



**Isle of Man
Government**

Reiltys Ellan Vannin

Department of Education and Children

**Response to Recommendation 1 of the Second Report of the Select
Committee on the Kirk Michael School Land Exchange Agreement [PP No
2014/0026]**

August 2017

Foreword by the Minister of Education and Children

The Department of Education and Children welcomes the opportunity to publish in full both the Agreement itself and all associated valuations provided by the Government Valuer during the negotiations which led to the Agreement.

The Department is of the opinion that the Kirk Michael Land Exchange Agreement is now of historic interest only; the first valuation is dated January 2007.

The recommendation of the Select Committee looking into this matter was:

“That the Second Report of the Select Committee on the Kirk Michael School Land Exchange Agreement [PP No 2014/0026] be received and that the following recommendations be approved -

Recommendation 1

That as soon as the Kirk Michael Land Exchange Agreement is of historic interest only, the Department of Education and Children should publish in full both the Agreement itself and all associated valuations provided by the Government Valuer during the negotiations which led to the Agreement.”

G Cregeen
Minister of Education and Children

Valuations

Copies of the valuations are published in the appendices, however details are summarised below:

17 January 2007 Valuation – Appendix 1

"Value of land currently zoned as residential: 11.85 acres @ £250,000 per acres
= £2,962,500
say £3,000,000

ADD
Value of ransom strip over future development land: £300,000

Total value of residential land: £3,300,000

LESS
Current use value as agricultural: 11.85 acres @ £5,000 per acre
= £59,250
say £60,000

Total value of profit that would be realised
by the development of the land = £3,240,000

For 'preferred' access, say 15<20% = £486,000<£648,000

The above valuation shows that the playing field land has a value to Heritage Homes of £486,000<£648,000.

The value of the 1.85 acres of residential land to be transferred to the Department has a value of:

1.85 acres @ £250,000 per acre = £462,500

The cost of the works to provide a new pitch and play area, to be borne by Heritage Homes, will need to be considered in addition to this land value.

In summary the values of the parcels of land to be exchanged are broadly similar, but when the cost of the works to be provided by Heritage Homes is added, for which you will no doubt have details, the proposal represents a satisfactory arrangement for the Department".

29 October 2010 Valuation – Appendix 2

"Value of land currently zoned as residential: 11.85 acres @ £350,000 per acres
= £4,147,500
say £4,150,000

ADD		
Value of ransom strip over future development land:		£300,000
Total value of residential land:		£4,450,000

LESS		
Current use value as agricultural:	11.85 acres @ £5,000 per acre	
	=	£59,250
	say	£60,000

Total value of profit that would be realised by the development of the land	=	£4,390,000
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For 'preferred' access, say 10<15%	=	<u>£440,000<£658,000</u>
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The above valuation shows that the playing field land has a value to Heritage Homes of between £440,000 and £660,000.

The value of the 1.85 acres of residential land to be transferred to the Department has a value of:

1.85 acres @ £350,000 per acre	=	£647,000
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The cost of the works to provide a new pitch and play area, to be borne by Heritage Homes, will need to be considered in addition to this land value.

In summary the values of the parcels of land to be exchanged are broadly similar, but when the cost of the works to be provided by Heritage Homes is added, for which you will no doubt have details, the proposal represents a satisfactory arrangement for the Department".

26 July 2011 Valuation – Appendix 3

"Assuming that the alternative development applicable to the Department's land to be exchanged (0.89 acres) would be residential, the Department would be receiving in exchange an area of land (zoned for residential development) roughly twice the size and value of the Department's land. In addition to this extra land it is understood that the developer has agreed to carry out accommodation works amounting to approximately £300,000 or thereabouts, thus it can be seen that the proposed exchange results in a substantial benefit for the Department and the local community, especially considering that the developer has already acquired an alternative access for the development of the zoned land.

In respect of the "option land" (to the east of the zoned development land), currently zoned for agricultural purposes and amounting to approximately 17.5 acres, it is not possible to identify a realistic formula to quantify any foreseeable development value reflected in the Department's land to be exchanged. However the proposed restrictive covenant regarding the further development of the option land affords the Department a degree of control over the future development of this land with the possibility of a further financial consideration in respect of the lifting of this covenant. It is recommended

that the Attorney General's chambers be consulted regarding the wording of the restrictive covenant to make the covenant as watertight as possible.

In summary the land exchange and accommodation works are considered to be a reasonable consideration for the Department and community in exchange for providing a "preferred access" to the development site and the restrictive covenant provides an element of control for the "option land", currently outside the area zoned for residential development".

27 July 2011 Valuation – Appendix 4

"Further to our telephone conversation regarding the relative values, for registration purposes, of the two areas of land involved in the proposed exchange I can advise that in my opinion the two areas are to be valued as residential building land in the region of £350,000 to £400,000 per acre. The area to be transferred by Heritage Homes to the Department, amounting to approximately 11.85 acres or thereabouts, would therefore be valued in the region of £647,500 to £740,000.

The value of the area to be transferred by the Department to Heritage Homes, amounting to approximately 0.89 acres or thereabouts, is enhanced by the reflected value of the improved, preferred access to the area behind, zoned for residential development. This area to be transferred would be valued in the region of £726,250 to £830,000, with £311,500 to £356,000 being the land element and the remainder attributable to the improved preferred access to the area already zoned for residential development".

Agreement

DATED

2011

MICHAEL

PINECREST INVESTMENTS LIMITED

("Land Owner")

-AND-

DEPARTMENT OF EDUCATION AND CHILDREN

("Department")

-AND-

HERITAGE HOMES LIMITED

("Developer")

AGREEMENT FOR THE EXCHANGE OF
LAND AT MICHAEL PRIMARY SCHOOL
MAIN ROAD KIRK MICHAEL AND
LHERGY VRECK MAIN ROAD
KIRK MICHAEL
AND ACCOMMODATION WORKS

Dandara Group Legal Department

Dandara Group Head Office

Isle of Man Business Park

Cooil Road

Braddan

Isle of Man

IM2 2SA

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SCHEDULES

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THIS AGREEMENT is made the day of 2011

BETWEEN:

- (1) **PINECREST INVESTMENTS LIMITED** (hereinafter referred to as the “**Land Owner**”) a company incorporated in the Isle of Man with company number 036187C and having its registered office at 9 Hope Street Douglas Isle of Man; and
- (2) **THE DEPARTMENT OF EDUCATION AND CHILDREN** (hereinafter referred to as the “**Department**”) (a **Government Department**) of Hamilton House Peel Road Douglas Isle of Man IM1 5EZ; and
- (2) **HERITAGE HOMES LIMITED** (hereinafter referred to as the “**Developer**”) a company incorporated in the Isle of Man with company number 077089C and having its registered office at Dandara Group Head Office Isle of Man Business Park Cool Road Braddan Isle of Man.

Background

- (A) The Land Owner and the Developer have entered into the Developer’s Agreement for the sale of land owned by the Land Owner to the Developer subject to the granting of planning approval to develop the same.
- (B) In order to assist in obtaining the aforesaid planning approval the Land Owner and the Developer wish to secure further land as a means of providing a suitable access from the existing public highway to the land proposed to be sold under the Developer’s Agreement and have agreed to enter into this Agreement with the Department subject to the granting of Acceptable Planning Approval to acquire from the Department such further land upon the terms and conditions hereinafter more particularly set forth.

I Definitions

In this Agreement unless the context otherwise requires the following expressions shall have the meanings assigned to them as follows:

'Acceptable Planning Approval'

means a Planning Approval:

- (i) which is free from any Adverse Condition ; and / or
- (ii) which in the case of a Planning Approval granted by the Planning Committee is not the subject of an undetermined Appeal by (a) any third party with interested party status to the Minister or (b) the Developer or its nominee to the Minister within the twenty one (21) day Appeal period permitted by the Act (or such other lawfully prescribed period as may be relevant at that time); or
- (iii) which in the case of a Planning Approval granted by the Council of Ministers under clause 11 of the Act is not the subject of an undetermined resolution of Tynwald; and
- (iv) which in the case of both (ii) and (iii) above has not been refused overturned or annulled at the end of the said respective Appeal process and Tynwald consideration.

'Accommodation Works'

means the works to be carried out by the Developer for the Department in accordance with the Accommodation Works Plan and the Accommodation Works Sequencing Schedule under the terms of the Agreement

Accommodation Works Plan'

means the plan attached to this Agreement and marked "Plan 4"

detailing the Accommodation Works.

**'Accommodation
Works Sequencing
Plan'**

means the plan attached to this Agreement and marked "Plan 5" detailing the relevant areas of land referred to in the Accommodation Works Sequencing Schedule.

**'Accommodation
Works Sequencing
Schedule'**

means the schedule of the order and approximate timings of the works comprising the Accommodation Works and being the document attached to this Agreement and marked "C".

'Act'

means the Town and Country Planning act 1999 and any act for the time being in force amending or replacing the same and all regulations and orders made there under and any other legislation relating to town and country planning in force from time to time.

'Adverse Condition'

means a condition subject to which a Planning Approval is issued which has the effect of either:

- (i) making the Planning Approval personal to the Buyer or any other third party; and / or
- (ii) limits the time for which the Planning Approval (once implemented) will be operative; and / or
- (iii) it requires the payment or expenditure of money or other consideration by way of planning gain or on works outside the Development Site and beyond the scope of the Approved Plans ; and / or

- (iv) it prevents development without the agreement or co-operation of an independent third party which cannot be obtained on terms or at a cost or within a time that is reasonable in the circumstances; and / or
- (v) causes any variation in the location of any pedestrian or vehicular points of access to or egress from the Development Site to be used to obtain an Acceptable Planning Approval from that shown in the plan or plans last submitted by the Buyer in connection with the Planning Application such as would result in the Developer being unable to implement the Planning Approval; and / or
- (vi) it is unreasonable or unduly restrictive in the circumstances; and / or
- (vii) in the case of a Statutory Agreement it provides for the substantive obligations to come into force before the Development is commenced.

PROVIDED that a condition (or a stipulation which is not materially different to a condition) which the Developer

- (a) has at any time agreed in writing to accept (whether with the Department or any third party); or
- (b) has not been specified as being an Adverse Condition in any notice served pursuant to clause 5.6.2.2 shall be deemed not to be an Adverse Condition.

'Affordable Housing' means housing which is subject to any condition or restriction imposed pursuant to a Planning Approval or contained in a Statutory Agreement (s) which has the effect of:

- (1) limiting the prices at which land or housing units may be sold;
- (2) controlling occupiers or tenure;

- (3) requiring subsidy from the developer or owner of the land
- (4) requiring land or housing thereon to be transferred to or managed by the Department of Social Care, local commissioners, a housing association; or
- (5) requiring land or housing thereon to be sold under the House Purchase Assistance Scheme 2007 or as amended or superseded from time to time.

‘Agreement’ means this document as varied by any subsequent documentation as permitted by clause 2.10.

‘Appeal’ means an appeal by the Developer or its nominee to the Minister under Article 8 of the Town and Country Planning (Development Procedure) Order 2005 against a Planning Refusal and / or an adverse planning condition and where the context so admits by a third party against a Planning Approval and any further applications and appeals arising out of any of the same.

‘Approved Plans’ means the layouts elevations sections landscaping schemes and other drawings and specifications for the development of the Development Site and forming part of an Acceptable Planning Approval including (inter alia) the Accommodation Works.

‘Business

Hours’ means any time between 9.00am and 5.15pm on a Working Day.

‘Call-in’ means the referral of a Planning Application to the Council of Ministers.

‘Completion Date’ means the first Working Day Fourteen (14) days after the Unconditional Date.

‘Competent Authority’	means any government department, or local commissioners, or any other body exercising powers under statute or any public utility or supply company.
‘Conditional Period’	means the period from the date of this Agreement until the earlier of (1) the Expiry Date and (2) the Unconditional Date.
‘Contract Rate’	means 4% above the base lending rate from time to time of the Bank of England.
‘Department’s Advocates’	means the Attorney General’s Chambers St Mary’s Court Hill Street Douglas Isle Of Man IM1 1EU.
‘the Deposit’	means ONE POUND (£1.00).
‘Developer’s Advocates’	means Dandara Group Legal Department, Dandara Group Head Office, Isle of Man Business Park, Cooil Road, Braddan or such firm as may be appointed by the Developer from time to time and of which notice in writing is given to the Department and the Land Owner.
‘Developer’s Agreement’	means an agreement dated the 16th day of August 2010 made between the Land Owner and the Developer for the sale by the Land Owner to the Developer of the Development Site (excluding the First Property if this Agreement is not completed).
‘Development’	means the works described in the Approved Plans to be carried out on the Development Site in accordance with an Acceptable Planning Approval.

- 'Development Site'** means the area of land shown edged red on the plan annexed hereto and marked "Plan 3" and being the land the subject of the Planning Application (including inter alia the Properties).
- 'Expert'** means a chartered surveyor with not less than 10 years experience of residential and ancillary development being of the same type as the subject matter of the Planning Application.
- 'Expiry Date'** means the date falling eighteen (18) months from the date of submission of the Planning Application or such longer period as may be calculated under clause 5.12.
- 'First Property'** means the freehold property more particularly set forth and described in the First Schedule.
- 'Land Owner's Advocates'** means Long and Humphrey Advocates of the Old Court House Athol Street Douglas Isle of Man IM2 1LD or such other firm as may be appointed by the Land Owner from time to time and of which notice in writing is given to the Department and the Developer.
- 'Minister'** means the Minister for the Department of Infrastructure or such other person to whom his functions have been delegated pursuant to article 8 (6) of the Town and Country Planning (Development Procedure) Order 2005.
- 'Model Conveyances'** means the draft deeds of conveyance for the First Property and the Second Property substantially in the forms annexed hereto and marked "A" and "B" respectively (making due allowance for the

relevant Land Registry form if it is to be a transfer in the event of any land having been the subject of a voluntary first registration at the Land Registry) to be executed pursuant to the provisions of this Agreement and to include the additional terms (if any) referred to in clause 29 hereof.

'Plans' means any plans attached to this Agreement and if numbered plans are attached any reference to a numbered plan is to the attached plan so numbered.

'Planning Application' means the detailed planning application to be submitted by the Developer or its nominee within three (3) months of the date of this Agreement in accordance with clause 5 including any amended modified or new application made under that clause.

'Planning Approval' means a detailed planning approval granted pursuant to a Planning Application.

'Planning Authority' means the Planning Committee or the Minister or the Council of Ministers or such other relevant body and officials as may be applicable from time to time for the lawful oversight and conduct of the process of the Planning Application under the Act.

'Planning Committee' means the Planning Committee of the Department of Infrastructure and its duly authorised officers or the authority for the time being having or entitled to exercise the powers now conferred upon it by the Act.

'Planning Pre-Condition' means the occurrence of the Unconditional Date before the Expiry Date.

'Planning Refusal' means a refusal of a Planning Application by the Planning Committee or by the Council of Ministers or by Tynwald or the refusal of an Appeal (made by the Developer in accordance with this Agreement) by the Minister to overturn a decision made by the Planning Committee to refuse a Planning Application or the granting of an Appeal (made by a third party with interested party status) by the Minister to overturn a decision made by the Planning Committee to grant a Planning Application.

