



RiverOak Strategic Partners

Applicant's Unilateral Undertaking to Kent County Council (tracked)

TR020002/D/KCC/T

Decision Stage Document

Project Name:

Manston Airport Development Consent Order

Application Ref:

TR020002

Date:

31 January 2020

RIVEROAK MSE LIMITED

and

RIVEROAK FUELS LIMITED

to

KENT COUNTY COUNCIL

PLANNING OBLIGATION BY DEED OF UNILATERAL UNDERTAKING

under section 106 and 106A of the Town and Country Planning Act 1990 (as amended) and section 111 of the Local Government Act 1972 and section 1 of the Localism Act 2011 relating to land at Manston Airport, Manston Rd, Ramsgate, Kent, CT12 5BQ

DATE

20192020

PARTIES

- (1) **RIVEROAK MSE LIMITED** (Company Registration Number 11720590) whose registered office is situated at Calder & Co, 16 Charles II Street, London, SW1Y 4NW and **RIVEROAK FUELS LIMITED** (Company Registration Number 11535715) whose registered office is situated at Calder & Co, 16 Charles II Street, London, SW1Y 4NW (together ("RiverOak"))
- in favour of
- (2) **KENT COUNTY COUNCIL** of County Council Hall, Maidstone, Kent, ME14 1QX ("the County Council")

INTRODUCTION

1. The County Council is the local highways authority for the purposes of the 1980 Act for the area in which the Site is situated. It is also a planning authority for the purposes of the 1990 Act and the education authority for the purposes of this Deed.
2. RiverOak ~~is the freeholder~~ MSE Limited is the freeholder owner of the Site which is registered at the Land Registry under title number K743314, K803975, K806190, K837264, K873633, K87364, K891199, including all right title and interest in the unregistered land (as shown on Plan 1 and Plan 2). RiverOak Fuels Limited is the freehold owner of the Jentex Site which is registered at the Land Registry under title number K315361.
3. RiverOak Strategic Partners Limited has submitted the Application to the Planning Inspectorate for development consent to construct and operate the Project. The Application was accepted for examination by the Planning Inspectorate on 14 August 2018. The Secretary of State is responsible for determining the Application.
4. The County Council is satisfied that the obligations in this Deed are compliant with Regulation 122 of the Regulations and they meet the following tests:-
 - 4.1 They are necessary to make the development of the Project acceptable in planning terms; and
 - 4.2 They are directly related to the development of the Project; and
 - 4.3 They are fairly and reasonably related in scale and kind to the development of the Project.
5. RiverOak has agreed that the development of the Project shall be carried out only in accordance with the Development Consent Order and the rights and obligations set out in this Deed.

6. ~~The parties have agreed that following the making of the DCO they will enter into the Confirmatory Deed with the intention that, subject to certain conditions, it is enforceable by the County Council on RiverOak and on the Remaining Site and any successors in title to the Remaining Site.~~

6. RiverOak Fuels Limited are a signatory to this Deed only for the purpose of confirming clause 4.

NOW THIS DEED WITNESSES AS FOLLOWS

OPERATIVE PART

1. DEFINITIONS

In this Deed unless the context otherwise requires the following terms and expressions (arranged in alphabetical order) shall have the following meanings:

Word or Phrase	Meaning
"1980 Act"	means the Highways Act 1980 (as amended);
"1990 Act"	means the Town and Country Planning Act 1990 (as amended);
"2008 Act"	means the Planning Act 2008 (as amended);
"Application"	means the application for a development consent order under s37 of the 2008 Act submitted by RiverOak Strategic Partners Limited (Company Registration Number 10269461) to the Planning Inspectorate on 17 July 2018 and given reference number TR020002;
"Charging Schedule"	means a charging schedule as detailed in Regulation 2(1) of the CIL Regulations;
"CIL"	means the charge created pursuant to Part 11 of the 2008 Act and Regulation 3 of the CIL Regulations and referred to as the Community Infrastructure Levy in those enactments;
"CIL Regulations"	means the Community Infrastructure Levy Regulations 2010 (as amended);
"Commencement"	means the carrying out of a "material operation" (as defined in section 155 of the 2008 Act) comprised in or carried out for the authorised development (as defined in Schedule 1 of the Development Consent

Word or Phrase	Meaning
	Order) other than operations consisting of environmental surveys and monitoring, investigations for the purposes of assessing ground conditions, diversion and laying of services, receipt and erection of construction plan and equipment, erection of any temporary means of enclosure, the temporary display of site notices or advertisements or installation of a site compound or any other temporary building or structure to the extent that it is unlikely to give rise to any materially new or materially different environmental effects from those identified in the environmental statement (and in this Deed " Commence " and " Commenced " and cognate expressions shall be construed accordingly);
"Confirmatory Deed"	means a supplemental agreement substantially in the form at the Eight Schedule which is to be made under section 106 of the 1990 Act for the purpose of binding the Remaining Site with the development consent obligations set out in this Deed;
"Commencement Date"	means the date a material operation under section 155 of the 2008 Act has been carried out pursuant to the Development Consent Order;
"Contributions"	means the financial contributions payable to the County Council under the terms of this Deed and "Contribution" shall be construed accordingly;
"Decision Letter"	means the decision letter issued by the Secretary of State confirming whether or not the DCO is granted;
"Development Consent Order" or "DCO"	means the development consent order in a form as may ultimately be made by the Secretary of State if he is minded to issue development consent pursuant to the Application;
"Dispute"	means any dispute, issue, difference or claim as between the parties in respect of any matter contained in or arising from or relating to this Deed (except in respect of the quantum of the Contributions) or the parties' obligations and rights pursuant to it (other than in respect of any matter of law);

