

DATED

2019

SOMERSET COUNTY COUNCIL

- and -

HOBBS PROPERTIES LIMITED

- and -

TARMAC TRADING LIMITED

**A G R E E M E N T**

under Section 106 of the Town and Country  
Planning Act 1990 and Section 278 of the Highways Act 1980

relating to Halecombe Quarry

**THIS AGREEMENT** made the                                              day of                                              Two  
Thousand and Nineteen

**B E T W E E N:**

- (1) **SOMERSET COUNTY COUNCIL** whose principal offices are at County Hall Taunton Somerset TA1 4DY ("the Council")
- (2) **HOBBS PROPERTIES LIMITED** (Co Reg No. 717405) whose registered office is at Backwell House Backwell Road Bristol BS19 3PL ("Hobbs")
- (3) **TARMAC TRADING LIMITED** (Co Reg No. 453791) whose registered office is at Portland House Bickenhill Lane, Solihull, Birmingham, B37 7BQ ("the Company")

**WITNESSES AS FOLLOWS:**

**1 DEFINITIONS AND INTERPRETATION**

1.1 In this Agreement the following words and phrases shall unless the context otherwise requires have the following meanings:

"the 1990 Act" means the Town and Country Planning Act 1990

"the Application" means the planning application submitted by the Company to the Council validated 31<sup>st</sup> March 2017 and numbered 2017/1022/CNT whereby the Company has sought planning permission for the Development

"the Commencement of Development" means the implementation of the Permission by the carrying out of a material operation as defined at section 56 of the 1990 Act which is exclusively referable to the Permission other than works of site clearance, archaeological research, ground investigation, site survey works and decontamination or the erection of site hoardings, and the word "Commence" in relation to the Development shall be

construed accordingly

- "the Development" means the deepening of Halecombe Quarry by the extraction of limestone the replacement of existing asphalt plant with a new asphalt plant and associated facilities retention of the concrete batching plant and the reopening of the access road to Rookery Farm with relinquishment of the existing permission and extension of end date for the entire quarry and all quarrying activities to 31 December 2044 with restoration to be completed by December 2046 in accordance with the Permission
- "Drivers' Code of Conduct" Means the Drivers' Code of Conduct attached at **Annex 3** (as amended from time to time by the Company with the approval of the Council
- "the Director" means the Council's Lead Director for Economic & Community Infrastructure and Director of Commissioning for the time being and any member of her staff or agent of her duly authorised by her or the Chief Executive of the Council to act on her behalf for the purposes of this Agreement
- "Existing Planning Agreements" means the Agreement dated 2 October 1992 entered into between Somerset County Council (1) Hobbs Properties Limited (2) and Wimpey Hobbs Limited (3) as amended by a Supplemental Agreement dated 1 September 2000 between Somerset County Council (1) Hobbs Properties Limited (2) and Tarmac Minerals Limited (3) and the Agreement under Section 106 of the Town and Country Planning Act 1990 dated 19 September 2002 entered into between Somerset County Council (1) Hobbs Properties Limited (2) Tarmac Limited (3)
- "Existing Planning Permission" means the planning permissions referenced 101393/015 dated 2 October 2002, 101393/014 dated 19 September 2002, 2013/1481 dated 28 March 2014

and 101393/014/NMA dated 28 March 2014

- "Halecombe Quarry Scheme" Means the scheme for monitoring springs, surface and groundwater resources indicated on plans H76/plan C and H76/Plan B annexed to this Agreement as **Annex 6**
- "HGV Routing Plan" Means the plan numbered M15.126.D.031 annexed to this Agreement as **Annex 5** and marked "HGV Routing Plan" (which shall inter alia confirm that Limekiln Lane may not be used to access the Old Wells Road/A37)
- "the Land" means the land situated at Halecombe Quarry Leigh on Mendip Somerset being the land comprised in Land Registry title numbers ST125837 ST124690 ST106542 WS12282 WS38930 and WS32953 and shown edged red on the Location Plan
- "the Location Plan" means the plan numbered M15.126.D.001 annexed to this Agreement as **Annex 1** and marked "Location Plan"
- "the Permission" means the planning permission issued by the Council by way of determination of the Application in the draft form annexed as **Annex 2** and all approvals granted thereunder
- "the Quarry" means Halecombe Quarry in the Parishes of Leigh on Mendip and Mells in the County of Somerset
- "Rookery Farm Balancing Lake" Means the balancing lake to be created pursuant to planning permission reference number 2013/1481 dated 28 March 2014
- "Working Day(s)" means Monday to Friday other than public or bank holidays
- and the terms "Aftercare" "Aftercare Period" "After Uses" "Community Fund" and "Restoration" have the

meanings assigned to them in the Schedules

- 1.2 References in this Agreement to an Act of Parliament include a reference to any Regulations made under it and to any statutory provision for the time being in force amending re-enacting or replacing it or them
- 1.3 The Interpretation Act 1978 applies to this Agreement as it applies to an Act of Parliament
- 1.4 Words in this Agreement importing persons shall where the context so admits or requires be construed as importing corporate bodies and partnerships and shall where importing one gender be construed as importing any other gender
- 1.5 References in this Agreement to the parties or any other legal or natural person shall unless the context otherwise requires include his her its or their heirs assigns and successors in title and in the case of the Council shall also include any successor in function
- 1.6 All covenants obligations and other commitments contained in this Agreement and given or entered into by more than one party hereto shall be joint and several and may be enforced by the Council against any one or more of such parties
- 1.7 All covenants and obligations contained in this Agreement and requiring any party hereto to issue any authorisation, approval, consent or certificate shall be subject to the proviso that the issue of such authorisation or other matter is not to be unreasonably withheld or delayed
- 1.8 References in this Agreement to a clause, sub-clause or schedule are (unless otherwise stated) references to the correspondingly numbered clause, sub-clause or schedule of this Agreement
- 1.9 The headings in this Agreement are included solely for ease of reference and shall not affect its construction or interpretation

