" on the Plan on a six monthly basis
- 4 To pay on demand a fair and reasonable proportion all payments, costs and expenses incurred by the Transferee or their successors in title in connection with the repair, resurfacing or other maintenance of the Access Road within the Property
- 5 To pay within 28 days of receipt of written required a fair and reasonable proportion all payments, costs and expenses incurred by the Transferee or their successors in title in connection with the repair, resurfacing or other maintenance of the route highlighted green on the Plan
- 6 To maintain the part of the Access Road within the Retained Land
- 7 Upon any disposal of any of its interest in the Retained Land including the Access Road within the Retained Land to procure from the disponent a direct covenant with the Transferee or their successors in title to observe and perform the relevant obligations on the part of the Transferor contained in this Transfer

## THE FIFTH SCHEDULE

(Overage)

### 1 Interpretation

1.1 The definitions and rules of interpretation set out in this paragraph apply in this deed.

**Additional Payment** means  $(A - B) \times 50\%$ , where

A = Enhanced Value and

B = Base Value

**Base Value** means the Market Value of the Development Land immediately prior to the grant of Planning Permission with no expectation of the grant of Planning Permission.

**Deed of Covenant** means a deed of covenant with the Transferor containing covenants in the same terms as those given by the Transferee in this Schedule with such minor modifications as may be reasonably necessary.

**Default Rate** means 4% per annum above the base rate from time to time of Barclays Bank PLC.

**Development** means development of the whole or any part or parts of the Property, with or without other land, for any development within the meaning of section 55 of the Town and Country Planning Act 1990 as at the date hereof.

**Development Land** means such part or parts of the Property in respect of which Planning Permission is granted during the Overage Period.

**Disposal** means a disposition within the meaning of section 205 of the Law of Property Act 1925 of the whole or any part or parts of the Property.

**Enhanced Value** means the Market Value of the Development Land as at the date of the relevant Implementation and with the benefit of the relevant Planning Permission.

**Existing Use** means grazing and/or agriculture.

**Implementation** means the implementation of a Planning Permission at the Property and the date of such implementation shall be the date of initiation of the Development as determined in accordance with section 56 of the 1990 Act PROVIDED for the purpose of this agreement Implementation shall exclude:

- a) demolition;
- b) site survey;
- c) ecological survey;
- d) archaeological survey;
- e) remediation; and

- f) erection of fences and hoardings

and implement and Implemented shall mutatis mutandis be construed accordingly.

**Independent Surveyor** means a Fellow of the Royal Institution of Chartered Surveyors with at least 10 years' experience in valuing properties similar to the Development Land, for uses similar to the Development, and whose usual place of practice is within a 35 mile radius of the Development Land.

**Interest Rate** means the base rate from time to time of the Royal Bank of Scotland Bank PLC.

**Market Value** means the estimated amount for which the Development Land should exchange between a willing buyer and a willing seller in an arm's length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion, on the basis that:

- (a) it is assessed in accordance with Practice Statement 3.2 of the eighth edition of the RICS Valuation Standards;
- (b) the provisions of this Schedule are disregarded;
- (c) the Development Land has vacant possession;
- (d) the Development Land is assumed to be free from all encumbrances other than those contained or referred to in the Land Registry title number HP7653741 and those attached to the property at the date of this agreement;
- (e) the Development Land is assumed not to be contaminated (unless at the time of the valuation there is clear evidence that the land is contaminated); and
- (f) any damage to or destruction of the Development Land occurring after the date of this transfer is assumed to have been fully reinstated.

**Overage Period** means twenty five (25) years starting on the date of this Transfer and ending at midnight on the relevant day.

**Permitted Disposal** means any of the following:

- (a) the disposal of part of the Property by way of transfer of the freehold or the grant of a lease for a term exceeding twenty one (21) years in each case to a service authority or utility company in order to provide water, gas, electricity, communication services or foul or surface water disposal facilities to or from the Property;
- (b) the grant of any easement or wayleave to a service authority or utility company in order to provide water, gas, electricity, communication services or foul or surface water disposal facilities to or from the Property;
- (c) the grant of a lease over the whole or any part of the Property at an open market rent without taking a premium for a term not exceeding twenty five (25) years without the right for the tenant to renew the lease and which permits the use of the Property only for the Existing Use without any right for the tenant to apply to the landlord for a change of the use authorised by the lease; and

- (d) a charge to secure the repayment of money to a bona fide UK bank, building society or similar financing institution.

**Planning Permission** means planning permission for Development and for the avoidance of doubt the date of granting a "Planning Permission" means the date upon which the Local Planning Authority shall resolve to grant planning permission being (a) a full planning permission and / or (b) an outline planning permission and / or (c) approval of all necessary reserved matters

**Successor** means any person to whom a Disposal is made

**Trigger Event** means the Implementation of a Planning Permission VAT means value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement and any additional replacement tax.

**Working Day** means any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory Bank Holiday.

- 1.2 A person includes a corporate or unincorporated body.
- 1.3 Unless otherwise specified, a reference to a particular law is a reference to it as it is in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.4 Except where a contrary intention appears, a reference to a paragraph is a reference to a paragraph of this Schedule.
- 1.5 Paragraph headings do not affect the interpretation of this Schedule.

## 2 Additional Payment

- 2.1 If a Trigger Event occurs at any time during the Overage Period, an Additional Payment shall immediately become due from the Transferee to the Transferor. The Transferee covenants that it shall pay the Additional Payment to the Transferor on the later of:
- 2.1.1 the date four weeks after the date of the Trigger Event; or
- 2.1.2 the date two weeks after the amount of the Additional Payment is agreed or determined in accordance with the terms of this Schedule.
- 2.2 An Additional Payment shall be due in respect of each and every Planning Permission, if more than one, granted during the Overage Period.
- 2.3 If further Planning Permission is granted during the Overage Period in respect of the same part or parts of the Property for which Planning Permission has already been granted, the Base Value for that part of the Development Land shall be equivalent to its Enhanced Value as at the date of grant of the immediately preceding Planning Permission (calculated on a pro rata basis where applicable) with no expectation of the grant of further Planning Permission.
- 2.4 The Transferee covenants with the Transferor that it shall pay interest at the Interest Rate to the Transferor on each Additional Payment for the period from the date of grant of the relevant Planning Permission to the due date for payment for the Additional



## Payment.

- 2.5 The Transferee further covenants with the Transferor that it shall pay interest at the Default Rate to the Transferor on any Additional Payment that is not paid on its due date. Such interest shall be payable for the period from the due date to the date of actual payment and shall not affect any other remedy the Transferor may have.
- 2.6 The Transferee covenants that it shall:-
- 2.6.1 supply the Transferor with a copy of any planning application submitted by or on behalf of the Transferee during the Overage period within 10 Working Days of its submission to the local planning authority; and
- 2.6.2 supply the Transferor with a copy of any Planning Permission granted during the Overage Period within 10 Working Days of the date of grant.
- 2.7 The benefit of the Transferee's covenants in relation to the Additional Payment(s) are assignable by the Transferor subject to the Transferor first procuring that the assignee has executed a deed of covenant containing covenants in the same terms as those given by the Transferor in this Fifth Schedule.

## 3 Amount of Additional Payment

- 3.1 If agreement is reached on the amount of the Additional Payment within four weeks after the date of the Trigger Event, the Transferee and the Transferor shall immediately sign and date a memorandum recording the amount of the Additional Payment and the date of the memorandum shall be the date of agreement for the purposes of paragraph 2.1.2.
- 3.2 If the Transferee and the Transferor fail to agree on the amount of the Additional Payment within four weeks after the date of the Trigger Event, either party may refer the matter to an Independent Surveyor.
- 3.3 The Independent Surveyor shall be appointed jointly by the parties, but in default of agreement within four weeks after the date of the Trigger Event, either party may apply to the President of the Royal Institution of Chartered Surveyors requesting the appointment of an Independent Surveyor.
- 3.4 If the appointed Independent Surveyor dies or becomes unwilling or incapable of acting, or does not deliver the decision within the time required by paragraph 3.5 then either the Transferor or the Transferee may apply to the President of the Royal Institution of Chartered Surveyors to discharge the appointed Independent Surveyor and to appoint a replacement.
- 3.5 The Independent Surveyor shall act as an expert and shall give a written copy of the decision on the amount of the Additional Payment to both the Transferee and the Transferor within twelve weeks after the date of the Independent Surveyor's appointment.
- 3.6 The Transferee and the Transferor shall each be entitled to make submissions to the Independent Surveyor and shall provide (or procure that others provide) the Independent Surveyor with the assistance and documents that the Independent Surveyor reasonably requires to reach a decision.
- 3.7 The Independent Surveyor's written decision shall be final and binding in the absence

of manifest error or fraud.

3.8 The Transferee and the Transferor agree to pay the Independent Surveyor's costs in the proportions determined by the Independent Surveyor within 10 Working Days after a demand for payment. If they are not so paid, the party against whom the costs were not awarded shall be entitled to pay the Independent Surveyor the sums due and recover the amount from the other party on demand.

3.9 In default of agreement pursuant to paragraph 3.1, the Additional Payment shall be the amount determined by the Independent Surveyor and the date of issue of the Independent Surveyor's written decision shall be taken as the date of determination for the purposes of paragraph 2.1.2.

#### **4 Disposals and restriction**

4.1 Unless the Disposal is a Permitted Disposal the Transferee covenants with the Transferor not to make any Disposal at any time during the Overage Period without first procuring that the person to whom the Disposal is being made has executed a Deed of Covenant.

#### **5 Transferor's obligations**

5.1 In the case of a Permitted Disposal, the Transferor covenants with the Transferee that the Transferor, its successors in title or assignees shall release the restriction in the proprietorship register of the title number under which the Property is registered over that part or parts of the Property within ten Working Days of being requested to do so if it is necessary for registration of the Permitted Disposal provided that:

5.1.1 either no Additional Payment is payable or outstanding; or

5.1.2 if an Additional Payment is payable or outstanding, then it has been paid together with any interest and any VAT that may be payable on it.

5.2 The Transferor covenants with the Transferee that the Transferor, its successors in title or assignees shall procure the withdrawal of the restriction entered against the title to the Property within 4 weeks after the end of the Overage Period.

#### **6 Transferee's Obligation**

6.1 The Transferee covenants with the Transferor not to make a Disposal unless the Transferee or its Successor pays the Transferor's properly and reasonably incurred legal and surveyor's costs and disbursements including any irrecoverable VAT incurred in connection with:-

6.1.1 each Deed of Covenant;

6.1.2 the entry and withdrawal of each restriction against the title to the Property; and

6.1.3 the Transferor granting written consent to each Disposal.

#### **7 Extent of Liability**

7.1 The liability of Robert Mitchell and Elizabeth Mary Mitchell shall cease in relation to each part of the Property in respect of which they shall have effected a Disposal of the

whole of their freehold interest upon the latest of:

7.1.1 the date of such Disposal; or

7.1.2 the date upon which the disponee delivers a valid deed in favour of the Transferor as provided in paragraph 4.1;

7.2 The ending of liability pursuant to paragraph 7.1 shall be without prejudice to the rights of any party in respect of any subsisting breach of the covenants in this deed.

**8 VAT**

8.1 Each amount stated to be payable by the Transferee to the Transferor under or pursuant to this Schedule is exclusive of VAT (if any).

8.2 If any VAT is chargeable on any supply made by the Transferor under or pursuant to this Schedule, the Transferee shall on receipt of a valid VAT invoice, pay the Transferor an amount equal to that VAT.

**13 Execution**

**IN WITNESS** of which this document has been duly executed as a deed and delivered on the date stated at the beginning of this document.

Executed as a deed by )

**DAPHNE ELIZABETH WALDER** )

*D. Walder*  
.....

in the presence of )

Signature of witness

*Kim Dobson*  
.....

