

ENGROSSMENT

DATED

7 June

2023

(1) LAZARI PROPERTIES 7 LIMITED

and

(2) LLOYDS BANK PLC

and

**(3) THE MAYOR AND BURGESSES OF
THE LONDON BOROUGH OF CAMDEN**

A G R E E M E N T

relating to land known as
Maple House

149 Tottenham Court Road
London W1T 7NF

pursuant to

Section 106 of the Town and Country Planning Act 1990 (as amended);

Section 16 of the Greater London Council (General Powers) Act 1974;

Section 111 of the Local Government Act 1972; and

Section 1(1) of the Localism Act 2011

Andrew Maughan
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London Borough of Camden
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CLS/COM/ESA/1800.2442
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THIS AGREEMENT is made the 7th day of June 2023

B E T W E E N:

- A. **LAZARI PROPERTIES 7 LIMITED** (Co. Regn. No. 10279574) whose registered office is at Accurist House, 44 Baker Street, London, England, W1U 7BR (hereinafter called "the Owner") of the first part
- B. **LLOYDS BANK** of 25 Gresham Street, London EC2V 7HN (hereinafter called "the Mortgagee") of the second part
- C. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the third part

1. **WHEREAS**

- 1.1 The Owner is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number LN227944 subject to a charge to the Mortgagee.
- 1.2 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.3 A Planning Application for the development of the Property was submitted to the Council and validated on 21 December 2021 and the Council resolved to grant permission conditionally under reference number 2021/6225/P subject to the conclusion of this legal Agreement.
- 1.4 The Council is the local planning authority for the purposes of the Act, and is the local authority for the purposes of Section 16 of the Greater London Council (General Powers) Act 1974; Section 111 of the Local Government Act 1972; and Section 1(1) of the Localism Act 2011 for the area in which the Property is situated and considers it expedient in the interests of the proper planning of its area that the development of the Property should be restricted or regulated in accordance with this Agreement.

1.5 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.

1.7 The Mortgagee as mortgagee under a legal charge registered under Title Number LN227944 and dated 1 September 2016 is willing to enter into this Agreement to give its consent to the same.

2. **DEFINITIONS**

In this Agreement the following expressions (arranged in alphabetical order) shall unless the context otherwise requires have the following meanings:-

2.1	"the Act"	the Town and Country Planning Act 1990;
2.2	"the Agreement"	this planning obligation made pursuant to Section 106 of the Act;
2.3	"the Certificate of Practical Completion"	the certificate issued by the Owner's contractor architect or project manager certifying that the Development has been completed;
2.4	"the Construction Management Plan Bond"	the sum of £7,500 (seven thousand five hundred pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement to be used by the Council in the event of the Council undertaking actions to remedy a breach of the Construction Management Plan following the procedures set out in clause 4.2 but for the avoidance of doubt not to be used towards the cost of the verification of proper operation of the approved Construction Management Plan;
2.5	"Construction Management Plan"	the plan located at Schedule 1 (as may be amended by agreement in writing with the Council from time to time) setting out the measures that the Owner will adopt in undertaking any demolition and the construction of the Development using good site practices in accordance with the Council's Considerate Contractor Manual which is in the form of the Council's Pro Forma Construction Management Plan to ensure the Construction Phase of the Development can be carried out safely and with minimal possible impact

		<p>on and disturbance to the surrounding environment and highway network including (but not limited to):-</p> <ul style="list-style-type: none"> (a) details of the environmental protection highways safety and community liaison measures proposed to be adopted by the Owner in order to mitigate and offset potential or likely effects and impacts arising from any demolition or structures on the Property and the building out of the Development; (b) amelioration and monitoring effects on the health and amenity of local residences site construction workers local businesses and adjoining developments undergoing construction; (c) amelioration and monitoring measures over construction traffic including procedures for notifying the owners and or occupiers of the residences and businesses in the locality in advance of major operations delivery schedules and amendments to normal traffic arrangements (if any); (d) the inclusion of a waste management strategy for handling and disposing of construction waste; and (e) identifying means of ensuring the provision of information to the Council and provision of a mechanism for monitoring and reviewing as required from time to time;
2.6	"the Construction Management Plan Implementation Support Contribution"	<p>the sum of £3,920.00 (three thousand nine hundred and twenty pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of receipt for the verification of the proper operation of the approved Construction Management Plan during the Construction Phase;</p>

