

DATED

2013

**(1) BNP PARIBAS SECURITIES SERVICES TRUST COMPANY LIMITED and BNP
PARIBAS SECURITIES SERVICES TRUST COMPANY (JERSEY) LIMITED**

and

(2) HSBC 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
FOX COURT, 14 GRAY'S INN ROAD, LONDON WC1X 8HN
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended) and
Section 278 of the Highways Act 1980

Andrew Maughan
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Judd Street
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CLS/COM/JL/1685.2018
vFINAL

THIS AGREEMENT is made the day of 2013

B E T W E E N:

- i. **BNP PARIBAS SECURITIES SERVICES TRUST COMPANY LIMITED** (incorporated in Jersey) (UK Regn. No. 14168) and **BNP PARIBAS SECURITIES SERVICES TRUST COMPANY (JERSEY) LIMITED** (incorporated in Jersey) UK Regn. No. 6043) both of 166 Sloane Street, London SW1X 9QF (hereinafter together called "the Owner") of the first part

- ii **HSBC BANK PLC** (Co. Regn. No. 14259) of West End Corporate Banking Centre, 70 Pall Mall, London SW1Y 5EZ (hereinafter called "the Mortgagee") of the second part

- iii. **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 NGL722783 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 12 February 2013 and the Council resolved to grant permission conditionally under reference number 2013/0786/P subject to completion of this legal Agreement.

- 1.4 The Council is the local planning authority for the purposes of the Act 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 As local highway authority the Council considers the Highways Works to be carried out pursuant to this Agreement to be in the public benefit.
- 1.6 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 contained in a Debenture registered under Title Number NGL722783 and dated 28 October 2010 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 Additional Training and Employment Contribution" the sum of £21,000 (twenty one thousand 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 to the Kings Cross Construction Centre to promote education and opportunities for jobs and employment to training within the London Borough of Camden
- 2.4 "Affordable Housing" low cost housing including social rented housing and intermediate housing that meets the needs of people who cannot afford to occupy homes

available in the open market in accordance with the National Planning Policy Framework and successor documents

- 2.5 "Affordable Housing Contribution" the sum of £75,000 (seventy five thousand 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 towards the provision of Affordable Housing in the London Borough of Camden
- 2.6 "Business Parking Bay" a parking place designated by the Council by an order under the Road Traffic Regulation Act 1984 or other relevant legislation for use by businesses of the locality in which the Development is situated
- 2.7 "Business Parking Permit" a parking permit outside of the Property issued by the Council under section 45(2) of the Road Traffic Regulation Act 1984 allowing a vehicle to park in a Business Parking Bay
- 2.8 "the Certificate of Practical Completion" the certificate issued by the Owner's contractor architect or project manager certifying that the Development has been completed
- 2.9 "Construction Management Plan" a plan setting out the measures that the Owner will adopt in undertaking the construction of the Development using good site practices in accordance with the Council's Considerate Contractor Manual to ensure 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 including (but not limited to):-

- (i) a statement to be submitted to Council giving 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 the building out of the Development;
- (ii) incorporation of the provisions set out in the First Schedule annexed hereto
- (iii) incorporation of the provisions set out in the Second Schedule annexed hereto
- (iv) proposals to ensure the protection and preservation of the adjacent listed building during the Construction Phase;
- (v) proposals to ensure there are no adverse effects on the neighbouring Conservation Area features
- (vi) effects on the health and amenity of local residences site construction workers local businesses and adjoining developments undergoing construction;
- (vii) 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);

(viii) the inclusion of a waste management strategy for handling and disposing of construction waste; and

(ix) 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

2.10 "the Construction Phase"

the whole period between

(i) the Implementation Date and

(ii) the date of issue of the Certificate of Practical Completion

2.11 "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

2.12 "Deferred Housing Contribution"

in accordance with clause 4.4, up to the maximum sum of £2,145,750 (two million one hundred and forty five thousand and seven hundred and fifty pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement to be applied by the Council in the event of receipt towards the provision of Affordable Housing within the London Borough of Camden

2.13 "Deferred Residual Site Value"

The value of the Property on Practical Completion less all costs associated with the Development as set out below:

- a) All relevant items of expenditure associated with the Development normally regarded as development costs but excluding the Owner's internal costs and overheads
- b) a cost equal to £40 per sq foot per annum applied to the net internal area of existing office space within the Property at Implementation which remains unlet 26 months after Implementation for a period equal to the aggregate of the assumed remaining void period and incentive (rent free) period such cost to increase to £48 per square foot per annum applied to the net internal area of the existing office space from the date of Practical Completion until the end of the anticipated combined letting void and incentive period.
- c) All service charge shortfalls and other outgoings for:
 - i) the existing vacant office space within the Property at Implementation incurred beyond a period of 15 months after Implementation for the assumed letting void; and
 - ii) for the new floorspace created as a result of the Development incurred after Practical Completion for the assumed letting void
- d) Developer Profit
- e) actual finance costs incurred on the expenditure created by the Development

- 2.14 "Deferred Viability Update Assessment" an assessment to be undertaken by the Owner and submitted to the Council in accordance with the terms of this Agreement such assessment to include (amongst other things) the matters set out in Schedule 4;
- 2.15 "Deferred Viability Update Surplus" a positive figure (if any) produced from the Deferred Viability Update Assessment by taking the Deferred Residual Site Value and subtracting the Existing Use Value;
- 2.16 "Developer Profit" 20% of the difference between (i) the value of the Property after Practical Completion, and (ii) the Existing Use Value, but only if the former is greater than the latter.
- 2.17 "the Development" development at the Property consisting of the erection of a 4 storey infill extension in the existing courtyard providing a new retail unit (Class A1) on the ground floor and office floorspace (Class B1a) on the first second and third floors and associated refurbishment of the building including the addition of a new entrance, curtain wall glazing, granite panels and replacement of the existing entrance to the west elevation new plant on the roof of the Annex and the installation of photovoltaic panels at roof level in connection with existing office use (Class B1a) as shown on drawing numbers Site Location Plan (P001); Site Plan (P002); Existing Drawings: P100 to P118; P300; Proposed Drawings: P200 to P219; P301; P400; P500 to P505; P600; P601; P700; P701; Reports:

