

DATED

6th February

2018

GILLETTE UK LIMITED (1)

("the Owner")

and

READING BOROUGH COUNCIL (2)

("the Council")

DEED OF VARIATION MADE PURSUANT TO SECTIONS 106 & 106A OF

THE TOWN AND COUNTRY PLANNING ACT 1990

in relation to land at 452 Basingstoke Road, Reading, Berkshire

C J Brooks BSc
Head of Legal and
Democratic Services
Reading Borough
Council
DX 40124 Reading
(Castle Street)

IKEN 6382
SQ (4343)

DATED

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PARTIES

- (1) **READING BOROUGH COUNCIL** of Civic Offices Bridge Street Reading RG1 2LU ("Council") and
- (2) **GILLETTE UK LIMITED** (Co. Regn. Number 254912) whose registered office is Gillette Corner Great West Road Isleworth Middlesex TW7 5NP ("the Owner")

1. BACKGROUND

- (a) The Council is the Local Planning Authority for the purposes of the 1990 Act for the Borough of Reading in which the Application Land is situated
- (b) The Owner is the owner of the Application Land and has an interest in the Application Land within the meaning of the term in Section 106(9)(b) of the 1990 Act
- (c) On 12th October 2017 the Council and the Owner entered into the First Section 106 Agreement in connection with the Planning Permission issued on the same date under Council reference 162108(FUL) and the said Planning Permission authorised the Development
- (d) The First Section 106 Agreement included obligations requiring the Owner and their successors in title and assigns to submit for approval a Construction ESP and thereafter implement observe monitor and comply with it as set out in the Second Schedule to the First Section 106 Agreement
- (e) The Council and the Owner have now agreed to enter into this Deed to amend obligations relating to the Construction ESP as hereinafter set out

2. OPERATIVE PROVISIONS

DEFINITIONS AND INTERPRETATION

- 2.1 All words and expressions defined in the First Section 106 Agreement shall bear the same meaning in this Deed except where otherwise provided or where the context otherwise requires

2.2 The provisions regarding interpretation contained in Clause 1 of the First Section 106 Agreement shall apply to this Deed

2.3 In this Deed the following words and expressions shall unless the context otherwise requires have the following meanings:

First Section 106 Agreement means the agreement made on 12th October 2017 and made between the Gillette UK Limited Council (1) Reading Borough Council under Section 106 of the 1990 Act in connection with the Planning Permission

3. LEGAL EFFECT

3.1 This Deed is made pursuant to Sections 106 and 106A of the 1990 Act and Section 111 of the Local Government Act 1972 and all other powers so enabling

3.2 This Deed contains planning obligations made pursuant to the said Section 106 which are enforceable by the Council and which bind each and every part of the Application Land and which the Owner and the Council agree comply with the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010

3.3 Nothing contained or implied in this Deed shall be taken to be or shall operate so as to fetter or prejudice the Council's statutory rights powers discretions and responsibilities (save where legally or equitably permitted)

3.4 If any provision in this Deed shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions shall not in any way be deemed thereby to be affected or impaired

3.5 No waiver (whether express or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said terms or conditions or from acting upon any subsequent breach or default

3.6 Nothing in this Deed shall be construed as a grant of planning permission

3.7 The covenants herein shall be enforceable without any limit of time against the Owner and any successors in title and assigns of the Owner or any person claiming title through or under the Owner to the Application Land or any part thereof as if that person had also been an original covenanting party in respect of the interest or estate for the time being held by that person **PROVIDED THAT** no person shall be liable for any breach of the covenants restrictions or obligations contained in this Deed occurring after he has parted with the whole of his interest in the Application Land or the part in respect of which such breach occurs save and without prejudice to the rights of the Council in relation to any subsisting antecedent breach of those covenants restrictions or obligations prior to the parting of such interest

3.8 Nothing in this Deed shall prohibit or limit the right to develop any part of the Application Land in accordance with a planning permission granted (whether or not on appeal) after the date of this Deed

3.9 Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 no part of this Deed shall be enforceable by a third party who is not a party to the Deed and for the avoidance of any doubt the terms of the Deed may be varied by agreement between the parties without the consent of any third party being required

3.10 This Deed is governed by and interpreted in accordance with the Law of England and Wales

4. **VARIATION OF FIRST SECTION 106 AGREEMENT**

4.1 The Owner covenants and agrees with the Council that the Application Land shall be subject to and bound by the terms and obligations contained in the First Section 106 Agreement with the following variations to the said First Section 106 Agreement:

