



**OPTION AGREEMENT DATED 17 SEPTEMBER 2019**

**FOR THE DEVELOPMENT CONSENT ORDER  
APPLICATION FOR THE ALTERATION AND  
CONSTRUCTION OF HAZARDOUS WASTE AND LOW  
LEVEL RADIOACTIVE WASTE FACILITIES AT THE EAST  
NORTHANTS RESOURCE MANAGEMENT FACILITY,  
STAMFORD ROAD, NORTHAMPTONSHIRE**

***PINS project reference: WS010005***

**PINS document reference: 9.2.1.4.2**

**March 2022**



**Baddesley Colliery Offices, Main Road, Baxterley, Atherstone,  
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17 September 2019

Option Agreement relating to  
land at Westhay Farm Kings Cliffe Peterborough

Howard Farms Limited <sup>(1)</sup> and  
Augean South Limited <sup>(2)</sup>

[Redacted]  
certify that this is a true and complete copy  
of the original document

[Redacted]  
Signed.....  
Solicitor/Legal Executive

Dated..... 2 10 19 .....  
Womble Bond Dickinson (UK) LLP  
112 Quayside St Ann's Wharf,  
Newcastle-upon-Tyne. NE1 3DX

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DATE 17/9 / 2019

**PARTIES**

- (1) Howard Farms Limited incorporated and registered in England and Wales with company number 07448588 whose registered office is West Hay, Stamford Road, Kings Cliffe, Peterborough PE8 6XX (Owner).
- (2) Augean South Limited incorporated and registered in England and Wales with company number [04636789] whose registered office is 4 Rudgate Court, Walton, Wetherby, West Yorkshire LS23 7BF(Augean).

**BACKGROUND**

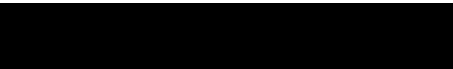
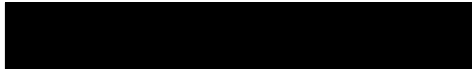
- (A) The Owner owns the property at Westhay Farm, Kings Cliffe, Peterborough and has agreed to grant Augean an option to buy it in accordance with the terms of this agreement.
- (B) Augean wishes to apply for a DCO in respect of the Project.

**AGREED TERMS**

**1. INTERPRETATION**

The following definitions and rules of interpretation apply in this agreement.

**1.1 Definitions:**

<b>2008 Act</b>	the Planning Act 2008.
<b>Access Road</b>	means the vehicular and pedestrian accessway the approximate position of which is shown shaded yellow on Plan 1 and which for the avoidance of doubt shall lie entirely on the Owner's Retained Land and shall remain at a width of approximately 7 metres between points A and B on Plan 1.
<b>Augean's Conveyancer</b>	Womble Bond Dickinson (UK) LLP of St Ann's Wharf, 112 Quayside, Newcastle upon Tyne NE1 3DX or such other conveyancer as may be notified from time to time in writing to the Owner.
<b>Base Amount</b>	
<b>Base Index Value</b>	the all items index value of the RPI for the Base RPI Month.
<b>Base Price</b>	
<b>Base RPI Month</b>	the month in which this agreement is entered into.
<b>Completion Date</b>	the date 5 Working Days after the last to occur of: <ul style="list-style-type: none"><li>(a) the date upon which the Purchase Price is agreed or determined or otherwise fixed in accordance with this agreement; and</li><li>(b) the date of service of an Option Notice</li></ul> or such other date as the Owner and Augean may agree.

<b>Connected Persons</b>	<p>(a) in relation to a person, indirectly or directly:</p> <ul style="list-style-type: none"> <li>(i) the holding and/or the ownership of the legal and/or the beneficial interest in more than 50% of the shares of the Owner or a Group Company; and/or</li> <li>(ii) by contract or otherwise, the ability or right to vote in respect of more than 50% of the shares, voting rights or other ownership rights of the Owner or a Group Company; and/or</li> <li>(iii) the power or right to control, appoint or remove more than 50% of the members of the board of directors or the equivalent management body of the Owner or Group Company or the power to direct or cause the direction of the general management and policies of that person whether through the ownership of share capital, the possession of voting power, by contract or otherwise, and</li> </ul> <p>(b) an employee contractor agent or consultant of or retained by the Company or any Group Company;</p> <p>(c) a person related to any other person falling within (a) or (b) above; or</p> <p>(d) a Group Company.</p>
<b>Consultation</b>	the pre-application statutory consultation process undertaken pursuant to sections 42, 47 and 48 of the 2008 Act and any informal consultation process to be undertaken by Augean in respect of the Project prior to submission of the Application.
<b>Contaminated Land Regime</b>	the contaminated land regime under Part 2A of the Environmental Protection Act 1990 (as amended from time to time) and any statutory instrument, circular or guidance issued under it.
<b>Contract Rate</b>	4% per annum above the base rate from time to time of Barclays Bank Plc.
<b>DCO</b>	a development consent order made by the Secretary of State under section 114 of the 2008 Act in response to the DCO Application Process.
<b>DCO Application</b>	any application or applications made by Augean to the Secretary of State for development consent for a DCO in respect of the Project.
<b>DCO Application Process</b>	all stages of the DCO Application required under the 2008 Act relating to pre-application consultation, submission, acceptance, examination and the making of any decision including (but not limited to) the Consultation, Pre-Examination, Notification and Publication, the Relevant Representation Period and Examination.
<b>Deed of Covenant (Owner)</b>	a deed of covenant with Augean containing covenants in the same terms as the obligations of the Owner in this agreement with such minor modifications as Augean may agree.

<b>Deed of Covenant (Augean)</b>	a deed of covenant with the Owner containing covenants in the same terms as the obligations of Augean in this agreement with such minor modifications as the Owner may agree.
<b>Determining Authority</b>	either the local planning authority or the Secretary of State, the Courts of England and Wales or other appropriate determining body or person.
<b>Disposal</b>	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.
<b>Enforcing Authority</b>	the relevant regulator for the Project under the Contaminated Land Regime.
<b>Environment</b>	the natural and man-made environment including all or any of air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media.
<b>Environmental Law</b>	all applicable laws, statutes, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, and legally binding codes of practice and guidance notes which are in force at the date of this agreement in so far as they relate to the protection of the Environment.
<b>Environmental Permit</b>	such permit as may be issued by the Enforcing Authority to Augean pursuant to Environmental Law which is required in respect of the implementation and use of the Project and/or the disposal of Waste.
<b>Examination</b>	the six month period during consideration of the DCO Application as governed by Chapter 4 of the 2008 Act and the Infrastructure Planning (Examination of Procedure) Rules 2010, during which the Examining Authority considers those representations of Interested Parties made during the Representation Period, supporting evidence is submitted and, responses are provided to enquiries raised by the Determining Examining Authority.
<b>Examining Authority</b>	the Inspector or panel of Inspectors from the Planning Inspectorate appointed to reside over the DCO Application Process in order to provide a recommendation report to the Secretary of State.
<b>Expert</b>	a person appointed in accordance with clause 26.
<b>Group Company</b>	a company that is a member of the same group (within the meaning of section 42 of the Landlord and Tenant Act 1954) as the Owner.
<b>Harvest</b>	the period during each year in which agricultural crops are typically gathered in.