Planning Statement by Planning Perspectives LLP (6 February 2013); Design and Access Statement (including Lift Traffic Study and Fire Engineering Feasibility) by GMA Architecture (January 2013); Daylight, Sunlight and Overshadowing Report by Deloitte; (February 2013); Transport Statement (including a Service Management Plan and Draft Construction Traffic Management Plan) by Bellamy Roberts (January 2013); Viability Submission by Turner Morum (February 2013); Sustainability and Energy Statement by MBA Consulting Engineers Ltd (16th January 2013); BREEAM Pre-Assessment by MBA Consulting Engineers Ltd (8th January 2013); Noise Assessment by MBA Consulting Engineers Ltd (February 2013); Marketing Agent's Statement by Knight Frank and Farebrother (February 2013); Historic Environment Assessment by MOLA (29 January 2013); Structural Engineer's Report by Sinclair Johnston (January 2013); Off-site search for residential options report by Farebrother (April 2013)

2.18 "the Energy Efficiency and Renewable Energy Plan"

a strategy setting out a package of measures to be adopted by the Owner in the management of the Development with a view to reducing carbon energy emissions through (but not be limited to) the following:-

- (a) the incorporation of the measures set out in the document submitted with the Planning Application entitled Sustainability and Energy Statement by MBA Consulting Engineers Ltd and dated 16th January 2013;

- (b) any further details of how the Owner will reduce the Development's carbon emissions from renewable energy technologies located on the Property ensuring the Owner will target a reduction of at least 25% in carbon emissions in relation to the Property using a combination of complementary low and zero carbon technologies;
- (c) separate metering of all low and zero carbon technologies to enable the monitoring of energy and carbon emissions and savings;
- (d) include a pre-Implementation review by an appropriately qualified and recognised independent verification body in respect of the Property certifying that the measures incorporated in the Energy Efficiency and Renewable Energy Plan are achievable in the Development and satisfy the aims and objectives of the Council's strategic policies on the reduction of carbon emissions contained within its Development Plan, unless there is no change with the statement referred to under (a) above, in which case this requirement will be satisfied by the inclusion of a letter specifying that there has been no change in the assessment;
- (e) measures to secure a post construction review of the Development by an appropriately qualified and recognised independent verification body in respect of the Property certifying that the measures incorporated in the Energy Efficiency and Renewable Energy Plan

have been achieved in the Development and will be maintainable in the Development's future management and occupation; and

2.19 "Existing Use Value"

means the sum of £52,250,000.

2.20 "Financial Contribution"

means the Additional Training and Employment Contribution, the Highways Contribution, the Affordable Housing Contribution, the Pedestrian and Environmental Contribution, the Public Open Space Contribution, and the Training and Employment Contribution.

2.21 "the Highways Contribution"

the sum of £17,590 (seventeen thousand five hundred and ninety 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 event of receipt for the carrying out works to the public highway and associated measures in the vicinity of the Property namely repaving the footway along the Gray's Inn Road frontage of the Property as shown for indicative purposes on the plan annexed hereto and as more particularly described in the highways works estimate annexed hereto (with any amendment to such works to be reasonably required by the Council as a direct result of the Development and with the Council notifying the Owner in advance if that amendment shall take the cost of the works beyond the value of the Highways Contribution) ("the Highways Works") all works will be subject to final measure and any level adjustment required

- 2.22 "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 save that for the purposes of this Agreement the following shall be deemed not to be material operations: archaeological works, site or soil investigations, ground investigations, site survey works, works of decontamination and the erection of hoardings and fences and temporary security measures or lighting and references to "Implementation" and "Implement" shall be construed accordingly
- 2.23 "King's Cross Construction Centre" the Council's flagship skills construction training centre (for the time being at 180 York Way, London, N1C 0AZ) providing advice and information on finding work in the construction industry
- 2.24 "Local Procurement Code" the code annexed to the Third Schedule hereto
- 2.25 "Occupation Date" the date when any new-build part of the Development is occupied save for marketing, fit-out, construction, security, or staff training purposes, and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
- 2.26 "the Parties" mean the Council the Owner the Mortgagee
- 2.27 "the Pedestrian Cyclist and Environmental Contribution" the sum of £150,000 (one hundred and fifty thousand 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 provision of various transport pedestrian cycle and public realm improvements in the vicinity of the Development in order to mitigate against the impacts of increased pedestrian trips generated by the Development.

- 2.28 "the Planning Application" a planning application in respect of the Development submitted to the Council and validated on 7 February 2013 for which a resolution to grant permission has been passed conditionally under reference number 2013/0786/P subject to completion of this Agreement
- 2.29 "Planning Obligations Monitoring Officer" a planning officer of the Council from time to time allocated to deal with all planning obligations pursuant to S106 of the Act to whom all notices, correspondence, approvals etc must be sent in the manner prescribed at clause 6.1 hereof
- 2.30 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto
- 2.31 "the Property" the land known as Fox Court, 14 Grays Inn Road, London WC1X 6HN the same as shown shaded grey on the plan annexed hereto
- 2.32 "the Public Highway" any carriageway footway and/or verge adjoining the Property maintainable at public expense
- 2.33 "Public Open Space Contribution" the sum of £8,965 (eight thousand nine hundred and sixty five 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 improvement maintenance and upkeep of existing public open spaces and/or nature conservation improvements to parks and open space and/or the obtaining of land to make public open spaces in the vicinity of the Development

2.34 "the Sustainability Plan"

a plan including a post construction review securing the incorporation of sustainability measures in the carrying out of the Development in its fabric and in its subsequent management and occupation which shall:-

- (a) be based on a Building Research Establishment Environmental Assessment Method assessment with a target of achieving a Very Good Excellent or Outstanding rating and attaining at least 44% of the credits in Energy 55% of the credits in Water and 75% of the credits in Materials categories;
- (b) include a pre-Implementation review by an appropriately qualified and recognised independent verification body in respect of the Property certifying that the measures incorporated in the Sustainability Plan are achievable and satisfy the aims and objectives of the Council's strategic policies on sustainability contained within its Development Plan, unless there is no change with the statement referred to under (a) above, in which case this requirement will be satisfied by the

inclusion of a letter specifying that there has been no change in the assessment; and

- (c) measures to secure a post construction review of the Development by an appropriately qualified and recognised independent verification body in respect of the Property certifying that the measures incorporated in the Sustainability Plan have been achieved in the Development and will be maintainable in the Development's future management and occupation

2.35 "the Training and Employment Contribution"

the sum of £21,000 (twenty one thousand 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 towards the promotion of education and opportunities for jobs and employment and training within the London Borough of Camden

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 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 or 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.