Name (in BLOCK CAPITALS)

*KIM DOBSON*  
.....

Address

*180 ANMORE ROAD*  
.....

*DENMETHO*  
.....

*PO7 6HW*  
.....

Executed as a deed by	)	
<b>ROBERT MITCHELL</b>	)	.....
in the presence of:	)	
Signature of witness		.....
Name (in BLOCK CAPITALS)		.....
Address		.....
		.....
		.....

Executed as a deed by a director of	)	
<b>INVESTACC PENSION TRUSTEES LIMITED</b>	)	.....
in the presence of:	)	
Signature of witness		.....
Name (in BLOCK CAPITALS)		.....
Address		.....
		.....
		.....

**WARNING**

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003

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Land Registry  
Transfer of part of registered title(s)

TP1

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

1	Title number(s) out of which the property is transferred:  HP653741
2	Other title number(s) against which matters contained in this transfer are to be registered or noted, if any:
3	Property:  Land and buildings on Clarendon Farm Anmore Road Denmead Waterlooville PO7 6HN  The property is identified <input checked="" type="checkbox"/> on the attached plan and shown:  edged red  <input type="checkbox"/> on the title plan(s) of the above titles and shown:  <p style="text-align: right;">We hereby certify this to be a true copy of the original dated this 12<sup>th</sup> day of August 2013 <i>Ms. Weston</i> Verisona Solicitors and Advocates 1000 Lakeside, North Harbour Hampshire, PO6 3EN</p>
4	Date:  12 August 2013
5	Transferor:  <b>DAPHNE ELIZABETH WALDER</b>  <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix:  <u>For overseas companies</u> (a) Territory of incorporation:  (b) Registered number in England and Wales including any prefix:

6 Transferee for entry in the register:

**INVESTACC PENSION TRUSTEES LIMITED and ROBERT MITCHELL as TRUSTEES OF THE MINERVA SIPP FOR MR ROBERT MITCHELL (1644)**

For UK incorporated companies/LLPs

Registered number of company or limited liability partnership including any prefix:

INVESTACC PENSION TRUSTEES LIMITED: 02875892

For overseas companies

(a) Territory of incorporation:

(b) Registered number in England and Wales including any prefix:

7 Transferee's intended address(es) for service for entry in the register:

Robert Mitchell: Clarendon Farm Cottage Anmore Road Denmead Waterlooville Hampshire PO7 6HN

InvestAcc Pension Trustees Limited: Minerva House Port Road Industrial Estate Carlisle CA2 7AF

8 The transferor transfers the property to the transferee

9 Consideration

The transferor has received from the transferee for the property the following sum (in words and figures): Three hundred and sixteen thousand and sixty one pounds (£316,061.00)

The transfer is not for money or anything that has a monetary value

Insert other receipt as appropriate:

10 The transferor transfers with

full title guarantee

limited title guarantee

11 Declaration of trust. The transferee is more than one person and

- they are to hold the property on trust for themselves as joint tenants
- they are to hold the property on trust for themselves as tenants in common in equal shares
- they are to hold the property on trust:

The Transferees declare that they hold the property upon the trusts contained in a Trust Deed made 1<sup>st</sup> August 2003 between (1) Newcastle Building Society and (2) InvestAcc Limited and Supplemental Deeds made between InvestAcc Pension Trustees Limited and Robert Mitchell

12 Additional provisions

**12.1 DEFINITIONS**

In this transfer the following words and expressions shall have the following meanings:

- 12.1.1 "1994 Act" the Law of Property (Miscellaneous Provisions) Act 1994
- 12.1.2 "Access Road" the road which is proposed to allow access to and from the Anmore Road to and from the Property and the Retained Land shown coloured yellow and coloured orange on the Plan
- 12.1.3 "Agreement" means an agreement dated 29 July 2013 and made between the Transferor (1) and the Transferee (2)
- 12.1.4 "Plan" the plan annexed to this transfer
- 12.1.5 "Retained Land" the land comprised in Title Number HP653741 excluding the Property
- 12.1.6 "Riding School" means the informal equine riding school consisting part of the Retained Land
- 12.1.7 "Services" water soil gas oil electricity telephone television radio facsimile telecommunications data communications and other similar services and supplies
- 12.1.8 "Service Media" all sewers drains pipes gullies gutters ducts mains channels wires cables conduits flues watercourses and any other conducting media and associated equipment for the supply of Services
- 12.1.9 "Track" the road which provides a means of access to and from the Riding School to and from the Access Road shown coloured blue on the Plan.

**12.2 INTERPRETATION**

- 12.2.1 The clause headings do not affect the interpretation of this transfer

- 12.2.2 Where two or more persons are included in the respective expressions the "Transferor" and/or the "Transferee" the covenants and agreements which are respectively expressed to be made by the Transferor and/or the Transferee shall be deemed to be made by such persons jointly and severally
- 12.2.3 Words importing one gender are to construed as importing any other gender
- 12.2.4 Words importing the singular are to be construed as importing the plural and vice versa and words importing persons are to include firms companies and corporations and vice versa
- 12.2.5 Any reference to any legislation (whether specifically named or not) is to include any modification extension amendment or re-enactment of that legislation for the time being in force and all instruments orders notices regulations directions byelaws permissions and plans for the time being made issued or given thereunder or deriving validity therefrom

### **12.3 TRANSFER**

The Transferor transfers the Property to the Transferee subject to the matters contained or referred to in the Agreement.

### **12.4 RIGHTS GRANTED**

- 12.4.1 The Property is transferred together with for the benefit of each and every part of the Property the rights set out in the First Schedule
- 12.4.2 The rights set out in the First Schedule shall where the context admits be exercisable in common with the Transferor its successors in title and all persons authorised by it or them or having a like right

### **12.5 RIGHTS RESERVED**

- 12.5.1 There are excepted and reserved out of the Property for the benefit for the benefit of the Transferor and its successors in title to each and every part of the Retained Land the rights set out in the Second Schedule

### **12.6 COVENANTS BY THE TRANSFEE**

- 12.6.1 The Transferee covenants with the Transferor to the intent that the burden of this covenant may run with and bind each and every part of the Property into whosoever hands the same may come and to the intent that the benefit thereof may be annexed to and run with each and every part of the Retained Land to observe and perform the obligations set out in the Third Schedule
- 12.6.2 Any obligation not to do any act or thing shall include an obligation not knowingly to permit or suffer that act or thing to be done by another person

### **12.7 COVENANTS BY THE TRANSFEROR**

- 12.7.1 The Transferor covenants with the Transferee to the intent that the burden of this covenant may run with and bind each and every part of the Access Road within the Retained Land into whosoever hands the same may come and to the intent that the benefit thereof may be annexed to and run with each and every part of the Property to observe and perform the obligations set out in the



Fourth Schedule

- 12.7.2 Any obligation not to do any act or thing shall include an obligation not knowingly to permit or suffer that act or thing to be done by another person

**12.8 DECLARATIONS**

- 12.8.1 Section 62 of the Law of Property Act 1925 will not apply to this transfer and except for any rights expressly granted by this transfer nothing will (whether by implication of law or otherwise) operate or be deemed to operate to confer on the Transferee any easement quasi-easement privilege or advantage whatsoever over or against the whole or any part of any adjoining or neighbouring land of the Transferor
- 12.8.2 The Transferee and its successors in title shall not be or become entitled to any right of access of light and air or any other easement or right which would or might restrict or interfere with the free use of the whole or any part of the Retained Land for building development or any other purpose
- 12.8.3 Upon any disposal of all of its interest in the whole or any part of the Property the Transferee shall be automatically released from all liability arising in connection with the obligations set out in the Third Schedule (save in respect of any antecedent breach of covenant) in so far as they relate to the property disposed of but **PROVIDED THAT** no such release shall operate in respect of the obligations set out in Part II of the Third Schedule unless the disponent has first entered into a direct covenant with the Transferor or its successors in title to observe and perform the obligations therein set out in so far as they relate to the property acquired by the disponent
- 12.8.4 Upon any disposal of all of its interest in the whole or any part of the Access Road within the Retained Land the Transferor shall be automatically released from all liability arising in connection with the obligations set out in the Fourth Schedule (save in respect of any antecedent breach of covenant) in so far as they relate to the property disposed of **PROVIDED THAT** no such release shall operate in respect of the obligations set out in Part II of the Fourth Schedule unless the disponent has first entered into a direct covenant with the Transferee or their successors in title to observe and perform the obligations therein set out in so far as they relate to the property acquired by the disponent

**12.9 INDEMNITY COVENANT**

The Transferee with the object and intent of affording to the Transferor a full and sufficient indemnity (but not further or otherwise) covenants with the Transferor that the Transferee and its successors in title will perform and observe all the covenants agreements restrictions stipulations provisions and conditions and other matters contained or referred to in the Registers of Title Number HP653741 as at the date hereof so far as the same relate to the Property and are still subsisting and capable of taking effect and to indemnify and keep indemnified the Transferor from and against all actions, claims demands losses costs expenses damages and liability in any way relating to any non-observance or non-performance thereof from and including the date of this transfer

**12.10 IMPLIED COVENANTS**

- 12.10.1 The covenant set out in section 2(1)(b) of the Law of Property (Miscellaneous

Provisions) Act 1994 shall not extend to the words "at his own cost" which shall be deemed to be deleted therefrom and the following words substituted therefor "at the cost of the person to whom he disposes of the property"

12.10.2 The covenant set out in section 3(1) of the Law of Property (Miscellaneous Provisions) Act 1994 shall not extend to the words "and could not reasonably be expected to" which shall be deemed to be deleted therefrom

12.10.3 The covenant set out in section 2(1)(a) of the Law of Property (Miscellaneous Provisions) Act 1994 shall not extend to matters now recorded in registers open to public inspection which for the purposes of section 6(2) thereof are considered to be within the actual knowledge of the person to whom the disposition is made

#### **12.11 OVERAGE COVENANTS**

12.11.1 The Transferor and the Transferee mutually covenant to observe and perform their respective obligations set out in the Fifth Schedule

12.11.2 Any obligation not to do any act or thing shall include an obligation not knowingly to permit or suffer that act or thing to be done by another person

#### **12.12 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

For the purposes of the Contracts (Rights of Third Parties) Act 1999 the Transferor and the Transferee do not intend that any term contained in this transfer is to be enforceable by any person who is not a party to this transfer

#### **12.13 RESTRICTIONS**

The Transferee shall when registering this transfer to contemporaneously apply to the Land Registry (if necessary submitting Form RX1 or in any other superseding form, which may be current on the date hereof) for entry of the following Restriction in the proprietorship register of the registers of title being applied for the Property:

"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by a Conveyancer confirming that the provisions of paragraph 4 of the Third Schedule, Part II and paragraph 4.1 of the Fifth Schedule to a transfer dated *12 August* 2013 made between Daphne Elizabeth Walder (1) and InvestAcc Pension Trustees Limited and Robert Mitchell as Trustees of the Minerva SIPP for Mr Robert Mitchell (1644) (2) have been complied with or that they do not apply to the disposition."

#### **12.14 LIMITATION OF LIABILITY**

The parties agree that the liability of InvestAcc Pension Trustees Limited shall be limited to the extent of the assets for the time being which are under their control as trustees of the Minerva SIPP: Mr Robert Mitchell (1644) and that InvestAcc Pension Trustees Limited shall have no such liability after they respectively cease to be a trustee of that trust.

