

DATED *30 January* 2014

WINCHESTER CITY COUNCIL
as Council

SILVERHILL WINCHESTER NO 1 LIMITED
as Developer

BNP PARIBAS JERSEY TRUST CORPORATION LIMITED
and
ANLEY TRUSTEES LIMITED
as the trustees of the **HENDERSON UK PROPERTY FUND**
as the Guarantor

**SUPPLEMENTAL DEED
TO DEVELOPMENT AGREEMENT**

in respect of Silver Hill Winchester

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DATED 30 January 2014

PARTIES

- (1) **WINCHESTER CITY COUNCIL** of City Offices Colebrook Street Winchester SO23 9L1 (the "**Council**")
- (2) **SILVERHILL WINCHESTER NO 1 LIMITED** (formerly Thornfield Properties (Winchester) Limited (Company No. 04057646) whose registered office is at 1 Little New Street London EC4A 3TR England (the "**Developer**")
- (3) **BNP PARIBAS JERSEY TRUST CORPORATION LIMITED** a company incorporated in Jersey (registered number 17296) and **ANLEY TRUSTEES LIMITED** a company incorporated in Jersey (registered number 58883) both of whose registered offices are at BNP Paribas House Anley Street St Helier Jersey, as trustees of the Henderson UK Property Fund (the "**Guarantor**")

OPERATIVE PROVISIONS

1 **DEFINITIONS**

1.1 In this Deed:

"**Acquisition Agreement**" means a contract dated the same date as this Deed and made between the Council and the Landowners for the purchase of the Acquisition Properties for the Price.

"**Acquisition Properties**" means those properties to be acquired by the Council pursuant to the Acquisition Agreement which are more particularly described in Schedule 1 (*Acquisition Properties*).

"**Collateral Agreement**" means an agreement collateral to the Development Agreement dated 10 December 2010 and made between the Council, the Developer and the Guarantor.

"**CPO**" means the compulsory purchase order entitled "the Winchester City Council (Silver Hill) Compulsory Purchase Order 2011" confirmed by the Secretary of State on 20 March 2013 to facilitate the Development.

"**CPO Indemnity**" means the CPO Indemnity Agreement dated 18 November 2011 and made between the Council, the Developer and the Guarantor.

"**Deficit Rental Income**" means the amount by which the aggregate of the annual Holding Costs, or a pro rata proportion thereof for a Reimbursement Year which is less than a year, and Expenses exceeds the aggregate of the Rental Income in the same Reimbursement Year and the Rental Income Excess for any previous Reimbursement Year which has not already been taken into account in any previous calculation of Deficit Rental Income or repaid to the Developer as provided at Clause 4.1(h).

"**Expenses**" means expenditure paid by the Council in respect of the Acquisition Properties, including irrecoverable VAT, in a Reimbursement Year.

"**First Variation**" means the Deed of Variation to the Development Agreement dated 22 October 2009 and made between the Council (1) the Developer (2) and Thornfield Properties Plc as guarantor (3).

"Holding Costs" means the aggregate of:

- (a) the annual interest on the Price at the rate of four per cent per annum above the 12 month London Interbank Offered Rate for the relevant Reimbursement Year; and
- (b) the Management Costs.

"HUKPF" means Henderson UK Property Fund.

"King's Walk" means the leasehold property described in Schedule 1, paragraph 2.

"King's Walk Lease" means the registered lease of King's Walk.

"Landowners" means London & Henley (Middle Brook Street) Limited (Company No. 03757657) and Beaufort Estates Limited (Company No. 02883794).

"Management Costs" means the proper and reasonable internal management costs of the Council in managing the Acquisition Properties or the proper and reasonable cost incurred by the Council in appointing external managing agents to manage the Acquisition Properties in either case up to a maximum of £15,000 per annum.

"Option" means the put option granted by the Developer in Schedule 2 (*Put Option*) paragraph 2 (*Option*).

"Option Period" means subject to Schedule 2 (*Put Option*) paragraph 2.3, the period of 40 Working Days from, but excluding, the Termination Date.

"Parties" means the Council, the Developer and the Guarantor.

"Price" means the sum of £5 million (five million pounds).

