

DATED

3 December

2009

(1) CENTRAL EUROPE COMMODITIES LIMITED

and

(2) DUNBAR 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
139 YORK WAY, LONDON N7 9LG
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 5826
Fax: 020 7974 2962

CLS/DR/1685.275

THIS AGREEMENT is made the 3rd day of December 2009

B E T W E E N:

1. **CENTRAL EUROPE COMMODITIES LIMITED** (Co. Regn. No. 2869736) whose registered office is at 102 Belsize Lane, London NW3 5BB (hereinafter called "the Owner") of the first part
2. **DUNBAR BANK PLC** (Co. Regn. No. 966713) whose registered office is at 33 Jermyn Street, London SW1Y 6AD (hereinafter called "Mortgagee") of the second part
4. **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 269885 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 15 July 2009 and the Council resolved to grant permission conditionally under reference number 2009/2475/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 DUNBAR BANK PLC as mortgagee under a legal charge registered under Title Number 269885 and dated 27 June 2006 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" | the change of use of part ground floor from office (Class B1) to a residential unit (Class C3), including extension at rear ground floor level (following demolition of existing cycle storage) and relocation of cycle storage at ground floor level as shown on drawing numbers Site Location Plan; 910; Ground Floor Rev A; Front Elevation, as received 01/09/2009; Section D Rev A; Section E Rear Elevation Rev A; Rear Elevation F Rev A; Roof Plan Rev A; Detail Green Roof Rev A; Manufacturers details - The Zeobon single-layer-system; Letters from The New World Accommodation, dated 28/08/2009 and 04/09/2009; Letter from Foxtons, dated 04/09/2009; Letter from Christo & Co, dated 02/04/2009; Lifetime Homes Assessment |

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 15 July 2009 for which a resolution to grant permission has been passed conditionally under reference number 2009/2475/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 S106 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 139 York Way, London N7 9LG 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 2009/2475/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 2009/2475/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 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)
CENTRAL EUROPE)
COMMODITIES LIMITED)
acting by a Director and its Secretary)
or by two Directors)


.....
Director

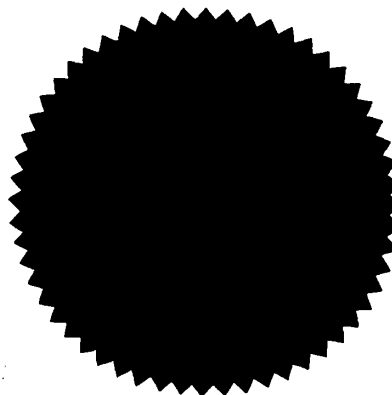

.....
Director/Secretary

EXECUTED AS A DEED BY
By *STEPHEN DAVID DRY*
AS ATTORNEY FOR AND ON
BEHALF OF DUNBAR BANK PLC
in the presence of:-




Cushman.

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



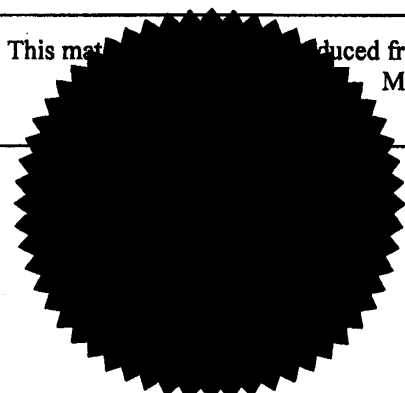
Authorised Signatory



139 York Way, London N7 9LG



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Handwritten signature or initials.

Handwritten signature or initials.

Spur Architects
Unit 22, no. 2,
Schwedenplatz,
Vienna,
Austria,
1010

Application Ref: **2009/2475/P**

11 September 2009

Dear Sir/Madam

DRAFT
FOR INFORMATION ONLY - **NOT A FORMAL DECISION**
Town and Country Planning Acts 1990 (as amended)

DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT

Address:
**139 York Way,
London,
N7 9LG**

DECISION
Proposal:

Change of use of part ground floor from office (Class B1) to a residential unit (Class C3), including extension at rear ground floor level (for bicycle storage) and relocation of cycle storage at ground floor level.

Drawing Nos: Site Location Plan; 910; Ground Floor Rev A; Front Elevation, as received 01/09/2009; Section D Rev A; Section E Rear Elevation Rev A; Rear Elevation F Rev A; Roof Plan Rev A; Detail Green Roof Rev A; Manufacturers details - The Zeobon single-layer-system; Letters from The New World Accommodation, dated 28/08/2009 and 04/09/2009; Letter from Foxtons, dated 04/09/2009; Letter from Christo & Co, dated 02/04/2009; Lifetime Homes Assessment.

