

THIS DEED OF UNILATERAL UNDERTAKING is made the day of 2024

BY:

- (1) **STRONG FARMS (LS) LIMITED** (company number OE010471) whose registered office is at 2nd Floor Commercial House, Commercial Street, St Helier, Jersey, JE2 3RU (“Owner”)
- (2) **NRS SAREDON AGGREGATES LIMITED** (company number 08516859) whose registered office is at NRS House Site 7, Meriden Park, Cornets End Lane, Meriden CV7 7LG (“Applicant”)
- (3) **NRS KIDDERMINSTER HOLDINGS LTD** (company number 11358472) whose registered office is at NRS House Site 7, Meriden Park, Cornets End Lane, Meriden CV7 7LG (“Operator”)

TO: WORCESTERSHIRE COUNTY COUNCIL of Spetchley Road in Worcester WR5 2NP (“Council”)

WHEREAS:-

- (1) Words and phrases appearing in these recitals have the meanings given to them in clause 1 of this Unilateral Undertaking
- (2) The Owner is the registered proprietor with freehold title absolute of the Land
- (3) The Operator has the benefit of an Option for a long lease over the Land
- (4) The Council is the local planning authority and mineral planning authority for the purpose of the Act for the area in which the Land is situate
- (5) The Application has been made to the Council for the Development and the Council refused the Application
- (6) The Applicant has submitted the Appeal to the Secretary of State and the Applicant, the Owner and the Operator enter into this Unilateral Undertaking in connection with the same

NOW THIS DEED WITNESSETH as follows:-

1. DEFINITIONS AND INTERPRETATION

1.1 In this Unilateral Undertaking the following words and phrases shall have the following meanings:-

“Application”	The application to Worcestershire County Council Planning Application given Reference: 19/000053/CM for the Development.
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“Appeal”	Appeal Reference: APP/E1855/W/22/3310099 submitted to the Secretary of State in respect of the refusal of the Application.
“Biodiversity Enhancement, Monitoring and Management Plan” or “BEMMP”	A biodiversity enhancement, monitoring and management plan submitted to and approved in writing by the Mineral Planning Authority pursuant to Schedule 1.
“Checking Fee”	£750.00
“Development”	The development of the Land for proposed sand and gravel quarry with progressive restoration using site derived and imported inert material to agricultural parkland, public access and nature enhancement.
“Environment Act”	the Environment Act 2021.
“Land”	Lea Castle Farm Wolverley Road Broadwaters Kidderminster shown edged red on the plan annexed hereto and registered at the Land Registry under freehold title number WR56896.
“Landscape and Ecological Management Plan” or “LEMP”	the landscape and ecological management plan submitted to and approved in writing by the Mineral Planning Authority pursuant to Schedule 1.
“Mineral Planning Authority”	the local planning authority within whose area the site is situated.

“Parties”	the parties who have executed this Unilateral Undertaking.
“Permission”	a valid planning permission for the Development which may be granted pursuant to the Appeal.
“TCPA”	the Town and Country Planning Act 1990.
“Unilateral Undertaking”	means this deed.

- 1.2 The references to the Parties or any other legal or natural person named in this Unilateral Undertaking shall include his her its or their successors in title heirs and assigns and in the case of any Local Authority shall include any successor in function.
- 1.3 Unless otherwise stated references to clause numbers are references to clauses in this Unilateral Undertaking.
- 1.4 Unless otherwise stated references to schedule recital and paragraph numbers are references to the schedule recital and paragraph numbers in this Unilateral Undertaking
- 1.5 The singular includes the plural and vice versa.
- 1.6 The masculine gender includes the feminine and neuter genders and vice versa.
- 1.7 References to persons includes natural persons and partnerships firms and other such unincorporated bodies corporate bodies and all other legal persons of whatever kind and however constituted.
- 1.8 References to Acts of Parliament statutory instruments or Government circulars or regulations or sections or paragraphs of any such acts statutory instruments or Government circulars or regulations include any re-enactments amendments or replacements of them.
- 1.9 Save as expressly provided by this Unilateral Undertaking covenants and obligations given by any of the Parties to this Unilateral Undertaking shall attach to the Land and every part of it and shall bind their successors in title and assignees or any persons claiming by under or through them.
- 1.10 It is hereby declared by the Parties that if any provision in this Unilateral Undertaking shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions shall not in any way be deemed thereby to be affected or impaired.

