

AGREEMENT

DATED **31st May** 2023

Under Section 106 of the Town and Country Planning Act 1990 as amended

BETWEEN

WIDDINGTON RECYCLING LIMITED (1)

and

ESSEX COUNTY COUNCIL (2)

RE

Land at Widdington Pit, Hollow Road, Widdington, CB11 3SL

**Planning Application Ref Nos: ESS/09/16/UTT, ESS/83/19/UTT, ESS/67/21/UTT,
ESS/68/21/UTT and ESS/80/21/UTT and their consolidation under**

ESS/49/22/UTT

Paul Turner

Director, Legal and Assurance

ELS

Seax House

Victoria Road South

Chelmsford

CM1 1QH

DEVC/3742

DATE
PARTIES

2023

- (1) **WIDDINGTON RECYCLING LIMITED** (Co Reg No 11143310) whose registered office is situated at The Sandpit Hollow Road, Widdington, Essex, England, CB11 3SL ("the Owner") and
- (2) **ESSEX COUNTY COUNCIL** of County Hall Market Road Chelmsford Essex CM1 1QH ("the County Council")

WHEREAS

- (1) The County Council is local planning authority for the purposes of the Town and Country Planning Act 1990 and also the local waste planning authority and local minerals planning authority for the area within which the Application Site is situated.
- (2) The County Council is also the local highway and transportation authority for the County of Essex and in whose administrative area the Application Site is located.
- (3) The Owner is the owner of that part of the Application Site which forms the land registered at HM Land Registry with Freehold Title Absolute under Title Numbers EX531969 and has an interest in the Application Site within the meaning of Section 106 (9) (b) of the 1990 Act.
- (4) Planning Application Reference Nos. ESS/67/21/UTT, ESS/68/21/UTT and ESS/80/21/UTT have been made to the County Council by the Owner for planning permission for the Development on the Application Site.
- (5) The County Council consider it expedient that provision should be made for regulating or facilitating the development or use of the Application Site in the manner hereinafter appearing and the County Council consider that entering into this Agreement will be of benefit to the public.
- (6) The parties have agreed to enter into this Agreement with the intention that the obligations contained in this Agreement may be enforced by the County Council against the Owner and their successors in title.
- (7) The County Council and all of the other parties are satisfied that the planning obligations contained in this Agreement are necessary to make the Development acceptable in planning terms, are directly related to the

Development and fairly and reasonably relate in scale and kind to the Development.

- (8) The Planning Applications have been made by the Owner to the County Council for the Planning Permission for the Development and if granted will include provision for restoration and aftercare of the Application Site.
- (9) The Owner has also agreed to enter into this Agreement to allow the decision to be issued for the Planning Applications to be consolidated (Consolidated Application) with development separately approved across the Application Site as part of Extant Planning Applications.

1. OPERATIVE POWERS

1.1 THIS AGREEMENT is made pursuant to Section 106 of the 1990 Act as amended by the 1991 Act and 2004 Act and 2008 Act and 2011 Act to the intent that it shall bind the Owner and their successors in title and assigns and the persons claiming under or through it subject to clause 6.18 of this Agreement.

1.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the County Council as local planning authorities against the Owner.

1.3 This Agreement is conditional on the grant of the Planning Permission.

1.4 Nothing in this Agreement is intended to confer any benefit on any party other than the parties executing this Agreement.

1.5 To the extent that any of the obligations contained in this Agreement are not planning obligations within the meaning of the 1990 Act they are entered into pursuant to the powers contained in Section 111 of the 1972 Act and Section 1 of the Localism Act 2011 all other enabling powers.

