

DATED

13th February

2014

(1) NORMAN LINTON (HOLDINGS) LIMITED

And

(2) LINTON PROPERTY DEVELOPMENTS LIMITED

And

(3) BARCLAYS BANK PLC

TO

THE MAYOR AND BURGESSES OF

THE LONDON BOROUGH OF CAMDEN

PLANNING OBLIGATION BY WAY OF A UNILATERAL UNDERTAKING

**relating to land known as
Linton House, 39 – 51 (odd) Highgate Road, London, NW5 1RT
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)**

7 UNIT SCHEME



4th Floor
64 North Row
London W1K 7DA
Tel: 020 7563 1000
Fax: 020 7518 8420
Ref: RL/N131-1

THIS DEED is made the 13th day of February 2014

BETWEEN:

- i. **NORMAN LINTON (HOLDINGS) LIMITED** (Co. Regn. No. 392482) of Linton House 39-51 Highgate Road London NW5 1RT (hereinafter called "the Owner") of the first part;
- ii. **LINTON PROPERTY DEVELOPMENTS LIMITED** (Co. Regn 08033874) of Linton House 39-51 Highgate Road London NW5 1RT (hereinafter called "the Developer") of the second part;
- iii **BARCLAYS BANK PLC** (Co. Regn. No. 1026167) of 1 Churchill Place, London E14 5HP (hereinafter called "the Mortgagee") of the third part.

To

THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council")

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 NGL209970 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 The Planning Application for the Development of the Property was submitted to the Council by the Developer under reference number 2013/3494/P.
- 1.4 The Council refused the Planning Application on the 27 September 2013.
- 1.5 An Appeal under Section 78 of the Act in respect of the refusal of the Planning Application was submitted by the Developer to the Planning Inspectorate on the 23 October and was given reference APP/X5210/A/13/2207697.
- 1.6 The Council is the local planning authority for the purposes of the Act for the area in which the Property is situated.
- 1.7 The Owner and Developer are willing to enter into this Deed pursuant to the provisions of Section 106 of the Act on the terms set out herein.
- 1.8 The Mortgagee under a legal charge registered under the title dated 11 March 2002 is willing to enter into this Deed to give its consent to the same.
- 1.9 There are two registered leasehold interests for telecommunication equipment on specific parts of the existing roof of the building under NGL865594 and NGL874070. Should the Appeal Planning Permission be granted and implemented the existing roof of the building will be removed. These lessees do not have an interest in the

Development nor could these lessees implement the Appeal Planning Permission under the specific terms of their leases.

2. **DEFINITIONS**

In this Deed 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 Appeal Planning Permission" a planning permission granted for the Development by the Secretary of State or the Planning Inspectorate under reference APP/X5210/A/13/2207697 pursuant to the appeal against the refusal of the Planning Application
- 2.3 "the Deed" this planning obligation deed made pursuant to Section 106 of the Act
- 2.4 "the Development" The erection of an additional floor at roof level to provide 7 residential units(2 x 1 bed,4 x 2 bed,1x 3 bed) and a ground floor rear extension to accommodate a new entrance, cycle and refuse storage and installation of condenser units and enclosures at roof level
- 2.5 "the Education Contribution" the sum of £15,174 (fifteen thousand one hundred and seventy four pounds) to be paid by the Owner to the Council in accordance with the terms of this Deed and to be applied by the Council in the event of receipt towards education needs arising in the London Borough of Camden
- 2.7 "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
- 2.8 "Monitoring Fee" the sum of £1,460 (one thousand four hundred and sixty pounds) to be applied by the Council for the monitoring of the obligations contained in this Deed
- 2.9 "Occupation Date" the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
- 2.10 "the Parties" the Owner and Developer 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 5 June 2013 under reference number 2013/3494/P

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 Property"

the land known as Linton House 39-51 Highgate Road (odd) London NW5 1RT the same as shown outlined in red on the plan annexed hereto

2.14 "the Public Open Space

Contribution"

the sum of £9,167 (nine thousand one hundred and sixty seven pounds) to be paid by the Owner to the Council in accordance with the terms of this Deed and to be applied by the Council in the event of receipt towards the provision of public open space in the London Borough of Camden