"Principal Agreement" means the Development Agreement dated 22 December 2004 and made between the Council, the Developer and Thornfield Properties Plc as guarantor (the **"Development Agreement"**), as varied and/or supplemented by the First Variation, two letters from the Developer and Thornfield Properties Plc to the Council and one from the Council to the Developer all dated 22 October 2009, the Second Variation, the Collateral Agreement, a letter dated 10 December 2010 from the Council to the Developer and the Guarantor, the CPO Indemnity, letter dated 6 July 2012 from the Council to the Developer and the Guarantor and a letter dated the same date as this Deed from the Council to the Developer and the Guarantor.

"Reimbursement Period" means the period from, and including, the date of this Deed until, and including, the Unconditional Date or, if the Termination Date occurs before the Unconditional Date and if the Option is exercised, the Completion Date or, if the Termination Date occurs before the Unconditional Date and the Option is not exercised during the Option Period, the end of the last day of the Option Period.

"Reimbursement Year" means the year commencing on, and including, the date of this Deed and each successive year during the Reimbursement Period and the period commencing on, and including, the anniversary of the date of this Deed immediately preceding the end of the Reimbursement Period and ending on, and including, the last day of the Reimbursement Period.

"Rental Documents" means any written document or arrangement pursuant to which the Council receives Rental Income.

"Rental Income" means income received by the Council in respect of the Acquisition Properties in a Reimbursement Year, including rents, licence fees, service charges and the proceeds of loss of rent insurance but excluding other insurance proceeds.

"Rental Income Excess" means the amount by which the Rental Income in a Reimbursement Year exceeds the aggregate of the annual Holding Costs, or a pro rata proportion thereof for a Reimbursement Year which is less than a year, and Expenses.

"Second Variation" means the Deed of Variation to the Development Agreement dated 10 December 2010 and made between the Council, the Developer and the Guarantor.

"Surveys Costs" means the sum of £9,750 in respect of surveys undertaken by GVA Grimley and £3,000 in respect of environmental surveys. [REDACTED]

WQH.

"Termination Date" means the date of termination of the Principal Agreement referred to in Clause 4.11.

1.2 The words and expressions defined in Schedule 2 (*Put Option*) shall have the meanings assigned to them in this Deed.

2 INTERPRETATION

2.1 Expressions used in this Deed which commence with a capital letter, but are not defined in this Deed, shall have the meanings set out in the Principal Agreement.

2.2 The provisions set out in clause 1.2 (Interpretation) of the Principal Agreement shall apply equally to this Deed such that references in such clause 1.2 to "this Agreement" shall be read and construed as references to this Deed provided that clause 1.2.1 of the Principal Agreement shall be read as if "the Council" was included after the words "on the part of" in line one.

2.3 Clause 25 of the Development Agreement shall apply equally in respect of any notice to be served under this Deed, except that clause 25.8 of the Development Agreement shall not apply.

2.4 References in this Deed to clauses in the Development Agreement shall be to those clauses as supplemented and varied by the other deeds and the letters forming part of the Principal Agreement.

2.5 BNP Paribas Jersey Trust Corporation Limited and Anley Trustees Limited are entering into this Deed in their capacity as Trustees of the HUKPF and as such any liability on the part of BNP Paribas Jersey Trust Corporation Limited and Anley Trustees Limited under this Deed and the Principal Agreement is limited to the assets held on trust from time to time of the HUKPF which are in their possession or under their control as trustees of the HUKPF.

3 OPERATION OF THIS DEED

This Deed is supplemental to the Principal Agreement.

