

DATED

9th December

2009

(1) KENSINGTON COMMERCIAL PROPERTY INVESTMENTS LIMITED

and

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

A G R E E M E N T

relating to land known as

**Presidential House, 1 University Street, London WC1E 6JQ
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 2463
Fax: 020 7974 2962**

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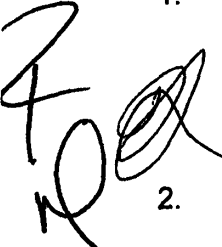
THIS AGREEMENT is made the

9th day of

December

2009

BETWEEN:

- 
1. **KENSINGTON COMMERCIAL PROPERTY INVESTMENTS LIMITED** (Co. Regn. No. 590078) whose registered office is at ~~Carlton House, 33 Robert Street, London W1U 9HR~~ ^{25 Savile Row London} (hereinafter called "the Owner") of the first part
 2. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the second part

WHEREAS

- 1.1 The Owner is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Numbers LN236504 and LN78118.
- 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 September 2009 and the Council resolved to grant permission conditionally under reference number 2008/5779/P subject to 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.

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 Application" | a planning application in respect of the development of the Property submitted to the Council and validated on 10 September 2009 for which a resolution to grant permission has been passed conditionally under reference number 2008/5779/P subject to conclusion of this Agreement |
| 2.4 | "the Development" | change of use of fifth and sixth floors from serviced apartment use (Sui Generis) to office use (B1) as shown on drawing numbers 001; 099; 100A; 105A; 106A; 109A; 110A; 115A; 116A; 401; 411, renewable energy statement; transport statement; location plan; Breeam pre assessment; drawing issue register. |
| 2.5 | "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 |
| 2.6 | "Occupation Date" | the first date when any part of the Development is occupied and the phrases "Occupy", |

"Occupied" and "Occupation" shall be construed accordingly and for the avoidance of doubt such expressions shall not include occupation of the property for the purposes of site survey investigation or fitting out.

2.7 "the Parties"

mean the Council and the Owner

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 Presidential House, 1 University Street WC1E 6JQ, 164-168 Tottenham Court Road London W1T 7JE, 169 Tottenham Court Road W1T 7NP, Victory House, 170 Tottenham Court Road, the same as shown edged in red on the plan annexed hereto

2.11 "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 based on a Building Research Establishment Environmental Assessment Method assessment achieving a Very Good or Excellent or Outstanding rating and attaining at

least 60% of the credits in each of Energy and Water and 40% of the credits in Materials categories to be carried out by a recognised independent verification body in respect of the Property

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 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.

4. OBLIGATIONS OF THE OWNER

The Owner hereby covenants with the Council as follows:-

- 4.1 On or prior to the Implementation Date to submit to the Council for approval the Sustainability Plan.
- 4.2 Not to Implement nor permit Implementation until the Sustainability Plan has been approved by the Council as demonstrated by written notice to that effect
- 4.3 Not to Occupy or permit the Occupation of the Development until the Council has confirmed in writing that the measures incorporated in the Sustainability Plan as approved by the Council have been implemented in the construction of the Development.
- 4.4 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.

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 2008/5779/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 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 2008/5779/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.

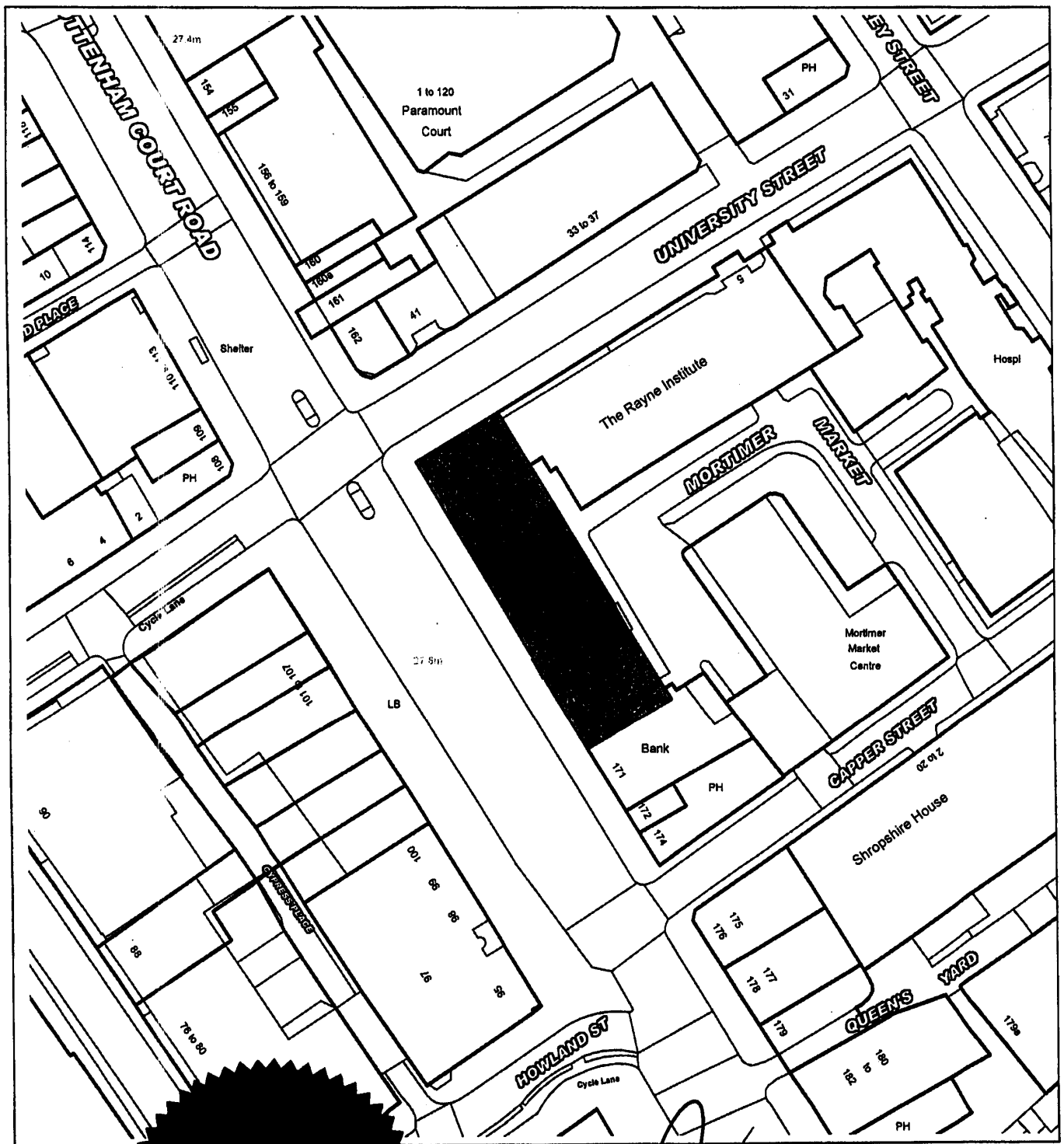
- 6.5 Nothing contained or implied in this Agreement shall prejudice or affect the Council's powers to enforce any specific obligation term or condition nor shall anything contained or implied herein prejudice or affect any provisions, rights, powers, duties and obligations of the Council in the exercise 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 nor its 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 or any relevant part thereof but without prejudice to liability for any breach committed prior to the time it disposed of its interest or part thereof.
- 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 and will consent to the removal of any entries made in respect of this Agreement in the Charges Register at the Land Registry.

