

DATED 23 October

2013

(1) ELIME DEVELOPMENTS LIMITED

and

(2) SAMMUT 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
LOWER GROUND AND GROUND FLOOR
158 PRINCE OF WALES ROAD LONDON NW5 3PS
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)

Andrew Maughan
Borough Solicitor
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 5680
Fax: 020 7974 2962

Final 14.10.13



THIS AGREEMENT is made the 23 day of October 2013

BETWEEN:

1. **ELIME DEVELOPMENTS LIMITED** (Co incorporated in the British Virgin Islands) whose registered office address is 3rd Floor Omar Hodge Building Wickhams Cay 1 Road Town Tortola PO Box 933 British Virgin Island and address for service in the United Kingdom is Findon Homes UK Limited 10 Spectrum House 32-34 Gordon House Road London NW5 1 LP (hereinafter called "the Freeholder") of the first part
2. **SAMMUT LIMITED** (Co incorporated in the British Virgin Islands company number 1542090) whose registered office address is 3rd Floor Omar Hodge Building Wickhams Cay 1 Road Town Tortola PO Box 933 British Virgin Island and address for service in the United Kingdom is Findon Homes UK Limited 10 Spectrum House 32-34 Gordon House Road London NW5 1 LP (hereinafter called "the Interested Party") of 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

WHEREAS

- 1.1 The Freeholder is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number NGL477707.
- 1.2 The Interested Party is registered as beneficiary of a unilateral notice in respect of a contract for sale under Title Number NGL477707 dated 18th April 2012.
- 1.3 The Freeholder is the freehold owner of and is interested in the Property for the purposes of Section 106 of the Act and the Freeholder and the Interested Party shall hereinafter be known as "the Owner".
- 1.4 The Prior Approval in relation to the Development of the Property was submitted to the Council and validated on 30th August 2013 and the Council resolved to grant

approval under reference number 2013/5513/P subject to conclusion of this legal Agreement.

1.5 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.

1.6 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 Prior Approval Application" An application for prior approval notification under Class J of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) in relation to the Development of the Property submitted to the Council and validated on 30th August 2013 for which a resolution to grant approval has been passed under reference number 2013/5513/P subject to conclusion of this Agreement
- 2.4 "the Development" change of use from offices (Class B1) to residential (Class C3) to provide 1x2 bed units on lower ground and ground floor levels as shown on

drawing numbers 10)010/P1, (10) 099 P1, (10)100 P1, (10) 099 1 and (10) 100 1

- 2.5 "the Commencement Date" the date when the Development shall be initiated in accordance with Section 56(1) (b) of the Act and references to "Commence" 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
- 2.7 "the Parties" 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 Prior Approval " a prior approval granted for the Development substantially in the draft form annexed hereto
- 2.10 "the Property" the land known as Lower Ground and Ground floors, 158 Prince of Wales Road London NW5 3PS the same as shown edged grey on the plan annexed hereto
- 2.11 "Residents Parking Bay" a parking place designated by the Council by an order under the Road Traffic Regulation Act 1984 or other relevant legislation for use by

residents of the locality in which the Development is situated

- 2.12 "Residents Parking Permit" A parking permit issued by the Council under section 45(2) of the Road Traffic Regulation Act 1984 allowing a vehicle to park in Residents Parking Bays

NOW THIS DEED WITNESSETH as follows:-

- 3.1 This Agreement is made in pursuance of Section 106 of the Act, and is a planning obligation for the purposes of Section 106 as aforesaid, and shall be enforceable by the Council against the Owner as provided herein and against any person deriving title to any part of the Property from the Owner and insofar as it is not a planning obligation its provisions may be enforceable by the Council under any relevant statutory powers.
- 3.2 Words importing the singular shall include the plural and vice versa and any words denoting actual persons shall include companies corporations and other artificial persons.
- 3.3 Any reference to a specific statute or statutes include any statutory extension or modification amendment or re-enactment of such statute and any regulation or orders made under such statute.
- 3.4 The clause and paragraph headings do not form part of this Agreement and shall not be taken into account in its construction 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 Prior Approval 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:-

4.1 The Owner hereby covenants with the Council to ensure that prior to occupying any residential unit forming part of the Development each new resident of the Development is informed by the Owner of the Council's policy that they shall not be entitled (unless they are the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970) to be granted a Residents Parking Permit to park a vehicle in a Residents Parking Bay and will not be able to buy a contract to park within any car park owned, controlled or licensed by the Council.

4.2 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.1 above will remain permanently.

4.3 On or prior to the Occupation Date the Owner shall inform the Council's Planning Obligations Monitoring Officer of the official unit numbers of the residential units forming part of the Development (as issued and agreed by the Council's Street Name and Numbering Department), identifying those residential units that in the Owner's opinion are affected by the Owner's obligation in Clause 4.1 of this Agreement.