## **2 RECITALS**

- 2.1 The Council is the Mineral Planning Authority under and for the purposes of the 1990 Act for the area within which the Land is situated
- 2.2 Hobbs is registered as proprietor of the parts of the Land with a freehold title under title numbers ST124690 and WS32953 and with a leasehold title under title number WS38930

- 2.3 The Company has a leasehold interest in the Land under title numbers ST125837 ST106542 and WS12282
- 2.4 The Company wishes to carry out the Development on the Land
- 2.5 The Council is satisfied that the Application may be approved in the form of the draft Permission annexed subject to the planning obligations contained in this Agreement being entered into by Hobbs and the Company concerning the restoration and long-term management of the Land and the revocation without cost to the Council of the Existing Permissions

### **3 STATUTORY POWERS**

- 3.1 The Council enters into this Agreement in pursuance of its powers under Section 106 of the 1990 Act Section 111 of the Local Government Act 1972 Section 1 of the Localism Act 2011 and all other powers enabling it in that regard
- 3.2 It is HEREBY AGREED by and between Hobbs the Company and the Council that
- 3.2.1 the covenants contained or referred to in the Schedules to this Agreement are planning obligations for the purposes of Section 106 of the 1990 Act and are enforceable by the Council without limit of time against any person deriving title under Hobbs and/or the Company to the Land or to any part of the Land pursuant to sub-section (3) of the said Section 106 PROVIDED HOWEVER that no person shall be liable for any breach of the said covenants occurring after they shall have parted with all interest in the Land but without prejudice to the Council's rights in relation to any antecedent breach
- 3.2.2 insofar as any of the covenants in the Schedules are not planning obligations within Regulation 122 of the Community Infrastructure Regulations 2010 the covenants are entered into pursuant to section 1 of the Localism Act 2011 and or section 111 Local Government Act 1972 and are enforceable accordingly

### **4 RELEASE AND CONSOLIDATION OF EXISTING PLANNING PERMISSIONS AND PLANNING AGREEMENTS**

- 4.1 The parties agree that:

- 4.1.1 the Existing Planning Permissions shall be revoked and superseded in their entirety by the Permission; and
- 4.1.2 they shall be released from the terms of the Existing S106 Agreements which agreements shall cease and determine and be of no further effect and be superseded in their entirety by the terms of this Agreement
- 4.2 The Council hereby covenants with the Company that it will as soon as reasonably practicable after Commencement of Development make an Order under Section 97 of the 1990 Act in the form or substantially in the form of the draft Revocation Order annexed as **Annex 4** and shall notify the Company of the making of the Order
- 4.3 The Company hereby covenants with the Council that
- 4.3.1 it will within 7 Working Days of receipt of notification of the making of the Revocation Order give notice to the Council in writing in pursuance of Section 99(1) (b) of the 1990 Act that it does not object to the Revocation Order
- 4.3.2 it will take no further action that would or might prevent or delay the taking effect of the Revocation Order under Section 99 (7) of the 1990 Act
- 4.3.3 it will take no steps to claim compensation from the Council under Section 107 of the 1990 Act in respect of the making of the Revocation Order

## **5 COUNCIL'S COSTS**

- 5.1 The Company covenants with the Council on this date of this Agreement to pay to the Council all proper and reasonable legal costs of the Council in connection with the preparation and negotiation of this Agreement

## **6 COVENANTS BY THE COMPANY**

- 6.1 The Company for itself and its successors in title HEREBY COVENANTS with the Council that it will carry out the works and do or cause to be done the other things on or in relation to the Land as are set out in Schedules 1 to 6 within the time limits set out in those Schedules

## **7 HOBBS OBLIGATIONS**

- 7.1 Hobbs hereby covenants with the Council that it shall be liable to observe and perform the obligations and restrictions in this Agreement as if it had expressly covenanted in the terms set out in clause 6 and Schedules 1 to 6 hereof only if Hobbs itself Commences the Development and /or carries out the Development and for the avoidance of doubt in the event that the Hobbs undertakes the Development all covenants given by the Council to the Company shall be deemed to be given to Hobbs and all obligations and restrictions on the Company contained in this Agreement shall be enforceable jointly and severally against Hobbs and the Company
- 7.2 Hobbs hereby covenants with the Council that it (Hobbs) will allow the Company by its employees agents and contractors and the Council full free and unrestricted access to the Land and to every part thereof in order that the Restoration and Aftercare may be carried out and that any other obligations contained in or arising from this Agreement may be discharged and that it will following the expiry of the Aftercare Period allow the Land to be used without let or hindrance in perpetuity for the After Uses (as defined in Schedule 4 of this Agreement)

## **8 INDEMNITY**

- 8.1 As between Hobbs and the Company the Company shall except as provided below during the currency of the leases of the Quarry made on 27 January 1994 and 3 March 1995 both between Hobbs (1) and the Company (then called Wimpey Hobbs Limited and Wimpey Minerals Limited respectively) (2) be solely and exclusively responsible for the performance of the obligations of Hobbs and/or the Company to the Council under the terms of this Agreement and shall indemnify and keep indemnified Hobbs against all liability whatsoever arising under the terms of this Agreement PROVIDED THAT the Company shall not be responsible to Hobbs once such leases shall have been assigned to a third party in accordance with the provisions of such leases and the Company shall have obtained from the assignee a covenant in favour of Hobbs (or the then lessor) in like terms to the covenant in this clause 8 regarding the performance of the conditions contained in this Agreement

## **9 COUNCIL'S COVENANTS**

- 9.1 The Council hereby covenants with the Company that as soon as reasonably practicable after the date of this Agreement to issue the Permission in the form of the draft annexed



