

DATED

2020

MELBOURN PARISH COUNCIL (1)

and

MELBOURN SCIENCE PARK LIMITED (2)

**DEED OF GRANT OF EASEMENT
FOR
FOUL SEWER CONNECTION
AT MELBOURN RECREATION GROUND ON
THE NORTH EAST SIDE OF THE MOOR, MELBOURN, ROYSTON**

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NOTE:

Annexure 1: RAMS

Annexure 2: Traffic Management Plan

Plans 1, 2 and 3

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THIS DEED is dated

2020

HM Land Registry

LAND REGISTRATION ACTS 1925 to 2002

Grantor's Title Number: CB358895

Administrative Area: Cambridgeshire: South Cambridgeshire

Grantee's Title Numbers: CB423327, CB436582 & CB95837

Administrative Area: Cambridgeshire: South Cambridgeshire

PARTIES

1 **MELBOURN PARISH COUNCIL** of 28 Station Road, Melbourn, Royston SG8 6DX (the "**Grantor**"); and

2 **MELBOURN SCIENCE PARK LIMITED** incorporated and registered in England and Wales with company number 3893143 care of TTP Group plc, Melbourn Science Park, Cambridge Road, Melbourn, Royston SG8 6EE (the "**Grantee**").

BACKGROUND

1 The Grantor owns the freehold interest in the Grantor's Property and the Grantee owns the freehold interest in the Grantee's Property.

2 The Grantee desires to lay and thereafter maintain the Pipeline and Underground Service Media in, under and through the Grantor's Property.

3 The Grantor has agreed to grant the easements and Rights to the Grantee for the benefit of the Grantee's Property on the terms contained in this deed.

AGREED TERMS

1 INTERPRETATION

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

1.1 Definitions:

1.1.1 "**Conditions for Entry**" means the following conditions to which the Grantee and any other person exercising the Rights is subject to:-

- 1.1.1.1 effecting entry at a reasonable time (or any time in an emergency);
- 1.1.1.2 giving reasonable notice to the Grantor;
- 1.1.1.3 complying with the Grantee's Covenants set out in paragraphs 1, 2, 5 and 6 of Schedule 2; and
- 1.1.1.4 complying with reasonable health and safety requirements of the Grantor notified in writing to the Grantee.
- 1.1.2 "**Construction Access**" means the access route for construction and heavy goods vehicles, plant and machinery in connection with the carrying out of the Works and the exercise of the Rights as shown edged green on Plan 2 and labelled accordingly.
- 1.1.3 "**Easement Strip**" means that part of the Grantor's Property being 6 metres wide shown shaded grey on Plan 1.
- 1.1.4 "**Grantee's Covenants**" means the covenants set out in Schedule 2.
- 1.1.5 "**Grantee's Property**" means all the property at:
 - 1.1.5.1 the land known as Melbourn Science Park comprised in title number CB95837 and each and every part of it; and
 - 1.1.5.2 the land lying to the north east side of Moat Lane, Melbourn comprised in title number CB423327;
 - 1.1.5.3 the land lying to the north of Da Vinci Building, Melbourn Science Park, Cambridge Road, Melbourn comprised in title number CB436582; and
 - 1.1.5.4 to the extent only of the Grantee's ownership if any, the Unregistered Land.
- 1.1.6 "**Grantor's Covenants**" means the covenants set out in Schedule 3.
- 1.1.7 "**Grantor's Property**" means together:
 - 1.1.7.1 all the property at Melbourn Recreation Ground, Land on the North East Side of The Moor, Melbourn, Royston and each and every part of it which is registered at HM Land Registry under the title number CB358895; and
 - 1.1.7.2 to the extent only of the Grantor's ownership if any, the Unregistered Land.

