

DATED

7<sup>th</sup> January

2008

(1) ARTESIAN 20 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  
7-15 (odd) WHITFIELD STREET  
LONDON W1T 2SD  
pursuant to Section 106 of the Town and Country Planning  
Act 1990 (as amended) and  
Section 278 of the Highways Act 1980

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(CF, EC, HC, POSC, EnvC, EP, REP, WG, TP, CMP, AH, Appeal)  
CLS/COM/LMM/1431.1164  
S106 FINAL 09.01.08

- (ix) details of proposed parking bays suspensions and temporary traffic management orders;
- (x) the proposed working hours;
- (xi) the inclusion of a waste management strategy for handling and disposing of construction waste; and
- (xii) 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

2.13 "the Construction Phase"

the whole period between

- (i) the Construction Implementation Date; and
- (ii) the date of issue of the Certificate of Practical Completion

2.14 "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

2.15 "the Demolition Implementation Date"

the date of implementation of the works of excavation site clearance and demolition works to the existing buildings on the Property

2.16 "Demolition Management Plan"

a plan setting out how the Owner will undertake the demolition of the existing buildings on the Property using good site practices in accordance

with the Council's Considerate Contractor Manual to ensure the demolition phase of the Development minimises as much as reasonably practical any consequential impacts on the surrounding environment including (but not limited to):-

- (i) effects on the health and amenity of local residents site workers local businesses and adjoining developments undergoing construction;
- (ii) effects on other Conservation Area features;
- (iii) amelioration and monitoring measures over demolition traffic including procedures for notifying the owners and or occupiers of the residents and businesses in the locality in advance of major demolition works schedules and amendments to normal traffic arrangements;
- (iv) a strategy to ensure the protection of sparrows and starlings on the boundary of the Property during the demolition of the buildings on the Property including an undertaking that demolition works will not take place during the nesting season being April to August inclusive of any protected birds;
- (v) proposed routes of vehicles to and from the Development and the access arrangements for vehicles;

- (vi) sizes of all vehicles and the schedule of when they will need access to the site;
- (vii) swept path drawing for the vehicle routes for all vehicles sizes;
- (viii) parking and loading arrangement of vehicles and removal of waste from the Property;
- (ix) details of proposed parking bays suspensions and temporary traffic management orders;
- (x) the proposed working hours;
- (xi) the inclusion of a waste management strategy for handling and disposing of demolition waste; and
- (xii) 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

2.16 "the Development"

- (i) the Planning Permission for the redevelopment of site comprising the erection of a part 2, 3, and 6 storey building with retained basement, for uses comprising 22 self contained residential flats (Class C3) flexible Class B1/D1/D2 uses a secondary electricity substation (Sui Generis) and ancillary facilities including a service area with retained vehicular access from Whitfield Street refuse store and

cycle parking. as shown on drawing numbers: C1 - C5; CP.01; CP.02; P.01 - P.08; E1 - E4; S1 - S3; Planning Statement ref: 14297/A5/3rdPA/; Planning Statement dated Oct 2007; Design and Access Statement Ref: A07.58.2A dated Oct 2007; Ecology Appraisal ref C2764\_03b dated 3rd October 2007; Ecohomes and BREEAM Preliminary Assessment ref D11660 dated 3rd October 2007; Renewable Energy Statement dated November 2007; Sunlight and Daylight Report ref IA/SW/WH09 dated 17 October 2007; Transport Statement dated October 2007; and Bat Survey ref C2764\_04b dated 12 November 2007

(ii) the Conservation Area Consent for the substantial demolition of existing sub-station building as shown on drawing numbers: C1 - C5; CP.01; CP.02; P.01 - P.08; E1 - E4; S1 - S3; Planning Statement ref: 14297/A5/3rdPA/; Planning Statement dated Oct 2007; Design and Access Statement Ref: A07.58.2A dated Oct 2007; Ecology Appraisal ref C2764\_03b dated 3rd October 2007; Ecohomes and BREEAM Preliminary Assessment ref D11660 dated 3rd October 2007; Renewable Energy Statement dated November 2007; Sunlight and Daylight Report ref IA/SW/WH09 dated 17 October 2007; Transport Statement dated October 2007; and Bat Survey ref C2764\_04b dated 12 November 2007

## 2.17 "the Ecology Plan"

a plan setting out a scheme of measures to be adopted by the Owner to ensure the protection of the vegetation on the common boundary between the public open space and the Property

(as shown shaded green on Plan 2 annexed hereto) to ensure the preservation of the sparrow and starling nesting habitat

