

**Planning Obligation Agreement  
under Article 25 of the Planning and  
Building (Jersey) Law 2002  
relating to the development of:**

**15-16 THE PARADE ST HELIER**

Dated :

26<sup>th</sup> October

2012

The Minister for Planning and Environment (1)

16 The Parade Limited (2)

DATE

26<sup>th</sup> October

2012

#### PARTIES

- (1) The Minister for Planning and Environment ("the Minister") of States Offices, South Hill, St. Helier, Jersey, JE2 4US
- (2) 16 The Parade Limited ("the First Owner") 1<sup>st</sup> Floor, 9 – 10 Colomberie Court, St Helier, Jersey, JE2 4QB

#### RECITALS

- 1 The Minister is the Minister of the States charged with the administration of the Law and by whom the obligations in this Agreement are enforceable in accordance with the provisions of the Law
- 2 The First Owner warrants that it is the owner in perpetuity (à fin d'héritage) as to the Site being the property to which it has right as follows:-  
  
The properties known as (1) 16 The Parade which the First Owner acquired by contract dated 1 April 2005 from C Le Masurier Limited; (2) 15 The Parade acquired by the First Owner by contract dated 6 May 2005 from Ponte Vecchio Limited; and (3) part of the party wall formerly part of the property being 14 The Parade acquired by the First Owner by contract dated 27 April 2007 from J F Vautier Limited.
- 3 The First Owner has submitted the Detailed Application to the Minister in respect of the Site
- 4 The Application involves the loss of 330m<sup>2</sup> of residential floor space from the Site
- 5 The Minister is minded to and considers that he would be justified to approve the Detailed Application subject to the prior re-provision of not less than 330m<sup>2</sup> of residential floor space on an alternative site
- 6 The Minister considers it expedient in the interests of the proper planning of Jersey and having regard to the Island Plan 2002 the purposes of the Law and all other material considerations that provisions should be made in this Agreement for regulating or facilitating the development or use of the Site in the manner set out in this Agreement.
- 7 The parties acknowledge that this agreement is legally binding and have agreed to enter in to this agreement for the purposes of securing the planning obligations set out herein

NOW THIS AGREEMENT WITNESSES AS FOLLOWS:

## OPERATIVE PART

### 1 DEFINITIONS

For the purposes of this Agreement the following expressions shall have the following meanings:

“Commencement of Development”	the date on which any use or operation forming part of the Development begins to be carried out other than (for the purposes of this Agreement and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and the words “Commence” and “Commenced” shall be construed accordingly.
“Detailed Application”	the application for planning permission submitted to the Planning Minister and allocated reference number RP/2010/0174 (being a revised plans application in respect of permit P/2006/0584) and with the description “ <i>Demolish existing buildings and construct new 3 1/2 storey medical practice with ground floor retail dispense pharmacy. AMENDED PLANS; change of use to office REVISED PLANS: Construct various extensions and external alterations</i> ”;
“Development”	the development of the Site authorised by the Planning Permission
“Dwelling Unit”	a residential dwelling (including a house flat apartment or maisonette)
“GST”	means the goods and services tax under the Goods and Services Tax (Jersey) Law 2007
“Law”	the Planning and Building (Jersey) Law 2002

“New Residential Floorspace”	<p>the context of New Residential Floorspace requires as follows:</p> <p>“New” shall mean the subject of a planning permit that was not in the contemplation of the Minister at the date of permit P/2006/0584</p> <p>“Residential Floorspace” shall mean the total net internal floor area when taken together of the habitable rooms and non-habitable rooms of a Dwelling Unit but where there is more than one Dwelling Unit excluding any common parts</p>
“Occupation” and “Occupied”	<p>in respect of the Development “Occupation” and “Occupied” means occupation for the use and purposes permitted by the planning permit for the Development but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations.</p> <p>in respect of the Offsite Residential Works “Occupation” and “Occupied” means occupation for the purposes permitted by the planning permit for the Offsite Residential Works but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations.</p>
“Plan”	the Plan attached to this Agreement as the First Schedule..
“Planning Permission”	the planning permission for the development defined by and in the Detailed Application and given the number RP/2010/0174..
“Offsite Residential Works”	all works for the making and creation of not less than 330 square metres of New Residential Floorspace on such land with the benefit of such Planning Permit against which this Agreement may be enforced which the Minister may reasonably approve and

which shall be identified by reference to an addendum to or modification of this Agreement before the Commencement of the Development.

“Site”

the land against which this Agreement may be enforced as shown edged with a thick black line on the Plan.

