AGREEMENT PURSUANT TO SECTION 106 TOWN AND COUNTRY PLANNING ACT 1990 IN RELATION TO THE DEVELOPMENT OF LAND AT BESSEMER ROAD, WELWYN GARDEN CITY, HERTFORDSHIRE

dated 17th April 2000

HERTFORDSHIRE COUNTY COUNCIL (1)

WELWYN HATFIELD DISTRICT COUNCIL (2)

RAVENSEFT INDUSTRIAL ESTATES LIMITED (3)

WT FOODS PLC (4)

Andrew J Laycock
County Secretary
County Hall
Hertford SG13 8DE

Ref:

HERTFORDSHIRE COUNTY COUNCIL

DRAFT SECTION 106 AGREEMENT

Date: 17th April 2000

PARTIES:

(1) **HERTFORDSHIRE COUNTY COUNCIL** of County Hall, Hertford, Hertfordshire (the **County Council**);

(2) **WELWYN HATFIELD DISTRICT COUNCIL** of Council Offices, The Campus, Welwyn Garden City, Hertfordshire (the **Council**);

(3) **RAVENSEFT INDUSTRIAL ESTATES LIMITED** (Co. Regn. No. 444531) whose registered office is situate at 5 Strand, London, WC2N 5AF (the **Developer**);

(4) **WT FOODS PLC** (Co. Regn. No. 00094632) whose registered office is situate at 2 Apex Point, Travellers Lane, Welham Green, Herts (the **Tenant**).

WHEREAS:

(A) The County Council and the Council are Local Planning Authorities for the purpose of Section 106 of the Town and Country Planning Act 1990 (the **Act**) for the area of land known as part of the former Rank Xerox site at Bessmemer Road, Welwyn Garden City (the **Land**) for the purposes of identification only shown edged red on the plan attached hereto and as such are the local planning authorities entitled to enforce the planning obligations hereinafter recited.

(B) The County Council is the Highway Authority for Hertfordshire.

(C) The Developer is the registered proprietor of the freehold of the Land which is registered at HM Land Registry under Title Nos HD311112, HD1070656 and HD300518.

(D) The Developer has applied to the Council for planning permission under Applications No. N6/0743/99/OP, N6/1026/99/FP and N6/2000/118/FP for the development of the Land for B8 Warehousing and B2 Industrial purposes (the **Development**).

(E) The Tenant has agreed with the Developer to take a lease for a term of 25 years (subject to an option to break at the end of the fifteenth year) from the quarter day preceding practical completion of that part of the Land known or to be known as Unit A Centrapark and for the purpose of identification only shown edged green on the plan attached hereto (**Unit A**).

(F) This Agreement is entered into to make provision for regulating the Development and securing the matters hereinafter referred to which are required to facilitate the Development.

NOW THIS AGREEMENT WITNESSETH as follows:

1. This Deed is entered into pursuant to Section 106 of the Act and Section 111 of the Local Government Act 1972 and contains Planning Obligations pursuant to Section 106 of the Act relating to the Land which are enforceable by the Council and the County Council.

2. In the event that planning permission with or without conditions is granted for the Development pursuant to any of the Applications No. N6/0743/99/OP, N6/1026/99/FP or N6/2000/118/FP and any one of more of such planning permissions is thereafter implemented as provided in Section 56 of the Act (the **Planning Permission**) then this Deed shall have full force and effect but not otherwise save that Clause 3(d)(ii) shall have full force and effect from the date hereof.

3. **Developer's Covenants**

The Developer for itself and successors in title hereby covenants with the County Council and the Council and with each of them as follows:

(a) that it will not occupy or permit any part of the Land to be occupied for purposes pursuant to the Planning Permission until it has prepared and secured the approval (which shall not be unreasonably withheld) of the County Council and the Council to a Green Transport Plan or Plans (**GTP**) in respect of the part or parts to be occupied and each such GTP shall contain as many of the provisions detailed in the Schedule hereto as are appropriate to the Land or the relevant part of it and further shall include provisions as to how the progress of the GTP shall be monitored.