- 1.1.8 **“Losses”** means claims demands damages losses and reasonably incurred costs and expenses.
- 1.1.9 **“Pipeline”** means the 150mm vitrified clay foul sewer line or lines of pipes and/or ducts constructed or to be constructed together with any replacement pipeline the position of which is shown for identification purposes by the orange dashed line within the Easement Strip line on Plan 1.
- 1.1.10 **“Plan 1”** means the plan marked “Plan 1” annexed to this deed.
- 1.1.11 **“Plan 2”** means the plan marked “Plan 2” annexed to this deed.
- 1.1.12 **“Plan 3”** means the plan marked “Plan 3” annexed to this deed.
- 1.1.13 **“RAMS”** means the risk assessment and method statement prepared by Toureen Contractors on behalf of the Grantee dated 2 April 2020 and approved by the Grantor, a copy of which is annexed to this deed at Annexure 1.
- 1.1.14 **“Rights”** means the rights and easements as set out in Schedule 1.
- 1.1.15 **“Traffic Management Plan”** means the traffic management plan annexed to this at Annexure 2 deed.
- 1.1.16 **“Underground Service Media”** means any pipes (other than the Pipeline) laid or intended to be laid within the Easement Strip together with three manholes and all other works or apparatus identified in the RAMS or otherwise as may be necessary in connection with the Pipeline from time to time.
- 1.1.17 **“Unregistered Land”** the land between the Grantee’s Property and the Grantor’s Property shown coloured white on Plan 3.
- 1.1.18 **“VAT”** means value added tax charged under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax.
- 1.1.19 **“Works”** means the initial laying, erecting, constructing, installation and connection of the Pipeline and Underground Service Media in the Easement Strip in accordance with the RAMS.
- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this deed.

- 1.3 Except where a contrary intention appears, references to clauses and Schedules are to the clauses and Schedules of this deed and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.4 The Schedules form part of this deed and shall have effect as if set out in full in the body of this deed. Any reference to this deed includes the Schedules.
- 1.5 A reference to laws in general is a reference to all local, national and directly applicable supra-national laws as amended, extended or re-enacted from time to time and shall include all subordinate laws made from time to time under them and all orders, notices, codes of practice and guidance made under them.
- 1.6 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision and all orders, notices, codes of practice and guidance made under it.
- 1.7 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.8 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.9 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.10 A reference to "**Grantor**" includes its respective successors in title, personal representatives or permitted assigns and where the "Grantor" is more than one all covenants and obligations on the part of the "Grantor" shall be deemed to be joint and several;
- 1.11 A reference to "**Grantee**" includes its respective successors in title, personal representatives or permitted assigns and where the "Grantee" is more than one all covenants and obligations on the part of the "Grantee" shall be deemed to be joint and several;
- 1.12 A reference to **writing** or **written** excludes fax and e-mail.
- 1.13 Any obligation in this agreement on a person not to do something includes an obligation not to allow that thing to be done.

1.14 Any phrase introduced by the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2 GRANT

2.1 In consideration of £5,000.00 (exclusive of VAT) (the receipt of which the Grantor acknowledges) and the covenant given by the Grantee in clause 4, the Grantor with full title guarantee grants to the Grantee the Rights in fee simple for the benefit of the Grantee's Property to the intent that the Rights shall be and remain appurtenant to the Grantee's Property and that the Rights shall be and remain a burden upon the Grantor's Property.

2.2 The Rights are granted subject to rights of the Grantor in relation to the Grantor's Property whether or not referred to in this deed.

3 GRANTOR'S COVENANTS

The Grantor covenants with the Grantee so as to bind the Grantor's Property into whoever's hands it may come, for the benefit of the Grantee's Property and each and every part of it, that the Grantor and its successors in title shall at all times observe and perform the Grantor's Covenants.

4 GRANTEE'S COVENANTS

The Grantee covenants with the Grantor for the benefit of the Grantor's Property and each and every part of it, that the Grantee, its successors in title and anyone authorised by them to use the Rights shall at all times observe and perform the Grantee's Covenants.

5 HM LAND REGISTRY

5.1 The Grantor consents to;

5.1.1 the registration of the Rights on the registered title to the Grantor's Property; and

5.1.2 any restrictive covenants entered into in this deed by the Grantor being noted against the registered title to the Grantor's Property.

5.2 As soon as reasonably practicable after completion of this deed the Grantee shall:

- 5.2.1 apply to HM Land Registry to register the Rights and to enter a notice of any restrictive covenants against the registered title to the Grantor's Property; and
- 5.2.2 apply to HM Land Registry to enter a notice of any restrictive covenants made by the Grantee in this deed against the registered title to the Grantee's Property and to enter the Rights in the Property register of the Grantee's title as appurtenant rights.
- 5.3 As soon as reasonably practicable after notification to the Grantee or the Grantee's solicitors of the completion of such registration or registrations referred to at clause 5.2 above, the Grantee shall give to the Grantor official copies of the registered titles to the Grantor's Property and the Grantee's Property, to show that the Rights and any restrictive covenants made by the Grantor and the Grantee have been properly and correctly entered against the respective titles.