4 **ACQUISITION PROPERTIES**

4.1 With effect from the date of this Deed:

- (a) the Acquisition Properties shall be subject to the provisions of clause 15 of the Development Agreement as if the Acquisition Properties formed part of the Council's Land but they shall not be subject to the provisions of clause 16.6 of the CPO Indemnity;
- (b) the Council shall not without the prior consent of the Developer, which shall not be unreasonably withheld, vary the King's Walk Lease or agree any review of the rent payable pursuant to it;
- (c) the Council shall not merge or surrender the King's Walk Lease;
- (d) the Council will maintain full and accurate records of all Management Costs, Expenses and Rental Income and the dates of payment and receipt thereof and will retain all supporting invoices, vouchers and evidential documents relating to such records and allow the Developer and its representatives to inspect and take copies of such on giving reasonable prior notice;
- (e) the Council will supply a copy of such records to the Developer no less frequently than quarterly until the expiry of the Reimbursement Period;
- (f) if in any Reimbursement Year there is a Deficit Rental Income, the Developer will, within 20 Working Days of receipt of written demand accompanied by an invoice and by the records referred to in Clause 4.1(e) for the relevant Reimbursement Year, reimburse the amount of the Deficit Rental Income to the Council;
- (g) an Expense, Rental Income and Management Cost which relates to the Acquisition Properties and other property shall be apportioned on a fair and reasonable basis;
- (h) if, following payment of any Deficit Rental Income by the Developer to the Council, at the end of any subsequent Reimbursement Year there is a Rental Income Excess, the Council shall refund an amount equal to such Deficit Rental Income to the Developer up to a maximum of the Rental Income Excess within 20 Working Days of receipt of written demand and once a payment has been made by the Council pursuant to this Clause the amount of the Deficit Rental Income considered to have been paid under this Deed shall be reduced by the amount of the payment made to the Developer by the Council under this Clause;
- (i) any dispute between the parties under this Clause 4 (*Acquisition properties*) shall be referred to Independent Determination;
- (j) the Council shall not other than in accordance with the terms of this Deed terminate any Rental Document or vary any one of them in such a way as to reduce the amount of Rental Income payable pursuant to a Rental Document without the prior approval of the Developer whose approval shall not be unreasonably withheld;
- (k) the Council will provide the Developer with copies of all material correspondence with all parties who hold an interest in or rights over the Acquisition Properties and shall provide the Developer with a copy of a

quarterly management report from the Council or any managing agents for the Acquisition Properties and the Council shall provide the Developer with all additional information relating to Rental Income as the Developer may reasonably require;

- (l) it shall diligently take all reasonable steps to enforce the obligations for payment by tenants/licensees pursuant to the Rental Documents and shall regularly keep the Developer advised as to any arrears of such payments and shall take such reasonable additional steps as the Developer may reasonably request in relation to the enforcement of such obligations at the cost of the Developer.

4.2 Subject to agreement by the Developer of the reasonable and proper costs pursuant to Clause 4.4(e), the Council shall use reasonable endeavours to generate Rental Income from the Acquisition Properties provided that all rights and interests including any lease, tenancy or licence are in accordance with the provisions of clause 15 of the Development Agreement as if the Acquisition Properties formed part of the Council's Land.

4.3 The parties acknowledge that provided the Principal Agreement becomes unconditional the Acquisition Properties will be redeveloped by the Developer as part of the Development and therefore the Council shall take reasonable steps to ensure that the amount of Expenses in relation to the maintenance of the Acquisition Properties is as low as reasonably practicable but taking account of the requirement of the Council to comply with its statutory obligations as owner of the Acquisition Properties and its obligations as landlord under the Rental Documents provided that in relation to the latter the Council shall (except in relation to minor costs up to £10,000 per annum) consult with the Developer to agree appropriate maintenance having regard to the principles of this Clause 4.3 and such agreement of the Developer shall not be unreasonably withheld but shall not be required in the case of any tenant under a Rental Document serving notice on the Council to comply with its obligations under a Rental Document unless the Developer requires the Council to terminate any such Rental Document pursuant to its terms as permitted by Clause 4.10.

4.4 Expenses shall be subject to the provisions of Clause 4.3 and otherwise shall comprise the reasonable and proper costs of:

- (a) minor maintenance;
- (b) complying with the Council's obligations under each Rental Document;
- (c) complying with the Council's statutory obligations as owner of the Acquisition Properties;
- (d) insuring the Acquisition Properties and costs of insurance valuations when reasonably necessary but not more than once every two years, and other costs and expenses relating to procuring and/or maintaining such insurance;
- (e) securing occupiers for the Acquisition Properties, such sums to be agreed in advance by the Developer whose agreement shall not be unreasonably withheld

but, Expenses shall exclude:

- (i) any sums received from third parties by way of reimbursement of service charge costs and/or insurance costs; and
 - (ii) all sums recovered pursuant to any policy of insurance taken out in respect of the Acquisition Properties but excluding sums recovered in respect of rent or licence fees;
 - (iii) any sums recovered pursuant to any warranty, guarantee or contractual obligation for works, provision of services, products or materials or otherwise;
- 4.5 In relation to any claims under any policy of insurance taken out by the Council or rights referred to in clause 4.4(ii) it shall take all reasonable steps to diligently pursue claims under such insurance or rights in respect of any claims.
- 4.6 The Developer shall pay to the Council the sum of £50,600.20 in respect of the Council's costs and expenses in relation to the acquisition of the Acquisition Properties and this Deed on the date of this Deed.
- 4.7 If the Council undertakes asbestos surveys of the Acquisition Properties as required by statute, the Developer shall repay to the Council the proper and reasonable costs of such surveys such sums to be paid within 15 Working Days of the Developer's receipt of an invoice from the Council with copies of the invoices for the surveys.
- 4.8 Upon the Unconditional Date the Developer shall pay to the Council a sum equal to the Price and such payment shall comprise an item of Development Costs.
- 4.9 For the purposes of the calculation of Development Costs the sums paid by the Developer in respect of Deficit Rental Income, the sums paid pursuant to Clause 4.6, Clause 4.7 and Clause 4.8 and the Surveys Costs and the costs of a valuation of the Acquisition Properties by MMX in the sum of £12,500 shall comprise items of Development Costs.
- 4.10 The parties agree the general principle of taking reasonable steps to minimise the CPO Costs and the Council acknowledges that there may be occasion to minimise the CPO Costs in relation to the cost of acquiring Third-Party Interests which comprise interests or rights of occupation in the Acquisition Properties prior to the Unconditional Date by the exercise of contractual landlord's break rights. If the Developer acting reasonably, considers that the CPO Costs may be minimised by exercising any contractual rights of the Council as landlord to terminate any such interests or rights of occupation of the Acquisition Properties it may apply to the Council for its approval, setting out its proposals including an assessment of the potential saving in CPO Costs by exercising the relevant right to terminate the relevant interest or right of occupation in the Acquisition Properties and the Council shall not unreasonably withhold its approval where the relevant break rights cannot reasonably be exercised at a date after the anticipated Unconditional Date that secures possession in accordance with the development programme of the Developer from time to time. If the Council approves such application it shall on the written request of the Developer promptly take all steps, serve all notices and execute all documents necessary pursuant to the terms of such interest or right of occupation in the Acquisition Properties to terminate it. All costs incurred by the Council pursuant to this Clause shall comprise CPO Costs and shall be payable in accordance with the CPO Indemnity.
- 4.11 If the Principal Agreement is terminated before the Unconditional Date:

- (a) the provisions of Schedule 2 (*Put Option*) shall apply with effect from the date of such termination;
- (b) if the Council does not exercise the Option it shall repay to the Developer a sum equal to the total of the sums paid by the Developer pursuant to Clause 4.6 and an amount equal to the Surveys Costs such payment to be made within 10 Working Days of the end of the Option Period subject to the Council's prior receipt of a written invoice from the Developer in respect of such sum;
- (c) for the purposes of giving effect to the terms of this Clause 4.11 and Schedule 2 (*Put Option*) such other provisions of the Principal Agreement and this Deed as are reasonably necessary shall continue in full force and effect until such times as the provisions of this Clause 4.11 and Schedule 2 have either been complied with or cease to apply.

5 VARIATIONS TO THE PRINCIPAL AGREEMENT

With effect from the date of this Deed, the CPO Indemnity shall be read and construed as being varied as set out in this Clause 5 (*Variations to the Principal Agreement*):

- 5.1 Clause 24 of the CPO Indemnity shall be amended by deleting the text shown struck through and by adding the text shown underlined as follows:

24 IMPLEMENTATION OF CPO

- 24.1 Following the Unconditional Date the provisions of this Clause 24 (*Implementation of CPO*) shall apply.
- 24.2 The Council will adhere to all statutory requirements in relation to the confirmation of the CPO and will draft all publicity documents on behalf of the Council after consultation with the Developer.
- 24.3 The Council shall promptly give notice to the Developer when the Council has complied with Clause 24.2 and provide copies to the Developer.
- 24.4 As soon as reasonably practicable after confirmation of the CPO the Developer and the Council shall work together and the Developer shall prepare and the Developer and the Council shall agree the proposed structure, programme and phasing for the acquisition and possession of the Third Party Interests pursuant to the CPO and (where relevant and practicable) by service of break notices pursuant to any leasehold Third Party Rights of which the Council is, or will become (as part of the implementation of the CPO) landlord, (such agreement not to be unreasonably withheld).
- 24.5 The Developer shall thereafter give notice to the Council in line with the Programme each time it wishes the Council to
 - (a) proceed to make a general vesting declaration(s) and/or issue notices to treat with notice(s) of entry and the Third Party Interests to be included in and, as appropriate, the dates for making general vesting declarations or issuing a notice(s) to treat with a notice(s) of entry-