## THE FIRST SCHEDULE

### (Rights Granted)

- 1.1 The right in common with the owners of the Retained Land and those authorised by them to use and at the Transferee's cost to connect to, use and upgrade or increase the capacity of any Service Media in, on, under or over the Access Road within the Retained Land for the passage of Services to and from the Property but subject to the Transferor's right to divert or alter or (provided that adequate alternative provision is made) to stop up any of the same. The benefit of this right is subject to the owners of the Property complying with all reasonable regulations provided to them by the owners of the Access Road within the Retained Land as to the routes levels points and manner of connection. The Transferee shall not be entitled to use any capacity available in connection with such Service Media that is intended for the use or development of the Retained Land Provided such use or development has been made known to the Transferee and the Transferor (or her successors in title) has consented to the same (such consent not to be unreasonably withheld or delayed).
- 1.2 The owners of the Retained Land may withhold the Transferee's right to connect into and use the Service Media in accordance with paragraph 1.1 where, in their reasonable opinion which shall be based on expert evidence which shall be provided to the Transferee, the Service Media have insufficient capacity for the use or development of the Retained Land or would be overloaded by the additional passage of Services in or through them following connection to them by the owners of the Property provided that in withholding consent in such circumstances the owners of the Retained Land shall provide to the owners of the Property such information as shall be reasonably requested to enable the Transferee to exercise its right to upgrade or increase the capacity of the Service Media under paragraph 1.1.
- 2 New Services**
- 2.1 The right in common with the owners of the Retained Land and those authorised by them to install and use new Service Media under the Access Road within the Retained Land for the passage of Services to and from the Property. The benefit of this right is subject to:
- 2.1.1 the owners of Property obtaining the prior written consent of the owners of the Access Road within the Retained Land (such consent not to be unreasonably withheld or delayed) before exercising the right to install new Service Media; and
- 2.1.2 the owners of the Property repairing, maintaining, replacing, renewing and cleaning any Service Media installed pursuant to this right, whether or not the Service Media are used in common between the Retained Land and the Property; and
- 2.1.3 the right for the owners of the Retained Land and those authorised by them to connect to, use and upgrade or increase the capacity of any Service Media installed pursuant to this right provided that they shall join the owners of the Property in repairing, maintaining, replacing, renewing and cleaning any Service Media installed pursuant to this right
- 3 Right of way**
- 3.1 A right of way at all times and for all purposes in common with the owners of the

Retained Land and those authorised by them with or without vehicles over and along the carriageway of the Access Road within the Retained Land and on foot only over and along such of the footpaths of the Access Road within the Retained Land (if any)

**4 Entry**

4.1 The right for the owners of the Property and those authorised by them to enter and remain upon so much as is necessary of the Access Road within the Retained Land on reasonable prior notice (except in case of emergency) with or without workmen, plant and equipment to:

4.1.1 repair, maintain, replace, renew, clean, connect to and sever connections with any Service Media over which rights are granted by this Transfer; and

4.1.2 lay further Service Media and apparatus in accordance with the rights granted in paragraph 2; and

4.1.3 exercise the rights granted in this First Schedule.

4.2 The rights of entry granted by this Transfer are subject to the persons exercising such rights:

4.2.1 as regards any Services Media constructed pursuant to paragraph 4.1 above placing the same within and/or adjacent to any existing services corridors or along a route designated at the sole discretion of the Transferor

4.2.2 obtaining the approval of the Transferor (such approval not to be unreasonably withheld or delayed) to the position of any new connection with the Service Media and agreement as to the capacity available to the Transferee

4.2.3 obtaining the consent of the relevant competent statutory undertaker authority or public utility company (as the case may be) to the connection with any use of such Service Media prior to making any connection therewith

4.2.4 causing as little inconvenience as reasonably practicable to the owners of the Retained Land in the exercise of these rights;

4.2.5 making good as soon as reasonably practicable all damage caused to the Retained Land and any buildings from time to time on it to the reasonable satisfaction of the owners of the Retained Land;

4.2.6 indemnifying any person affected by any damage caused by the exercise of the rights;

4.2.7 giving previous reasonable written notice to the Transferor or his successors in title (as the case may be) of their intention to enter upon the Access Road within the Retained Land for the purpose of carrying out any such works as specified in paragraph 4.2.5; and

4.2.8 not knowingly overloading the Service Media or requiring any connections which would overload the Service Media.

**PROVIDED ALWAYS** that in the event that the owners of the Property shall default in the performance of the obligations contained in this paragraph 4.2 the owner of the Access Road within the Retained Land may carry out such remedial works necessary to

remedy the breach with all proper and reasonable costs of remedying such breach payable by the owner of the Property.

- 4.3 The grant to the Transferee of the rights set out in paragraph 2 above shall not operate so as in any way to restrict impede or fetter the Transferor in its use of the Retained Land or any part thereof for building or other development purpose.

## **5 Right of Support**

The right of support from the Retained Land for the Property and the buildings now or hereafter erected on the Property

## **SECOND SCHEDULE**

(Rights Reserved)

### **1 Right of way**

- 1.1 A right of way at all times and for all purposes in common with the owners of the Property and those authorised by them with or without vehicles over and along the carriageway of the Access Road within the Property and on foot only over and along such of the footpaths of the Access Road (if any)
- 1.2 A right of way at all times and for all purposes in connection with the use and enjoyment of the Retained Land and in common with the owners of the Property and those authorised by them with or without vehicles over and along the Track
- 1.3 A right of way at all times for agricultural purposes in common with the owners of the Property and those authorised by them with or without vehicles over and along the route highlighted green on the Plan and without prejudice to the generality the right to use the foregoing for access to the Retained Land with a combined harvester provided that the Transferor or her successors in title pay a fair and proper contribution, as calculated by the Transferee acting reasonably, to the repair, maintenance and upkeep of the route highlighted green on the Plan .

### **2 Existing Services**

The right to the free and uninterrupted passage and running of Services from and to the Retained Land and any buildings which for the time being are on the Retained Land through the Service Media which are now or which may at any time be laid in on over under or through the Property and the right to make connections thereto

### **3 New Services**

- 3.1 The right in common with the owners of the Property and those authorised by them to install and use new Service Media under the Access Road within the Property for the passage of Services to and from the Retained Land. The benefit of this right is subject to:
- 3.1.1 the Transferor or her successors in title obtaining the prior written consent of the owners of the Property (such consent not to be unreasonably withheld or delayed) before exercising the right to install new Service Media; and
- 3.1.2 the Transferor or her successors in title contributing in equal proportion together with the Transferee and their successors in title for the repair, maintenance,

replacement, renewal and cleansing of any Service Media installed pursuant to this right; and

- 3.1.3 the right for the owners of the Property and those authorised by them to connect to, use and upgrade or increase the capacity of any Service Media installed pursuant to this right provided that they shall join the Transferor or her successors in title in repairing, maintaining, replacing, renewing and cleaning any Service Media installed pursuant to this right

#### **4 Entry**

- 4.1 The right at all reasonable times and on giving reasonable prior notice (except in case of emergency) for the Transferor its successors in title and all persons authorised by it or them to enter onto the Property with or without workmen, plant and equipment to:

- 4.1.1 repair, maintain, replace, renew, clean, connect to and sever connections with any Service Media over which rights are granted by this Transfer; and

- 4.1.2 lay further Service Media and apparatus in accordance with the rights granted in paragraph 3; and

- 4.1.3 exercise the rights granted in this Second Schedule.

- 4.2 The rights of entry granted by this Transfer are subject to the persons exercising such rights:

- 4.2.1 regarding any Services Media constructed pursuant to paragraph 4.1 above insofar as possible placing the same within and/or adjacent to any existing services corridors or along a route designated at the sole discretion of the Transferee acting reasonably;

- 4.2.2 obtaining the approval of the Transferee (such approval not to be unreasonably withheld or delayed) to the positions of any new connection with the Service Media and agreement as to the capacity available to the Transferor;

- 4.2.3 obtaining the consent of the relevant competent statutory undertaker authority or public utility company (as the case may be) to the connection with any use of such Service Media prior to making any connection therewith;

- 4.2.4 causing as little inconvenience as reasonably practicable to the owners of the Property in the exercise of these rights;

- 4.2.5 making good as soon as reasonably practicable all damage caused to the Property and any buildings from time to time on it to the reasonable satisfaction of the owners of the Property;

- 4.2.6 indemnifying any person affected by any damage caused by the exercise of the rights;

- 4.2.7 giving previous reasonable written notice to the Transferee or his successors in title (as the case may be) of their intention to enter upon the Access Road within the Property for the purpose of carrying out any such works as specified in paragraph 4.2.5; and

- 4.2.8 not knowingly overloading the Service Media or requiring any connections

which would overload the Service Media

**PROVIDED ALWAYS** that in the event that the Transferors or her successors in title shall default in the performance of the obligations contained in this paragraph 4.2 the owner of the Access Road within the Property may carry out such remedial works necessary to remedy the breach with all proper and reasonable costs of such remedial works payable by the Transferors or her successors in title

**5 Rights of light and air**

The right at any time to build develop rebuild alter or use the whole or any part of the Retained Land or any building for the time being on the Retained Land in such manner that the Transferor or its successors in title may wish notwithstanding that such building development rebuilding alteration or use may interfere with or diminish the amenity of the Property or the access of light and air to the Property

**6 Right of Support**

The right of support from the Property for the Retained Land and the buildings now or hereafter erected on the Retained Land

**7 Diversion**

The right to divert the Service Media laid in, under, through or over the Retained Land as may serve the Property at the expense of the Transferor to a location no less convenient than the existing Service Media (as determined by the Transferor acting reasonably)

**THE THIRD SCHEDULE**

(Restrictive Covenants)

- 1 Not to do anything in or upon the Property that may be or may grow to be a nuisance annoyance or disturbance to the Transferor its successors in title or the owners or occupiers for the time being of any part of the Retained Land Provided that, for the avoidance of all doubt, the use of the Property for any agricultural use or use connected or ancillary to the keeping of horses (so long as such use is exercised in a reasonable manner) shall not be limited in any way by this covenant
- 2 Not to knowingly overload the Service Media beyond their designated capacity having regard to the use and size of buildings now or in the future built upon the Retained Land
- 3 Not to park on or otherwise obstruct any part of the Access Road

**Part II**

**Part II – positive covenants**

- 1 To keep all external parts of the Property clean and tidy and where applicable landscaped areas properly cultivated and tended
- 2 To pay on demand a fair and reasonable proportion of all payments costs and expenses incurred by the Transferor or her successors in title in connection with the repair or resurfacing or other maintenance of the Access Road within the Retained Land and

maintaining, renewing, replacing and improving the Service Media or the Access Road

- 3 Upon any disposal of any of its interest in the Property including the Access Road within the Property to procure from the disponent a direct covenant with the Transferor or her successors in title to observe and perform the relevant obligations on the part of the Transferee contained in this Transfer
- 4 The Transferee will provide meter readings on a six monthly basis of the sub-meters to be installed at approximately the points marked "Y" and "Z" on the Plan and the cost will be charged to the Transferor at the water authority's standard charge per cubic metre from time to time
- 5 To maintain the part of the Access Road within the Property

### THE FOURTH SCHEDULE

#### Part I

##### Part I - restrictive covenants

- 1 Not to park on or otherwise obstruct any part of the Access Road within the Property
- 2 Not to knowingly overload the Service Media beyond their designated capacity having regard to the use and size of buildings now or in the future built upon the Property

#### Part II

##### Part II – positive covenants

- 3 The Transferor shall pay within 28 days of receipt of written required for the water supplied to the Retained Land based on the readings of the sub-meters to be installed at approximately the points marked "Y" and "Z" on the Plan on a six monthly basis
- 4 To pay on demand a fair and reasonable proportion all payments, costs and expenses incurred by the Transferee or their successors in title in connection with the repair, resurfacing or other maintenance of the Access Road within the Property
- 5 To pay within 28 days of receipt of written required a fair and reasonable proportion all payments, costs and expenses incurred by the Transferee or their successors in title in connection with the repair, resurfacing or other maintenance of the route highlighted green on the Plan
- 6 To maintain the part of the Access Road within the Retained Land
- 7 Upon any disposal of any of its interest in the Retained Land including the Access Road within the Retained Land to procure from the disponent a direct covenant with the Transferee or their successors in title to observe and perform the relevant obligations on the part of the Transferor contained in this Transfer



## THE FIFTH SCHEDULE

(Overage)

1 Interpretation

1.1 The definitions and rules of interpretation set out in this paragraph apply in this deed.

**Additional Payment** means  $(A - B) \times 50\%$ , where

A = Enhanced Value and

B = Base Value

**Base Value** means the Market Value of the Development Land immediately prior to the grant of Planning Permission with no expectation of the grant of Planning Permission.