2.18 "the Education Contribution"

the sum of £112,769 (one hundred and twelve thousand seven hundred and sixty nine 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 education needs arising in the London Borough of Camden

2.19 "the Environmental Contribution"

the sum of £500 (five hundred 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 bird boxes within Crabtree Fields in the London Borough of Camden

2.20 "Financial Contributions"

the Education Contribution the Environmental Contribution the Highways Contribution and the Public Open Space Contribution

2.21 "the Highways Contribution"

the sum of £16,216 (sixteen thousand two hundred and sixteen 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 such works to include the following ("the Highways Works"):-

(a) repaving the pavement to the front of the Property to Boulevard Standard; and

(b) the reconstruction of the access as a vehicular crossover

all works will be subject to final measure and for the avoidance of doubt the Council in accepting this sum does not undertake any responsibility in connection with any required statutory undertakers works and excludes any statutory undertakers costs

2.22 "HomeBuy"

a low-cost home ownership programme managed in accordance with Communities and Local Government and Housing Corporation guidance and requirements under which a Registered Social Landlord develops new properties or refurbishes existing properties which are made available as Affordable Housing on the basis of part rent and part sale (formally known as Shared Ownership)

2.23 "Intermediate Housing"

Affordable Housing available on a HomeBuy basis to people who at the commencement of their occupancy are in need of intermediate housing in terms set out in paragraph 3.26 of the London Plan

2.24 "Intermediate Housing Scheme"

the programme where the Owner ensures the Intermediate Housing Units are occupied on a HomeBuy basis with an initial equity share offer of 25 percent and a rent level of 2 percent (per annum) on the retained equity such levels to be retained in perpetuity subject to incremental increases linked to the Retail Price Index in accordance with Housing Corporation guidance

- 2.25 "Intermediate Housing Units" the two units of Intermediate Housing forming part of the Affordable Housing Units the same as shown edged green on Plan 3
- 2.26 "Lifetime Home Standards" the specifications and standards which meet the Lifetime Homes Standards as set out in the document published by the Joseph Rowntree Foundation in 1999 entitled "Meeting Part M and Designing Lifetime Homes" (as amended from time to time) in order to provide accessible housing in the Development
- 2.27 "Occupation Date" the first date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly but excluding the fitting out and installation of plant and equipment
- 2.28 "the Parties" mean the Council and the Owner
- 2.29 "Plan 1" the plan annexed hereto marked "Plan 1"
- 2.30 "Plan 2" the drawing numbered 2764/08 annexed hereto marked "Plan 2"
- 2.31 "Plan 3" the drawings numbered P.01; .02; .03; .04; .05; .06 and .07 annexed hereto all marked "Plan 3"
- 2.32 "the Planning Application" an application for Planning Permission in respect of the development of the Property submitted to the Council and validated on 8 October 2007 for which a resolution to grant permission has been passed conditionally under reference number 2007/5162/P subject to conclusion of this Agreement



2.33 "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

2.34 "the Planning  
Permission"

a planning permission granted for the Development substantially in the draft form annexed hereto

2.35 "the Previous Applications"

(i) a planning application submitted to the Council on 29 June 2005 and given Council reference 2005/2739 for the redevelopment of the site by the erection of a part 4, part 5 storey building with retained basement, for uses comprising 13 self-contained residential units (Class C3), flexible non-residential institutions/community use (Class D1 and/or Class D2), offices (Class B1), and a secondary electricity substation (sui generis), and ancillary facilities including a service bay with retained vehicular access from Whitfield Street, refuse store and cycle parking.

(ii) an application for conservation area consent submitted to the Council on 29 June 2005 and given Council reference 2005/2742/C for the substantial demolition of the existing sub-station building.

2.36 "the Property"

the land known as 7-15 (odd) Whitfield Street London W1T 2SD the same as shown shaded grey on Plan 1 annexed hereto

2.37 "the Public Open  
Space Contribution"

the sum of £39,846 (thirty nine thousand eight hundred and forty six 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 and on-going maintenance of Crabtree Fields

2.38 "Registered Social  
Landlord"

a registered social landlord registered as such by the Housing Corporation who has entered into an agreement with the Council to secure the units of Affordable Housing created as part of the Development as accommodation for people nominated by the Council through its housing allocation scheme

2.39 "Renewable Energy Plan"

a package of measures to be adopted by the Owner to reduce the overall demand for energy from the Development and supplying energy demand from renewable sources on the Property to include the following:-

- (a) the Renewable Energy Statement dated November 2007 annexed in the Second Schedule hereto;
- (b) an Air Quality Assessment prior to the use of Biomass in the event that Biomass is used for the Development;
- (c) provision of a meter on the element using Biomass so the Council can monitor how much energy is being derived through