4. **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

4.1 **AFFORDABLE HOUSING CONTRIBUTION**

- 4.1.1 On or prior to the Implementation Date to pay to the Council the Affordable Housing Contribution in full.
- 4.1.2 Not to Implement or to permit Implementation until such time the Council has received the Affordable Housing Contribution in full.

4.2 **CAR CAPPED**

- 4.2.1 To ensure that prior to occupying any part of the Development each new occupant of the Development is informed by the Owner of the Council's policy that they shall not be entitled (unless they are the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970) to be granted a

Business Parking Permit to park a vehicle in a Business Parking Bay and will not be able to buy a contract to park within any car park owned, controlled or licensed by the Council.

4.2.2 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.2.1 above will remain permanently (unless agreed otherwise by the Council) in accordance with s.106 of the Act.

4.2.3 On or prior to the Occupation Date the Owner shall inform the Council's Planning Obligations Monitoring Officer of the official unit numbers of the units forming part of the Development (as issued and agreed by the Council's Street Name and Numbering Department), identifying those units that in the Owner's opinion are affected by the Owner's obligation in Clause 4.2.1 of this Agreement.

4.3 **CONSTRUCTION MANAGEMENT PLAN**

4.3.1 On or prior to the Implementation Date to provide the Council for approval a draft Construction Management Plan.

4.3.2 Not to Implement nor allow Implementation of the Development until such time as the Council has approved the Construction Management Plan as demonstrated by written notice to that effect.

4.3.3 The Owner acknowledges and agrees that the Council will not approve the Construction Management Plan unless it demonstrates to the Council's reasonable satisfaction that the Construction Phase of the Development can be carried out safely and with the minimal possible impact on and disturbance to the surrounding environment and highway network.

4.3.4 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 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.

4.4 DEFERRED VIABILITY UPDATE ASSESSMENT

4.4.1 The Parties agree that notwithstanding the remaining clauses in 4.4 of this Agreement the Owner may at any time following Implementation pay the Council the Deferred Housing Contribution in full.

4.4.2 To submit the Deferred Viability Update Assessment to the Council for approval in writing:

(a) the date of issue of the Certificate of Practical Completion; or

(b) when the Owner has exchanged on the sale or the letting of no less than 50% of the floorspace forming part of the Development and provides sufficient information to the Council to evidence the same.

4.4.3 Not to complete on the sale or letting of more than 50% of the floorspace forming part of the Development until such time as the Deferred Viability Update Assessment has been submitted to the Council for approval in writing.

4.4.4 Upon the issue of the approval of the Deferred Viability Update Assessment the Council will provide to the Owner the following:-

(a) a certificate specifying the sum ("the Assessment Certified Sum") reasonably and properly expended by the Council in assessing the Deferred Viability Update Assessment;

(b) a certificate specifying the sum ("the Viability Certified Sum") properly assessed by the Council in accordance with the provisions of Clause 4.4 of this Agreement as being the amount of the Deferred Housing Contribution payable under the terms of this Agreement; and

(c) an assessment report undertaken by the Council or those appointed by it reviewing the Owner's Deferred Viability Update Assessment.

- 4.4.5 If the Assessment Certified Sum exceeds the sum of £5,000 paid by the Owner towards the Council's assessment costs, and accompanying the submission of the Deferred Viability Update Assessment, then, within 28 days of production by the Council of evidence of the extra sums expended, the Owner shall pay to the Council the amount of the excess.
- 4.4.6 In the event the Deferred Viability Update Assessment shows a Deferred Viability Update Surplus that is less than £4,291,500 the Viability Certified Sum shall be half of the Deferred Viability Update Surplus up to the maximum of the Deferred Housing Contribution.
- 4.4.7 In the event the Deferred Viability Update Assessment shows a Deferred Viability Update Surplus that is greater than or equal to £4,291,500 the Viability Certified Sum shall be the maximum amount of the Deferred Housing Contribution.
- 4.4.8 In the event the approved Deferred Viability Update Assessment does not show or demonstrate a Deferred Viability Update Surplus the Owner shall have no obligation to provide the Deferred Housing Contribution and the Viability Certified Sum shall be zero.
- 4.4.9 Subject to 4.4.11 below, the Owner shall within 28 days of receipt of the certificate specifying the Viability Certified Sum pursuant to 4.4.4 above, pay to the Council the sum specified within the Viability Certified Sum.
- 4.4.10 Not to Occupy or permit Occupation of more than 50% of the new floorspace forming part of the Development until such time as the Council has received the Deferred Housing Contribution.
- 4.4.11 In the event that the Viability Certified Sum provided by the Council pursuant to 4.4.4 above is different to the Deferred Viability Update Assessment, and the Owner disagrees with the Viability Certified Sum and/or the analysis and assessment undertaken by the Council to support it, then the Parties shall within 21 Working Days of the Owner's receipt of the Viability Certified Sum meet with or without those instructed by them to discuss and resolve the differences set out.

4.4.12 If 4.4.11 above applies and the Parties conclude at that meeting:

- (a) an agreed Viability Certified Sum, then the payment to be made pursuant to clause 4.4.9 above will be 28 days from that meeting;
- (b) remain in disagreement in relation to the Deferred Viability Update Surplus, the Parties can either:
 - (i) arrange a further meeting to resolve the differences remaining; or
 - (ii) initiate any other process the Parties consider reasonable in the circumstances in accordance with clause 9 of this Agreement

4.4.13 If at any time the Deferred Housing Contribution is paid as determined in accordance with this clause 4.4, then the provisions of this clause 4.4 shall cease to have any further effect.