6 INDEMNITY

- 6.1 The Grantee shall indemnify the Grantor and keep the Grantor indemnified against all liabilities, costs, expenses, damages and losses suffered or incurred by the Grantor arising out of or in connection with:
- 6.1.1 the exercise of the Rights;
- 6.1.2 the carrying out of any works permitted by this deed;
- 6.1.3 any breach of any of the Grantee's Covenants;
- 6.1.4 any breach of the terms of this deed;

by the Grantee, or by any occupier of the Grantee's Property or by an employee or invitee of the Grantee, or by any other person who is allowed or permitted by the Grantee to exercise the Rights.

7 JOINT AND SEVERAL LIABILITY

- 7.1 Where the Grantor comprises more than one person, those persons shall be jointly and severally liable for the obligations and liabilities of the Grantor arising under this deed. The Grantee may take action against, or release or compromise the liability of, or grant time or other indulgence to any one of those persons without affecting the liability of any other of them.

- 7.2 Where the Grantee comprises more than one person, those persons shall be jointly and severally liable for the obligations and liabilities of the Grantee arising under this deed. The Grantor may take action against, or release or compromise the liability of, or grant time or other indulgence to any one of those persons without affecting the liability of any other of them.
- 7.3 The Grantor shall not be liable to the Grantee for any failure of the Grantor to comply with the Grantor's Covenant contained in Schedule 3 unless and until the Grantee has given the Grantor notice of the facts that give rise to the failure and the Grantor has not remedied the failure within a reasonable time.
- 7.4 The Grantor is not liable for the death of or injury to the Grantee its employees, invitees or for damage to any property of theirs, or for any losses, claims, demands, actions, proceedings, damages, costs or expenses or other liability incurred by them in the exercise of the Rights.
- 7.5 Nothing in clause 7.4 shall limit or exclude the Grantor's liability for any matter in respect of which it would be unlawful for the Grantor to exclude or restrict liability.

8 VAT

- 8.1 All sums payable by the Grantee are exclusive of any VAT that may be chargeable. Subject to clause 8.3, the Grantee shall pay VAT in respect of all taxable supplies made to it in connection with this deed on the due date for making any payment or, if earlier, the date on which that supply is made for VAT purposes.
- 8.2 Every obligation on the Grantee, under or in connection with this deed, to pay the Grantor any sum by way of a contribution, refund or indemnity, shall include an obligation to pay an amount equal to any VAT incurred on that sum by the Grantor, except to the extent that the Grantor obtains credit for such VAT under the Value Added Tax Act 1994.
- 8.3 The Grantee shall not be required to make any payment of VAT unless and until the Grantor provides the Grantee with a valid VAT invoice addressed to the Grantee.

9 NOTICES

- 9.1 Any notice given under this agreement must be in writing and signed by or on behalf of the party giving it.
- 9.2 Any notice or document to be given or delivered under this agreement may 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:
 - 9.2.1 to the Grantor at Melbourn Parish Council at 28 Station Road, Melbourn, Royston SG8 6DX marked for the attention of the Parish Clerk or to such other address as may be notified by the Grantor to the Grantee from time to time as being its address for service; and
 - 9.2.2 to the Grantee at Melbourn Science Park, Cambridge Road, Melbourn, Royston SG8 6EE marked for the attention of the Company Secretary or to such other address as may be notified by the Grantee to the Grantor from time to time as being its address for service.
- 9.3 Any notice or document served in accordance with this clause 9 will be deemed to have been received:
 - 9.3.1 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; and
 - 9.3.2 in the case of pre-paid first class or recorded delivery post, at 9.00am on the first working day after posting.
- 9.4 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 or special delivery letter was properly addressed, as the case may be.
- 9.5 A notice or document delivered under this agreement shall not be validly given or delivered if sent by e-mail or fax.

10 THIRD PARTY RIGHTS

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

11 GOVERNING LAW

This deed 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 England and Wales.

12 JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims).

THIS AGREEMENT has been entered into as a deed on the date stated at the beginning of it.