9.2 The Council covenants to observe and perform the obligations on its part set out in the Schedules to this Agreement

## 10 **INTEREST**

10.1 If Hobbs or the Company fails to pay any sum payable to the Council under this Agreement on the date when such payment falls due then the Council shall have the right to charge interest on such unpaid sum at the rate of 4% per annum above the base rate from time to time of the Bank of England

## 11 **GENERAL PROVISIONS**

It is HEREBY AGREED AND DECLARED by and between the parties hereto that:

11.1 This Agreement is not and shall not operate or be construed as or be deemed to be a grant of planning permission for the purposes of Part III of the 1990 Act or for any other purpose

11.2 Except as herein specifically provided nothing in this Agreement confers any approval consent or permission required from the Council in the exercise of any of their statutory functions

11.3 Except as herein specifically provided nothing in this Agreement shall be taken by the parties as diminishing or derogating from any of the rights powers or prerogatives conferred on the Council by any Act of Parliament or by any Orders or Regulations made thereunder whether now or hereafter

11.4 No forbearance or indulgence (whether express or implied) granted by the Council to Hobbs or the Company in respect of any breach of the terms of this Agreement shall prevent the Council from enforcing its rights in relation to any subsequent breach

11.5 This Agreement is not made for the benefit of nor shall any of its provisions be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person other than the parties hereto but for the avoidance of doubt the exclusion of the application of that Act shall not prevent any future successor in title to any of the parties to this Agreement from being able to benefit from or to enforce any of the obligations in this Agreement

11.6 This Agreement is intended to take effect as a deed

11.7 Subject to the provisions of Sections 106A and 106B of the 1990 Act the terms and conditions of this Agreement shall only be capable of being varied

by a supplemental agreement executed by the parties hereto or their successors in title

- 11.8 This Agreement is a local land charge and shall be registered as such
- 11.9 To the extent that any provision of this Agreement is found by any court or competent authority to be invalid unlawful or unenforceable that provision shall be deemed not to be a part of this Agreement and it shall not affect the legality validity or enforceability of the remainder of this Agreement

## 12 **RESOLUTION OF DISPUTES**

- 12.1 The validity construction and performance of this Agreement shall be governed by English law
- 12.2 If any dispute or difference shall at any time hereafter arise between the parties hereto as to the construction or effect of this Agreement or as to the rights and liabilities of the parties under it or any other matter of whatsoever nature arising out of or in relation to its subject matter then such dispute or difference shall be referred to the English courts to whose exclusive jurisdiction the parties hereby submit

## 13 **EXPERT DETERMINATION**

- 13.1 Any dispute arising out of the provisions of this Agreement shall be referred to a person having appropriate qualifications and experience in such matters ("the Expert") for the determination of that dispute PROVIDED THAT the provisions of this clause shall be without prejudice to the right of any party to seek the resolution of any matter relating to the Agreement to the Courts and/or in accordance with section 106 (6) of the 1990 Act and the referral of any matter to the Expert shall not prejudice prevent or delay the recourse of any party to the courts or to the provisions of section 106 (6) of the 1990 Act for the resolution of any matter arising from the Agreement
- 13.2 The Expert shall be appointed jointly by the relevant parties to the dispute ("the Relevant Parties") or in default of agreement by a person nominated by the President for the time being of the Royal Institution of Chartered Surveyors on the application of any of the parties
- 13.3 The decision of the Expert shall be final and binding upon the Relevant Parties and the following provisions shall apply:
- 13.3.1 the charges and expenses of the Expert shall be borne equally between the Relevant Parties unless the Expert shall otherwise direct

- 13.3.2 the Expert shall give the Relevant Parties an opportunity to make representations and counter representations to him before making his decision
- 13.3.3 the Expert shall be entitled to obtain opinions from others if he so wishes
- 13.3.4 the Expert shall make his decision within the range of any representations made by the Relevant Parties themselves
- 13.3.5 the Expert shall comply with any time limit or other directions agreed by the Relevant Parties on or before his appointment
- 13.4 Where there is a dispute as to the amount of any sum payable to the Council Hobbs and or the Company as the case may be shall pay its estimate of such sum to the Council at the time specified in this Agreement and shall pay any difference between that figure and the amount determined by the Expert within 28 days of the Expert's decision together with Interest thereon calculated from the date the payment was required until the date it is made

#### **14 ENTRY INTO FORCE AND DURATION**

- 14.1 Save for clauses 4, 6, 7 and 8 which are conditional on the grant and issue of the Permission, the provisions of this Agreement shall come into force immediately upon its execution and shall, subject to sections 106A and 106B of the Act of 1990 remain in force until discharged by performance
- 14.2 If the Permission shall expire or be revoked or quashed prior to the Commencement of Development this Agreement shall forthwith determine and cease to have effect but without prejudice to any rights previously acquired under it by any party thereto

**IN WITNESS** whereof the parties hereto have executed and delivered this Agreement as a Deed the day and year first before written

**Schedule 1**  
**Protection of Water Resources**

The Company hereby covenants with the Council as follows:

1. All water removed from the subject land in the course of the Company's dewatering operations (other than water required to support any of the augmentation measures specified at paragraphs 2 to 9 (inclusive) of this Schedule) shall be discharged into the Halecombe Brook unless the Council agrees otherwise in writing
2. Should the Director be advised by the Environment Agency on the basis of the results of the surface and ground water monitoring that significant derogation has or will occur from surface water flows or from ground water resources as a direct result of the Company's operations on the subject Land or any part thereof then the Company shall undertake the measures specified at paragraphs 3 to 9 (inclusive) of this Schedule to such an extent as is required to make good that derogation
3. Once constructed the Rookery Farm Balancing Lake shall be used for the storage of water in connection with the augmentation of water resources as required by this Agreement
4. If in the reasonable opinion of the Council on the advice of the Environment Agency it becomes apparent from the results of surface and ground water monitoring that measures additional to those specified or referred to in paragraph 3 of this Schedule are required to make good the derogation from surface water flows or from ground water flows resulting from the dewatering of the subject land the Company shall if so required by the Council submit proposals for such measures to the Director. For the avoidance of doubt but without prejudice to the generality of this paragraph the surface and groundwater flows referred to in this paragraph include (but are not confined to) those in the Mells River and feeder springs including the springs at Bector Wood, Hurdlestones, Whitehole Farm, Leigh Woods West and East, Soho Farm and Finger Springs. The proposals submitted by the Company under this paragraph shall as a minimum make provision for the supply as soon as may be practicable of compensation water of satisfactory quality and in sufficient volume to maintain the natural flows of water