**Deed of Covenant** means a deed of covenant with the Transferor containing covenants in the same terms as those given by the Transferee in this Schedule with such minor modifications as may be reasonably necessary.

**Default Rate** means 4% per annum above the base rate from time to time of Barclays Bank PLC.

**Development** means development of the whole or any part or parts of the Property, with or without other land, for any development within the meaning of section 55 of the Town and Country Planning Act 1990 as at the date hereof.

**Development Land** means such part or parts of the Property in respect of which Planning Permission is granted during the Overage Period.

**Disposal** means a disposition within the meaning of section 205 of the Law of Property Act 1925 of the whole or any part or parts of the Property.

**Enhanced Value** means the Market Value of the Development Land as at the date of the relevant Implementation and with the benefit of the relevant Planning Permission.

**Existing Use** means grazing and/or agriculture.

**Implementation** means the implementation of a Planning Permission at the Property and the date of such implementation shall be the date of initiation of the Development as determined in accordance with section 56 of the 1990 Act PROVIDED for the purpose of this agreement Implementation shall exclude:

- a) demolition;
- b) site survey;
- c) ecological survey;
- d) archaeological survey;
- e) remediation; and

- f) erection of fences and hoardings

and implement and Implemented shall mutatis mutandis be construed accordingly.

**Independent Surveyor** means a Fellow of the Royal Institution of Chartered Surveyors with at least 10 years' experience in valuing properties similar to the Development Land, for uses similar to the Development, and whose usual place of practice is within a 35 mile radius of the Development Land.

**Interest Rate** means the base rate from time to time of the Royal Bank of Scotland Bank PLC.

**Market Value** means the estimated amount for which the Development Land should exchange between a willing buyer and a willing seller in an arm's length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion, on the basis that:

- (a) it is assessed in accordance with Practice Statement 3.2 of the eighth edition of the RICS Valuation Standards;
- (b) the provisions of this Schedule are disregarded;
- (c) the Development Land has vacant possession;
- (d) the Development Land is assumed to be free from all encumbrances other than those contained or referred to in the Land Registry title number HP7653741 and those attached to the property at the date of this agreement;
- (e) the Development Land is assumed not to be contaminated (unless at the time of the valuation there is clear evidence that the land is contaminated); and
- (f) any damage to or destruction of the Development Land occurring after the date of this transfer is assumed to have been fully reinstated.

**Overage Period** means twenty five (25) years starting on the date of this Transfer and ending at midnight on the relevant day.

**Permitted Disposal** means any of the following:

- (a) the disposal of part of the Property by way of transfer of the freehold or the grant of a lease for a term exceeding twenty one (21) years in each case to a service authority or utility company in order to provide water, gas, electricity, communication services or foul or surface water disposal facilities to or from the Property;
- (b) the grant of any easement or wayleave to a service authority or utility company in order to provide water, gas, electricity, communication services or foul or surface water disposal facilities to or from the Property;
- (c) the grant of a lease over the whole or any part of the Property at an open market rent without taking a premium for a term not exceeding twenty five (25) years without the right for the tenant to renew the lease and which permits the use of the Property only for the Existing Use without any right for the tenant to apply to the landlord for a change of the use authorised by the lease; and

- (d) a charge to secure the repayment of money to a bona fide UK bank, building society or similar financing institution.

**Planning Permission** means planning permission for Development and for the avoidance of doubt the date of granting a "Planning Permission" means the date upon which the Local Planning Authority shall resolve to grant planning permission being (a) a full planning permission and / or (b) an outline planning permission and / or (c) approval of all necessary reserved matters

**Successor** means any person to whom a Disposal is made

**Trigger Event** means the Implementation of a Planning Permission VAT means value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement and any additional replacement tax.

**Working Day** means any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory Bank Holiday.

- 1.2 A person includes a corporate or unincorporated body.
- 1.3 Unless otherwise specified, a reference to a particular law is a reference to it as it is in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.4 Except where a contrary intention appears, a reference to a paragraph is a reference to a paragraph of this Schedule.
- 1.5 Paragraph headings do not affect the interpretation of this Schedule.

## 2 **Additional Payment**

- 2.1 If a Trigger Event occurs at any time during the Overage Period, an Additional Payment shall immediately become due from the Transferee to the Transferor. The Transferee covenants that it shall pay the Additional Payment to the Transferor on the later of:
- 2.1.1 the date four weeks after the date of the Trigger Event; or
- 2.1.2 the date two weeks after the amount of the Additional Payment is agreed or determined in accordance with the terms of this Schedule.
- 2.2 An Additional Payment shall be due in respect of each and every Planning Permission, if more than one, granted during the Overage Period.
- 2.3 If further Planning Permission is granted during the Overage Period in respect of the same part or parts of the Property for which Planning Permission has already been granted, the Base Value for that part of the Development Land shall be equivalent to its Enhanced Value as at the date of grant of the immediately preceding Planning Permission (calculated on a pro rata basis where applicable) with no expectation of the grant of further Planning Permission.
- 2.4 The Transferee covenants with the Transferor that it shall pay interest at the Interest Rate to the Transferor on each Additional Payment for the period from the date of grant of the relevant Planning Permission to the due date for payment for the Additional

## Payment.

2.5 The Transferee further covenants with the Transferor that it shall pay interest at the Default Rate to the Transferor on any Additional Payment that is not paid on its due date. Such interest shall be payable for the period from the due date to the date of actual payment and shall not affect any other remedy the Transferor may have.

2.6 The Transferee covenants that it shall:-

2.6.1 supply the Transferor with a copy of any planning application submitted by or on behalf of the Transferee during the Overage period within 10 Working Days of its submission to the local planning authority; and

2.6.2 supply the Transferor with a copy of any Planning Permission granted during the Overage Period within 10 Working Days of the date of grant.

2.7 The benefit of the Transferee's covenants in relation to the Additional Payment(s) are assignable by the Transferor subject to the Transferor first procuring that the assignee has executed a deed of covenant containing covenants in the same terms as those given by the Transferor in this Fifth Schedule.

## 3 Amount of Additional Payment

3.1 If agreement is reached on the amount of the Additional Payment within four weeks after the date of the Trigger Event, the Transferee and the Transferor shall immediately sign and date a memorandum recording the amount of the Additional Payment and the date of the memorandum shall be the date of agreement for the purposes of paragraph 2.1.2.

3.2 If the Transferee and the Transferor fail to agree on the amount of the Additional Payment within four weeks after the date of the Trigger Event, either party may refer the matter to an Independent Surveyor.

3.3 The Independent Surveyor shall be appointed jointly by the parties, but in default of agreement within four weeks after the date of the Trigger Event, either party may apply to the President of the Royal Institution of Chartered Surveyors requesting the appointment of an Independent Surveyor.

3.4 If the appointed Independent Surveyor dies or becomes unwilling or incapable of acting, or does not deliver the decision within the time required by paragraph 3.5 then either the Transferor or the Transferee may apply to the President of the Royal Institution of Chartered Surveyors to discharge the appointed Independent Surveyor and to appoint a replacement.

3.5 The Independent Surveyor shall act as an expert and shall give a written copy of the decision on the amount of the Additional Payment to both the Transferee and the Transferor within twelve weeks after the date of the Independent Surveyor's appointment.

3.6 The Transferee and the Transferor shall each be entitled to make submissions to the Independent Surveyor and shall provide (or procure that others provide) the Independent Surveyor with the assistance and documents that the Independent Surveyor reasonably requires to reach a decision.

3.7 The Independent Surveyor's written decision shall be final and binding in the absence

of manifest error or fraud.

3.8 The Transferee and the Transferor agree to pay the Independent Surveyor's costs in the proportions determined by the Independent Surveyor within 10 Working Days after a demand for payment. If they are not so paid, the party against whom the costs were not awarded shall be entitled to pay the Independent Surveyor the sums due and recover the amount from the other party on demand.

3.9 In default of agreement pursuant to paragraph 3.1, the Additional Payment shall be the amount determined by the Independent Surveyor and the date of issue of the Independent Surveyor's written decision shall be taken as the date of determination for the purposes of paragraph 2.1.2.

#### **4 Disposals and restriction**

4.1 Unless the Disposal is a Permitted Disposal the Transferee covenants with the Transferor not to make any Disposal at any time during the Overage Period without first procuring that the person to whom the Disposal is being made has executed a Deed of Covenant.

#### **5 Transferor's obligations**

5.1 In the case of a Permitted Disposal, the Transferor covenants with the Transferee that the Transferor, its successors in title or assignees shall release the restriction in the proprietorship register of the title number under which the Property is registered over that part or parts of the Property within ten Working Days of being requested to do so if it is necessary for registration of the Permitted Disposal provided that:

5.1.1 either no Additional Payment is payable or outstanding; or

5.1.2 if an Additional Payment is payable or outstanding, then it has been paid together with any interest and any VAT that may be payable on it.

5.2 The Transferor covenants with the Transferee that the Transferor, its successors in title or assignees shall procure the withdrawal of the restriction entered against the title to the Property within 4 weeks after the end of the Overage Period.

#### **6 Transferee's Obligation**

6.1 The Transferee covenants with the Transferor not to make a Disposal unless the Transferee or its Successor pays the Transferor's properly and reasonably incurred legal and surveyor's costs and disbursements including any irrecoverable VAT incurred in connection with:-

6.1.1 each Deed of Covenant;

6.1.2 the entry and withdrawal of each restriction against the title to the Property; and

6.1.3 the Transferor granting written consent to each Disposal.

#### **7 Extent of Liability**

7.1 The liability of Robert Mitchell and Elizabeth Mary Mitchell shall cease in relation to each part of the Property in respect of which they shall have effected a Disposal of the

whole of their freehold interest upon the latest of:

7.1.1 the date of such Disposal; or

7.1.2 the date upon which the disponee delivers a valid deed in favour of the Transferor as provided in paragraph 4.1;

7.2 The ending of liability pursuant to paragraph 7.1 shall be without prejudice to the rights of any party in respect of any subsisting breach of the covenants in this deed.

**8 VAT**

8.1 Each amount stated to be payable by the Transferee to the Transferor under or pursuant to this Schedule is exclusive of VAT (if any).

8.2 If any VAT is chargeable on any supply made by the Transferor under or pursuant to this Schedule, the Transferee shall on receipt of a valid VAT invoice, pay the Transferor an amount equal to that VAT.

**13 Execution**

**IN WITNESS** of which this document has been duly executed as a deed and delivered on the date stated at the beginning of this document.