2.7	"the Construction Phase"	<p>the whole period between</p> <p>(a) the Implementation Date and</p> <p>(b) the date of issue of the Certificate of Practical Completion</p> <p>and for the avoidance of doubt includes any demolition;</p>
2.8	"the Council's Considerate Contractor Manual"	the document produced by the Council from time to time entitled "Guide for Contractors Working in Camden" relating to the good practice for developers engaged in building activities in the London Borough of Camden;
2.9	"the Development"	<p>replacement glazing to lift lobby, external courtyard landscaping with erection of 2 pavilions, and PV panel array to roof. as shown on drawing numbers:- Site Location Plan 001 P02, 102 P01, 132 P01, 220 P01, 112 P01, 152 P01, 221 P01, 015 P01, 200 P01, 0185 - 210 B, 200 P01, 201 P01, 061-100 P01, WWS-J2244-DWG-001. Cover letter (CBRE 20/12/2021), Design and Access Statement (Gibson Thornley Parts 1-3 Dec 2021), Design and Access Statement - Landscaping Report (Studio ONB Parts 1-3 Dec 2021), Courtyard Lighting Information for DAS (Studio 29 0185), Outline Operational Management Plan (Lazari August 2022). Tree and Planting Plans (Studio ONB: 061 13/09/2022 Rev 02);</p>
2.10	"the Implementation Date"	the date of implementation of the Development by the carrying out of a material operation as defined in Section 56 of the Act and references to "Implementation" and "Implement" shall be construed accordingly;
2.11	"Occupation Date"	the date when any part of the Development is occupied for the purpose permitted by the Planning Permission and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly;
2.12	"Operational Management Plan"	a plan to be prepared by the Owner (and based upon the submitted Outline Operational Management Plan dated August 2022) to be approved by the Council and as may be amended from time to time by the Owner and approval by

		<p>the Council setting out a package of measures to be adopted by the Owner in the management of the Development to ensure the minimisation of harm to neighbourhood amenity which includes (but is not limited to) the following:</p> <ul style="list-style-type: none"> a) details of the management team responsible for the day to day running of the Development and to ensure that the Development has appropriate management policies and procedures in place to minimise noise impacts, nuisance and disruption to the local community and neighbours; b) details of the procedures to be adopted by the Owner for managing the access and egress arrangements from the Development and to include details of liaison procedure to be established to ensure quiet egress from the Development; c) measures to ensure that no more than 120 persons are within the Development at any one time; d) measures to ensure there will be no more than three events per calendar month and not more than 15 events per annum and all events will finish by 21:00; e) measures to ensure no amplified music will be played within the Development; f) evidence that the Owner has consulted with the local residents and taken into account any consultee feedback received prior to the submission of the plan to the Council; g) a mechanism for monitoring and reviewing the plan
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		<p>following the first anniversary of the Occupation Date;</p> <p>h) to identify means of ensuring the provision of information to the Council and provision of a mechanism for review of the plan following the first anniversary of the Occupation date and update as may be reasonably required for approval by the Council</p>
2.13	"the Parties"	mean the Council the Owner and the Mortgagee;
2.14	"the Planning Application"	a planning application in respect of the development of the Property submitted to the Council and validated on 21 December 2021 for which a resolution to grant permission has been passed conditionally under reference number 2021/6225/P subject to conclusion of this Agreement;
2.15	"Planning Obligations Monitoring Officer"	a planning officer of the Council from time to time allocated to deal with all planning obligations pursuant to section 106 of the Act to whom all notices, correspondence, approvals etc must be sent in the manner prescribed at clause 6.1 hereof;
2.16	"the Planning Permission"	a planning permission granted for the Development substantially in the draft form annexed hereto at Schedule 3; and
2.17	"the Property"	the land known as Maple House 149 Tottenham Court Road London W1T 7NF the same as shown edged green on the plan annexed hereto at Schedule 2.

3. **NOW THIS DEED WITNESSETH** as follows:-

- 3.1 This Agreement is made in pursuance of Section 106 of the Act, and is a planning obligation for the purposes of Section 106 as aforesaid, and is also made in pursuance of Section 16 of the Greater London Council (General Powers) Act 1974, Section 111 of the Local Government Act 1972 and Section 1(1) of the Localism Act 2011 and shall be enforceable by the Council against the Owner as provided herein

and against any person deriving title to any part of the Property from the Owner and insofar as it is not a planning obligation its provisions may be enforceable by the Council under any relevant statutory powers.