4.5 ENERGY EFFICIENCY AND RENEWABLE ENERGY PLAN

4.5.1 On or prior to the Implementation Date to submit to the Council for approval the Energy Efficiency and Renewable Energy Plan.

4.5.2 Not to Implement nor permit Implementation until such time as the Council has approved the Energy Efficiency and Renewable Energy Plan such approval not to be unreasonably withheld or delayed.

4.5.3 Not to Occupy or permit Occupation of the Property until a satisfactory post-completion review has been submitted to and approved by the Council in writing confirming that the measures incorporated in the Energy Efficiency and Renewable Energy Plan as approved by the Council have been incorporated into the Property, such approval not to be unreasonably withheld or delayed.

4.5.4 Following 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 Energy Efficiency and Renewable Energy Plan as approved 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 Energy Efficiency and Renewable Energy Plan.

4.6 HIGHWAYS WORKS

- 4.6.1 On or prior to the Implementation Date to pay to the Council the Highways Contribution in full.
- 4.6.2 Not to Implement or to allow Implementation until such time as the Council has received the Highways Contribution in full.
- 4.6.3 For the avoidance of doubt the Owner acknowledges that the Council has the right reserved to it to construct the Public Highway to levels it considers appropriate and does not undertake any responsibility in connection with any required statutory undertakers works and that the Highways Contribution excludes any statutory undertakers costs.
- 4.6.4 On completion of the Highway Works the Council may provide to the Owner a certificate specifying the sum (“the Certified Sum”) reasonably expended by the Council in carrying out the Highway Works together with (upon written request) a breakdown detailing how the Highways Contribution has been spent.
- 4.6.5 If the Certified Sum exceeds the Highway Contribution then the Owner shall within fourteen days of the issuing of the said certificate pay to the Council the amount of the excess.
- 4.6.6 If the Certified Sum is less than the Highway Contribution then the Council shall within fourteen days of the issuing of the said certificate pay to the Owner the amount of the unspent element of the Highway Contribution.

4.7 LOCAL EMPLOYMENT

- 4.7.1 In carrying out the works comprised in the Construction Phase of the Development the Owner shall use its reasonable endeavours to ensure that no less than 20% of the work force is comprised of residents of the London Borough of Camden.
- 4.7.2 In order to facilitate compliance with the requirements of sub-clause 4.7.1 above during the Construction Phase, the Owner shall use reasonable endeavours to work in partnership with (i) King's Cross Construction; and (ii) use reasonable endeavours to take the following measures:-

- a) all contractors provide information about all vacancies arising as a result of the Construction Phase of the Development to King's Cross Construction; and
- b) King's Cross Construction is notified of all vacancies, arising from the building contract for the Development for contractors .
- c) that King's Cross Construction is supplied with a full labour programme for the lifetime of the Construction Phase (with six-monthly updates) demonstrating (i) what skills and employment are needed through the life of the programme, and (ii) measures to ensure that these needs are met where possible through the provision of local labour from residents of the London Borough of Camden having regard to the percentage target at 4.7.1 above; and
- d) the Council is provided with a detailed six-monthly labour return for monitoring the employment and self employment profile of all workers referred by Kings Cross Construction and employed during the Construction Phase

4.7.3 The Owner shall use all reasonable endeavours to ensure that at all times during the Construction Phase no less than three construction industry apprentices shall be employed at the Development always ensuring each apprentice and/or trainee (as the case may be) shall be:-

- (i) recruited through the Kings Cross Construction Centre;
- (ii) employed for a period of not less than 52 weeks; and
- (iii) paid at a rate not less than the national minimum wage.

4.7.4 Pursuant to Clause 4.7.3 hereof the Owner shall pay to the Council the sum of £1,500 (one thousand five hundred pounds) for each construction industry apprentice employed on or prior to the date each construction industry apprentice commences employment.

4.7.5 If the Owner is unable to provide the apprentices in accordance with Clause 4.7.3 of this Agreement for reasons demonstrated to the satisfaction of the Council it shall:-

(a) forthwith pay the Council the Additional Training and Employment Contribution (or relevant proportion thereof according to how many apprentices have not been provided at a cost of £7,000 per apprentice) in full and for the avoidance of doubt the Additional Training and Employment Contribution is to be paid in addition to the Training and Employment Contribution and not in substitution of the same; and

(b) shall not Occupy or permit Occupation until such time as the Additional Training and Employment Contribution (or relevant proportion thereof) has been paid in full.

4.7.6 Notwithstanding the provisions in clause 4.7.5 of this Agreement, during the Construction Phase the Owner shall use all reasonable endeavours to provide training opportunities on site for employees resident within the London Borough of Camden and to provide a six-monthly statement setting out the details of candidates employed to the Kings Cross Construction Centre.

4.8 **LOCAL PROCUREMENT**

4.8.1 Prior to Implementation to agree a programme during the Construction Phase to provide, using reasonable endeavours, opportunities for local businesses to bid/tender for the provision of goods and service to the Development having regard to the Council's Local Procurement Code.

4.8.2 On or prior to Implementation to meet with the Council's Labour Market and Economy Service's Local Procurement Team at least one month in advance of tendering contracts to agree the specific steps that will be taken to give effect to the Local Procurement Code.

4.8.3 To ensure that throughout the Construction Phase the Development shall not be carried out otherwise than in accordance with the requirements of the Local Procurement Code and in the event of non compliance with this sub-clause the Owner shall upon written notice from the Council forthwith take any steps required by the Council to remedy such non-compliance.

4.8.4 To use reasonable endeavours to provide opportunities for local businesses to bid/tender for the provision of facilities management services and other post construction supply of goods and services.

4.9 **PEDESTRIAN CYCLIST AND ENVIRONMENTAL CONTRIBUTION**

4.9.1 On or prior to the Implementation Date to pay to the Council the Pedestrian Cyclist and Environmental Contribution in full.