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

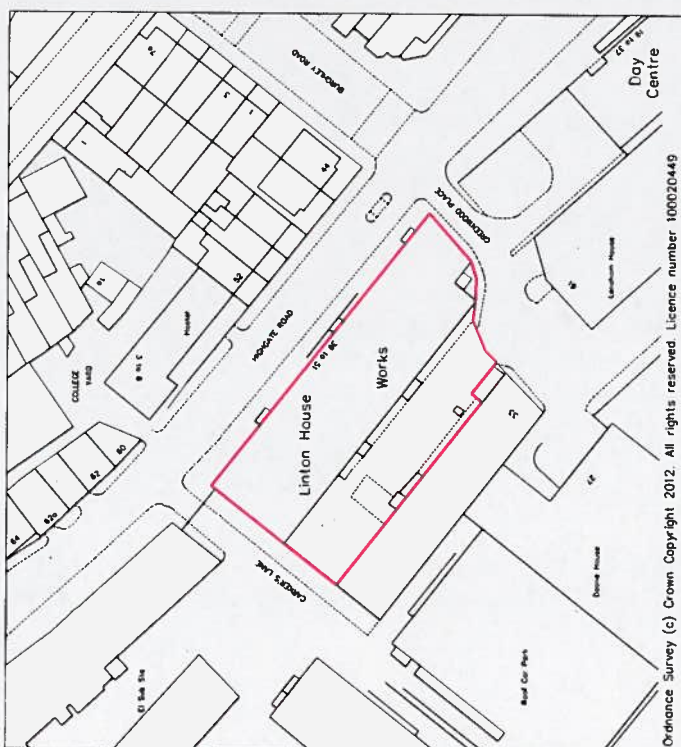
2.17 "the Sustainability Plan"

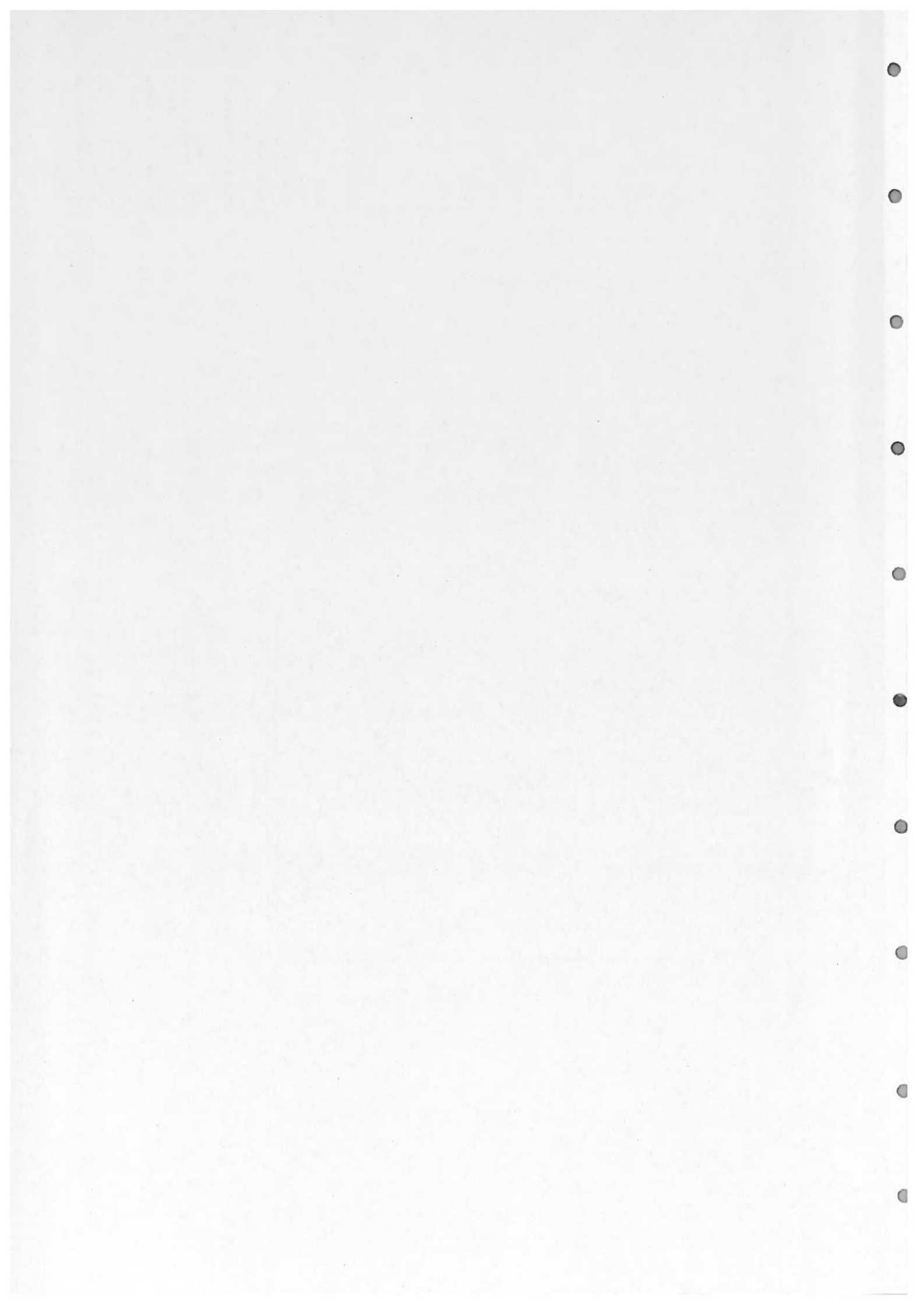
a plan securing the incorporation of sustainability measures in the carrying out of the Development in its fabric and in its subsequent management and occupation which shall include:-