'Proceedings' means either:

- (i) a petition of doléance or other lawful means of judicial review and legal challenge as prescribed by law from time to time in respect of a Planning Approval or a Planning Refusal including any appeals to a higher court following a judgment of a lower court; or
- (ii) any reconsideration by the Planning Committee or the Minister or the Council of Ministers (as the case may be) of any matter being remitted back to the Planning Committee or the Minister or the Council of Ministers (as the case may be) arising out of any application or appeal as described in (i) above; or
- (iii) any further proceedings applications or appeals arising from any reconsideration as described in (ii) above.

'Proceedings Period' means in relation to any decision to grant Planning Approval the period of three (3) months (or such other period as maybe prescribed by law from time to time as a period permitted within which to commence Proceedings) commencing upon the date of written notice of that decision

'Properties' means both the First Property and the Second Property

'Second Property'	means the freehold property more particularly set forth and described in the Second Schedule.
'Service Media'	means pipes, wires, cables, ducts, conduits, drains, sewers ditches, watercourses, and other service media designed for the passage of water, soil, gas, electricity, telephone, communications and other services (as the case may be) and all related chambers valves tanks manholes inspection points and covers.
'Statutory Agreement(s)'	means an agreement or agreements or an undertaking or undertakings whether made under Section 13 of the Act or any other statutory provision which is a pre-requisite to the grant of Planning Approval or a condition or stipulation of a Planning Approval.
'Unconditional Date'	<p>means the first of the following to occur:</p> <ul style="list-style-type: none"> <li data-bbox="667 1108 1233 1366">(i) in the event of the grant of an Acceptable Planning Approval by the Planning Committee the day which is the first Working Day three (3) months thereafter (or such other period as may be prescribed by law from time to time as a period permitted within which to commence Proceedings) provided that no Proceedings have been instituted before this date; or <li data-bbox="667 1377 1233 1554">(ii) in the event of the grant of an Acceptable Planning Approval by the Minister the day which is the first Working Day three (3) months thereafter (or such other period as may be prescribed by law from time to time as a period permitted within which to commence

Proceedings) provided that no Proceedings have been instituted before this date; or

- (iii) in the event of the grant of an Acceptable Planning Approval by the Council of Ministers the day which is the first Working Day three (3) months thereafter (or such other period as may be prescribed by law from time to time as a period permitted within which to commence Proceedings) provided that no Proceedings have been instituted before this date; or
- (iv) where Proceedings have been issued within the Proceedings Period following the grant of an Acceptable Planning Approval the day which is the first Working Day after the day on which such Proceedings are finally determined (including any further decision of the Planning Authority on any matter referred back to them) and all rights of appeal or further Proceedings have been exercised and exhausted or have lapsed leaving an Acceptable Planning Approval in place.

'VAT' means value added tax chargeable under the Value Added Tax Act 1996 and any similar replacement tax and any similar additional tax.

'Working Day(s)' means any day or days which is or are not a Saturday, Sunday, bank holiday or public holiday in the Isle of Man or any day between and including the 27th day of December and the 31st day of December in any given year.

2 INTERPRETATION

- 2.1 The rules of interpretation in this clause apply in this Agreement.
- 2.2 Words importing one gender shall be construed as importing any other gender and may be used interchangeably.
- 2.3 Words importing the singular shall be construed as importing the plural and vice versa unless the context otherwise requires.
- 2.4 A reference to a person includes an individual, a corporation, company, firm or partnership or government body or agency, whether or not legally capable of holding land. A reference to a company shall include any company, corporation or other body corporate, wherever and howsoever incorporated and established.
- 2.5 Where any party comprises more than one person the obligations and liabilities of that party under this Agreement shall be joint and several obligations and liabilities of those persons.
- 2.6 The clause and schedule headings shall not affect the interpretation of this Agreement.
- 2.7 Any reference to a colour is to one on a Plan.
- 2.8 Unless otherwise specified, a reference to legislation (including subordinate legislation) is to that legislation as extended, amended, modified, consolidated, or re-enacted from time to time and includes any instrument, order, regulation, permissions, consent, licence, notice, direction, byelaw, statutory guidance or code of practice made or granted under such legislation.
- 2.9 The words “**the parties**” means the Land Owner and the Developer and the Department and “**party**” shall be construed accordingly in the absence of any reference to the contrary.
- 2.10 No amendment or modification of this Agreement shall be valid or binding on any party unless the same:
- 2.10.1 is made in writing; and
- 2.10.2 refers expressly to this Agreement; and
- 2.10.3 is signed by the party concerned or its duly authorised representative
- 2.11 If any term of this Agreement shall be held to any extent to be illegal or unenforceable:-
- 2.11.1 that term shall to that extent be deemed not to form part of this

Agreement; and

- 2.11.2** the remainder of this Agreement shall not be affected.
- 2.12** The words “writing” or “written” includes faxes but not e-mail.
- 2.13** Any phrase introduced by the terms “including” “include” “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 2.14** The schedules to this Agreement form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the schedules.
- 2.15** Any reference to the grant of a Planning Approval or an Acceptable Planning Approval or a Planning Refusal or a Subsequent Planning Approval shall be construed as a reference to the date of the written notice of decision or confirmation issued by the Planning Authority and in the case of a Planning Approval granted by the Planning Committee that the twenty one (21) day Appeal period permitted by the Act (or such other lawfully prescribed period as may be relevant at that time) has expired without an Appeal having been lodged.
- 3. Agreement for the Conveyance of the Properties subject to the Planning Pre-Condition**
- 3.1** Subject to clause 3.2 below the Department shall convey to the Land Owner the First Property in consideration of Land Owner conveying to the Department the Second Property and the Developer carrying out the Accommodation Works in accordance with the terms of this Agreement.
- 3.2** The conveyance of the First Property and the Second Property is conditional upon:-
- 3.2.1** the Unconditional Date occurring prior to the Expiry Date;
- 3.2.2** the simultaneous conveyance of the Properties to the relevant party.
- 3.3** Unless the Unconditional Date has occurred prior to the Expiry date then this Agreement may be determined by written notice served by any party to the others at any time on or after the Expiry Date in which event:
- 3.3.1** no party shall have any further claim against the other (save in respect of any antecedent breach of contract);

3.3.2 the Land Owner and the Developer and the Department shall within ten (10) Working Days after such determination remove any caveat or inhibition or caution registered at the Deeds Registry or the Land Registry in respect of this Agreement;

3.3.3 each parties advocates shall forthwith return to the other any papers provided on loan.

3.3.4 the Deposit shall be retained by the Department.

3.4 The respective values to be attributed to the First Property and the Second Property and the Accommodation Works shall be as set out in the Third Schedule and apart from the Deposit no other monetary consideration shall be required to be paid by any party under the terms of this Agreement.

4. **Deposit**

The Deposit shall be paid on the date of this Agreement by the Land Owner and the Developer to the Department and shall be retained by the Department in any event subject only to clause 9.2.

5. **Obtaining Acceptable Planning Approval**

5.1 The Developer shall use reasonable endeavours at its own cost and expense to procure that an Acceptable Planning Approval is obtained as soon as practicable and for this purpose the Developer shall at its own expense:

5.1.1 within three (3) months of the date of this Agreement having being entered into submit the Planning Application to the Planning Authority.

5.1.2 The Developer may in consequence of discussion or negotiation with the Planning Authority at any time prior to a decision or determination of the Planning Committee or the Council of Ministers (as appropriate) if it appears requisite or desirable in order to obtain an Acceptable Planning Approval amend or modify or withdraw and immediately submit a new Planning Application Provided Always that if the amended or modified Planning Application results in any required changes to the Accommodation Works the Developer shall consult with the Department

taking all due account of any representations made by the Department in this regard. The Developer shall ensure that the amended modified or new Planning Application insofar as it relates to the Accommodation Works is in a form previously submitted to and approved in writing by the Department (such approval not to be unreasonably withheld or delayed).

- 5.2 In the event of a Planning Refusal by the Planning Committee the Developer shall either:-
- 5.2.1 at its own expense as soon as practicable lodge an Appeal with the Minister and prosecute the Appeal with all reasonable speed and diligence; or
 - 5.2.2 the Developer may (provided always that the Developer shall prior to taking any such action advise the Department's Advocates in writing and consult with the Department taking all due account of any reasonable representations made by the Department in relation to the Accommodation Works) if it is in the reasonable opinion of the Developer considered that the reasons for the Planning Refusal are unlikely to be overturned by way of an Appeal or that a fresh Planning Application taking all due account of the reasons given for the Planning Refusal is the best means to obtain an Acceptable Planning Approval withdraw the Planning Application and submit a new Planning Application within two (2) months of the date of the withdrawal of the previous Planning Application and if such new Planning Application also results in a Planning Refusal by the Planning Committee the Developer may Appeal the same under clause 5.2.1 above.
- 5.3 In the event of a Planning Refusal by the Council of Ministers the Developer may submit a new Planning Application within two (2) months of the date of the Planning Refusal taking all due account of the reasons for the Planning Refusal and if such new Planning Application also results in a Planning Refusal by the Planning Committee the Developer may Appeal the same under clause 5.2.1 above. The Developer shall prior to taking any such action advise the Department's Advocates in writing and consult with the Department taking all due account of any reasonable representations made by the Department in this regard where it relates to the Accommodation Works.

- 5.4 If the Planning Authority issues a Planning Approval which is subject to an Adverse Condition the Developer shall at its own expense as soon as practicable either (a) lodge an Appeal with the Minister and pursue the Appeal with all reasonable speed and diligence or (b) withdraw and immediately submit a new Planning Application if an Appeal is in the reasonable opinion of the Developer more likely to fail than to succeed. The Developer shall prior to taking any such action advise the Department's Advocates in writing and consult with the Department taking all due account of any reasonable representations made by the Department in this regard where it relates to the Accommodation Works.
- 5.5 The Developer shall unless otherwise agreed in writing with the Land Owner (in accordance with the Developer's Agreement) and the Department :
- 5.5.1 Pursue any Appeal (if available) by way of an inquiry (as defined by paragraph 1 of Schedule 3 to the Town and Country Planning (Development Procedure) Order 2005.
 - 5.5.2 Use reasonable endeavours to secure the earliest available date for an Appeal accepting the first date offered by the Minister for the Appeal provided that the Developer's experts and counsel are available and prepared to attend such a hearing at that date but if not such earliest date as they are so available and prepared to attend.
 - 5.5.3 Keep the Department's Advocates reasonably informed of the progress of a Planning Application or an Appeal or Proceedings and in particular:
 - 5.5.4 Keep the Department's Advocates reasonably advised of the Developer's progress in securing a date for an Appeal and the date of that Appeal.
 - 5.5.5 Keep the Department's Advocates reasonably advised of the Planning Application or an Appeal or Proceedings with the Planning Authority or any authority body or person consulted in connection with a Planning Application pursuant to the requirements of the Act or with any third party objectors.
 - 5.5.6 Supply to the Department's Advocates and to such of its professional advisers as it shall direct copies of all Planning Applications or Appeals or Proceedings.
- 5.6 The Developer shall:

- 5.6.1 Within fourteen (14) days of receipt of a Planning Refusal send a copy of the Planning Refusal to the Department's Advocates.
- 5.6.2 Within fourteen (14) days of receipt of a Planning Approval:
 - 5.6.2.1 Send a copy of the Planning Approval to the Department's Advocates; and
 - 5.6.2.2 Give notice in writing to the Department's Advocates as to whether the Planning Approval is an Acceptable Planning Approval or whether in the Developer's opinion it is subject to an Adverse Condition and give the reason why the Developer considers that it constitutes an Adverse Condition PROVIDED that if the Developer does not notify the Land Owner and the Department in writing within fourteen (14) days of receipt of a Planning Approval that it considers that any condition is an Adverse Condition and the reason for this then the Planning Approval shall be deemed to be an Acceptable Planning Approval.
 - 5.6.2.3 If the Developer gives notice under clause 5.6.2.2 above but the Department does not accept that the Planning Approval is not an Acceptable Planning Approval then the Department can refer the matter to the Expert for determination under clause 25 and in the event that the Land Owner also wishes to refer the same issue to an expert under the terms of the Developer's Agreement then the same expert shall be appointed to determine the matter at the same determination.
- 5.7 The Department shall for the duration of the Agreement permit the Developer its agents and surveyors with all necessary surveying apparatus at pre-agreed times of day (taking all due account of the requirements of Michael School and its pupils) and after prior written notice of not less than seven (7) days to the Department to enter and re-enter the First Property for the purpose of inspection and for the purpose of general site investigation (both for the purpose of seeking to obtain the Acceptable Planning Approval and for the Development) including surveys test and investigations (including drilling boreholes digging trial pits and taking soil samples) and

environmental assessments and similar studies including (without limitation) geological archaeological and ecological surveys and landscape assessments on the Developer making good as soon as possible any damage occasioned by the exercise of such right.

5.8 If an indication is given by the Planning Authority that a Planning Approval will be granted subject to completion of one or more Statutory Agreement(s) the Developer shall use reasonable endeavours to settle the form of the requisite Statutory Agreement(s) as quickly as reasonably possible.

5.9 If:

5.9.1 The Planning Authority requires the Developer to enter into one or more Statutory Agreement(s) and requires the Department as a party that has an interest in the Development to enter and be a party to such Statutory Agreement(s);

5.9.2 or (in the context of an Appeal) the Developer wishes to offer a unilateral undertaking under section 13 of the Act and requires the Department as a party that has an interest in the Development Site to enter and be a party to such undertaking;

then in either of the above cases the Department shall execute such Statutory Agreement(s) within ten (10) Working days after the request being made by the Developer so long as the Statutory Agreement(s) shall not impose any financial obligation on the Department after the Department ceases to have any interest in the First Property unless the Department is indemnified by the Developer.

5.9.2 The Developer will indemnify and keep indemnified the Department against all liabilities whatsoever arising out of or in relation to the Statutory Agreement(s) (other than any obligations for the future use and maintenance of the Accommodation Works after they have been completed) and the Developer will if so required by the Department covenant in this respect in a deed of covenant entered into prior to or contemporaneously with the execution of the Statutory Agreement(s) in the following terms :

“the Developer hereby agrees to indemnify and keep indemnified the Department against all losses costs damages expenses claims and demands which may be suffered by the Department as owner of the Second Property arising out of in relation to the Statutory Agreement(s)”

- 5.10 The Developer will indemnify and keep indemnified the Department against all liabilities whatsoever arising out of or in connection with the Planning Application and/or an Appeal and/or Proceedings and in particular (but without prejudice to the generality of this obligation) the Developer will indemnify and keep indemnified the Department against any award of costs made in respect of an Appeal and/or Proceedings.
- 5.11 If there is any dispute between the parties as to whether any proposed Statutory Agreement(s) contain an Adverse Condition then any party may refer the question to the Expert for determination under clause 25 PROVIDED ALWAYS that any Adverse Condition that materially affects the Developer and for which the Developer has given an indemnity to the Department and / or the Land Owner may be waived by notice in writing by the Developer’s Advocate to the Department’s Advocates and the Land Owner’s Advocates.
- 5.12 The Conditional Period shall be extended in the following circumstances to the later of the following dates and the Conditional Period may be extended on more than one occasion and each of the following sub clauses may be applied on more than one occasion:
- 5.12.1 If at the Expiry Date a Planning approval has been granted then the Conditional Period shall be extended to the date which is the fifth Working Day after exhaustion of the procedures set out in clause 5.6.2.3.
- 5.12.2 If at the Expiry Date an indication has been given by the Planning Authority that a Planning Approval will be granted subject to completion of one or more Statutory Agreement(s) then subject to clause 5.11 above the Conditional Period shall be extended to the date which is the fifth Working Day after the date on which a Planning Approval is issued following completion of the Statutory Agreement(s).