4.9.2 Not to Implement or to permit Implementation until such time as the Council has received the Pedestrian Cyclist and Environmental Contribution in full.

4.10 **PUBLIC OPEN SPACE CONTRIBUTION**

4.10.1 On or prior to the Implementation Date to pay to the Council the Public Open Space Contribution.

4.10.2 The Owner hereby covenants with the Council not to Implement or to permit Implementation until such time as the Council has received the Public Open Space Contribution.

4.11 **SUSTAINABILITY PLAN**

4.11.1 On or prior to the Implementation Date to submit to the Council for approval the Sustainability Plan.

4.11.2 Not to Implement nor permit Implementation until the Sustainability Plan has been approved by the Council, as demonstrated by written notice to that effect such approval not to be unreasonably withheld or delayed

4.11.3 Not to Occupy or permit Occupation of the Property until a satisfactory post-completion review has been submitted to and approved by the Council in writing confirming that the measures incorporated in the Sustainability Plan as approved by the Council have been incorporated into the Property.

4.11.4 Following 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 Sustainability Plan as approved by the Council

and shall not Occupy or permit Occupation of the Development otherwise than in strict accordance with the requirements of the Sustainability Plan.

4.12 **TRAINING AND EMPLOYMENT CONTRIBUTION**

4.12.1 On or prior to the Implementation Date to pay to the Council the Training and Employment Contribution in full.

4.12.2 Not to Implement or to allow Implementation until such time as the Council has received the Training and Employment Contribution in full.

5. **NOTICE TO THE COUNCIL/OTHER MATTERS**

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

5.2 Within fourteen days following completion of the Development the Owner shall provide the Certificate of Practical Completion to the Planning Obligations Monitoring Officer in the manner outlined at clause 6.1 hereof quoting the Planning Permission reference 2013/0786/P the date upon which the Development is ready for Occupation.

5.3 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.

5.4 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.

- 5.5 If satisfied as to the compliance of the Owner in respect of any obligation in this Agreement the Council shall provide through its Planning Obligations Monitoring Officer confirmation of compliance; or, if requested to do so, through its Head of Legal Services, in writing and subject to payment of a fee of £1,000 in respect of each such obligation provide a formal written certification of compliance, partial compliance or ongoing compliance (as and if appropriate) with the provisions of any such obligation.
- 5.6 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 2013/0786/P.
- 5.7 Payment of the financial contributions pursuant to Clause 4 of this Agreement shall be made by the Owner to the Council sending the full amount in the form of a Banker's Draft 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 Contribution relates quoting the Income Code ZN704 ZL065 or by Electronic Transfer directly to the Co-Operative Bank plc of 1 Islington High Street London N1 9TR quoting Sort Code 08-90-33 and London Borough of Camden General Account No. 61030019 and to inform the Planning Obligations Monitoring Officer of such payment quoting the above details as if the payment had been made by Banker's Draft.
- 5.8 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.

5.9 A Financial Contribution 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 Central Statistical Office 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

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

5.10 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.

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

6.1 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, Urban Design and Renewal, Planning and Public Protection, Culture and Environment Directorate, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the Planning Permission reference number 2013/0786/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.

6.2 This Agreement shall be registered as a Local Land Charge.

6.3 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.

- 6.4 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 on written demand with official copies of such title to show the entry of this Agreement in the Charges Register of the title to the Property.
- 6.5 Nothing contained or implied in this Agreement shall 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 fully and effectually exercised
- 6.6 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.
- 6.7 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.
- 6.8 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 any monies paid to the Council and not expended or committed to be expended by the Council shall be returned immediately to the Owner.

7. **MORTGAGEE EXEMPTION**

The Mortgagee acknowledges and declares that this Agreement has been entered into by the Owner with its consent and that the Property shall be bound by the obligations contained in this Agreement (and that the security of the mortgage over the Site shall take effect subject to this Agreement) PROVIDED THAT the Mortgagee shall have no liability under this Agreement unless it takes possession of the Property

in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

8. RIGHTS OF THIRD PARTIES

8.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement

9. RESOLUTION OF DISPUTES

9.1 It is agreed between the Parties that the following clauses do not have the effect of fettering the Council's discretion as to any appropriate remedy as per clause 6.5 above.

9.2 When seeking to enforce any of the terms of this Agreement the Council shall act reasonably and proportionately including notifying the Owner of any obligation to which the Council considers has been breached and stating what steps the Council considers to be required in order to bring about compliance with such obligation or obligations and allowing a reasonable period of time to rectify such breaches before taking enforcement action

9.3 In the event of any dispute arising between the parties, the Parties will attempt to resolve any dispute amicably including holding a meeting attended by at least one representative from each party.

9.4 If the parties are unable to resolve any dispute amicably, the Parties may agree to resolve the dispute by mediation or agree that the matter in dispute will on the application of any of them be referred to a person acting as an expert (hereinafter referred to as the "Expert") being a person with not less than ten years' recent and relevant experience of the matter in dispute whose identity will be agreed between the parties or in default of agreement appointed by or on behalf of the President for the time being of the Royal Town Planning Institute or RICS or other relevant institute on the application of any party and it is further agreed that:-

9.4.1 the determination of the Expert will be final and binding on the parties save in the case of manifest error;

9.4.2 the parties will be entitled to make representations and counter-representations in accordance with such timetable as the Expert shall direct; and

9.4.3 the Expert's costs will be borne in such proportions as he may direct failing which each party will bear its own costs of the reference and determination and one half each of the Expert's costs.

10. **COUNCIL COVENANTS**

The Council covenants with the Owner as follows:

10.1 Not to use any financial contribution received and any interest received thereon (if any) other than for the purpose which the financial contribution has been paid, as set out in this Agreement.

10.2 Following receipt of any financial contribution:

10.2.1 to provide the Owner upon reasonable request in writing and in any event no more often than once every financial year an explanation of how all or any of the Financial Contributions have been spent or spent since any previous request and/or of the unexpended balance remaining of all or any of the Financial Contributions.

10.2.2 in the event that all or part of any Financial Contribution has not been expended or committed to be expended within 8 years from the date of Occupation the Council shall repay the remaining sum to the Owner upon written request for the same by the Owner.