Word or Phrase	Meaning
"Expert"	means an independent person appointed in accordance with the provisions of clause 10 to determine a Dispute between the parties to this Deed;
"Index"	means the General Building Costs Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or successor organisation or in the event that such index shall no longer be published or that the basis thereof shall be materially altered then the Index shall be such index as the Council shall reasonably specify.;
"Index Linked"	means the indexation payable by reference to the Index calculated in accordance with clause 12 of this Deed;
"Infrastructure"	has the meaning ascribed in section 216(2) of the 2008 Act as amended by Regulation 63 of the CIL Regulations;
"Interest Rate"	means interest at 4% per annum above the Bank of England's base rate applicable from the date the relevant Contribution or Contributions are due under this Deed until the date of payment;
"Jentex Site"	means the land and building on <u>the</u> north side of Canterbury Road West, Manston, Ramsgate which forms part of the Site and is identified as edged-red <u>shaded blue</u> on the Plan 2 <u>1</u> ;
"Manston Airport"	means Manston Airport situated at Manston Road, Ramsgate, Kent, CT12 5BQ;
"Operation"	means commencement of air transport movements at Manston Airport pursuant to the DCO;
"Plan 1"	means the plan of the Site attached to this Deed at Annex 1 and labelled "Plan 1";
"Plan 2"	mean <u>Means</u> the plan of the Jentex Site <u>unregistered land</u> attached to this Deed at Annex 2 and -labelled "Plan 2";

Word or Phrase	Meaning
"Practically Completed"	means the issue of a certificate of practical completion in relation to the Project or any part of a Project (as appropriate) by RiverOak's architect, engineer, project manager or other suitably qualified professional and "Practically Complete" shall be construed accordingly;
"Planning Inspectorate"	means the executive agency of the Ministry of Housing, Communities and Local Government;
"Project"	means the redevelopment of Manston Airport as defined in Schedule 1 of the Development Consent Order;
"Remaining Site"	means the Site excluding the Jentex Site;
"Requirement"	means a requirement of the Development Consent Order;
"Secretary of State"	means the Secretary of State for Transport;
"Site"	means the land identified in the Development Consent Order shown edged red on the Plan 1 <u>and including the land coloured pink on Plan 2</u> ; and
"Working Day(s)"	means any day apart from Saturday, Sunday and any statutory bank holiday on which clearing banks are open in England for the transaction of ordinary business.

2. CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed 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 Deed.
- 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 "Including" means including without limitation or prejudice to the generality of any preceding description defined term phrase or word(s) and "include" shall be construed accordingly.
- 2.5 Words denoting an obligation on a party to do any act or matter or thing include an obligation to procure that it is done and words placing a party under a restriction include an obligation not to cause permit or allow infringement of that restriction.
- 2.6 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act 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 Act or deriving validity from it and "statutory requirement" shall be construed accordingly.
- 2.7 Reference to any party to this Deed 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 County Council the successors to its statutory functions.
- 2.8 Clause headings in this Deed are for convenience only and shall not be taken into account in its construction and interpretation.
- 2.9 If any provision in this Deed is held to be invalid illegal or unenforceable such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 2.10 References to "notice" shall mean notice in writing.

3. **LEGAL BASIS**

- 3.1 This Deed is made pursuant to Section 106 ~~and 106A~~ of the 1990 Act Section 111 of the Local Government Act 1972 Section 1 of the Localism Act 2011 and all other enabling powers.
- 3.2 The covenants contained in the Schedules are development consent obligations (to the extent that they are capable of being so) for the purposes of Section 106 of the 1990 Act and are enforceable by the County Council as local planning authority.
- 3.3 To the extent that any obligations contained in this Deed are not development consent obligations for the purposes of Section 106 of the 1990 Act they are entered in pursuant to the powers contained in Section 111 of the Local Government Act 1972 Section 1 of the Localism Act 2011 and all other enabling powers.

~~4. AGREEMENT TO ENTER INTO THE CONFIRMATORY S106 AGREEMENT~~

- ~~4. Subject to Clause 5 (Conditionality) RiverOak and any other person with a legal interest in the Remaining Site shall enter into the Confirmatory Deed with the County Council before~~

Commencement for purposes of ensuring the Remaining Site is bound by the development consent obligations set out in this Deed: **DISCHARGE**

4.4 4.1 This Unilateral Undertaking supersedes the Unilateral Undertaking given by Riveroak Fuels limited to Kent County Council on 9 July 2019.

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5. **CONDITIONALITY**

5.1 Subject to clauses 4.1, the parties agree that none of the terms or provisions in this Deed shall have operative effect unless and until:

5.1.1 the Development Consent Order has been duly made; and

5.1.2 the Development Consent Order has Commenced.

with the exception of this Clause 5 insofar as it relates to obligations in the Schedules that must be complied with prior to Commencement, all of which shall have operative effect upon the making of the Development Consent Order and shall have operative effect from the date of this Deed.

5.2 Where the Development Consent Order becomes the subject of any judicial review proceedings:-

5.2.1 until such time as such proceedings including any appeal have been finally determined, the terms and provisions of this Deed will remain without operative effect unless the Project has been Commenced

5.2.2 if following the final determination of such proceedings the Development Consent Order is quashed and, in the event that the court orders the Application to be remitted to the Secretary of State, the Application is subsequently refused, this Deed will cease to have any further effect and any money paid to the County Council pursuant to the Schedules and not spent by the County Council (or such other person as the money has been paid to under this Deed) shall be repaid in full within 56 days of the final determination of such proceedings; and

5.2.3 if following the final determination of such proceedings the Development Consent Order is validly Commenced, then this Deed will take effect in accordance with its terms.