<b>Hazardous Substances</b>	any material substance or organism which alone or in combination with others is capable of causing harm to the Environment.
<b>Hazardous Waste</b>	waste comprising: <ul style="list-style-type: none"> <li>(a) Hazardous Substances; and/or</li> <li>(b) waste as defined in regulation 6 of the Hazardous Waste (England and Wales) Regulations 2005 and as may be amended from time to time in those or equivalent regulations</li> </ul>
<b>Inspectorate</b>	the Planning Inspectorate or such other body agency or governmental department responsible for examining applications for NSIPs.
<b>Interested Party</b>	a party with a statutory right to make representations in respect of the DCO Application.
<b>Longstop Date</b>	[11 <sup>th</sup> anniversary of the date of this Agreement] 2030]
<b>Low Level Waste</b>	low level waste as defined in the Policy for the Long Term Management of Solid Low Level Radioactive Waste in the United Kingdom 2007.
<b>Notification and Publication</b>	the statutory obligations to contained in the 2008 Act and associated secondary legislation to: <ul style="list-style-type: none"> <li>(a) notify certain persons and bodies of a proposed application during the Consultation process;</li> <li>(b) notify certain persons or bodies of the DCO Application following its acceptance by the Secretary of State; and</li> <li>(c) publicise the DCO Application before it is made and following acceptance of the DCO Application by the Secretary of State.</li> </ul>
<b>NSIPs</b>	Nationally Significant Infrastructure Projects under section 14 of the 2008 Act and <b>NSIP</b> shall mean any individual project.
<b>Option</b>	the option granted by the Owner to Augean by this agreement.
<b>Option Notice</b>	written notice exercising the Option in accordance with the terms of this agreement.
<b>Option Period</b>	subject to extension in accordance with clause 4, the period of 10 years from the date of this agreement up to and including 16 September 2029.
<b>Option Sum</b>	the Base Amount (exclusive of VAT).
<b>Owner's Conveyancer</b>	Hunt & Coombs LLP of 35 Thorpe Road, Peterborough, PE3 6AG or other such conveyancer as may be notified from time to time in writing to Augean
<b>Owner's Retained Land</b>	part of the freehold property at Westhay Farm, Kings Cliffe, Peterborough registered at HM Land Registry with title

	absolute under title number NN306205 as is shown edged green on Plan 2
<b>Part 1 Conditions</b>	Part 1 of the Standard Commercial Property Conditions (Third Edition - 2018 Revision) and Condition: means any one of them.
<b>Part 2 Conditions</b>	Part 2 of the Standard Commercial Property Conditions (Third Edition - 2018 Revision).
<b>Plan 1</b>	the plan attached to this agreement as Appendix 1.
<b>Plan 2</b>	the plan attached to this agreement as Appendix 2.
<b>Planning Obligation</b>	a statutory obligation that (in Augean's opinion) is necessary for or will assist in obtaining a DCO or Planning Permission including without limitation an obligation under section 106 of the Town and Country Planning Act 1990, section 38 or section 278 of the Highways Act 1980 or section 104 of the Water Industry Act 1991.
<b>Planning Application</b>	an application or applications made by Augean for Planning Permission.
<b>Planning Application Process</b>	all stages of the Planning Application required under the Town and Country Planning Act 1990 and other associated or subsidiary legislation relating to pre-application consultation, submission, acceptance, determination and the making of any decision.
<b>Planning Permission</b>	the consent for the Project as granted by virtue of Section 58 of the Town and Country Planning Act 1990
<b>Pre-examination</b>	the period following the submission and acceptance of the DCO Application during which an Interested Party registers their interest to participate in the Examination process by submitting a relevant representation to the Inspectorate.
<b>President</b>	the President for the time being of the Royal Institution of Chartered Surveyors or a person acting on his behalf.
<b>Project</b>	a NSIP for the disposal of Waste comprising a landfill facility and any ancillary apparatus and infrastructure and the relocation of soil treatment facilities.
<b>Property</b>	the freehold property at Westhay Farm, Kings Cliffe, Peterborough registered at HM Land Registry with title absolute under title numbers NN306577 (whole) and NN306205 (part) shown edged red on Plan 1
<b>Purchase Price</b>	the Base Price (exclusive of VAT) adjusted in accordance with clause 11.
<b>Representation Period</b>	the period following acceptance of the DCO Application by the Secretary of State during which representations may be made by Interested Parties in respect of the DCO Application.
<b>Review Index Value</b>	the all items index value of the RPI for the month that falls two months before the month in which the Option Notice is served.



<b>RPI</b>	the Retail Prices Index or any official index replacing it.
<b>Satisfactory Consent</b>	a consent in accordance with the requirements of the restriction referred to in clause 16.2 and the requirements of HM Land Registry from time to time.
<b>Secretary of State</b>	the Secretary of State for Housing, Communities and Local Government or the Secretary of State for Business, Energy and Industrial Strategy, or the Secretary of State for Transport, as relevant, or any person appointed by them or having authority to act on their behalf or any person entitled to exercise the powers conferred upon them or any other minister or authority for the time being having or entitled to exercise the powers now conferred in the Planning Act.
<b>Service Media</b>	all foul and surface water sewers, drains, pipes, gullies, gutters, ducts, mains, channels, wires, cables, flues, conduits, laser optic fibres, electronic data or impulse communication transmission or reception systems and any other conducting media and associated equipment for the supply of Services.
<b>Services</b>	water, storm and surface water drainage, foul drainage, gas, electricity and telecommunications services.
<b>Statutory Agreements</b>	an agreement and/or unilateral undertaking in respect of and affecting the Property (whether or not also affecting other property including the Retained Land) pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) and/or the Local Government (Miscellaneous Provisions) Act 1982 Section 33 and/or the Local Government Act 1972 Section 111 and/or the Public Health Act 1936 Section 18 and/or the Highways Act 1980 Section(s) 38 and/or 62 and/or 278 and/or the Water Industry Act 1991 Section 104 or any provision to similar intent or an agreement with a water undertaker or a drainage undertaker (within the meaning of the Water Industry Act 1991) or the Environment Agency or an Internal Drainage Board (within the meaning of the Water Resources Act 1991 or the Land Drainage Act 1991) or other appropriate authority as to water supply or drainage of surface and/or foul water or an agreement with any Statutory Authority or body relating to other Services.
<b>Statutory Authority</b>	<ul style="list-style-type: none"> <li>(a) such authority or body as shall have responsibility under statute for highway matters;</li> <li>(b) such authority or body as shall have responsibility under statute for drainage matters;</li> <li>(c) such authority or body as shall have responsibility under statute for planning matters;</li> <li>(d) any utility company concerned with the installation of Service Media and the provision of Services;</li> <li>(e) any other authority company body corporation or organisation concerned with the control of development or the adoption of roads or sewers or the protection of wildlife and/or the environment or having jurisdiction in</li> </ul>

relation to the development of the Property and the Retained Land and/or the infrastructure serving the same

- Surveyor** is the independent valuer appointed pursuant to clause 11.
- Transfer** the transfer in agreed form attached to this agreement as Appendix 2.
- Trigger Date** the fifth anniversary of the date of this agreement.
- VAT** value added tax or any equivalent tax chargeable in the UK.
- Waste** either or both of:
- (a) Hazardous Waste; and
  - (b) Low Level Waste
- Working Day** any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory Bank Holiday.
- Written Replies** are:
- (a) written replies to written enquiries given prior to exchange of this agreement by the Owner's Conveyancer to Augean's Conveyancer; or
  - (b) written replies to written enquiries given after the date of this agreement by the Owner's Conveyancer to Augean's Conveyancer
- 1.2 Clause and Schedule headings will not affect the interpretation of this agreement.
- 1.3 Unless the context otherwise requires, references to clauses and Schedules are to the clauses and Schedules of this agreement.
- 1.4 Unless otherwise specified, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.5 A reference to a statute or statutory provision will include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.6 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.7 Except in relation to clause 1.11, a reference to **writing** or **written** excludes fax and email.
- 1.8 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.9 Any obligation imposed upon the Owner requiring it to support Augean or not object to any act or thing of Augean shall be deemed to also comprise an obligation to support or not object to any act or thing of any Group Company of Augean in respect of the Project and Augean's recent operations at the site registered at HM Land Registry under title numbers CB253170, NN252039, NN233142, NN185822 and NN182966.
- 1.10 Any reference to the **Owner** or to **Augean** includes their respective successors in title.

1.11 For the purposes of the definition of **Written Replies, written replies and written enquiries** include:

1.11.1 any pre-contract enquiries and any replies to pre-contract enquiries that are requested or given by reference to the Commercial Property Standard Enquiries (CPSE.1) and include enquiries or replies so requested or given by email; and

1.11.2 any other pre-contract enquiries and replies that were sent or received by email.

## **2. OPTION**

2.1 On the date of this agreement Augean will pay the Option Sum to the Owner.

2.2 The Owner grants Augean an option during the Option Period to buy the Property at the Purchase Price.

2.3 The Owner consents to the entry of an agreed notice against the Owner's title to the Property at HM Land Registry in order to protect this option agreement.

2.4 Augean may raise written enquiries of the Owner in respect of the Property at any time after the date of this agreement and the Owner agrees to provide Written Replies within 10 Working Days of the enquiries being raised.