(a) Clause 1.6 shall be deleted entirely and replaced by the following:-

1.6 "Approved ESP"

"means an End User ESP approved by the Council pursuant to Paragraphs (3) or (4) of the Second Schedule hereto"

- (b) Clause 1.7 shall be deleted entirely and replaced by the following:-

1.7 "Construction ESP Contribution"

"means the sum of THIRTEEN THOUSAND SIX HUNDRED AND TWENTY SEVEN POUNDS FIFTY PENCE £13,627.50) (as increased by the Indexation provision in Clause 7) to be paid to the Council and applied by its Partner Organisation towards the Employment and Skills Measures and Provisions as they relate to the construction of the Development"

- (c) Clause 1.10 shall be amended by deletion of the words "construction and"
- (d) Clause 1.14 shall be deleted entirely and replaced by the following:-

1.14 "ESP"

"means an employment and skills plan being an End User ESP for the Development which is to be submitted to the Council by the Owner for Approval which incorporates the Employment and Measures and Provisions set out in the Second Schedule hereto"

- (e) Clause 1.29 shall be amended by deletion of the words "in respect of a Construction ESP the relevant outputs for that Construction ESP listed in Appendix 1 to the Employment Skills and Training ESP and in respect of "
- (f) Clauses 7 (Indexation) 8 (Interest on Unpaid Monies) and 9 (Payments to the Council) shall be amended by inserting the words "Construction ESP Contribution and/or the" before the phrase Transport Contribution wherever that phrase appears in the said Clauses
- (g) The first requirement under the heading Employment and Skills Measures and Provisions set out in the Second Schedule shall be amended by the

deletion of the words *“both the construction of the Development (the “Construction ESP”) and subsequent”*

- (g) The second requirement under the heading Employment and Skills Measures and Provisions set out in the Second Schedule shall be amended by the deletion of the words *“both the construction of the Development and subsequent”*
- (h) The obligations under the heading Construction ESP set out in the Second Schedule at Paragraphs (1) - (4) inclusive shall be deleted and replaced by the following:-
 - (1) *Prior to Implementation of the Development the Owner shall pay the Construction ESP Contribution as increased by the indexation provision in Clause 7 to the Council and shall not Implement the Development until such payment has been made to the Council in full including any interest due thereon under the terms of this Agreement*
- (j) The obligations under the heading End User ESP set out in the Second Schedule at Paragraphs (5) - (9) inclusive shall be renumbered (2) - (6) inclusive
- (k) The Paragraph references set out in the renumbered obligation (2) (formerly (5)) under the heading End User ESP set out in the Second Schedule should now be read as Paragraphs (3) and (4)
- (l) The Paragraph references set out in the renumbered obligation (6) (formerly (9)) under the heading End User ESP set out in the Second Schedule should now be read as Paragraphs (2) and (5)
- (m) The obligation under the heading ESP Monitoring Fees set out in the Second Schedule at Paragraph (10) shall be deleted and replaced by the following:-
 - (7) *The Owner shall pay to the Council the ESP Monitoring Fees for the Approved End User ESP as calculated by the Owner in accordance with the*

Employment and Skills SPD and pay in accordance with the programme for payment set out in the Approved End User ESP

5. **MISCELLANEOUS**

- 5.1 The Owner covenants that on completion of this Deed they will pay the Council's legal costs incurred in the preparation and settlement of this Deed totalling eight hundred and fifty pounds (£850.00) receipt of which the Council hereby acknowledges
- 5.2 Except as varied by this Deed all the terms and obligations contained in the First Section 106 Agreement shall continue and remain in full force and effect
- 5.3 The Council and the Owner acknowledge and agree that the obligations contained in this Deed and in the First Section 106 Agreement are to be interpreted as alternatives and not additional to each other
- 5.4 This Deed is a Local Land Charge and shall be registered as such by the Council

This deed has been entered into on the date stated at the beginning of this Deed

Executed as a deed by READING)
BOROUGH COUNCIL by affixing its)
common seal in the presence of:-)


