

DATED

12 October

2016

WREXHAM COUNTY BOROUGH COUNCIL (1)

and

STEPHEN ARTHUR JENNINGS (2)

and

PRIMESAVE PROPERTIES LIMITED (3)

SUPPLEMENTAL AGREEMENT

Pursuant to Section 106 of the Town and Country Planning Act 1990
in respect of land off and east of Ellesmere Lane, Penley, Wrexham

Trevor Coxon
Head of Corporate and Customer Services
Guildhall
Wrexham
LL11 1AY

(Ref: NR/ZS/021593)

THIS AGREEMENT is made on the 12 day of October 2016

BETWEEN:-

- (1) **WREXHAM COUNTY BOROUGH COUNCIL** of Guildhall, Wrexham, LL11 1AY ("the Council")
- (2) **STEPHEN ARTHUR JENNINGS** of Charleston House, Ness Strange, Great Ness, Shrewsbury SY4 2LF ("the Owner")
- (3) **PRIMESAVE PROPERTIES LIMITED** (registered company number 06741983) whose registered office is at London House, Town Walls, Shrewsbury, Shropshire, SY1 1TX ("the Developer")

RECITALS

- (A) This Supplemental Agreement is made under Section 106 of the Town and Country Planning Act 1990 and is supplemental to the Main S106 Agreement.
- (B) The Owner acquired the Property on 13 July 2016.
- (C) The Owner is the owner of the Site which is registered at the Land Registry under Title Number CYM686363.
- (D) The Main s106 Agreement regulates development carried out or to be carried out under the Existing Permission (as hereinafter defined).
- (E) The Owner wishes to amend the Main S106 Agreement.
- (F) The Council is minded to approve the amendment to the Main S106 Agreement and has agreed to vary the terms of the Main S106 Agreement in relation to splitting the Educational Contribution payment.
- (F) The Council is the Local Planning Authority for the purposes of Section 106 of the Act in respect of the Land.

NOW THIS DEED WITNESSES AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

1.1.1 In this Supplemental Agreement expressions shall where the context admits have the same meaning as expressed in the Main s106 Agreement and in the event of conflict the provisions of this Supplemental Agreement shall prevail.

1.1.2 In this Supplemental Agreement unless the contrary intention appears the following terms shall have the following meanings:

“Existing Permission”	means the planning permission granted by the Council under code number P/2015/0405
“Main S106 Agreement”	means the Agreement dated 8 th April 2016 made between the Council, the Owner and the Developer
“Supplemental Agreement”	means this agreement

1.2 Interpretation

- 1.2.1 A reference in this Supplemental Agreement to an Act of Parliament or to any order regulation statutory instrument or the like shall include a reference to any amendment or re-enactment of the same.
- 1.2.2 Words importing the masculine gender include the feminine gender and vice versa. Words in the singular include the plural and vice versa and words importing individuals shall be treated as importing corporations and vice versa.
- 1.2.3 Any heading or side notes are for ease of reference only and shall not affect the construction of this Supplemental Agreement.
- 1.2.4 Wherever an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually unless there is an express provision otherwise.
- 1.2.5 References to any Party shall include the successors in title to that Party and any person deriving title through or under that Party and in the case of the Council the successors in title to their statutory functions.

2. FORMAL REQUIREMENTS

- 2.1 The Council enters into this Supplemental Agreement in pursuance of its powers under Section 106 of the 1990 Act Section 2 of the Local Government Act 2000 and Section 111 of the Local Government Act 1972 and all other enabling powers in that regard
- 2.2 The obligations imposed by this Supplemental Agreement relate to the Site and are binding on the Owner and its successors in title pursuant to Section 106 of the 1990 Act
- 2.3 The obligations contained in this Supplemental Agreement are planning obligations for the purposes of Section 106 of the 1990 Act and are enforceable as such by the Council as local planning authority

- 2.4 This Supplemental Agreement is a Local Land Charge for the purposes of the Local Land Charges Act 1975 and will be registered as such by the Council

3 OPERATIVE PROVISIONS

3.1 Variation

The parties agree that the Main s106 Agreement shall as from the date of this Supplemental Agreement be read and construed and take effect subject to the following amendments:

- 3.1.1 Removing the Second Schedule and replacing with the following:-

SECOND SCHEDULE Owner's Covenants – Education Contribution

- 3.1.1.1 On the disposal or occupation, whichever is earliest, of the first residential unit on the Site to pay twenty thousand four hundred and twenty four pounds being fifty (50%) of the Education Contribution to the Council and the monies paid shall be used by the Council to provide additional education facilities within the catchment area of Maelor, Penley Secondary School.
- 3.1.1.2 On the disposal or occupation, whichever is earliest, of the sixth residential unit on the Site to pay twenty thousand four hundred and twenty four pounds being fifty (50%) of the Education Contribution to the Council and the monies paid shall be used by the Council to provide additional education facilities within the catchment area of Maelor, Penley Secondary School.