## **3. PLANNING PROCESS AND OWNER'S OBLIGATIONS AND UNDERTAKINGS**

3.1 The Owner will support, and will procure that any Connected Persons will support Augean and endorse the Project and Augean's recent operations at any site adjacent to or adjoining the Property during the DCO Application Process or the Planning Application Process.

3.2 Without prejudice to the generality of clause 3.1 the Owner will not and will procure that any Connected Persons will not object to or make unsupportive representations to the Inspectorate or relevant Determining Authority in respect of or during:

3.2.1 the DCO Application Process

3.2.2 any application by Augean to correct, change or revoke a DCO;

3.2.3 the Planning Application Process;

3.2.4 any application by Augean to correct, change or revoke Planning Permission; or

3.2.5 any application by Augean for judicial review.

3.3 The Owner undertakes that during the Option Period it will not and any Connected Persons will not:

3.3.1 submit any planning application in respect of the Property; or

3.3.2 submit any planning application in respect of the Owner's Retained Land without Augean's consent (such consent not to be unreasonably withheld or delayed) Provided That after the grant of (as the case may be) Planning Permission or DCO:

(a) applications in respect of the Owner's agricultural business in respect of the Owner's Retained Land may be made without Augean's consent; and

(b) the Owner will consult with Augean in respect of any proposed planning applications affecting the Owner's Retained Land and shall afford Augean reasonable opportunity to comment on them.

- 3.3.3 grant any charge, easement, right, licence, tenancy or other encumbrance affecting the Property without Augean's consent (such consent not to be unreasonably withheld).
- 3.4 Augean at its own cost may in its sole discretion, subject to clause 3.7, submit to the relevant Determining Authority:
  - 3.4.1 a DCO Application; or
  - 3.4.2 a Planning Application, should Planning Application be deemed more suitable to the Project than a DCO Application at the sole discretion of Augean.
- 3.5 Augean may, at its own cost and in its sole discretion, subject to clause 3.7, submit further DCO Applications and/or undertake any other application as it sees fit, whether under a statutory change or revocation process or by way of judicial review, in order to obtain a DCO satisfactory in all respects to Augean.
- 3.6 The Owner will give all reasonable assistance to Augean in trying to obtain a DCO or Planning Permission satisfactory in all respects to Augean.
- 3.7 Augean will give the Owner no less than 14 days' notice of its intention to file any documents relating to the DCO Application Process or Planning Application Process which will be made available for review by members of the public.
- 3.8 Augean will keep the Owner informed on a quarterly basis as to the progress of a Planning Application.

#### **4. PLANNING OBLIGATIONS**

- 4.1 At Augean's request, the Owner will promptly deduce title to the Property to the relevant Determining Authority in connection with any proposed Planning Obligation.
- 4.2 The Owner will enter into any Planning Obligation upon request by Augean and will procure that any chargee of the Property enters into the relevant Planning Obligation and will execute it as a deed provided that:
  - 4.2.1 any liabilities in the Planning Obligation are expressed to be dependent on the grant and implementation of the DCO or Planning Permission; and
  - 4.2.2 Augean indemnifies the Owner against all expenses and liabilities arising out of the Planning Obligation and the transfer of the Property will contain a covenant by Augean to that effect; and
  - 4.2.3 All the Owner's reasonable legal and surveyor's costs and disbursements properly incurred in connection with the Planning Obligation are paid by Augean;
  - 4.2.4 The Owner is automatically released from further liability thereunder once it has disposed of its interest in the Property.
  - 4.2.5 The Planning Obligation does not seek to bind the Owner's Retained Land or any neighbouring land belonging to the Owner other than in respect of environmental monitoring and access conditions and obligations in respect of which Augean is to be granted rights over the Owner's Retained Land under the Transfer.

#### **5. ENVIRONMENTAL PERMIT**

- 5.1 Augean at its own cost may in its sole discretion prepare and submit to the Enforcing Authority an application for an Environmental Permit.
- 5.2 If it appears necessary in order to procure an Environmental Permit Augean may amend its application for the application or withdraw and submit in substitution a revised application.

- 5.3 Augean will keep the Owner informed on a quarterly basis as to the progress of the application for the Environmental Permit.
- 5.4 Augean shall give notice to the Owner within 5 Working Days of the receipt of any decision made by the Enforcing Authority in respect of the application for the Environmental Permit.
- 5.5 Provided the Environmental Permit does not seek to bind the Owner's Retained Land or any neighbouring land belonging to the Owner (other than in respect of environmental monitoring and access conditions and obligations in respect of which Augean is to be granted rights over the Owner's Retained Land under the Transfer), the Owner will not and will procure that any Connected Persons will not object to or make unsupportive representations to the Enforcing Authority in respect of:
  - 5.5.1 Augean's application for an Environmental Permit:
  - 5.5.2 in respect of any appeal by Augean against a deemed refusal or actual refusal to grant an Environmental Permit or in respect of any conditions imposed in an Environmental Permit; or
  - 5.5.3 in respect of any application by Augean for judicial review.

**6. EXTENSIONS TO THE OPTION PERIOD**

- 6.1 If a DCO, Planning Permission and/or an Environmental Permit is granted less than three months before the end of the Option Period, the Option Period will be extended for a further period expiring at midnight marking the end of three months from (and including) the last to occur of the date of receipt of the final DCO or Planning Permission by Augean and the date of receipt of the final Environmental Permit by Augean.
- 6.2 If at the end of the Option Period Augean is awaiting a written decision or determination on:
  - 6.2.1 A DCO Application or Planning Application; and/or
  - 6.2.2 an application for an Environmental Permit; and/or
  - 6.2.3 the Purchase Price
 the Option Period will be extended for a further period expiring at midnight marking the end of three months from (and including) the last to occur of the date of:
  - 6.2.4 receipt of the final DCO or Planning Permission by Augean; and
  - 6.2.5 receipt of the final Environmental Permit by Augean; and
  - 6.2.6 determination of the Purchase Price
- 6.3 If at the end of the Option Period Augean has:
  - 6.3.1 applied for judicial review; or
  - 6.3.2 made a DCO Application or Planning Application; or
  - 6.3.3 made an application to change or revoke a DCO or Planning Permission; or
  - 6.3.4 received notification of an actual or deemed refusal of an application for an Environmental Permit

and has not yet received the relevant final written decision notice, the Option Period will be extended for a further period expiring at midnight marking the end of three months from (and including) the date of receipt of the last of written decision notices by Augean.

- 6.4 If at the end of the Option Period a third party has applied for judicial review and Augean has not yet received the relevant final written decision notice, the Option Period will be extended for a further period expiring at midnight marking the end of three months from (and including) the date of receipt of the last of any written decision or notices by Augean.
- 6.5 Notwithstanding the provisions of clauses 6.1 to 6.5 the Option Period shall not in any circumstances be extended beyond the Longstop Date.

## **7. LICENCE TO ENTER THE PROPERTY**

- 7.1 The Owner grants a licence for Augean and its employees agents consultants and contractors to enter the whole or part or parts of the Property and the Owner's Retained Land at all reasonable times during the Option Period with motor cars, vans and such other motor vehicles as the Owner approves in advance (such approval not to be unreasonably withheld but which may be withheld in respect of heavy lorries, plant and equipment):

7.1.1 after giving reasonable notice to the Owner of not less than 14 Working Days; and

7.1.2 paying a licence fee of [REDACTED] per acre to be physically occupied by Augean (such fee to be pro-rated in respect of part of an acre to a minimum fee of [REDACTED] per borehole, trial pit or other excavation) and which for the avoidance of doubt [REDACTED] of boreholes, trial pits or other excavations shall be calculated by reference to the size in acres (or part acres) of those boreholes trial pits or parts of the Property subject to excavations;

in order to carry out soil, water and environmental tests, inspections, surveys and to install site investigation boreholes in the position shown on Plan 1. Augean will make good any damage caused to the Property and the Owner's Retained Land including the Access Road which shall be reinstated to its current condition as soon as reasonably practicable.

- 7.2 In the event of irremediable damage including crop loss Augean will pay proper compensation to the Owner.

- 7.3 The Owner will supply Augean with:

7.3.1 a copy of any notice, correspondence or other written material relevant to the Property or the Project within ten Working Days of receipt by the Owner; and

7.3.2 full details of any event or other information relevant to the Property or the Project within ten Working Days of its coming to the notice of the Owner.

