Deed of Unilateral Undertaking

DATED 3rd April 2002

AQUILA INVESTMENTS LTD (1)
in favour of
HUNTINGDONSHIRE DISTRICT COUNCIL (2)

DEED OF UNILATERAL UNDERTAKING

relating to land at Washingley Road Huntingdon Cambridgeshire

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Our Ref: MJH

1383134v2

P025

THIS UNILATERAL UNDERTAKING is made the 3rd day of April Two thousand and two by:-

(1) AQUILA INVESTMENTS LIMITED of St John's College Cambridge CB2 1TP ("the Owner")

In favour of

(2) HUNTINGDONSHIRE DISTRICT COUNCIL of Pathfinder House St Mary's Street Huntingdon Cambridgeshire PE18 6TN ("the Council")

RECITALS

(1) The Council is the local planning authority for the area including the Site

(2) The Developer submitted the Planning Application and following a resolution of the Council's Development Control Panel at its meeting of 21 January 2002 the Council is minded to grant the Planning Permission subject to the completion of this Deed

(3) The Owner is registered as freehold owner of the Site

(4) The Owner is prepared to enter into this Deed on the terms and conditions set out below

(5) This Deed is entered into having regard to the development plan for the area in which the Site is situated

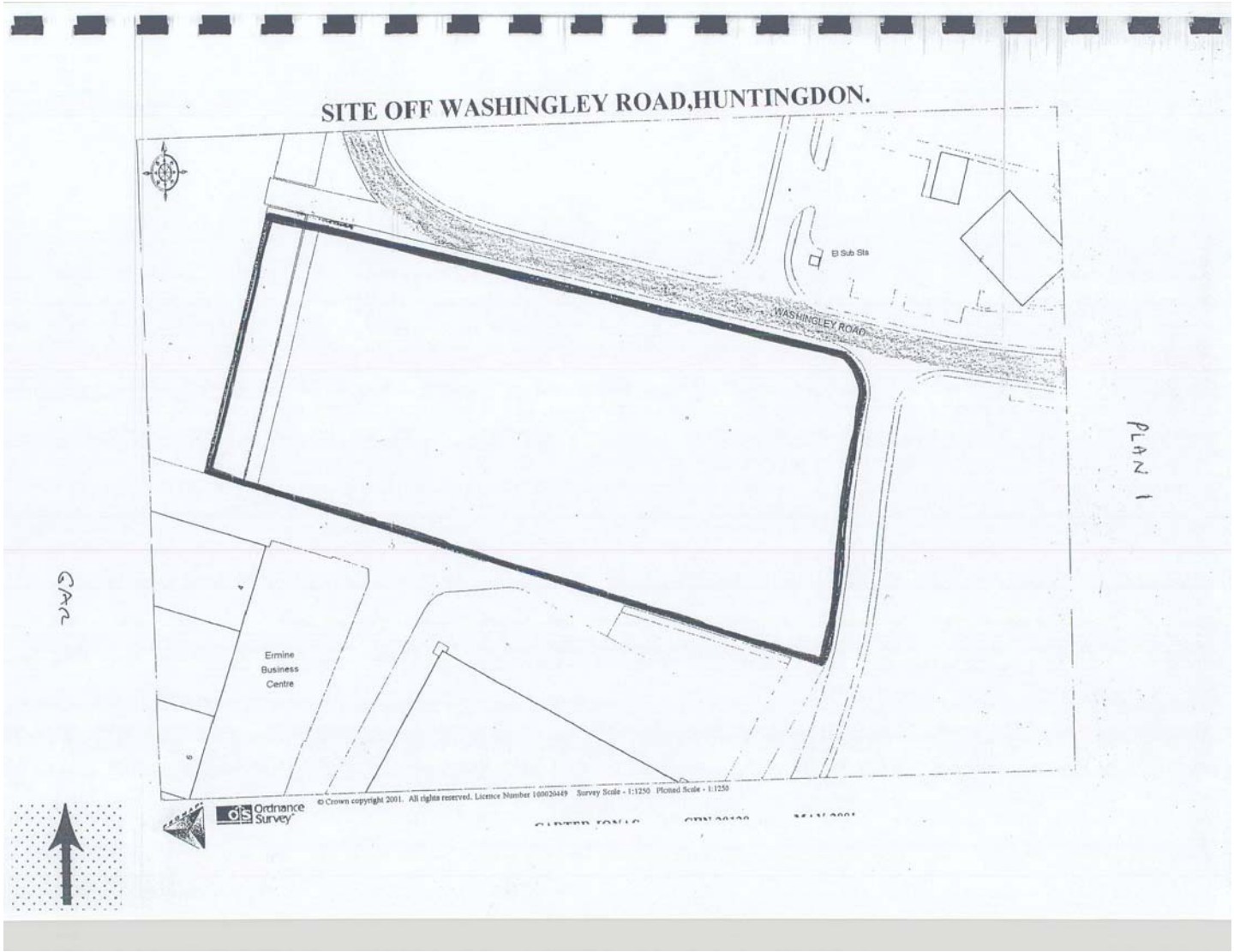
NOW THIS DEED WITNESSETH as follows:-

1 **DEFINITIONS**

1.1 In this Deed where the context so admits the following expressions shall have the following meanings:-

"the Act"	the Town and Country Planning Act 1990 (as amended)
"the Conditions"	means the conditions set out in clause 3.1