(b) serve a break notice pursuant to any lease where the Council is the landlord under a Third Party Interest or in respect of any Outstanding Interests.

24.524.6 The Programme shall be updated by the Developer as often as is reasonably necessary to ensure that it is up to date and thereafter submitted to the Council, and the Developer shall have due regard to any reasonable representations which the Council may make.

24.624.7 The Council shall not be required to serve any general vesting declaration or any notice to treat or break notice until the Developer has provided to the Developer's Solicitors a sum equal to the estimated amount of Compensation as set out in the Compensation Budget for the Third Party Interest (less any advance payment already made) or any payment required to be made pursuant to the terms upon which any break notice may be served and the relevant leasehold Third Party Interest terminated, in respect of which notice is served by the Developer pursuant to Clause 24.5, by way of cleared funds into their client account) and which shall be held pursuant to the terms of the Escrow Letter. The sums paid into the Developer's Solicitors account pursuant to this Clause 24.7 being referred to as Compensation Sums.

24.724.8 Subject to Clause 24.7 the Council shall on receipt of a notice or notices from the Developer in accordance with Clause 24.5 make a general vesting declaration(s) or issue notices to treat and/or notices of entry, and/or serve break notices (as applicable) in respect of such Third Party Interests and for possession of them at such times as the Developer shall from time to time specify in accordance the Programme.

24.7.124.8.1 If the Council ~~either~~ makes a general vesting declaration ~~or~~, serves any notice to treat or break notice otherwise than following receipt of a notice or notices from the Developer in accordance with Clause 24.8, the Council shall not be entitled to any payment or indemnity pursuant to the provisions of Clause ~~9 9~~ (CPO indemnity) in respect of such Third Party Interests as may be affected by any such general vesting declaration or notice to treat, unless at the request of the Developer such Third Party Interests are subsequently transferred to the Developer.

24.7.224.8.2 On the vesting date or the expiry of the notice of entry or break notice the Council will take possession of the Third Party Interests or the relevant interests or part of them and, if it is prevented from doing so, shall take all reasonable steps to secure possession through the Sheriff's Warrant procedure or any other method which may be lawful and appropriate and such interests shall become Council's Land for the purpose of clause 15 of the Development Agreement. The Council will keep the Developer promptly informed of its progress in obtaining possession.

24.7.324.8.3 The Council shall, if required so to do by the Developer, refer the determination of the statutory compensation payable to a claimant to the Upper Tribunal. The Developer will provide all reasonable cooperation to the Council and, if reasonably necessary, will appoint appropriately qualified and experienced consultants to assist in the prosecution of such reference or proceedings in such manner as the Council may reasonably require.

~~24.7.4~~24.8.4 If there is a reference to the Upper Tribunal the Council shall supply to the Developer copies of all relevant correspondence, papers and documents and:

- (a) subject to Clause 24.8.4(b) the Council shall have the conduct of the reference and shall consult the Developer on the appointment of Leading Counsel and the expert witnesses to represent the Council and the amount of any sealed offer to be made; and
- (b) the Developer may subject to the agreement of the Council take over the negotiations for the settlement of the relevant CPO Costs and if agreed by the Council (which shall be in its discretion) conduct the reference in the name of the Council and if it agrees, the Developer shall thereafter consult the Council on the appointment of Leading Counsel and the expert witnesses to represent the Council and the amount of any sealed offer to be made and shall supply to the Council copies of all correspondence, papers and documents; and
- (c) each party shall provide such assistance to the other party as it shall reasonably require.

~~24.7.5~~24.8.5 Where possession has been obtained through service of a notice(s) to treat with a notice(s) of entry and following agreement or determination by the Upper Tribunal of compensation, the Council will take such steps as are necessary, including if required the making of a deed poll to secure the transfer of the relevant property to the Council.