5. For the purposes of agreeing with the Council the criteria for determining whether any future mitigation measure under paragraph 4 of this Schedule are necessary and for determining the scale and nature of any such measure the Company shall (unless otherwise agreed in writing by the Council after consultation with the Environment Agency) adopt and observe in their entirety Augmentation Arrangements and Water Quality Criteria ("the Halecombe Quarry Scheme") described in Schedule 2 and Technical Notes 1 and 2 attached as Annex 8 and 9 respectively
6. Any additional mitigation measure required by the Council under paragraph 4 of this Schedule shall be implemented by the Company within twelve months of their approval by the Council unless otherwise agreed in writing by the Council after consultation with the Environment Agency PROVIDED HOWEVER THAT the Council's agreement to any longer period shall not be unreasonably withheld
7. The Company shall supply to the Council and the Environment Agency at intervals of not more than one month or such longer periods as may reasonably be agreed by the Council and the Environment Agency details of the data to be collected pursuant to the monitoring schedule as detailed in **Annex 7** and shown on Plan B appended to **Annex 6**. This monitoring schedule shall be maintained until it has been shown to the reasonable satisfaction of the Council and the Environment Agency that the natural groundwater regime has recovered following the cessation of all pumped dewatering of the subject land
8. Upon the cessation of all pumped dewatering of the subject land the Company shall continue to maintain the Rookery Farm Balancing Lake and to augment surface water flows and the ground water resources until such time as the ground water regime which may have been affected by mineral extraction at the Quarry has been re-established to a new equilibrium level such level to be agreed between the Company and the Council and the Environment Agency such agreement not to be unreasonably withheld or delayed
9. At least 24 months prior to extraction of limestone below Level 6 (85 metres Above Ordnance Datum), apart from the provision of a quarry drainage sump, an investigation will be completed to assess the impact of dewatering to the next level of working (Level 7) on all water resources identified under the Halecombe Quarry Scheme and or any subsequent update thereof. No extraction will be allowed below Level 6 (apart from the drainage sump) until

any identified mitigation / remedial measures have been approved by the Council in consultation with the Environment Agency and implemented as required

10. No extraction will be allowed below Level 6 (apart from the drainage sump) until a full review of the actual operational effectiveness of the Rookery Farm Balancing Lake augmentation scheme is undertaken. Any update or changes will then need to form part of a new Protection of Water Resources Scheme as currently set out in this Schedule 1 to be agreed with the Council and the Environment Agency
11. Within 12 months of the Permission having been granted the operator of the Quarry shall review the Halecombe Quarry Scheme. Such a review shall include a meeting between the Council, Tarmac and the Environment Agency.
12. A further review of monitoring conditions abstraction rates and safeguard conditions should be undertaken every five years or at least 24 months prior to extraction of limestone below the next bench drop, whichever is the earlier
13. At least 24 months prior to extraction of limestone below Level 7 (70 metres Above Ordnance Datum), apart from the provision of a quarry drainage sump, an investigation will be completed to assess the impact of dewatering to the next level of working (Level 8) on all water resources identified under the Halecombe Quarry Scheme and or any subsequent update thereof. No extraction will be allowed below Level 7 (apart from the drainage sump) until any identified mitigation / remedial measures have been approved by the Council in consultation with the Environment Agency and implemented as required
14. At least 24 months prior to extraction of limestone below Level 8 (55 metres Above Ordnance Datum), apart from the provision of a quarry drainage sump, an investigation will be completed to assess the impact of dewatering to the next level of working (Level 9) on all water resources identified under the Halecombe Quarry Scheme and or any subsequent update thereof. No extraction will be allowed below Level 8 (apart from the drainage sump) until any identified mitigation / remedial measures have been approved by the Council in consultation with the Environment Agency and implemented as required
15. At least 24 months prior to extraction of limestone below Level 9 (40 metres Above Ordnance Datum), apart from the provision of a quarry drainage sump, an investigation will be completed to assess the impact of dewatering to the next level of working (Level 10) on all water resources identified under the Halecombe Quarry Scheme and or any subsequent update thereof. No extraction will be allowed below Level 9 (apart from the drainage sump) until any identified mitigation / remedial measures have been approved by the

Council in consultation with the Environment Agency and implemented as required

- 16 At least 24 months prior to extraction of limestone below Level 10 (25 metres Above Ordnance Datum), apart from the provision of a quarry drainage sump, an investigation will be completed to assess the impact of dewatering to the next level of working (Level 11) on all water resources identified under the Halecombe Quarry Scheme and or any subsequent update thereof. No extraction will be allowed below Level 10 (apart from the drainage sump) until any identified mitigation / remedial measures have been approved by the Council in consultation with the Environment Agency and implemented as required

AGREED FINAL DRAFT

## Schedule 2

### The Halecombe Quarry Scheme

The Company covenants with the Council to do or cause to be done the things on or in relation to the Land and to comply with the requirements as are set out in Parts 1 and 2 of this Schedule

