

DATED

5 SEPTEMBER

2018

PRIME SECURITIES LIMITED

and

TONBRIDGE AND MALLING BOROUGH COUNCIL

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**PLANNING OBLIGATION BY WAY OF UNILATERAL  
UNDERTAKING UNDER SECTION 106 OF THE TOWN  
& COUNTRY PLANNING ACT 1990 RELATING TO  
LAND AT PLATT INDUSTRIAL ESTATE, MAIDSTONE  
ROAD, PLATT, SEVENOAKS, KENT**

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**pdt**solicitors

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horsham, west sussex  
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Ref: CGB/PRI 14/61

THIS DEED is made the 5 day of SEPTEMBER 2018

- (1) **PRIME SECURITIES LIMITED** incorporated and registered in England and Wales with company number 00635489 whose registered office is at The Courtyard, Shoreham Road, Upper Beeding, Steyning, West Sussex BN44 3TN ("the Owner")
- (2) **TONBRIDGE AND MALLING BOROUGH COUNCIL** of Gibson House, Gibson Drive, Kings Hill ME19 4LZ ("the Council")

**BACKGROUND :-**

- (A) The Council is the local planning authority for the purposes of the TCPA 1990 for the area in which the Property is situated.
- (B) The Owner owns the Property.
- (C) The Owner has made the Planning Application and is proposing to carry out the Development.
- (D) In accordance with the Council's Local Plan on planning contributions the Owner gives this undertaking to perform the obligations set out in this Deed.

**WHEREBY IT IS AGREED** as follows:-

**1. Interpretation**

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

**1.1 Definitions:**

**Commencement of Development** means the carrying out in relation to the Development of any material operation as defined by section 56(4) of the TCPA 1990 but disregarding for the purposes of this Deed and for no other purpose, the following operations:

- demolition works;
- site clearance;
- ground investigations;
- site survey works;
- temporary access construction works;
- archaeological investigation; and
- erection of any fences and hoardings around the

Property.

**Commenced** and **Commences** shall be construed accordingly;

**Commencement Date**

means the date of Commencement of Development;

**Development**

means the development of the Property described in the Planning Application;

**Highway Works**

means the agreed works to the existing access to the Property and the provision of visibility splays as detailed on the appended drawings;

**Plan**

means the plan attached to this Deed;

**Property**

means the freehold land at Platt Industrial Estate, Maidstone Road, Sevenoaks, Kent registered at HM Land Registry with absolute title under title number K161974 and as shown on the Plan;

**Planning Application**

means an application for planning permission made to the Council under reference number TM/16/01766/FL;

**Planning Permission**

means the planning permission to be granted by the Council in respect of the Planning Application;

**TCPA 1990**

means Town and Country Planning Act 1990;

**Working Day**

means any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.

- 1.2 Clause headings shall not affect the interpretation of this Deed.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.6 A reference to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.7 A reference to the Council shall include the successors to its respective statutory functions.
- 1.8 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

- 1.9 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 A reference to **writing** or **written** includes fax but not e-mail.
- 1.11 References to clauses are to the clauses of this Deed.
- 1.12 Any words following 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, description, definition, phrase or term preceding those terms.

## **2. Statutory Provisions**

- 2.1 This Deed constitutes a planning obligation for the purposes of section 106 of the TCPA 1990, section 111 of the Local Government Act 1972 and any other enabling powers.
- 2.2 The obligations contained in clause 3 of this Deed are planning obligations for the purposes of section 106 of the TCPA 1990 and are entered into by the Owner with the intention that they bind the interests held by those persons in the Property and their respective successors and assigns.
- 2.3 This Deed shall come into effect on the date of grant of the Planning Permission.
- 2.4 The obligations contained in clause 3 of this Deed are enforceable by the Council in accordance with section 106 of the TCPA 1990.