2. INTERPRETATION

2.1 In this Agreement the following expressions shall have the following meanings:

"the 1972 Act" shall mean the Local Government Act 1972

"the 1980 Act" shall mean the Highways Act 1980

"the 1990 Act" shall mean the Town and Country Planning Act 1990

"the 1991 Act" shall mean the Planning and Compensation Act 1991

"the 2004 Act" shall mean the Planning and Compulsory Purchase Act 2004

"the 2008 Act" shall mean the Planning Act 2008

"the 2011 Act" shall mean the Localism Act 2011

"Annual Site Survey" shall mean a full site topographical survey to be undertaken by the Owner, following the Commencement Date, within the same calendar month each year and submitted to the Council for review within one month of the survey date;

" Application Site" shall mean the land known as Land at Widdington Pit, Hollow Road, Widdington, CB11 3SL and identified on drawing numbered WIDD/TEX/01 at Annex A and thereon edged red

"Approved Highway Works" shall mean the Approved Highway Works (Commencement) and the Approved Highway Works (Completion);

"Approved Highway Works (Commencement)" shall mean the Highway Works Scheme (Commencement) as approved by the County Council and including the surfacing, kerbing, lining and drainage of the highways and any other works normally associated with the construction of a highway or required as a result of the County Council's inspections;

"Approved Highway Works (Completion)" shall mean the Highway Works Scheme (Completion) as approved by the County Council and including the surfacing, kerbing, lining and drainage of the highways any other works normally associated with the construction of a highway or required as a result of the County Council's inspections;

"Biennial Review" shall mean a report produced on a biennial basis by the Owner, following the Commencement Date, and submitted to the Council for review and approval in writing. The Review shall seek to outline progress made in the preceding two-year period, identify any issues regarding the site restoration timetable and, in such circumstances, propose measures for consideration and approval by the Council to ensure satisfactory restoration of the Site by the Site Restoration End Date.

" Local Liaison Group" shall mean a group meeting set up in accordance with the provisions of the Schedule 3

"Cessation of Skip Hire" shall mean the cessation of the skip hire element of the Development

"Commencement Date" shall be taken to be the date Planning Permission is issued pursuant to the Consolidated Applications

"Commencement of Development" the carrying out on the Application Site pursuant to the Planning Permission of a material operation as specified in section 56(4) of the 1990 Act and **"Commence the Development"** and **"Commence"** and **"Commenced"** shall be construed accordingly

"Completion Notice" shall mean the notice served by the Owner on the County Council pursuant to clause 3.1.2

"Consolidated Application" shall mean ESS/49/22/UTT Excavation of minerals; use of land for skip hire, waste recycling, waste transfer and green waste composting; restoration of land with the deposit of inert waste; and other associated development which incorporates the consolidation of all Extant Planning Applications and the Planning Applications under reference numbers: ESS/67/21/UTT; ESS/68/21/UTT; ESS/80/21/UTT; ESS/09/16/UTT and ESS/83/19/UTT so that all operations are covered by one planning application reference ESS/49/22/UTT going forward.

"Development" shall mean the development described in the Planning Applications and the Extant Planning Applications on the Application Site pursuant to the Planning Permission

"Extant Planning Applications" shall mean the application for planning permission for the carrying out of the Development with the following references:

ESS/09/16/UTT Proposed extension to existing office building and proposed construction of a replacement storage bay to an increased height of 2.1 metres, all ancillary to the existing minerals and waste operations; and

ESS/83/19/UTT Surface water drainage and treatment scheme.

"Highway Condition Survey (Commencement)" shall mean a survey undertaken by the Owner and submitted to the County council for the written approval by the County Council, within three months of Commencement of Development, to determine the condition of North Hall Road and Hollow Road (including passing places) between the junction with the B1383 and the extent of the weight limit on Hollow Road and approval in writing shall provide commentary relating to the condition/standard of surfacing, kerbing, lining and drainage and any other requirements by the County Council as the Highway Authority;

"Highway Condition Survey (Completion)" shall mean a survey undertaken by the Owner and submitted to the County council for the written approval by the County Council, within three months of the Site Restoration End Date, to determine the condition of North Hall Road and Hollow Road (including passing places) between the junction with the B1383 and the extent of the weight limit signage on Hollow Road and approval in writing shall provide commentary relating to the condition/standard of surfacing, kerbing, lining and drainage and any other requirements by the County Council as the Highway Authority;

“Highway Works Agreement(s)” shall mean an agreement entered into pursuant to all powers enabling the parties to regulate the carrying out of the Approved Highway Works (in particular Sections 38 and 72 and 278 of the 1980 Act and Section 33 of the 1982 Act) and shall include but not be limited to the following matters