The Council has considered your application and decided to grant permission subject to the conditions and informatives (if applicable) listed below **AND** subject to the successful conclusion of a Section 106 Legal Agreement.

The matter has been referred to the Council's Legal Department and you will be contacted shortly. If you wish to discuss the matter please contact **Aidan Brookes** in the Legal Department on **020 7 974 1947**.

Once the Legal Agreement has been concluded, the formal decision letter will be sent to you.

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy B1 of the London Borough of Camden Replacement Unitary Development Plan 2006.

- 3 The flat roof area of the single storey rear extension (shown as a green roof on the approved plans) hereby approved shall not be used as a roof terrace, and any access out onto this area shall be for maintenance of the green roof only and for no other purpose.

Reason: In order to prevent the unreasonable overlooking of the neighbouring premises in accordance with the requirement of policy SD6 of the London Borough of Camden Replacement Unitary Development Plan 2006.

- 4 No development shall take place until a) The applicant has submitted a programme of ground investigation for the presence of soil and groundwater contamination and landfill gas for approval by the Council and b) The investigation has been carried out in accordance with the approved details and the results and remediation measures (if necessary) have been submitted to and approved by the Council. All approved remediation measures shall be implemented strictly in accordance with the approved details. c) All approved remediation measures shall be implemented strictly in accordance with the approved details and a verification report shall be submitted and approved by the Council.

Reason: To protect future occupiers of the development from the possible presence of ground contamination arising in connection with the previous industrial/storage use of the site in accordance with policy SD6 of the London Borough of Camden Replacement Unitary Development Plan 2006.

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 2363).
- 2 Your proposals may be subject to control under the Party Wall etc Act 1996 which

covers party wall matters, boundary walls and excavations near neighbouring buildings. You are advised to consult a suitably qualified and experienced Building Engineer.

- 3 You are advised that policy H7 of the Replacement Unitary Development Plan 2006 encourages all new housing developments to be accessible to all and meet "Lifetime Homes" standards, and the Council welcomes any measures that can be introduced to facilitate this. You are advised to consult the Access Officer, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 2310) to ensure that the internal layout of the building is acceptable with regards to accessibility by future occupiers and their changing needs over time.
- 4 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 12.00 hours on Saturdays and not at all on Sundays and Public Holidays. You are advised to consult the Council's Planning and Public Protection Division (Compliance and Enforcement) at Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 5613 or by email ppp@camden.gov.uk or on the website www.camden.gov.uk/pollution) or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.
- 5 If a revision to the postal address becomes necessary as a result of this development, application under Part 2 of the London Building Acts (Amendment) Act 1939 should be made to the Council's Records and Information Team, Culture and Environment Directorate, Environment Department (Street Naming & Numbering) Camden Town Hall, Argyle Street, WC1H 8EQ (Tel: 020-7974 5613).
- 6 Your attention is drawn to the fact that there is a separate legal agreement with the Council which relates to the development for which this permission is granted. Information/drawings relating to the discharge of matters covered by the Heads of Terms of the legal agreement should be marked for the attention of the Planning Obligations Officer, Sites Team, Urban Design and Renewal, Camden Town Hall, Argyle Street, WC1H 8EQ.
- 7 Reasons for granting permission.

The proposed development is in general accordance with the policy requirements of the London Borough of Camden Replacement Unitary Development Plan 2006, with particular regard to policies SD2 (Planning obligations), SD6 (Amenity for occupiers and neighbours), SD9 (Resources and energy), H1 (New housing), H7 (Lifetime homes and wheelchair housing), H8 (Mix of units), B1 (General design principles), B3 (Alterations and extensions), N5 (Biodiversity), T3 (Pedestrians and cycling), T8 (Car free housing and car capped housing), T9 (Impact of parking), T12 (Works affecting highways) and E2 (Retention of existing business uses). For a more detailed understanding of the reasons for the granting of this planning permission, please refer to the officers report.

- 8 You are advised that in the event of any future applications seeking to further

increase the number of residential units on the site, the Council may wish to impose a Section 106 legal agreement requiring, inter alia, financial contributions for affordable housing and educational facilities.

Yours faithfully

Culture and Environment Directorate

DRAFT

DECISION

DATED

3 December

2009

(1) CENTRAL EUROPE COMMODITIES LIMITED

and

(2) DUNBAR 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

139 YORK WAY, LONDON N7 9LG

**pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)**

**Andrew Maughan
Head of Legal Services
London Borough of Camden
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