Biomass in the event that Biomass is used for the Development;

(d) a mechanism to ensure the Owner uses all reasonable endeavours to incorporate renewable energy production equipment to provide at least 10% of the Development's energy requirement in accordance with the London Plan 1994 and Supplementary Planning Guidance "Sustainable Design and Construction" 1996 ; and

(e) provision of a mechanism for the plan to be monitored and reviewed as required from time to time so long as such a review does not include matters beyond the scope of the Renewable Energy Plan as first approved by the Council

2.40 "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

2.41 "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

2.42 "Residential Units"

the 22 self-contained residential dwellings forming part of the Development to be used exclusively for purposes within Class C3 of the Use Classes Order and references to "Residential Unit" shall be construed accordingly

2.43 "the Service  
Management Plan"

a plan setting out a package of measures to be adopted by the Owner and approved by the Council from time to time for the management of the deliveries and servicing to the Commercial Element of the Development securing the minimisation of service vehicle with car conflicts and pedestrian movements and damage to amenity from such servicing and deliveries which should address the following if required in the context of the Development:-

- (a) a requirement for delivery vehicles to unload from a specific suitably located area;
- (b) details of the person/s responsible for directing and receiving deliveries to the Property
- (c) measures to avoid a number of delivery vehicles arriving at the same time
- (d) likely frequency and duration of servicing movements and measures to be taken to avoid any conflicts;
- (e) the likely size of the delivery vehicles entering the site;
- (f) measures taken to ensure pedestrian management and public safety during servicing;
- (g) measures taken to address servicing movements on and around the site with a

view inter alia to combining and/or reducing servicing and minimise the demand for the same;

- (h) provision of swept path drawings to ascertain manoeuvring within the Property;
- (i) statement setting out how pedestrian and highway safety will be maintained during servicing movements;
- (j) to use reasonable endeavours to manage deliveries and servicing to the residential element of the Development
- (k) details of arrangements for refuse storage and servicing; and
- (l) identifying means of ensuring the provision of information to the Council and provision of a mechanism for review and update as required from time to time

#### 2.44 "Social Rented Housing"

Affordable Housing units available for rent in perpetuity such that (a) the total cost of rent and service and management charges meets targets for Social Rented Housing set by the Housing Corporation and successor bodies from time to time and (b) is consistent with Camden Supplementary Planning Document "Affordable Housing and Housing in Mixed-Use Development" and the requirements of the London Plan in relation to Social Rented Housing and (c) the units are managed by a Registered Social Landlord who has entered into a standard nominations agreement with the

Council providing for nominations to the Council in respect of all such units within the Development

2.45 "Social Rented Housing Units"

the nine units of Social Rented Housing forming part of the Affordable Housing Units the same as shown edged blue on Plan 3

2.46 "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 with a target of achieving a Very Good or Excellent rating and attaining at least 60% of the credits in each of Energy and Water and 40% of the credits in Materials categories and at least Level 3 of the Code for Sustainable Buildings attaining at least 50% of the credits in each of the Energy Water and Materials categories to be carried out by a recognised independent verification body in respect of the Property

2.47 "the Travel Plan"

a plan setting out a package of measures to be adopted by the Owner in the management of the Commercial Element of the Property incorporating the elements set out in the First Schedule hereto with a view to inter alia reducing trips in motor vehicles to and from the Property and promoting the use of environmentally friendly transport

2.48 "Wheelchair Units"

residential units that are designed to be wheelchair accessible or easily adaptable for

residents who are wheelchair users in accordance with the Wheelchair Housing Design Guide 2006 guidelines (as updated from time to time) published by the National Wheelchair Housing Association Group

2.49 "Working Group"

a working group to be convened in accordance with the requirements of this Agreement the objectives of which shall be to liaise discuss advise and where appropriate make recommendations to the Owner in respect of matters relating to construction works associated with the Development and the management of the Construction Phase (including inter alia the programme for construction works site conditions site erection of hoardings time of operations noisy activities time of deliveries likely traffic problems temporary footway closures and consideration of complaints from the owners and/or occupiers of adjoining properties) so as to minimise disruption and the environmental effect on the local community as much as reasonably practical arising from the Construction Phase of the Development

**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:-
- (i) the provisions of clauses 1, 2, 3, 4.8, 5, 6 and 7 hereof shall come into effect on the date hereof;
  - (ii) the covenants undertakings and obligations contained within clauses 4.6 and 4.14 hereof shall become binding upon the Owner upon the Demolition Implementation Date; and
  - (iii) the covenants undertakings and obligations contained within the remaining clauses within this Agreement shall become binding upon the Owner upon the Construction 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 4.9.1 for all relevant purposes.