5.12.3 If at the Expiry Date a Call-in has not been determined or an Appeal has been lodged but has not been determined then the Conditional Period shall be extended to the date which is the fifth Working Day after the Call-in or the Appeal has been determined.

5.12.4 If at the Expiry Date an Acceptable Planning Approval has been granted then the Conditional Period shall be extended to the date which is the fifth Working Day after the latter of:

5.12.4.1 The expiry of the Proceedings Period; or

5.12.4.2 When Proceedings are issued within the Proceedings Period the date on which said Proceedings are finally determined (including any further decision of the Planning Authority on any matter referred back to them) and all rights of appeal or further Proceedings have been exercised and exhausted or have lapsed.

6. Completion

Completion of the conveyances of the Properties shall be completed on the Completion Date.

7. Title

7.1 The Land Owner's Advocates shall before the date of this Agreement deliver to the Department's Advocates an abstract of title to the Second Property and the Department's Advocates shall before the date of this Agreement deliver to the Land Owner's Advocates and the Developer's Advocates an abstract of title to the First Property.

7.2 The Department's Advocates shall within ten (10) days of the date of this Agreement send to the Land Owner's Advocates and the Developer's Advocates a statement in writing of all the objections and requisitions (if any) to or on the title or evidence of title of the Second Property, or this Agreement, and subject thereto and to the provisions of clause 12 of this Agreement the title to the Second Property shall be deemed accepted, and all objections and requisitions not included in any statement sent within the time

aforesaid shall be deemed waived, and an abstract of title of the Second Property, though in fact imperfect, shall be deemed perfect, except for the purpose of any further objections or requisitions which could not be taken or made on the information therein contained, and an answer to any objection or requisition shall be replied to in writing within seven (7) days after the delivery thereof, and if not so replied to shall be considered satisfactory, and time shall be deemed in all respects as of the essence of this clause. Should the Department make any objection or requisition which the Land Owner shall be unable or on the ground of expense, delay or some other reasonable ground be unwilling to remove or comply with (provided always that the Developer shall be given notice of the same and opportunity to seek to resolve the same) then the Land Owner may notwithstanding any attempt to remove or comply with the same or any intermediate negotiation or litigation by notice in writing to the Department's Advocates and the Developer's Advocates rescind this Agreement without interest, costs or compensation in full satisfaction of all claims under this Agreement or otherwise howsoever Provided that if the Department within seven (7) days after receiving such a notice to rescind withdraws the objection or requisition or question the notice to rescind shall be of no effect.

- 7.3 The Land Owner's Advocates shall within ten (10) days of the date of this Agreement (after consultation with the Developer's Advocates on its form) send to the Department's Advocates a statement in writing of all the objections and requisitions (if any) to or on the title or evidence of title of the First Property, or this Agreement, and subject thereto and to the provisions of clause 12 of this Agreement the title shall be deemed accepted, and all objections and requisitions not included in any statement sent within the time aforesaid shall be deemed waived, and an abstract of title of the First Property, though in fact imperfect, shall be deemed perfect, except for the purpose of any further objections or requisitions which could not be taken or made on the information therein contained, and an answer to any objection or requisition shall be replied to in writing within seven (7) days after the delivery thereof, and if not so replied to shall be considered satisfactory, and time shall be deemed in all respects as of the essence of this clause. Should the Land Owner make any objection or requisition which the Department shall be unable or on the ground of expense, delay or some other

reasonable ground be unwilling to remove or comply with (provided always that the Developer shall be given notice of the same and opportunity to seek to resolve the same) then the Department may notwithstanding any attempt to remove or comply with the same or any intermediate negotiation or litigation by notice in writing to the Land Owner's Advocates and the Developer's Advocates rescind this Agreement without interest, costs or compensation in full satisfaction of all claims under this Agreement or otherwise howsoever Provided that if the Land Owner within seven (7) days after receiving such a notice to rescind withdraws the objection or requisition or question the notice to rescind shall be of no effect.

8 Insurance

- 8.1 The First Property shall remain at the risk of the Department and the Second Property (subject to clause 8.2) shall remain at the risk of the Land Owner with regard to fire and in all other respects from the date hereof to the date of actual completion (if any) of the conveyances of the Properties.
- 8.2 In respect of any part or parts of the Second Property entered upon in accordance with the licences to be granted to the Department and the Developer in accordance with clause 32 the risk and obligations of insurance in respect of the same shall be in accordance with the provisions of clause 32.

9 Land Owners and Developers Default

- 9.1 If the Land Owner shall neglect or fail to perform this Agreement by way of conveying the Second Property to the Department the Deposit shall be forfeited to the Department, and the Department may with or without notice deal with the First Property without previously tendering a conveyance or transfer to the defaulting Land Owner in such manner generally as the Department thinks proper; and if thereby the Department shall incur a loss by reason of expenses incurred the Land Owner shall pay to the Department the amount of such loss as liquidated damages receiving credit for the Deposit. This provision shall not lessen or affect the right of the Department to compel the Land Owner specifically to perform this Agreement and/or to recover damages for the non-performance of the same.

9.2 If the Department shall neglect or fail to perform this Agreement by way of conveying the First Property to the Land Owner the Deposit shall be returned to the Land Owner and the Developer, and the Land Owner may with or without notice deal with the Second Property without previously tendering a conveyance or transfer to the defaulting Department in such manner generally as the Land Owner (after consultation with the Developer) thinks proper; and if thereby the Land Owner and the Developer shall incur a loss by reason of expenses incurred (including without prejudice to the generality of the foregoing any part of the Accommodation Works already carried out by the Developer) the Department shall pay to the Land Owner and the Developer the amount of such loss as liquidated damages. This provision shall not lessen or affect the right of the Land Owner or Developer to compel the Department to specifically to perform this Agreement and/or to recover damages for the non-performance of the same.

9.3 If the Developer shall neglect or fail to perform this Agreement by way of carrying out the Accommodation Works (save and except were such default arises through no fault of the Developer but by way of default of the Land Owner under clause 9.1 above) and the Department shall incur a loss by reason of expenses incurred (including without prejudice to the generality of the foregoing the Department having to procure the completing of any part of the Accommodation Works failed to be carried out by the Developer) the Developer shall pay to the Department the amount of such loss as liquidated damages. This provision shall not lessen or affect the right of the Department to compel the Developer specifically to perform this Agreement and/or to recover damages for the non-performance of the same.

10. Vacant Possession

10.1 Vacant possession of the First Property shall be given by the Department on the Completion Date.

10.2 Vacant possession of the Second Property shall be given by the Land Owner on the Completion Date.

11 Extent

- 11.1 The First Property is believed and shall be taken to be correctly described as to quantity and otherwise and any error or misstatement or omission on the Plan or in the First Schedule hereto shall not annul the sale or be a ground for any loss or compensation on either side.
- 11.2 The Second Property is believed and shall be taken to be correctly described as to quantity and otherwise and any error or misstatement or omission on the Plan or in the Second Schedule hereto shall not annul the sale or be a ground for any loss or compensation on either side.

12 Encumbrances

- 12.1 The First Property is sold subject to and (where appropriate) with the benefit of:
 - 12.1.1 the matters contained or referred to in the annexed Model Conveyance marked "A".
 - 12.1.2 any deed or instrument deposited in the Deeds Registry (prior to the date of this Agreement).
 - 12.1.3 any entry relating to the First Property at the Land Registry (prior to the date of this Agreement).
 - 12.1.4 the matters set out in clause 13.
- 12.2 The Land Owner's Advocates and the Developer's Advocates having been supplied with copies of the matters (if any) referred to in clause 12.1.2 prior to the date of this Agreement then the Land Owner shall be deemed to purchase with full notice and knowledge of them and shall not raise any requisition or make any objection in relation to them.
- 12.3 The Second Property is sold subject to and (where appropriate) with the benefit of:
 - 12.3.1 the matters contained or referred to in the annexed Model Conveyance marked "B".
 - 12.3.2 any deed or instrument deposited in the Deeds Registry (prior to the date of this Agreement) including the documents described in the Second Schedule.

12.3.3 any entry relating to the Second Property at the Land Registry (prior to the date of this Agreement)

12.3.4 the matters set out in clause 13.

12.4 The Department's Advocates having been supplied with copies of the matters (if any) referred to in clause 12.3.2 prior to the date of this Agreement then the Department shall be deemed to purchase with full notice and knowledge of them and shall not raise any requisition or make any objection in relation to them.

13 Matters affecting the Properties

The First Property and the Second Property are each sold subject to the following matters:

- 13.1** all notices served and orders demands proposals or requirements made by any local public or other competent authority whether before or after the date of this Agreement.
- 13.2** all actual or proposed charges notices orders restrictions agreements conditions contraventions or other matters arising under any statute.
- 13.3** all easements quasi-easements rights exceptions or other similar matters whether or not apparent on inspection or disclosed in any of the documents referred to in this Agreement and without any obligation on the Department and / or the Land Owner to provide evidence of the creation of or to define or apportion any such liability.
- 13.4** matters discoverable by inspection of the Properties before the date of this Agreement.
- 13.5** matters relating to the First Property about which the Department does not know and matters relating to the Second Property about which the Land Owner does not know.
- 13.6** matters disclosed or which would be disclosed by any searches or as a result of enquiries (formal or informal and made in person in writing or orally) made by or for the Land Owner or the Department which a prudent purchaser ought to make in respect of the First or Second Properties.

- 14 Disclaimer**
- 14.1** The Land Owner and the Developer admit that:
- 14.1.1** they have inspected the First Property and the Land Owner purchases it with full knowledge of its actual state and condition and shall take the First Property as it stands subject to the terms of this Agreement.
- 14.1.2** they have entered into this Agreement solely as a result of their own inspections and on the basis of the terms of this Agreement and not in reliance upon any advertisement statement representation or warranty either written or oral or implied made by or on behalf of the Department except as stated in clause 14.2.
- 14.2** The Seller and the Developer may rely on factual representations and warranties made or given by the Department's Advocates in pre-contract enquiries but only insofar as such statements are not capable of independent verification by appropriate searches enquiries inspection survey of the First Property or by inspection of the documents and information supplied to the Land Owner's Advocates and the Developer's Advocates.
- 14.3** The Department admits that:
- 14.3.1** it has inspected the Second Property and purchases it with full knowledge of its actual state and condition and shall take the Second Property as it stands subject to the terms of this Agreement.
- 14.3.2** it enters into this Agreement solely as a result of its own inspection and on the basis of the terms of this Agreement and not in reliance upon any advertisement statement representation or warranty either written or oral or implied made by or on behalf of the Land Owner except as stated in clause 14.4
- 14.4** The Department may rely on factual representations and warranties made or given by the Land Owner's Advocates to the Department's Advocates in pre-contract enquiries but only insofar as such statements are not capable of independent verification by appropriate searches enquiries inspection survey of the Second Property or by inspection of the documents and information supplied to the Department's Advocates.

15 Restriction on assignment and sub-sale

15.1 This Agreement is personal to the parties

15.2 The Department shall not be required to convey or transfer the First Property to anyone other than the Land Owner or if at the request in writing of the Land Owner to do so then to the Developer.

15.3 The Land Owner shall not be required to convey or transfer the Second Property to anyone other than the Department.

16 Non Merger

The provisions of this Agreement shall not merge on completion of any conveyance or transfer of the First Property and/or the Second Property so far as they remain to be performed.

17 Jurisdiction and 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) shall be governed by and construed in accordance with the law of the Isle of Man and the parties irrevocably submit to the non-exclusive jurisdiction of the Manx Courts to settle any dispute or claim that arises out of in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

18 Nature of this Agreement

This Agreement is not a deed and has not been executed by the parties to it as a deed.

19. Notices

19.1 The Land Owner hereby irrevocably appoints the Land Owner's Advocates as its agent for the purpose of accepting service of any notice which the Department and/or the Developer may serve arising out of this Agreement.

- 19.2 The Department hereby irrevocably appoints the Department's Advocates as agent for the purpose of accepting service of any notice which the Land Owner and/or the Developer may serve arising out of this Agreement.
- 19.3 The Developer hereby irrevocably appoints the Developer's Advocates as agent for the purpose of accepting service of any notice which the Department and /or the Land Owner may serve arising out of this Agreement.
- 19.4 All notices arising in respect of this Agreement shall in the absence of evidence to the contrary be deemed to be validly given or served if in writing and if delivered either by hand, sent by commercial courier, by pre-paid recorded delivery post or fax.
- 19.5 Any notices which the Land Owner and/or the Department may require to serve on the Developer under the terms of this Agreement shall be served at the registered office for the time being of the Developer and shall be marked for the attention of Dandara Group Legal Department and if sent by fax then to fax number 693354
- 19.5 Any notices which the Department or Developer may require to serve under the terms of this Agreement to the Land Owner shall be served on the Land Owner's Advocates marked for the attention of Mark Humphrey and if sent by fax then to fax number 651950.
- 19.6 Any notices which the Land Owner and/or the Developer may require to serve under the terms of this Agreement on the Department shall be served on the Department's Advocates and shall be marked for the attention of Felicity Kniveton and if sent by fax then to fax number 685589
- 19.7 If a notice has been properly sent or delivered in accordance with this clause, it will be deemed to have been received as follows:
- (a) If delivered personally, at the time of delivery; or
 - (b) If delivered by commercial courier, on the date and at the time of signature of the courier's receipt; or
 - (c) If sent by pre-paid post or recorded delivery, 9.00 am on the second Working Day after posting; or
 - (d) If sent by fax, at the time of transmission;
- 19.8

- (a) all times are to be read as local time in the place of deemed receipt; and
- (b) If deemed receipt under this clause is not within Business Hours, the notice is deemed to have been received when business next starts in the place of receipt.

20 Contracts (Rights of Third Parties) Act 2001

For the purposes of the Contracts (Rights of Third Parties) Act 2001 it is agreed that nothing in this Agreement shall confer on any third party any right to enforce or any benefit of any term of this Agreement.

21 Good Faith

In all things with or contemplated by this Agreement the parties shall act and perform their obligations in good faith.

22 Estate Management

The parties shall during this Agreement not do anything or permit anything to be done on the First Property and / or the Second Property any act or thing which materially damages contaminates or pollutes the same or to alter the physical aspect of the First Property and / or the Second Property so as to materially make it more difficult or expensive for the intended implementation of the future development of the First Property or the Accommodation Works on the Second Property.

23 Non-Partnership

This Agreement does not constitute a partnership or joint venture between the parties.

24 VAT

24.1 The Department warrants that it has not waived and shall not waive prior to completion of the sale of the First Property its exemption to Value Added Tax in relation to the First Property or any part thereof. The sale of the First Property will be an exempt supply for Value Added Tax purposes and no Value Added Tax will be payable.

24.1 The Land Owner warrants that it has not waived and shall not waive prior to

completion of the sale of the Second Property its exemption to Value Added Tax in relation to the Second Property or any part thereof. The sale of the Second Property will be an exempt supply for Value Added Tax purposes and no Value Added Tax will be payable.