- 3.2 Words importing the singular shall include the plural and vice versa and any words denoting actual persons shall include companies, corporations and other artificial persons.
- 3.3 Any reference to a specific statute or statutes include any statutory extension or modification amendment or re-enactment of such statute and any regulation or orders made under such statute.
- 3.4 The clause and paragraph headings do not form part of this Agreement and shall not be taken into account in its construction of interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6, 7, 8 and 9 hereof all of which shall come into effect on the date hereof the covenants undertakings and obligations contained within this Agreement shall become binding upon the Owner upon the Implementation Date.
- 3.6 The Council hereby agrees to grant the Planning Permission on the date hereof.
- 3.7 The Parties save where the context states otherwise shall include their successors in title or in the case of the Council any successor to their statutory function.

4. OBLIGATIONS OF THE OWNER

The Owner hereby covenants with the Council as follows:-

4.1 CONSTRUCTION MANAGEMENT PLAN

- 4.1.1 On or prior to the Implementation Date to pay to the Council the Construction Management Plan Implementation Support Contribution in full.
- 4.1.2 Not to Implement nor allow Implementation of the Development until such time as the Council has received the Construction Management Plan Implementation Support Contribution in full.

4.1.3 The Owner acknowledges and agrees that the Council has approved the Construction Management Plan on the basis that it demonstrates to the Council's reasonable satisfaction that the Construction Phase of the Development can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network.

4.1.4 To ensure that throughout the Construction Phase the Development shall not be carried out otherwise than in strict accordance with the requirements of the Construction Management Plan and not to permit the carrying out of any works comprised in demolition or building out of the Development at any time when the requirements of the Construction Management Plan are not being complied with and in the event of non-compliance with this sub-clause the Owner shall forthwith take any steps required to remedy such non-compliance.

4.2 CONSTRUCTION MANAGEMENT PLAN BOND

4.2.1 On or prior to the Implementation Date to pay to the Council the Construction Management Plan Bond in full.

4.2.2 Not to Implement nor allow Implementation of the Development until such time as the Council has received the Construction Management Plan Bond in full.

4.2.3 Following Implementation and in the event that the Council investigates and finds that there is a breach of the approved Construction Management Plan the Council will notify the Owner giving notice of the details of the breach.

4.2.4 The Owner must once notified by the Council of breach of the approved Construction Management Plan in accordance with Clause 4.2.3 acknowledge the notice within 24 hours of receipt of the notice and:

- (a) where a breach is acknowledged take such action as necessary to successfully remediate the breach within three working days of receipt of the notice or in the event of there being safety concerns or a repeat breach such lesser period as may be reasonable in the circumstances as set out in the notice, to the written satisfaction of the Council (Provided That such written satisfaction may be provided after the relevant notice period); or

- (b) where a breach is disputed provide the Council with a written response with its acknowledgement and if on review of that response the Council still considers a breach to subsist to take such action as is necessary to successfully remediate the breach within two working days of receipt of the Council's further notification or in the event of there being safety concerns or a repeat breach such lesser period as may be reasonable in the circumstances to the written satisfaction of the Council (Provided That such written satisfaction may be provided after that two working day period).

4.2.5 In the event the Owner does not comply with the obligations in 4.2.4 (a) or (b) the Council may take action to execute or complete the relevant part or parts of the approved Construction Management Plan specified in the notice served under clause 4.2.3 by its own employees or by contractors or take any other action necessary to investigate and/ or enforce compliance with the approved Construction Management Plan and recover its reasonable and proper costs in connection with and/or arising from the carrying out of such actions from the Construction Management Plan Bond up to the maximum sum of the Construction Management Plan Bond.

4.2.6 The Owner shall notify the Council of completion of the Construction Phase and within twenty eight (28) days the date of that notification the Council shall repay to the Owner the Construction Management Plan Bond less any deductions properly made under clause 4.2.5.

4.3 OPERATIONAL MANAGEMENT PLAN

4.3.1 On or prior to Implementation to submit to the Council for approval the Operational Management Plan.

4.3.2 Not to Occupy or permit Occupation of any part of the Development until such time as the Council has approved the Operational Management Plan as demonstrated by written notice to that effect.

4.3.3 After the Occupation Date the Owner shall not Occupy or permit Occupation of any part of the Development at any time when the Development is not being managed in strict accordance with the Operational Management Plan as approved in writing by the Council from time to time and shall not Occupy or permit Occupation of the Development otherwise than in strict accordance with the requirements of the Operational Management Plan.