#### **4. OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

##### **4.1 AFFORDABLE HOUSING**

- 4.1.1 To complete all works of construction conversion and fitting out necessary to make the Affordable Housing Units as approved by the Council suitable for occupation as Affordable Housing and to complete such works in a good and workmanlike manner using good quality materials in accordance with the specification approved by a Registered Social Landlord and in accordance with the Housing Corporation's Design and Quality Strategy for grant funded schemes dated April 2007.
- 4.1.2 To ensure that the Affordable Housing Units shall not be otherwise used, occupied and shall be retained in perpetuity for no purpose other than (i) for the provision of Social Rented Housing for occupation by tenants at rental levels being in accordance with the prevailing Housing Corporation rental structure and (ii) for the provision of Intermediate Housing for occupation in accordance with the Intermediate Housing Scheme as the case may be.
- 4.1.3 Not to Occupy or allow Occupation of any part of the Development (unless otherwise agreed in writing by the Council) until such time as:
  - (i) the Affordable Housing Units have been transferred or demised to a Registered Social Landlord approved by the Council for a term of no less than 125 years;
  - (ii) the works of construction conversion and fitting out of the Affordable Housing Units have been completed in accordance with the requirement of Sub-Clause 4.1 hereof.
- 4.1.4 To ensure that the Affordable Housing Units are constructed, occupied and used solely as Affordable Housing pursuant to the objects and purpose of the Council so as to provide accommodation for the households in need of Affordable Housing in accordance with the definition of the eligible persons criteria contained in the housing policies utilised for development control purposes in the prevailing Council's Unitary Development Plan.

- 4.1.5 The Registered Social Landlord or the Council shall not dispose of its interest in the freehold or leasehold of the Affordable Housing Units or any part thereof (except by way of mortgage) other than to any other Registered Social Landlord registered with the Housing Corporation or any other body organisation or company registered with the Charity Commissioners for England and Wales and approved by the Housing Corporation or the Council.

#### **4.2 FINANCIAL CONTRIBUTIONS**

- 4.2.1 On or prior to the Construction Implementation Date to pay to the Council the Financial Contributions in full.
- 4.2.2 Not to Implement or to permit Implementation until such time as the Council has received the Financial Contributions in full.
- 4.2.3 On completion of the Highway Works the Council may provide to the Owner a certificate specifying the sum ("the Certified Sum") expended by the Council in carrying out the Highway Works.
- 4.2.4 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.

#### **4.3 TRAVEL PLAN**

- 4.3.1 On or prior to the Construction Implementation Date to provide the Council for approval a draft Travel Plan.
- 4.3.2 Not to Occupy or permit Occupation of any part of the Commercial Element of the Development until such time as the Council has approved the Travel Plan.
- 4.3.3 Following the Occupation Date the Owner shall not Occupy or permit Occupation of any part of the Commercial Element of the Development at any time when the Commercial Element is not being managed in strict accordance with the Travel Plan as approved by the Council and the Owner shall upon notice from the Council (giving

reasons why the Council considers that the Travel Plan has not been complied with) shall forthwith take any steps to remedy such non-compliance.

#### **4.4 CONSTRUCTION MANAGEMENT PLAN**

- 4.4.1 On or prior to the Construction Implementation Date to provide the Council for approval a draft Construction Management Plan.
- 4.4.2 Not to Implement nor allow Implementation of the Development until such time as the Council has approved Construction Management Plan as demonstrated by written notice to that effect.
- 4.4.3 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 in the event of non compliance with this sub-clause the Owner shall upon notice from the Council forthwith take any steps required to remedy such non-compliance.

#### **4.5 SUSTAINABILITY PLAN**

- 4.5.1 On or prior to the Construction Implementation Date to provide the Council for approval a draft Sustainability Plan.
- 4.5.2 Not to Implement nor allow Implementation until such time as the Council has approved Sustainability Plan as demonstrated by written notice to that effect.
- 4.5.3 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.
- 4.5.4 Following the Occupation Date the Owner shall use all reasonable endeavours to manage the Development in accordance with the Sustainability Plan as approved by the Council and the Owner shall upon notice from the Council (giving reasons why the Council considers that the Sustainability Plan has not been complied with) shall forthwith take any steps to remedy such non-compliance.