Executed as a deed by )

**DAPHNE ELIZABETH WALDER** )

in the presence of )

Signature of witness

Name (in BLOCK CAPITALS)

Address

Executed as a deed by	)	
<b>ROBERT MITCHELL</b>	)	<i>Robert Mitchell</i>
in the presence of:	)	
Signature of witness	)	<i>Asrar Shah</i>
Name (in BLOCK CAPITALS)	)	ASRAR SHAH
Address	)	1000 LAKEVIEW PORTSMOUTH PO6 3EN

Executed as a deed by a director of	)	
<b>INVESTACC PENSION TRUSTEES LIMITED</b>	)	
in the presence of:	)	
Signature of witness	)	
Name (in BLOCK CAPITALS)	)	
Address	)	

**WARNING**

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003

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Land Registry  
Transfer of part of registered title(s)

TP1

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

1	Title number(s) out of which the property is transferred:  HP653741
2	Other title number(s) against which matters contained in this transfer are to be registered or noted, if any:
3	Property:  Land and buildings on Clarendon Farm Anmore Road Denmead Waterlooville PO7 6HN  The property is identified  <input checked="" type="checkbox"/> on the attached plan and shown:  edged red  <input type="checkbox"/> on the title plan(s) of the above titles and shown:
4	Date:  12 August 2013
5	Transferor:  <b>DAPHNE ELIZABETH WALDER</b>  <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix:  <u>For overseas companies</u> (a) Territory of incorporation:  (b) Registered number in England and Wales including any prefix:

We hereby certify this to be a true copy of the original dated this 12th day of August 2013  
AUS. [Signature]  
Verisona Solicitors and Advocates  
1000 Lakeside, North Harbour  
Hampshire, PO6 3EN



6 Transferee for entry in the register:

**INVESTACC PENSION TRUSTEES LIMITED and ROBERT MITCHELL as TRUSTEES OF THE MINERVA SIPP FOR MR ROBERT MITCHELL (1644)**

For UK incorporated companies/LLPs

Registered number of company or limited liability partnership including any prefix:

INVESTACC PENSION TRUSTEES LIMITED: 02875892

For overseas companies

(a) Territory of incorporation:

(b) Registered number in England and Wales including any prefix:

7 Transferee's intended address(es) for service for entry in the register:

Robert Mitchell: Clarendon Farm Cottage Anmore Road Denmead Waterlooville Hampshire PO7 6HN

InvestAcc Pension Trustees Limited: Minerva House Port Road Industrial Estate Carlisle CA2 7AF

8 The transferor transfers the property to the transferee

9 Consideration

The transferor has received from the transferee for the property the following sum (in words and figures): Three hundred and sixteen thousand five hundred and sixty one pounds (£316,061.00)

The transfer is not for money or anything that has a monetary value

Insert other receipt as appropriate:

10 The transferor transfers with

full title guarantee

limited title guarantee

11 Declaration of trust. The transferee is more than one person and

they are to hold the property on trust for themselves as joint tenants

they are to hold the property on trust for themselves as tenants in common in equal shares

they are to hold the property on trust:

The Transferees declare that they hold the property upon the trusts contained in a Trust Deed made 1<sup>st</sup> August 2003 between (1) Newcastle Building Society and (2) InvestAcc Limited and Supplemental Deeds made between InvestAcc Pension Trustees Limited and Robert Mitchell

12 Additional provisions

## 12.1 DEFINITIONS

In this transfer the following words and expressions shall have the following meanings:

- 12.1.1 "1994 Act" the Law of Property (Miscellaneous Provisions) Act 1994
- 12.1.2 "Access Road" the road which is proposed to allow access to and from the Anmore Road to and from the Property and the Retained Land shown coloured yellow and coloured orange on the Plan
- 12.1.3 "Agreement" means an agreement dated 29 July 2013 and made between the Transferor (1) and the Transferee (2)
- 12.1.4 "Plan" the plan annexed to this transfer
- 12.1.5 "Retained Land" the land comprised in Title Number HP653741 excluding the Property
- 12.1.6 "Riding School" means the informal equine riding school consisting part of the Retained Land
- 12.1.7 "Services" water soil gas oil electricity telephone television radio facsimile telecommunications data communications and other similar services and supplies
- 12.1.8 "Service Media" all sewers drains pipes gullies gutters ducts mains channels wires cables conduits flues watercourses and any other conducting media and associated equipment for the supply of Services
- 12.1.9 "Track" the road which provides a means of access to and from the Riding School to and from the Access Road shown coloured blue on the Plan.

## 12.2 INTERPRETATION

- 12.2.1 The clause headings do not affect the interpretation of this transfer
- 12.2.2 Where two or more persons are included in the respective expressions the "Transferor" and/or the "Transferee" the covenants and agreements which are respectively expressed to be made by the Transferor and/or the Transferee shall be deemed to be made by such persons jointly and severally
- 12.2.3 Words importing one gender are to construed as importing any other gender
- 12.2.4 Words importing the singular are to be construed as importing the plural and vice versa and words importing persons are to include firms companies and corporations and vice versa
- 12.2.5 Any reference to any legislation (whether specifically named or not) is to include any modification extension amendment or re-enactment of that legislation for the time being in force and all instruments orders notices regulations directions byelaws permissions and plans for the time being made issued or given thereunder or deriving validity therefrom

## 12.3 TRANSFER

The Transferor transfers the Property to the Transferee subject to the matters contained or referred to in the Agreement.

#### **12.4 RIGHTS GRANTED**

- 12.4.1 The Property is transferred together with for the benefit of each and every part of the Property the rights set out in the First Schedule
- 12.4.2 The rights set out in the First Schedule shall where the context admits be exercisable in common with the Transferor its successors in title and all persons authorised by it or them or having a like right

#### **12.5 RIGHTS RESERVED**

- 12.5.1 There are excepted and reserved out of the Property for the benefit for the benefit of the Transferor and its successors in title to each and every part of the Retained Land the rights set out in the Second Schedule

#### **12.6 COVENANTS BY THE TRANSFEEE**

- 12.6.1 The Transferee covenants with the Transferor to the intent that the burden of this covenant may run with and bind each and every part of the Property into whosoever hands the same may come and to the intent that the benefit thereof may be annexed to and run with each and every part of the Retained Land to observe and perform the obligations set out in the Third Schedule
- 12.6.2 Any obligation not to do any act or thing shall include an obligation not knowingly to permit or suffer that act or thing to be done by another person

#### **12.7 COVENANTS BY THE TRANSFEROR**

- 12.7.1 The Transferor covenants with the Transferee to the intent that the burden of this covenant may run with and bind each and every part of the Access Road within the Retained Land into whosoever hands the same may come and to the intent that the benefit thereof may be annexed to and run with each and every part of the Property to observe and perform the obligations set out in the Fourth Schedule
- 12.7.2 Any obligation not to do any act or thing shall include an obligation not knowingly to permit or suffer that act or thing to be done by another person

#### **12.8 DECLARATIONS**

- 12.8.1 Section 62 of the Law of Property Act 1925 will not apply to this transfer and except for any rights expressly granted by this transfer nothing will (whether by implication of law or otherwise) operate or be deemed to operate to confer on the Transferee any easement quasi-easement privilege or advantage whatsoever over or against the whole or any part of any adjoining or neighbouring land of the Transferor
- 12.8.2 The Transferee and its successors in title shall not be or become entitled to any right of access of light and air or any other easement or right which would or might restrict or interfere with the free use of the whole or any part of the Retained Land for building development or any other purpose

12.8.3 Upon any disposal of all of its interest in the whole or any part of the Property the Transferee shall be automatically released from all liability arising in connection with the obligations set out in the Third Schedule (save in respect of any antecedent breach of covenant) in so far as they relate to the property disposed of but **PROVIDED THAT** no such release shall operate in respect of the obligations set out in Part II of the Third Schedule unless the disponent has first entered into a direct covenant with the Transferor or its successors in title to observe and perform the obligations therein set out in so far as they relate to the property acquired by the disponent

12.8.4 Upon any disposal of all of its interest in the whole or any part of the Access Road within the Retained Land the Transferor shall be automatically released from all liability arising in connection with the obligations set out in the Fourth Schedule (save in respect of any antecedent breach of covenant) in so far as they relate to the property disposed of **PROVIDED THAT** no such release shall operate in respect of the obligations set out in Part II of the Fourth Schedule unless the disponent has first entered into a direct covenant with the Transferee or their successors in title to observe and perform the obligations therein set out in so far as they relate to the property acquired by the disponent

#### **12.9 INDEMNITY COVENANT**

The Transferee with the object and intent of affording to the Transferor a full and sufficient indemnity (but not further or otherwise) covenants with the Transferor that the Transferee and its successors in title will perform and observe all the covenants agreements restrictions stipulations provisions and conditions and other matters contained or referred to in the Registers of Title Number HP653741 as at the date hereof so far as the same relate to the Property and are still subsisting and capable of taking effect and to indemnify and keep indemnified the Transferor from and against all actions, claims demands losses costs expenses damages and liability in any way relating to any non-observance or non-performance thereof from and including the date of this transfer

#### **12.10 IMPLIED COVENANTS**

12.10.1 The covenant set out in section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall not extend to the words "at his own cost" which shall be deemed to be deleted therefrom and the following words substituted therefor "at the cost of the person to whom he disposes of the property"

12.10.2 The covenant set out in section 3(1) of the Law of Property (Miscellaneous Provisions) Act 1994 shall not extend to the words "and could not reasonably be expected to" which shall be deemed to be deleted therefrom

12.10.3 The covenant set out in section 2(1)(a) of the Law of Property (Miscellaneous Provisions) Act 1994 shall not extend to matters now recorded in registers open to public inspection which for the purposes of section 6(2) thereof are considered to be within the actual knowledge of the person to whom the disposition is made

#### **12.11 OVERAGE COVENANTS**

12.11.1 The Transferor and the Transferee mutually covenant to observe and perform their respective obligations set out in the Fifth Schedule

12.11.2 Any obligation not to do any act or thing shall include an obligation not knowingly to permit or suffer that act or thing to be done by another person

#### **12.12 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

For the purposes of the Contracts (Rights of Third Parties) Act 1999 the Transferor and the Transferee do not intend that any term contained in this transfer is to be enforceable by any person who is not a party to this transfer

#### **12.13 RESTRICTIONS**

The Transferee shall when registering this transfer to contemporaneously apply to the Land Registry (if necessary submitting Form RXI or in any other superseding form, which may be current on the date hereof) for entry of the following Restriction in the proprietorship register of the registers of title being applied for the Property:

“No disposition of the registered estate (other than a charge) by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by a Conveyancer confirming that the provisions of paragraph 4 of the Third Schedule, Part II and paragraph 4.1 of the Fifth Schedule to a transfer dated 12 August 2013 made between Daphne Elizabeth Walder (1) and InvestAcc Pension Trustees Limited and Robert Mitchell as Trustees of the Minerva SIPP for Mr Robert Mitchell (1644) (2) have been complied with or that they do not apply to the disposition.”

#### **12.14 LIMITATION OF LIABILITY**

The parties agree that the liability of InvestAcc Pension Trustees Limited shall be limited to the extent of the assets for the time being which are under their control as trustees of the Minerva SIPP: Mr Robert Mitchell (1644) and that InvestAcc Pension Trustees Limited shall have no such liability after they respectively cease to be a trustee of that trust.

### **THE FIRST SCHEDULE**

(Rights Granted)

- 1.1 The right in common with the owners of the Retained Land and those authorised by them to use and at the Transferee's cost to connect to, use and upgrade or increase the capacity of any Service Media in, on, under or over the Access Road within the Retained Land for the passage of Services to and from the Property but subject to the Transferor's right to divert or alter or (provided that adequate alternative provision is made) to stop up any of the same. The benefit of this right is subject to the owners of the Property complying with all reasonable regulations provided to them by the owners of the Access Road within the Retained Land as to the routes levels points and manner of connection. The Transferee shall not be entitled to use any capacity available in connection with such Service Media that is intended for the use or development of the Retained Land Provided such use or development has been made known to the Transferee and the Transferor (or her successors in title) has consented to the same

(such consent not to be unreasonably withheld or delayed).