5. OBLIGATIONS OF THE COUNCIL

5.1 The Council hereby covenants with the Owner as follows:

5.1.2 Where any approval, agreement, consent, certificate or expression of satisfaction is to be given by the Council under or in connection with the matters contained in this Agreement, such approval, agreement, consent, certificate or expression of satisfaction shall not be unreasonably withheld or delayed;

5.1.2 In the event of the receipt of any financial contribution from the Owner pursuant to this Agreement the Council covenants to spend such financial contribution for the purposes specified in this Agreement for which that financial contribution is paid.

6. NOTICE TO THE COUNCIL/OTHER MATTERS

6.1 The Owner shall give written notice to the Council on or prior to the Implementation Date specifying that Implementation of the Development has taken or is about to take place.

6.2 Within seven days following completion of the Development the Owner shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 7.1 hereof quoting planning reference 2021/6225/P the date upon which the Development will be ready for Occupation.

6.3 The Owner shall act in good faith and shall co-operate with the Council to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests of the Council to have access to any part of the Property or any requests to provide documentation within the Owner's possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein.

6.4 The Owner agrees declares and covenants with the Council that it shall observe and perform the conditions restrictions and other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision

imposed by this Agreement and further shall indemnify the Council for any expenses or liability arising to the Council in respect of breach by the Owner of any obligations contained herein save to the extent that any act or omission of the Council its employees or agents has caused or contributed to such expenses or liability.

- 6.5 If satisfied as to the compliance of the Owner in respect of any obligation in this Agreement the Council shall (if requested to do so in writing and subject to payment of a fee of £1,000 in respect of each such obligation) provide through its Borough Solicitor a formal written certification of compliance, partial compliance or ongoing compliance (as and if appropriate) with the provisions of any such obligation.
- 6.6 Submission of any plan for approval by the Council under the terms of this Agreement shall be made by the Owner to the Council sending the full document and any appendices in electronic format (where practicable) to the Planning Obligations Monitoring Officer referring to the names dates and Parties to this Agreement and citing the specific clause of this Agreement to which such plan relates quoting the Planning Permission reference 2021/6225/P.
- 6.7 Payment of any contribution pursuant to Clause 4 of this Agreement shall be made by the Owner to the Council sending the full amount via electronic transfer (where practicable). The Owner shall notify the Planning Obligations Monitoring Officer that payment has been made referring to names date and Parties to this Agreement and citing the specific clause of this Agreement to which such contribution relates quoting the planning reference 2021/6225/P. Electronic Transfer be made directly to National Westminster Bank of Hampstead Village, Enfield Customer Service Centre, PO Box 145 Baird Road Middlesex EN1 1FN quoting Sort Code 50-30-03 and London Borough of Camden General Account no. 24299480.
- 6.8 All consideration given in accordance with the terms of this Agreement shall be exclusive of any value added tax properly payable in respect thereof and all parties other than the Council shall pay and indemnify the Council against any such value added tax properly payable on any sums paid to the Council under this Agreement upon presentation of an appropriate value added tax invoice addressed to the Owner.

- 6.9 Any sums referred to in this Agreement as payable or to be applied by any party other than the Council under this Agreement shall be paid or applied TOGETHER WITH if such payment or application is made more than three months from the date of this Agreement a further sum ("A") being equal to the original sum payable ("B") multiplied by a figure being a fraction of which the All Items of Retail Prices ("the AIIRP") figure last published by the Office for National Statistics at the date hereof is the denominator ("X") and the last AIIRP figure published before the date such payment or application is made ("Y") less the last published AIIRP figure at the date hereof ("X") is the numerator so that

$$A = B \times \frac{(Y-X)}{X}$$

- 6.10 All costs and expenses payable to the Council under this Agreement shall bear interest at the rate of 4% above the Base Rate of the National Westminster Bank plc from time to time being charged from the date such payment is due until payment is made.

7. **IT IS HEREBY AGREED AND DECLARED** by the Parties hereto that:-

- 7.1 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval or agreement to be served under or in connection with this Agreement and any such notice or approval shall be in writing and shall specifically refer to the name, date and Parties to the Agreement and shall cite the clause of the Agreement to which it relates and in the case of notice to the Council shall be addressed to the London Borough of Camden, Planning Obligations Officer, Placeshaping Service, Urban Design and Development Team, 2nd Floor, 5 Pancras Square, London, N1C 4AJ and sent to planning obligations on PlanningObligations@camden.gov.uk quoting the planning reference number 2021/6225/P and in the case of any notice or approval or agreement from the Council this shall be signed by a representative of the Council's Environment Department.
- 7.2 This Agreement shall be registered as a Local Land Charge.
- 7.3 The Owner agrees to pay the Council its proper and reasonable legal costs incurred in preparing this Agreement on or prior to the date of completion of the Agreement.