4 CONTINUATION OF THE MAIN S106 AGREEMENT

The parties agree that from the date hereof the Main S106 Agreement shall continue in full force and effect amended by clause 3.1 of this Supplemental Agreement.

5 AGREEMENTS AND DECLARATIONS

- 5.1. Nothing contained or implied in this Supplemental Agreement shall prejudice or affect the discretions rights powers duties and/or obligations of the Council in the exercise of its functions as a local authority highway authority housing authority education authority and local planning authority and the discretions rights powers duties and/or obligations of the Council under all public and private statutes byelaws orders and regulations may be fully and effectually exercised in relation to the Land or any part thereof and any works executed thereon as if this Supplemental Agreement

had not been executed by the Council and in particular nothing in this Supplemental Agreement shall restrict the Council and/or any other local authority from exercising powers of compulsory purchase in respect of any part of the Land;

- 5.2 Unless the right of enforcement is expressly granted the parties to this Supplemental Agreement do not intend any of its terms to be enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to this Supplemental Agreement save for the avoidance of doubt it is declared that the exclusion of the application of the Contracts (Rights of Third Parties) Act 1999 shall not prevent any future successor in title to any of the parties to this Supplemental Agreement from being subject to or able to benefit from or to enforce any of the obligations benefiting such original party in this Supplemental Agreement including by any successor local planning authority to the Council exercising planning powers under the 1990 Act and the parties may rescind or vary this Supplemental Agreement without the consent of a third party to whom an express right to enforce any of its terms has been provided
- 5.3 If any of the terms obligations and/or covenants in this Supplemental Agreement or the application thereof to any party or circumstances shall to any extent be invalid or unenforceable the same shall be severable from the remainder of this Supplemental Agreement and the remainder of this Supplemental Agreement or the application of such terms obligations and/or covenants to parties or circumstances other than as to which such terms obligations and/or covenants is held invalid or unenforceable shall not be affected thereby and each of the other terms obligations and/or covenants of this Supplemental Agreement and the Planning Permission shall be valid and be enforceable to the full extent permitted by law
- 5.4 Each party to this Supplemental Agreement acknowledges that this Supplemental Agreement has not been entered into in reliance wholly or partly on any statement or representations made by or on behalf of the other party except any such statement or representation that is expressly set out in this Supplemental Agreement

6. PAYMENT OF COSTS

The Owner agrees to pay to the Council on the signing hereof the sum of £500.00 in respect of the Council's legal costs for the preparation and execution of this Supplemental Agreement

IN WITNESS whereof the Owner and the Council have executed this Supplemental Agreement as a **DEED** the day and year first before written

CERTIFICATE 1

**As Solicitors for the Owner (as defined in this Supplemental Agreement)
we hereby certify that Recital B and C within this deed is correct.**

Signed

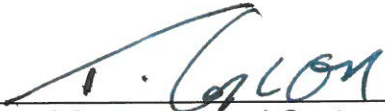
A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal stroke.

Excello Law
5 Chancery Lane
London WC2A 1LG

Dated 11 October 2016

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



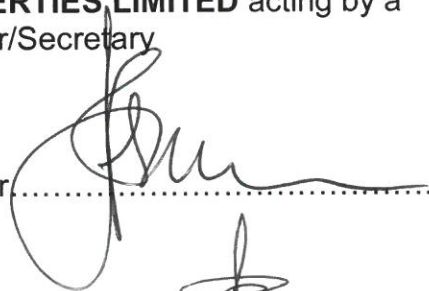

Head of Corporate and Customer Services

SIGNED AS A DEED by the said
STEPHEN ARTHUR JENNINGS
in the presence of:



Witness Signature 
Name D. T. PRICE
Address NEXUS BUILDING
ROUSHILL SHREWSBURY
Occupation SURVEYOR

SIGNED as a DEED by **PRIMESAVE
PROPERTIES LIMITED** acting by a
Director/Secretary

Director 

Director/Secretary 