- (a) securing of a bond to ensure that third party funds are available to complete the Approved Highway Works to the satisfaction of the County Council
- (b) payment of the County Council's works inspection fees maintenance fees special orders fees supervision fees and any other such fees as the County Council shall require
- (c) payment of the County Council's legal administrative and other fees and disbursements associated with the drafting negotiating and completion of the Highway Works Agreement
- (d) preparation and advance approval of works drawings and traffic management measures
- (e) certification and maintenance of the Approved Highway Works
- (f) regulating of the issue of the Works Licence to enable the Approved Highway Works to be carried out
- (g) the securing of a bond relating to both Land Compensation Act 1973 matters and Noise Insulation Regulations 1975 as amended by the Noise Insulation (Amendment) Regulations 1988 (SI 1988/2000) and any other indemnity and bonds for liability issues as the County Council shall require
- (h) the dedication of land as public highway
- (i) the standards and procedures for carrying out the Approved Highway Works
- (j) traffic regulation orders and statutory processes

“Highway Works Scheme (Commencement)” shall mean a detailed scheme of works submitted by the Owner to the County Council for the written approval of the County Council, within three months of completion of the Highway Condition Survey (Commencement), detailing works proposed to be completed and timetable for completion of such works to North Hall Road and Hollow Road (including passing places) between the junction with the B1383 and the extent of the weight limit signage on Hollow Road to ensure that the public highway is to an acceptable standard to support the Development. The scheme shall be submitted to the Council for review and approval in writing.

"Highway Works Scheme (Completion)" shall mean a scheme submitted by the Owner, within three months of completion of the Highway Condition Survey (Completion), detailing works proposed to be completed to North Hall Road and Hollow Road (including passing places) between the junction with the B1383 and the extent of the weight limit signage on Hollow Road to ensure that the public highway is in an acceptable standard following completion of the Development. The scheme shall be submitted to the Council for review and approval in writing.

"Planning Applications" shall mean the application for planning permission for the carrying out of the Development carrying the following references:

- (a) ESS/67/21/UTT Continuation of use of land for skip hire, waste recycling, waste transfer and green waste composting operation, without compliance with condition 2 (time limit) and condition 28 (percentage of imported material to be retained on-site) attached to planning permission ref: ESS/30/19/UTT to allow the use and associated development to continue/remain until the adjacent quarry is restored and increase the percentage of material imported permitted to be exported;
- (b) ESS/68/21/UTT Continuation of excavation of sand and restoration of land to agricultural use, including deposit of inert waste, without compliance with condition 4 (time frame) attached to planning permission ref: ESS/35/18/UTT to allow an additional period of time to complete the infilling and restore the site;
- (c) ESS/80/21/UTT Demolition of an existing workshop and the construction of a replacement building;

and for the avoidance of doubt for the purposes of this Agreement the term **"Planning Applications"**, **"Extant Planning Applications"** and or **"Consolidated Application"** shall subject to the written confirmation of the County Council to be given prior to the determination of any planning applications that may follow include any application(s) to vary a condition on the Planning Permission or any application(s) for reserved matters approval, provided that such application(s) shall relate substantially to the same development of the Application Site as is proposed under the aforementioned application reference numbers.

"Planning Permission" shall mean the planning permission granted for the Development under the Consolidated Application

"Site Restoration End Date" shall mean 31 October 2035

“Application Site Restoration Timetable” shall mean the working/phasing plan for the Development to be agreed and approved by the County Council pursuant to condition as approved as part Consolidated Application;

“Skip Hire” shall mean the sorting, processing and storing of skip waste from loaded skips and the importation and exportation of the same

“Waste Import and Export Records” shall mean a breakdown of the total amount/quantities of material/waste imported and exported to/from the site, within the preceding 12-month period, to be submitted by the Owner every year following the Commencement Date. The records submitted shall furthermore confirm the total amount of material/waste imported, the amount/quantity of material/waste that was handled/processed through the waste transfer/recycling station on the Application Site and that which was not (i.e. inert material sent straight to the void/landfill). The records shall be submitted by the Owner to the Council for review within one month of the end of the 12-month period to which the records relate;

“Working Days” shall mean any day(s) upon which banks in the City of London are open to the general public.