25 Disputes

25.1 All disputes differences and questions (other than matters of law) which arise between the parties concerning this Agreement and which cannot be resolved between the parties themselves shall be referred to and determined by the Expert (Provided Always that if any dispute difference or question arises in connection with this Agreement, directors or other senior representatives of the parties with authority to try to settle the dispute differences or questions will (if such request is made prior to any request to appoint an Expert) within five (5) days of a written request from one party to the other(s) meet in a good faith effort to try to resolve the disputes difference or question but failing any resolution arising from such meeting the same shall be resolved by the Expert).

25.2 In default of agreement the Expert shall be appointed upon the application of any party after the expiration of seven (7) days to the President or failing him the Vice-President of the Isle of Man Law Society (Provided always that if the President and /or the Vice-President are partners employees or consultants (present or past) in the Attorney General's Chambers or the firms or the in- house advocates of any of the parties then they shall be precluded from making the appointment and in the event that neither can make such appointment then the same shall be made by any other members of the Council of the Isle of Man Law Society who are not partners employees or consultants (present or past) in the Attorney General's Chambers or the firms or the in – house advocates of the Land Owner or the Department or the Developer failing all of the same by the President of the Royal Institution of Chartered Surveyors or a person appointed by him to do so on his behalf.

25.3 The Expert must: -

25.3.1 afford each party the opportunity within such reasonable time limits as he stipulates to make written representations to him;

- 25.3.2 inform each party of the representations of the others;
- 25.3.3 allow each party to once make written submissions to him on the written representations of the others within such reasonable time limits as he stipulates; and
- 25.3.4 notify the parties of his decision as quickly as practicable.
- 25.4 the Expert shall act as an expert and his decision will be final and binding on the parties.
- 25.5 the Expert will consider all written representations made on behalf of the parties which are delivered to him within such periods as he stipulates (having regard to the parties' wish for a quick determination).
- 25.6 the Expert will be instructed to use all reasonable endeavours to give his decision as speedily as possible.
- 25.7 If the Expert dies or refuses or is unable to act the procedure for appointment will be repeated as often as necessary.
- 25.8 the Expert's fees and the costs of his appointment will be payable by the parties in such proportions as he determines or in default of such determination equally between them.
- 25.9 If the Expert is ready to make his determination but is unwilling to do so due to the failure of one party to pay its share of the costs in connection with the determination the other party may serve upon the party in default a notice requiring any party in default to pay such costs within ten (10) Working Days and if any party in default fails to comply with the notice the other party or parties may pay to the Expert the costs payable by the party or parties in default and any amount so paid by the other party or parties shall be a debt due forthwith from the party or parties in default to the other party together with interest at the Contract Rate.
- 25.10 If the determination of the Expert will not be available within a time frame such as would prejudice an application wishing to be made by a party in accordance with this Agreement with respect to other time limits relating to such an application then such party may proceed with its application regardless and the determination of the Expert shall be applied retrospectively to any such application made by a party in these circumstances.

26 Counterparts

This Agreement shall be executed in six counterparts, each of which when executed and delivered shall constitute an original agreement, but the counterparts together shall constitute the same agreement. No Counterpart shall be effective until each party has executed two counterparts and all counterparts have been delivered to the other parties.

27 Legal Costs

Each party shall pay its own costs of and incidental to this Agreement.

28 Waiver

Failure or delay by a party in exercising any right under this Agreement shall not constitute a waiver of that right and shall not affect the validity of this Agreement nor any part thereof or the right of the parties to enforce its terms.

29. Model Conveyances

29.1 In any conveyance or transfer of the First Property and/or the Second Property the same shall incorporate the terms of the Model Conveyances with such other rights and reservations of easements in through upon over or under the Development Site with supporting covenants as may be reasonably required to implement the Approved Plans and if the parties are unable to agree upon the same it shall be determined by the Expert in accordance with clause 25.

29.2 The parties shall grant any necessary easements and wayleaves to any Competent Authority at no additional consideration to implement the Development of the Development Site.

30. Information and Communications

The Land Owner and the Department and the Developer agree that in respect of any reasonable request for further information from the other in order to facilitate the progress of any step or action envisaged by this Agreement that the Land Owner and the Department and the Developer will deal promptly and with all due diligence with

the request and in doing so will have all due regard for various time limits imposed in this Agreement so as not to frustrate the same.

31. Accommodation Works

The Accommodation Works shall be carried out by the Developer in an expeditious and good and workmanlike manner using good quality materials to the reasonable satisfaction of the Department in accordance with Plan 4 and the Accommodation Works Sequencing Schedule provided always that if this Agreement is lawfully rescinded due to the non satisfaction of the Planning Pre-Condition or the default of the Department and /or the Land Owner the Developer shall have no further obligation in respect of the same.

32. Licence

The Land Owner hereby grants the following licences subject to the following terms and conditions:-

- 32.1** The Developer may from the 1st day of March 2011 enter and re-enter upon that part of the Development Site shown edged red and marked "Area A"(hereinafter referred to as "Area A") on the plan annexed hereto and marked "Plan No 5" to enable the Developer to level, prepare and seed Area A and subsequently cut the grass upon the same as part of the works contained in stage 1 of the Accommodation Works Sequencing Schedule provided always that if the conveyance of the Properties does not occur and this Agreement is lawfully rescinded then this licence shall forthwith terminate and the Developer shall if so required by the Land Owner, reinstate Area A to the reasonable satisfaction of the Land Owner..
- 32.2** The Developer may forthwith enter and re-enter upon that part of the Development Site shown edged red and marked "Area B"(hereinafter referred to as "Area B") on the plan annexed hereto and marked "Plan No 5" to enable the Developer to fence off, stone pick, prepare, cut and roll Area B and provide an access to the same from the Kirk Michael primary school as part of the works contained in stage 2 of the Accommodation Works Sequencing Schedule

provided always that if the conveyance of the Properties does not occur and this Agreement is lawfully rescinded then this licence shall forthwith terminate and any access to Kirk Michael primary school shall cease and Area B including any boundaries thereof will be reinstated by the Developer to the reasonable satisfaction of the Land Owner.

- 32.3 Upon the Developer completing that part of the Accommodation Works referred to in clause 32.2 above the Department shall be permitted to use Area B for a childrens play area in conjunction with the Kirk Michael primary school until the Accommodation Works to provide a football pitch on Area A have been completed by the Developer or until this Agreement has been lawfully rescinded (whichever maybe the earlier).
- 32.4 The Department must be responsible for and keep the Land Owner fully indemnified against all losses, claims, demands, actions, proceedings, damages, costs or expenses or other liability made against or suffered or incurred by the Land Owner of whatsoever nature and whether in respect of any injury to or the death of any person or damage to any property moveable or immovable or otherwise howsoever arising directly or indirectly from the use of Area B by the Department or out of any act omission or negligence of the Department any person on Area B expressly or impliedly with the Department's authority its or their servants agents employees and invitees or any breach or non-observance by the Department of any of the Department's undertakings contained in this clause or any of the matters to which this Licence is subject.
- 32.5 The Land Owner gives no warranty that Area A and Area B are fit for the purposes granted by the licences or as to any planning approval for such uses.
- 32.6 The Developer and the Department shall maintain public liability indemnity insurance at all times during the period of the licences to keep the Land Owner suitably protected in respect of the activities authorised under the licences and if required to reasonably produce a copy of such insurance policy to the Land Owner.
- 32.7 The Department shall keep the Area B in a clean and tidy condition and forthwith upon the termination of this licence in the event of this Agreement being lawfully

rescinded the Department shall ensure that Area B is left clear of all items and any damage to the same made good to the reasonable satisfaction of the Land Owner.

32.8 The parties agree that the provisions of the Tenancies (Implied Terms) Act 1954 (as amended) Conveyancing (Leases and Tenancies) Act 1954 Tenancy of Business Premises Act 1971 (as amended) and the Landlord and Tenant (Miscellaneous Provisions) Act 1976 do not apply to these Licences. It is acknowledged by the parties hereto that no relationship of landlord and tenant is created between the parties by virtue of these Licences, and that neither the Developer nor the Department are not and shall not be entitled to claim any security of tenure under the Tenancy of Business Premises Act 1971 (as amended).

32.9 At the Department's own expense provide and maintain all arrangements upon or in respect of Area B for the use to which Area B is being put by the Department that are required to comply with the requirements of any statute act of Tynwald (already or in the future to be passed) or any government department, local authority public or competent authority or court of competent jurisdiction.

33. Entire Understanding

The parties hereby acknowledge that the written terms of this Agreement constitute the entirety of the Agreement made between the parties hereto.

IN WITNESS WHEREOF the parties hereto have executed these presents the day month and year first before written

FIRST SCHEDULE
("the First Property")

ALL and **SINGULAR** those lands and premises presently part of Kirk Michael primary school Main Road Kirk Michael in the Parish of Michael the same being represented on the plan hereto annexed hereto and marked "Plan No. 1" by the portion delineated and edged Red and to which said hereditaments (inter alia) the Department became entitled by a Deed of

Conveyance (D Sept 1971-39) dated the 19th day of August 1971 from Cyril Walker Cannell to the Isle of Man Board of Education and which became vested in the Department of Education by virtue of ** and subsequently became vested in the Department by virtue of the Transfer of Function (New Department) No. 2 Order 2010

SECOND SCHEDULE

("the Second Property")

ALL and **SINGULAR** those lands and premises presently part of the estate of Lhergy Vreck Kirk Michael in the Parish of Michael the same being represented on the plan hereto annexed hereto and marked "Plan No. 2 " by the portion delineated and edged red and to which said hereditaments (inter alia) the Land Owner became entitled by a deed of Conveyance (D 1988 -66) bearing date the 1st day of November 1988 from Robert James Lewis and Sally Lewis.

THIRD SCHEDULE

(The Accommodation Works)

First Property –*Pounds (£*)

Second Property –*Pounds (£*)

Accommodation Works –*Pounds (£*)

SIGNED by the Land Owner
acting by :-

;
;
;
;
;

.....
Director

.....
Director / Secretary

SIGNED on behalf of
the Department by the Minister or a
person duly authorised by the Minister
for Education and Children
in the presence of:-

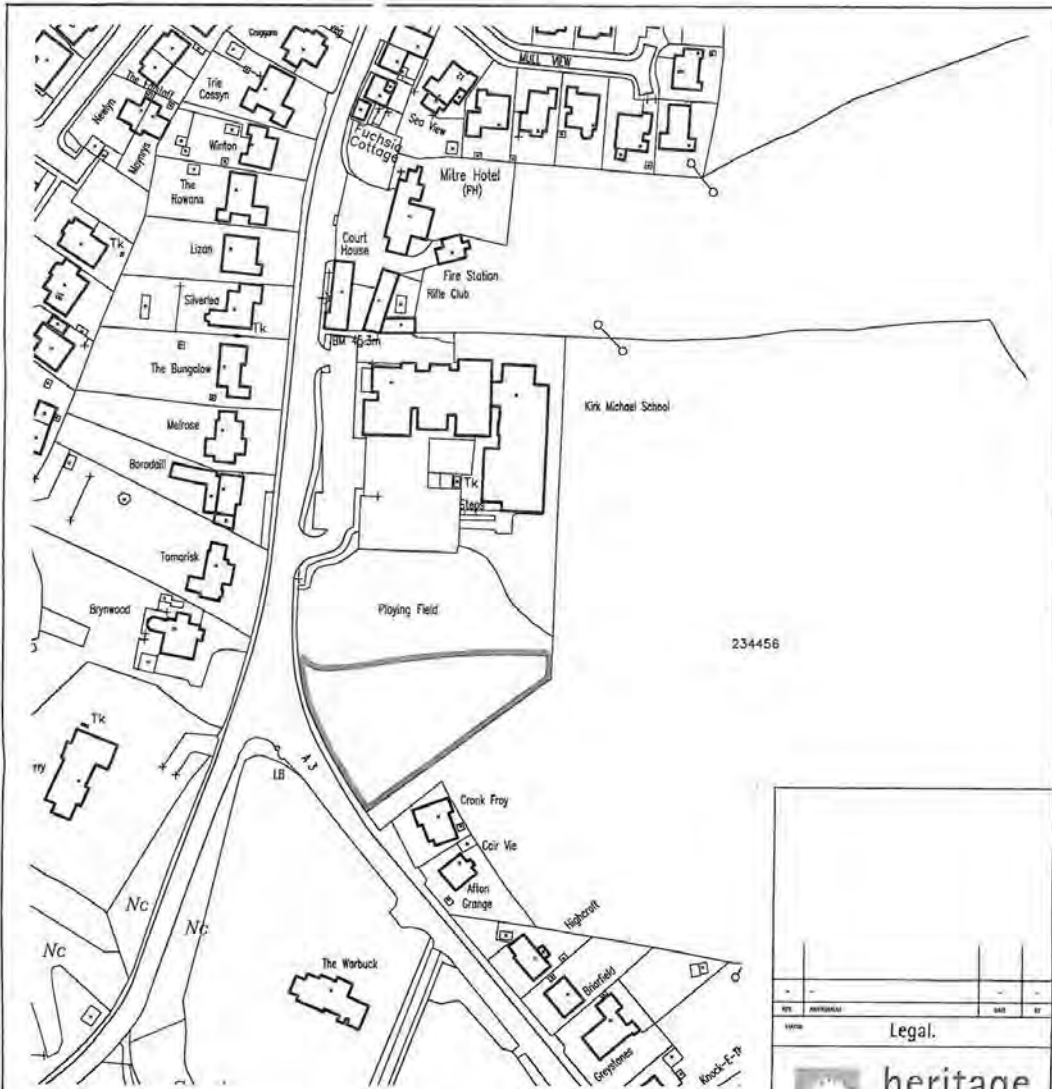
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SIGNED by the Developer
acting by:-

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Director

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Director / Secretary

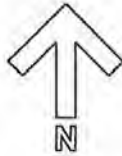


Land East of Main Road, Kirk Michael, Isle of Man.

