

In the Royal Court of Jersey

Samedi Division

In the year two thousand and twenty-three, the fifth day of July.

Before the Judicial Greffier.

Upon the application of Her Majesty's Attorney General, IT IS ORDERED that the Planning Obligation Agreement between The Chief Officer for the Environment, Hawk Investment Properties West Limited and The Royal Bank of Scotland International Limited trading as Natwest International in relation to 20 and 22 Halkett Place, St Helier, Jersey, JE2 4WG, be registered in the Public Registry of this Island.



Greffier Substitute

LOD

Reg. Pub.



Lenstone Law

Lenstone Law

Lenstone Law

PLANNING OBLIGATION AGREEMENT

Between

THE CHIEF OFFICER FOR THE ENVIRONMENT

and

HAWK INVESTMENT PROPERTIES WEST LIMITED

and

**THE ROYAL BANK OF SCOTLAND INTERNATIONAL LIMITED trading as
NatWest International**

in 20 and 22 Halkett Place, St Helier, Jersey, JE2 4WG



DATE: 3 July 2023

PARTIES

- (1) **The Chief Officer for the Environment** of PO Box 228, St Helier, Jersey JE4 9SS (the "**Chief Officer**");
- (2) **HAWK INVESTMENT PROPERTIES WEST LIMITED**, a private limited par value company incorporated in Jersey with registration number 123262 under the Companies (Jersey) Law 1991, whose registered office is at Hawk House, Park Estate, La Route des Genets, St Brelade, Jersey, JE3 8EQ (the "**Owner**"); and
- (3) **THE ROYAL BANK OF SCOTLAND INTERNATIONAL LIMITED** trading as NatWest International (Company Registration Number 2304) of, Royal Bank House 71 Bath Street St Helier Jersey JE2 4SU (the "**Lender**")

RECITALS

- 1 The Owner warrants that it owns the Site by virtue of a purchase by contract dated 22 December 2017 from La Haute Securities Limited (now liquidated).
- 2 The Lender has an interest in the Site by virtue of a judicial hypothec (*hypothèque judiciaire*) dated 22 December 2017.
- 3 The Owner submitted (accorded the reference P/2020/1327) for planning permission for the Development.
- 4 Having regard to the purposes of the Law, the Island Plan 2022 and all other material considerations the planning permission is to be granted for the Development subject to the prior completion of this Agreement.
- 5 The parties hereto have agreed to enter into this Agreement in order to secure the planning obligations contained herein.
- 6 The parties acknowledge that this Agreement is legally binding.
- 7 This Agreement shall be construed so as to give effect to the purpose and intention of the Law.

NOW THIS AGREEMENT WITNESSES AS FOLLOWS:

OPERATIVE PART

1 DEFINITIONS



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

"Agreement"	this agreement including the recitals and schedules hereto;
"Application"	the application for planning permission in respect of the Site and described as <i>"Change of use of first and second floors from Class C -offices to create 4. No 1 bed residential units. Various alterations to South elevation"</i> and given the reference: P/2020/1327;
"Chief Officer"	the person appointed from time to time as chief executive officer (or equivalent) of the administration of the States responsible for planning and building in accordance with Article 1 of the Law;
"Commencement"	the date on which any operation forming part of the Development permitted by the Planning Permit or any subsequent planning permission for the Development begins to be carried out and "Commence" and "Commenced" shall be construed accordingly;
"Contribution"	the sum of five thousand pounds Sterling (£5,000.00) to be paid by the Owner to the Treasurer of the States to be applied by the Minister for Infrastructure to provide public cycle parking in this area;
"Development"	the development of the Site as set out in the Application;
"GST"	goods and services tax under the Goods and Services Tax (Jersey) Law 2007;
"Index"	the all Items Index of Retail Prices for Jersey as issued from time to time by the Statistics Unit to the States of Jersey;