2.2 Where in this Agreement reference is made to a Clause Paragraph Schedule Plan or Recital such reference (unless the context otherwise requires) is a reference to a clause paragraph schedule plan or recital of or (in the case of a plan) attached to this Agreement

2.3 Where in any Schedule or Part of a Schedule reference is made to a Paragraph such reference shall (unless the context otherwise requires) be to a paragraph of that Schedule or (if relevant) Part of a Schedule

2.4 References in this Agreement to the County Council the Owner or any one or more of them shall include reference to their respective successors in title and to persons claiming through or under them

2.5 Words importing the singular meaning where the context so admits include the plural meaning and vice versa

2.6 Words of the masculine gender include the feminine and neuter genders and words denoting natural persons include companies corporations and firms and all such words shall be construed interchangeably in that manner

2.7 Words denoting an obligation on a party to do any act matter or thing include an obligation to procure that it be done and words placing a party under a restriction include an obligation not to cause permit or allow infringement of the restriction

2.8 Any reference to a statute a provision thereof a statutory instrument or such Specification Code of Practice or General Direction as is issued under statutory authority or by a Secretary of State shall include any modification extension consolidation or re-enactment thereof for the time being in force and shall include all instruments orders plans regulations permissions and directions for the time being made issued or given thereunder or deriving validity therefrom

2.9 Clause headings and table of contents contained in this Agreement are for reference purposes only and should not be incorporated into this Agreement and shall not be deemed to be any indication of the meaning of the parts of this Agreement to which they relate

2.10 The word "including" shall mean "including without limitation or prejudice to the generality of any description defining term or phrase preceding that word" and the word "include" and its derivatives shall be construed accordingly

3. OBLIGATIONS OF THE PARTIES

3.1 The Owner so as to bind the Application Site covenants with the County Council to comply with the obligations set out in this Agreement including the Schedules to this Agreement and further covenants as follows:

3.1.2 to serve on the County Council the Completion Notice within 30 Working Days of all obligations due under this Agreement have been complied with and any dispute regarding any notice to be served under this Agreement may be resolved through the 2 mechanisms set out in Clause 8 of this Agreement;

3.2 The County Council covenants with the Owner to comply with the obligations set out in the Schedules to this Agreement

3.3 The County Council covenant with the Owner to act reasonably, properly and diligently in exercising their discretion and discharging their functions under this Agreement and FURTHERMORE where any notice or consent or approval or authorisation or agreement or other similar affirmation is required under the terms of the Agreement then under those circumstances the Council and where appropriate the County Council will not unreasonably withhold or delay such notice or consent or approval or authorisation or agreement or other similar affirmation.

3.4 Representatives of the County Council may enter upon the Application Site at any reasonable time (and in the case of an emergency immediately) to ascertain whether the terms of this Agreement and of the Planning Permission are or have been complied with subject to complying with all health and safety requirements required by the Owner.

4. TRANSFER OF INTERESTS

4.1 The Owner shall upon parting with their respective interest in the Application Site be released from all obligations rights and duties (save for liability in respect of any antecedent breach) under the terms of this Agreement Provided That if the Owner shall retain an interest in any part of the Application Site the Owner shall remain liable insofar as such liability relates to such retained interest.

4.2 The Owner shall give to the County Council within one month of the Owner disposing of any part of the land comprised in the Application Site written notice of the name and address of the person to whom the land has been transferred.

4.3 the provisions of Clauses 4.1 and 4.2 shall apply in relation to any successor in title of the Owner as the owner of the Application Site or any part thereof mutatis mutandis.