5.3 Wherever in this Deed reference is made to the final determination of judicial review proceedings (or cognate expressions are used), the following provisions will apply:-

5.3.1 proceedings by way of judicial review are finally determined:-

(a) when permission to bring a claim for judicial review has been refused and no further application may be made;

(b) when the court has given judgment in the matter and the time for making an appeal expires without an appeal having been made or permission to appeal is refused;

(c) when any appeal is finally determined and no further appeal may be made.

6. DEVELOPMENT CONSENT OBLIGATIONS

6.1 RiverOak covenants with the County Council to observe and perform:-

6.1.1 the development consent obligations and covenants contained in Schedules One to ~~Six~~Five; and

6.1.2 any other obligations which are not development consent obligations contained in the Schedules pursuant to section 111 of the Local Government Act 1972 and all other powers so enabling, in each case so far as they relate to the ~~Jentex~~ Site from time to time.

6.2 The parties agree that the development consent obligations contained in this Deed shall:

6.2.1 be enforceable against the ~~Jentex~~ Site and RiverOak's successors in title to the ~~Jentex~~ Site; and

6.2.2 not be enforceable against any other owner of any land interest in the ~~Remaining Site who is not a party to this Deed unless and until the Confirmatory Deed has been completed~~Site.

7. RELEASE

~~7.1 Subject to clause 6.2 RiverOak and its successors in title and those deriving title from them shall, upon disposing of the whole or any part of the Jentex Site, be released from all obligations in this Deed in relation to that interest or the relevant part thereof (as the case may be) but without prejudice to the rights of the parties in relation to any antecedent breach of those obligations.~~

~~7.27.1 Subject to clause 6.2 RiverOak and its successors in title and those deriving title from them shall, upon disposing of the whole or any part of the Remaining Site, be released from all obligations in this Deed in relation to that interest or the relevant part thereof (as the case may be) but without prejudice to the rights of the parties in relation to any antecedent breach of those obligations.~~

8. FURTHER PLANNING PERMISSIONS AND DEVELOPMENT CONSENT ORDERS

Nothing in this Deed shall be construed as prohibiting or limiting the rights of RiverOak to use or develop any part of the Site in accordance with and to the extent permitted by a certificate of lawful use, planning permission, development consent order or other statutory authority other than the Development Consent Order granted either before or after the date of this Deed.

9. **LAPSE**

It is agreed that this Deed shall lapse and be no further effect if:

9.1 the Development Consent Order expires or is revoked prior to the Commencement Date; or

9.2 The Development Consent Order is amended or repealed otherwise than with the consent of RiverOak

in which case this Deed shall forthwith determine and cease to have effect and the County Council shall use reasonable endeavours to cancel all entries made in its registers of local land charges in respect of this Deed.

10. **RESOLUTION OF DISPUTES**

10.1 In the event of any Dispute arising ~~between the parties then the parties~~ RiverOak will attempt to resolve that Dispute amicably including holding a meeting attended by at least one representative from each ~~party~~ RiverOak and the District Council.

10.2 If ~~RiverOak and the parties~~ District Council are unable to resolve the Dispute amicably pursuant to clause 10.1 within two months from the Dispute arising (or such other period as may be agreed between the parties to the dispute), ~~one party~~ RiverOak may by serving notice on ~~all the other parties~~ District Council (the "Notice") refer the Dispute to an Expert for determination.

10.3 The Notice must specify:-

10.3.1 the nature, basis and brief description of the Dispute;

10.3.2 the clause or paragraph of this Deed pursuant to which the Dispute has arisen; and

10.3.3 details of the proposed Expert.

10.4 In the event that ~~RiverOak and the parties~~ District Council are unable to agree whom should be appointed as the Expert within 10 Working Days after the date of the Notice then either party may request the President of the Law Society to nominate the Expert at their joint expense, and the parties shall request that such nomination shall be made within 10 Working Days of the request, and any failure for such nomination to be made within 10 Working Days shall entitle any party to withdraw from the process of appointing an Expert and to refer the Dispute to the courts of England and Wales instead.

10.5 The Expert shall act as an expert and not as an arbitrator and his decision will (in the absence of manifest error) be final and binding on the parties hereto and at whose cost shall be at his discretion or in the event that he makes no determination, such costs will be borne by the parties to the Dispute in equal shares.

10.6 The Expert will be appointed subject to an express requirement that he reaches his decision and communicates it to RiverOak and the parties~~District Council~~ within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than 20 Working Days from the date of his appointment to act.

10.7 The Expert will be required to give notice to each of RiverOak and the said parties~~District Council~~ inviting each of them to submit to him within 10 Working Days written submissions and supporting material and will afford to each of ~~the said parties~~them an opportunity to make counter submissions within a further 5 Working Days in respect of any such submission and material.

11. NOTICES

11.1 Any notice, consent or approval required to be given under this Deed shall be in writing and shall be sent to the address and marked for the attention of the persons identified below or instead to such other persons as may be substituted for them from time to time.

11.2 Any such notice must be delivered by hand or by pre-paid Special Delivery post and shall conclusively be deemed to have been received:-

11.2.1 if delivered by hand, on the next Working Day after the day of delivery; and

11.2.2 if sent by Special Delivery post and posted within the United Kingdom, on the day 2 Working Days after the date of posting.