SCHEDULE 1

The Rights

Subject to the Grantee complying with the Conditions for Entry and the Traffic Management Plan, the full right and liberty for the Grantee and the Grantee's successors in title as owners or occupiers for the time being of the Grantee's Property and its officers, servants and agents and others authorised by it at all times and for all purposes connected with the lawful use and enjoyment of the Grantee's Property whether now or in the future to:

Right to reposition football pitch

- 1.1 undertake such works on the Grantor's Property to reposition the football pitch outside of the Easement Strip (as may be reasonably necessary for carrying out the Works) in the location shown marked out on Plan 1 PROVIDED THAT following completion of the Works should the Grantor reasonably request that the football pitch be reinstated to the position it is in at the date of this deed, the Grantee shall procure (at the Grantee's cost) the works necessary to reinstate the football pitch in a proper and workmanlike manner to the reasonable satisfaction of the Grantor;

Right to erect temporary fencing

- 1.2 erect and install temporary fencing for the duration of the Works on the Grantor's Property in the location shown by a red dashed line on Plan 2;

Right to construct and maintain etc Pipeline

- 1.3 undertake the Works and to lay erect construct inspect maintain renew replace repair test cleanse make incapable of operation or remove any part or parts of the Pipeline and Underground Service Media in the Easement Strip together with the right of having and enjoying the use and free flow and passage of water and sewerage with or without other matter of any kind whatsoever through and by means of the Pipeline and Underground Service Media;
- 1.4 excavate and open up so much of the Easement Strip and to carry out the Works and such other works thereon as may be reasonably required for the purpose of exercising or in connection with the exercise of any of the Rights;

- 1.5 temporarily place on the Construction Access, the Easement Strip and that part of the Grantor's Property shown hatched green on plan [...] or such other parts of the Grantor's Property agreed with and approved by the Grantor from time to time (such approval not to be unreasonably withheld or delayed) any such plant and materials required to be used in connection with the purposes above mentioned

Rights of temporary storage of soil

- 1.6 temporarily store (for the duration of the Works) top soil excavated during the Works on the Grantor's Property in the location marked ["potential area for topsoil storage during construction works"] on Plan 1;

Rights of access

- 1.7 with or without contractors surveyors employees and others and with or without motor or other vehicles plant equipment apparatus and materials at all reasonable times to enter upon the Construction Access and those parts of the Grantor's Property shown hatched green on plan [...] or such other parts of the Grantor's Property agreed with and approved by the Grantor from time to time (such approval not to be unreasonably withheld or delayed) necessary to carry out the Works and for the purpose of exercising or in connection with the exercise of any of the Rights;

Right to maintain manhole covers

- 1.8 construct maintain replace renew and use three manhole covers and inspection chambers required to facilitate inspection and maintenance of the Pipeline and the Underground Service Media in such locations identified by the RAMS;

Right of support

- 1.9 continuous vertical and lateral support and protection for the Pipeline and the Underground Service Media and the Easement Strip;

Right of line walking

- 1.10 enter upon the Grantor's Property at any time on giving a minimum of 48 hours' prior written notice (save in the case of emergency) for the purposes of walking

the line of the Easement Strip, the Pipeline and or examining and inspecting the Pipeline and the Underground Service Media; and

Right to remove trees

- 1.11 fell, trim or lop any trees, bushes and other vegetation or scrub growth or the roots of which may grow in on over or under the Easement Strip which obstruct or interfere with the exercise of the rights granted to the Grantee by this deed subject to the Grantee providing the Grantor with 10 days' prior written notice and provided that the Grantee removes from the Grantor's Property all timber, wood and vegetation cut and leaves the Grantor's Property neat and tidy.

SCHEDULE 2

Grantee's covenants

The Grantee shall:

1 STATUTORY REQUIREMENTS

when exercising the Rights (including when carrying out the Works), comply with all laws governing the installation and use of the Underground Service Media;

2 MAKING GOOD OF DAMAGE ETC

at all times to take all reasonable and proper precautions to ensure that in the exercise of the Rights and carrying out the Works as little damage as is reasonably practicable is caused to the Easement Strip or that part of the Grantor's Property over which the Rights are exercised and any turf thereon or drains thereunder and to make good any damage caused as soon as reasonably practicable to the reasonable satisfaction of the Grantor or pay reasonable compensation to the Grantor for any Losses suffered by them by reason of the exercise of the Rights except to the extent that such Losses result from the neglect or default of the Grantor or others authorised by them and FOR THE AVOIDANCE OF DOUBT the Grantee shall replace any trees materially damaged with a similar species of tree in carrying out the Works and exercising its Rights in accordance with this deed;