5. NOTICES

5.1 The address for any notice or other written communication is as specified above in the case of each party hereto or (at the option of the recipient) such address as may be specified for service from time to time provided that the same is within the United Kingdom or (at the option of the party giving notice or other communication) the last-known place of abode or business in the United Kingdom of the recipient

5.2 Any notice or other written communication to be served or given by one party upon or to any other under the terms of this Agreement shall be deemed to have been validly served or given if received by electronic mail by facsimile delivered by hand or sent by first class post or by pre-paid or recorded delivery post to the party upon whom it is to be served or to whom it is to be given or as otherwise notified for the purpose by notice in writing provided that the notice or other written communication is marked as follows for each recipient:

5.2.1 for the Owner it shall be marked for the attention of (the MD of Widdington Recycling Ltd)

5.2.2 except as stated at subclause 5.2 for the County Council relating to a highway or transportation matter it shall be marked for the attention of the s106 Officer, Strategic Development (EGD), County Hall Chelmsford CM1 1QH

5.3 Unless the time of actual receipt is proved, a notice, demand or communication sent by the following means is to be treated as having been served:

5.3.1 if delivered by hand, at the time of delivery;

5.3.2 if sent by post, on the second working day after posting; or

5.3.3 if sent by recorded delivery, at the time delivery was signed for

5.4 If a notice, demand or any other communication is served after 4.00 pm on a working day, or on a day that is not a working day, it is to be treated as having been served on the next Working Day; and

5.5 Any bond to be deposited or payment to be made direct to the County Council by the Owner under the terms of this Agreement shall be addressed to the Head of Financial Services of the County Council at the aforementioned address.

6 GENERAL

6.1 Unless otherwise specified where any agreement certificate consent permission expression of satisfaction or other approval is to be given by any party or any person on behalf of any party hereto under this Agreement the same shall not be unreasonably withheld or delayed or imposed (as the case may be) but may only be given in writing and may be validly obtained only prior to the act or event to which it applies and the party giving such agreement certificate consent permission expression of satisfaction or other approval shall at all times act reasonably and the agreement or requirement shall be given or imposed (in the case of the County Council) by the Executive Director for Economic Growth and Development or by the Manager School Organisation and Planning depending on which service department is responsible for the matter and where any payment of costs or other payments are to be made by the Owner to the County Council such costs and other payments shall be deemed to be reasonable and proper

6.2 Any covenant by the Owner not to do an act or thing shall be deemed to include an obligation to use reasonable endeavours not to permit or suffer such act or thing to be done by another person where knowledge of the actions of the other person is reasonably to be inferred

6.3 No compensation shall be payable by the County Council to any party to this Agreement or their successors in title arising from the terms of this Agreement and assigns arising from the terms of this Agreement and unless specified otherwise in this Agreement all works and activities to be executed hereunder (including such as are of a preparatory ancillary or maintenance nature) are (save where expressly provided otherwise) to be at the sole expense of the Owner and at no cost to the County Council.

6.4 All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax ("VAT") properly payable PROVIDED ALWAYS THAT if at any time VAT is or becomes chargeable in respect of any supply made in accordance with the provisions of this Agreement then to the extent that VAT had not previously been charged in respect of that supply the person making the supply shall issue a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly.

6.5 Nothing in this Agreement shall prejudice or affect the rights powers duties and obligations of the County Council in the exercise of their functions in any capacity and the rights powers duties and obligations of the County Council under private-public or subordinate legislation may be effectively exercised as if neither were a party to this Agreement (and in particular neither shall be precluded from entering into any agreement under the 1980 Act and/or the 1990 Act with any other party and shall not be deemed to be in breach of this Agreement by so doing).

6.6 Any agreement obligation covenant or undertaking contained herein by any of the parties which comprise more than one person or entity shall be joint and several and where any agreement obligation covenant or undertaking is made with or undertaken towards more than one person it shall be construed as having been made with or undertaken towards each such person separately and where the Owner are different persons agreements obligations covenants and undertakings given by either shall be deemed to be given jointly and severally by both.

6.7 If any provision of this Agreement is declared by any judicial or other competent authority to be void voidable illegal or otherwise unenforceable the remaining provisions of this Agreement shall continue in full force and effect and the parties shall amend that provision in such reasonable manner as achieves the intention of the parties without illegality provided that any party may seek the consent of the other or others to the termination of this Agreement on such terms as may in all the

circumstances be reasonable if the effect of the foregoing provisions would be to defeat the original intention of the parties.