- 7.4 Augean will use reasonable endeavours not to enter the Property and the Owner's Retained Land during Harvest.

## **8. TITLE DEDUCTION**

The Owner's title to the Property has been deduced to Augean before the date of this agreement.

## **9. EXERCISE OF THE OPTION**

Augean may exercise the Option at any time during the Option Period by serving an Option Notice on the Owner.

## **10. SALE AND PURCHASE**

- 10.1 If the Option is exercised in accordance with the terms of this agreement the Owner will sell the Property to Augean for the Purchase Price.

10.2 The Owner will sell the Property with full title guarantee.

## 11. CALCULATION OF THE PURCHASE PRICE

11.1 If the date of service of the Option Notice on or after the Trigger Date then the Purchase Price shall be adjusted in accordance with this clause.

11.2 Subject to the date of service of the Option Notice being on or after the Trigger Date the Purchase Price payable on the Completion Date shall be the higher of the Base Price or the amount determined as follows:

$(\text{Base Price} \times \text{Review Index Value}) \div \text{Base Index Value}$

By way of example only such sum shall be [REDACTED]

11.3 For the avoidance of doubt, if the date of service of the Option Notice is prior to the Trigger Date then the Purchase Price will be the Base Price.

11.4 Augean shall calculate the Purchase Price and shall give the Owner written notice of its calculation of it at the same time as it serves an Option Notice under clause 9.

11.5 The Owner must confirm to Augean in writing within 15 Working Days of receipt of the Option Notice whether or not it agrees with Augean's calculation of the Purchase Price and if it disagrees with the calculation it must provide written reasons for doing so and provide its own substitute calculation. A failure to provide such confirmation by the Owner will be deemed as approval of Augean's calculation of the Purchase Price.

11.6 Subject to clause 11.7, if there is any change to the methods used to compile the RPI, including any change to the items from which the All Items index of the RPI is compiled, or if the reference base used to compile the RPI changes, the calculation of the Purchase Price shall be made taking into account the effect of this change.

11.7 The Owner and Augean shall endeavour, within a reasonable time, to agree an alternative mechanism for setting the Purchase Price if either:

11.7.1 the Owner or Augean reasonably believes that any change referred to in clause 11.5 would fundamentally alter the calculation of the Purchase Price in accordance with this clause 11 and has given notice to the other party of this belief; or

11.7.2 it becomes impossible or impracticable to calculate the Purchase Price in accordance with this clause 11.

This alternative mechanism may (where reasonable) include, or consist of, substituting an alternative index for the RPI. In default of agreement between the Owner and Augean on an alternative mechanism for setting the Purchase Price, the Expert shall determine an alternative mechanism in accordance with clause 26.

## 12. CONDITIONS

12.1 Upon exercise of the Option, the Part 1 Conditions will be incorporated into this agreement in so far as they:

12.1.1 apply to a sale by private treaty;

12.1.2 relate to freehold property;

12.1.3 are not inconsistent with the other clauses in this agreement; and

12.1.4 have not been modified or excluded by any of the other clauses in this agreement.

12.2 The terms used in this agreement have the same meaning when used in the Part 1 Conditions.

12.3 References in the Part 1 Conditions to:

12.3.1 "seller" mean the Owner; and

12.3.2 "buyer" mean Augean.

12.4 Upon exercise of the Option, the Part 2 Conditions will not be incorporated into this agreement.

12.5 The following Conditions are amended:

12.5.1 Condition 1.1.1(d) so that reference to completion date in Condition 1.1.1(d) is to the Completion Date as defined by this agreement;

12.5.2 Condition 1.1.1(e) so that reference to contract rate in Condition 1.1.1(e) is to the Contract Rate as defined by this agreement;

12.5.3 Condition 1.1.1(o) so that reference to VAT in Condition 1.1.1(o) is to VAT as defined by this agreement;

12.5.4 Condition 1.1.1(p) so that reference to working day in Condition 1.1.1(p) is to Working Day as defined in this agreement; and

12.5.5 Condition 9.1.1 by the deletion of the words "Completion date is twenty working days after the date of the contract".

12.6 The following Conditions will not apply:

12.6.1 Condition 1.1.4(a);

12.6.2 Condition 1.3;

12.6.3 Condition 1.4;

12.6.4 Condition 1.5;

12.6.5 Conditions 2.1 and 2.2;

12.6.6 Condition 3.2;

12.6.7 Conditions 7.2 and 7.6.2;

12.6.8 Condition 8.2.2 and 8.2.3; and

12.6.9 Condition 9.8.3.

### 13. VACANT POSSESSION

The Property will be sold with vacant possession on completion and cleared of all plant, equipment, waste and debris.

### 14. TRANSFER

The transfer to Augean will be in the form of the Transfer.

### 15. COMPLETION

15.1 Completion will take place on the Completion Date.



15.2 On completion Augean will pay the Purchase Price to the Owner.

## 16. DISPOSALS AND RESTRICTION

16.1 The Owner covenants with Augean not to:

16.1.1 make any Disposal at any time during the Option Period without first procuring that the person to whom the Disposal is being made has executed a Deed of Covenant (Owner); and

16.1.2 use the Property for anything other than agricultural purposes during the Option Period.

16.2 The Owner consents to the entry of the following restriction against the Owner's title to the Property at HM Land Registry and will provide Augean with all necessary assistance and/or documentation to permit entry of the restriction:

"No disposition of the registered estate 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 consent in writing signed by Augean South Limited of 4 Rudgate Court, Walton, Wetherby, West Yorkshire LS23 7BF or their conveyancer."

16.3 Augean will:

16.3.1 provide Satisfactory Consent for the registration of a Disposal at HM Land Registry immediately upon receipt of a Deed of Covenant (Owner) properly executed by the person to whom the Disposal is being made; and

16.3.2 apply for the withdrawal of the restriction entered against the title to the Property within 20 Working Days after the end of the Option Period.

## 17. VAT

17.1 Each amount stated to be payable by Augean to the Owner under or pursuant to this agreement is exclusive of VAT (if any).

17.2 If any VAT is chargeable on any supply made by the Owner under or pursuant to this agreement, Augean will pay the Owner an amount equal to that VAT, subject to the Owner supplying Augean with a VAT invoice at the time of payment.

## 18. ENTIRE AGREEMENT

18.1 This agreement and the documents annexed to it constitute the whole agreement between the parties and supersede all previous discussions, correspondence, negotiations, arrangements, understandings and agreements between them relating to their subject matter.

18.2 The Owner acknowledges that in entering into this agreement and any documents annexed to it Augean is relying upon all representations and warranties (whether made innocently or negligently):

18.2.1 set out in this agreement or the documents annexed to it; and

18.2.2 contained in any Written Replies.

## 19. ASSIGNMENT

19.1 Augean may assign the benefit of this Agreement subject to compliance with the following conditions:

19.1.1 the assignee enters into a Deed of Covenant (Augean) with the Owner and if reasonably required to do so by the Owner, Augean shall join into the Deed of Covenant (Augean) to guarantee the assignee's performance of the obligation of Augean in this Agreement.

19.1.2 Following such consent and assignment the assignee may exercise the Option as though they were Augean.

## 20. NOTICES

20.1 In this clause any reference to a notice includes the Option Notice.

20.2 Any notice given under this agreement must be in writing and signed by or on behalf of the party giving it.

20.3 Any notice or any document to be given or delivered under this agreement must be:

20.3.1 delivered by hand; or

20.3.2 sent by pre-paid first class post or other next Working Day delivery service.

20.4 Any notice or document to be given or delivered under this agreement must be sent to the relevant party as follows:

20.4.1 to the Owner at West Hay, Stamford Road, Kings Cliffe, Peterborough PE8 6XX marked for the attention of Mr P C Howard;

20.4.2 to Augean at its registered office from time to time marked for the attention of the Finance Director and Group General Counsel

or as otherwise specified by the relevant party by notice in writing to the other party.

20.5 Any change of the details in clause 20.4 specified by the relevant party by notice in writing to each other party will take effect for the party notified of the change at 9.00 am on the later of:

20.5.1 the date, if any, specified in the notice as the effective date for the change; or

20.5.2 the date two Working Days after deemed receipt of the notice.

20.6 Any notice or document given or delivered in accordance with clause 20.2, clause 20.3 and clause 20.4 will be deemed to have been received:

20.6.1 if delivered by hand, on signature of a delivery receipt or at the time the notice or document is left at the address provided that if delivery occurs before 9.00 am on a Working Day, the notice will be deemed to have been received at 9.00 am on that day, and if delivery occurs after 5.00 pm on a Working Day, or on a day which is not a Working Day, the notice will be deemed to have been received at 9.00 am on the next Working Day; or

20.6.2 if sent by pre-paid first class post or other next Working Day delivery service, at 9.00 am on the second Working Day after posting.

20.7 In proving delivery of a notice or document, it will be sufficient to prove that:

20.7.1 a delivery receipt was signed or that the notice or document was left at the address; or

20.7.2 the envelope containing the notice or document was properly addressed and posted by pre-paid first class or other next Working Day delivery service.

20.8 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

## **21. NON-EXERCISE OF OPTION**

If the Option is not exercised in accordance with the terms of this agreement or if the Owner terminates this agreement in accordance with the terms of this agreement then within ten Working Days after the expiry of the Option Period or termination of this agreement (whichever is earlier), Augean will remove all entries relating to the Option registered against the Owner's title to the Property;

## **22. TERMINATION**

Without affecting any other right or remedy available to it, the Owner may terminate this agreement with immediate effect by giving notice to Augean if any of the following events occur:

22.1 Augean is in substantial breach of any of its obligations in this agreement and has failed to rectify the breach within a reasonable time after receiving notice to rectify from the Owner;

22.2 Augean suspends payment of its debts or is unable to pay as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act;

22.3 Augean enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of Augean with one or more other companies or the solvent reconstruction of Augean;

22.4 an order is made for or in connection with the winding up of Augean (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of Augean with one or more other companies or the solvent reconstruction of Augean;

22.5 an order is made for the appointment of an administrator or an administrator is appointed over Augean (being a company);

22.6 the holder of a qualifying floating charge over the assets of Augean (being a company) has appointed an administrative receiver;

22.7 a receiver is appointed over the assets of Augean;

22.8 Augean (being an individual who is a successor in title Augean) is the subject of a bankruptcy petition or order;

22.9 a creditor or encumbrancer of Augean attaches or takes possession of, or an execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Augean's assets and such attachment or process is not discharged within 14 Working Days;

22.10 Augean suspends or ceases carrying on all or a substantial part of its business;

22.11 Augean (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs;

22.12 Augean (being a company) is struck off from the Register of Companies.

## **23. THIRD PARTY RIGHTS**

A person who is not a party to this agreement will not have any rights under the Contracts (Rights) of Third Parties Act 1999 to enforce any term of this agreement.

**24. EXPERT**

- 24.1 An Expert is a person appointed in accordance with this clause to resolve a matter under this agreement.
- 24.2 The parties shall agree on the appointment of an independent Expert and shall agree with the Expert the terms of their appointment.
- 24.3 If the parties are unable to agree on an Expert or the terms of their appointment within ten Working Days of either party serving details of a suggest expert on the other, either party shall then be entitled to request the President of the Royal Institution of Chartered Surveyors (RICS) to appoint an Expert who is a Surveyor of repute with and for the President of RICS to agree with the Expert the terms of appointment.
- 24.4 The Expert is required to prepare a written decision including reasons and give notice (including a copy) of the decision to the parties within a maximum of two months of the matter being referred to the Expert.
- 24.5 If the Expert dies or becomes unwilling or capable of acting, or does not deliver the decision within the time required by this clause then:
- 24.5.1 either party may apply to the President of RICS to discharge the Expert and to appoint a replacement Expert with the required expertise; and
  - 24.5.2 this clause shall apply to the new Expert as if they were the first Expert appointed.
- 24.6 all matters under this clause must be conducted, and the Expert's decision shall be written, in the English language.
- 24.7 The parties are entitled to make submissions to the Expert and will provide (or procure that others provide) the Expert with such assistance and documents as the Expert reasonably requires for the purpose of reaching a decision.
- 24.8 To the extent not provided for by this clause, the Expert may in its reasonable discretion determine such other procedures to assist with the conduct of the determination as it considers just or appropriate including (to the extent considered necessary) instructing professional advisers to assist them in reaching their determination.
- 24.9 Each party shall with reasonable promptness supply each other with all information and give each other access to all documentation and personnel and/or things as the other party may reasonably require to make a submission under this clause.
- 24.10 The Expert shall act as an expert and not as an arbitrator. The Expert shall determine the matter in dispute which may include any issue involving the interpretation of any provision of this agreement, its jurisdiction to determine the matters and issues referred to them and/or its terms of reference. The Expert may award interest as part of its decision. The Expert's written decision on the matters referred to it shall be final and binding on the parties in the absence of manifest error or fraud.
- 24.11 The Expert's fees and any costs properly incurred by it in arriving at their determination (including any fees and costs of any advisers appointed by the Expert) shall be borne by the parties equally or in such other proportions as the Expert shall direct.
- 24.12 All matters concerning that process and result of the determination by the Expert shall be kept confidential among the parties and the Expert.
- 24.13 Each party shall act reasonably and co-operate to give effect to the provisions of this clause and otherwise do nothing to hinder or prevent the Expert from reaching their determination.

The Expert and RICS shall have no liability to the parties for any act or omission in relation to this appointment save in the case of bad faith or manifest error.

**25. GOVERNING LAW**

This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) will be governed by and construed in accordance with the law of England and Wales.

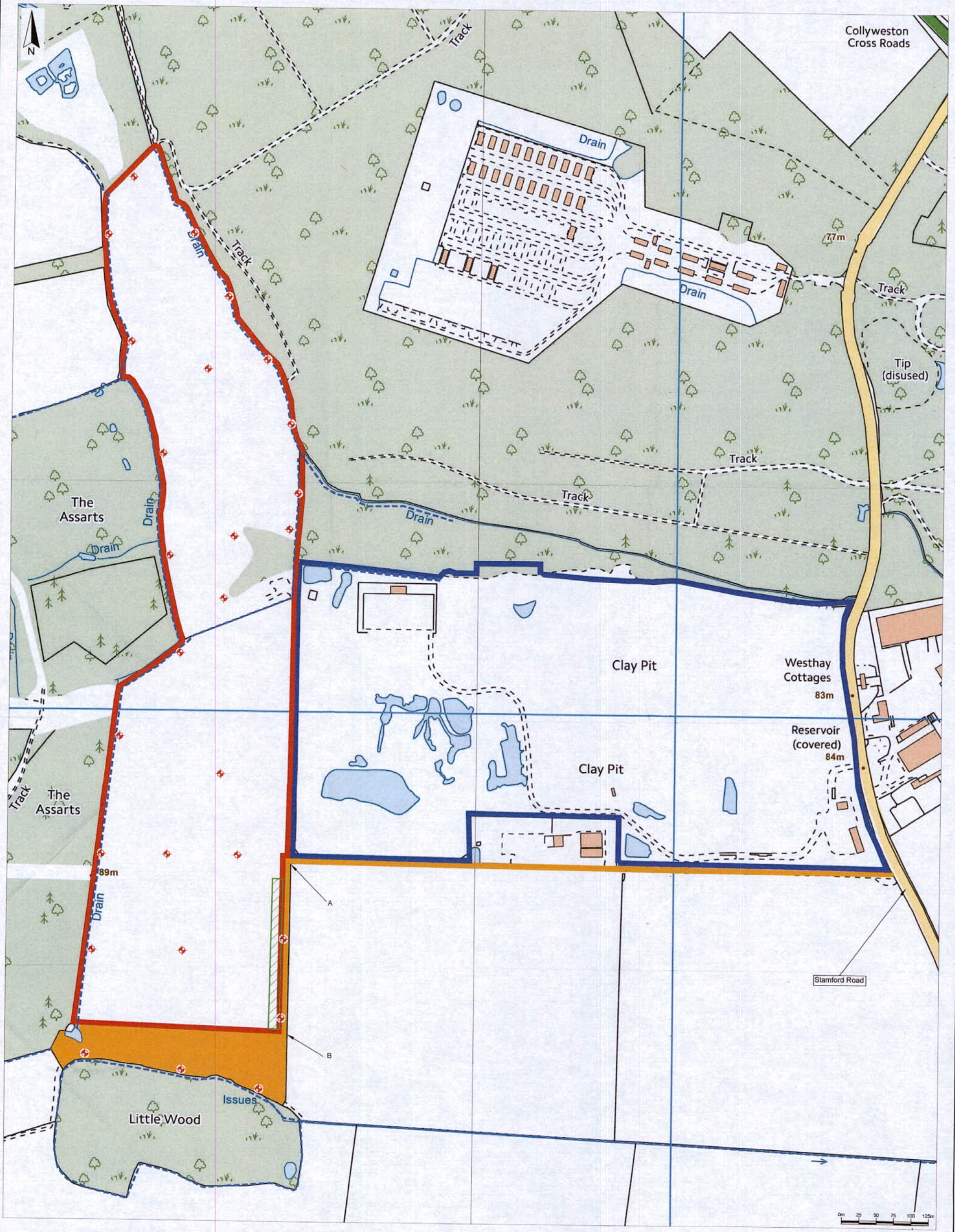
**26. JURISDICTION**

Subject to clause 24, each party irrevocably agrees that the courts of England and Wales will have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

**IN WITNESS WHEREOF the Owner and Augean have executed this agreement as a deed the day and year first before written**

**APPENDIX 1: PLAN**





- Key / Notes**
- Boundary of the adjacent site
  - Approximate location of the outline of the development site
  - Approximate location of ditches (Surface water drainage to be assessed/confirmed)
  - Approximate location of water bodies
  - Approximate location of a proposed site investigation borehole
  - Tree barrier
  - Access access required (7m wide)

D	A & B siting & access	HM	LZH	LC	17/06/19
C	Retained land & services removed	HM	LZH	LC	17/06/19
B	Retained land	HM	LZH	LH	16/09/19
A	Boreholes & access	HM	LH	LH	06/08/19
	Final	KR	HL	DFR	07/06/19
Rev	Status	Dm	App	Chk	Date

Note: The proposed borehole locations and numbers are approximate only at this stage. The final numbers and locations will be subject to decisions regarding the relocation of the water pipeline and agreement with the Environment Agency and discussions with the farmer.



**APPENDIX 2: TRANSFER**



## Transfer of part of registered title(s)

Any parts of the form that are not typed should be completed in black ink and in block capitals.

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:  NN306577 and NN306205
2	Other title number(s) against which matters contained in this transfer are to be registered or noted, if any:
3	Property:  Land at West Hay Farm, Kings Cliffe, Peterborough PE8 6XX  The property is identified  X on the attached plan and shown <b>edged red on Plan 1</b> (excluding for the avoidance of doubt the Access Road (as defined in panel 11) which shall be retained by the Transferor in its entirety and which shall remain at a width of approximately 7 metres between points A and B on Plan 1)  on the title plan(s) of the above titles and shown:
4	Date:
5	Transferor:  Howard Farms Limited  <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: 07448588  <u>For overseas companies</u> (a) Territory of incorporation:  (b) Registered number in the United Kingdom including any prefix:
6	Transferee for entry in the register:  Augean South Limited  <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: 04636789  <u>For overseas companies</u> (a) Territory of incorporation:  (b) Registered number in the United Kingdom including any prefix:

<p>7 Transferee's intended address(es) for service for entry in the register: 4 Rudgate Court, Walton, Wetherby, West Yorkshire LS23 7BF</p>
<p>8 The transferor transfers the property to the transferee</p>
<p>9 Consideration</p> <p>X The transferor has received from the transferee for the property the following sum (in words and figures): [●]<sup>1</sup> pounds (£[●])</p> <p>The transfer is not for money or anything that has a monetary value</p> <p>Insert other receipt as appropriate:</p>
<p>10 The transferor transfers with</p> <p>X full title guarantee limited title guarantee</p>
<p>11 Declaration of trust. The transferee is more than one person and</p> <p>they are to hold the property on trust for themselves as joint tenants</p> <p>they are to hold the property on trust for themselves as tenants in common in equal shares</p> <p>they are to hold the property on trust:</p>
<p>12 Additional provisions</p> <p><b>12.1 Definitions</b></p> <p>In this Transfer the following words and expressions shall have the following meanings:</p> <p>12.1.1 <b>Access Road</b> means the vehicular and pedestrian accessway the approximate extent of which is shown shaded yellow on Plan 1.</p> <p>12.1.2 <b>Boreholes</b> means holes dug or drilled into the subsurface of the Retained Land in positions to be agreed by the Transferor (such approval not to be unreasonably withheld or delayed).</p> <p>12.1.3 <b>Environment</b> means the natural and man-made environment including all or any of air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media.</p> <p>12.1.4 <b>Environmental Law</b> means all applicable laws, statutes, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, and legally binding codes of practice and guidance notes</p>

<sup>1</sup> Consideration to be inserted once purchase price settled in accordance with option agreement.

which are in force at the date of this agreement in so far as they relate to the protection of the Environment.

- 12.1.5 **Environmental Permit** means such permit as may be issued by a Statutory Authority to the Transferee pursuant to Environmental Law which is required in respect of the disposal of waste and/or the operation of landfill facilities and any ancillary apparatus and infrastructure.
- 12.1.6 **Occupied** means the Property being used by or persons or persons being on or within the Property
- 12.1.7 **Plan** means the plans attached to this Transfer and numbered accordingly.
- 12.1.8 **Regulated Facility** means a regulated facility for the purposes of the Regulations being one of:
- (a) an installation;
  - (b) mobile plant;
  - (c) a waste operation;
  - (d) a mining waste operation;
  - (e) a radioactive substances activity;
  - (f) a water discharge activity;
  - (g) a groundwater activity;
  - (h) a small waste incineration plant;
  - (i) a solvent emission activity;
  - (j) a flood risk activity.
- 12.1.9 **Regulations** means the Environmental Permitting (England and Wales) Regulations 2016 or such replacement or equivalent Environmental Law as may be in force from time to time
- 12.1.10 **Retained Land** means the part of the land registered at HM Land Registry under title number NN306205 which is shown edged green on Plan 2.
- 12.1.11 **Statutory Agreement** means an agreement and/or unilateral undertaking in respect of and affecting the Property (whether or not also affecting other property) pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) and/or the Local Government (Miscellaneous Provisions) Act 1982 Section 33 and/or the Local Government Act 1972 Section 111 and/or the Public Health Act 1936 Section 18 and/or the Highways Act 1980 Section(s) 38 and/or 62 and/or 278 and/or the Water Industry Act 1991 Section 104 or any provision to similar intent or an agreement with a water undertaker or a drainage undertaker (within the meaning of the Water Industry Act 1991) or the Environment Agency or an Internal Drainage Board (within the meaning of the Water Resources Act 1991 or the Land Drainage Act 1991) or other appropriate authority as to water supply or drainage of surface and/or foul water or an agreement with any Statutory Authority or body relating to other Services.
- 12.1.12 **Statutory Authority** means all or any of the following as appropriate:
- (a) such authority or body as shall have responsibility under statute for highway matters;
  - (b) such authority or body as shall have responsibility under statute for drainage matters;

- (c) such authority or body as shall have responsibility under statute for planning matters;
- (d) any utility company concerned with the installation of Service Media and the provision of Services;
- (e) such authority or body as shall have responsibility under statute for environmental matters;
- (f) any other authority company body corporation or organisation concerned with the control of development or the adoption of roads or sewers or the protection of wildlife and/or the environment or having jurisdiction in relation to the development of the Property and the Retained Land and/or the infrastructure serving the same.

12.1.13 **Transferee's Adjoining Property** means Slipe Clay Pit, Stamford Road, Kings Cliffe, Peterborough being land registered at HM Land Registry as at the date of this transfer under title numbers CB253170, NN252039, NN233142, NN185822 and NN182966.

12.1.14 **Tree Barrier** means a row of trees hedging and other vegetation which should grow to be at least 3 metres in height over time which is to be erected along the boundary of the Property and the Retained Land, the approximate location of which is shown marked green and hatched brown on Plan 1.

12.1.15 **Working Day** means any day other than a Saturday, Sunday or public holiday in England.

## 12.2 Interpretation

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

12.2.2 Words importing one gender are to be construed as importing any other gender.

12.2.3 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.