"Interest"	interest at three per cent per annum above the base lending rate of the HSBC Bank Plc from time to time;
"Island Plan 2022"	the States of Jersey Island Plan, 2022 (as amended from time to time);
"Law"	the Planning and Building (Jersey) Law 2002;
"Plan"	the plan of the Site attached at the First Schedule to this Agreement;
"Planning Permit"	the planning permission for the Development granted by the Chief Officer pursuant to the Application, a copy of which is attached at the Second Schedule and references to the Planning Permit include where the context permits any variations to the said planning permission from time to time;
"Royal Court"	the Royal Court of the Island of Jersey; and
"Site"	20 and 22 Halkett Place, St Helier, Jersey, JE2 4WG, as shown for the purpose of identification edged red 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 interchangeably 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 such 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 Chief Officer or the Minister (as the case may be) or 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 Chief Officer against the Owner.

4 CONDITIONALITY

This Agreement shall come into effect immediately upon the date on which this Agreement has been recorded as registered in the Royal Court as evidenced by an Act of the said Court.

5 OWNERS COVENANTS

The Owner covenants and agrees with the Chief Officer as set out in the Third Schedule so 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 CHIEF OFFICER'S COVENANTS

The Chief Officer covenants and agrees with the Owner as set out in the Fourth Schedule so that this Agreement shall be enforceable without limit of time against the Chief Officer.

7 PUBLIC REGISTRY OF CONTRACTS

The Chief Officer shall as soon as practicable apply to the Royal Court for an order that this Agreement be registered in the Public Registry of Contracts.

8 MISCELLANEOUS



- 8.1 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Chief Officer 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 Chief Officer by the Director - Development Control of Planning and notice or communication to the Chief Officer pursuant to the provisions of this Agreement shall be addressed to the Director - Development Control at Planning and Building Services, La Motte Street, St Helier, Jersey or as otherwise notified for the purpose by notice in writing.
- 8.2 Any notices on the Owner shall be deemed to have been properly served if sent by ordinary post to and addressed to such party at the address referred to above or as otherwise notified for the purpose by notice in writing.
- 8.3 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.
- 8.4 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permit shall be quashed, cancelled, revoked, or otherwise withdrawn or (without the consent of the Owner) it is modified (other than by process under Article 10 of the Law) by any statutory procedure or expires prior to the Commencement of Development.
- 8.5 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.
- 8.6 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 (whether or not on appeal) after the date of this Agreement.
- 8.7 Except in so far as legally or equitably permitted this Agreement shall not prejudice or fetter or affect any statutory power discretion or duty of the Chief Officer and without prejudice to the generality of the foregoing it is agreed between the parties hereto that any benefit or power conferred on the Chief Officer by any of the obligations or covenants by the Owner in favour of the Chief Officer under this Agreement are in addition to any of the Chief Officer's statutory powers under the Law.
- 8.8 Nothing contained herein shall be construed as obviating the need for the Owner to obtain or acquire from any third party with respect to the Development or its use any consents permits authorisations rights interests in land servitudes.
- 8.9 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 Chief Officer



as a result of the Chief Officer agreeing to accept the covenants agreements and undertakings on the part of the Owner as contained herein.

8.10 The Owner shall not be entitled to any costs or compensation as a result of the making of this Agreement and the obligations contained herein.

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

9 WAIVER

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

10 CHANGE IN OWNERSHIP

The Owner agrees with the Chief Officer to give the Chief Officer written notice (as soon as reasonably practical following such change) in ownership of its interest in the Site occurring before all the obligations under this Agreement have been discharged.

11 DISPUTE RESOLUTION

In the event that any dispute shall arise in respect of any provision of this Agreement it shall be referred if not resolved within seven working days to the arbitration of an independent arbitrator under the provisions of the Arbitration (Jersey) Law 1998 such arbitrator to be named by the agreement of the parties to the dispute or in default of agreement by the President for the time being of the Royal Institution of Arbitrators upon the application of any party to the dispute.