## **2 CONSTRUCTION OF THIS AGREEMENT**

- 2.1 Where in this Agreement reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Agreement.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.
- 2.5 Any reference to a law of the States of Jersey shall include any modification, extension or re-enactment of that law for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Law or deriving validity from it.
- 2.6 References to any party to this Agreement shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Minister the successors to his statutory functions.
- 2.7 This Agreement shall be construed so as to give effect to the purpose of the Law

## **3 LEGAL BASIS**

- 3.1 This Agreement is made pursuant to Article 25 of the Law.

- 3.2 The covenants, restrictions and requirements imposed upon the Owner under this Agreement create planning obligations pursuant to Article 25 of the Law and are enforceable by the Minister against the Owner.

#### **4 CONDITIONALITY**

- 4.1 This Agreement is conditional upon being registered in the Royal Court as evidenced by an Act of the said Court save for the provisions of Clauses 7.1 and 11 (legal costs clause and jurisdiction clause) which shall come into effect immediately upon completion of this Agreement
- 4.2 The obligations in this Agreement are conditional on the issue of Planning Permission by the Minister.

#### **5 THE OWNER'S COVENANTS**

The Owner covenants and agrees with the Minister as set out in the Second Schedule to the intent that this Agreement shall be enforceable without limit of time against the Owner and any person claiming or deriving title through or under the Owner to the Site or any part or parts thereof.

#### **6 PUBLIC REGISTRY OF CONTRACTS**

- 6.1 The Minister shall as soon as practicable following the completion of this Agreement apply to the Royal Court for an order that this Agreement be registered in the Public Registry of Contracts.
- 6.2 The Minister agrees if so requested by any of the Owner upon the full discharge by the Owner of an obligation under this Agreement formally to acknowledge such discharge and to register in the Public Registry of Contracts evidence of such full discharge the whole without prejudice to all and any continuing obligations of the Owner at that time still undischarged.

#### **7 MISCELLANEOUS**

- 7.1 The Owner shall pay to the Minister on completion of this Agreement the reasonable legal costs of the Minister incurred in the negotiation, preparation and completion of this Agreement.

- 7.2 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Minister under the terms of this Agreement such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction may be given on behalf of the Minister by the Director of Planning and notice or communication to the Minister pursuant to the provisions of this Agreement shall be addressed to the Director at Planning and Building Services South Hill St Helier Jersey JE2 4US or as otherwise notified for the purpose by notice in writing
- 7.3 Any notices on any of the parties as the case may be shall be deemed to have been properly served if sent by recorded delivery to and addressed to it at the address set out above or as otherwise notified for the purpose by notice in writing and that service on one party at that address shall also be deemed to be service on the other.
- 7.4 Insofar as any clause or clauses of this Agreement are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement.
- 7.5 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if prior to the Commencement of Development the Planning Permit shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner).
- 7.6 No person shall be liable for any breach of any of the planning obligations or other provisions of this Agreement after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 7.7 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permit) granted after the date of this Agreement.
- 7.8 Except in so far as legally permitted by *équité* this Agreement shall not prejudice or fetter or affect any statutory power discretion or duty of the Minister and without prejudice to the generality of the foregoing it is agreed between the parties hereto that any benefit or power conferred on the Minister by any of the obligations or covenants by the Owner in favour of the Minister under this Agreement are in addition to any of the Ministers' statutory powers under the Law
- 7.9 Nothing in this Agreement shall be construed or interpreted in such a way or inference to be drawn so as to place or create a duty of care upon the Minister as a result of the Minister agreeing to accept the covenants

agreements and undertakings on the part of the Owner as contained herein

7.10 All communications and notices served or made under this Agreement shall be in writing

**8 WAIVER**

No waiver (whether expressed or implied) by the Minister of any breach or default in performing or observing any of the covenants terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Minister from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

**9 CHANGE IN OWNERSHIP**

The Owner agrees with the Minister to give the Minister immediate written notice of any change in ownership of any of their respective interests in the Site occurring before all the obligations under this Agreement have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan.