- 1.11 To the extent that a decision letter allowing the Appeal determines that any covenant or obligation (or part thereof) in Schedule 1 to this Unilateral Undertaking does not meet the requirements of Regulation 122 of the Community Infrastructure Regulations 2010 (as amended), that specified covenant or obligation (or part thereof) shall not be enforceable by the Council.
- 1.12 Wherever there is more than one person named as a Party and where more than one Party undertakes an obligation all their obligations can be enforced against all of them jointly and severally.
- 1.13 This Unilateral Undertaking is governed by and interpreted in accordance with the laws of England and Wales in so far as they apply and the Parties submit to the non-exclusive jurisdiction of the courts of England and Wales.

2. PLANNING OBLIGATIONS

- 2.1 This Unilateral Undertaking is made under Section 106 of the TCPA and the planning obligations entered into by way of the covenants in this Unilateral Undertaking are obligations under Section 106 of the TCPA to be discharged by the Owner and are enforceable by the Council against the Owner and any person deriving title from it to the Land.
- 2.2 The Operator acknowledges and declares that this Unilateral Undertaking has been entered into by the Owner with its consent and that the Land shall be bound by the obligations contained in, and that its option shall take effect subject to, this Unilateral Undertaking and that it shall be bound by the obligations on the Owner in this Unilateral Undertaking from the date that it takes a leasehold or freehold interest in the Land.
- 2.3 This Unilateral Undertaking shall take effect from the date hereof save for the provisions of Schedule 1 which shall take place on the date of the grant of the Permission.
- 2.4 This Unilateral Undertaking shall cease to have effect (insofar only as it has not already been complied with) if the Permission shall be refused, quashed, revoked or otherwise withdrawn before commencement of the Development.
- 2.5 No person shall be liable for any breach of any of the planning obligations or other provisions of this Unilateral Undertaking after it shall have parted with its entire interest in the Land but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 2.6 Nothing in this Unilateral Undertaking shall be construed as restricting the exercise by the Council of any powers exercisable by it under the TCPA or under any other Act **PROVIDED ALWAYS** that this Unilateral Undertaking shall remain in full force

and effect notwithstanding the terms and conditions of any planning permission which may be or has been issued by the Council or any other appropriate person or Authority pursuant to the provisions of the TCPA.

3. PURPOSE

- 3.1 In light of the timing restriction on planning conditions in para 2(7) to Schedule 5 of the TCPA, the purpose of this Unilateral Undertaking is to secure a Biodiversity Enhancement, Monitoring and Management Plan and a Landscape and Ecological Management Plan and ensure the implementation, monitoring and management of a 30 year aftercare scheme on a phase by phase approach.
- 3.2 The purpose of this Unilateral Undertaking is also to ensure that proposed public access routes are maintained beyond the duration of the Development and to ensure maintenance of a surface water drainage system in perpetuity.
- 3.3 The Owner covenants as set out in Schedule 1 of this Unilateral Undertaking in relation to the same.

4. THIRD PARTIES

- 4.1 For the purposes of the Contracts (Rights of Third Parties) Act 1999 this Unilateral Undertaking is not intended to and does not give any person who is not a Party to it any right to enforce any of its provisions SAVE FOR the Council.

5. NATURE OF THIS UNILATERAL UNDERTAKING

- 5.1 This Unilateral Undertaking is a Local Land Charge and the Council shall register it in its Register of Local Land Charges in accordance with the provisions of the Local Land Charges Act 1975 and Section 106(11) of the Act.

6. WARRANTY AS TO TITLE

- 6.1 The Parties hereby warrant to the Council that the title details referred to in the recitals are complete and accurate in every respect. Further the Parties warrant that there are no other persons to their knowledge who have an interest in the Land that have not been disclosed to the Council.
- 6.2 The Parties shall make good any loss to the Council as a result of a breach of the warranty at clause 6.1 within twenty-eight days of a request to do so.

