**Dated** **2024**

 **(1) The Council of the**

 **City of Coventry**

 **(2) [ ] Limited**

**Agreement for sale**

of part of the former Woodfield School site

at Hawthorne Lane in the City of Coventry

**Ref: L/JDW/RSN4005124**

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**THIS AGREEMENT** is dated 2024

**BETWEEN:**

(1) **THE COUNCIL OF THE CITY OF COVENTRY** of the Council House Earl Street, Coventry CV1 5RR ("the Council")

(2) **[ ] LIMITED** (Company Registration No.  ) whose registered office is at ("the Purchaser")

**BACKGROUND**

1. *By an informal tender the Purchaser has agreed to purchase the area of land described in this agreement as the Property*
2. *The Property is presently being used as the School which is due to relocate to a new site*
3. *The Purchaser has agreed to buy the Property and the Council has agreed to sell the Property on the terms agreed in this agreement; the Council providing not less than three months’ written notice of the Completion Date to the Purchaser once the School has relocated*

**NOW** it is agreed as follows:

1. **Definitions and interpretation**

In this agreement:

"**Agreement Date**" means the date of this agreement

"**Competent Authority**" means the relevant Regulatory Authority or local highway planning drainage or other statutory body authority agency or undertaking exercising statutory powers

"**Completion**" means actual completion of the sale and purchase agreed in this agreement

"**Completion Date**" means the date not less than three months after the Completion Notice which is served by the Council on the Purchaser

“**Completion Notice**” means the notice to be served by the Council upon the Purchaser that the Property has been vacated by the School and that the Completion Date has been specified, such notice to be in substantially the same form as Appendix 6.

"**Conditions**" mean the Standard Commercial Conditions of Sale 2018 (Third Edition) and Condition means any one of them

**“Confirmatory Deed”** means a deed confirming that the Purchaser will be bound by and comply with the Planning Obligations in the form of deed as attached at Appendix 4

**“Contaminated Land Regime”** means the contaminated land regime under Part 2A of the Environmental Protection Act 1990 (as amended from time to time) and any statutory instrument, circular or guidance issued under that regime

"**Contract Rate**" means four per centum (4%) per annum above the base lending rate from time to time of HSBC Bank PLC

"**Council's Solicitor**" means Julie Newman Council Solicitor and Monitoring Officer Place Directorate Coventry City Council P.O. Box 15 Council House Earl Street Coventry CV1 5RR (Ref L/JDW/RSN 4005124)

**“Deposit”** means fifty thousand pounds (£50,000) exclusive of VAT if any

"**Development**" means the development of the Property for residential accommodation (including provision of infrastructure access open space and anything similar or ancillary thereto) as permitted by the Planning Permission

**“Environment”** means the natural and man-made environment including all or any of the following

media, namely air, water and land (including air within buildings and other natural or man-made

structures above or below the ground) and any living organisms (including man) or systems

supported by those media.

“**Increased Purchase Price**” means the amended or increased price payable for the Property calculated in accordance with clause 13 hereof.

“**Longstop Date**” means the 30th September 2026

“**Plan**” means the plan annexed to this agreement

"**Planning Obligations**" means the obligations contained in an agreement made between (1) the Council in its capacity as the local planning authority and (2) the Council in its capacity as landowner under Section 106 of the Town and Country Planning Act 1990 relating to the Property as attached at Appendix 3 (the Section 106 Agreement)

**“Planning Permission”** means either discharge of any of the matters reserved by the Outline Planning Permission or the grant of detailed planning permission for the Development granted either by the Competent Authority or by the Secretary of State (including any permission granted pursuant to s.73 of the Town and Country Planning Act 1990) pursuant to the Purchaser’s planning application

**"Present** **Planning Permission**" means the outline planning permission granted by the Council in its capacity as the local planning authority under ref: OUT/2022/0548

"**Property**" means the property described in Schedule 1

"**Purchase Price**" means the highest of

 a) the sum of pounds (£ ) (“the **Base Purchase Price**”) or

 b) the Increased Purchase Price calculated in accordance with clause 13 below

and in either case the Purchase Price shall be exclusive of VAT

"**Purchaser's Solicitor"** means [ ]

"**Requisite Consents**" means the Planning Permission and all other planning permissions building regulations consents approvals licences certificates and permits (whether of a public or private nature) required from the Competent Authority as may be necessary to carry out lawfully the Development

“**School**” means the Woodfield Secondary School presently located at the Property and which is due to relocate to the Broad Lane site

"**Transfer**" means a transfer in the form of the draft appended to this agreement at Appendix 2

"**VAT**" means an amount equal to the value added tax as charged in accordance with VATA or any equivalent or substituted tax