11.3 The address for service of any such notice, consent or approval as aforesaid shall:-

11.3.1 in the case of service upon the County Council be at its address given above or such other address for service as shall have been previously notified in writing to the other parties and any such notice shall be marked for the attention of the Office of the General Counsel; and

11.3.2 in the case of service upon RiverOak be at its address given above or such other address for service as shall have been previously notified in writing to the other parties and any such notice shall be marked for the attention of Tony Freudmann.

12. INDEXATION

12.1 Subject to the terms of this Deed, any Contributions in this Deed shall be adjusted in the same proportion as the percentage increase in the General Building Cost Index between the monthly index figure of October 2016 and the monthly index figure for the month of the date of actual payment.

12.2 Where reference is made to any index in this Deed and that index ceases to exist or is replaced or rebased then it shall include reference to any index which replaces it or any rebased index (applied in a fair and reasonable manner to the periods before and after rebasing under this Deed) issued or caused to be issued from time to time by the Building Costs Information Service, Royal Institution of

Chartered Surveyors or other appropriate body and as may commonly be used in place of that index and as approved by the County Council or in the event that the index is not replaced to an alternative reasonably comparable basis or index as the County Council shall approve acting reasonably.

13. **INTEREST**

- 13.1 Where any obligation in this Deed is expressed to require RiverOak to pay any Contributions or Contribution, interest at the Interest Rate shall be payable (as applicable).

14. **LOCAL LAND CHARGES**

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

15. **NOTICE OF WORKS**

- 15.1 RiverOak shall notify the County Council:-

15.1.1 prior to the Commencement Date, of the anticipated date of Commencement of works pursuant to the Development Consent Order (which obligation shall apply again if Commencement Date does not occur on the notified date);

15.1.2 within seven days of the actual Commencement Date;

15.1.3 within two weeks of the day on which the Project is Practically Completed; and

15.1.4 within two weeks of each of the triggers in relation to the development consent obligations as set out in the Schedules to this Deed.

- 15.2 RiverOak shall give written notice to the County Council within five Working Days of RiverOak paying, providing or making available to any third party any Contributions pursuant to this Deed.

16. **COMMUNITY INFRASTRUCTURE LEVY**

The parties hereby acknowledge and agree that:-

- 16.1 this Deed has been negotiated and agreed on the assumption that liability to CIL does not arise in respect of any of the development authorised by the Development Consent Order because such development is situated in an area for which no charging schedule is in effect on the date of this Deed and no charging schedule is anticipated to be in effect in relation to such development on the day the Development Consent Order is made.

- 16.2 If in determining the DCO the Secretary of State expressly states in the Decision Letter that any one or more of the development consent obligations contained in this Deed:

16.2.1 is not a material development consent obligation; or

16.2.2 can be given no weight in determining the granting of the DCO; or

16.2.3 should be dealt with by a requirement imposed upon the DCO; or

16.2.4 does not constitute a reason for granting the DCO in accordance with Regulation 122 of the CIL Regulations; or

16.2.5 fails to satisfy the provisions of Regulation 123 of the CIL Regulations;

then subject to the provisions of clause 2.9 of this Deed such development consent obligation shall not be enforceable pursuant to this Deed and shall cease to have effect within this Deed save to the extent set out in the Decision Letter

16.3 In the event that in determining the DCO the Secretary of State grants the DCO then if at the date of the grant of the DCO a Charging Schedule has been approved by the District Council and has come into effect any contribution payable under the terms of this Deed which is for an Infrastructure project or type of Infrastructure set out in the Charging Schedule shall cease to be payable.

17. VAT

17.1 If this Deed or anything contained in it gives rise to a taxable supply for VAT purposes by the County Council to RiverOak then the County Council shall use reasonable endeavours to recover the VAT in the first instance.

17.2 If this Deed or anything contained in it gives rise to a taxable supply for VAT purposes by the County Council to RiverOak then, subject to the County Council complying with clause 17.1, RiverOak shall pay to County Council or third party an amount equal to the VAT chargeable in addition to and at the same time as any payment or the provision of any other consideration for such supply upon provision of a valid VAT invoice addressed to RiverOak.

18. APPROVALS

Where any approval, agreement, consent, confirmation or an expression of satisfaction is required under the terms of this Deed by RiverOak or the County Council such approval, agreement, consent, confirmation or expression of satisfaction shall be given in writing and shall not be unreasonably withheld or delayed.

19. COUNTY COUNCIL'S POWERS

Nothing in this Deed shall fetter the respective statutory rights, powers or duties of the County Council.

20. **GOOD FAITH**

The parties agree with each other to act reasonably and in good faith in the discharge of the obligations contained in this Deed.

21. **RIGHTS OF THIRD PARTIES**

It is not intended that any person who is not a party to this Deed shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

22. **JURISDICTION**

22.1 This Deed including its construction, validity, performance and enforcement 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 English law.

22.2 Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Deed or its subject matter or formation (including non-contractual disputes or claims).

23. **COUNTERPARTS**

~~This Deed may be executed in any number of counterparts, each of which is an original and all of which may together evidence the same agreement.~~

IN WITNESS whereof ~~the parties~~RiverOak hereto have executed this Deed on the day and year first before written.