#### **4.6 ECOLOGY PLAN**

- 4.6.1 On or prior to the Demolition Implementation Date to provide the Council for approval a draft Ecology Plan.
- 4.6.2 Not to demolish nor allow demolition of any building on the Property until such time as the Council has approved the Ecology Plan as demonstrated by written notice to that effect.
- 4.6.3 To ensure that throughout the Construction Phase the Development shall not be carried out otherwise than in strict accordance with the requirements of the Ecology Plan and in the event of non compliance with this sub-clause the Owner shall upon written notice from the Council (giving reasons why the Council considers that the Ecology Plan has not been complied with) forthwith take any steps required to remedy such non-compliance.

#### **4.7 RENEWABLE ENERGY PLAN**

- 4.7.1 On or prior to the Construction Implementation Date to provide the Council for approval a draft Renewable Energy Plan.
- 4.7.2 Not to Implement nor allow Implementation until such time as the Council has approved the Renewable Energy Plan as demonstrated by written notice to that effect.
- 4.7.3 Not to Occupy or permit the Occupation of the Development until the Council has confirmed in writing that the measures incorporated in the Renewable Energy Plan as approved by the Council have been implemented in the construction of the Development.
- 4.7.4 Following the Occupation Date the Owner shall manage the Development in strict accordance with the Renewable Energy Plan as approved by the Council and the Owner shall upon notice from the Council (giving reasons why the Council considers that the Renewable Energy Plan has not been complied with) shall forthwith take any steps required to remedy such non-compliance .

#### 4.8 WORKING GROUP

4.8.1 No later than one month of the date hereof (unless otherwise agreed in writing with the Council) and at its own expense:

4.8.1.1 To invite the following to become members of the Working Group:

- (i) representatives of existing residents associations traders associations or any other bodies or groups representing the owners residents and/or businesses in the immediate locality subject to a maximum of five (5) persons;
- (ii) the Owner's architect plus one additional representative as may be nominated by the Owner from time to time; and
- (iii) any other person or persons having a direct interest in the management of the Construction Phase reasonably nominated by the Council (subject to a maximum of two (2) persons)

4.8.1.2 To procure that the project manager for the Development or their nominated deputy and a representative from the Owner's contractor (and any other appropriate professional representatives of the Owner that the Parties agree) shall be a member of the Working Group and shall attend all meetings of the Working Group.

4.8.1.3 To appoint a person ("the Liaison Officer") responsible for liaising with the owners and or occupiers of the residents and businesses in the locality and other interested parties about the operation of the Working Group such person to organise and attend all meetings of the Working Group all such meetings to take place within easy walking distance of the Property.

4.8.1.4 To ensure an appropriate venue in the vicinity of the Property is procured for each meeting of the Working Group.

4.8.1.5 To give a minimum of seven (7) days written notice of the time and place and date of each meeting of the Working Group to all members of such Working Group. Written notice by means of electronic communication shall be sufficient to satisfy this clause.

- 4.8.1.6 To ensure that meetings of the Working Group shall take place at least once every four months during the Construction Phase ALWAYS PROVIDED that any member of the Working Group shall be entitled on reasonable grounds by giving written notice of not less than ten (10) days to the Liaison Officer to convene a meeting of the Working Group and a meeting of the Working Group so convened shall consider matters specified in the notice as requiring discussion AND PROVIDED ALSO that if the Working Group decide to meet less frequently than is provided above during the Construction Phase, meetings of the Working Group shall be convened at such intervals as the Working Group decides.
- 4.8.1.7 To ensure that an accurate written minute is kept of each meeting of the Working Group recording discussion and any decisions taken by the Working Group (this to be circulated by the Owner or Owner's representative to all members of the group within fourteen (14) days of each meeting).
- 4.8.1.8 In the event of the majority of members of the Working Group (having particular regard to the Construction Management Plan) making a recommendation to the Owner in respect of the management of the Construction Phase to use all reasonable endeavours to give effect to implementing any reasonable recommendation and in the event of any reasonable recommendation which accords with the approved Construction Management Plan not being adopted by the Owner the Owner shall notify the next meeting of the Working Group of this fact together with written reasons as to why this is the case.
- 4.8.1.9 To provide at its own expense throughout the Construction Phase of the Development a telephone contact number that shall be available to local residents to be staffed by a representative of the Owner as agreed by the Council during all periods of construction activity and an answer-phone service outside periods of construction activity and the Owner shall act in good faith expeditiously taking any action that accords with the approved Construction Management Plan and which is reasonably necessary to deal with any such reasonable complaints (and shall give each meeting of the

Working Group written information about any such complaints received and action taken in respect of them as it considers appropriate).