"**VATA**" means the Value Added Tax Act 1994 or any equivalent tax Act

**“VAT Receipted Invoice”** means an invoice in respect of the VAT addressed to the Purchaser and receipted by the Council

Words importing one gender shall be construed as importing any other gender

Words importing the singular shall be construed as importing the plural and vice versa

Where any party comprises more than one person the obligations and liabilities of that party under this agreement shall be joint and several

References to a person other than references to a real person shall include a body corporate

References to any statutory provision enactment order regulation or other similar instrument shall be construed as a reference to the statutory provision enactment order regulation or instrument (including any EU instrument) as amended replaced consolidated or re-enacted from time to time and shall include any orders regulations permission consent licence direction bye law statutory guidance codes of practice instruments or other subordinate legislation made or granted under it

The clause headings do not form part of this agreement and shall not be taken into account in its construction or interpretation and save where otherwise stated any reference to a numbered clause or schedule means the clause or schedule in this agreement which is so numbered

2. **Agreement for sale**

2.1 The Council shall sell, and the Purchaser shall purchase the Property for the Purchase Price and (if applicable) VAT which shall be in addition to the Purchase Price on the terms of this agreement

2.2 The Purchaser cannot require the Council to:

2.2.1 transfer the Property or any part of it to any person other than the Purchaser or

2.2.2 transfer the Property in more than one parcel or by more than one transfer or

2.2.3 apportion the Purchase Price between different parts of the Property

2.3 This agreement is personal to the Purchaser and shall neither be capable of assignment to any other person nor shall it be charged or used as security for any monies

3. **Deposit**

3.1 On the Agreement Date the Purchaser shall pay to the Council the Deposit to be used by the Council for whatever purpose to the Council's Solicitor as agent for the Council

3.2 The Deposit must be paid by a method that gives immediately available funds

3.3 In the event of:

3.3.1 any delay in completion due to the default of the Purchaser the interest earned on the Deposit shall accrue as from the Completion Date and be paid to the Council on Completion; and

3.3.2 any delay in completion due to the default of the Council the interest earned on the Deposit shall accrue as from the Completion Date and be paid to the Purchaser on Completion

3.4 If the Purchaser shall fail to complete the purchase of the Property on the Completion Date in accordance with this agreement the Deposit shall immediately belong to the Council and will not be refundable

3.5 If the Seller shall fail to complete prior to the expiry of the Longstop date due to no material fault of the Purchaser then the Deposit will be returned to the Purchaser

4. **Purchaser’s requirements for planning**

4.1 The Purchaser shall use all reasonable endeavours at its own expense to obtain a Planning Permission as soon as practicable

4.2. The Purchaser shall keep the Council fully informed as to the progress of the obtaining of the Planning Permission and shall answer any requests for information made by the Council within 5 working days fully and promptly

**5. Completion**

5.1 Subject to clause 5.2 below, completion of the sale and purchase of the Property shall take place on the Completion Date whereupon the Purchaser shall pay to the Council the balance of the Purchase Price and the costs detailed in clause 15 of this agreement

5.2 The Council shall be under no obligation to complete the sale and purchase of the Property unless the Purchaser has delivered to the Council the Confirmatory Deed duly executed and completed as required together with the Purchaser's irrevocable authority to the Council to complete the Confirmatory Deed immediately following Completion

5.3 Upon receipt by the Council of the Confirmatory Deed duly executed and delivered by the Purchaser the Council shall hold the executed Confirmatory Deed undated and the Purchaser's irrevocable authority to the Council to complete the Confirmatory Deed immediately following completion shall be deemed to have been given

5.4 This agreement shall remain in force following Completion in respect of any matters that are outstanding under this agreement

6. **Capacity, possession and state of buildings**

6.1 The Council will sell with full title guarantee

6.2 The Property is sold with vacant possession upon Completion

6.3 The Property shall be transferred with the school buildings for the School upon it, but no warranty whatsoever is given in respect of the state or condition of the buildings.

7. **Completion Notice**

7.1 As soon as reasonably practicable upon the School being vacated by its pupils and staff the Council shall serve the Completion Notice upon the Purchaser, such Completion Notice giving not less than three months’ notice to the Purchaser of the Completion Date.

7.2 The Completion Notice shall be in substantially the form set out in Appendix 5.

7.3 The Purchaser may, solely at its discretion, agree to waive or shorten the minimum notice period of three months, and if it chooses to do so, must notify the Council of its intention to do so as soon as practicable after receiving the Completion Notice. Should the Purchaser choose to waive or shorten the notice period, it must specify at the same time the revised earlier date that it wishes the Completion Date to be, which shall not be less than one month after the Completion Notice has been served by the Council upon the Purchaser. In that case, the revised date specified by the Purchaser shall be the Completion Date for the purposes of this agreement.