"the Developer"	means ARTISAN (UK) DEVELOPMENTS LIMITED of Dean House Sovereign Court Ermine Business Park Huntingdon Cambridgeshire PE29 6XU
"the Development"	the development described in the Planning Application
"Huntingdon Transport Strategy"	means the draft transport strategy currently proposed for the Huntingdon region
"Transport Contribution"	means the sum of THIRTY-TWO THOUSAND FIVE HUNDRED POUNDS (£32,500) to be applied towards sustainable transport measures identified in the Huntingdon Transport Strategy (when published) or such other sustainable transport measures capable of benefiting users of the Site as the Council may determine acting reasonably
"Material Operation"	means a material operation in accordance with Section 56(4)(a) to (d) of the Act provided that for the purposes of this Deed the following shall be deemed not to be Material Operations: any archaeological works works of excavation demolition site clearance services diversion site or soil investigations or the erection of hoardings or fencing
"Plan 1"	the plan attached hereto and marked "Plan 1"
"Plan 2"	the plan attached hereto and marked "Plan 2"
"the Planning Application"	the application as amended from time to time registered on 19 July 2001 seeking permission


SITE OFF WASHINGLEY ROAD,HUNTINGDON.
El Sub Sta
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PLAN 1
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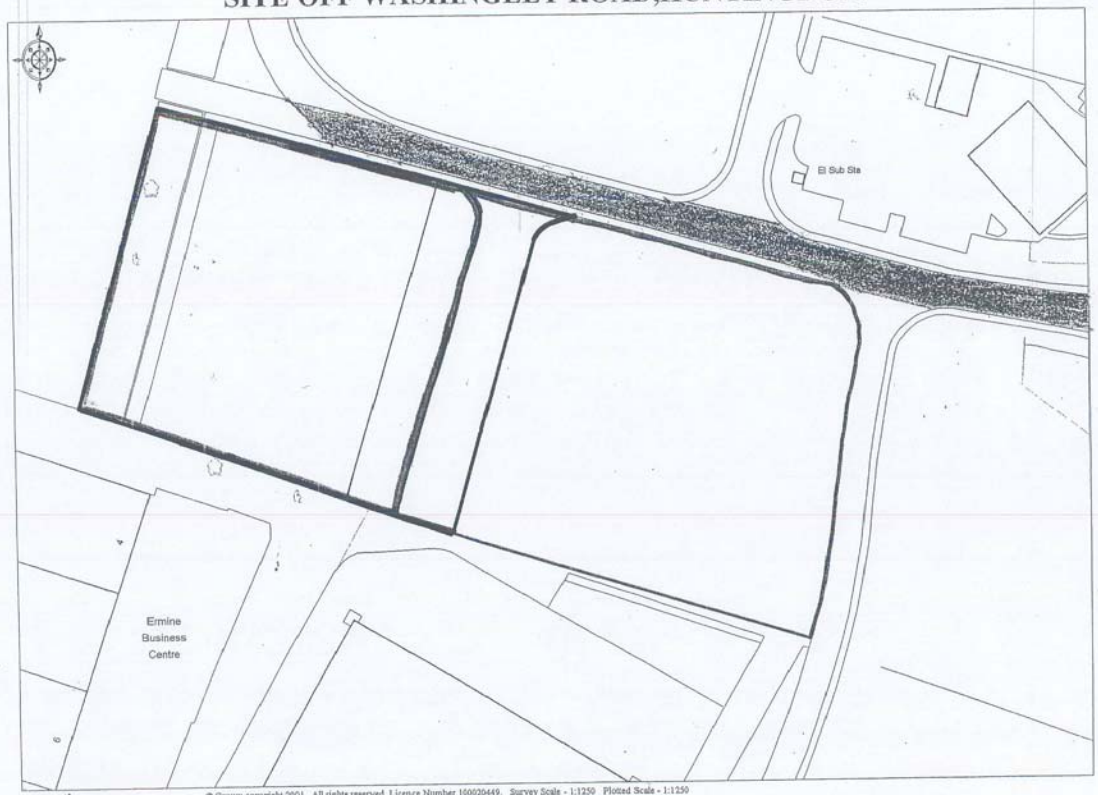
SITE OFF WASHINGLEY ROAD,HUNTINGDON.