FIRST SCHEDULE

PUBLIC RIGHTS OF WAY

1. Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:-

Word or Phrase	Meaning
"PRoW Contribution"	means the sum of £275,805.00 (Two hundred and seventy five thousand eight hundred and five pounds) Index Linked to be used in the proportions as set out in the PRoW Contribution Purposes;
"PRoW Contribution Purposes"	means the following works: <ol style="list-style-type: none">1. the diversion of TR8 for which £120,015 of the PRoW Contribution shall be used;2. the works to TR9 to enable the diversion of TR8 to be completed for which £25,650 of the PRoW Contribution shall be used; and3. the improvement works required to TR10 for which £130,140 of the PRoW Contribution shall be used.
"PRoW Plan"	means the plan attached to this Deed at Annex 32 showing TR10 coloured yellow and TR8 coloured green and TR9 coloured dashed blue and marked "Public Rights of Way".

1. RiverOak covenants with the County Council to pay the PRoW Contribution to the County Council prior to the coming into Operation of the Project and not to cause permit or allow the Project to come into Operation until the PRoW Contribution has been paid in full to the County Council.

SECOND SCHEDULE

CAR PARKING MANAGEMENT STRATEGY

DEFINITIONS AND INTERPRETATION

1. Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:-

Word or Phrase	Meaning
"Car Parking Management Strategy"	means the Car Parking Management Strategy required to be submitted under Requirement 7 of the Development Consent Order;
"Traffic Regulation Order"	means the Traffic Regulation Order to be made by the County Council pursuant to the 1980 Act in relation to parking restrictions in the locality of Manston Airport;
"Traffic Regulation Order Contribution"	means the sum of £6,000.00 (Six thousand pounds) Index-linked to be used towards the advertising and administration of the Traffic Regulation Order;
"Travel Plan"	means the Travel Plan required to be submitted under Requirement 7 of the Development Consent Order; and
"Travel Plan Monitoring Contribution"	means an annual contribution of £1,667.00 (One thousand six hundred and sixty seven pounds) Index-linked to be paid for the purposes of monitoring adherence measures set out in the Travel Plan for 20 years.

PART 1

2. RiverOak covenants with the County Council:
- 2.1 To pay to the initial annual Travel Plan Monitoring Contribution to the County Council prior to the coming into Operation of the Project.
- 2.2 Not to cause permit or allow the Project to come into Operation unless the initial annual Travel Plan Monitoring Contribution has been paid in full to the County Council.

- 2.3 To pay the remaining annual payments of the Travel Plan Monitoring Contribution to the County Council on the following nineteen anniversaries of payment of the initial annual Travel Plan Monitoring Contribution.

PART 2

- 3. RiverOak covenants with the County Council:
 - 3.1 To pay the Traffic Regulation Order Contribution to the County Council prior to the coming into Operation of the Project.
 - 3.2 Not to cause permit or allow the Project to come into Operation unless the Traffic Regulation Order Contribution has been paid in full to the County Council.

THIRD SCHEDULE
SCHOOLS CONTRIBUTIONS

DEFINITIONS AND INTERPRETATION

1. Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:-

Word or Phrase	Meaning
"Schools"	means the following schools which will be impacted by the noise caused as a result of the operation of Manston Airport: <ul style="list-style-type: none">• Manston School House Nursery;• Chatham & Clarendon Gramma School;• The Elms Nursery School;• Priory County Infant School;• Masque Theatre School;• Fledglings Nursery School; and• Ellington Infant School;
"Schools Contribution"	means an annual payment of £139,000.00 to be paid to the Schools for a period of 20 years for the Schools Contribution Purposes; and
"Schools Contribution Purposes"	means the provision of noise insulation measures at the Schools to ameliorate the noise impact of the operation of Manston Airport and any other measures deemed necessary to benefit the pupils of the Schools against the impact of the operation of Manston Airport.

2. RiverOak covenants with the County Council:

- 2.1 To pay to the County Council the Schools Contribution as follows:

- 2.1.1 to pay the first annual payment of the Schools Contribution to the County Council six months prior to the coming into Operation of the Project; and

- 2.1.2 not to cause permit or allow the Project to come into Operation unless the first annual payment of the Schools Contribution has been paid to the County Council.
- 2.1.3 to pay the remaining nineteen annual payments of the Schools Contribution to the County Council on the following nineteen anniversaries of the first annual payment.

FOURTH SCHEDULE
MANSTON – HAINE LINK ROAD

DEFINITIONS AND INTERPRETATION

1. Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:-

Word or Phrase	Meaning
"Manston – Haine Link Road"	means that area of land sited in the Northern Grass Area as shown coloured orange on the Manston – Haine Link Road Plan such road to be used to link the A256 to the B2050 through part of the Northern Grass Area;
"Manston – Haine Link Road Contribution"	means the sum of £500,000.00 (Five hundred thousand pounds) Index-linked to be used towards the construction of the Manston – Haine Link Road;
"Manston – Haine Link Road Plan"	means the plan attached to this Deed at Annex 43 showing the Manston – Haine Link Road; and
"Northern Grass Area"	means the area shown on the Manston – Haine Link Road Plan falling within the limits of the Development Consent Order which shall include other airport-related development (as defined in the Development Consent Order) at Manston Airport.

2. RiverOak covenants with the County Council:

- 2.1 In carrying out the Project to ensure that the part of the Northern Grass Area which may potentially be required for the provision of the Manston – Haine Link Road is safeguarded until 31 December 2036 or until the County Council has obtained funding and planning permission for the Manston – Haine Link Road whichever is the earlier.
- 2.2 No to cause permit or allow any development of any kind whether or not connected with the Development Consent Order save for landscaping works to take part on that part of the Northern Grass Area which may be required for the provision of the Manston – Haine Link Road until 31 December 2036 or until the County Council has obtained funding and planning permission for the Manston – Haine Link Road whichever is the earlier.