8. **Title**

8.1 The title to the Property is unregistered and an epitome of title has been supplied to the Purchaser for which the root of title is a conveyance dated 24th June 1926 (“the **Conveyance**”) made between the Rt Honourable Francis Dudley Leigh and the Mayor and Aldermen and Burgesses of the City of Coventry

8.2 The implied covenants for title are modified so that:

 (a) the covenant set out in section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to costs arising from the Purchaser’s failure to:

 (i) make proper searches; or

 (ii) raise requisitions on title or on the results of the Purchaser’s searches before the date of this contract; and

 (b) the covenant set out in section 3 of the Law of Property (Miscellaneous Provisions) Act 1994 will extend only to charges or encumbrances created by the Council.

9. **Incumbrances affecting the Property**

9.1 The Property is sold subject to and (where appropriate) with the benefit of the matters contained or referred to in the unregistered title and specifically the Conveyance and those matters referred to in the Transfer so far as they relate to the Property and are still subsisting and capable of being enforced

9.2 Title having been deduced to the Purchaser or to the Purchaser's Solicitors prior to the Agreement Date the Purchaser shall be deemed to purchase with full knowledge of the title in all respects and shall not raise any requisition or make any objection in relation to the title

9.3 The Purchaser shall not raise any requisition or make any objection in relation to the incumbrances or other matters affecting the Property to the extent that details of the same have been provided prior to the Agreement Date

10. **Other matters affecting the Property**

The Property is also sold subject to:

10.1 all easements quasi-easements rights exceptions wayleaves or other similar matters whether or not apparent on inspection or disclosed in the Conveyance but without obligation on the part of the Council to define any that may exist

10.2 all local land charges whether registered or not before the date of this agreement and all matters capable of registration as local land charges whether or not actually so registered and to the provisions of the Council's Development Plan for the City and to any resolution or notice of the Council to prepare modify or review such a plan and to any prohibition restriction or condition made under it and to any other notice requirement or request of the Council affecting the Property whether or not involving liability and all such matters mentioned in this sub‑clause shall be deemed to have been disclosed under this agreement and the Property shall be deemed to be sold expressly subject thereto notwithstanding the non-disclosure of any such matters by the Council

10.3 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

10.4 all actual or proposed charges notices orders restrictions agreements conditions contraventions or other matters arising under the enactments

10.5 any matters disclosed or which would have been disclosed by the searches and enquiries which a prudent buyer would have made before entering into this agreement

10.6 any matters which are or would be unregistered interests which override first registration under Schedule 1 to the Land Registration Act 2002

10.7 all matters discoverable by inspection of the Property before the date of the agreement

10.8 all matters that the Council does not and could not reasonably know about

10.9 all matters which the Purchaser knows about and

10.10 all public requirements.

11. **Condition of the Property and disclaimer**

11.1 The Property is sold as it stands, and no representations can be made or warranties given by the Council as to its condition or otherwise at any time

11.2 The Purchaser acknowledges that:

 (a) it relies at its own risk on the contents of any reports plans written material or other information disclosed to it by the Council and no warranty is given or representation is made by the Council in respect of such matters

 (b) the Purchase Price takes account of the condition of the Property

 (c) no claim shall lie against the Council by the Purchaser in connection with the condition of the Property

11.3 The Purchaser agrees that, as a result of the permission to investigate the condition of the Property and information acquired by the Purchaser referred to in clause 11.2 any liability which the Council might otherwise have had under the Contaminated Land Regime in respect of hazardous substances in, on or under the property on the Completion Date has been transferred by this agreement to the Purchaser and the Council shall no longer retain that liability

11.4 The Purchaser shall make its own searches investigations and reports in respect of the Property as it considers appropriate prior to the Completion Date

11.5 For the avoidance of doubt, the Council shall not be responsible for the demolition of the School buildings or any part of them

12. **Incorporation of standard commercial conditions of sale**

12.1 The Conditions shall apply to this agreement insofar as they are applicable to a sale by private treaty relate to freehold land and are not excluded by or varied or modified by or inconsistent with the terms of this agreement

12.2 The Conditions listed below are excluded and do not form part of this agreement:

 1.3, 1.4, 2, 3.2, 3.3, 7.1, 7.2, 7.3, 9.1, 9.3, 9.4, 11 and 12

12.3 If there is any conflict between the Conditions and the terms of this agreement the terms of this agreement prevail

12.4 Condition 4.1.3 is varied to the effect that the Council's duty to disclose to the Purchaser any new public requirements shall be limited to such new public requirements which the Council has actual knowledge of