3 ASSIGNMENT

not assign the benefit of this deed except to a third party who shall first covenant (by way of a deed of covenant in a form approved by the Grantor (such approval not to be unreasonably withheld or delayed)) on behalf of itself and its successors in title with the Grantor to comply with the obligations of the Grantee in this deed;

4 INDEMNITY

keep the Grantor indemnified against all actions claims or demands arising by reason of the exercise of the Rights (except any such actions claims or demands as may be occasioned by the default or wrongful act of the Grantor or the Grantor's servants or agents) PROVIDED THAT the indemnity is conditional upon the Grantor (i) giving to the Grantee written notice of any such actions

claims or demands as soon as possible after the Grantor becomes aware of any such actions claims or demands; (ii) taking all reasonable steps to mitigate any liabilities relating to such actions claims or demands; and (iv) keeping the Grantee reasonably informed in relation to the material progress of any such actions, claims and demands.

5 NUISANCE

not cause any nuisance, annoyance or disturbance to the Grantor or occupiers of the Grantor's Property, or of any neighbouring land, or to any other person entitled to the Rights in common with the Grantee.

6 TRAFFIC MANAGEMENT PLAN

when exercising the Rights (including when carrying out the Works), comply with the Traffic Management Plan.

SCHEDULE 3

Grantor's covenants

The Grantor shall:

1 INTERFERENCE WITH UNDERGROUND SERVICE MEDIA

not do anything or knowingly allow anything to be done on the Grantor's Property that may interfere with or damage the Pipeline or Underground Service Media or interfere with, impede or obstruct the Grantee's access to or use of them and/or interfere with, impede or prevent the Grantee's exercise of the Rights PROVIDED THAT if such interference, obstruction or damage is caused the Grantor shall upon receiving written notice of the same from the Grantee as soon as reasonably possible make good any damage caused and / or take such preventative measures as are necessary in respect of such interference and / or obstruction in each case to the Grantee's reasonable satisfaction.

2 CONSTRUCTIONS ON EASEMENT STRIP

not cause permit or suffer the erection or installation of any building structure or apparatus or to carry out any development or excavation on or beneath the Easement Strip;

3 TREES

not plant or otherwise permit to exist any trees or shrubs on the Easement Strip or in such a location so that the roots thereof are within the Easement Strip;

4 FURTHER EASEMENT

not grant any further easement or licence in on under or affecting any part of the Easement Strip without the prior written consent of the Grantee which may not be unreasonably withheld or delayed;

5 ALIENATION

5.1 not sell convey transfer lease grant mortgage charge or dispose of or otherwise encumber the Easement Strip and so much of the Grantor's Property as is reasonably required for the exercise of the Rights or any part thereof unless such conveyance transfer lease mortgage or disposition is expressed to be subject to the Rights and the other provisions of this deed and:

5.1.1 in the case of a transfer lease or other disposition (except a mortgage) contains covenants on the part of the purchaser transferee tenant or disponee to observe and perform the provisions of this Schedule 3; and

5.1.2 in the case of a mortgage contains covenants on the part of the mortgagee to observe and perform the provisions of this Schedule 3 but with effect only during such time (if any) as it shall have entered into possession of the Easement Strip and so much of the Grantor's Property as is reasonably required for the exercise of the Rights or any part thereof so that it shall not be personally liable after it shall have parted with all its interest in the Easement Strip and so much of the Grantor's Property as is reasonably required for the exercise of the Rights or any part thereof; and

6 INDEMNITY

indemnify the Grantee against all costs, losses and expenses, and all claims or demands lawfully brought or made against it, by reason of any breach of this Schedule 3.

**EXECUTED as a DEED by
MELBOURN PARISH COUNCIL**

acting by

COUNCILLOR [...]

As Councillor of Melbourn Parish Council

COUNCILLOR [...]

As Councillor of Melbourn Parish Council

Witnessed by [...]

As Clerk of Melbourn Parish Council

Signature of Witness

Name (in BLOCK CAPITALS)

Address:

**EXECUTED as a DEED by
MELBOURN SCIENCE PARK LIMITED**

acting by a director in the presence of:

Signature of Witness

Name (in BLOCK CAPITALS)

Address: