

DATED

5th December

2012

(1) NICHOLAS LYMBOURIS

and

(2) BANK OF CYPRUS UK LIMITED

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

Daphne Restaurant, 83 Bayham Street, London NW1 0AG
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)

Andrew Maughan
Head of Legal Services
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 6007
Fax: 020 7974 1920

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CLS/COM/JS/1685.1775
S106 final 21.11.12

THIS AGREEMENT is made the 5th day of December 2012

B E T W E E N:

1. **NICHOLAS LYMBOURIS** of 67 Albert Street, London NW1 7LX (hereinafter called "the Owner") of the first part
2. **BANK OF CYPRUS UK LIMITED** of Po Box 17484, 87 Chase Side, London N14 5WH and of DX 34309 Southgate, trading as Bank of Cyprus UK (hereinafter called "the Mortgagee") of the second part
3. **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 LN66922 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 10 October 2012 and the Council resolved to grant permission conditionally under reference number 2012/5288/P subject to the conclusion 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 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.
- 1.6 The Mortgagee as mortgagee under a legal charge registered under Title Number LN66922 and dated 9 November 2009 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 (as amended) |
| 2.2 | "the Agreement" | this Planning Obligation made pursuant to Section 106 of the Act |
| 2.3 | "the Development" | installation of 2 dormer windows in rear roofslope, creation of roof terrace at rear second floor level, alterations to doors and windows all in connection with change of use of first to third floor from restaurant (Class A3) to 1 x 1-bedroom and 1 x 2-bedroom self-contained flats (Class C3). (RECONSULTATION INFO: Revised ground-floor front-elevation window/doorway design; Noise report; details of internal acoustic treatment and internal mechanical equipment) as shown on drawing numbers Site Location Plan: Drawing No(s) (Prefix 1345) E03-00, E03-01, P02-00, P02-01, P02-02, P02-00, P03-01, P04-01, P03- 01, E02- 00, E01- 00, E02- 01, E02- 02, P02-00 |

- 2.4 "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
- 2.5 "Occupation Date" the first date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
- 2.6 "the Parties" mean the Council the Owner and the Mortgagee
- 2.7 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 10 October 2012 for which a resolution to grant permission has been passed conditionally under reference number 2012/5288/P subject to conclusion of this Agreement
- 2.8 "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
- 2.9 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto

- 2.10 "the Property" the land known as Daphne Restaurant, 83 Bayham Street, London NW1 0AG the same as shown shaded grey on the plan annexed hereto
- 2.11 "Residents 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 residents of the locality in which the Development is situated
- 2.12 "Residents Parking Permit" a parking permit issued by the Council under section 45(2) of the Road Traffic Regulation Act 1984 allowing a vehicle to park in Residents Parking Bays

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 of interpretation.

3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6, 7 and 8 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.

3.8 The Parties acknowledge that the Development shall be treated as being permanently designated as "car free" housing in accordance with Clause 4.1 for all relevant purposes.

4. **OBLIGATIONS OF THE OWNER**

4.1 The Owner hereby covenants with the Council to ensure that prior to occupying any residential unit forming part of the Development each new resident 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 Residents Parking Permit to park a vehicle in a Residents 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 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.1 above will remain permanently.

4.3 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 residential units forming part of the Development (as issued and agreed by the Council's Street Name and Numbering Department), identifying those residential units that in the Owner's opinion are affected by the Owner's obligation in Clause 4.1 of this Agreement.

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 Development has taken or is about to take place.
- 5.2 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 6.1 hereof quoting planning reference 2012/5288/P the date upon which the Development will be 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 jointly and severally 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. **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 reference number 2012/5288/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 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 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.
- 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 or is modified (other than by agreement with or at the request of the Owner) this Agreement shall forthwith determine and cease to have effect and the Council will effect cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.