- 4.8.1.10 To ensure that throughout the Construction Phase the Development shall not be carried out otherwise than in accordance with the approved Construction Management Plan in accordance with the requirements of this Agreement (subject to such variations as the Council may approve from time to time in accordance with the requirements of this Agreement such approval not to be unreasonably withheld or delayed) and in the event of non compliance with this sub-clause the Owner shall upon written notice from the Council forthwith take any steps reasonably required in writing by the Council to remedy such non-compliance.

#### **4.9 CAR FREE HOUSING**

- 4.9.1 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.
- 4.9.2 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.9.1 above will remain permanently.

#### **4.10 WITHDRAWAL OF APPEAL**

- 4.10.1 Upon the expiry of the period three months and 14 days after the date of this Agreement the Owner shall forthwith withdraw its appeals lodged at the Planning Inspectorate under its references APP/X5210/A/05/1196719 and APP/X5210/A/05/1196720 against the Council's refusal to grant the Previous Applications save that this clause shall not apply if the Planning Permission is the subject of judicial proceedings, which have not been exhausted.

#### **4.11 LIFETIME HOME STANDARDS**

- 4.11.1 Not to Implement nor permit Implementation until it has submitted to the Council plans for the proposed Development showing all Residential Units designed to Lifetime Homes Standards and the Council has approved the plans as demonstrated by written notice to that effect.
- 4.11.2 Not to Implement nor permit Implementation of the Development otherwise than in accordance with the approved plans referred to in clause 4.11.1 of this Agreement.
- 4.11.3 Not to Occupy or allow Occupation of any part of the Development until the Council has confirmed in writing that in its reasonable opinion all of the Residential Units have been built out to Lifetime Homes Standards as approved.

#### **4.12 WHEELCHAIR UNITS**

- 4.12.1 Not to Implement or allow Implementation until such time as it has submitted to the Council plans for the proposed Development showing no less than 10% of the Residential Units designed as Wheelchair Units and the Council have approved the same as demonstrated by written notice to that effect.
- 4.12.2 Not to Implement or allow Implementation of the Development otherwise than in strict accordance with the plans referred to in sub-clause 4.12.1 to this Agreement such plans as approved by the Council as demonstrated by written notice to that effect.
- 4.12.3 Not to Occupy or allow Occupation of any part of the Development until the Council has confirmed by written notice to that effect that the allocated 10% of the Residential Units have been built in accordance with the design approved by the Council in clause 4.12.1 of this Agreement

#### **4.13 SERVICE MANAGEMENT PLAN**

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



4.13.2 Not to Occupy or permit Occupation of any part of the Development until such time as the Council has approved the Service Management Plan.

4.13.3 Following the Occupation Date the Owner shall not Occupy or permit Occupation of any part of the Commercial Element of the Development at any time when the Development is not being managed in strict accordance with the Service Management Plan as approved by the Council the Owner shall upon notice from the Council (giving reasons why the Council considers that the Service Management Plan has not been complied with) shall forthwith take any steps required by the Council to remedy such non-compliance.

#### 4.14 **DEMOLITION MANAGEMENT PLAN**

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

4.14.2 Not to demolish nor allow demolition of any building on the Property until such time as the Council has approved Demolition Management Plan as demonstrated by written notice to that effect.

4.14.3 To ensure that the demolition of the existing buildings on the Property shall not be carried out otherwise than in strict accordance with the requirements of the Demolition Management Plan and in the event of non compliance with this sub-clause the Owner shall upon notice from the Council (giving reasons why the Council considers that the Demolition Management Plan has not been complied with) forthwith take any steps required 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 Demolition Implementation Date specifying that demolition of the buildings currently on the Property is about to take place.

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

- 5.3 Within 7 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 2007/5162/P the date upon which the Development is ready for Occupation.
- 5.4 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.
- 5.5 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.
- 5.5 Payment of the Contribution pursuant to Clause 4.2 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 planning reference 2007/5162/P 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.
- 5.6 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.

- 5.7 Any sums referred to in this Agreement as payable or to be applied by any party other than the Council under this Agreement 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 AllRP") figure last published by the Central Statistical Office at the date hereof is the denominator ("X") and the last AllRP figure published before the date such payment or application is made ("Y") less the last published AllRP figure at the date hereof ("X") is the numerator so that

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

- 5.8 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 (if any) 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 2007/5162/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 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.
- 6.9 Subject to the provisions of paragraph (i) – (iii) below the restrictions contained in sub-clauses 4.1 hereof shall not be binding upon a mortgagee or chargee of a registered proprietor of the Affordable Housing Units ("the Registered Proprietor") (ALWAYS PROVIDED that the Registered Proprietor is a Registered Social Landlord) nor any receiver appointed by such mortgagee or chargee or on any

person deriving title from such mortgagee or chargee in possession PROVIDED that the following conditions have been satisfied:

- i) In the event of the Registered Proprietor entering into liquidation or having a receiver or administrative receiver appointed or such steps are taken or legal proceedings are initiated for its winding up or defaults on any other terms of the mortgagee or charge so that the mortgagee or chargee exercises its power of sale or failing to make payment of sums due under any loan finance document covering the Affordable Housing Units and/or the Intermediate Housing Units (whether solely or together with other property) for a period of six months then any mortgagee or chargee of the Affordable Housing Units and/or the Intermediate Housing Units or any such receiver or administrative receiver shall serve written notice ("the Default Notice") upon the Council.
- ii) In the event of service of a Default Notice the Council shall be at liberty for a period of six calendar months thereafter to seek to identify another Registered Social Landlord to agree to take a transfer of the Affordable Housing Units and/or the Intermediate Housing Units as the case may be
- iii) In the event of a mortgagee or chargee or receiver or administrative receiver of the Registered Proprietor having served a Default Notice but the Council failing to locate another Registered Social Landlord ready able and willing to take a transfer of the Affordable Housing Units and/or the Intermediate Housing Units within the six calendar month period specified above ("the Specified Period") on the terms specified above then should the Mortgagee chargee or any such receiver or administrative receiver take possession of the Affordable Housing Units and/or the Intermediate Housing Units as appropriate otherwise enforce its security on relation to the same at any time thereafter then the Specified Period shall be deemed to have elapsed and the obligations of any mortgagee or chargee and the terms of this Agreement shall be determined in relation to the Affordable Housing Units and/or the Intermediate Housing Units and shall cease to bind the Affordable Housing Units and/or the Intermediate Housing Units ALWAYS PROVIDED that any person claiming title from a mortgagee chargee receiver or administrative receiver who has obtained title to the Affordable Housing Units and/or the Intermediate Housing Units after the procedure set out in this Sub Clause has

been followed shall not be bound by the restrictions contained in Sub Clauses 4.1 and 4.8 hereof as will any person deriving title therefrom.

- 6.10 Any person (or person claiming title from such person) to whom an Registered Social Landlord grants a HomeBuy lease (whether or not the equity share is subsequently staircased to 100%), or any tenant (or person claiming title from such tenant) of a Registered Social Landlord at the Property who exercises a right to acquire pursuant to the Housing Act 1996 (or any statutory successor thereto) or right to buy pursuant to the Housing Act 1985 (or any statutory successor) shall be released from the obligations of Clause 4.1 hereof ALWAYS PROVIDED that the relevant Registered Social Landlord has first provided the Council with information demonstrating to the Council's reasonable satisfaction that all monies received by the relevant Registered Social Landlord in respect of the sale of such tenant or purchaser shall be applied exclusively for the provision of Affordable Housing within the London Borough of Camden.
- 6.11 Where this Agreement refers to a party agreeing or approving any matter or thing that party's agreement or approval shall not be unreasonably withheld or delayed and shall be given in writing.
- 6.12 In the event that all or part of the Property is subject to a charge, the security of the charge over the Property shall take effect subject tot his Agreement, provided that the chargee shall otherwise have no liability under this Deed 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.

7. **RIGHTS OF THIRD PARTIES**

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

8. **OBLIGATIONS OF THE COUNCIL**

- 8.1 Upon receipt of the Owner's written request the Council shall supply a written statement of the purposes to which the Financial Contributions referred to at clause 4.2 of this Agreement have been applied and the money allocated for each purpose

always provided these requests shall not be made any more than once per financial year.

- 8.2 In the event of the Highways Contribution not being utilised in whole or in part for the purpose for which it was paid within five years of the date of Occupation of the Development then the Council will refund the whole of the Highways Contribution or such part as has not been utilised (as the case may be) to the Owner within 28 days of a written request by the Owner to the Council to that effect.

**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

## **FIRST SCHEDULE**

### **THE TRAVEL PLAN**

#### **PART I: Components of the Travel Plan**

The Travel Plan will be a basis for promoting sustainable travel to and from the Property.

Planning Policy Guidance note 13 (PPG13 (transport)) states that... "The Government wants to help raise awareness of the impacts of travel decisions and promote the widespread use of travel plans amongst businesses, schools, hospitals and other organisations."

(For further advice on developing a Travel Plan see the DfT's travel plan website: [www.transportenergy.org.uk](http://www.transportenergy.org.uk) ) or Camden's website: [www.camden.gov.uk/wtp](http://www.camden.gov.uk/wtp)

The Owner will implement the Travel Plan where appropriate in partnership with the Council and/or with public transport operators.