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)
BNP PARIBAS SECURITIES SERVICES)
TRUST COMPANY LIMITED)
acting by a Director and its Secretary)
or by two Directors)

.....
Director

.....
Director/Secretary

EXECUTED AS A DEED BY)
BNP PARIBAS SECURITIES SERVICES)
TRUST COMPANY (JERSEY) LIMITED)
acting by a Director and its Secretary)
or by two Directors)

.....
Director

.....
Director/Secretary

EXECUTED AS A DEED BY)
HSBC 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

THE FIRST SCHEDULE
Construction Management Plan
Air Quality and Carbon Reduction

Requirements to control and minimise NO_x, PM₁₀, CO₂ emissions from construction sites and avoid nuisance and dust complaints.

A method statement shall be prepared and adopted as part of the Construction Management Plan to minimise gaseous and particulate matter emissions generated during the Construction Phase. The method statement shall identify the specific measures which will be implemented to control air pollution emissions during each of the following stages of the Construction Phase: (a) demolition; (b) ground breaking; and (c) construction/build.

The Construction Phase shall be carried out in accordance with the Best Practise Guidance Note "Control of dust and emissions from construction and demolition" published by London Councils, 2006. The risk rating of the site shall be defined in the method statement and determined using the risk assessment methodology in the Best Practise Guidance. Techniques to control dust from construction activities and emissions from vehicles and plant, and undertake air quality monitoring, shall conform to the 'medium' or 'high' risk categories outlined in the Best Practice Guidance.

The following best practise measures shall be included as a minimum in the method statement:-

A - Techniques to control PM₁₀ and NO_x emissions from vehicles and plant

- a) Low emission plant fitted with catalysts, diesel particulate filters or similar devices shall be used;
- b) Plant shall be well maintained, with routine servicing of plant and non-road mobile machinery (NRMM) to be completed in accordance with the manufacturers recommendations;
- c) Avoid the use of diesel or petrol powered generators and use mains electricity or battery powered equipment where possible;
- d) Non-road mobile machinery (NRMM) shall use ultra low sulphur tax-exempt diesel and be fitted with appropriate exhaust after-treatment such as catalysts,

diesel particulate filters as stated on the approved list managed by the Energy Saving Trust. Details of the plant and control equipment shall be included in the method statement.

- e) All construction vehicles shall comply with the Euro 4 emissions standard and where possible use low emission fuels and alternative technology.
- f) Plant and vehicles shall be located way from the closest receptors or house in closed environments where possible.

B - Techniques to control dust emissions from construction and demolition

- a) Keep site fencing, barriers and scaffolding clean using wet methods;
- b) Buildings to be demolished shall be wrapped
- c) Provide easily cleaned hard standing for vehicles and clean using wet sweeping methods;
- d) Provide the use of wheel-wash facilities near the site exit. Fit wheel-washes with rumble grids to dislodge accumulated dust and mud prior to leaving the site to avoid carrying dust or mud off the site;
- e) Inspect internal haul routes for integrity and instigate necessary repairs to the surface as soon as reasonably practicable;
- f) Routinely clean the Public Highways and accesses using wet sweeping methods especially during dry periods;
- g) Impose and signpost maximum speed limits of 10 mph on surfaced haul routes and work areas within the Site;
- h) Ensure all vehicles carrying loose or potentially dusty material to or from the site are fully sheeted;
- i) Store materials with the potential to produce dust away from site boundaries;
- j) Sheet, seal or damp down stockpiles of excavated material held on site;
- k) Any loose materials brought onto the site shall be protected by appropriate covering
- l) The site shall be dampened down during the working day and again at the end of the day to reduce the amount that is re-suspended dust.
- m) Ensure water suppression is used during demolition operations;
- n) Ensure mobile crushing and screening plant and cement batching plant which are regulated under the Local Air Pollution Prevention and Control regime operate in compliance with a Part B Permit. This shall be submitted to the local authority prior to operation.

- o) Site personnel shall be trained in dust mitigation and a manager shall be present for managing dust on site.

C - Air Quality Monitoring

- a) Throughout the Construction Phase continuous particulate matter (PM10) monitoring shall be undertaken. Two instruments will be deployed at the site boundary in a transect orientated to the prevailing wind direction, with a third monitor located at the nearest sensitive receptor. One monitor shall be co-located with an anemometer.
- b) Adequate quality assurance/quality control procedures shall be in place including monitor maintenance and calibration as well and data checking. PM10 data shall be collected automatically on an hour basis.
- c) A trigger action level for PM10 concentrations of $200\mu\text{g.m}^{-3}$ (15 minute average) shall be used to identify incidences of elevated dust emissions at the site boundary. The development site shall comply with the trigger action throughout the demolition and construction phases.
- d) An on-site alert system (email or SMS) shall be in place to notify appropriate staff that the trigger action level has been reached. Immediate and appropriate measures can be put in place to rectify abnormal particulate emissions. A procedure shall be established to deal with abnormal dust emissions. All incidences of abnormal particulate emissions leading to breaches of the trigger action level, shall be documented in the site log book (date and time), with details of the action take to remediate dust emissions.
- e) An e-mail specifying details of any alert to be sent out to the Council's air quality officer as soon as practicable following any breach of the site trigger action level.
- f) An electronic report shall be submitted to the Council's air quality officer every three months summarising the following information from each monitoring site – 24 hour average PM10 concentration, date and time of any breach of the trigger action level with the 15 minute mean concentration, prevailing wind direction and details of the cause of elevated dust emissions and mitigation measures.

- g) The Council shall be notified of any changes to the location and operation of dust PM10 monitoring instrumentation.
- h) A 24-hour phone hotline shall be set up so that residents can complain about high dust or PM10 levels directly to the developer.

The following items shall be included in the method statement:

- a) A specific timetable identifying the start and finish dates of each phase, including dust generating activities and PM10 monitoring.
- b) An inventory of stationary and fugitive dust, PM10 and NOx emission sources with an explanation of how these will be mitigated in accordance with the London Council's Best Practise Guidance.
- c) A map identifying the location of dust generating activities, plant equipment associated with emissions to air and PM10 monitors.
- d) An air quality monitoring protocol prepared in accordance with the requirements of section C.