12.5 Reference in the Conditions to "Seller" and "Buyer" shall mean the Council and the Purchaser respectively and other terms used or defined in this agreement have the same meaning when used in the Conditions

13. **Increased Purchase Price and overage**

13.1 It is agreed that this agreement is for an unconditional sale and purchase of the Property and that unless there is any change in the Planning Permission allowing more units to be built, the Purchaser shall pay the Purchase Price to the Council being not less than the Minimum Purchase Price

13.2 Should, however, the Purchaser by its own decision choose to apply for a variation to the Present Planning Permission resulting in an increase of the number of residential units to be built upon the Property, then (subject to the provisions of 13.3 and 13.4 below) the Purchase Price shall be increased as follows:

1. The Purchase Price shall be increased by the following formula:

IPP = BP x (129 + AU)/129

Where

**IPP** = the Increased Purchase Price,

**BP** means the Base Purchase Price, and

**AU** = the number of additional residential units for which future planning permission has been granted in accordance with this clause (129 being the present limit of 129 units in the Present Planning Permission numbered OUT/22/0548)

13.3 Where the Purchaser has chosen to apply for a variation to the Present Planning Permission, then in any such case the increased amount(s) payable by the Purchaser shall only be due after the expiry of the latest of a) any call-in period, b) any application for judicial review, c) any appeal period pertaining to the revised planning permission

13.4 For the avoidance of doubt, if the Purchaser does decide to apply for a variation to the Present Planning Permission, it shall be required to progress any such revised variation with all due diligence and speed.

13.5 For the avoidance of doubt, no account shall be taken of any increase or perceived increase in the Planning Obligation costs, of remediation costs or abnormal costs, or of any such increase or perceived increase in infrastructure for services or highways to be constructed to the Property.

13.6 Transfer to the Purchaser shall be by way of the Transfer attached. For the avoidance of doubt, this Transfer shall contain a clause requiring overage to run for a ten year period from completion in the terms of that Transfer with a restriction on the Property.

14. **Insurance pending completion**

14.1 From and including the Agreement Date the Property shall be held at the full risk of the Council.

14.2 For the avoidance of doubt, the Council is not required to prove that it has insured the buildings of the School on the Property

15. **Costs**

On the Completion Date the Purchaser shall:

15.1 pay the Council's legal costs amounting to £30,000 and the Council’s surveyors’ fees of (amounting to 0.75% of the Purchase Price) in connection with the negotiation preparation and completion of this agreement and

15.2 at its own cost prepare and execute a duplicate of the Transfer. The duplicate will be retained by the Council

15.3 pay all Stamp Duty Land Tax on the purchase

16. **VAT**

The Council have not exercised the right to elect conferred by the Value Added Tax Act 1983 Schedule 6A Paragraph 2 and will not do so prior to Completion unless required to do so by law

17. **Additional Provisions**

The Purchaser covenants with the Council to observe or perform or procure the observance or performance of each of the development and other obligations set out in Schedule 2

18. **Governing law and jurisdiction**

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

18.2 Each party irrevocably agrees to submit to the exclusive jurisdiction of the courts of England and Wales over any claim or matter arising under or in connection with this agreement

18.3 Each party irrevocably consents to any process in any legal action or proceedings arising out of or in connection with this agreement being served on it in accordance with the provisions of this agreement relating to service of notices Nothing contained in this agreement shall affect the right to serve process in any other manner permitted by law

19. **Notices**

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

19.2 Any notice or document to be given or delivered must be given by delivering it personally or sending it by pre-paid first-class post or recorded delivery to the address and for the attention of the relevant party as follows:

19.2.1 to the Council C/o Place Directorate Legal Services P.O.Box 15 Council House Earl Street Coventry CV1 5RR (reference L/JDW/RSN4005124)

19.2.2 to the Purchaser at:

 or at the Purchaser’s Solicitors quoting the reference [ ]

19.3. Giving or delivering a notice or a document to a party's solicitor has the same effect as giving it to that party

19.4 Any such notice or document will be deemed to have been received:

19.4.1 if delivered personally at the time of delivery provided that if delivery occurs before 9.00 am on a working day the notice will be deemed to have been received at 9.00 am on that day and if delivery occurs after 5.00 pm on a working day or on a day which is not a working day the notice will be deemed to have been received at 9.00 am on the next working day

19.4.2 in the case of pre-paid first class or recorded delivery post at 9.00 am on the second working day after posting