- 7.4 The Owner hereby covenants with the Council that it will within 28 days from the date hereof apply to the Chief Land Registrar of the Land Registry to register this Agreement in the Charges Register of the title to the Property and will furnish the Council forthwith with official copies of such title to show the entry of this Agreement in the Charges Register of the title to the Property.
- 7.5 Nothing contained or implied in this Agreement shall prejudice or affect the Council's powers to enforce any specific obligation term or condition nor shall anything contained or implied herein prejudice or affect any provisions, rights, powers, duties and obligations of the Council in the exercise of its functions as Local Planning Authority for the purposes of the Act or as a local authority generally and its rights, powers, duties and obligations under all public and private statutes, bye laws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement.
- 7.6 Neither the Owner or the Mortgagee nor their successors in title nor any person deriving title from them shall be bound by the obligations in this Agreement in respect of any period during which it no longer has an interest in the Property but without prejudice to liability for any breach committed prior to the time it disposed of its interest.
- 7.7 For the avoidance of doubt the provisions of this Agreement (other than those contained in this sub-clause) shall not have any effect until this Agreement has been dated.
- 7.8 If the Planning Permission is quashed or revoked or otherwise withdrawn or expires before effluxion of time for the commencement of Development this Agreement shall forthwith determine and cease to have effect and the Council will effect (upon written application of the Owner) the cancellation of all entries made in the Register of Local land Charges in respect of the Agreement.
- 7.9 The parties agree with one another to act reasonably and in good faith in the fulfilment of their respective obligations under this Agreement.

8. **MORTGAGEE EXEMPTION**

- 8.1 The Mortgagee hereby consents to the completion of this Agreement and agrees to be bound by it and to the same being registered at the Land Registry as provided in Clause 7.4 hereof and for the avoidance of doubt agrees to be bound by the said obligations only in the event that it becomes a mortgagee in possession of the Property in accordance with clause 8.2 below.
- 8.2 The Parties agree that the obligations contained in this Agreement shall not be enforceable against any mortgagee or chargee of the whole or any part of the Property unless it takes possession of the whole or any part of the Property in which case it will be bound by the obligations in relation to such part of the Property as a person deriving title from the Owner.

9. **RIGHTS OF THIRD PARTIES**

- 9.1 No provision of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.

10. **JURISDICTION**

- 10.1 This Agreement is governed and interpreted in accordance with the law of England and the Parties agree that the Courts of England shall have jurisdiction to settle any dispute or claim arising out of or in connection with this agreement.

IN WITNESS whereof the Council has caused its Common Seal to be hereunto affixed and the Owner and the Mortgagee have executed this instrument as their Deed the day and year first before written

EXECUTED AS A DEED BY)
LAZARI PROPERTIES 7 LIMITED)
acting by a Director and its Secretary)
or by two Directors)

..... [Redacted Signature]

Director

..... [Redacted Signature]

Director/Secretary

~~EXECUTED AS A DEED BY)
Lloyds Bank plc)
by)
in the presence of:-)~~

~~.....~~

~~THE COMMON SEAL OF THE MAYOR)
AND BURGESSES OF THE LONDON)
BOROUGH OF CAMDEN was hereunto)
Affixed by Order:-)~~

~~.....~~

~~Authorised Signatory~~

EXECUTED AS A DEED BY)
LAZARI PROPERTIES 7 LIMITED)
acting by a Director and its Secretary)
or by two Directors)

.....
Director

.....
Director/Secretary

EXECUTED AS A DEED BY)
Lloyds Bank plc)
by *Kim POWELL*)
in the presence of:- *GILLIAN PILE*)

.....

THE COMMON SEAL OF THE MAYOR)
AND BURGESSES OF THE LONDON)
BOROUGH OF CAMDEN was hereunto)
Affixed by Order:-)

.....
Authorised Signatory

EXECUTED AS A DEED BY)
LAZARI PROPERTIES 7 LIMITED)
acting by a Director and its Secretary)
or by two Directors)

.....
Director

.....
Director/Secretary

EXECUTED AS A DEED BY)
Lloyds Bank plc)
by)
in the presence of:-)

.....

THE COMMON SEAL OF THE MAYOR)
AND BURGESSES OF THE LONDON)
BOROUGH OF CAMDEN was hereunto)
Affixed by Order:-)

.....
Authorised Signatory



SCHEDULE 1
Construction Management Plan