D - Techniques to reduce CO₂ emissions from construction vehicles

A commitment from the Owner that contractors' vehicles involved in construction and demolition work will adopt 'green fleet management practices' that will result in a 10% reduction in tail-pipe CO₂ emissions over the duration of the construction phase. A green fleet management plan included in the method statement identifying measures to improve vehicle efficiency and reduce CO₂ emissions from construction vehicles. This could include the use of fuel monitoring equipment in vehicles, eco-driver training, accreditation with FORS (Freight Operator Recognition Scheme run by TfL) or SAFED (Safe and Fuel Efficient Driving run by the DfT) and use of low carbon vehicles such as hybrid electric, electric and bio-methane.

THE SECOND SCHEDULE
Construction Management Plan
Highway Measures

A Construction Management Plan outlines how construction work will be carried out and how this work will be serviced (e.g. delivery of materials, set down and collection of skips), with the objective of minimising traffic disruption and avoiding dangerous situations and minimising the impact on local amenity. A Construction Management Plan should cover both demolition and construction phases of development. Details of the Construction Management Plan will relate to the scale and kind and location of the development and they should assess the impact on transport and on local amenity including road user amenity. Should any one of these criteria be considered not to be relevant, then specific justification, as to why that particular criterion is not relevant, will need to be provided. The Construction Management Plan should demonstrate that the following has been considered and where necessary the impacts mitigated:

(Note the term 'vehicles' used here refers to all vehicles associated with the implementation of the development, e.g. demolition, site clearing, delivering of plant, material and construction, staff parking etc)

- a) A brief description of the site, surrounding area and development proposals for which the Construction Management Plan applies.
- b) Proposed start and end dates for each phase of construction.
- c) The proposed working hours within which vehicles will arrive and depart.
- d) The access arrangements for vehicles.
- e) Proposed routes for vehicles between the site and the Transport for London Road Network (TLRN). Consideration should also be given to weight restrictions, low bridges and cumulative affects of construction on the highway. A map of the TLRN can be downloaded from the following site:-
http://www.tfl.gov.uk/assets/downloads/TFL_Base_Map_Master.pdf
- f) Typical sizes of all vehicles and the approximate frequency and times of day when they will need access to the site, for each phase of construction.
- g) Swept path drawings for any tight manoeuvres on vehicle routes to the site.
- h) Details (including accurate scaled drawings) of any highway works necessary to enable construction to take place.
- i) Parking and loading arrangement of vehicles and delivery of materials and plant to the site.

- j) Details of proposed parking bays suspensions and temporary traffic management orders.
- k) Proposed overhang (if any) of the public highway (scaffolding, cranes etc.).
- l) Details of hoarding required or any other occupation of the public highway.
- m) Details of how pedestrian and cyclist safety will be maintained, including any proposed alternative routes (if necessary), and any Banksman arrangements.
- n) Details of how traffic associated with the Development will be managed in order to reduce congestion.
- o) Details of any other measures designed to reduce the impact of associated traffic (such as the use of construction material consolidation centres).
- p) Details of how any significant amounts of dirt or dust that may be spread onto the public highway will be cleaned or prevented.
- q) Details of consultation on a draft Construction Management Plan with local residents, business, local groups (e.g. residents/tenants and business associations) and Ward Councillors. Details should include who was consulted, how the consultation was conducted and the comments received in response to the consultation. In response to the comments received, the Construction Management Plan should then be amended where appropriate and where not appropriate a reason should be given why not. The revised Construction Management Plan should also include a list of all the comments received. You are advised to check your proposed approach to consultation with the Council before carrying it out.
- r) Details of any Construction Working Group that will be set up, addressing the concerns of surrounding residents, as well as contact details for the person responsible for community liaison on behalf of the developer, and how these contact details will be advertised to the community.
- s) Details of any schemes such as the “Considerate Contractors Scheme” that the project will be signed up to should form part of the consultation and be notified to the Council. Contractors will also be required to follow the “Guide for Contractors Working in Camden” also referred to as “Camden’s Considerate Contractor’s Manual”
- t) Details of other construction sites in the local area and how your Construction Management Plan takes into consideration the cumulative effects of construction local to your site.
- u) All contractors and sub-contractors operating large vehicles over 3.5 tonnes must meet all of the following conditions:-

- 1) Operators must be a member of TfL's Fleet Operator Recognition Scheme (www.tfl.gov.uk/fors) or similar at the Bronze level.
- 2) All drivers must have undertake cycle awareness training such as the Safe Urban Driver module through FORS or similar.
- 3) All vehicles associated with the construction of the Development must:
 - i. Have Side Guards fitted, unless it can be demonstrated to the reasonable satisfaction of the Employer, that the Lorry will not perform the function, for which it was built, if Side Guards are fitted.
 - ii. Have a close proximity warning system fitted comprising of a front mounted, rear facing CCTV camera (or Fresnel Lens where this provides reliable alternative), a Close Proximity Sensor, an in-cab warning device (visual or audible) and an external warning device to make the road user in close proximity aware of the driver's planned manoeuvre.
 - iii. Have a Class VI Mirror
 - iv. Bear prominent signage on the rear of the vehicle to warn cyclists of the dangers of passing the vehicle on the inside.
- v) Any other relevant information with regard to traffic and transport.
- w) The Construction Management Plan should also include the following statement:-

"The agreed contents of the Construction Management Plan must be complied with unless otherwise agreed with the Council. The project manager shall work with the Council to review this Construction Management Plan if problems arise in relation to the construction of the Development. Any future revised plan must be approved by the Council and complied with thereafter."

It should be noted that any agreed Construction Management Plan does not prejudice further agreement that may be required for things such as road closures or hoarding licences

THE THIRD SCHEDULE LOCAL PROCUREMENT CODE

1. INTRODUCTION

The purpose of this code is to maximise the opportunities available to Local Businesses in Camden from larger property developments taking place in Camden both during and after the construction phase. The local procurement code describes how the Owner/Developer in partnership with Camden Labour Market & Economy Service will ensure that Local Businesses benefit directly from the opportunities arising from both the Construction Phase of the Development and the end use of the Property.