- 1.2 The owners of the Retained Land may withhold the Transferee's right to connect into and use the Service Media in accordance with paragraph 1.1 where, in their reasonable opinion which shall be based on expert evidence which shall be provided to the Transferee, the Service Media have insufficient capacity for the use or development of the Retained Land or would be overloaded by the additional passage of Services in or through them following connection to them by the owners of the Property provided that in withholding consent in such circumstances the owners of the Retained Land shall provide to the owners of the Property such information as shall be reasonably requested to enable the Transferee to exercise its right to upgrade or increase the capacity of the Service Media under paragraph 1.1.

## **2 New Services**

- 2.1 The right in common with the owners of the Retained Land and those authorised by them to install and use new Service Media under the Access Road within the Retained Land for the passage of Services to and from the Property. The benefit of this right is subject to:

- 2.1.1 the owners of Property obtaining the prior written consent of the owners of the Access Road within the Retained Land (such consent not to be unreasonably withheld or delayed) before exercising the right to install new Service Media; and
- 2.1.2 the owners of the Property repairing, maintaining, replacing, renewing and cleaning any Service Media installed pursuant to this right, whether or not the Service Media are used in common between the Retained Land and the Property; and
- 2.1.3 the right for the owners of the Retained Land and those authorised by them to connect to, use and upgrade or increase the capacity of any Service Media installed pursuant to this right provided that they shall join the owners of the Property in repairing, maintaining, replacing, renewing and cleaning any Service Media installed pursuant to this right

## **3 Right of way**

- 3.1 A right of way at all times and for all purposes in common with the owners of the Retained Land and those authorised by them with or without vehicles over and along the carriageway of the Access Road within the Retained Land and on foot only over and along such of the footpaths of the Access Road within the Retained Land (if any)

## **4 Entry**

- 4.1 The right for the owners of the Property and those authorised by them to enter and remain upon so much as is necessary of the Access Road within the Retained Land on reasonable prior notice (except in case of emergency) with or without workmen, plant and equipment to:
- 4.1.1 repair, maintain, replace, renew, clean, connect to and sever connections with any Service Media over which rights are granted by this Transfer; and
- 4.1.2 lay further Service Media and apparatus in accordance with the rights granted

in paragraph 2; and

4.1.3 exercise the rights granted in this First Schedule.

4.2 The rights of entry granted by this Transfer are subject to the persons exercising such rights:

4.2.1 as regards any Services Media constructed pursuant to paragraph 4.1 above placing the same within and/or adjacent to any existing services corridors or along a route designated at the sole discretion of the Transferor

4.2.2 obtaining the approval of the Transferor (such approval not to be unreasonably withheld or delayed) to the position of any new connection with the Service Media and agreement as to the capacity available to the Transferee

4.2.3 obtaining the consent of the relevant competent statutory undertaker authority or public utility company (as the case may be) to the connection with any use of such Service Media prior to making any connection therewith

4.2.4 causing as little inconvenience as reasonably practicable to the owners of the Retained Land in the exercise of these rights;

4.2.5 making good as soon as reasonably practicable all damage caused to the Retained Land and any buildings from time to time on it to the reasonable satisfaction of the owners of the Retained Land;

4.2.6 indemnifying any person affected by any damage caused by the exercise of the rights;

4.2.7 giving previous reasonable written notice to the Transferor or his successors in title (as the case may be) of their intention to enter upon the Access Road within the Retained Land for the purpose of carrying out any such works as specified in paragraph 4.2.5; and

4.2.8 not knowingly overloading the Service Media or requiring any connections which would overload the Service Media.

**PROVIDED ALWAYS** that in the event that the owners of the Property shall default in the performance of the obligations contained in this paragraph 4.2 the owner of the Access Road within the Retained Land may carry out such remedial works necessary to remedy the breach with all proper and reasonable costs of remedying such breach payable by the owner of the Property.

4.3 The grant to the Transferee of the rights set out in paragraph 2 above shall not operate so as in any way to restrict impede or fetter the Transferor in its use of the Retained Land or any part thereof for building or other development purpose.

## 5 Right of Support

The right of support from the Retained Land for the Property and the buildings now or hereafter erected on the Property



## SECOND SCHEDULE

### (Rights Reserved)

#### 1 Right of way

- 1.1 A right of way at all times and for all purposes in common with the owners of the Property and those authorised by them with or without vehicles over and along the carriageway of the Access Road within the Property and on foot only over and along such of the footpaths of the Access Road (if any)
- 1.2 A right of way at all times and for all purposes in connection with the use and enjoyment of the Retained Land and in common with the owners of the Property and those authorised by them with or without vehicles over and along the Track
- 1.3 A right of way at all times for agricultural purposes in common with the owners of the Property and those authorised by them with or without vehicles over and along the route highlighted green on the Plan and without prejudice to the generality the right to use the foregoing for access to the Retained Land with a combined harvester provided that the Transferor or her successors in title pay a fair and proper contribution, as calculated by the Transferee acting reasonably, to the repair, maintenance and upkeep of the route highlighted green on the Plan

#### 2 Existing Services

The right to the free and uninterrupted passage and running of Services from and to the Retained Land and any buildings which for the time being are on the Retained Land through the Service Media which are now or which may at any time be laid in on over under or through the Property and the right to make connections thereto

#### 3 New Services

- 3.1 The right in common with the owners of the Property and those authorised by them to install and use new Service Media under the Access Road within the Property for the passage of Services to and from the Retained Land. The benefit of this right is subject to:
- 3.1.1 the Transferor or her successors in title obtaining the prior written consent of the owners of the Property (such consent not to be unreasonably withheld or delayed) before exercising the right to install new Service Media; and
- 3.1.2 the Transferor or her successors in title contributing in equal proportion together with the Transferee and their successors in title for the repair, maintenance, replacement, renewal and cleansing of any Service Media installed pursuant to this right; and
- 3.1.3 the right for the owners of the Property and those authorised by them to connect to, use and upgrade or increase the capacity of any Service Media installed pursuant to this right provided that they shall join the Transferor or her successors in title in repairing, maintaining, replacing, renewing and cleaning any Service Media installed pursuant to this right

#### 4 Entry

- 4.1 The right at all reasonable times and on giving reasonable prior notice (except in case of

emergency) for the Transferor its successors in title and all persons authorised by it or them to enter onto the Property with or without workmen, plant and equipment to:

- 4.1.1 repair, maintain, replace, renew, clean, connect to and sever connections with any Service Media over which rights are granted by this Transfer; and
  - 4.1.2 lay further Service Media and apparatus in accordance with the rights granted in paragraph 3; and
  - 4.1.3 exercise the rights granted in this Second Schedule.
- 4.2 The rights of entry granted by this Transfer are subject to the persons exercising such rights:
- 4.2.1 regarding any Services Media constructed pursuant to paragraph 4.1 above insofar as possible placing the same within and/or adjacent to any existing services corridors or along a route designated at the sole discretion of the Transferee acting reasonably;
  - 4.2.2 obtaining the approval of the Transferee (such approval not to be unreasonably withheld or delayed) to the positions of any new connection with the Service Media and agreement as to the capacity available to the Transferor;
  - 4.2.3 obtaining the consent of the relevant competent statutory undertaker authority or public utility company (as the case may be) to the connection with any use of such Service Media prior to making any connection therewith;
  - 4.2.4 causing as little inconvenience as reasonably practicable to the owners of the Property in the exercise of these rights;
  - 4.2.5 making good as soon as reasonably practicable all damage caused to the Property and any buildings from time to time on it to the reasonable satisfaction of the owners of the Property;
  - 4.2.6 indemnifying any person affected by any damage caused by the exercise of the rights;
  - 4.2.7 giving previous reasonable written notice to the Transferee or his successors in title (as the case may be) of their intention to enter upon the Access Road within the Property for the purpose of carrying out any such works as specified in paragraph 4.2.5; and
  - 4.2.8 not knowingly overloading the Service Media or requiring any connections which would overload the Service Media

**PROVIDED ALWAYS** that in the event that the Transferors or her successors in title shall default in the performance of the obligations contained in this paragraph 4.2 the owner of the Access Road within the Property may carry out such remedial works necessary to remedy the breach with all proper and reasonable costs of such remedial works payable by the Transferors or her successors in title

## 5 Rights of light and air

The right at any time to build develop rebuild alter or use the whole or any part of the Retained Land or any building for the time being on the Retained Land in such manner

that the Transferor or its successors in title may wish notwithstanding that such building development rebuilding alteration or use may interfere with or diminish the amenity of the Property or the access of light and air to the Property

**6 Right of Support**

The right of support from the Property for the Retained Land and the buildings now or hereafter erected on the Retained Land

**7 Diversion**

The right to divert the Service Media laid in, under, through or over the Retained Land as may serve the Property at the expense of the Transferor to a location no less convenient than the existing Service Media (as determined by the Transferor acting reasonably)

**THE THIRD SCHEDULE**

(Restrictive Covenants)

- 1 Not to do anything in or upon the Property that may be or may grow to be a nuisance annoyance or disturbance to the Transferor its successors in title or the owners or occupiers for the time being of any part of the Retained Land Provided that, for the avoidance of all doubt, the use of the Property for any agricultural use or use connected or ancillary to the keeping of horses (so long as such use is exercised in a reasonable manner) shall not be limited in any way by this covenant
- 2 Not to knowingly overload the Service Media beyond their designated capacity having regard to the use and size of buildings now or in the future built upon the Retained Land
- 3 Not to park on or otherwise obstruct any part of the Access Road

Part II

Part II – positive covenants

- 1 To keep all external parts of the Property clean and tidy and where applicable landscaped areas properly cultivated and tended
- 2 To pay on demand a fair and reasonable proportion of all payments costs and expenses incurred by the Transferor or her successors in title in connection with the repair or resurfacing or other maintenance of the Access Road within the Retained Land and maintaining, renewing, replacing and improving the Service Media or the Access Road
- 3 Upon any disposal of any of its interest in the Property including the Access Road within the Property to procure from the disponee a direct covenant with the Transferor or her successors in title to observe and perform the relevant obligations on the part of the Transferee contained in this Transfer
- 4 The Transferee will provide meter readings on a six monthly basis of the sub-meters to be installed at approximately the points marked "Y" and "Z" on the Plan and the cost will be charged to the Transferor at the water authority's standard charge per cubic metre from time to time

- 5 To maintain the part of the Access Road within the Property

#### **THE FOURTH SCHEDULE**

##### **Part I**

##### **Part I - restrictive covenants**

- 1 Not to park on or otherwise obstruct any part of the Access Road within the Property
- 2 Not to knowingly overload the Service Media beyond their designated capacity having regard to the use and size of buildings now or in the future built upon the Property

##### **Part II**

##### **Part II – positive covenants**

- 1 The Transferor shall pay within 28 days of receipt of written required for the water supplied to the Retained Land based on the readings of the sub-meters to be installed at approximately the points marked "Y" and "Z" on the Plan on a six monthly basis
- 2 To pay on demand a fair and reasonable proportion all payments, costs and expenses incurred by the Transferee or their successors in title in connection with the repair, resurfacing or other maintenance of the Access Road within the Property
- 3 To pay within 28 days of receipt of written required a fair and reasonable proportion all payments, costs and expenses incurred by the Transferee or their successors in title in connection with the repair, resurfacing or other maintenance of the route highlighted green on the Plan
- 4 To maintain the part of the Access Road within the Retained Land
- 5 Upon any disposal of any of its interest in the Retained Land including the Access Road within the Retained Land to procure from the disponee a direct covenant with the Transferee or their successors in title to observe and perform the relevant obligations on the part of the Transferor contained in this Transfer

#### **THE FIFTH SCHEDULE**

(Overage)

## THE FIFTH SCHEDULE

(Overage)

### 1. Interpretation

- 1.1 The definitions and rules of interpretation set out in this paragraph apply in this deed.