#### **Part 1: Augmentation Arrangements**

1. The following arrangements are included to augment the Mells River if required under the terms of Technical Note 1 attached at **Annex 8** or if otherwise agreed between the Company and the Council on the advice of the Environment Agency as being necessary to maintain that proportion of the total Mells River flow that is affected by the working of minerals at the Quarry
2. Spring flows shall be augmented in accordance with the following:
  - 2.1 When a trigger in Technical Note 1 attached at **Annex 8** occurs the Company will have twelve months in which to install works that are sufficient to enable that flow at the spring to which the trigger applies to be maintained in accordance with Technical Note 2 attached at **Annex 9** and thereafter will maintain flows in accordance with Technical Notes 1 and 2 attached at **Annexes 8 and 9** respectively
  - 2.2 Monitoring of the flow at water features referred to in this Schedule shall be conducted at the expense of the Company who shall make data available to the Environment Agency at monthly intervals or at shorter intervals as the Council may on the advice of the Environment Agency reasonably require
  - 2.3 References in this Schedule to flows to be maintained shall mean that monthly assessments shall be made of the actual flow for the previous month and for the following month augmentation water shall be introduced at a constant rate to achieve the flows as identified in Technical Note 2 attached at Annex 9 calculated from that monthly measurement and ignoring fluctuations to the actual flow during the following month
  - 2.4 References in this Schedule to springs are to the features at the



following grid references. For ease of identification they are also illustrated on Plan H76/C attached at **Annex 6**

Table showing Location of Springs

<u>Spring Name</u>	<u>Grid Reference</u>
Bector Wood Spring	ST 6745 4802
Hurdlestone Spring	ST 6780 4798
Whitehole Farm Spring	ST 6802 4807
Leigh Wood West Spring	ST 6848 4811
Leigh Wood East Spring	ST 6849 4806
Soho Farm Spring	ST 6957 4831
Finger Valley Springs	ST 7129 4806
Cobby Wood Spring	ST 7144 4818

## **Part 2: Water Quality Criteria**

1. The criteria for water quality of water discharged as augmentation flows shall be as follows
  - 1.1. The quality of water for all springs must not result in an increase of more than ten per centile (10%) in the mean and ninety per centile (90%) concentration of suspended solids in the receiving waters as detailed in the Baseline Survey prepared by Entec and dated 30 June 1998 ("the Baseline Survey") attached at **Annex 14**. In the case of Tufa Springs the quality of the water must also comply with any additional requirements as recommended by the Baseline Survey as approved by the Environment Agency
2. Arising from the Baseline Survey proposals shall be made by the Company and a method agreed with the Council for the future monitoring of tufa deposits at Tufa Springs
3. References in this Schedule to Tufa Springs are to the following features:
  - Bector Wood Spring
  - Hurdlestone Spring
  - Whitehole Farm Spring

### Schedule 3

#### Lorry Routeing

1. The Company covenants with the Council
  - 1.1 That it will procure (save where deliveries are being made in the immediate locality which shall mean within the Parishes of Leigh-on-Mendip, Coleford, Mells and Whatley) that:
    - 1.1.1 all HGVs travelling to and from the A361 and the Land in connection with the Permission and the Development shall follow the route shown by coloured green dots on the HGV Routing Plan
    - 1.1.2 no HGV shall be permitted to use Limekiln Lane, shown by coloured brown dots on the HGV Routing Plan, in order to access the Old Wells Road when exiting the Land in connection with the Permission and the Development
  - 1.2 That in the event of any breach of paragraph 1.1 of Schedule 3 to take appropriate action, namely by
    - 1.2.1 issuing a written or verbal warning to the driver and his or her employer for a first event of a breach
    - 1.2.2 prohibiting the driver from the Land in the event of any further breach and advising his or her employer of the prohibition
    - 1.2.3 where there are repeated breaches by the employees of a particular contractor accessing the site to prohibit that contractor from the Land
  - 1.3 That it will not Commence Development unless and until it has erected
    - 1.3.1 a HGV routing sign in prominent places visible and legible at all times of the day and in all light levels and conditions at the point of exit from the Land and shall maintain and replace the HGV routing sign to ensure it remains easily visible and legible to all HGVs leaving the Land
    - 1.3.2 signage at the new entrance from Limekiln Lane prohibiting HGV access to the Quarry
  - 1.4 Save that the provisions and restrictions in paragraphs 1.1 and 1.2 above shall not apply to the extent necessary to enable the driver of any vehicle to comply with any directions given to him by a police

officer or traffic warden (or other public officer) or with any traffic sign for the time being in place prescribing the route to be taken by vehicles or HGVs; and

- 1.5 Save that the Company will not be required to control the entrance to the Land with a system of gates or otherwise
- 1.6 To issue the Driver's Code of Conduct set out at **Annex 3** to all drivers of commercial vehicles visiting the Land
- 1.7 To maintain a list of deliveries made in the immediate locality and make this list available to the Council upon request

AGREED FINAL DRAFT

## Schedule 4

### Restoration, Aftercare and Long Term Management

1. In this Schedule the following expressions shall have the following meanings:
  - “Aftercare” means works required to bring the Land to the standard required for the After Uses
  - “After Uses” means informal and quiet recreation and nature conservation purposes water storage and agricultural or woodland uses
  - “Aftercare Period” means a period of 10 years following the completion of the Restoration
  - “Aftercare Plan” means the plan for the Aftercare which shall accord with the details set out in **Annex 10** to this Schedule and shall include works to be undertaken during the Aftercare Period
  - “the Long Term Management Fund” means fund established under the Agreement under Section 106 of the Town and Country Planning Act 1990 dated 19 September 2002 entered into between Somerset County Council (1) Hobbs Properties Limited (2) Tarmac Limited (3) as set out in **Annex 11** to this Agreement to provide financial assistance for the long term management of the Land following the Aftercare Period
  - “Management Plan” means the plan to be prepared by the Company which shall include information and detail relating to the key issues set out in **Annex 12** attached for the long term management monitoring maintenance and supervision of the Land once the Aftercare has been completed to the satisfaction of the Council which shall accord with the details set out in **Annex 10**
  - “Restoration” means operations undertaken during and after the winning and working of minerals to restore the Land in accordance with the Permission
2. In order to facilitate Aftercare for the Land the Company covenants
  - 2.1 Upon the commencement of the extraction of limestone below Level 10 (25 metres Above Ordnance Datum) or within twelve months of the permanent cessation of mineral extraction from the Land (whichever is the earlier) to prepare and submit the Aftercare Plan to the Council for its approval
  - 2.2 To implement to the reasonable satisfaction of the Director the requirements of the Aftercare Plan within the time limits specified therein