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Legal.



heritage homes limited

Dundee Gray Head Office,
Isle of Man Business Park,
Caul Road, Madingley,
Isle of Man,
IM2 2SA

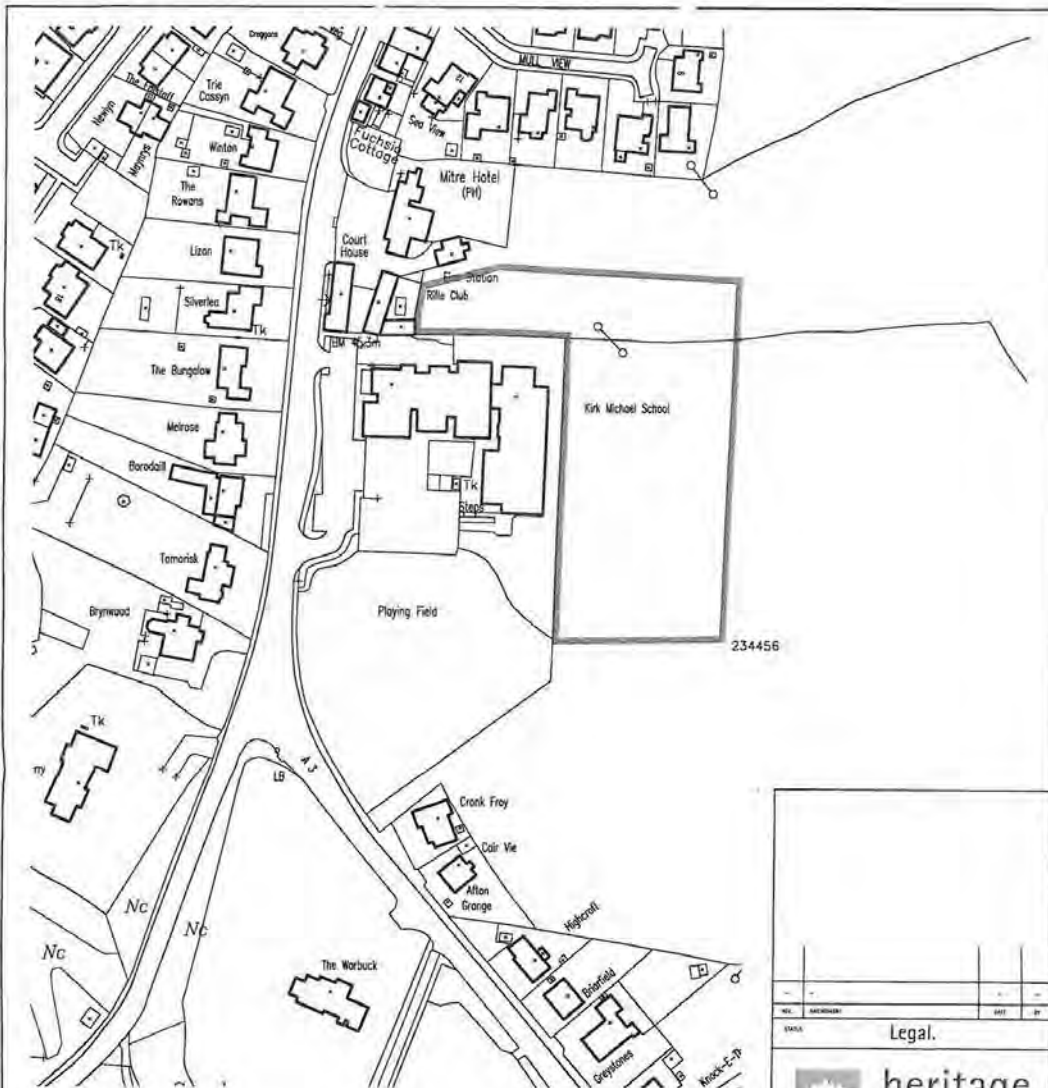
telephone: 01624 89320
 fax/mobile: 01624 89321
 sales telephone: 01624 81000
 sales facsimile: 01624 81161
 e-mail: info@man.ohh.com
 web: www.ohh.com

Land East of Main Road,
Kirk Michael, Isle of Man.

"Plan No. 1"
First Property.

SCALE	DATE	BY
1:1250	July 2011	JFC
ISSUE NO	DoE Agreement 1	

CADREF: J:\projects\Housing\2380 - Kirk Michael - Glen Wyllyn Junction\009 Legal\Land Purchase Agreement\Department of Education\DoE Agreement.dwg

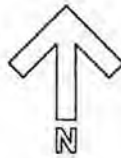


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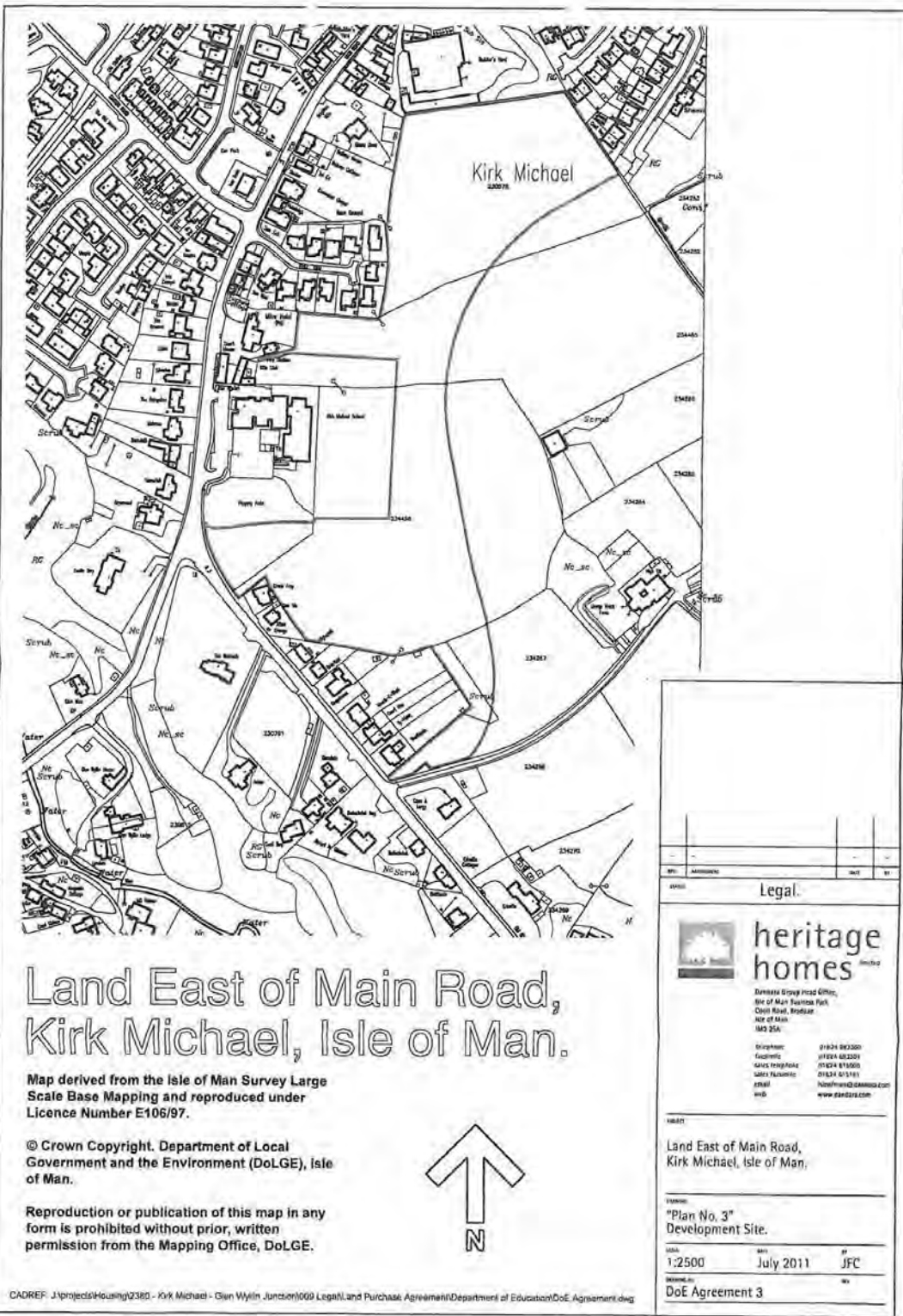
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CADREF: J:\projects\Housing\2380 - Kirk Michael - Glen Wyllyn Junction\009 Legal\Land Purchase Agreement\Department of Education\DoE Agreement.dwg

Legal.			
			
Dundara Group Head Office, Isle of Man Business Park, Dhoon Road, Braddan, Isle of Man, IM2 2SA			
telephone	01624 882500		
facsimile	01624 892201		
sales enquiries	01624 818000		
sales parcels	01624 813181		
email	info@man.gov.im		
web	www.im.gov.im		
Land East of Main Road, Kirk Michael, Isle of Man.			
"Plan No. 2" Second Property.			
SCALE	DATE	BY	
1:1250	July 2011	JFC	
DoE Agreement 2			

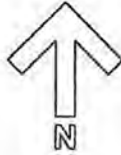


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CADREF: J:\projects\Housing\2385 - Kirk Michael - Glen Wyllin Junction\069 Legal\Land Purchase Agreement\Department of Education\DoE Agreement.dwg

Legal.	
 heritage homes <small>limited</small>	
Directors Group Head Office, Isle of Man Business Park, Chalk Road, Douglas, Isle of Man, IM2 2SA	
Telephone:	01624 862000
Facsimile:	01624 862091
Local Telephone:	01624 815000
Local Facsimile:	01624 815181
E-mail:	sales@heritagehomes.com
Web:	www.heritagehomes.com
14847	
Land East of Main Road, Kirk Michael, Isle of Man.	
Plan No. 3 Development Site.	
Scale:	1:2500
Date:	July 2011
Drawn by:	JFC
DoE Agreement 3	



"Type 1"
Bow Top Fencing

Material shall be galvanneal steel powder coated in blue and mounted on heavy duty casters on a concrete base. The fence shall be constructed in accordance with the relevant standards of the British Standard BS5387.

Height 2.2m
Panel 3.0m
Color Blue
Gate height 2.2m max
Gate width 3.0m max
Gate material galvanneal steel powder coated in blue

New Sports Pitch

Refer to "Foundation and Subsoil of Sports Pitch Foundation" of the Main Site Plan (2380.01.01)



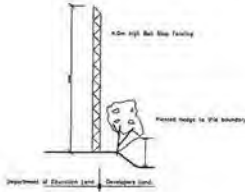
"Type 2"
Ball Stop Fencing

Galvanneal steel ball stop fencing with a height of 2.2m. The fence shall be constructed in accordance with the relevant standards of the British Standard BS5387.

Height 2.2m
Panel 3.0m
Color Blue
Gate height 2.2m max
Gate width 3.0m max
Gate material galvanneal steel powder coated in blue

Playground Build Up

Refer to "Foundation and Subsoil of Playground Build Up" of the Main Site Plan (2380.01.01)



Section through "Type 2"
Ball Stop Fencing



Elevation of "Type 3" wall
from DoE Side

NOTES

The drawing and the proposals within the property of Heritage Homes Limited.


No liability is taken on Contract Documents issued by Heritage Homes Ltd.

C - Review to be completed by 30th June 2011

A - Check and confirm to be completed by 30th June 2011

A - Check and confirm to be completed by 30th June 2011

Legal

 **heritage homes** Ltd
Registered Office: 101, The Quadrant, Bristol, B2 4JA
Company No: 04342423
VAT No: 256 247 657
www.heritagehomes.com

Proposed Development at Rear of Kirk Michael School, Kirk Michael, Isle of Man.

Plan No. 4. Accommodation Works.

1:500 July 2011 JFC

2380.01.06 C

" A "

THIS DEED made this day of 201* BETWEEN
THE DEPARTMENT OF EDUCATION AND CHILDREN (a Government Department)
of Hamilton House Peel Road Douglas Isle of Man IM1 5EZ (hereinafter referred to as "the
Department" which expression unless inconsistent with the context shall include the said
Department of Education and Children and its successors in title and assigns) of the one part
and PINECREST INVESTMENTS LIMITED a company incorporated in the Isle of Man
with company number 036187C and having its registered office at 9 Hope Street Douglas Isle
of Man (hereinafter referred to as "the Purchaser" which expression unless inconsistent with
the context shall include the said Pinecrest Investments Limited and its successors in title and
assigns) of the other part..

WHEREAS :-

- 1 The Department is well entitled unto seised and possessed in customary fee simple of a certain plot or parcel of land in the Parish of Michael together with Michael Primary School and all the buildings thereon erected the same being represented by the portion delineated and edged red and green on the plan marked "Plan 1" annexed hereto (hereinafter called the "Department's Land")
- 2 A portion of the Department's Land shown edged red on the plan marked "Plan 1" annexed hereto and being more particularly set forth and described in the First Schedule hereto is hereinafter referred to as the "Scheduled Property"
- 3 The Department has agreed to sell the Scheduled Property to the Purchaser for the consideration and on the terms and conditions hereinafter contained

NOW THIS DEED THEREFORE WITNESSETH that the Department in consideration of the sum of ** (£**) to the Department now paid by the Purchaser (the receipt whereof is hereby acknowledged) **DOTH HEREBY** grant bargain and forever absolutely **SELL AND CONVEY** unto the Purchaser **ALL AND SINGULAR** the Scheduled Property **TOGETHER** with all ways waters watercourses easements liberties rights members privileges and appurtenances thereto belonging or in anywise appertaining thereto or reputed or known as part or parcel thereof or appurtenant thereto **TO HAVE AND TO HOLD** the same unto the Purchaser in customary fee simple from the day of the date hereof absolutely and forever **BUT SUBJECT NEVERTHELESS** to and with the benefit of all covenants conditions agreements and stipulations affecting the Scheduled Property and contained or referred to in any deed of conveyance or other instrument of title prior in date hereto and duly recorded in the General Registry so far forth as the same are valid subsisting and capable of being enforced and **SUBJECT ALSO** to all easements legally existing in or over the Scheduled Property

AND the Department **DOTH HEREBY COVENANT** with the Purchaser that the Department hath good right full power and lawful authority to grant bargain sell and convey the Scheduled Property in manner aforesaid and that the Department shall and will warrant maintain uphold and defend the same unto the Purchaser **FREE FROM ENCUMBRANCES** and from and against the claim challenge and demand of all and every persons and person whomsoever **IN WITNESS WHEREOF** the parties hereto have hereunto executed these presents this the day month and year first before written...

**SCHEDULE WITHIN REFERRED TO
("the Scheduled Property")**

ALL AND SINGULAR a certain plot or parcel of land part of the estate of Lhergy Vreck in the Parish of Michael the same being represented by the portion delineated and edged red on the plan annexed hereto and marked "Plan 1" and to which said hereditaments (inter alia) the Department became entitled by a Deed of Conveyance dated the 19th day of August 1971 from Cyril Walker Cannell to the Isle of Man Board of Education and which became vested in the Department of Education by virtue of ** and subsequently became vested in the Department by virtue of the Transfer of Functions (new Departments) No. 2 Order 2010

SIGNED on behalf of the Department
by the Minister or a person duly
authorised by the Minister for Education:
and Children in the presence of: -

;

;

;

;

EXECUTED as a Deed by the
Purchaser acting by :-

.....
Director

.....
Director/ Secretary

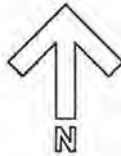


Land East of Main Road, Kirk Michael, Isle of Man.

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CADREF: J:\projects\housing\2380 - Kirk Michael - Glen Wyllin Junction\009 Legal\Land Purchase Agreement\Department of Education\Conveyance A.dwg

Legal.		
		
Dundara Group Head Office, Isle of Man Business Park David Ross, Saddle Isle of Man IM2 2SA		
telephone	01624 88300	
facsimile	01624 88301	
sales telephone	01624 81000	
sales facsimile	01624 81581	
email	info@man.dundara.com	
web	www.dundara.com	
PROJECT Land East of Main Road, Kirk Michael, Isle of Man.		
DRAWING "Plan No. 1"		
SCALE	DATE	BY
1:1250	July 2011	JFC
APPROVED BY:	REV	
Conveyance A		

DATED

201*

MICHAEL

THE DEPARTMENT OF EDUCATION
AND CHILDREN
and
PINECREST LIMITED

DEED OF CONVEYANCE
LAND AT LHERGY VRECK
KIRK MICHAEL

Dandara Group Legal Department
Dandara Group Head Office
Isle of Man Business Park
Cooil Road
Braddan
IM2 2SA

" B "

THIS DEED made this day of 201* BETWEEN
PINECREST INVESTMENTS LIMITED a company incorporated in the Isle of Man
with company number 036187C and having its registered office at 9 Hope Street
Douglas Isle of Man (hereinafter referred to as "**the Vendor**" which expression unless
inconsistent with the context shall include the said Pinecrest Limited and its successors in title
and assigns) of the one part and **THE DEPARTMENT OF EDUCATION AND
CHILDREN (a Government Department)** of St. Georges Court Upper Church Street
Douglas Isle of Man IM1 2SG (hereinafter referred to as "**the Department**" which
expression unless inconsistent with the context shall include The Department of Education and
Children and its successors in title and assigns) of the other part..

WHEREAS :-

- 1 The Department is well entitled unto seised and possessed in customary fee simple of a certain plot or parcel of land in the Parish of Michael together with Michael Primary School thereon erected the same being represented by the portion delineated and edged green on the plan marked "Plan 1" annexed hereto (hereinafter called the "**Department's Land**")
- 2 The Vendor is well entitled unto seised and possessed in customary fee simple of a certain plot or parcel of land in the Parish of Michael the same being represented by the portion delineated and edged red on the plan marked "Plan 2" annexed hereto (hereinafter called the "**Vendor's Land**")
- 3 A portion of the Vendor's Land shown edged red on Plan 3 and being more particularly set forth and described in the First Schedule hereto is hereinafter referred to as the "**Scheduled Property**" and the Vendor's Land other than the portion thereof comprising the Scheduled Property and being shown edged red on Plan 4 is hereinafter referred to as the "**Retained Land**" and such portion of the Retained Land as is shown coloured brown on the plan marked "Plan 4" annexed hereto is hereinafter called the "**Brown Land**"
- 4 The Vendor has agreed to sell the Scheduled Property to the Department for the consideration and on the terms and conditions hereinafter contained

NOW THIS DEED THEREFORE WITNESSETH that the Vendor in consideration of the sum of ** (£**) to the Vendor now paid by the Department (the receipt whereof is hereby acknowledged) **DOTH HEREBY** grant bargain and forever absolutely **SELL AND CONVEY** unto the Department **ALL AND SINGULAR** the Scheduled Property **TOGETHER** with all

ways waters watercourses easements liberties rights members privileges and appurtenances thereto belonging or in anywise appertaining thereto or reputed or known as part or parcel thereof or appurtenant thereto **AND IN PARTICULAR :-**

- (a) The right for the Department and its successors in title and the occupiers for the time being of the Scheduled Property and the Department's Land or any part or parts thereof and the providers of any statutory services for drainage and public utilities responsible for the supply of water gas electricity communication media and similar services together with their respective agents employees and contractors with all necessary tools plant equipment and materials at all convenient times of day and upon giving to the Vendor or other the owners and occupiers of the relevant land to be so entered at least 28 days prior notice in writing at any time during the period of 150 years from the date of this Deed (hereinafter referred to as the "**Perpetuity Period**") to enter and re-enter upon such part or parts of the Retained Land (excluding the curtilages of the dwellings to be constructed thereon) as may be reasonably necessary to lay construct and install in over or under the Retained Land (excluding the curtilages of the dwellings to be constructed thereon) (the route first being approved in writing by the Vendor or other the freehold owner or owners for the time being of the land under which it is to be laid (such approval not to be unreasonably withheld or delayed)) sewers, drains, channels, watercourses, cables, pipes, wires, ducts, conduits, laser optical fibres, data impulse transmission communications, reception systems and other services and conducting media (hereinafter referred to as the "**Service Media**") and / or connect into the Service Media (subject to the prior obtaining of all necessary statutory consents) as may be necessary for the free and uninterrupted passage and running through the same of water, soil, gas, electricity, television, video, audio, fax, electronic mail data information communications and other services or supplies to and from the Scheduled Property and the Department Land
- (b) The full right and liberty for the Department and its successors in title or occupiers for the time being of the Scheduled Property and the Department's Land or any part or parts thereof and the providers of any statutory services for drainage and public utilities responsible for the supply of water gas electricity communication media and similar services together with their respective agents employees and contractors with all necessary tools plant equipment and materials and upon giving to the Purchaser or other the owners and occupiers of the Retained Land so entered at least 48 hours notice in writing (save and except in the case of emergency) to enter and re-enter upon such part or parts of the Retained Land (excluding the curtilages of the dwellings to be

constructed thereon) as shall be reasonably necessary to view the state and condition of and execute works of cleaning maintenance repair and renewal of any Service Media now existing or to be laid in under or through the Retained Land during the Perpetuity Period

- (c) The right for the Department and its successors in title and the occupiers for the time being of the Scheduled Property and the Department's Land or any part or parts thereof at all times and for all purposes connected with the Scheduled Property and the Department's Land to pass and repass in common with the Vendor and all other persons having the like right over and along the roads (hereinafter referred to as the "Roadways") to be dedicated by the Vendor or its successors in title to the Retained Land for public access (and for which planning approval has been granted) now existing or to be constructed within the Perpetuity Period with or without vehicles and the full right and liberty for the Department and its successors in title and occupiers for the time being of the Scheduled Property and the Department's Land in common with the Vendor and all other persons having the like right to pass and repass no foot only over and along any footpaths (hereinafter referred to as "the Footpaths") to be dedicated by the Vendor or its successors in title to the Retained Land for public access (and for which planning approval has been granted) now existing or to be constructed at any time during the Perpetuity Period for an from the Scheduled Property and the Department's Land
- (d) The right for the Department and its successors in title and occupiers for the time being of the Scheduled Property and the Department's Land or any part or parts thereof but only during the period of any rebuilding, maintenance, extension and construction works to the educational buildings erected or to be erected on the Scheduled Property and/or the Department's Land (subject to planning approval and compliance with any other required statutory consents) to enter and re-enter such part or parts of the Brown Land as is reasonably necessary at all reasonable times of day upon giving to the Purchaser or other the owners and occupiers of the Retained Land to be so entered at least 28 days prior notice in writing with (so far as is practically possible) or without vehicles for the taking of materials, plant and equipment to and from the Scheduled Property and the Department's Land for the aforesaid purposes only

The Department and its successors in title for the time being of the Scheduled Property and the Department's Land or any part or parts thereof **HEREBY COVENANT** with the Vendor and its successors in title and occupiers of the Retained Land or any part or parts thereof so that the benefit of such covenants shall be annexed to each and every

part of the Retained Land and the burden annexed to each and every part of the Scheduled Property and the Department's Land (but not so as to render the Department personally liable after the Department has parted with all interest in the Scheduled Property and the Department's Land or any relevant part or parts thereof) that in exercising any of the rights in paragraphs (a) to (d) above:-

- (1) To forthwith make good nevertheless at its own expense all damage or disturbance (to the reasonable satisfaction of the Vendor or its successors in title and the occupiers for the time being of any relevant portion or portions of the Retained Land) which may be caused to the Retained Land by the Department or its successors in title to the Scheduled Property and the Department's Land and their respective agents employees and contractors
- (2) In exercising the rights granted by this deed to do so as expeditiously as possible and causing as little damage disturbance and inconvenience as possible
- (3) The Department and its successors in title to the Scheduled Property and the Department's Land must keep the Vendor and its successors in title and the occupiers for the time being of the Retained Land indemnified from and against all actions claims proceedings costs expenses and demands that may be brought or made against them by reason of anything done or caused to be done or omitted to be done by the Department and its successors in title to the Scheduled Property and the Department's Land and all those authorised by it in the exercise of the easements and rights granted by this deed
- (4) The Department and its successors in title to the Scheduled Property and the Department's Land and all those authorised by it in the exercise of the easements and rights granted by this Deed must exercise the easements granted by this deed with reasonable care and in doing so to avoid as far as is reasonably practicable causing any damage or any nuisance to the Retained Land or any nuisance to the Vendor and its successors in title and the occupiers for the time being of the Retained Land
- (5) The Department and its successors in title to the Scheduled Property and the Department's Land and all those authorised by it in the exercise of the easements and rights granted by this deed must not obstruct or congest or allow to be obstructed or congested the Roadways and the Footpaths for access nor cause or allow any such Roadways and Footpaths that are to be constructed on the Retained Land from time to time to become unduly soiled by mud or clay

lime or other materials adhering to the wheels or tracks or other part of any vehicles gaining access to the Scheduled Property and the Department's Land to the reasonable satisfaction of the Vendor and its successors in title to the Retained land

- (6) The Department and its successors in title to the Scheduled Property and the Department's Land and all those authorised by it in the exercise of the easements and rights granted by this deed must not discharge into any drain sewer or watercourse constructed or to be constructed in or under the Retained Land any fluid or any substance whatsoever of a harmful or deleterious nature
- (7) Not to build or erect any structure within that part of the Scheduled Property (hereinafter referred to as the "Service Strip") being an area three (3) metres in width from the boundary marked A-B on "Plan 1" annexed hereto to ensure that the same is free to be used as a service strip for the rights reserved for the Purchaser and its successors in title in this deed

TO HAVE AND TO HOLD the same unto the Department in customary fee simple from the day of the date hereof absolutely and forever **BUT SUBJECT NEVERTHELESS** to and with the benefit of all covenants conditions agreements and stipulations affecting the Scheduled Property and contained or referred to in any deed of conveyance or other instrument of title prior in date hereto and duly recorded in the General Registry so far forth as the same are valid subsisting and capable of being enforced and **SUBJECT ALSO** to all easements legally existing in or over the Scheduled Property **AND IN PARTICULAR:-**

- (a) The right for the Vendor and its successors in title and the occupiers for the time being of the Retained Land or any part or parts thereof and the providers of any statutory services for drainage and public utilities responsible for the supply of water gas electricity communication media and similar services together with their respective agents employees and contractors with all necessary tools plant equipment and materials at all convenient times of day and upon giving to the Department or other the owners and occupiers of the relevant land to be so entered at least 28 days prior notice in writing at any time during the period of 150 years from the date of this deed (hereinafter referred to as the "Perpetuity Period") to enter and re-enter upon such part or parts of the Service Strip as may be reasonably necessary to lay construct and install in over or under the Service Strip sewers, drains, channels, watercourses, cables, pipes, wires, ducts, conduits, laser optical fibres, data impulse transmission communications, reception systems and other services and conducting media (hereinafter referred to as the "Service Media") and / or connect into the Service

Media (subject to the prior obtaining of all necessary statutory consents) as may be necessary for the free and uninterrupted passage and running through the same of water, soil, gas, electricity, television, video, audio, fax, electronic mail data information communications and other services or supplies to and from the Retained Land

- (b) The full right and liberty for the Vendor and its successors in title or occupiers for the time being of the Retained Land or any part or parts thereof and the providers of any statutory services for drainage and public utilities responsible for the supply of water gas electricity communication media and similar services together with their respective agents employees and contractors with all necessary tools plant equipment and materials and upon giving the Department or other the owners and occupiers of the Retained Land to be so entered at least 48 hours notice in writing (save and except in the case of emergency) to enter and re-enter upon such part or parts of the Service Strip as shall be reasonably necessary to view the state and condition of and execute works of cleaning maintenance repair and renewal of any Service Media now existing or to be laid in under or through the Service Strip during the Perpetuity Period

The Vendor and its successors in title for time the being of the Retained Land or any part or parts thereof **HEREBY COVENANT** with the Department and its successors in title and occupiers of the Scheduled Property and the Department's Land or any part or part thereof so that the benefit of such covenants shall be annexed to each every part of the Scheduled Property and the Department's Land and the burden annexed to each and every part of the Retained Land (but no so as to render the Vendor personally liable after the Vendor has parted with all interest in the Retained Land or any relevant part or parts thereof) that in exercising any of the rights in paragraphs (a) to (b) above:-

- (1) To forthwith make good nevertheless at its own expense all damage or disturbance (to the reasonable satisfaction of the Department or its successors in title and the occupiers for the time being of any relevant portion or portions of the Scheduled Property and the Department's Land) which may be caused to the Scheduled Property and the Department's Land by the Vendor or its successors in title to the Retained Land and their respective agents employees and contractors
- (2) In exercising the rights granted by this deed to do so as expeditiously as possible and causing as little damage disturbance and inconvenience as possible
- (3) The Vendor and its successors in title to the Retained Land must keep the Department and its successors in title and the occupiers for the time being of the Scheduled Property and the Department's Land indemnified from and against all actions claims

proceedings costs expenses and demands that may be brought or made against them by reason of anything done or caused to be done or omitted to be done by the Vendor and its successors in title to the Retained Land and all those authorised by it in the exercise of the easements and rights granted by this deed

- (4) The Vendor and its successors in title to the Retained Land and all those authorised by it in the exercise of the easements and rights granted by this Deed must exercise the easements granted by this deed with reasonable care and in doing so to avoid as far as is reasonably practicable causing any damage or any nuisance to the Scheduled Property and the Department's Land or any nuisance to the Department and its successors in title and the occupiers for the time being of the Scheduled Property and the Department's Land
- (5) The Vendor and its successors in title to the Retained Property and all those authorised by it in the exercise of the easements and rights granted by this deed must not discharge into any drain sewer or watercourse constructed or to be constructed in or under the Scheduled Property and the Department's Land any fluid or any substance whatsoever of a harmful or deleterious nature

The Vendor and its successors in title for the time being of the Retained Land or any part or parts thereof **HEREBY COVENANT** with the Department and its successors in title of the Scheduled Property and the Department's Land or any part or part thereof so that the benefit of such covenants shall be annexed to each every part of the Scheduled Property and the Department's Land and the burden annexed to each and every part of the Retained Land (but no so as to render the Vendor personally liable after the Vendor has parted with all interest in the Retained Land or any relevant part or parts thereof) as follows:-

- (1) Not to construct (or permit or suffer any persons under the control of the Vendor to construct) any portion of road (whether intended to be offered for public adoption or not) upon the Retained Land that abuts immediately upon the boundary of the Retained Land as marked A-B on the plan annexed hereto and marked "Plan 5" and so as shall thereby be permitted to be used to provide a vehicular and/or pedestrian access from the Retained Land to the land beyond the aforesaid boundary line as marked A-B on the plan annexed hereto and marked "Plan 5" such as would facilitate the future development of the same Provided Always that such aforesaid covenant contained in this clause shall not prevent:-
 - (a) the construction of a road for secondary access upon the Retained Land leading from the points marked A-C on the plan annexed hereto and marked "Plan 5" from abutting upon the said boundary marked A-B on the plan annexed hereto and marked

"Plan 5" provided that any such secondary access road shall not be permitted itself to provide access to the land beyond the aforesaid boundary line as marked A-B on the plan annexed hereto and marked "Plan 5"; and/or

(b) any temporary haulage road as may be required to provide temporary access between any development compound(s) as may be temporarily situated on the land beyond the aforesaid boundary line marked A-B on the plan annexed hereto and marked "Plan 5" needed and required during any construction development and future redevelopment of any buildings structures and/or Service Media, above, under or upon the Retained Land