6.8 No variation to this Agreement shall be effective unless made by Deed or pursuant to the determination of an application made under Section 106A of the 1990 Act or an appeal under section 106B of the 1990 Act.

6.9 The failure by any party to enforce at any time or for any period any one or more of the terms or conditions of this Agreement shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of this Agreement.

6.10 The Owner hereby agrees to pay forthwith and prior to completion of this Agreement the County Council's reasonable legal costs of and incidental to the preparation negotiation and entering into of this Agreement

6.12 This Agreement shall be enforceable as a local land charge and shall be registered as such immediately by the County Council and the County Council covenants with the Owner it will note the local land charges register and the planning register following the occurrence of the compliance performance and satisfaction of all of the said obligations.

6.13 This Agreement is governed by the laws of England and Wales and is subject to the exclusive jurisdiction of the English and Welsh Courts.

6.14 It is hereby agreed and declared that a person who is not a party to this Agreement shall not be entitled in his own right to enforce any term of this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999.

6.15 This Agreement may be executed in any number of counterparts and by different parties hereto on separate counterparts and each of those counterparts when executed and delivered shall constitute an original but all the counterparts together shall constitute one and the same instrument.

6.16 The provisions of this Agreement (other than those of this Clause which shall be of immediate effect) shall be of no effect until this Agreement has been dated

6.17.1 This Agreement will come to an end if:

6.17.1.1 the Planning Permission is quashed, revoked or otherwise withdrawn or otherwise modified without the consent of the Owner before the Commencement Date so as to render this Agreement or any part of it irrelevant, impractical or unviable; or

6.17.1.2 the Planning Permission expires;

6.17.2 Where the Agreement comes to an end under clause 6.17.1 the Council is, on the written request of the Owner, to vacate or cancel the entry made in the Local

Land Charges register in relation to this Agreement or otherwise to record the fact that it has come to an end and no longer affects the Application Site

6.18 This Agreement shall not be enforceable against:

6.18.1 Owner-occupiers or tenants of dwellings or other buildings constructed neither pursuant to the Planning Permission nor against those deriving title from them,

6.18.2 Any statutory undertaker or other person who acquires any part of the Application Site or any interest in it for the purposes of the supply of electricity gas water drainage telecommunication services or public transport services

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

6.20 In the event that after the date of this Deed any payment becomes due in respect of the Development (or any part thereof) under the Community Infrastructure Levy ("CIL") the parties hereto will use reasonable endeavours to agree variations to this Deed with the intent that the Owner are not placed in a financially worse different position as a result of having to make any such CIL payment and perform any planning obligations than they would have been in if they had performed the obligations in this Deed and the CIL Payment had not been due

7. COMMENCEMENT

7.1 Save in respect of those clauses which will become operative on the date of this Agreement and in respect of obligations expressly in this Agreement requiring compliance prior to Commencement Date and which will become operative on the issue of the Planning Permission this Agreement will come into effect on the Commencement Date

8. DETERMINATION OF DISPUTES

8.1 Subject to clause 8.7 if any dispute arises relating to or arising out of the terms of this Agreement, either party may give to the other written notice requiring the dispute to be determined under this clause 8. The notice is to propose an appropriate Specialist and specify the nature and substance of the dispute and the relief sought in relation to the dispute

8.2 For the purposes of this clause 8 a “Specialist” is a person qualified to act as an expert in relation to the dispute having not less than ten years’ professional experience in relation to developments in the nature of the Development and property in the same locality as the Application Site

8.3 Any dispute over the type of Specialist appropriate to resolve the dispute may be referred at the request of either party to the President for the time being of the Chartered Institute of Arbitrators (or other appropriate President of a professional institute with expertise in the relevant discipline as agreed between the parties in dispute) who will have the power, with the right to take such further advice as he may require, to determine the appropriate type of Specialist and to arrange his nomination under clause 8.4