19.5 In proving delivery it will be sufficient to prove that delivery was made or that the envelope containing the notice or document was properly addressed and posted as a prepaid first class or recorded delivery letter

19.6 A notice or document delivered under this agreement will not be validly given or delivered if sent by e-mail

20 **Protection of Purchaser’s rights under this agreement**

20.1 The Purchaser may choose to register its rights under this agreement as a class C(i) land-charge against the Council or as a notice. If it does so, then within one month of the determination of this agreement, howsoever determined, the Purchaser shall remove such protection or notice

20.2 If the Purchaser does not so remove the notice or land-charge, the Council shall be at liberty to effect removal (for which the Purchaser appoints the Council as its agent) and shall be entitled to recover the reasonable costs of such removal

21 **Insolvency**

21.1 In this clause 21, an Insolvency Event shall mean, as regards the Purchaser, any of the following:

1. The issuing of an order for liquidation of the Purchaser (except for a members’ voluntary winding up action or petition for the purposes of restructuring) under the Insolvency Act 1986
2. The placing into administration of the Purchaser under the Insolvency Act 1986
3. A company voluntary arrangement under the Insolvency Act 1986
4. Any bankruptcy order or appointment of a trustee in bankruptcy.

21.2 Where an Insolvency Event has occurred then, upon the Council giving the Purchaser one month’s notice in writing, this agreement shall be terminated. In that case, the Council shall be entitled to retain the Deposit, but the provisions in the Conditions relating to rescission shall otherwise apply.

22 **Freedom of information**

 Should the Council be the subject of a request for information under the Freedom of Information Act 2000 concerning this agreement, then upon the Purchaser receiving notification from the Council, both parties shall work together promptly and diligently so as to enable the Council to respond to the request for information within the time limits imposed by that Act.

23. **No building scheme, non-merger and good faith**

The parties now agree and declare:-

24.1 That the terms of this agreement do not constitute a building scheme

24.2 This agreement shall remain in full force and effect notwithstanding completion of the Transfer

24.3 That in their dealings with each other in connection with this agreement they will act reasonably promptly and in good faith

25 **Termination of agreement**

This agreement shall come to an end in the case of any one of the following circumstances happening:

25.1 Where an Insolvency Event has occurred and the Council has served the notice upon the Purchaser in accordance with clause 21.2 above.

25.2 Where, for whatever reason, the School is not to transfer its operations to the proposed new site at Broad Lane, or is unable to do so.

25.3 Subject to clause 25.5 below, where there has been a material breach by the Purchaser in its obligations under this agreement. Examples of such breach include, but are not limited to:

 Not applying for the Planning Permission;

 Not providing any further information required by the local planning authority required for resolution of any reserved matters;

 Not progressing with reasonable promptness or not acting reasonably in any matter related to the obtaining of the Planning Permission;

25.4 Upon the Longstop Date.

25.5 In the event of any such material breach by the Purchaser, the Council shall firstly serve notice upon the Purchaser or its representatives with details of the alleged breach and brief reasons for the breach, together with a summary of the action required to rectify the breach (if feasible). The Purchaser shall respond within 14 days with the action it proposes to take (if any) to rectify the breach.

26. **Preservation of Council’s statutory powers**

Nothing in this agreement shall prejudice or affect the Council's rights powers duties and obligations in the exercise of their functions as a local authority and the rights powers duties and obligations of the Council under all public and private statutes bylaws orders regulations and statutory instruments may be as fully and effectually exercised in relation to the Development as if they were not the owner of the Property and this agreement had not been executed by them

27. **Nature of this agreement**

This agreement has been executed by the parties as a deed

**IN WITNESS** of which the Council has caused its Common Seal to be affixed to this deed and executed on behalf of the Purchaser the date first written above

**SCHEDULE 1**

**(The Property)**

ALL THAT freehold land being land at Hawthorne Lane Coventry and being part of the land described in the Conveyance dated 24th June 1926 which is shown **edged red** on the Plan

**SCHEDULE 2**

**(Development obligations)**

1. To use all reasonable endeavours within three years from Completion to carry out and complete the Development in a good substantial and workmanlike manner and in all respects in accordance with the Requisite Consents

2. To comply with all conditions imposed by any Competent Authority (including entering into any easements required by the Competent Authority at nil consideration) in respect of any Conducting Media so far as they run under the Property

Executed as a Deed by **THE COUNCIL OF THE CITY OF COVENTRY** by affixing its Common Seal in the presence of:-

Authorised Signatory

Executed as a Deed by [

 ] acting by its:-

Director

Director/Secretary

**APPENDIX 1 – Plan**

**APPENDIX 2 - Form of Transfer**

**APPENDIX 3 – Root Document**