7. RIGHTS OF THIRD PARTIES

- 7.1 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 has executed this instrument as its Deed the day and year first before written

1 University Street &
163-170 Tottenham Court Road
London WC1E 6JQ



DP9
100 Pall Mall
LONDON
SW1Y 5NQ

Application Ref: **2008/5779/P**

3 December 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:
1 University Street
163 - 170 Tottenham Court Road
London
WC1E 6JQ

Proposal:

Change of use of fifth and sixth floors from serviced apartments (Class 1 Generis) to office use (B1).

DRAWING NOS: Location plan 2995/001; Renewable Energy Statement; Transport Statement; Breeam Pre-Assessment dated 14 August 2009; 2995/099; 100A; 105A; 106A; 109A; 110A; 115A; 116A; 401; 411; Letter dated 09/11/2009 from DP9 and Email dated 13/11/2009 from DP9.

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 8 cycle parking spaces shall be provided in accordance with the details shown on drawing 2995/109A prior to the first occupation of any of the new units, and thereafter permanently maintained and retained as such.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy T3 of the London Borough of Camden Replacement Unitary Development Plan 2006.

- 3 The waste and recycling storage shall be provided in accordance with the details demonstrated on drawing 2995/109A prior to the first occupation of any of the new units, and permanently maintained and retained as such thereafter.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy SD6 of the London Borough of Camden Replacement Unitary Development Plan 2006.

Informative(s):

- 1 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 SD1 Quality of life; SD2 Planning Obligations; SD6 Amenity for occupiers and neighbours; SD9 Resources and Energy; T1 Sustainable transport space; T3 Pedestrian and cycling; T7 Off street parking; T11 Alternative use of existing car parks; T12 Works affecting highways; E1 Location of business use; E3c Accommodation for small firms and C5 Tourism uses. For a more detailed understanding of the reasons for the granting of this planning permission, please refer to the officers report.

- 2 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 2363).
- 3 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 13.00 on Saturday 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 Team), 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.

- 4 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.
- 5 You are advised that the Council expects all development to be as sustainable and energy efficient as possible and welcomes any measures that can be introduced to facilitate this. To this end you are encouraged to introduce measures that can practically be incorporated into the construction of the building and the subsequent operation of the use.

Yours faithfully

Culture and Environment Directorate

DECISION

EXECUTED AS A DEED BY
KENSINGTON COMMERCIAL
PROPERTY INVESTMENTS LIMITED
in the presence of:-/
acting by a Director and its Secretary
or by two Directors

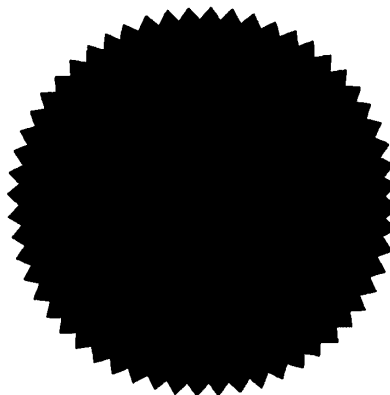
.....
Director

.....
Director/Secretary

150.

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

.....
Authorised Signatory



DATED

9th December 2009

(1) KENSINGTON COMMERCIAL PROPERTY INVESTMENTS LIMITED

and

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

A G R E E M E N T

relating to land known as

**Presidential House, 1 University Street, London WC1E 6JQ
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**

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