12 GOODS AND SERVICES TAX

12.1 All cause given in accordance with the terms of this Agreement shall be exclusive of any GST properly payable in respect thereof.

12.2 If at any time GST is or becomes chargeable in respect of any supply made in accordance with the terms of this Agreement, then to the extent that GST has not previously been charged in respect of that supply the person making the supply shall have the right to issue a GST invoice to the person to whom the supply was made and the GST shall be paid accordingly.

13 CONSENT OF THE LENDER

13.1 The Lender acknowledges and declares that this Agreement has been entered into by the Owner with its consent and that the Site shall be bound by the obligations contained in this Agreement and that the security of the Lender over the Site shall



take effect subject to this Agreement **PROVIDED THAT** the Lender shall otherwise have no liability under this Agreement unless it takes possession of the Site in which case it too will be bound by the obligations as a person deriving title from the Owner.

14 INDEXATION

Any sum referred to in the Third Schedule shall be increased by an amount equivalent to the increase in the Index from the date on which this Agreement is registered in the Public Registry of Contracts until the date on which such sum is payable.

15 INTEREST

If any payment due under this Agreement is paid late, Interest will be payable from the date payment is due to the date of payment.

16 JURISDICTION

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



FIRST SCHEDULE

The Plan



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Revision Description	Date	Checked

Socrates Architects

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Client Name

Job Title
 Site Location Plan

Location
 20 Halkett Place

Scale
 1:2500 @A4

Drawn By
 XXXXXX(SK) 032 - FFF

Checked By



SECOND SCHEDULE

The Planning Permit



THRID SCHEDULE

The Owner's Covenants with the Chief Officer

The Owner covenants, agrees and undertakes:

COMMENCEMENT

- 1 Not to Commence the Development until the Owner have given to Chief Officer fourteen (14) days' notice in writing of its intention so to do.

CONTRIBUTION

- 2 To pay the Contribution to the Treasurer of the States prior to the Commencement.
- 3 Not to Commence the Development until the Owner has paid the Contribution to the Treasurer of the States.



FOURTH SCHEDULE

Chief Officer's Covenants

- 1 The Chief Officer hereby covenants with the Owner to use the Contribution received by the Treasurer of the States from the Owner under the terms of this Agreement for the Purposes specified in this Agreement for which it is to be paid.
- 2 The Chief Officer covenants with the Owner that he will procure or arrange that the Treasurer of the States will pay to the Owner such amount of any payment made by the Owner to the Treasurer of the States under this Agreement which has not been expended in accordance with the provisions of this Agreement within three years of the date of receipt by the Treasurer of the States of such payment.



Signed by or on behalf of the Chief Officer for the Environment

by [redacted] KAY WHITEHEAD

in the presence of:

Position SEND-PLANNER

Signature [redacted]

Name Soratha Gindwin

this 3 day of July 2023

Signed on behalf of HAWK INVESTMENT PROPERTIES WEST LIMITED

by [redacted] ROBERT WALTER MORTON
DULY AUTHORIZED DIRECTOR.

in the presence of:

Position ADVOCATE

Signature [redacted]

Name MARIAM KAMAL STONE


this 5th day of June 2023

Executed as a deed by The Royal Bank of Scotland International Limited, a Company incorporated in Jersey, acting by Timothy Brian Slatter who, in accordance with the laws of Jersey, is acting under the authority of the company.



Signature in the name of the company, The Royal Bank of Scotland International Limited

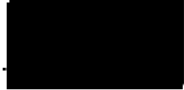
Signed on behalf of The Royal Bank of Scotland International Limited Trading as NatWest International

by  authorised signatory

Name: Timothy Brian Slatter

in the presence of: Job Title: Head of Portfolio Management
Offshore Real Estate Finance

Position: Assistant Relationship Director

Signature: 

Name: Helen Lagadu

this 14th day of June 2023