7. COSTS

- 7.1 The Operator covenants on or before the completion of this Unilateral Undertaking to pay the Checking Fee (or such higher reasonable and proper sum as the Council may reasonably specify) towards the Council's costs in connection with the approval and registration of this Unilateral Undertaking.

8. S73 APPLICATIONS

- 8.1 In the event that an application is made pursuant to Section 73 of the TCPA for an amendment to the Permission and planning permission is granted in respect of the application (and the Council is satisfied in its absolute discretion that no revised planning obligations are required as a result of such amendment) references to "Permission" in this Unilateral Undertaking shall be to both the Permission and any new planning permission granted pursuant to Section 73 of the TCPA and this Unilateral Undertaking shall apply to and remain in full force in respect of that new planning permission without the need for a further agreement to be entered into pursuant to Section 106 of the TCPA.

9. NOTICES

- 9.1 Any notice, demand or any other communication served under this Unilateral Undertaking will be delivered by hand or sent by first or second class post, pre-paid or recorded delivery.
- 9.2 Any notice, demand or any other communication served shall be sent to the address of the relevant party set out at the beginning of this Unilateral Undertaking or to such other address as one party may notify in writing to the others at any time as its address for service and in the case of service upon the Council shall be marked for the attention of the Assistant Director for Legal and Governance.
- 9.3 The Owner undertakes to give the Council immediate written notice of any change in ownership of any of its interests in the Land occurring before all the obligations under this Unilateral Undertaking have been discharged such, notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with details of the area of the Land transferred to the transferee by reference to a plan.

SCHEDULE 1

The obligation

The Owner and the Operator for themselves and their successors in title to the Land covenant not to carry out the Development otherwise than in accordance with the following requirements subject to the grant of planning permission at appeal for the Development:

1. Prior to the commencement of the Development, a Biodiversity Enhancement, Monitoring and Management Plan (BEMMP) shall be submitted to and approved in writing by the Mineral Planning Authority. The purpose of the BEMMP shall be to ensure the proposed biodiversity measures and management are effectively and fully implemented for a period of 30 years. The BEMMP shall deliver a minimum of 193.24 Habitat Biodiversity Units and 6.88 Hedgerow Biodiversity Units, as set out in the Biodiversity Net Gain Assessment Report, dated 03/09/2024 and include all measures as shown on the approved restoration scheme as required by the restoration condition of the Permission, and in Section 8 and 11 of the Environmental Statement Volume 2 'Technical Appendix B – Nature Conservation and Ecology' (Ecological Impact Assessment document reference M16.176(a).R.006, dated April 2019, and the following:
 - i. Aims and objectives of management and monitoring to match the stated purpose;
 - ii. Identification of adequate baseline conditions prior to the start of development, description and evaluation of features to be managed and enhanced, identifying an adequate baseline of conditions prior to start of development, including provision of Habitat Condition Assessment sheets to describe baseline condition of all habitats retained and enhanced;
 - iii. Extent and location / area of proposed enhancement works on appropriate scale maps and plans to include any mitigation and enhancement measures such as bat and / or bird boxes;
 - iv. Ecological trends and constraints on site that might influence management;
 - v. Methods for data gathering and analysis;
 - vi. Location, timing and duration of monitoring;
 - vii. Responsible persons and lines of communication;

- viii. Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged, to include reference (where appropriate) to the target condition of habitats and hedgerows;
- ix. Appropriate management actions for achieving stated aims and objectives;
- x. An annual work programme (to cover an initial 5 year period);
- xi. Details of the specialist ecological management body or organisation responsible for implementation of the plan;
- xii. For each of the first 5 years of the plan, a BEMMP progress report to be sent to the Mineral Planning Authority reporting on progress of the annual work programme, to include an interim Biodiversity Net Gain metric reporting on the progress of the delivery of Habitat Biodiversity Units and Hedgerow Biodiversity Units, supported by Habitat Condition Assessment sheets, and confirmation of any required actions for the next 12 month period; and
- xiii. The BEMMP will be reviewed and updated every 5 years and implemented for 30 years.

The BEMMP shall also set out (where the results from the monitoring show that the Aims and Objectives of the BEMMP are not being met) how contingencies and / or remedial action will be identified, agreed with the Mineral Planning Authority, and then implemented so that the Development still delivers the Objectives of the originally approved BEMMP. The approved BEMMP shall be implemented in accordance with the approved details.