12.2.4 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 Rights granted

The Transferor grants to the Transferee and its successors in title and all persons authorised by them the following rights for the benefit of the Property and (where specified) the Transferee's Adjoining Property and every part of them:

### 12.3.1 Support

the right of lateral, adjacent and subjacent support and protection for Property and any walls and buildings erected or to be erected on it by and from the Retained Land;

### 12.3.2 Building

The right to build new buildings upon the and to rebuild, extend, alter or carry out any other works to any buildings from time to time on the Property notwithstanding that the same may restrict or interrupt the passage of light and air to any buildings from time to time on the Retained Land

### 12.3.3 Access Road

A right of way at all times of the day and night on foot and with or without with motor cars, vans and such other motor vehicles as the Owner approves in advance (such approval not to be unreasonably withheld but which may be withheld in respect of

heavy lorries, plant and equipment) over and along the Access Road to and from the Retained Land for the purpose of exercising the right in clause 12.3.4 below subject to the Transferee paying a fair and reasonable proportion according to use of the costs of maintaining, cleansing, repairing and renewing the Access Road.

#### 12.3.4 Access to the Retained Land

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 Retained Land with or without workmen, plant and equipment for the purpose of:

- (a) drilling Boreholes (in positions first agreed and approved in writing by the Transferor or its successors in title to the Retained Land (such approval not to be unreasonably withheld or delayed)) and accessing, monitoring, maintaining and repairing Boreholes for the purposes of monitoring environmental ground and groundwater conditions and to carry out any other works inspections or maintenance required from time to time; and
- (b) carrying out maintenance to and repair of the Access Road in circumstances where the Transferor fails to comply with its obligations under clause 12.6 and to recover from the Transferor on demand the costs incurred by the Transferee in doing so

PROVIDED THAT the rights of entry reserved by this Transfer are subject to those parties exercising them:

- (a) causing as little inconvenience and/or damage as reasonably practicable to the owners and occupiers of the Retained Land in the exercise of these rights;
- (b) making good as soon as reasonably practicable all physical damage caused to the Retained Land including the Access Road and buildings and/or structures from time to time on it and to indemnify the Transferor and its successor(s) in title in respect of any failure to comply with this obligation and paying reasonable compensation (including surveyors' fees) for all damage which is incapable of remedy;
- (c) (if applicable) first obtaining the approval in writing of any necessary Statutory Authority; and
- (d) (save in the case of emergency) giving 5 Working Days' written notice to the owners of the relevant parts of the Retained Land of the intention to commence the exercise of these rights.

#### 12.4 Rights Reserved

There are excepted and reserved out of the Property for the benefit of each and every part of the Retained Land the following rights:

##### 12.4.1 Support

The right of lateral adjacent and subjacent support and protection for the Retained Land and any buildings on it or to be constructed on it from the Property and any buildings on it from time to time.

##### 12.4.2 Building

The right to build new buildings upon the Retained Land and to rebuild, extend, alter or carry out any other works to any buildings from time to time on the Retained Land notwithstanding that the same may restrict or interrupt the passage of light and air to any buildings from time to time on the Property.

##### 12.4.3 Sporting Rights

Subject to:

- (a) no Regulated Facility being operated on the Property; or
  - (b) a Regulated Facility having been made the subject of a landfill closure notice under the Regulations
- and in each case
- (c) the Property not being Occupied; and
  - (d) any damage caused by the Transferor or those authorised by it being made good as soon as reasonably practicable and the Transferor indemnifying the Transferee in respect of any failure to do so

full and exclusive right and privilege for the Transferor and its successors in title to the Retained Land with all persons authorised by it at all times, to drive, shoot, fowl, sport, kill and carry away for it or their own use all manner of game, ground game and such snipe, woodcock, wildfowl and other birds as it is lawful to shoot, kill or take in, over and on the Property except for any part of it comprising buildings or other operational facilities with:

- (i) the right to enter the Property except those parts mentioned above to recover dead or injured animals or birds; and
- (ii) the right in common with the Transferee to kill by any lawful means vermin from time to time on the Property.

## **12.5 Restrictive covenants by the Transferor**

12.5.1 The Transferor hereby covenants with the Transferee so as to burden the Retained Land and each and every part thereof for the benefit of the Property and each and every part thereof but not so as to be personally liable after parting with all its estate and interest in the Retained Land not to obstruct or block the Access Road and not to interfere with or obstruct the exercise by the Transferee or those authorised by it of the rights granted under clause 12.3.

12.5.2 The Transferor covenants not to block obstruct or otherwise make any external or structural alteration or addition to Boreholes.

## **12.6 Positive covenants by the Transferor**

The Transferor hereby covenants with the Transferee so as to burden the Retained Land and each and every part thereof for the benefit of the Property and each and every part thereof but not so as to be personally liable after parting with all its estate and interest in the Retained Land to keep the Access Road on the Retained Land in good repair and condition and free from obstruction, subject to the Transferee paying a fair and reasonable proportion calculated according to user of the costs and expenses incurred by the Transferor in maintaining the Access Road in accordance with this clause 12.6.

## **12.7 Restrictive Covenant by the Transferee**

The Transferee hereby covenants with the Transferor so as to burden the Property and each and every part thereof for the benefit of the Retained Land and each and every part thereof but not so as to be personally liable after parting with all its estate and interest in the Property not to permit surface water to drain or pass from the Property and Transferee's Adjoining Property into or through the Retained Land or any water courses thereon.

## **12.8 Positive covenants by the Transferee**

The Transferee covenants with the Transferor that it will erect as soon as reasonably practical after the date of this Transfer and thereafter maintain the Tree Barrier.

## **12.9 Declarations**

12.9.1 Section 62 of the Law of Property Act 1925 and the rule in "Wheeldon v Burrows" 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.

12.9.2 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 or otherwise which would or might restrict or interfere with the free use of (including for the avoidance of doubt but not limited to the development of) the whole or any part of the Retained Land for building development or any other purpose.

12.9.3 Where reference is made in this Transfer to payment of a fair and reasonable proportion calculated according to user of cost the amount payable shall in the event of dispute be determined by a surveyor of ten years' standing and experienced in such matters to be appointed by the President for the time being of the Royal Institution of Chartered Surveyors at the request of the person entitled to seek or obliged to make payment and the decision of the surveyor (who shall also determine the question of costs) is to be final.

#### **12.10 Contracts (Rights of Third Parties) Act 1999**

A person who is not a party to this Transfer shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Transfer.

#### **12.11 Indemnity Covenant**

The Transferee covenants by way of indemnity only to observe and perform any Statutory Agreements and the charges, encumbrances, covenants and restrictions contained or referred to in the property and charges registers of title numbers NN306577 and NN306205 insofar as they relate to the Property are subsisting and capable of taking effect and to keep the Transferor indemnified against all proceedings costs claims and expenses on account of any breach.

13 Execution

**Signed as a Deed by Howard Farms Limited by**

a director in the presence of: .....

Signed by witness: .....

Name: .....

Address: .....

.....

.....

Occupation: .....

**Signed as a Deed by Augean South Limited by**

a director in the presence of: .....

Signed by witness: .....

Name: .....

Address: .....

.....

.....

Occupation: .....