**10 GST**

All consideration given in accordance with the terms of this Agreement shall be exclusive of any GST properly payable

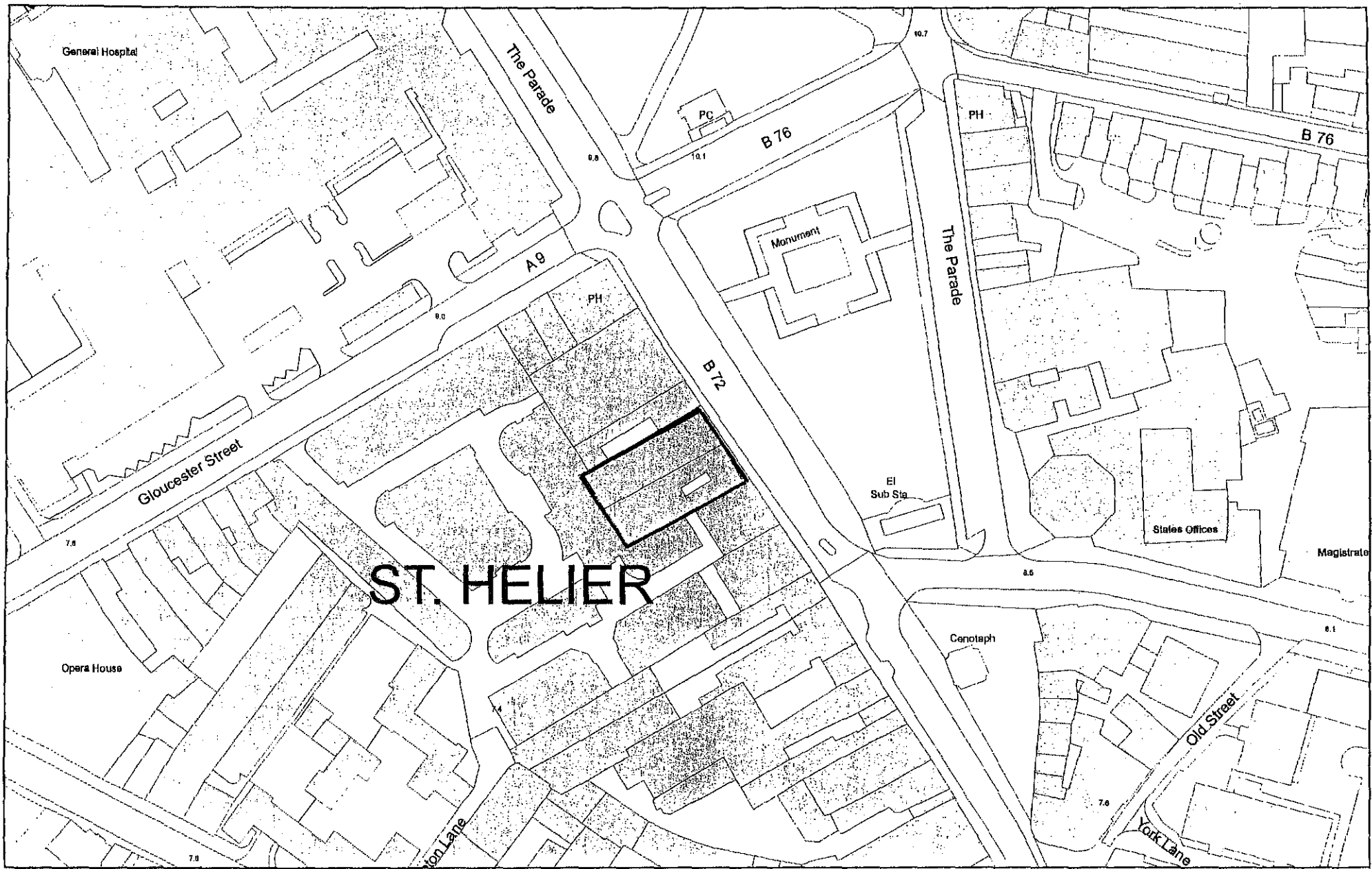
**11 JURISDICTION**

This Agreement is governed by and interpreted in accordance with the law of the Island of Jersey.



FIRST SCHEDULE

The Plan



THE PLAN

# ST. HELIER

15 & 16 The Parade  
St Helier

Licence No 21



© States of Jersey 2012

## SECOND SCHEDULE

### **The Owners Covenants with the Minister**

The Owner covenants and agrees and undertakes:

- 1 Not to occupy the Development unless and until the Offsite Residential Works have been carried out completed and are ready for Occupation to the satisfaction of the Minister and prior written notification of such completion has been received by the Minister
- 2 To take all steps that are necessary in order to carry out or cause to be carried out all things that are necessary to secure or procure the provision and completion of the Offsite Residential Works not later than two years from the Commencement of the Development

Signed on behalf of [redacted] Limited

By ..... [redacted] ..... DIRECTOR

In the presence of ..... [redacted]

This 25<sup>th</sup> day of October 2012

Signed on behalf of the Planning Minister

by [redacted] ..... PETER LE GREGLY  
DIRECTOR

in the presence of ... [redacted] ..... KELLY WHITEHEAD  
SENIOR PLANNER

this 26<sup>th</sup> day of October, 2012