

THIS AGREEMENT is made the 21 day of April 2009

BETWEEN:

1. **66 CHALK FARM ROAD LIMITED** (Co. Regn. No. 06525531) whose registered office is at 46 Great Marlborough Street, London, W1F 7JW (hereinafter called "the Owner") of the first part
2. **EFG PRIVATE BANK LIMITED** (Co. Regn. No. 2321802) of Leconfield House, Curzon, London W1J 5JB (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 NGL541186 [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 29/05/2008 and the Council resolved to grant permission conditionally under reference number 2008/1889/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 NGL541186 and dated 5 June 2008 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 Certificate of Practical Completion" the final certificate issued by the Council certifying that the Development has been completed to its reasonable satisfaction
- 2.4 "Construction Management Plan" the plan produced by the Owner to outline a scheme of management of the measures to protect the amenity of residential and business occupiers in the vicinity of the Development during the Construction Phase in accordance with the Council's Considerate Contractor Manual

- 2.5 "the Construction Phase" the whole period between
- (i) the Implementation Date; and
- (ii) the date of issue of the Certificate of Practical Completion
- 2.6 "the Council's Considerate Contractor Manual" the document produced by the Council from time to time entitled "Considerate Contractor Manual" relating to the good practice for developers engaged in building activities in the London Borough of Camden
- 2.7 "the Development" Erection of a first and second storey extension, including terraces to rear, to provide 2 x 1-bedroom maisonettes, including a change of use from office (Class B1) to residential (Class C3) at loft / first floor level as shown on drawing numbers GA00; GA01; GA02; GA03; GA04; GA05A; GA06A; GA07A; GA08A; GE00; GE01; GE02; GE07A; GE08A; GE09A; GS00A; GS01A; GS02A; GS03A; GS04A; GS05A; GD06A; GS07A; GS08A.
- 2.8 "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
- 2.9 "Occupation Date" the first date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly

- 2.10 "the Parties" mean the Council the Owner and the Mortgagee
- 2.11 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 29/05/2008 for which a resolution to grant permission has been passed conditionally under reference number 2008/1889/P subject to conclusion of this Agreement
- 2.12 "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
- 2.13 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto
- 2.14 "the Property" the land known as 66 A Chalk Farm Road, London, NW1 8AN the same as shown shaded grey on the plan annexed hereto
- 2.15 "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

- 2.16 "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

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 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**

The Owner hereby covenants with the Council as follows:-

CAR FREE HOUSING

4.1 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.

THE CONSTRUCTION MANAGEMENT PLAN

4.4 On or prior to Implementation to provide the Council for approval the Construction Management Plan.

4.5 Not to Implement or allow Implementation of the Development until such time as the Council has approved the Construction Management Plan, and such an approval not to be unreasonably withheld or delayed.

- 4.6. To ensure that throughout the Construction Phase the Development shall not be carried out otherwise than in strict accordance with the requirements of the approved Construction Management Plan and in the event of non compliance with this sub-clause the Owner shall forthwith upon notice from the Council forthwith take any steps reasonably and properly required by the Council to remedy such non-compliance.

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 2008/1889/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 reasonable 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 reasonable and proper 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, Forward Planning and Projects Team, Planning Division Environment Department, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the planning reference number 2008/1889/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 within 14 days of registration furnish the Council 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

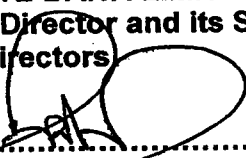
EXECUTED AS A DEED BY)
66 CHALK FARM ROAD LIMITED)
acting by a Director and its Secretary)
or by two Directors)