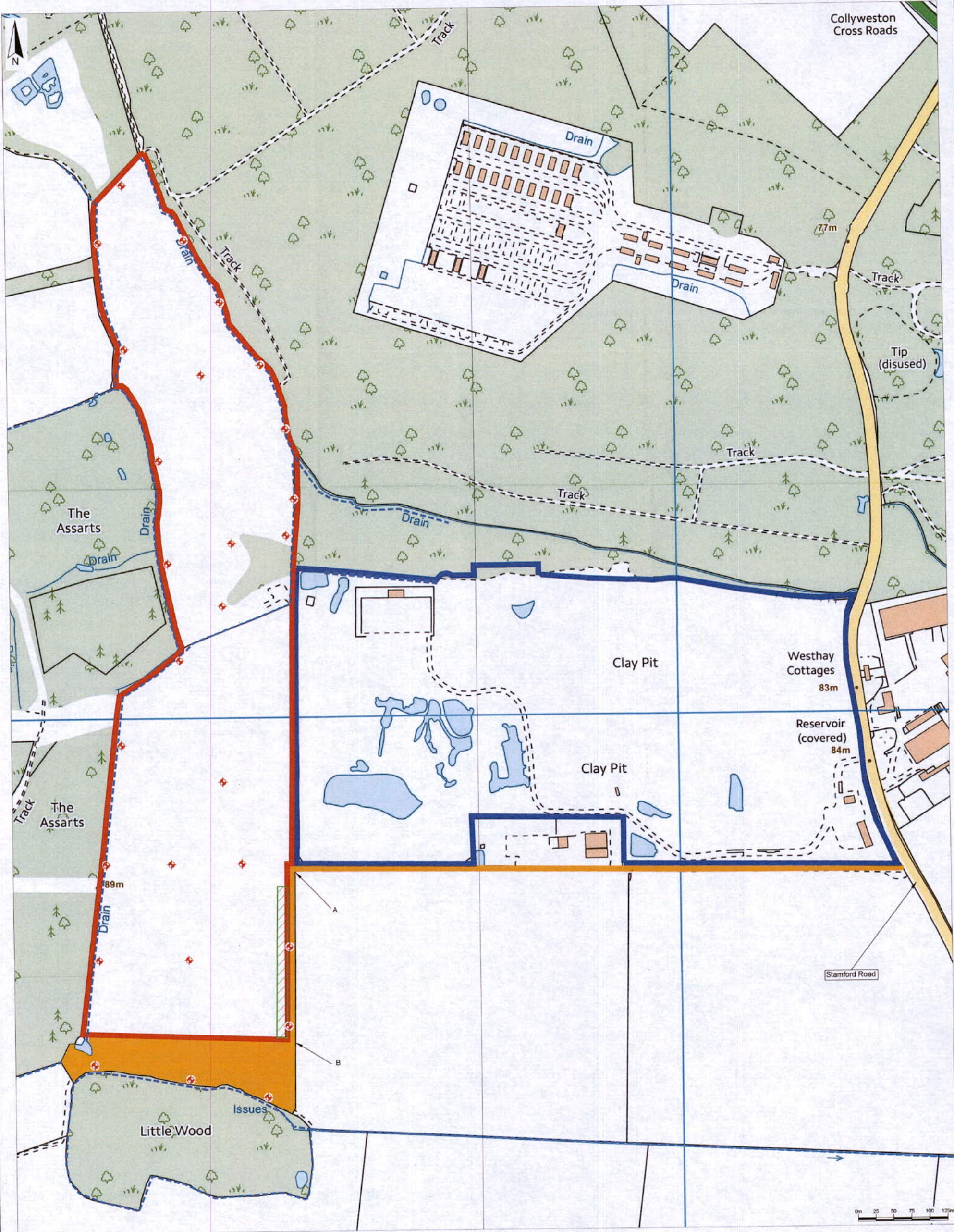
**WARNING**

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.





**Key / Notes**

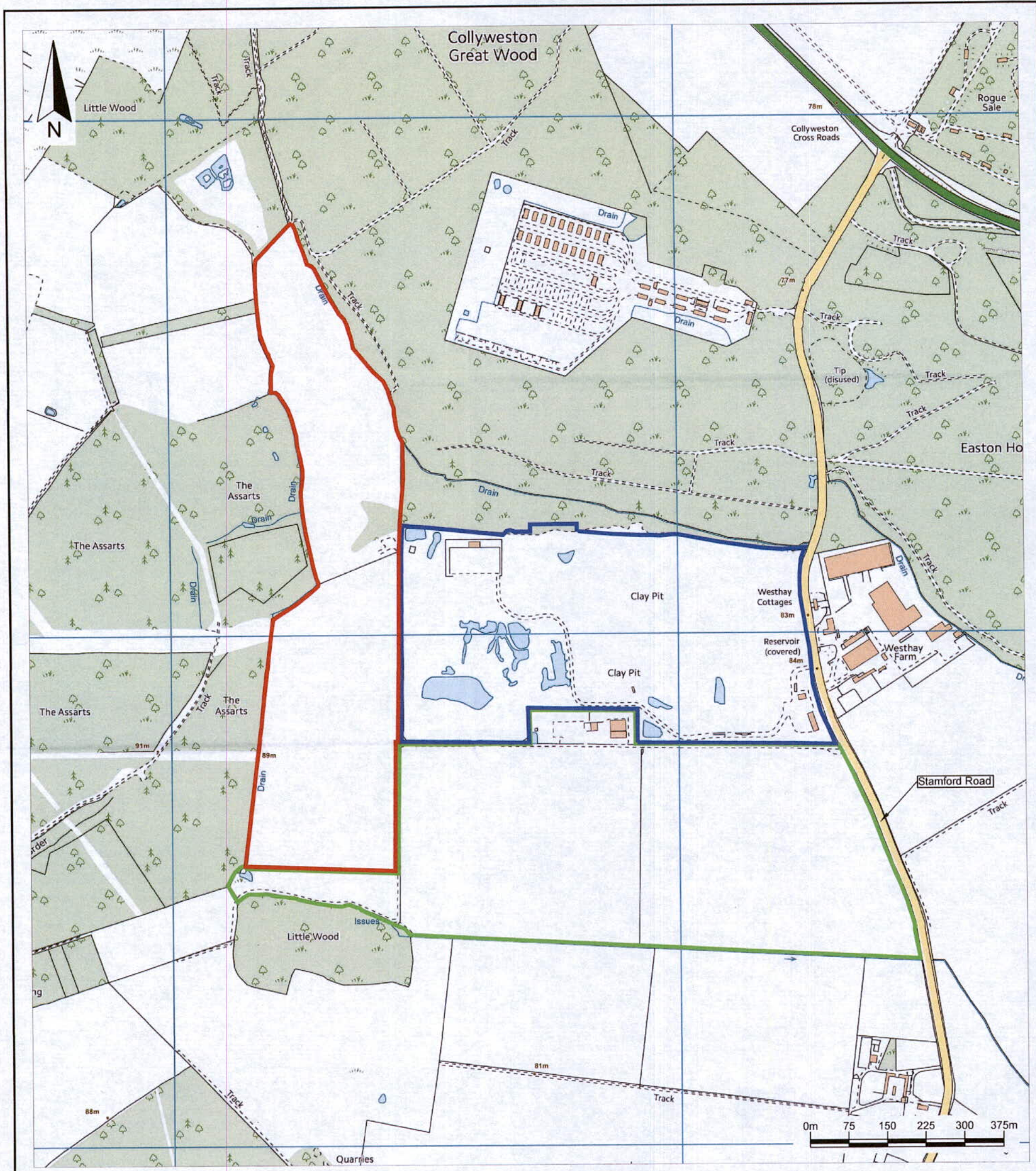
- Boundary of the adjacent site
- Approximate location of the outline of the development site
- Approximate location of ditches (Surface water drainage to be assessed/confirmed)
- Approximate location of water bodies
- + Approximate location of a proposed site investigation borehole
- Tree barrier
- Augean access required (7m wide)

Note:  
 The proposed borehole locations and numbers are approximate only at this stage. The final numbers and locations will be subject to discussion regarding the relocation of the water pipeline and agreement with the Environment Agency and discussions with the farmer.

D	A & B posted & scale amended	HM	LZH	LC	17/09/19
C	Retained land & services removed	HM	LZH	LC	17/09/19
B	Retained land	HM	LZH	LH	16/09/19
A	Boreholes & access	HM	LH	LH	06/09/19
	Final	KR	HL	DR	07/06/19
Rev	Status	Drn	App	Chk	Date

EAST NORTHANTS RESOURCE MANAGEMENT  
 FACILITY WESTERN FARMLAND EXTENSION  
 Client: **Augean**  
 The development site:  
 Figure 1  
 Scale: 1:2,500@A3  
 Drawing Ref: **11/21/14RevD**  
 Reproduced scale mapping by permission of Ordnance Survey on behalf of The Controller of Her Majesty's Stationary Office.  
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**Key / Notes**

- Boundary of the adjacent site
- Approximate location of the outline of the development site
- Retained land

Rev	Status	Drn	App	Chk	Date
	Final	KR	HL	LC	17/09/19

Site  
**EAST NORTHANTS RESOURCE  
 MANAGEMENT FACILITY WESTERN  
 FARMLAND EXTENSION**

Client

Title  
 Retained land

Figure 2      Scale  
 1:7,500@A3

Drawing Ref  
 AU/KCW/09-19/21385



Executed as a deed by **Howard Farms Limited** acting by  
[ ] a director, in the presence of:

.....

Director

.....  
Signature of witness

Name

Address

Occupation

Executed as a deed by **Augean South Limited** acting by  
[ ] a director, in the presence of:



Director