## **3. Covenants With the Council**

- 3.1 The Owner covenants with the Council:
  - 3.1.1 to undertake and complete the Highway Works on or before the Commencement Date.
  - 3.1.2 to give at least 10 Working Days written notice to the Council of the Commencement Date.

## **4. Release**

No person shall be liable for any breach of an obligation, restriction or covenant contained in this Deed after parting with all of its interest in the Property, except in respect of any breach subsisting prior to parting with such interest.

## **5. Determination of Deed**

- 5.1 This Deed shall be determined and have no further effect if the Planning Permission:
  - 5.1.1 expires before the Commencement of Development;

- 5.1.2 is varied or revoked other than at the request of the Owner; or
- 5.1.3 is quashed following a successful legal challenge.

**6. Local Land Charge**

This Deed is a local land charge and shall be registered as such by the Council.

**7. Ownership**

- 7.1 The Owner warrants that no person other than the Owner has any legal or equitable interest in the Property.
- 7.2 Until the obligations in clause 3 have been complied with the Owner will give to the Council within 10 Working Days, the following details of any conveyance, transfer, lease, assignment, mortgage or other disposition entered into in respect of all or any part of the Property:
  - 7.2.1 the name and address of the person to whom the disposition was made; and
  - 7.2.2 the nature and extent of the interest disposed of.

**8. Notices**

- 8.1 A notice or other communication to be given under or in connection with this Deed must be in writing and must be:
  - 8.1.1 delivered by hand; or
  - 8.1.2 sent by pre-paid first class post or other next working day delivery service.
- 8.2 Any notice or other communication to be given under this Deed must be sent to the relevant party as follows:
  - 8.2.1 to the Council at: Gibson House, Gibson Drive, Kings Hill ME19 4LZ marked for the attention of Kevin Toogood;
  - 8.2.2 to the Owner at: c/o PDT Solicitors, Premier House, 36-48 Queen Street, Horsham, West Sussex RH13 5AD marked for the attention of Craig Burton;or as otherwise specified by the relevant person by notice in writing to each other person.
- 8.3 Any notice or other communication given in accordance with clause 8.1 and clause 8.2 will be deemed to have been received:
  - 8.3.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the address 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;

8.3.2 if sent by pre-paid first class post or other next working day delivery service at 9.00 am on the second Working Day after posting.

8.4 A notice or other communication given under this Deed shall not be validly given if sent by e-mail.

8.5 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

**9. 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.

**10. 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.

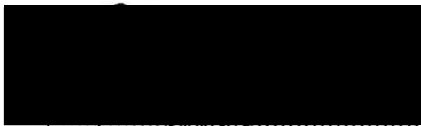
This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

EXECUTED as a DEED by  
**PRIME SECURITIES LIMITED**

acting by a director in the presence of;



Director



Witness Signature

*Ruipe Micheline*

Witness Name

*Secrétaire à : Physiothérapie de la Vallée  
Rte de Champigny 30  
1873 Val-d'Jilliez*

Witness Address

- 1. CONTRACTOR IS RESPONSIBLE FOR ALL SETTING OUT WORK AND TO OBTAIN PERMISSIONS FOR THE SITE.
- 2. ALL DIMENSIONS MUST BE TAKEN FROM THE POINTS SHOWN ON THIS PLAN AND NOT FROM THE BOUNDARIES OF ADJACENT PLOTS OR BUILDINGS.



TENDER DOCUMENT

**RD|W**  
ARCHITECTS

RD|W ARCHITECTS LIMITED  
OTTER HOUSE - 111 EAST PARK  
FELTHAM ROAD - FELTHAM  
MIDDLESEX - M5 2JF  
TEL: 0181 873 2222  
WWW.RD|WARCHITECTS.CO.UK

PROPOSED ALTERNATIVE LAYOUT  
PHASE 3a and 3b  
INDUSTRIAL ESTATE  
THIS BUA

SITE LOCATION PLAN

DATE: 20.04.16	SCALE: 1:1250 @ A1
DRAWN: JAC	NO: 100
REVISION:	4863-001