~~24.8~~24.9 If the Council acquires Third Party Interests which require registration at the Land Registry the Developer will procure the preparation of the necessary applications for use by the Council and the registration and all other fees (including stamp duty land tax if any) will be CPO Costs.

~~24.9~~24.10 Within 15 Working Days of completion of registration of each part of the CPO Land the Council shall deduce title to such CPO Land to the Developer by providing copies of the register entries and filed plan.

5.2 Schedule 1 Part 1 paragraph (g) shall be amended, by adding to the end of the existing paragraph: "and sums payable by the Council in respect of the termination (whether by surrender or otherwise) of any Third Party Interest comprising a lease or licence of which the Council is the landlord;"

6 **GUARANTEE**

The Guarantor consents to the terms of this Deed and in consideration for the Council entering into this Deed the Guarantor covenants with the Council that the Guarantor will guarantee the obligations of the Developer under this Deed, such that the guarantee entered into by the Guarantor in the Second Variation shall be extended to include the Developer's obligations under the Principal Agreement as supplemented and varied by this Deed.

7 **DISPUTES**

The provisions of Clause 23 of the Development Agreement shall apply in respect of any disputes or differences arising between the parties and stated to be referred to Independent Determination as if such provisions were set out in full in this Deed.

8 **PRINCIPAL AGREEMENT**

This Deed incorporates all the terms of the Principal Agreement as hereby varied and now constitutes the whole agreement between the Parties in relation to the matters agreed under the Principal Agreement.

9 **RIGHTS OF THIRD PARTIES**

No party which is not a party to this Deed shall be entitled to claim rights under this Deed by virtue of the terms of the Contract (Rights of Third Parties) Act 1999.

DELIVERED as a Deed on the date of this document.

Schedule 1
Acquisition Properties

- 1 The freehold property known as the Old Post Office, Middle Brook Street, Winchester SO23 8WA and registered at HM Land Registry with title absolute under title number HP598577.
- 2 The leasehold property known as Kings Walk Precinct, Silver Hill, Winchester SO23 8AF and registered at HM Land Registry with good leasehold title under title number HP510081.
- 3 The freehold property known as The Antiques Market, Kings Walk Precinct, Silver Hill, Winchester SO23 8AF and registered at HM Land Registry with title absolute under title number HP507605.
- 4 Such right title and interest in Tanner Street, Silver Hill and Middle Brook Street, if any, as are transferred to the Council pursuant to the Acquisition Agreement.

Schedule 2 Put Option

1 DEFINITIONS AND INTERPRETATION

1.1 In this Schedule:

"**Completion Date**" means the date which is 10 Working Days after, but excluding, the date of exercise of the Option by the Council.

"**Option Notice**" means notice given by the Council under paragraph 3 (*Exercise of Option*).

"**Price**" means the sum of £4,962,286¹

"**Sale Conditions**" means the terms of the sale and purchase of the Acquisition Properties set out in in the Acquisition Agreement, subject to the following variations:

- (a) the term 'Occupational Leases' shall include any Rental Documents subsisting on the Completion Date;
- (b) the term 'Rent Deposit Agreements' shall mean any agreements pursuant to which the tenant's obligations in an Occupational Lease are guaranteed by the deposit of funds and 'Rent Deposits' means the sums held by or on behalf of the Seller including interest on the Completion Date pursuant to the Rent Deposit Agreements.

2 OPTION

2.1 In consideration of £1 now paid by the Council to the Developer (of which the Developer acknowledges receipt) the Developer grants the Option to the Council.

2.2 The Option confers the right on the Council to require the Developer to purchase the Acquisition Properties.

2.3 The Option will lapse if it has not been exercised by 5.00 pm on the last day of the Option Period.

3 EXERCISE OF OPTION

3.1 The Option may be exercised during the Option Period by the Council giving notice to the Developer substantially in the form set out in Schedule 3 (*Prescribed form of notice*).

3.2 On the exercise of the Option, the Council and the Developer will be bound to one another to complete the sale and purchase of the Acquisition Properties at the Price on the Completion Date, subject to the Sale Conditions.