The requirements of the local procurement code apply to the developer, main contractor and subcontractors appointed by them as well as tenants subsequently occupying the building. The code is designed to support developers and contractors in fulfilling their commitments to the planning agreements by clarifying what is required from the outset. Although the wording is emphatic, Camden Labour Market & Economy Service seeks to work in partnership with contractors to assist them in meeting specifications and in finding suitable local companies. They will provide a regularly updated pre-screened directory of local companies in construction, fitting-out and furnishing trades in support of local procurement agreements.

2) MAIN REQUIREMENTS OF THE CODE

A) CONSTRUCTION.

We will request that the developers meet with London Borough of Camden's Labour Market & Economy Service's Local Procurement Team ("the Local Procurement Team") at least 1 month in advance of tendering contracts to clarify how the local procurement code will work and the co-operation required from the developer, main contractor and subcontractors.

The Council will seek to ensure that the developer inserts the following clauses in the tender documentation issued to the main contractor:

2.1 Actions & Responsibilities of Main Contractor

1. The main contractor will provide the Local Procurement Team with information on the estimated timing of their procurement programme and a schedule of works packages to be let (“the Procurement Schedule”)and to provide updates of the Procurement Schedule as and when it is updated or revised.
2. The main contractor will work with the Local Procurement Team to: include local companies on their tender lists wherever possible and to aim to achieve the procurement of construction contracts and goods and services from companies and organisations based in Camden towards a target of 10% of the total value of the construction contract.
3. The main contractor is required to provide regular monitoring information to the Local Procurement Team every six to eight weeks during the construction phase, via e-mail, phone, fax or liaison meeting providing details of:
 - all local companies which are sent a tender enquiry or a tender invitation detailing the date and the works package or items concerned;
 - the outcome of all works packages tendered, where there is a local company on the tender list, stating whether the local company was unsuccessful, successful or declined to tender and the contract value in the case of a contract being awarded to a local company.
 - All local wholesalers and building materials suppliers which are asked to provide prices and the value of any purchases of materials and other wholesaler supplies procured.

(The Local Procurement Team can provide a pro forma local procurement log to assist in the monitoring process)
 - Full contact details of all subcontractors appointed (whether local or from elsewhere)

4. The main contractor should include a written statement in the tender documentation sent out to sub contractors informing them of their s106 requirement obligations as set out in section 2.2 below and ensure cooperation is agreed as a prerequisite to accepting sub contract tenders
5. The main contractor should provide an opportunity for the Local Procurement Team to brief subcontractors on the requirements of the Local Procurement code.
6. The main contractor will identify any actions that are required in order to overcome known barriers to Local Businesses to accessing their supply chain in respect of the Construction Phase.

2.2 Actions And Responsibilities of Sub-Contractors

1. All sub-contractors appointed will be required to work with the Local Procurement Team and to aim to achieve the procurement of construction goods and services from companies and organisations based in Camden towards a target of 10% of the total value of their construction sub-contract. (A regularly updated sub-directory of local suppliers will be supplied to subcontractors by the Local Procurement Team).
2. All subcontractors are required to provide regular monitoring information either to the main contractor or directly to the Local Procurement Team every six to eight weeks during the construction phase, via e-mail, phone, fax or liaison meeting providing details of :
 - All local wholesalers and building materials suppliers which are asked to provide prices and the value of any subsequent purchases of materials and other wholesaler supplies procured.
 - All local companies which are sent a tender enquiry or a tender invitation detailing the date and the works package concerned and the outcome of all sub-contracts tendered.

B. POST CONSTRUCTION: FITTING OUT BY TENANTS AND FACILITIES MANAGEMENT

Fitting out by tenants

Where the tenants of a development are responsible for fitting out the building(s), we will require the developers to inform them that they also fall under the provisions of this s106 on local procurement and provide guidance in writing to their tenants setting out the above clauses contained in section 2 above, which will apply to them as the developer, their main contractor and subcontractors.

Facilities Management

The developer and their agents shall use reasonable endeavours to provide opportunities for local businesses to bid/tender for the provision of facilities management services and other post construction supply of goods and services.

The Council will assist the developer, occupier and their contractors in identifying suitable local companies to bid for facilities management contracts and to source local goods and services.

THE FOURTH SCHEDULE
DEFERRED VIABILITY UPDATE ASSESSMENT

The Deferred Viability Update Assessment to be prepared by the Owner pursuant to this Agreement will address the following amongst other matters:

1. be presented substantially in the same form as the Owner's confidential viability submission prepared by Turner Morum Chartered Surveyors dated February 2013 as approved by the Council pursuant to the Planning Permission or such other form as may be agreed by the Council in writing; and
2. be based on 20 percent developer's profit

with a view inter alia to evidence to the Council's reasonable satisfaction the Deferred Residual Site Value of the Property such assessment shall include (but not be limited to) the following:-

- (a) a copy of the Owner's viability submission prepared by Turner Morum Chartered Surveyors dated February 2013;
- (b) receipted invoices; certified costs; certified copies of sales contracts; and best estimates of costs yet to be incurred and the value of any unsold space and any other evidence reasonably required by the Council to show any revenue and/or costs incurred in relation to the Development;
- (c) a solicitor's certificate confirming any sales or lettings of any floorspace forming part of the Development were arm's length third party bona fide transactions and not:-
 - i. designed to reduce the revenue received from sales of lettings of the floorspace forming part of the Development;
 - ii. confined to transactions between the Owner and subsidiary companies of the Owner;
 - iii. transactions between the Owner and its employees;or

- iv. transactions including deferred consideration coverage or loans or finance deals from the Owner;
- (d) payment of £5,000 to cover the Council's costs in verifying the material and information contained within the assessment;
- (e) any further information the Council acting reasonably requires; and
- (f) all other costs incurred by the Owner in relation to the Development including but not limited to the costs of securing the Planning Permission.