- (2) Not to (or permit or suffer any person under the control of the Vendor to do so) construct more than one hundred (100) dwelling houses (Provided Always that the expression "**dwelling houses**" for the avoidance of any doubt does not include any electricity sub-station(s) or other building(s) designed to exclusively serve Service Media) and/or apartments upon the Retained Land (to include the two areas shown coloured green (hereinafter referred to as "**the Green Land**") adjoining the Retained Land in the event that the Green Land is used in conjunction with the Retained Land for the construction of the said dwelling houses and apartments) with each such said individual dwelling house and/or apartment being permitted to be constructed together with any associated private garages carports conservatories sheds greenhouses bin stores and any other usual outbuildings and structures in association with the same

AND the Vendor and its successors in title for the time being of the Retained Land or any part or parts thereof **HEREBY COVENANT** with the Department and its successors in title and occupiers of the Scheduled Property and the Department's Land or any part or parts thereof so that the benefit of such covenants shall be annexed to each and every part of the Scheduled Property and the Department's Land and the burden annexed to each and every part of the Retained Land (excluding the curtilages of the dwellings to be constructed thereon) (but not so as to render the Vendor personally liable after the Vendor has parted with all interest in the Retained Land or any relevant part or parts thereof that the Vendor and its successors in title to the Retained Land (but excluding from the aforesaid the curtilages of the dwellings to be constructed thereon) will if required by the supplier of any statutory or public service utilities (including but without prejudice to the foregoing drainage, water, telephone, electricity, gas and other conducting media services) to enter into any necessary easements wayleave agreements or licences with the supplier of any such services and / or utilities to be laid within the Perpetuity Period in conjunction with any Service Media to be laid in accordance with the rights granted in this deed for the Department and its successors in title to the Scheduled Property and the

Department's Land and all those authorised by the Department in the exercise of the easements and rights granted by this deed do so promptly and at nominal consideration on the part of the Vendor and its successors in title to the Retained Land

AND the Department and its successors in title for the time being of the Scheduled Property and the Department's Land or any part or parts thereof **HEREBY COVENANT** with the Vendor and its successors in title and occupiers of the Retained Land or any part or parts thereof so that the benefit of such covenants shall be annexed to each and every part of the Retained Land and the burden annexed to each and every part of the Service Strip (but not so as to render the Department personally liable after the Department has parted with all interest in the Service Strip or any relevant part or parts thereof that the Department and its successors in title to the Service Strip will if required by the supplier of any statutory or public service utilities (including but without prejudice to the foregoing drainage, water, telephone, electricity, gas and other conducting media services) to enter into any necessary easements wayleave agreements or licences with the supplier of any such services and / or utilities to be laid within the Perpetuity Period in conjunction with any Service Media to be laid in accordance with the rights reserved in this deed for the Vendor and its successors in title to the Retained Land and all those authorised by the Vendor in the exercise of the easements and rights granted by this deed do so promptly and at nominal consideration on the part of the Vendor and its successors in title to the Retained Land

AND the Department (with the object and intention of affording to the Vendor a full and sufficient indemnity in respect of the said covenants conditions restrictions provisos and agreements but not further or otherwise) **DOETH HEREBY COVENANT** with the Vendor that the Department will at all times hereafter observe perform and be bound by all the said covenants conditions restrictions provisos and agreements and will indemnify and save harmless the Vendor from and against all liability or responsibility the Vendor may incur by reason of any future breach non observance or non performance thereof

AND the Vendor **DOETH HEREBY COVENANT** with the Department that the Vendor hath good right full power and lawful authority to grant bargain sell and convey the Scheduled Property in manner aforesaid and that the Vendor shall and will warrant maintain uphold and defend the same unto the Department **FREE FROM ENCUMBRANCES** and from and against the claim challenge and demand of all and every persons and person whomsoever

IT IS HEREBY AGREED AND DECLARED BETWEEN THE PARTIES AS FOLLOWS:-

- (1) that neither the Department nor the Vendor shall be entitled to any right of light air or any other quasi easement which would restrict or interfere with the free use of the

Scheduled Property and/or the Department's Land and/or the Retained Land for building upon the same.

- (2) that the boundary between the points marked B-C-D on "Plan 4" annexed hereto will comprise of approximately 2m high fair faced blockwork wall with a minimum 600mm chain link fence on top and once erected shall be in the sole ownership of and maintained by the Department
- (3) that the boundary between the points marked D-E-F on "Plan 4" annexed hereto will comprise of a tubular lattice fenced ball stop sport fencing of approximately 4m high and once erected shall be in the sole ownership of and maintained by the Department (Provided Always that if the Scheduled Property at anytime in the future shall cease as a sports pitch then such boundary fence might be replaced by the Department with a similar type and form to that as in paragraph (2) above)
- (4) that the boundary between the points marked F-G on "Plan 4" annexed hereto will comprise of a tubular steel bow top fencing of approximately 1.5m high and once erected shall be in the sole ownership of and maintained by the Department
- (5) the Department (and for the purpose of this sub-clause the expression "**the Department**" means only the Department itself or its statutory successors or its express assign to whom the benefit of the covenants in this Deed have been expressly assigned in writing absolutely) hereby reserves the right to waive or release any covenants restrictions or stipulations contained in this Deed and burdening the Retained Land.
- (6) nothing contained in this Deed shall create or be deemed to create or imply the existence of a scheme of development or a building scheme or other scheme of restrictions or scheme of local law affecting the whole or any part or parts of the Scheduled Property the Department's Land and the Retained Land

IN WITNESS WHEREOF the parties hereto have hereunto have executed these presents this the day month and year first before written...

**SCHEDULE WITHIN REFERRED TO
("the Scheduled Property")**

ALL AND SINGULAR a certain plot or parcel of land part of the estate of Lhergy Vreck in the Parish of Michael the same being represented by the portion delineated and edged red on the plan annexed hereto and marked "Plan 3" and to which said hereditaments (inter alia) the Vendor became entitled by a Deed of Conveyance (D-Dec 1988-66) dated the 1st day of November 1988 from Robert James Lewis and Sally Lewis to the Vendor

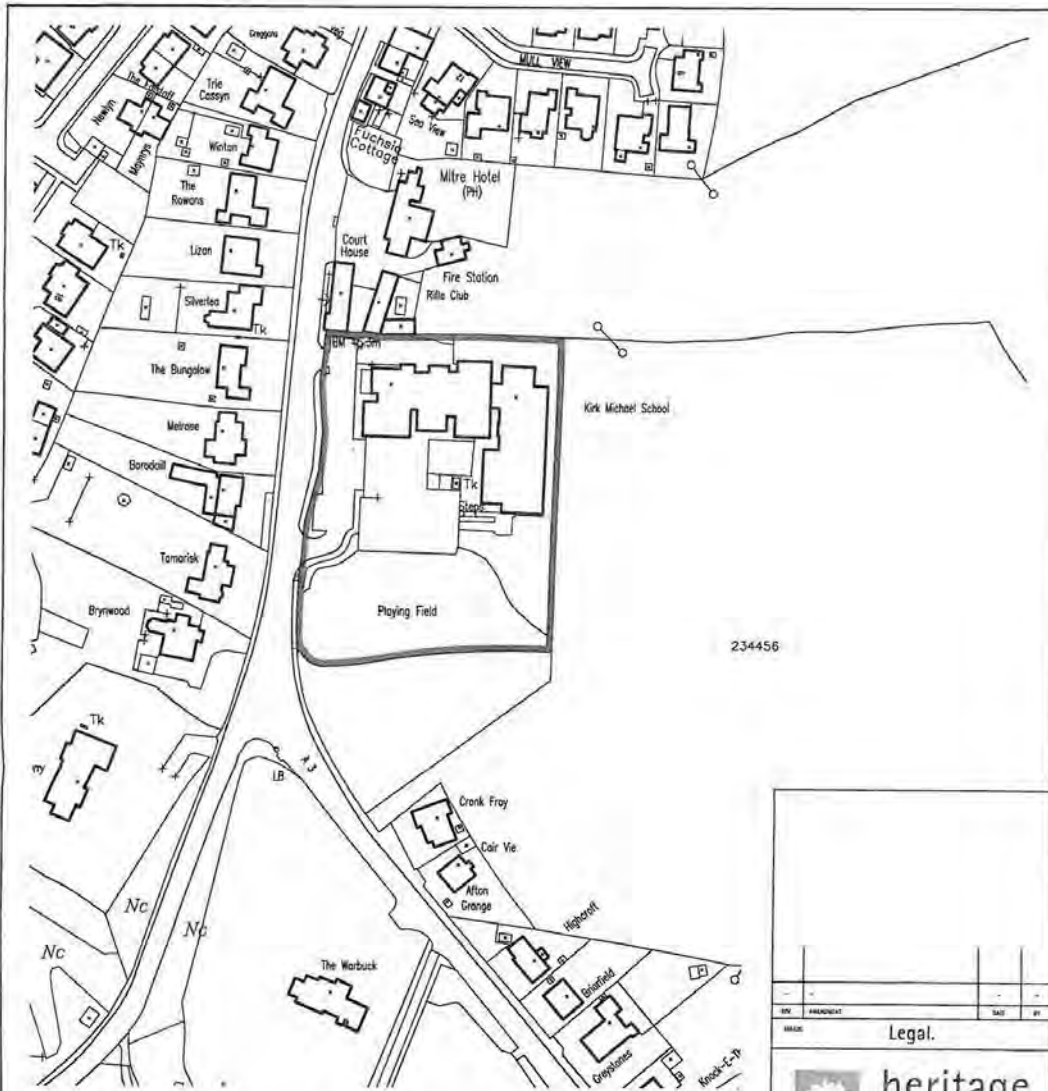
EXECUTED as a Deed by the
Vendor acting by :-

.....
Director

.....
Director/ Secretary

SIGNED on behalf of the Department
by the Minister or a person duly
authorised by the Minister for Education:
and Children in the presence of: -

.....
.....
.....
.....

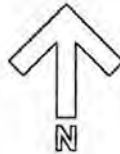


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CADREF: J:\projects\Housing\2350 - Kirk Michael - Glen Wylin Junction\009 Legal\Land Purchase Agreement\Department of Education\Conveyance B.dwg

REV	DESCRIPTION	DATE	BY

Legal.

heritage homes limited

Dunfermline Group Head Office,
Isle of Man Business Park
Cooil Road, Braddan
Isle of Man
IM2 2JA

Telephone: 01624 682300
Fax: 01624 682301
Sales Telephone: 01624 615000
Sales Facsimile: 01624 616491
Email: isom-hom@heritage.com
Web: www.heritage.com

FIGURE 1

Land East of Main Road,
Kirk Michael, Isle of Man.

PLAN NO. 1

SCALE	DATE	BY
1:1250	July 2011	JFC

CONVEYANCE B

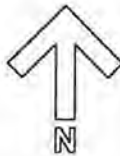


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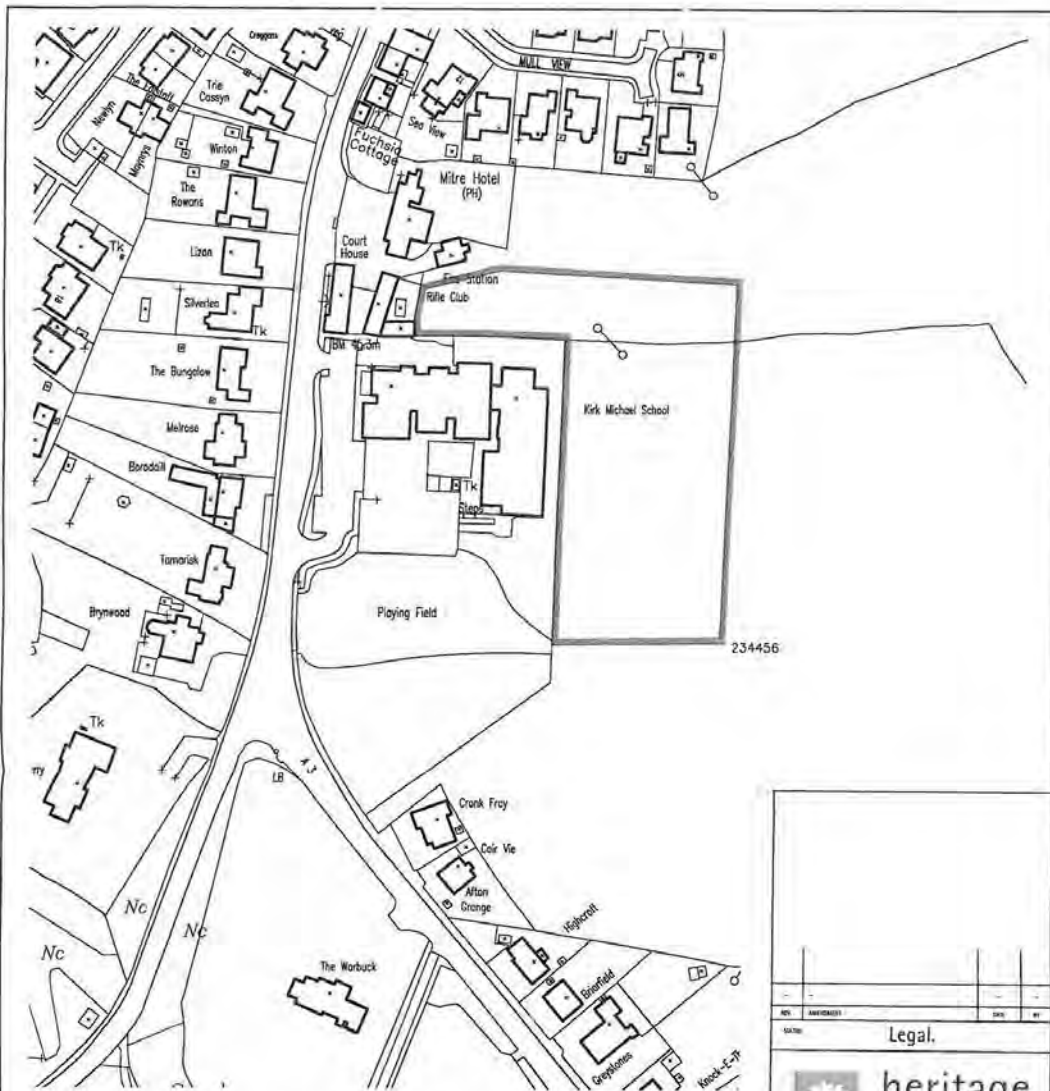
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CADREF: J:\projects\101\ang\2380 - Kirk Michael - Glen Wylsh Junction\009 Legal\and Purchase Agreement\Department of Education\Conveyance B.dwg

Legal.		
 heritage homes		
Conveyance Group Head Office, Isle of Man Registry Park, Cross Road, Briffan, Isle of Man, IM2 2JA		
telephone 01624 863200	01624 863201	01624 815000
fax 01624 815001	01624 815002	01624 815003
email info@heritagehomes.com	sales@heritagehomes.com	www.heritagehomes.com
Land East of Main Road, Kirk Michael, Isle of Man.		
"Plan No. 2"		
scale 1:2500	date July 2011	by JFC
Conveyance B		

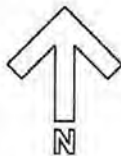


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Legal.		
 heritage homes <small>limited</small>		
<small>Dundara Grove Head Office, Site of Man Business Park, Coast Road, Bradda, Isle of Man, IM2 2JA</small>		
<small>Telephone</small>	<small>01624 683300</small>	
<small>Facsimile</small>	<small>01624 683301</small>	
<small>Sales Enquiry Point</small>	<small>01624 615000</small>	
<small>Sales Technical</small>	<small>01624 631781</small>	
<small>email</small>	<small>heritage@islandhomes.com</small>	
<small>web</small>	<small>www.islandhomes.com</small>	
<small>PROJECT</small>		
Land East of Main Road, Kirk Michael, Isle of Man.		
<small>DRAWING</small>		
"Plan No. 3"		
<small>SCALE</small>	<small>DATE</small>	<small>BY</small>
1:1250	July 2011	JFC
<small>CONVEYANCE</small>	<small>NO.</small>	<small>BY</small>
Conveyance B	-	-