4 CREATION OF ENCUMBRANCES DURING OPTION PERIOD

The Council may create, and the Acquisition Properties will be sold subject to, any encumbrance over the Acquisition Properties at any time during the currency of the

¹ £5m less £37,714 (Surveys Costs, Hogan Lovells fees of £21,500, Hogan Lovells disbursements of £3,464)

Option without the consent of the Developer if its creation is consistent with compliance by the Council with its obligations under clause 15 and, in any other case, with the consent of the Developer, such consent not to be unreasonably withheld.

5 INSURANCE

- 5.1 The occurrence of damage to, or destruction of the Acquisition Properties arising after the date of the exercise of the Option will not affect the enforceability of the Option or (if the Option is exercised) the Sale Conditions, nor is the Developer to be entitled to any reduction in the Price as a result of damage or destruction occurring.
- 5.2 Until the Option is exercised the Council will keep the Acquisition Properties insured in such reinstatement value as it shall reasonably consider appropriate with an insurer of repute against such risks and perils as the Council shall reasonably consider appropriate and, unless the Parties agree otherwise, will apply the proceeds of such insurance to reinstating the Acquisition Properties.
- 5.3 If, on the Completion Date, there is any pending claim under any policy of insurance taken out by the Council in respect of the Acquisition Properties the Council shall assign to the Developer the benefit of such claim and provide to it copies of any claim form, correspondence and other information in relation to such claim. If any part of any such claim includes a claim for rent or licence fees in respect of the period up to the date of actual completion the Developer shall diligently pursue such claim and shall on receipt of settlement of such claim pay to the Council a sum equal to the insurance monies received in respect of rent and/or licence fees for the period up to the date of actual completion except if the Developer has made a Deficit Rental Income payment to the Council in respect of such period when such insurance monies shall first be set off against such Deficit Rental Income payment and only the balance shall be payable to the Council.

**Schedule 3
Prescribed form of notice**

To: Silverhill Winchester No.1 Limited

In the matter of the Option granted in Schedule 2 (*Put Option*) to a deed (the "**Deed**") dated [●] 2013 made between Winchester City Council (1) and Silverhill Winchester No. 1 Limited (2) and BNP Paribas Jersey Trust Corporation Limited and Anley Trustees Limited (3) relating to properties briefly known as:

The freehold property known as the Old Post Office, Middle Brook Street, Winchester SO23 8WA and registered at HM Land Registry with title absolute under title number HP598577;

The leasehold property known as Kings Walk Precinct, Silver Hill, Winchester SO23 8AF and registered at HM Land Registry with good leasehold title under title number HP510081.

The freehold property known as The Antiques Market, Kings Walk Precinct, Silver Hill, Winchester SO23 8AF and registered at HM Land Registry with title absolute under title number HP507605.

Such right title and interest in Tanner Street, Silver Hill and Middle Brook Street, if any, as were transferred to Winchester City Council by the Acquisition Agreement defined in the Deed,

(the "**Property**").

Take notice that Winchester City Council gives notice to you to exercise the Option relating to the Property under the Deed at the Price.

The Sale Conditions and terms of the Deed are incorporated by reference in this notice.

The words and expressions designated by initial capital letters which are not defined in this notice are defined in the Deed and have the same meanings in this notice.

Dated [●]

.....
on behalf of Winchester City Council

I acknowledge receipt of the notice of which this is a copy.

.....
on behalf of Silverhill Winchester No.1 Limited

30 January 2014

Wah.

EXECUTION PAGE

Executed as a deed by affixing the
common seal of **WINCHESTER CITY
COUNCIL** in the presence of:

Authorised Signatory

Executed as a deed by **SILVERHILL**)
WINCHESTER NO 1 LIMITED acting by)
a director in the presence of)

Witness *F.B.* :
Name **FARRAH BROWN**
Address **7 WESTBURY PLACE**
BRENTFORD
MIDDLESEX TW8 0QG
Occupation **ASSISTANT TREASURER**

Paul T.

Director/Director

Executed as a deed by **BNP PARIBAS**)
JERSEY TRUST CORPORATION)
LIMITED by 2 authorised signatories)

Executed as a deed by **ANLEY TRUSTEES**)
LIMITED by 2 authorised signatories)

Authorised Signatory

Authorised Signatory

Authorised Signatory

Authorised Signatory