(b) that if it or its successors in title occupy the Land or any part of the Land it or they will implement the GTP relating to that part of the Land approved by the County Council and the Council and shall use all reasonable endeavours to achieve the targets set therein.

(c) that it will require its tenants or other occupiers of the Land to implement the GTP for the relevant part of the Land once it has been approved by the County Council and the Council and that it will use all reasonable endeavours to enforce such obligation.

(d) to pay to the County Council:

(i) within 14 days of first implementation of the Planning Permission the sum of £46,000.00 as a contribution (the **Contribution**) towards the design and construction of cycle routes in the vicinity of the Land which the Director of the Environment in his absolute discretion (but having regard in particular to the Council's Town Centre Cycle Link as identified in its Cycle Strategy) determines will encourage non-car access to the Land and thus will contribute to the improvement of highway conditions on parts of the network affected by traffic associated with the Development and/or towards the provision of two new bus shelters at the bus stops in Bessemer Road which are closest to the Land such sum to be index linked by reference to the Price Adjustment Formula for Construction Contracts in the Monthly Bulletin of Indices published by HMSO

as collated into a single index in accordance with the SPONS Constructed Civil Engineering Cost Index from January 2000 until the date of payment.

(ii) on the date hereof the whole of the reasonable costs incurred by the Council and the County Council's County Secretary and the Director of the Environment in the preparation of this Agreement.

4. **Tenant's Covenants**

The Tenant for itself and successors in title hereby covenants with the County Council and the Council that it will not occupy Unit A until a GTP has been prepared in respect of Unit A and the County Council and the Council have approved it and as from the date that it occupies Unit A it will implement the GTP for Unit A as approved by the County Council and the Council and shall use its reasonable endeavours to achieve the targets set therein.

5. **County Council's Covenants**

The County Council hereby covenants with the Developer:

(a) To use the Contribution and any interest accrued thereon for the purpose(s) described in Clause 3 hereof and to refund any portion of the Contribution remaining unspent on the 5th anniversary of its receipt by the County Council together with interest thereon at the rate from time to time prescribed under Section 32 of the Land Compensation Act 1961;

(b) Not to withhold unreasonably its approval to a GTP submitted by the Developer or the Tenant.

6. The County Council will upon the written request of any person with an interest in the Land at any time after each of the obligations set out in Clause 3(d)(i) and (ii) have been performed issue to all such persons written confirmation of such performance.

7. **Developer's Further Covenant**

The Developer for itself and its successors in title hereby covenants with the Tenant that it will keep the Tenant informed of negotiations with the County Council and the Council in respect of obtaining the County Council's and the Council's approval to the GTP in respect of Unit A and will give due consideration to any representations made by the Tenant and will not agree the final form of the GTP with the County Council or the Council without the prior written approval of the Tenant such approval not to be unreasonably withheld.

8. **Council's Covenant**

The Council hereby covenants with the Developer that it will not unreasonably withhold its approval to a GTP submitted by the Developer or the Tenant.

Other Matters

9. This Agreement shall be registered as a Local Land Charge.

10. No party will be liable for any breach of the obligations contained in this Agreement after it has parted with its interest in the Land or the part thereof save for antecedent breaches.

11. Clause 3(d) shall not be enforceable against the Tenant.

12. A person who is not a party to this deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

IN WITNESS whereof the parties hereto have caused their respective Common Seals to be hereunto affixed to this Deed the day and year first before written.

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

ANDREW J LAYCOCK
County Secretary

1081

THE COMMON SEAL of **WELWYN HATFIELD DISTRICT COUNCIL** was hereunto affixed in the presence of:

Chairman of the Council

Authorised Officer

THE COMMON SEAL of **RAVENSEFT INDUSTRIAL ESTATES LIMITED** was hereunto affixed in the presence of:

Director

ASSISTANT
Director/Secretary

THE COMMON SEAL of **WT FOODS PLC** was hereunto affixed in the presence of:

Director

Director/Secretary