7. **MORTGAGEE EXEMPTION**

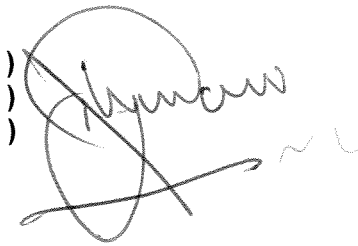
- 7.1 The Mortgagee hereby consents to the completion of this Agreement and agrees to be bound by it and to the same being registered at the Land Registry as provided in Clause 6.4 hereof and for the avoidance of doubt agrees to be bound by the said obligations only in the event that it becomes a mortgagee in possession of the Property.

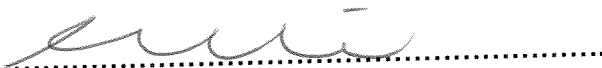
8. **RIGHTS OF THIRD PARTIES**

- 8.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to 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
NICHOLAS LYMBOURIS
in the presence of:**

)
)
)



.....
Witness Signature

Witness Name: FELEKNAZ OZDIL

Address: 61 GREYHOUND ROAD, LONDON N17 6XP

Occupation: SELF EMPLOYED.

CONTINUATION OF S106 AGREEMENT RELATING TO DAPHNE RESTAURANT,
83 BAYHAM STREET, LONDON NW1 0AG

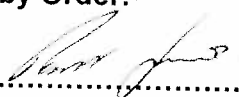
EXECUTED AS A DEED BY
BANK OF CYPRUS UK LIMITED
by
in the presence of:-

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)
)
)

.....

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

)
)
)
)

.....


Authorised Signatory



Execution

**Executed as a deed by Bank of Cyprus UK Limited acting by its duly
authorised signatories**

Signature

Name (in BLOCK CAPITALS)ROULLA ANTONIOU

PositionCREDIT DELIVERY MANAGER

Signature

Name (in BLOCK CAPITALS)GEORGINA ANDREOU

PositionCREDIT DELIVERY OFFICER

Company No: 04728421

The Companies Act 2006
Private Company Limited by Shares
Resolution of the Directors
of
Bank of Cyprus UK Limited (the Company)
Dated 10 July 2012

The Directors of the Company passed the following resolution on 10 July 2012 resolving:

IT WAS RESOLVED THAT any two authorised officers or staff holding the following positions with the Company be and hereby are authorised to execute documents that fall into the description set out in the schedule below:

1. Chief Executive
2. Assistant Chief Executive
3. Head of Legal & Compliance
4. Chief Financial & Risk Officer
5. Head of Recoveries
6. Credit Risk Manager
7. Head of Credit Delivery
8. Credit Delivery Manager
9. Credit Delivery Supervisor
10. Credit Delivery Officer (Grade D)
11. Credit Delivery Officer (Grade C)
12. Credit Delivery Assistant

This delegated authority is subject to the proviso that at least one of the officers or staff executing must be the holder of one of the positions numbered 1-10 above.

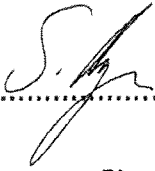
Schedule to resolution

Documents that can be executed on behalf of the Company pursuant to authority delegated by the Board of Directors on 10 July 2012:

- all documents in connection with the Company taking security in any part of the United Kingdom;
- all releases of security by the Company in the United Kingdom;
- all transfers of property in the United Kingdom requiring execution by the Company;
- all other documents required from the Company by any Land Registry whether in England & Wales or elsewhere;
- section 106 planning agreements in the United Kingdom;
- leases or variations of leases or surrenders of leases in the United Kingdom to which the Company is party or over which the Company has taken security.

Registered office: 27 – 31 Charlotte Street, London W1T 1RP

Certified to be a true copy of the Directors' Resolutions passed on
10 July 2012


.....
Stephen Byrne
Company Secretary
13 July 2012

Daphne Restaurant, 83 Bayham Street, London NW1 0AG



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DATED

5th December

2012

(1) NICHOLAS LYMBOURIS

and

(2) BANK OF CYPRUS UK LIMITED

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

Daphne Restaurant, 83 Bayham Street, London NW1 0AG
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)

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Head of Legal Services
London Borough of Camden
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