- 2.3 If by 31 December 2036 or by the time the County Council has obtained funding and planning permission for the Manston – Haine Link Road whichever is the earlier, the County Council has obtained funding for and brought forward a scheme for the Manston – Haine Link Road to transfer that part of the Northern Grass Area safeguarded for the Manston – Haine Link Road to the County Council for £1.00.
- 2.4 To pay the Manston – Haine Link Road Contribution to the County Council within 20 Working Days of the County Council obtaining planning permission for the Manston – Haine Link Road IT BEING AGREED THAT in the event the County Council has not been able to obtain planning permission for the Manston – Haine Link Road by 31 December 2036 the Manston – Haine Link Road Contribution shall not be payable.

FIFTH SCHEDULE
PUBLIC TRANSPORT

DEFINITIONS AND INTERPRETATION

1. Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:-

Word or Phrase	Meaning
"Manston Airport Bus Service"	means a bus service to be funded and provided by RiverOak in accordance with the Manston Airport Bus Service Scheme;
"Manston Airport Bus Service Scheme"	means the scheme for the Manston Airport Bus Service to be submitted to and approved by the County Council;
"Public Transport Contribution"	means the annual sum of £150,000.00 (One hundred and fifty thousand pounds) (Index Linked) such sum to be used for the Public Transport Contribution Purposes; and
"Public Transport Contribution Purposes"	means the enhancement of local bus services which may include the following: <ul style="list-style-type: none">• increase in frequency of existing local bus services;• extension of the operating times of local bus services; and• extension of existing local bus routes.

2. RiverOak covenants with the County Council as follows:

- 2.1 To pay to the County Council the Public Transport Contribution as follows:

- 2.1.1 to pay the first annual payment of the Public Transport Contribution to the County Council prior to the coming into Operation of the Project;
- 2.1.2 not to cause permit or allow the Project to come into Operation until the Public Transport Contribution has been paid to the County Council; and
- 2.1.3 to pay the remaining annual payments of the Public Transport Contribution on all following anniversaries of the first annual payment for the lifetime of the operation of Manston Airport unless otherwise agreed in writing with the County Council.

- 2.2 To submit and receive written approval from the County Council and the Manston Airport Bus Service Scheme prior to the coming into Operation of the Project.
- 2.3 Not to cause permit or allow the Project to come into Operation without having received written approval from the County Council of the Manston Airport Bus Service Scheme.
- 2.4 To provide the Manston Airport Bus Service for the lifetime of the Project unless otherwise agreed in writing with the County Council.

SIXTH SCHEDULE
OFF-SITE JUNCTIONS

DEFINITIONS AND INTERPRETATION

1. Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:-

Word or Phrase	Meaning
"Off-Site Junctions"	<p>means the following junctions in the environs of the land comprising the Development Consent Order:</p> <ul style="list-style-type: none"> • Junction 1 (A256/Sandwich Road) • Junction 2 (A299 / A256 / Cottington Link Road) • Junction 4 (A299 / B2190) • Junction 6 (A299 / Seamark Road / A253 / Willetts Hill) • Junction 7 (A299 / A28) • Junction 10 (Shottendane Rd / Manston Road / Margate Hill) • Junction 13 (Manston Court Road / B2050) • Junction 15 (Manston Rd / Hartsdown Rd / Tivoli Rd / College Rd / Nash Rd) • Junction 16 (Ramsgate Rd / College Rd / A254 / Beatrice Rd) • Junction 17 (Ramsgate Road / Poorhole Lane / Margate Road / Star Lane) <p>or, in the event that the above junctions are not forthcoming, other off-site junction works as the County Council deems necessary to carry out works on in order to mitigate the effect of the Development Consent Order;</p>
"Off-Site Junctions Contributions"	<p>means the following amounts (all Index-linked) in respect of each Off-Site Junction:</p> <ul style="list-style-type: none"> • Junction 1 - £91,000

Word or Phrase	Meaning
	<ul style="list-style-type: none"> • Junction 2 - £836,500 • Junction 4 - £826,800 • Junction 6 - £826,800 • Junction 7 - £162,000 • Junction 10 - £71,100 • Junction 13 - £590,500 • Junction 15 - £50,500 • Junction 16 - £415,700 • Junction 17 – £53,500
"Off-Site Junctions Plan"	means the plan attached to this Deed at Annex 54 showing the Off-Site Junctions; and
"Off-Site Junctions Contributions Purposes"	<p>means the following in respect of each Off-Site Junction</p> <ul style="list-style-type: none"> • Junction 1 – minor widening on arms • Junction 2 – signalisation of roundabout • Junction 4 – signalisation of roundabout • Junction 6 – signalisation of roundabout • Junction 7 – improvements to signage and carriageway markings • Junction 10 – minor widening and white lining • Junction 13 – Provision of a new three arm signalised junction with pedestrian crossing facilities linked to the signalised junction proposals for the main airport terminal access • Junction 15 – provision of new signal head locations, road markings and revised stage sequence operation.

Word or Phrase	Meaning
	<ul style="list-style-type: none"> • Junction 16 – provision of new stop line, road markings, signal head locations and revised stage sequence operation. • Junction 17 – minor widening and white lining

2. RiverOak covenants with the County Council as follows:
 - 2.1 To pay the Off-Site Junction Contributions in full to the County Council as follows:
 - 2.1.1 Junction 13 – by the third year of the Operation of the Project;
 - 2.1.2 Junctions 1, 2 and 4 – by the tenth year of the Operation of the Project;
 - 2.1.3 Junctions 6 and 7 – by the fifteenth year of the Operation of the Project;
 - 2.1.4 Junctions 10, 15, 16, 17 and- by the twentieth year of the Operation of the Project.
3. In the event that the above junction improvements are not necessary, the payments may be put towards other highway improvements as the County Council deems necessary provided that such improvements are required for the purpose of mitigating the effects of the Project.