2. Prior to the commencement of the Development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the Development shall be carried out in accordance with the approved details. The LEMP shall comprise of a drawing and document that covers:
 - i. Aims and objectives of the scheme;
 - ii. For the avoidance of doubt, the aims and objectives shall include the provision and maintenance of the pocket parks and the provision and maintenance of the public access routes as shown on the approved restoration scheme required by the restoration condition of the Permission;
 - iii. A plan with annotations showing the landscape and habitat or features to be retained, created and managed, including detailed advanced planting scheme covering each phase and any other areas of the site; the restoration,

- enhancement and management of existing boundary trees and hedgerows;
and detailed design of pocket parks;
- iv. Measures (including establishment, enhancement and aftercare) for achieving the aims and objectives of management, with time-specific criteria denoting success or a need to implement contingency measures;
 - v. Measures for the provision and continued maintenance of the public access routes referred to in subparagraph ii above;
 - vi. A work and maintenance schedule for 30 years;
 - vii. A requirement that the public access routes (referred to in subparagraph ii above) be kept available for use by the public in perpetuity;
 - viii. The LEMP shall require the collection and removal of any plastic tree guards on completion of aftercare, or specify use of bio-degradable tree guards, and that the application of insecticide or fungicides shall be avoided as shall the use of peat anywhere within the restoration scheme. No fertilisers shall be required or are desirable within the acid grassland habitat.
 - ix. Monitoring and remedial or contingency measures covering habitats, vegetation, breeding birds, bats, great crested newts, reptiles, notable invertebrates and mammals plus any invasive species or injurious weeds. This shall include measures setting out that in the event of any trees, shrub or hedgerow being damaged or removed by the Development, they shall be replaced with like species and equivalent size, which in the case of a mature tree may entail multiple plantings, in the next planting season;
 - x. Measures to control and prevent the spread of non-native invasive species;
and
 - xi. Those responsible for implementation of the scheme.
3. That part of the Land subject to the BEMMP shall undergo aftercare management for a 30-year period. Prior to any area being entered into aftercare, the extent of the area to be shown on a plan and its date of entry into aftercare shall be approved in writing with the Mineral Planning Authority.
 4. A scheme for aftercare shall be submitted to the Mineral Planning Authority for approval in writing at least 9 months prior to the anticipated completion date for each Phase identified in the phasing condition of the Permission. The approved scheme shall specify the steps which are to be taken to bring the land up to the required standard for the land uses shown on the approved restoration scheme, as required by the restoration condition of the Permission. The approved scheme shall also

include a programme of aftercare operations and management to be carried out in the forthcoming year; a review of the previous years' aftercare operations and management, and make provision for site meetings on at least an annual basis with officers of the Mineral Planning Authority in order to assess the progress to date, any remedial action required, and the management of the restored areas for the following year. Thereafter, the Development shall be carried out in accordance with the approved details, or as amended in consultation with the Mineral Planning Authority following each aftercare meeting.

5. Prior to the commencement of development, detailed design drawings for surface water drainage, which shall incorporate Sustainable Drainage Systems (**SuDS**), and an associated SuDS Management Plan which shall include details on future management responsibilities, along with maintenance schedules for all SuDS features and associated pipework for their management and maintenance in perpetuity, shall have been submitted to and approved in writing by the Mineral Planning Authority. The design drawings for surface water drainage shall not provide for the discharge of foul or contaminated drainage from the site into either groundwater or any surface water whether direct or via soakaways. Thereafter the development shall be carried out and maintained in accordance with the approved details.

IN WITNESS WHEREOF the Parties hereto have duly executed and delivered this Unilateral Undertaking as a Deed the day and year first before written

EXECUTED as a **DEED** by the Owner

Acting by:

Director
(sign)
(print name)

Director/Secretary*
***delete as applicable**
(sign)
(print name)

EXECUTED as a **DEED** by the Operator

Acting by:

Director
(sign)
(print name)

Director/Secretary*
***delete as applicable**
(sign)
(print name)

EXECUTED as a **DEED** by the Applicant

Acting by:

Director

(sign)

(print name)

Director/Secretary*

***delete as applicable**

(sign)

(print name)