.....
Director

.....
Director/Secretary

**CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO
66 A CHALK FARM ROAD, LONDON, NW1 8AN**

**EXECUTED AS A DEED BY)
EFG PRIVATE BANK LIMITED)
acting by a Director and its Secretary)
or by two Directors)**

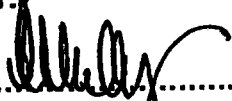

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Director

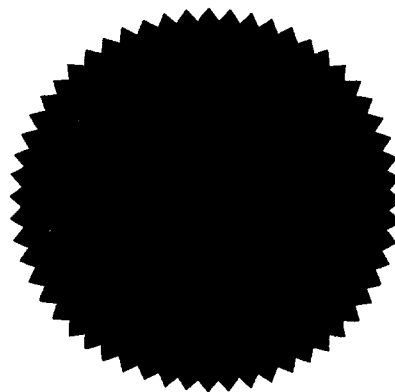

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Director/Secretary

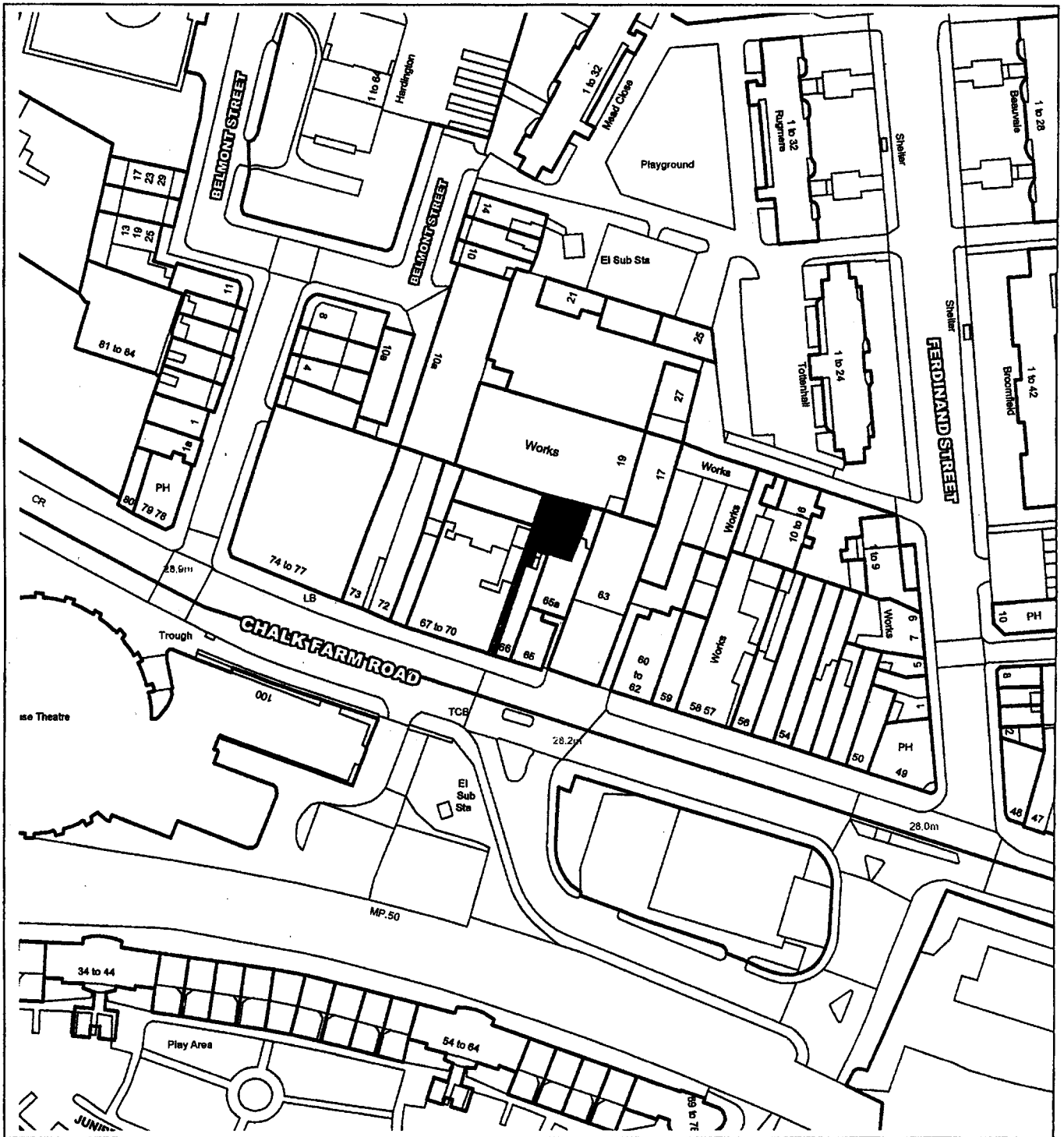
**THE COMMON SEAL OF THE MAYOR)
AND BURGESSES OF THE LONDON)
BOROUGH OF CAMDEN was hereunto)
Affixed by Order:)**


.....

Authorised Signatory



66A Chalk Farm Road, London, NW1 8AN



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Claridge Architects
Unit 11
The Tay Building
2A Wrentham Avenue
London
NW10 3HA

Application Ref: **2008/1889/P**

17 March 2009

Dear Sir/Madam

DRAFT

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

DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT

Address:
66 A Chalk Farm Road
London
NW1 8AN

Proposal:

Erection of a first and second store extension providing a total of two, to provide 2x 1-bedroom maisonettes, and a change of use from office (Class B) to residential (Class C3) at loft / first floor level.

Drawing Nos: GA00; GA01; GA02; GA03; GA04; GA05A; GA06A; GA07A; GA08A; GE00; GE01; GE02; GE07A; GE08A; GE09A; GS00A; GS01A; GS02A; GS03A; GS04A; GS05A; GD06A; GS07A; GS08A.

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 policies S1/ S2 and B1 of the London Borough of Camden Replacement Unitary Development Plan 2006.

- 3 Prior to the first occupation of any of the new residential units, the cycle storage hereby approved shall be completed. The approved facility shall thereafter be provided in its entirety and thereafter permanently maintained and retained thereafter.

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.

- 4 The green roof shall be fully provided in accordance with the plans hereby approved, and permanently retained and maintained in accordance with the approved scheme of maintenance.

Reason: To ensure that the green roof is suitably designed and maintained in accordance with the requirements of policies S1 and S2 of the London Borough of Camden Replacement Unitary Development Plan 2006 and design advice in the Council's Supplementary Planning Guidance

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 S1, S2, SD1, SD6, B1, B3, H1, H7, H8, E2, T3, T4, T8, T9 and T12. For a more detailed understanding of the reasons for the granting of this planning permission, please refer to the officers report.

- 2 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 Sites Team, Urban Design and Regeneration.

- 3 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).
- 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 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Environmental Health Service, Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 2090 or by email env.health@camden.gov.uk or on the website www.camden.gov.uk/pollution) for approval under Section 61 of the Act if you anticipate any demolition or construction other than within the hours stated above.
- 5 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.
- 6 If a revision to the postal address becomes necessary as a result of this development, you should refer to the London Building Acts (Amendment) Act 1939 should be referred to the Council's Access and Information Team, Culture and Environment Directorate, Environment Directorate, Street Naming & Numbering) Camden Town Hall, Argyle Street, WC1H 8EQ (tel: 020-7974 5613).
- 7 The correct street number or number and name must be displayed permanently on the premises in accordance with regulations made under Section 12 of the London Building (Amendments) Act 1939.

Yours faithfully

Culture and Environment Directorate

DATED

21 April

2009

(1) 66 CHALK FARM ROAD LIMITED

and

(2) EFG PRIVATE BANK 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
66 A CHALK FARM ROAD, LONDON, NW1 8AN
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 1918
Fax: 020 7974 2962

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