8.4 Any dispute over the identity of the Specialist is to be referred at the request of either party to the President or other most senior available officer of the organisation generally recognised as being responsible for the relevant type of Specialist who will have the power, with the right to take such further advice as he may require, to determine and nominate the appropriate Specialist or to arrange his nomination. If no such organisation exists, or the parties cannot agree the identity of the organisation, then the Specialist is to be nominated by the President for the time being of the Chartered Institute of Arbitrators (or other appropriate President of a professional institute with expertise in the relevant discipline as agreed between the parties in dispute)

8.5 The Specialist is to act as an independent expert and:

8.5.1 each party may make written representations within fifteen (15) Working Days of his appointment and will copy the written representations to the other party;

8.5.2 each party is to have a further fifteen (15) Working Days to make written comments on the other’s representations and will copy the written comments to the other party;

8.5.3 the Specialist is to be at liberty to call for such written evidence from the parties and to seek such legal or other expert assistance as he or she may reasonably require;

8.5.4 the Specialist is not to take oral representations from the parties without giving both parties the opportunity to be present and to give evidence and to cross-examine each other;

8.5.5 the Specialist is to have regard to all representations and evidence before him when making his decision, which is to be in writing, and is to give reasons for his decision; and

8.5.6 the Specialist is to use all reasonable endeavours to publish his decision within thirty (30) Working Days of his appointment.

8.6. Responsibility for the costs of referring a dispute to a Specialist under this clause 8, including costs connected with the appointment of the Specialist and the Specialist's own costs, but not the legal and other professional costs of any party in relation to a dispute, will be decided by the Specialist.

8.7 This clause 8 does not apply to disputes in relation to matters of law or the construction or interpretation of this Agreement which will be subject to the jurisdiction of the courts of England.

9. OWNER'S CONSENT

9.1 The Owner consents agrees that its interest in the Application Site shall be bound by them.

SCHEDULE 1
(ANNUAL SITE SURVEYS, WASTE IMPORT/EXPORT RECORDS AND BIENNIAL
SITE REVIEWS)

1. The Owner hereby covenants with the County Council as follows:

1.1 To undertake a full topographical survey of the Application Site within thirty (30) Working Days following the Commencement Date.

1.2 Within the same calendar month as the first topographical survey, as required by paragraph 1.1 above, to undertake further topographical surveys on each subsequent anniversary following the first full topographical survey and for the duration of the Development permitted.

1.3 To ensure all topographical surveys are submitted to the County Council for review within one calendar month of the date the survey is undertaken.

1.4 To submit a numerical breakdown of the total amount of material imported and exported to the Application Site on an annual basis.

1.5 The first breakdown of imports and exports data shall be submitted to the County Council for review within one month of the Application Site's first calendar year (12 months) of operation following the Commencement Date and thereafter on each subsequent anniversary following the date of the first submission of the numerical breakdown for the duration of the Development permitted.

1.6 To submit a report on a biennial basis which seeks to outline progress made in the preceding two-year period, identify any issues regarding the Application Site Restoration Timetable and, in such circumstances, identify and propose measures for consideration and approval by the County Council to ensure satisfactory restoration by the Site Restoration End Date.

1.7 The first biennial report shall be submitted to the County Council for review within one calendar month of the two-year anniversary of the Commencement Date

and thereafter on each subsequent second anniversary following the date of the first submission first biennial report for the duration of the Development permitted.

SCHEDULE 2
(CESSATION OF SKIP HIRE)

1. The Owner hereby covenants with the County Council to cease operation of the skip hire element of the approved Development if:

1.1 In the event that the numerical breakdown of material imported and exported to the Application Site, as required to be submitted on annual basis by paragraph 1.4 and 1.5 of Schedule 1 above, for two consecutive years evidences that more than 50% by weight of the material imported to the Application Site, and handled/processed through the waste transfer/recycling station, has been exported rather than being retained within the Application Site for use in infilling and restoring the quarry.

1.2 The operation of the skip hire from the site shall cease within three months of the date of second consecutive submission of the numerical breakdown of material imports and exports which evidences more than 50% by weight of the material imported to the site and handled/processed through the waste transfer/recycling station, has been exported rather than being retained within the Application Site for use in infilling and restoring the quarry. The skip hire business/operation shall not recommence at any point during the remaining duration of the Development permitted.

2. The Owner further covenants that the County Council shall have the right to issue a cessation notice to the Owner with immediate effect where they have not complied with their obligations in Schedule 1 and this Schedule 2.

SCHEDULE 3
(HIGHWAY SURVEYS AND WORKS)

1. The Owner hereby covenants with the County Council to:
 - 1.1 To undertake the Highway Condition Survey (Commencement) within three (3) months of Commencement of Development;
 - 1.2 Following the written approval from the County Council and within three months of completion of the Highway Condition Survey (Commencement) as required by paragraph 1.1 above, the Owner shall submit the Highway Works Scheme (Commencement) and proposed timetable to complete the works Approved Highway Works (Commencement) to the County Council for review and approval in writing by the County Council;
 - 1.3 Within three (3) months of the date of the written approval by the County Council of the Highway Works Scheme (Commencement) the Owner shall enter into the Highway Works Agreement with the County Council for the Approved Highway Works (Commencement);
 - 1.4 Within six (6) months of entering into the Highway Works Agreement with the County Council for the Approved Highway Works (Commencement) or such other timescale as shall be agreed in writing with the County Council the Owner shall complete the Approved Highway Works (Commencement) to the satisfaction of the County Council and in accordance with the Highway Works Agreement.
 - 1.5 To undertake the Highway Condition Survey (Completion) within three (3) months of Site Restoration End Date
 - 1.6 Following the written approval from the County Council and within three months of completion of the Highway Condition Survey (Completion) as required by paragraph 1.5 above, the Owner shall submit the Highway Works Scheme (Completion) to the County Council for review and approval in writing by the County Council;
 - 1.7 Within three (3) months of the date of the written approval by the County Council of the Highway Works Scheme (Completion) the Owner shall enter into the Highway Works Agreement with the County Council for the Approved Highway Works (Completion); and

1.8 Within six (6) months of entering into the Highway Works Agreement with the County Council for the Approved Highway Works (Completion) the Owner shall complete with Approved Highway Works (Completion) to the satisfaction of the County Council and in accordance with the Highway Works Agreement.

SCHEDULE 4
LOCAL LIAISON GROUP

Purpose

To maintain liaison between the Owner, the County Council, Widdington Parish Council and the local community (the "Local Liaison Group Parties") in relation to activities on-going, regulation of the Application Site and matters appertaining to the Planning Permission(s) and planning agreements.

To develop and maintain lines of communication between the Local Liaison Group Parties so that issues and concerns raised can be resolved directly.

To provide a forum for discussions and, where possible, a resolution of problems.

To provide a means of communicating progress on Application Site.

To provide a forum to discuss compliance with planning control.

To provide a forum to inform of proposed amendments or variations to the approved scheme/s.

To provide a forum to discuss particular aspects of the operation and where appropriate invite specialist comment for discussion at later progress meetings.

The Local Liaison Group shall nevertheless operate so that only matters relating directly to the Application Site and Planning Permission is discussed.

Membership

Membership of the Local Liaison Group shall comprise representatives from the Owner, the County Council, Widdington Parish Council and any other interested or relevant party, as agreed by the aforementioned membership.

Chair

The County Council Local Member will chair the meetings. In the event of a temporary absence of the County Councillor, the members of the Local Liaison Group shall agree to substitute chair for that meeting.

Frequency

The Local Liaison Group shall have a minimum of one meeting every 6 (six) months, throughout the life of the development the first meeting to commence within 6 months of the Commencement Date. The frequency of meetings may only be amended with the full agreement of the Liaison Group.

Owner's Covenants

The Local Liaison Group shall be managed, administered and funded solely by the Owner.

The Owner shall arrange a venue for the Local Liaison Group meetings, within reasonable proximity of the Application Site.

The Owner shall be responsible for notification of meeting dates, obtaining agenda items from the designated representatives, taking minutes and supplying copies of agendas and minutes.

Meeting agendas are to be circulated at least week prior to the pre-agreed meeting date and minutes circulated within two weeks following the meeting that that relate.