SEVENTH SCHEDULE

PRELIMINARY FREIGHT MANAGEMENT STRATEGY

DEFINITIONS AND INTERPRETATION

1. Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:-

Word or Phrase	Meaning
"Preliminary Freight Management Strategy Signage Contribution"	means the sum of £7,650 (Seven thousand six hundred and fifty pounds) to be paid to the County Council for the Preliminary Freight Management Strategy Signage Purposes;
"Preliminary Freight Management Strategy Signage Purposes"	means the provision of clear routeing signage to ensure HGV drivers use appropriate roads to reach the Site.

2. RiverOak covenants with the County Council as follows:
- 2.1 To pay the Preliminary Freight Management Strategy Signage Contribution to the County Council prior to the coming into Operation of the Project;
- 2.2 Not to cause permit or allow the Project to come into Operation unless the Preliminary Freight Management Strategy Signage Contribution has been paid in full to the County Council.

Eighth schedule

CONFIRMATORY DEED

THIS CONFIRMATORY DEED is made the day of _____ 20[__]

BETWEEN:

- (1) _____ THANET DISTRICT COUNCIL of Cecil Street, Margate, Kent, CT9 1XZ (the District Council);
- (2) _____ KENT COUNTY COUNCIL of the County Council Hall, Maidstone, Kent, ME1 1QX (the County Council); and
- (3) _____ RIVEROAK FUELS LIMITED (Company Registration Number 11535715) whose registered office is situated at Calder & Co, 16 Charles II Street, London, SW1Y 4NW (RiverOak).

RECITALS

- (A) _____ The District Council and the County Council are local planning authorities for purposes of the 1990 Act for the area within which the Site (as defined in the Principal Agreement) is situated and by whom the development consent obligations in this Deed are enforceable.
- (B) _____ RiverOak is the freehold owner of [the Remaining Site].
- (C) _____ This Deed is supplemental to the Principal Agreement and is entered into in accordance with Clause 4 of the Principal Agreement for the purpose of ensuring that the obligations, covenants and undertakings contained in the Principal Agreement are binding on RiverOak and the Remaining Site in so far as such obligations remain to be complied with.

NOW THIS DEED WITNESSES as follows:-

INTERPRETATION

1. _____ Save as otherwise expressly stated, the words and expressions used in this Deed shall have the meaning assigned to them in the Principal Agreement:

Word or Phrase	Meaning
"Deed"	Means this Confirmatory Deed
"Remaining Site"	Means that part of the Site which excludes the Jentex Site to which this Deed relates which is registered at HM Land Registry under title numbers: K891199, K803975, K761039, K160548 and K915854 and

Word or Phrase	Meaning
	[shown for the purposes of identification only edged red on the plan annexed at Appendix 1]
"Principal Agreement"	Means the agreement dated [July 2019] made between the District Council, County Council and RiverOak under section 106 of the 1990 Act and other enabling powers.

~~2. Operation of This Deed of Confirmation~~

~~2.1 This Deed and the obligations contained in it are:-~~

- ~~2.1.1 development consent obligations made pursuant to section 106 of the 1990 Act and other enabling powers referred to in the Principal Agreement;~~
- ~~2.1.2 executed by RiverOak so as to bind its interest in the Remaining Site to the obligations, covenants, agreements and other provisions referred to in the Principal Agreement (in so far as relevant and applicable to the Remaining Site); and~~
- ~~2.1.3 enforceable by the District Council and the County Council in accordance with the Principal Agreement against RiverOak and its successors in title to the Remaining Site.~~

~~3. RiverOak's Covenants~~

- ~~RiverOak hereby covenants agrees declares and undertakes to perform the obligations contained in the Principal Agreement and to have its interests in the Remaining Site bound by the terms covenants and obligations in the Principal Agreement as if such interest was acquired prior to the date the Principal Agreement was executed by the parties.~~

~~4. The District Council and County Council's Covenants~~

- ~~The District Council and the County Council hereby covenant to comply with their respective covenants and obligations contained in the Principal Agreement in so far as they relate to the Remaining Site.~~

5. ~~————~~ Miscellaneous Provisions

5.1 ~~————~~ This Deed shall be registered as a local land charge.

5.2 ~~————~~ RiverOak shall on completion of this Deed pay the District Council's and County Council's reasonable and proper legal costs incurred in preparing and completing this Deed.

5.3 ~~————~~ A person who is not a party to this Deed will not have any rights under or in connection with it by virtue of the Contract (Rights of Third Parties) Act 1999.

5.4 ~~————~~ If any provision in this Deed is held to be invalid illegal or unenforceable such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.