**In drawing up to the Travel Plan ("the Plan) the Owner shall ensure that provisions relating to the following matters are contained within the Plan:-**

**1. Public Transport and walking**

- a. Review the public transport needs of staff and consider potential park and ride type services or shuttle-type services for staff, or suggest further enhancements to the scheduled London Bus network
- b. Provide in-house public interest information (both Transport for London and National Rail travel information is available from their respective websites: [www.tfl.gov.uk](http://www.tfl.gov.uk)/[www.nationalrail.co.uk](http://www.nationalrail.co.uk)
- c. Consider staff provision of interest-free annual season ticket/travelcard loans for travel on buses, the underground, trains and trams
- d. Encourage walking through the provision of information on the best pedestrian routes to and from the Property for staff and visitors

**2. Taxis and Minicabs**

Consideration must be given to the provision and management of Taxi access to the Property



**3. Traffic Restraint**

The Plan must seek to reduce the volume and impact of vehicles generated by this Property and the proposed additional Development

**4. On-Street Parking Controls**

The plan should aim to contain the transport impacts of the site (including parking, loading and unloading) to within the curtilage of the site and reduce the impact of the site on surrounding on-street parking.

**5. Staff Parking and travel**

A review of staff travel should have the principal aim of reducing non-essential single occupant driver trips to the site. This should include:

- a. a review and/ or development of criteria to reduce car allowances and include measures to limit the use of staff car parking and permits in and around the Property.
- b. a review of parking charges
- c. consideration and/or review of pool vehicles for work related trips including more environmentally friendly vehicles and alternative forms of transport for some trips.
- d. consider the use of partial homeworking/teleworking /teleconferencing where feasible and appropriate

**6. Traffic Management**

An assessment must be made of the impacts of the proposed car park access changes on existing internal congested traffic flows and seek further enhancements to internal traffic flow to better manage congestion

**7. Cycling**

The following cycle measures must be provided:

- a. secure and well-lit workplace cycle parking
- b. changing and showering facilities

Consideration shall also be given to providing:

- c. cycle allowance for work-related journeys
- d. cycle and equipment loans and insurance

- e. cycle repair facilities
- f. cycle pool for work-related journeys
- g. a Bicycle Users Group (BUG) to progress cyclists issues on site
- h. work with the Council to improve cycle routes to/from the Property

#### **8. Facilities for Goods Movement and Servicing**

A Servicing Management Plan for the site must seek to:

- a. identify the number and type of servicing vehicles required for the Property;
- b. Limit the size of vehicle where a larger vehicle will create servicing conflicts;
- c. Manage the timing of deliveries to avoid conflict with other servicing vehicles, conflict with loading or parking restrictions in the area or conflict with heavy pedestrian or traffic flows
- d. encourage suppliers and delivery contractors to use alternatively-fuelled vehicles (such as electric and LPG vehicles and cycles) – organisations can apply to the Energy Saving Trust ([www.est.org.uk](http://www.est.org.uk)) for alternatively- fuelled vehicle grants

## **PART II: Review and Monitoring of the Travel Plan**

The Owner shall ensure that the Plan contains arrangements for the review and monitoring of the Travel Plan are carried out on an ongoing basis and at least every 2 years. These arrangements will deal with the matters set out below establishing firm timescales for the taking of each step, specific targets to be adopted for the measuring of the effectiveness of each measure and a reporting mechanism to the Council. It is acknowledged that it will be appropriate to amend the Travel Plan by agreement in the light of developing circumstances.

### **1. Review the Property's Transport Accessibility**

The first stage will be to review the Property's accessibility by all modes. An accessibility report will be produced and this will form the basis for the next stages.

2. **Consultation with employees**

This will involve meeting employees of the Property to promote the concept of a Travel Plan. The meetings will seek to identify a common set of objectives for encouraging public transport usage and reducing the reliance on the private car.

3. **User/ Employee Consultation and Travel Surveys**

This stage will be based around consultation. It will be extremely important to secure the support of employees and users if the Plan is to succeed. This stage will include employee and user travel surveys to examine the use of existing modes of travel, attitudes towards sustainable modes of transport and the most effective measures to promote sustainable transport for commuting journeys and employers business. The Owner will consult with the Council and providers of public transport at this stage.

4. **Implementation**

Stages 1 to 3 will provide the base information for the review of the Travel Plan.

5. **Monitor and Review**

The Travel Plan will secure an ongoing process of continuous improvement. Each version of the Travel Plan shall set out a mechanism for reporting back to the Council on an annual basis on how effectively the Travel Plan is being in maximising the use of sustainable transport.