- and to obtain all necessary authorisations consents and approvals for such works comprised therein as do not form part of the Development
- 2.3 Upon the commencement of the extraction of limestone below Level 10 (25 metres Above Ordnance Datum) or the permanent cessation of the extraction of limestone from the Land (whichever the earlier) to establish a steering group (“the Restoration Management Steering Group”) comprising representatives of the Company Hobbs the Council Mendip District Council Leigh on Mendip Parish Council English Nature and a local Wildlife Trust to meet at least annually in order to oversee the reclamation of the Land and to oversee the implementation of the Management Plan on the expiry of the Aftercare Period
- 2.4 Within six months of the date of the approval of the Aftercare Plan by the Council pursuant to paragraph 2.1 of this Schedule to prepare and submit the Management Plan to the Council for its approval
- 2.5 Within six months of the cessation of mineral extraction from the Land enter into a Deed of Covenant with the Council to ensure that the owner or occupier for the time being of Rookery Farmhouse and the land surrounding the farmhouse shown on the Concept Restoration Plan numbered H076/00144 is required to manage the said farmhouse and land in accordance with the Aftercare Plan and the Management Plan PROVIDED THAT Rookery Farmhouse shall be released from this covenant in the event that it is used as a residence
- 2.6 To maintain the Long Term Management Fund which is based upon the Company paying into an account in the name of the Council an initial amount of one penny for each tonne of stone sold from the Quarry until a further 7 million tonnes have been sold from the date of this Agreement (whereupon further contributions under this paragraph 3 shall cease) and the amount payable for each tonne to be reviewed annually and shall be varied in accordance with the variation on the Index of Retail Prices as published by the Central Statistics Office or other appropriate body (as set out in **Annex 11** to this Agreement). All interest accruing to the fund during the period whilst mineral operations are carried out upon the Land and the Aftercare Period to be credited to the account
- 2.6.1 The Long Term Management Fund shall be administered by the

Council and shall not be used until the expiration of the Aftercare Period. Any interest earned upon the Long Term Management Fund account or sums from the said fund shall be available to provide for the implementation of the Management Plan SUBJECT TO the Restoration Management Steering Group the Company Hobbs and the Council all confirming their agreement to any withdrawal and utilization of funds

- 2.7 To carry out the Aftercare during the Aftercare Period which shall commence upon confirmation from the Council that the Restoration has been completed to the reasonable satisfaction of the Director

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## **Schedule 5**

### **Footpaths**

The Company covenants with the Council

1. Within three months following completion of the Restoration to construct footpaths as approved by the Council and to a standard suitable for adoption as publicly maintainable highway as shown by dotted blue lines for the purposes of identification only on the Concept Restoration Plan numbered H076/00144 attached as **Annex 13** is available to the general public and thereafter the same shall be maintained by the Company until the expiry of the Aftercare Period when the footpaths will be adopted by the Council as public rights of way
2. Within 3 months of the cessation of mineral extraction operations on the Land to submit a scheme to the Director for the provision of permissive footpaths on the routes shown by a dotted yellow lines for identification purposes only on the Concept Restoration Plan numbered H076/00144 included at **Annex 13** and agree a timetable for implementation

**Schedule 6**  
**Community Funding**

**Part 1: The Community Fund**

1. With effect from Commencement of Development the Company agrees to pay to the Council the sum of 2 pence per tonne of all mineral extracted from the Land and sold towards a new community fund the members and purposes of which are set out in Part 2 (as may be varied from time to time by agreement between the Council and the Company) (“the Community Fund”). The relevant gross sums shall be paid to the Council quarterly in arrears within 30 working days of 1 January, 1 April, 1 July and 1 October in each year and Hobbs and or the Company shall pay interest on any overdue amount at the rate of 4% per annum above Barclays Bank Plc’s base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment
2. The amount payable for each tonne to be reviewed annually (upwards only) on 1 January in each year during the continuation of the Community Fund and shall be varied in accordance with the variation on the Aggregates Index as published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or other appropriate body over the same period
3. The Community Fund shall be administered by a management committee (“the Community Fund Management Committee”) which shall meet no less than twice a year, the structure role and responsibilities of which are set out in Part 2 of this Schedule (as may be varied from time to time by agreement between the Company and the Council)
4. The Council shall hold the sums received from the Company pursuant to this Schedule on trust for the Leigh-on-Mendip, Coleford, Mells and Whatley Parish Councils (“the Parish Councils”) to be used for the purposes set out in Part 3 and shall ring-fence the funds. Any interest obtained by the Council on the money held by the Council for the Community Fund shall be credited to the Community Fund



5. The Council shall provide a non-voting officer to attend the meetings of the Community Fund Management Committee and the said officer shall be responsible for issuing cheques for the payment of grants from the Community Fund as directed by and following the agreement of the Community Fund Management Committee within no more than 7 days from the decisions taken at the relevant management committee meetings to make such a grant
6. In the event that the Council materially breaches or derogates from its obligations contained in this Part 1 the Company shall be entitled to terminate this arrangement and take over administration of the Community Fund itself (including the holding and distributing of the money in accordance with the criteria and guidelines set out in Parts 3 and 4 respectively)
7. Contributions to the Community Fund shall continue while the Quarry is operational irrespective of changes to the quarry operator
8. If quarrying is temporarily suspended the Community Fund will continue in operation until all monies have been expended
9. If quarrying ceases permanently any monies then in the Community Fund shall be divided equally between the Parish Councils

**Part 2: The Community Fund Management Committee**

1. The Community Fund Management Committee is to oversee the distribution of funds
2. The Community Fund Management Committee shall consist of the following members:
  - Two representatives from Leigh-on-Mendip Parish Council,
  - One representative from each of Coleford Parish Council and Mells and Whatley Parish Council.
  - Two staff from the Company.
  - One representative of the Council.