**Additional Payment** means  $(A - B) \times 50\%$ , where

**A** = Enhanced Value and

**B** = Base Value

**Base Value** means the Market Value of the Development Land immediately prior to the grant of Planning Permission with no expectation of the grant of Planning Permission.

**Deed of Covenant** means a deed of covenant with the Transferor containing covenants in the same terms as those given by the Transferee in this Schedule with such minor modifications as may be reasonably necessary.

**Default Rate** means 4% per annum above the base rate from time to time of Barclays Bank PLC.

**Development** means development of the whole or any part or parts of the Property, with or without other land, for any development within the meaning of section 55 of the Town and Country Planning Act 1990 as at the date hereof.

**Development Land** means such part or parts of the Property in respect of which Planning Permission is granted during the Overage Period.

**Disposal** means a disposition within the meaning of section 205 of the Law of Property Act 1925 of the whole or any part or parts of the Property.

**Enhanced Value** means the Market Value of the Development Land as at the date of the relevant Implementation and with the benefit of the relevant Planning Permission.

**Existing Use** means grazing and/or agriculture.

**Implementation** means the implementation of a Planning Permission at the Property and the date of such implementation shall be the date of initiation of the Development as determined in accordance with section 56 of the 1990 Act PROVIDED for the purpose of this agreement Implementation shall exclude:

- a) demolition;
- b) site survey;
- c) ecological survey;
- d) archaeological survey;
- e) remediation; and
- f) erection of fences and hoardings

and **implement** and **implemented** shall mutatis mutandis be construed accordingly.

**Independent Surveyor** means a Fellow of the Royal Institution of Chartered Surveyors with at least 10 years' experience in valuing properties similar to the Development Land, for uses similar to the Development, and whose usual place of practice is within a 35 mile radius of the Development Land.

**Interest Rate** means the base rate from time to time of the Royal Bank of Scotland Bank PLC.

**Market Value** means the estimated amount for which the Development Land should exchange between a willing buyer and a willing seller in an arm's length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion, on the basis that:

- (a) it is assessed in accordance with Practice Statement 3.2 of the eighth edition of the RICS Valuation Standards;
- (b) the provisions of this Schedule are disregarded;
- (c) the Development Land has vacant possession;
- (d) the Development Land is assumed to be free from all encumbrances other than those contained or referred to in the Land Registry title number HP7653741 and those attached to the property at the date of this agreement;
- (e) the Development Land is assumed not to be contaminated (unless at the time of the valuation there is clear evidence that the land is contaminated); and
- (f) any damage to or destruction of the Development Land occurring after the date of this transfer is assumed to have been fully reinstated.

**Overage Period** means twenty five (25) years starting on the date of this Transfer and ending at midnight on the relevant day.

**Permitted Disposal** means any of the following:

- (a) the disposal of part of the Property by way of transfer of the freehold or the grant of a lease for a term exceeding twenty one (21) years in each case to a service authority or utility company in order to provide water, gas, electricity, communication services or foul or surface water disposal facilities to or from the Property;
- (b) the grant of any easement or wayleave to a service authority or utility company in order to provide water, gas, electricity, communication services or foul or surface water disposal facilities to or from the Property;
- (c) the grant of a lease over the whole or any part of the Property at an open market rent without taking a premium for a term not exceeding twenty five (25) years without the right for the tenant to renew the lease and which permits the use of the Property only for the Existing Use without any right for the tenant to apply to the landlord for a change of the use authorised by the lease; and
- (d) a charge to secure the repayment of money to a bona fide UK bank, building society or similar financing institution.

**Planning Permission** means planning permission for Development and for the avoidance of doubt the date of granting a "Planning Permission" means the date upon which the Local Planning Authority shall resolve to grant planning permission being (a) a full planning permission and / or (b) an outline planning permission and / or (c) approval of all necessary reserved matters

**Successor** means any person to whom a Disposal is made

**Trigger Event** means the Implementation of a Planning Permission **VAT** means value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement and any additional replacement tax.

**Working Day** means any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory Bank Holiday.

- 1.2 A **person** includes a corporate or unincorporated body.
- 1.3 Unless otherwise specified, a reference to a particular law is a reference to it as it is in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.4 Except where a contrary intention appears, a reference to a paragraph is a reference to a paragraph of this Schedule.
- 1.5 Paragraph headings do not affect the interpretation of this Schedule.

## **2. Additional Payment**

- 2.1 If a Trigger Event occurs at any time during the Overage Period, an Additional Payment shall immediately become due from the Transferee to the Transferor. The Transferee covenants that it shall pay the Additional Payment to the Transferor on the later of:
  - 2.1.1 the date four weeks after the date of the Trigger Event; or
  - 2.1.2 the date two weeks after the amount of the Additional Payment is agreed or determined in accordance with the terms of this Schedule.
- 2.2 An Additional Payment shall be due in respect of each and every Planning Permission, if more than one, granted during the Overage Period.
- 2.3 If further Planning Permission is granted during the Overage Period in respect of the same part or parts of the Property for which Planning Permission has already been granted, the Base Value for that part of the Development Land shall be equivalent to its Enhanced Value as at the date of grant of the immediately preceding Planning Permission (calculated on a pro rata basis where applicable) with no expectation of the grant of further Planning Permission.
- 2.4 The Transferee covenants with the Transferor that it shall pay interest at the Interest Rate to the Transferor on each Additional Payment for the period from the date of grant of the relevant Planning Permission to the due date for payment for the Additional Payment.

- 2.5 The Transferee further covenants with the Transferor that it shall pay interest at the Default Rate to the Transferor on any Additional Payment that is not paid on its due date. Such interest shall be payable for the period from the due date to the date of actual payment and shall not affect any other remedy the Transferor may have.
- 2.6 The Transferee covenants that it shall:-
- 2.6.1 supply the Transferor with a copy of any planning application submitted by or on behalf of the Transferee during the Overage period within 10 Working Days of its submission to the local planning authority; and
- 2.6.2 supply the Transferor with a copy of any Planning Permission granted during the Overage Period within 10 Working Days of the date of grant.
- 2.7 The benefit of the Transferee's covenants in relation to the Additional Payment(s) are assignable by the Transferor subject to the Transferor first procuring that the assignee has executed a deed of covenant containing covenants in the same terms as those given by the Transferor in this Fifth Schedule.
- 3. Amount of Additional Payment**
- 3.1 If agreement is reached on the amount of the Additional Payment within four weeks after the date of the Trigger Event, the Transferee and the Transferor shall immediately sign and date a memorandum recording the amount of the Additional Payment and the date of the memorandum shall be the date of agreement for the purposes of paragraph 2.1.2.
- 3.2 If the Transferee and the Transferor fail to agree on the amount of the Additional Payment within four weeks after the date of the Trigger Event, either party may refer the matter to an Independent Surveyor.
- 3.3 The Independent Surveyor shall be appointed jointly by the parties, but in default of agreement within four weeks after the date of the Trigger Event, either party may apply to the President of the Royal Institution of Chartered Surveyors requesting the appointment of an Independent Surveyor.
- 3.4 If the appointed Independent Surveyor dies or becomes unwilling or incapable of acting, or does not deliver the decision within the time required by paragraph 3.5 then either the Transferor or the Transferee may apply to the President of the Royal Institution of Chartered Surveyors to discharge the appointed Independent Surveyor and to appoint a replacement.
- 3.5 The Independent Surveyor shall act as an expert and shall give a written copy of the decision on the amount of the Additional Payment to both the Transferee and the Transferor within twelve weeks after the date of the Independent Surveyor's appointment.
- 3.6 The Transferee and the Transferor shall each be entitled to make submissions to the Independent Surveyor and shall provide (or procure that others provide) the Independent Surveyor with the assistance and documents that the Independent Surveyor reasonably requires to reach a decision.
- 3.7 The Independent Surveyor's written decision shall be final and binding in the absence of manifest error or fraud.



3.8 The Transferee and the Transferor agree to pay the Independent Surveyor's costs in the proportions determined by the Independent Surveyor within 10 Working Days after a demand for payment. If they are not so paid, the party against whom the costs were not awarded shall be entitled to pay the Independent Surveyor the sums due and recover the amount from the other party on demand.

3.9 In default of agreement pursuant to paragraph 3.1, the Additional Payment shall be the amount determined by the Independent Surveyor and the date of issue of the Independent Surveyor's written decision shall be taken as the date of determination for the purposes of paragraph 2.1.2.

#### **4. Disposals and restriction**

4.1 Unless the Disposal is a Permitted Disposal the Transferee covenants with the Transferor not to make any Disposal at any time during the Overage Period without first procuring that the person to whom the Disposal is being made has executed a Deed of Covenant.

#### **5. Transferor's obligations**

5.1 In the case of a Permitted Disposal, the Transferor covenants with the Transferee that the Transferor, its successors in title or assignees shall release the restriction in the proprietorship register of the title number under which the Property is registered over that part or parts of the Property within ten Working Days of being requested to do so if it is necessary for registration of the Permitted Disposal provided that:

5.1.1 either no Additional Payment is payable or outstanding; or

5.1.2 if an Additional Payment is payable or outstanding, then it has been paid together with any interest and any VAT that may be payable on it.

5.2 The Transferor covenants with the Transferee that the Transferor, its successors in title or assignees shall procure the withdrawal of the restriction entered against the title to the Property within 4 weeks after the end of the Overage Period.

#### **6. Transferee's Obligation**

6.1 The Transferee covenants with the Transferor not to make a Disposal unless the Transferee or its Successor pays the Transferor's properly and reasonably incurred legal and surveyor's costs and disbursements including any irrecoverable VAT incurred in connection with:-

6.1.1 each Deed of Covenant;

6.1.2 the entry and withdrawal of each restriction against the title to the Property; and

6.1.3 the Transferor granting written consent to each Disposal.

#### **7. Extent of Liability**

7.1 The liability of Robert Mitchell and Elizabeth Mary Mitchell shall cease in relation to each part of the Property in respect of which they shall have effected a Disposal of the whole of their freehold interest upon the latest of:

- 7.1.1 the date of such Disposal; or
- 7.1.2 the date upon which the disponee delivers a valid deed in favour of the Transferor as provided in paragraph 4.1;
- 7.2 The ending of liability pursuant to paragraph 7.1 shall be without prejudice to the rights of any party in respect of any subsisting breach of the covenants in this deed.
- 8. VAT**
- 8.1 Each amount stated to be payable by the Transferee to the Transferor under or pursuant to this Schedule is exclusive of VAT (if any).
- 8.2 If any VAT is chargeable on any supply made by the Transferor under or pursuant to this Schedule, the Transferee shall on receipt of a valid VAT invoice, pay the Transferor an amount equal to that VAT.

13 Execution

**IN WITNESS** of which this document has been duly executed as a deed and delivered on the date stated at the beginning of this document.

Executed as a deed by )

**DAPHNE ELIZABETH WALDER** ) .....

in the presence of )

Signature of witness .....

Name (in BLOCK CAPITALS) .....

Address .....

.....

.....

Executed as a deed by )

**ROBERT MITCHELL** ) .....

in the presence of: )

Signature of witness .....

Name (in BLOCK CAPITALS) .....

Address .....

.....

.....

Executed as a deed by a director of )	
<b>INVESTACC PENSION TRUSTEES )</b>	<i>Julie Barr</i> .....
<b>LIMITED )</b>	
in the presence of:	
Signature of witness	<i>G. Duguid</i> .....
Name (in BLOCK CAPITALS)	<i>GRAEME DUGUID</i> .....
Address	<i>139 GRAHAM STREET</i> .....
	<i>PENRITH</i> .....
	.....