CADREF: J:\projects\housing\2380 - Kirk Michael - Glen Wyllin Junction\005 Legal\Land Purchase Agreement\Department of Education\Conveyance B.dwg

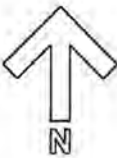


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GARREF J:\projects\housing\2380 - Kirk Michael - Glen Wylm Junction\006 Legal\Land Purchase Agreement\Department of Education\Conveyance B.dwg

Legal.		
 heritage homes <small>limited</small>		
Sandra Group Head Office: 212 of Main Business Park - Cecil Road, Bradda Isle of Man, IM2 5SA		
Telephone:	01624 892300	
Facsimile:	01624 832833	
Sales Telephone:	01624 836200	
Web Address:	01624 831571	
email:	sales@shh.com	
Website:	www.shh.com	
Land East of Main Road, Kirk Michael, Isle of Man.		
"Plan No. 4"		
Scale:	1:2500	Drawn by: JFC
Date:	July 2011	Checked by:
Conveyance B		

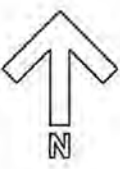


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Legal.	
 heritage homes	
Directors Group Head Office: 4th Floor, Regency Park, South Road, Douglas, Isle of Man. IM2 2SA	
Telephone:	01624 82250
Facsimile:	01624 82251
Sales HelpLine:	01624 81500
Sales Facsimile:	01624 81781
E-mail:	is@hhg@heritagehomes.com
Web:	www.hhh.co.uk
Land East of Main Road, Kirk Michael, Isle of Man.	
Plan No. 5 Restrictive Covenant Plan.	
Scale:	1:2500
Date:	July 2011
By:	JFC
Conveyance B	

DATED

201*

MICHAEL

PINECREST LIMITED

and

THE DEPARTMENT OF EDUCATION
AND CHILDREN

DEED OF CONVEYANCE
LAND AT LHERGY VRECK
KIRK MICHAEL

Dandara Group Legal Department
Dandara Group Head Office
Isle of Man Business Park
Cooil Road
Braddan
IM2 2SA

“C”

Accommodation Works Sequencing Schedule
Kirk Michael Primary School
Sequencing of the Improvement Works to the School
3-7-11

Stage 1 (* 2011)

Area A shall be prepared and seeded and the grass mown during the Summer months. If/when planning permission is granted, the new 'ball stop' fencing will be erected and the pitch marked out prior to it being handed over to the school.

Stage 2

Prior to the land swap taking place, Area B will be made available for use by the school until such time as the new football pitch is available. The area shall be stone picked and rolled and shall generally be left suitable for children to play. Access to this area from the school grounds will be provided and, where necessary, the area shall be made secure using 2.0m high HERRIS fencing

Stage 3

The land swap shall take place within 30 days of Heritage Homes being granted detailed planning approval for the Development Site and for the Accommodation Works all in accordance with the Department of Education and Children (DOE&C) Agreement.

Stage 4

Area C will be fenced off using 2.0m high HERRIS fencing in order to facilitate the construction of the new junction with the existing main public highway, main arterial road and associated retaining walls and fencing. If necessary, the goal posts serving the existing five-a-side grass pitch will be moved closer to the school so that it remains playable.

Stage 5

Once the new junction with the existing main public highway and main arterial road have been constructed to basecourse, work on area 'D' will commence.

Stage 6

During the school summer holidays (or at an alternative time to be agreed with the Department), the steps, ramp and footpaths leading to the new playing fields will be formed.

Stage 7

Once area D is surfaced and fenced off, the play equipment in area E shall be relocated to area D. This shall be done during the school summer holidays (or at an alternative time agreed with the Department).

Stage 8

Once the play equipment has been relocated, area D will be handed over to the school and work on extending the existing car park into area E will commence. Work on area D will be undertaken during the school holidays (or at an alternative time agreed with the Department of Education) in order to minimise any disruption. In addition, the soft play area in area F will be removed and the new path formed.

DATED

2011

MICHAEL

- (1) PINECREST INVESTMENTS LIMITED
("Land Owner")
- (2) THE DEPARTMENT OF EDUCATION AND
CHILDREN
("Department")
- (3) HERITAGE HOMES LIMITED
("Developer")

AGREEMENT FOR THE EXCHANGE OF
LAND AT MICHAEL PRIMARY SCHOOL
MAIN ROAD KIRK MICHAEL AND
LHERGY VRECK MAIN ROAD
KIRK MICHAEL
AND ACCOMMODATION WORKS

Dandara Group Legal Department
Dandara Group Head Office
Isle of Man Business Park
Cooil Road
Braddan
Isle of Man
IM2 2SA

Appendix 1



Mr R Collister
Estates Director
Department of Education
St George's Court
Upper Church Street
Douglas
IM1 2SG

The Treasury

Yn Tashtey

Government Valuer
D L Cashen MRICS
Chief Accountant: S F Clague

APPENDIX A

Valuation Office

1st Floor, Illiam Dhone House
2 Circular Road, Douglas
Isle of Man, British Isles
IM1 3PX
Telephone (01624) [Redacted]
Fax (01624) [Redacted]

Contact: Dan Cashen
Our Ref: DLC/MEV

Date: 17 January 2007

Dear Mr Collister

Re: Kirk Michael School

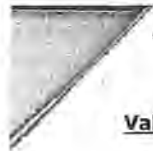
Further to your instructions, with apologies for the delay, I have now had opportunity to consider the proposals and provide my valuation below.

Commentary:

The school playing field land, whilst clearly providing the preferred access to the residential land behind the school, is not a ransom strip. The site could, in theory at least, be accessed via the Lhergyvreck farm road. This has implications upon the valuation and the application of the Stokes v Cambridge principle. Briefly, this principle states that an owner of access land might well be induced to sell as it would enable development of further land; the cost of acquiring the access land was considered to be one-third of the profit that would be realised by the development of the land.

In addition we must consider the future development of a further c. 12 acres behind the residential land. This land is currently beyond the land zoned as "Predominantly Residential" in the Kirk Michael Local Plan Order 1994, but it is reasonable to assume that it has 'hope value' attributable to future development, albeit several years away.

Following development of the currently zoned land, Heritage Homes will have a ransom strip over this land, as seen on the plan provided by yourself (Drawing No. 2000.2/Joel 6). The Stokes principle would also apply to this land. As the future development of this land would be many years away the value, for c. 12 acres would be £1,000,000. Applying the Stokes principle would place a value on the ransom strip of £300,000.



Valuation:

Value of land currently zoned as residential	:	11.85 acres @ £250,000 per acres	
		=	£2,962,500
			say £3,000,000
ADD			
Value of ransom strip over future development land	:		£300,000
Total value of residential land	:		£3,300,000
LESS			
Current use value as agricultural	:	11.85 acres @ £5,000 per acre	
		=	£59,250
			say £60,000
Total value of profit that would be realised by the development of the land	:		= £3,240,000
For 'preferred' access, say 15<20%		=	£486,000<£648,000 =====

The above valuation shows that the playing field land has a value to Heritage Homes of £486,000<£648,000.

The value of the 1.85 acres of residential land to be transferred to the Department has a value of:

$$1.85 \text{ acres @ } £250,000 \text{ per acre} = £462,500$$

The cost of the works to provide a new pitch and play area, to be borne by Heritage Homes, will need to be considered in addition to this land value.

In summary the values of the parcels of land to be exchanged are broadly similar, but when the cost of the works to be provided by Heritage Homes is added, for which you will no doubt have details, the proposal represents a satisfactory arrangement for the Department.

Should you require anything further please let me know.

Yours sincerely

[Redacted]

**D L Cashen MRICS
Government Valuer**

Appendix 2



The Treasury

Yn Tashley

Government Valuer
D L Cashen MRICS
Chief Accountant: S F Clague

Valuation Office
1st Floor, Iliam Dhone House
2 Circular Road, Douglas
Isle of Man, British Isles
IM1 3PX
Telephone [Redacted]
Fax

Mr R Collister
Estates Director
Department of Education
St George's Court
Upper Church Street
Douglas
IM1 2SG

Contact: Dan Cashen
Our Ref: DLC/MEV

Date: 29 October 2010



Dear Mr Collister

Re: Kirk Michael School

Further to our meeting of earlier this week, I have now had opportunity to consider the proposals, revisit my advice of 2007 and provide my valuation below.

Commentary:

We understand that Dandara have now secured an alternative access to the development land via the Lhergyvreck farm road. This has implications upon the valuation and the application of the Stokes v Cambridge principle, as set out in my letter of 17/01/07, and it is my opinion that the cost of acquiring the preferred access land would now only be c.10% of the profit that would be realised by the development of the land, reflecting that an alternative, albeit not ideal access has been secured since we last looked at this scheme.

In addition we must still consider the future development of a further c. 12 acres behind the residential land. This land is currently beyond the land zoned as "Predominantly Residential" in the Kirk Michael Local Plan Order 1994, but it is reasonable to assume that it has 'hope value' attributable to future development, albeit several years away.

Following development of the currently zoned land, Heritage Homes will have a ransom strip over this land, as seen on the plan provided by yourself (Drawing No. 2000.2/Jo6 6). The Stokes principle would also apply to this land. As the future development of this land would be many years away the value, for c. 12 acres would be £1,000,000. Applying the Stokes principle would place a value on the ransom strip of £300,000.

Handwritten note: range now 10-15% in lieu of previous 15-20% now have 'several' alternatives

Valuation:

increased from 250k/acre.

Value of land currently zoned as residential : 11.85 acres @ £350,000 per acres
= £4,147,500 ✓
say £4,150,000

ADD
Value of ransom strip over future development land : £300,000

Total value of residential land : £4,450,000 ✓

LESS
Current use value as agricultural : 11.85 acres @ £5,000 per acre
= £59,250 ✓
say £60,000

Total value of profit that would be realised
by the development of the land = £4,390,000 ✓

For 'preferred' access, say 15%
^ =say £440,000 < £658,500 ✓
=====

The above valuation shows that the playing field land has a value to Heritage Homes of between £440,000 and £660,000.

The value of the 1.85 acres of residential land to be transferred to the Department has a value of:

1.85 acres @ £350,000 per acre = £647,500 ✓

The cost of the works to provide a new pitch and play area, to be borne by Heritage Homes, will need to be considered in addition to this land value.

In summary the values of the parcels of land to be exchanged are broadly similar, but when the cost of the works to be provided by Heritage Homes is added, for which you will no doubt have details, the proposal represents a satisfactory arrangement for the Department.

Should you require anything further please let me know.

Yours sincerely

[Redacted]

**D L Cashen MRICS
Government Valuer**

Appendix 3

The Treasury

Yn Tashtey

Government Valuer
E C Griffiths MRICS
Chief Accountant: S F Clague ACA

Mr R Collister
Estates Director
Department of Education & Children
Hamilton House
Peel Road
Douglas
IM1 SE2

Finance Division
1st Floor, Iliam Dhone House
2 Circular Road, Douglas
Isle of Man, British Isles
IM1 3PX [Redacted]
Telephone [Redacted]
Fax [Redacted]
E-mail [Redacted]
Government Website: www.gov.im

Date: 26 July 2011

Contact: Eddie Griffiths
Our Ref: ECG/ML

Dear Mr Collister

Re: Kirk Michael School - Proposed Land Exchange

Further to this morning's meeting regarding the above matter I confirm that I consider the valuation provided by this office on 29 October 2010 to be still valid.

As previously noted the Department's land is no longer a full ransom strip applicable to the Stokes v Cambridge principle and therefore would not attract the full proportionate value of the development value of the land currently capable of development.

Assuming that the alternative development applicable to the Department's land to be exchanged (0.89 acres) would be residential, the Department would be receiving in exchange an area of land (zoned for residential development) roughly twice the size and value of the Department's land. In addition to this extra land it is understood that the developer has agreed to carry out accommodation works amounting to approximately £300,000 or thereabouts, thus it can be seen that the proposed exchange results in a substantial benefit for the Department and the local community, especially considering that the developer has already acquired an alternative access for the development of the zoned land.

In respect of the "option land" (to the east of the zoned development land), currently zoned for agricultural purposes and amounting to approximately 17.5 acres, it is not possible to identify a realistic formula to quantify any foreseeable development value reflected in the Department's land to be exchanged. However the proposed restrictive covenant regarding the further development of the option land affords the Department a degree of control over the future development of this land with the possibility of a further financial consideration in respect of the lifting of this covenant. It is recommended that the Attorney General's chambers be consulted regarding the wording of the restrictive covenant to make the covenant as watertight as possible.

In summary the land exchange and accommodation works are considered to be a reasonable consideration for the Department and community in exchange for providing a "preferred access"

to the development site and the restrictive covenant provides an element of control for the "option land", currently outside the area zoned for residential development.

This valuation advice is confidential and for the use of the Isle of Man Government only. The validity of this valuation advice shall apply for, and be limited to, a period of no more than six months from the date of this letter. This valuation advice may have to be reconsidered should there be any change to the information on which the advice is based or any substantial variation in the macroeconomic climate at present existing.

Should you have any queries or require clarification of the above advice please contact me on 685610.

Yours sincerely

**E C Griffiths MRICS
Government Valuer**

cc **Mr E Teare ACIB MHK, Minister, Department of Education & Children**

Appendix 4

From: Griffiths, Eddie
Sent: 27 July 2011 15:30
To: [Redacted]
Subject: Land Exchange at Kirk Michael School

Ciaran

Without Prejudice & Subject

to Contract

Further to our telephone conversation regarding the relative values, for registration purposes, of the two areas of land involved in the proposed exchange I can advise that in my opinion the two areas are to be valued as residential building land in the region of £350,000 to £400,000 per acre. The area to be transferred by Heritage Homes to the Department, amounting to approximately 1.85 acres or thereabouts, would therefore be valued in the region of £647,500 to £740,000.

The value of the area to be transferred by the Department to Heritage Homes, amounting to approximately 0.89 acres or thereabouts, is enhanced by the reflected value of the improved, preferred access to the area behind, zoned for residential development. This area to be transferred would be valued in the region of £726,250 to £830,000, with £311,500 to £356,000 being the land element and the remainder attributable to the improved preferred access to the area already zoned for residential development.

This valuation advice is confidential and the validity of this valuation advice shall apply for, and be limited to, a period of no more than six months from the date of this E-mail. This valuation advice may have to be reconsidered should there be any change to the information on which the advice is based or any substantial variation in the macroeconomic climate at present existing.

I trust that the above is sufficient for your purposes, but should you have any queries or require clarification regarding the above please contact me on 685610.

Eddie

Edward Griffiths
Government Valuer
Valuation Office
The Treasury
1st Floor
111am Dhone House
2 Circular Road
Douglas
Isle of Man IM1 1PH

Tel: [Redacted]
Fax:
E-mail: [Redacted]

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