Authorised Signatory

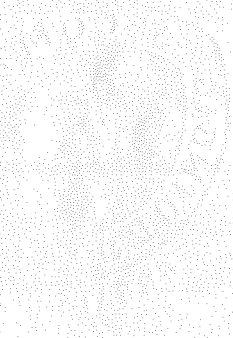
Executed as a Deed by GILLETTE)
UK LIMITED acting by director)
and second director or)
secretary :

Director 

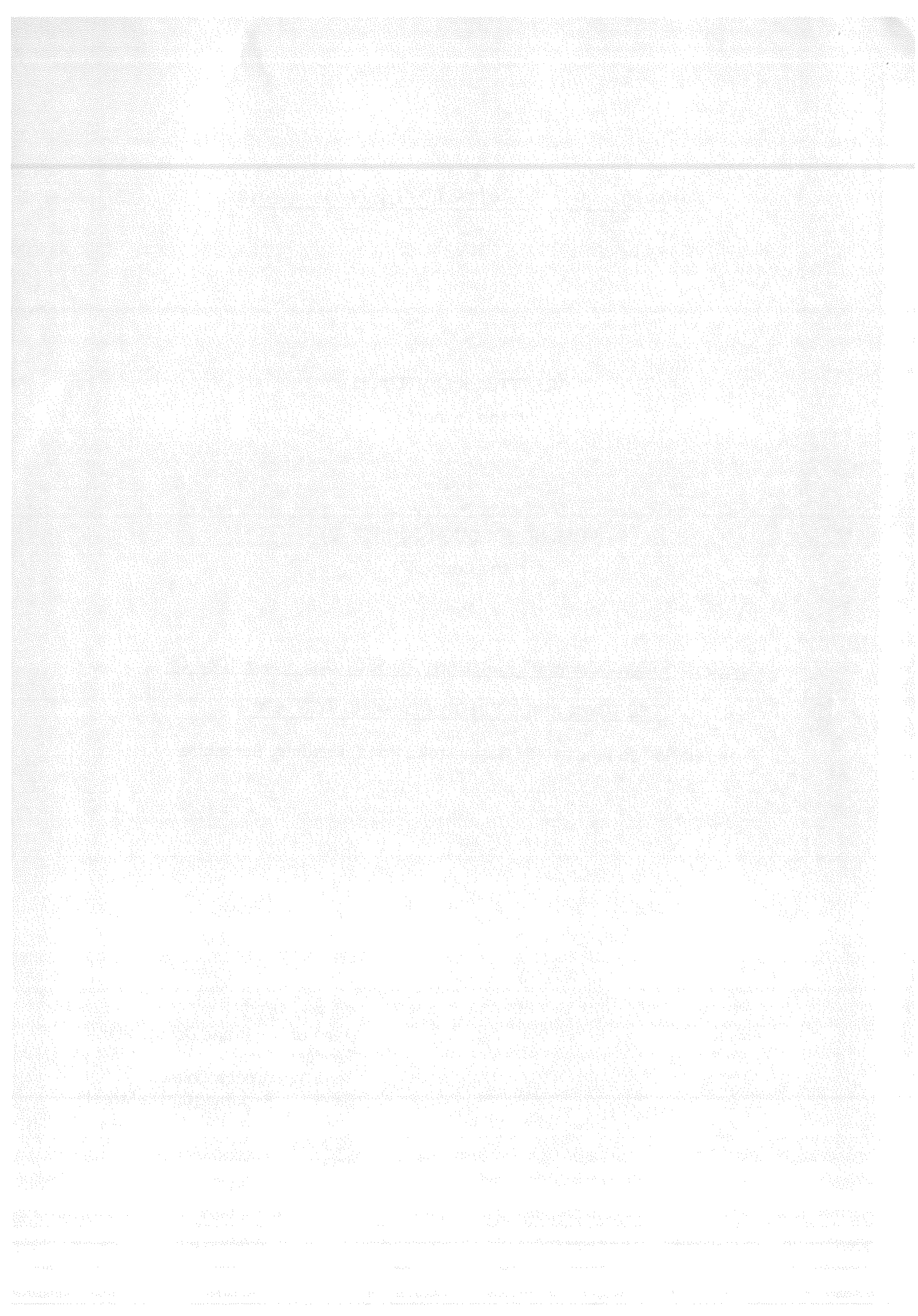
Director/Secretary



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SEALED	CS
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	CS US



Handwritten signature or name, possibly "H. H. H."



DATED 6th February 2018

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