~~IN WITNESS of which this Deed has been executed as a deed and delivered on the date stated at the beginning of it.~~

ANNEX 1

PLAN 1 - PLAN OF THE SITE

ANNEX 2

PLAN 2—PLAN OF THE JENTEX SITE

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UNREGISTERED LAND

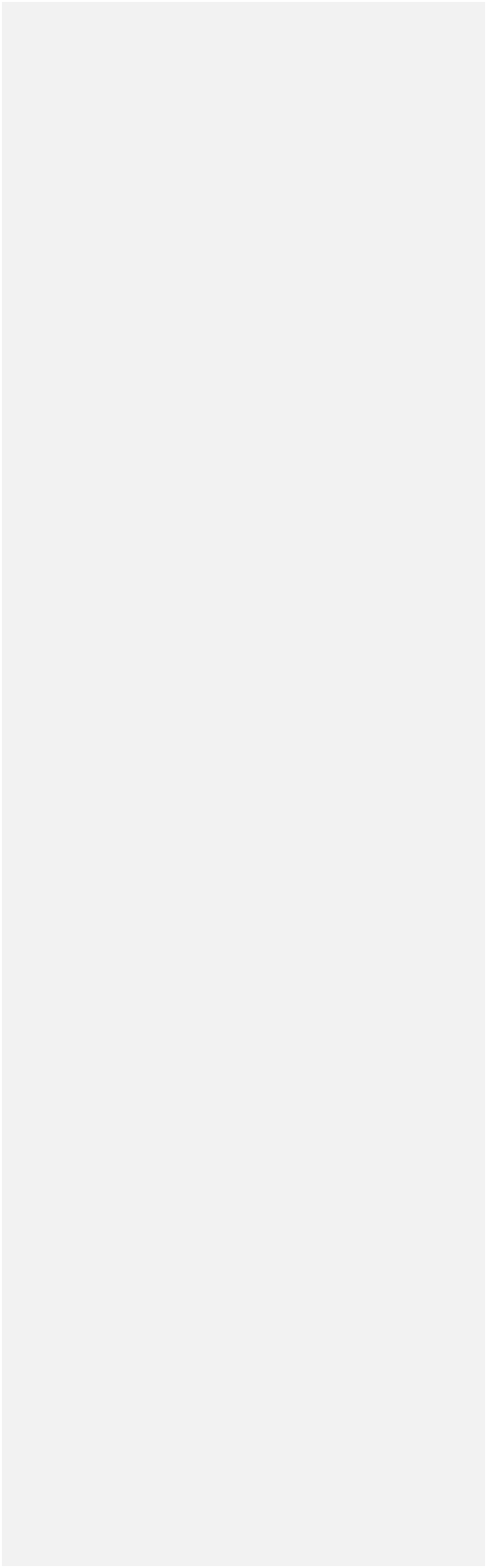
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ANNEX 3
PRoW PLAN

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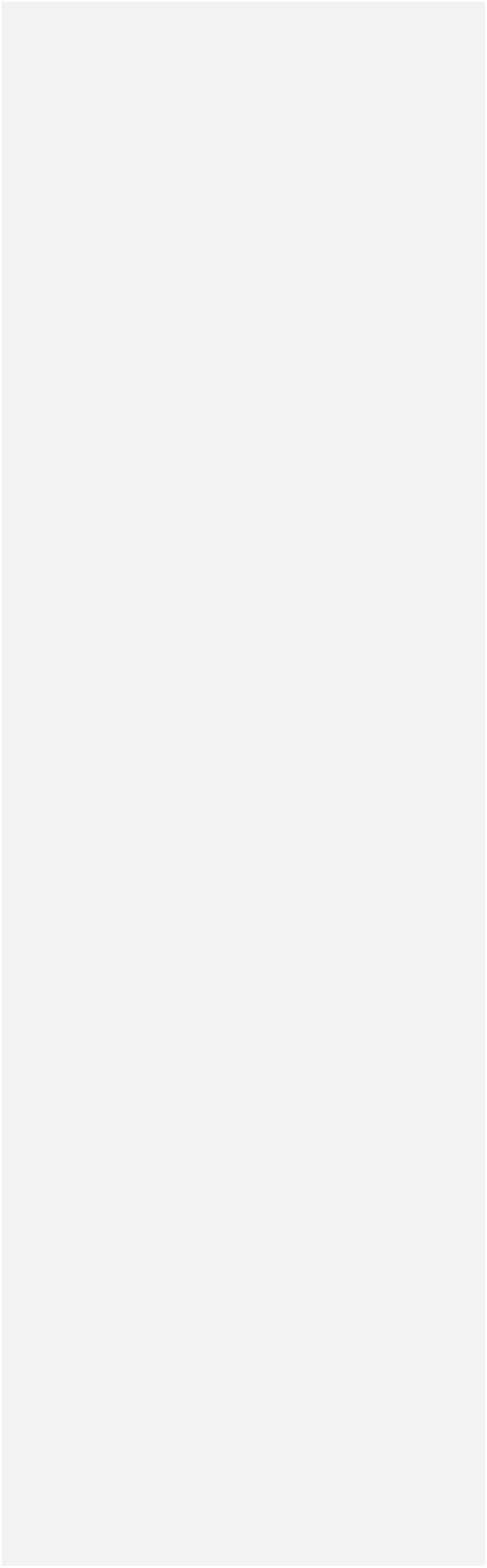
ANNEX 43

MANSTON-HAINE LINK ROAD PLAN



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ANNEX 54
OFF-SITE JUNCTIONS PLAN



EXECUTED AS A DEED by
RIVEROAK ~~FUELS~~MSE LIMITED
acting by a Director in the presence
of:

}

.....
Director

Witness Signature

.....

Witness Name

.....

(block capitals)

Witness Address

.....

EXECUTED AS A DEED by
RIVEROAK FUELS LIMITED acting
by a Director and Secretary of two
Directors

}

.....
Director

Witness Signature

.....

Witness Name

.....

(block capitals)

Witness Address

.....