Each parish representative must be a member of the parish council.

3. The Chairman of the Community Fund Management Committee shall be a designated representative of the Company
4. The Community Fund Management Committee shall review the Fund Criteria after 12 months and thereafter annually to determine whether the criteria needed to be amended. The decision on any amendments to the Fund Criteria shall be made solely by the Company
5. The Community Fund Management Committee Meetings shall be held towards the end of March and September each year to coincide with the regular Quarry Liaison meetings
6. At each meeting of the Community Fund Management Committee the Company will report on the amount of limestone sold since 1 January 2019
7. At the first meeting of the Community Fund Management Committee in each calendar year until the expiry of the Aftercare Period the Council will confirm
  - the value of the Long Term Management Fund held by them at the end of the previous calendar year
  - the rate of interest received during the previous calendar year
  - the rate of change in the Retail Price Index over the same period and the difference between the interest actually received and the amount of interest calculated by reference to the Retail Price Index
8. Until the expiry of the Aftercare Period before considering any funding requests under paragraph 9 below the Community Fund Management Committee may in its absolute discretion allocate monies from the Community Fund to make up the difference between the rate of interest actually received on the Long Term Management Fund monies held by the Council and the amount that would have been received had the Long Term Management Fund monies been increased in line with the Retail Price Index
9. The Company shall circulate all funding requests received during the previous 6 months to members of the Community Fund Management Committee at the beginning of March and September, a minimum of two weeks in advance of the Community Fund Management Committee meetings
10. The Council shall provide to the members of the Community Fund Management Committee and the Company an auditable reconciliation

statement showing income (including any interest which has accrued) and expenditure (including any payments made under paragraph 8 above) and the balance standing to the Community Fund twice a year in time for the meetings of the Community Fund Management Committee

11. A brief update on progress with projects that had received funding during the previous six months shall be provided by the representative from the particular parish concerned
12. At each meeting the Company shall provide detail on the level of activity at the Quarry during the previous six months and the amount of money paid into the Community Fund
13. The Company shall summarise the funding requests that had been received
14. The merits of the funding requests shall be discussed by the Community Fund Management Committee members before voting on:
  - Which requests are to receive funding in whole or in part.
  - Which requests are to be rejected.
  - If there is insufficient money available to fund all genuine requests, which requests are to be returned to the applicant who would be advised to reapply
15. The reasons for each decision are to be recorded in the meeting minutes
16. For the avoidance of doubt the Company reserves the right to provide additional funding to groups or organisations that do not meet the Community Fund criteria from sources outside the Community Fund
17. Leigh-on-Mendip Parish Council representatives shall have a total of two votes Coleford Parish Council and Mells and Whatley Parish Council representatives shall each have one vote. The Council representative shall not have a vote. The Chairman shall have a deciding vote and shall only vote if there is a tie in voting for any particular request. Representatives must be in attendance in order to vote
18. Following the meeting confirmation of the Committee's decision regarding each funding request shall be made by the Company to the applicant within seven days of the meeting including, where appropriate, the reasons for not funding any request in whole or in part

19. The minutes of each committee meeting is to be provided on the Quarry website within seven days of the meeting. A link is to be provided to the Quarry website on each Parish website

### **Part 3: Community Fund Criteria**

1. The Halecombe Quarry Community Fund (“the Community Fund”) will seek to support projects within the parishes of Leigh on Mendip Coleford Mells and Whatley local to the Quarry (“the Parishes”) that improve the amenity and environment of the residents within those parishes
2. Projects that have clear benefits in terms of education, recreation, nature conservation and sustainability will be supported subject to the availability of funds
3. Contributions to the Community Fund would be related to the level of sales of limestone from the Quarry and the distribution of monies shall be carried out on a democratic basis by the Community Fund Management Committee

### **Part 4: Community Fund Guidelines**

- Requests will only be made for projects in the parishes of Leigh on Mendip Coleford Mells and Whatley
- Requests are to be made electronically or by hard copy via the parish clerks for Leigh on Mendip Coleford Mells and Whatley in the form of the application set out in Part 5
- Requests must be for clear and deliverable community benefits within the area of the four parishes and not for the benefit of individuals or for exclusive groups
- Grants will not be made to political parties, commercial organisations or those working for profit
- Grants will not normally be made to organisations that have statutory responsibilities
- Grants will not normally be awarded for recurrent expenditure, running costs, salaries and expenses
- Requests can be made for a financial contribution or a contribution in materials from the Quarry. The supply of materials is to be at a commercial rate
- Funding can be made in relation to a part or the whole of any project
- Funding requests of £5,000 or less will be given priority

- Any funding is to be spent within a maximum of 6 months of the grant taking place unless otherwise agreed in writing by the Community Fund Management Committee
- Funding must be used for the project that it was requested for
- Funding requests must be supported by a detailed breakdown of how the monies are to be used and the Company reserves the right to request details such as receipts
- Any unspent monies are to be returned to the Community Fund
- The Community Fund Management Committee will meet in March and September each year to decide which requests to support. Any requests to be considered by the committee must be received before 31<sup>st</sup> January for consideration at the March meeting and before 31<sup>st</sup> July for the September meeting
- If a funding request is turned down or only partially supported the reasons for the decision will be provided. The committee's decision is final
- An update on progress with projects that have received funding during the previous 6 months shall be provided at each meeting of the committee by the Member for the relevant Parish
- An update shall be provided by the Company at each meeting of the committee detailing the level of activity at the Quarry during the previous 6 months and the sums paid into the Community Fund
- The Company reserves the right to publicise the grant of any funding
- A member of the Community Fund Management Committee is likely to inspect the completed project as part of the reporting procedures of the Community Fund