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PLAN 2

		for the erection of offices (B1) and the provision of car parking and given reference number H/01/01601 by the Council
	"the Planning Permission"	a planning permission for the Development in the form of the draft attached as Annex 1 with any subsequent amendments thereto agreed by Huntingdonshire District Council prior to the grant of such Planning Permission
	"the Site"	the freehold land with title absolute registered at HM Land Registry under Title Number CB 134450 shown for the purposes of identification only edged red on Plan 1
	"Site A"	means that part of the Site shown edged red on Plan 2 which is due to be developed prior to the development of Site B
	"Site B"	means that part of the Site shown edged blue on Plan 2 which is due to be developed at a later date than Site A

2 **STATUTORY AUTHORITIES**

The obligations in clause 4 are made under Section 106 of the Act with the intention that they should bind the freehold interest in the Site as provided for by that Section and are planning obligations for the purposes of the Act and are enforceable by the Council as local planning authority

3 **CONDITIONALITY**

3.1 The obligation in clause 4 of this Deed will not have effect unless:-

3.1.1 the Planning Permission is granted; and

3.1.2 the Planning Permission has been initiated by the carrying out of a Material Operation

3.2 For the avoidance of doubt the remaining provisions of this Deed will have immediate effect

4 **PLANNING OBLIGATIONS**

4.1 The Owner undertakes with the Council that it will pay the sum of SIXTEEN THOUSAND TWO HUNDRED AND FIFTY POUNDS (£16,250) to the Council being one half of the Transport Contribution on the date falling twenty-eight days after the date of occupation of the first of the buildings to be occupied on Site A

4.2 The Owner undertakes with the Council that it will pay the sum of SIXTEEN THOUSAND TWO HUNDRED AND FIFTY POUNDS (£16,250) to the Council being one half of the Transport Contribution on the date falling twenty-eight days after the date of occupation of the first of the buildings to be occupied on Site B

4.3 Without prejudice to the requirements of clause 4.1 and clause 4.2 the remainder of the Development on Site A or Site B shall not be occupied until the relevant part of the Transport Contribution has been paid to the Council

5 **RELEASE AND DISCHARGE**

5.1 The Owner shall cease to have any statutory or contractual obligation or liability under the terms of this Deed in relation to the Site or any part of it once it shall have parted with all its respective interest (save for the reservation of easements or rights for services or of access signage or entry in favour of adjacent property) in the Site or that part save in so far as it relates to any relevant prior breach of its obligations under this Deed

5.2 The Owner shall within twenty-eight days of the date of any disposition of a freehold or long leasehold legal interest in the Site or any part thereof give the Council written notice thereof including details of the name and address of the person or persons to whom such interest was transferred PROVIDED THAT this shall not apply to any interest by way of legal charge or mortgage

5.3 For the avoidance of doubt nothing in this Deed shall restrict or prevent any party from requesting or applying for a discharge or modification of the planning obligations contained in this Deed as may be permitted by law

5.4 If the Planning Permission is quashed or revoked or shall expire before being initiated by carrying out a Material Operation then this Deed shall absolutely determine and become null and void

5.5 If the Planning Permission has not been issued within twenty-eight days of the date of this Deed the Deed may at the discretion of the Owner be withdrawn by notice given to the Council provided that if any such notice is given on the same day as the Planning Permission is granted the notice shall be automatically rescinded

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

5.7 In the event of any delay in the Transport Contribution being paid Interest shall be charged on the amount payable at the rate of four per cent per annum above the National Westminster Bank plc base lending rate prevailing from time to time for the period from the date that the payment falls due to the actual date of payment

6 **MISCELLANEOUS**

6.1 The headings appearing in this Deed are for ease of reference only and shall not affect the construction of this Deed

6.2 Where reference is made to a clause part plan recital or schedule such reference (unless the context requires otherwise) is a reference to a clause part plan recital or schedule to (or in the case of the Plan attached to) this Deed

6.3 References to the singular include the plural and to any gender include all genders

6.4 References to the Council include any successors to its functions as local planning authority

6.5 References to the Owner include its successors in title

6.6 References to statues byelaws regulations orders delegated legislation shall include any such instrument re-enacting or made pursuant to the same power

IN WITNESS whereof the parties hereto have executed this instrument as a Deed in manner hereinafter appearing and it has been delivered by them or on their behalf on the day and year first before written

ANNEX ONE

Draft Planning Permission