5. **NOTICE TO THE COUNCIL/OTHER MATTERS**

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

- 5.2 The Owner shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 6.1 hereof quoting planning reference 2013/5513/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 indemnify the Council for any reasonable 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 2013/5513/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 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.
- 6.5 Neither the Owner 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.
- 6.6 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.

7. **JOINT AND SEVERAL LIABILITY**

- 7.1 All Covenants made by the Owner in this Agreement are made jointly and severally and shall be enforceable as such.

8. **RIGHTS OF THIRD PARTIES**

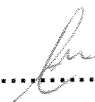
- 8.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

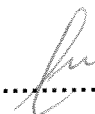
IN WITNESS whereof the Council has caused its Common Seal to be hereunto affixed and the Owner and the Interested party have executed this instrument as their Deed the day and year first before written

EXECUTED as a Deed on behalf of)
ELIME DEVELOPMENTS LIMITED)
a company incorporated in)
the British Virgin Islands by)

and)
)
)

being persons who in accordance)
with the laws of that territory are)
acting under the authority of)
the company)

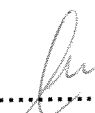

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Authorised Signatory

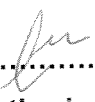

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EXECUTED as a Deed on behalf of)
SAMMUT LIMITED)
a company incorporated in)
the British Virgin Islands by)

and)
)
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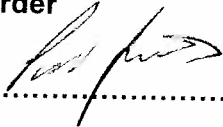
being persons who in accordance)
with the laws of that territory are)
acting under the authority of)
the company)


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Authorised Signatory


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Authorised Signatory

CONTINUATION OF PRIOR APPROVAL FOR LOWER GROUND AND GROUND
FLOORS 158 PRINCE OF WALES ROAD LONDON NW5 3PS

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

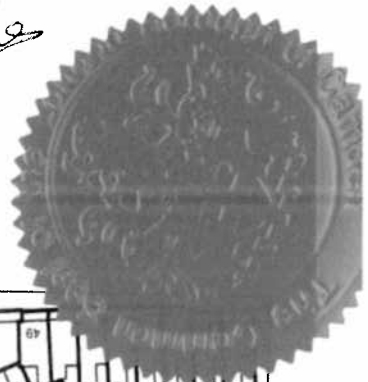


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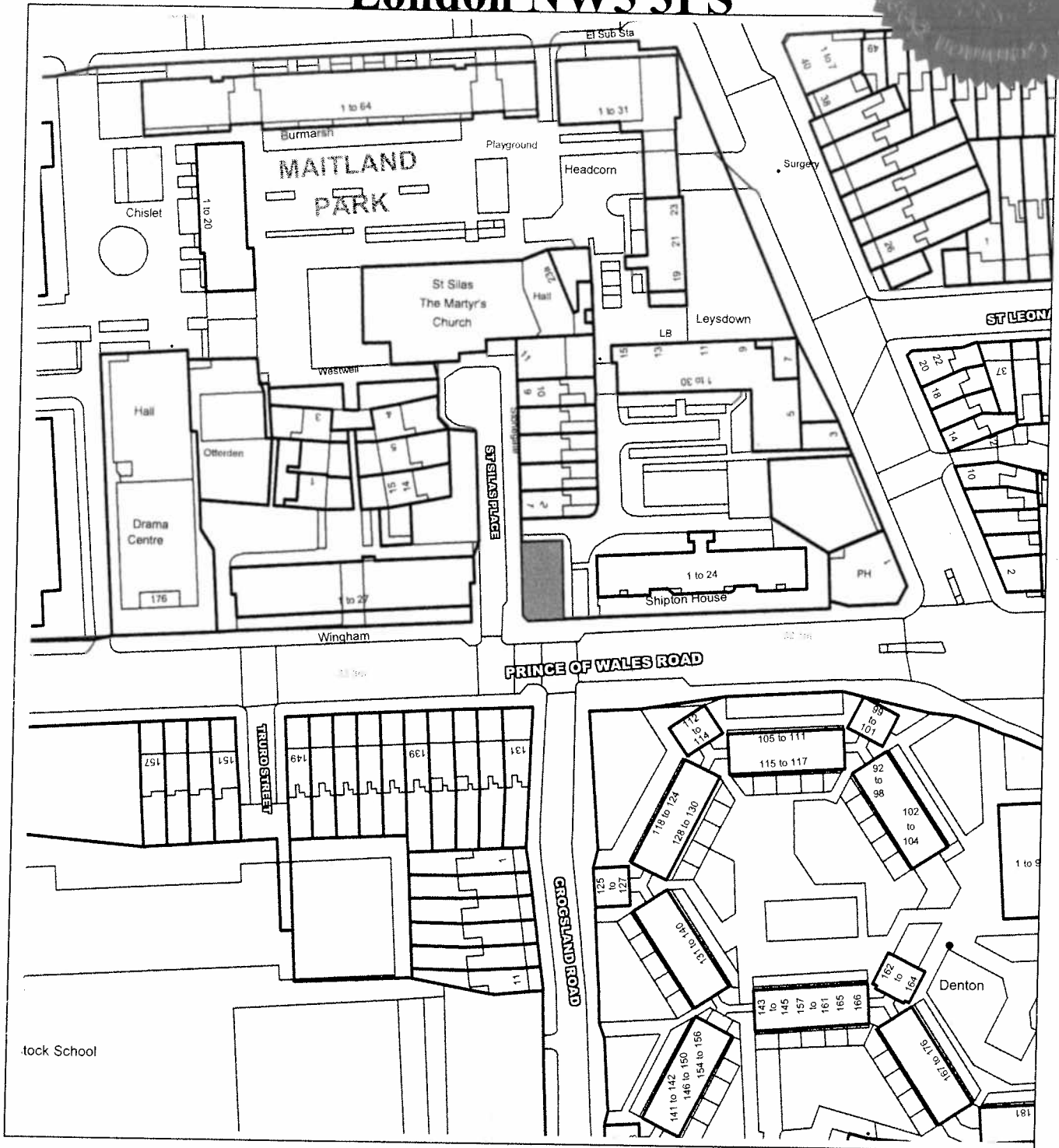