**Part 5: Form of Application**

<b>Name and address of group/organisation</b>	<b>Contact name</b>	
	<b>Capacity</b>	
	<b>Organisation details and address</b>	
	<b>Charity</b>	

	<b>Registration Number</b>	
	<b>Contact Telephone Numbers</b>	
	<b>Email</b>	

<b>Description and location of project</b>	
<b>Community benefits of project and how it meets the Community Fund Criteria</b>	
<b>What approvals or permissions are required to undertake the project. Please provide evidence of that approvals are in place.</b>	
<b>Timescales for project and when monies would be spent</b>	
<b>Breakdown of costs of the project</b>	
<b>Other confirmed sources of funding for the project</b>	
<b>Level of funding requested from Halecombe Quarry Community Fund (money or quarry products, e.g. crushed stone, asphalt, concrete)</b>	

<b>Supporting comments</b>	
<b>Name:</b> <b>Signed :</b> <b>Date:</b>	

Please continue on additional pages if necessary.  
 Any questions about completing the Request Form should be directed to the local parish council.

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**ANNEX 1  
LOCATION PLAN**

AGREED FINAL DRAFT



**ANNEX 2  
DRAFT PLANNING PERMISSION**

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### **ANNEX 3 DRIVER'S CODE OF CONDUCT**

This Code of Conduct is for all drivers of commercial vehicles visiting the Quarry and is issued by the quarry management. The Code of Conduct is to be read and adhered to in conjunction with the Haulier Site Induction Form. All drivers must adhere to the following Code:

1. Vehicles entering and leaving the Quarry early in the morning or late in the evening must keep vehicle speeds and noise as low as reasonably possible and should avoid excessive revving of engines. Engines should be switched off when the vehicle is not in use.
2. All vehicles should avoid travelling in convoy with other Quarry traffic.
3. All haulage vehicles must be properly sheeted when leaving the Quarry and must pass through the wheel wash.
4. Drivers must adhere to the Road Traffic Regulations and Highway Code.
5. Drivers must take account of the special vulnerability of other highway and rights of way users including pedestrians, cyclists and horse riders.
6. Vehicles should be kept clean and well maintained
7. Drivers who do not adhere to this Code of Conduct will be warned and repeated breaches will result in being banned from the Quarry.

Remember – your behaviour, attitude and driving style can make a significant contribution to minimising any impact on local residents and on the highway network. By adhering to this Code of Conduct impacts will be reduced.

## ANNEX 4

### Draft Revocation Order in respect of the Existing Permissions

#### TOWN AND COUNTRY PLANNING ACT 1990

#### THE SOMERSET COUNCIL (HALECOMBE QUARRY) REVOCATION ORDER 2018

1. In this Order

“the Applicants” means Tarmac Trading Limited whose registered office is at Portland House Bickenhill Lane, Solihull, Birmingham, B37 7BQ

“the Council” means the Somerset Council being the Mineral Planning Authority for its area

“the Quarry” means the Halecombe Quarry in the Parishes of Leigh on Mendip and Mells in the County of Somerset

“the Existing Permissions” means the various planning permissions in force in relation to the Quarry and listed in the Schedule hereto and each of them

“the Act” means the Town and Country Planning Act 1990

All other words and expressions have the meaning (if any) assigned to them in the Act

2. On the [ ] the Council resolved to approve a planning application submitted by the Applicants reference [ ] subject to inter alia the revocation of the Existing Permissions

3. The operations authorized by the Existing Permissions have not been completed

4. It appears to the Council that it is expedient having regard to the Development Plan, to its resolution of [ ] and to all other material considerations that the Existing Permissions should be revoked

5. NOW THEREFORE THE COUNCIL in pursuance of Section 97 of the Act and all other powers enabling it HEREBY MAKES the following Order:

The Existing Permissions are revoked

THE SCHEDULE

The existing planning permissions revoked by this Order

101393/015 dated 2 October 2002

101393/014 dated 19 September 2002 and

2013/1481 dated 28 March 2014

Given under the Common Seal of the Council this                      day of

201

**THE COMMON SEAL** of  
**SOMERSET COUNCIL**  
was hereunto affixed  
in the presence of:

)  
)  
)  
)

AGREED FINAL DRAFT

**ANNEX 5  
HGV ROUTING PLAN**

AGREED FINAL DRAFT

**ANNEX 6  
HALECOMBE QUARRY SCHEME PLANS**

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**ANNEX 7  
WATER MONITORING SCHEDULE**

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**ANNEX 8  
HALECOMBE QUARRY SCHEME – TECHNICAL NOTE 1**

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**ANNEX 9  
HALECOMBE QUARRY SCHEME – TECHNICAL NOTE 2**

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**ANNEX 10  
AFTERCARE PLAN**

AGREED FINAL DRAFT

**ANNEX 11  
LONG TERM MANAGEMENT FUND**

AGREED FINAL DRAFT

**ANNEX 12  
MANAGEMENT PLAN**

AGREED FINAL DRAFT

**ANNEX 13  
CONCEPT RESTORATION PLAN**

AGREED FINAL DRAFT

**ANNEX 14  
BASELINE SURVEY**

AGREED FINAL DRAFT

**THE COMMON SEAL** of )  
**SOMERSET COUNCIL** )  
was hereunto affixed )  
in the presence of: )

**EXECUTED** as a **DEED** by  
**HOBBS PROPERTIES LIMITED**  
acting by:

Authorised Signatory

Authorised Signatory

**EXECUTED** as a **DEED** by **TARMAC**  
**TRADING LIMITED** acting by a director  
In the presence of a witness

.....  
**DIRECTOR**

Witness  
Signature: .....

Name: .....

Address: .....

.....