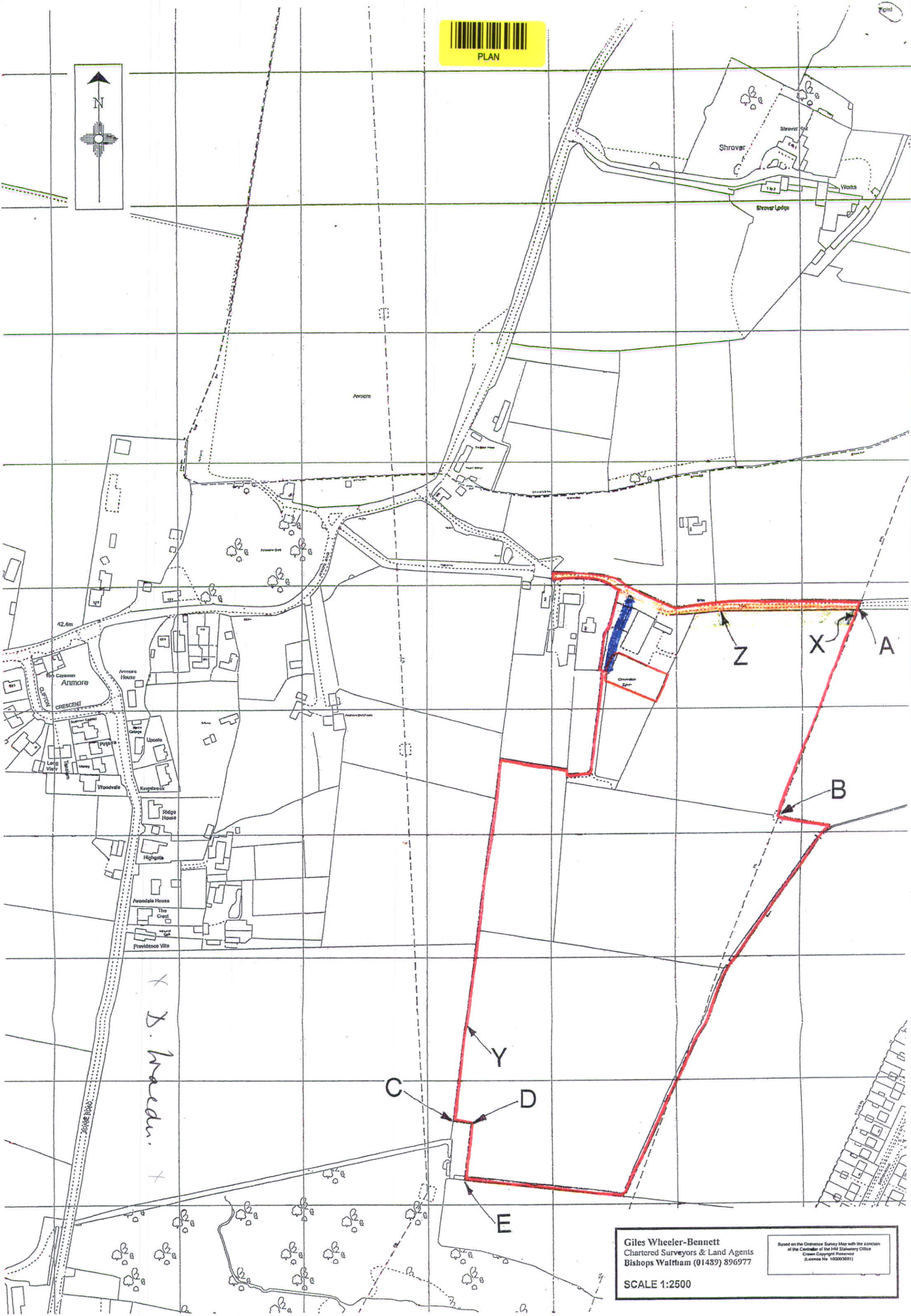
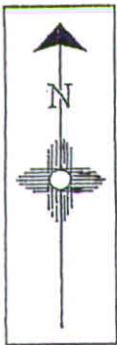
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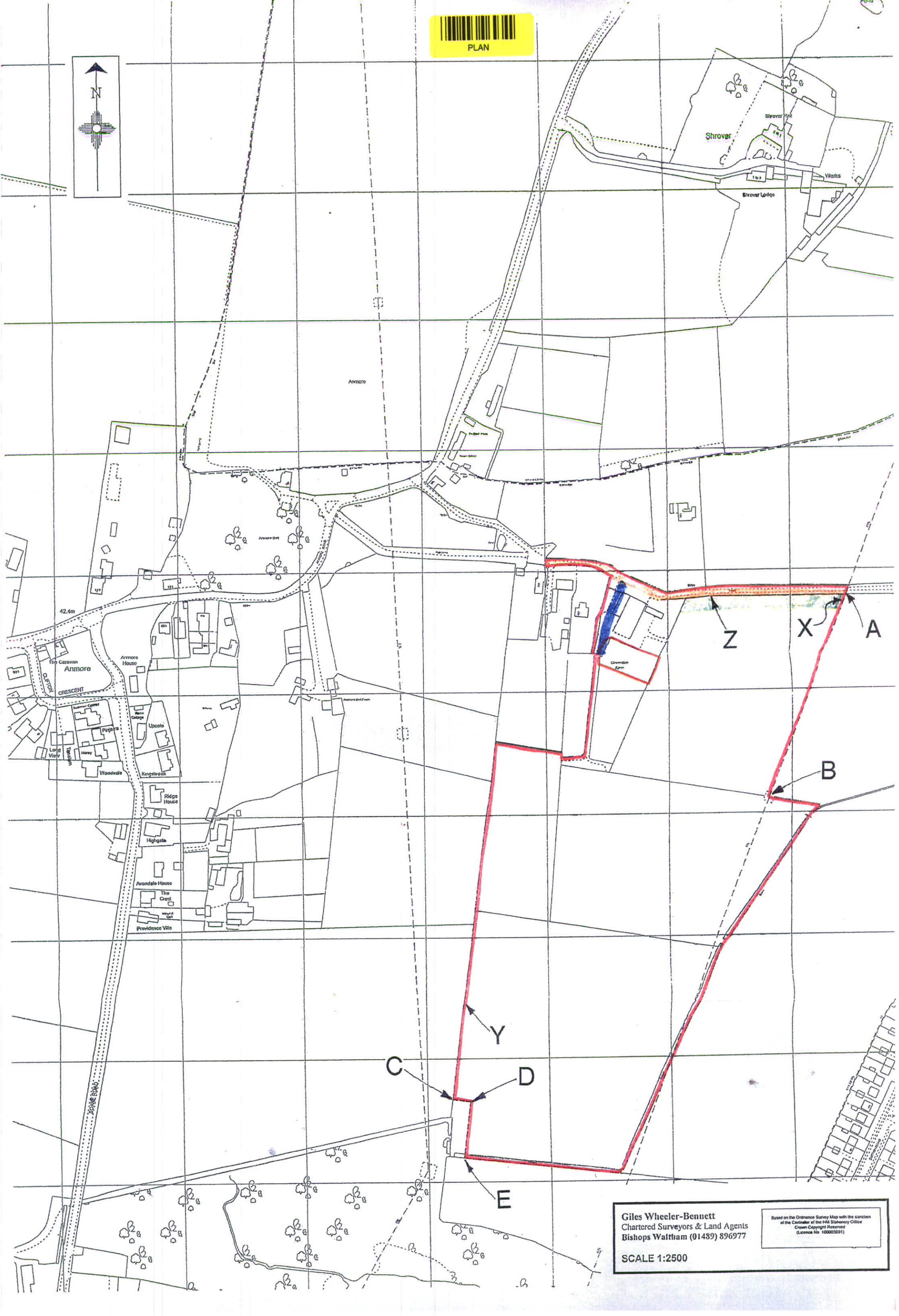
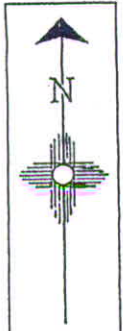
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Giles Wheeler-Bennett  
 Chartered Surveyors & Land Agents  
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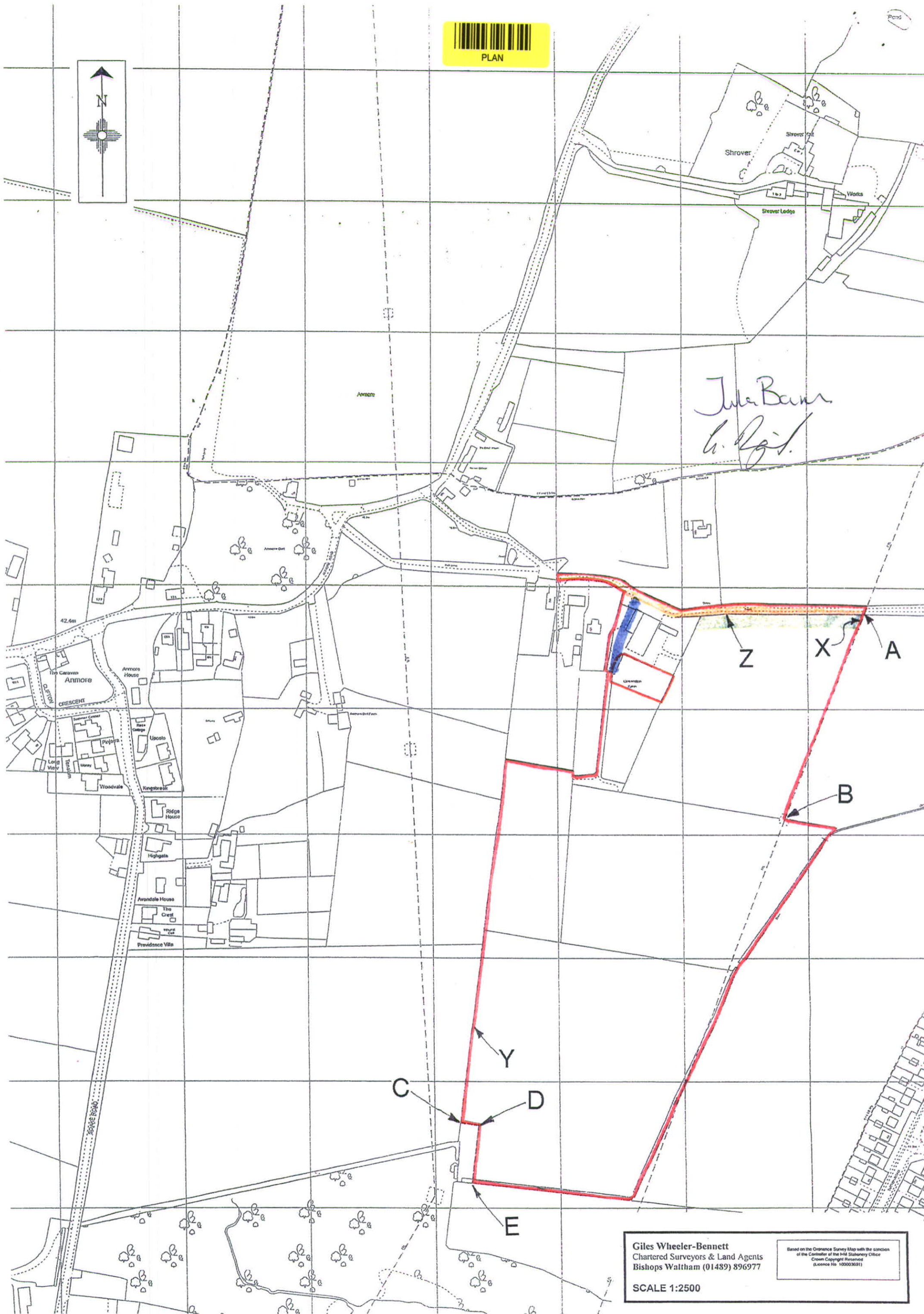
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*John Barr  
G. G. G.*

Giles Wheeler-Bennett  
Chartered Surveyors & Land Agents  
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