Paul Jones



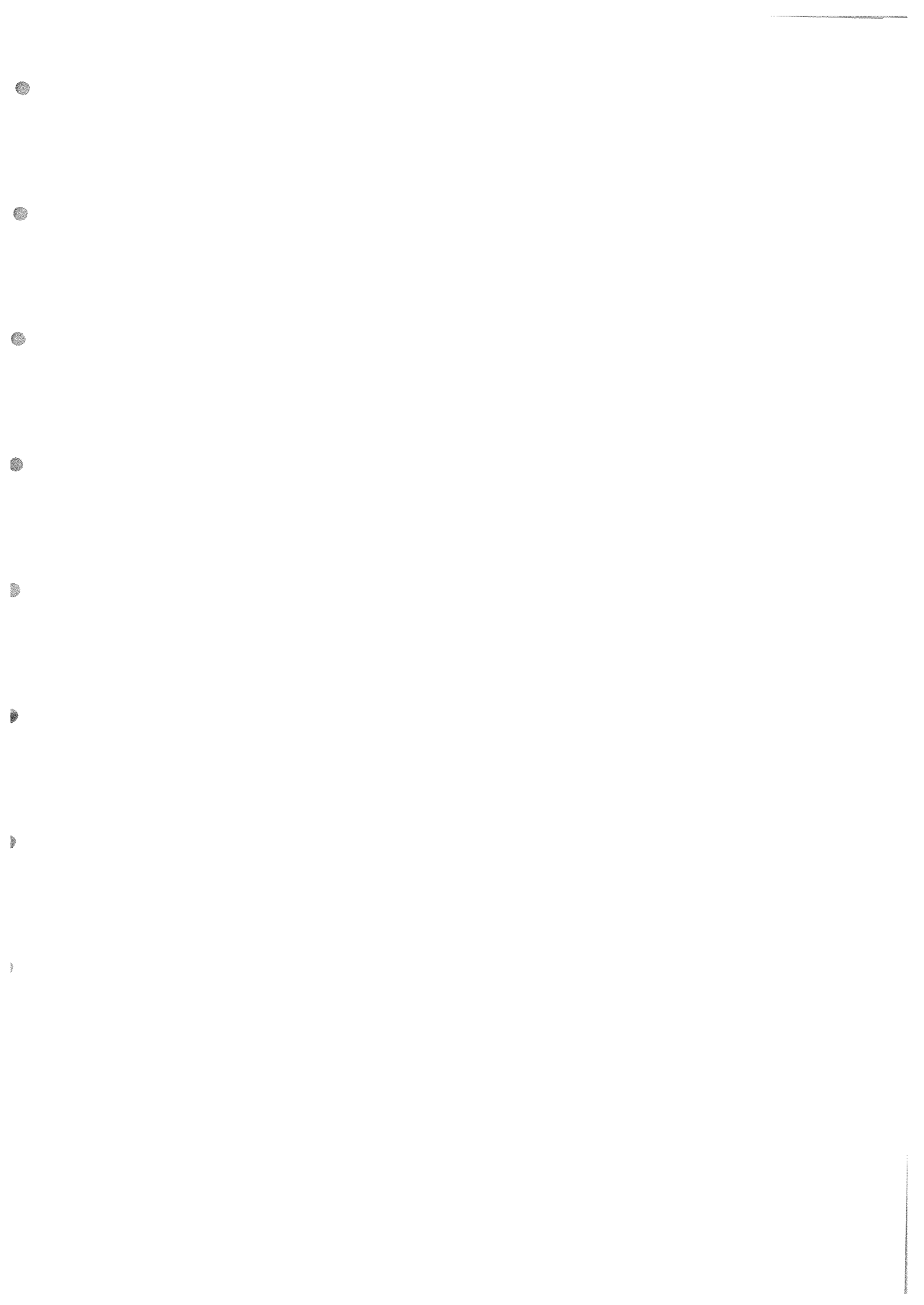
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