- (a) achieving a target of at least level 4 of the Code of Sustainable Homes attaining at least 50% of the credits in each of the Energy, Water and Materials categories to be carried out by a recognized independent verification body in respect of the Property (with any shortfall being agreed by the Council in writing).
- (b) include a pre-Implementation review by an appropriately qualified and recognised independent verification body in respect of the Property certifying that the measures incorporated in the Sustainability



Bar	Date	Make
Services		
Structures		
Fluid Structures		
Client		
Jack & Gary Linton		
77-79 Ligonier Road, London, W9 5 NT		
Project title		
LINTON HOUSE		
Drinking Water		
EXISTING SITE PLAN		
Scale: 8 A3 1:5000A1		
Product No.	Drinking no.	Revision
152	005	P1
Status		Date of Issue
PLANNING		APRIL 2013
		
Clive Sall Architecture Ltd. 7 Providence Yard 200 Euston Road London E1 7JQ		
E-mail: c.sall@sall-architects.co.uk Tel: 020 7353 6666		





Plan are achievable in the Development and satisfy the aims and objectives of the Council's strategic policies on sustainability contained within its Development Plan; and

- (c) measures to secure a post construction review of the Development by an appropriately qualified and recognised independent verification body in respect of the Property certifying that the measures incorporated in the Sustainability Plan have been achieved in the Development and will be maintainable in the Development's future management and occupation

3. **NOW THIS DEED WITNESSETH** as follows:-

- 3.1 This Deed 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 and against any person deriving title to any part of the Property from the Owner and also against the Developer on the terms as provided herein and insofar as it is not a planning obligation its provisions may be enforceable by the Council under any relevant statutory powers. All covenants offered by the Owner and the Developer in this Deed are made jointly and severally and shall be enforceable as such.
- 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 Deed 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 Deed shall be conditional on the grant of the Appeal Planning Permission and become binding upon the Implementation Date on the terms set out herein.
- 3.6 The Parties save where the context states otherwise shall include their successors in title.
- 3.7 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 and the Developer hereby covenant as follows:

4.1 CAR FREE

- 4.1.1 Should the Secretary of State or the Planning Inspectorate on the grant of the Appeal Planning Permission consider that this planning obligation is required the Owner and the Developer hereby covenant to 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.
- 4.1.2 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.1.1 above will remain permanently.
- 4.1.3 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 Owners opinion are affected by the Owner obligation in Clause 4.1.1 of this Deed.

4.2 SUSTAINABILITY PLAN

- 4.2.1 Should the Secretary of State or the Planning Inspectorate on the grant of the Appeal Planning Permission consider that this planning obligation is required the Owner and the Developer hereby covenant to the Council on or prior to the Implementation Date to submit to the Council for approval the Sustainability Plan.
- 4.2.2 Not to Implement nor permit Implementation until the Sustainability Plan has been approved by the Council as demonstrated by written notice to that effect
- 4.2.3 Not to Occupy or permit Occupation of the Property until a satisfactory post-completion review has been submitted to and approved by the Council in writing confirming that the measures incorporated in the Sustainability Plan as approved by the Council have been incorporated into the Property.
- 4.2.4 Following the Occupation Date the Owner shall not Occupy or permit Occupation of any part of the Development at any time when the Development is not being managed in strict accordance with the Sustainability Plan as approved by the Council and shall not Occupy or permit Occupation of the Development otherwise than in strict accordance with the requirements of the Sustainability Plan.

4.3 EDUCATION CONTRIBUTION

- 4.3.1 Should the Secretary of State or the Planning Inspectorate on the grant of the Appeal Planning Permission consider that this planning obligation is required the Owner and

the Developer hereby covenant to the Council on or prior to the Implementation Date to pay to the Council the Education Contribution.

- 4.3.2 Not to Implement or to permit Implementation until such time as the Council has received the Education Contribution.

4.4 **PUBLIC OPEN SPACE CONTRIBUTION**

- 4.4.1 Should the Secretary of State or the Planning Inspectorate on the grant of the Appeal Planning Permission consider that this planning obligation is required the Owner and the Developer hereby covenant to the Council on or prior to the Implementation Date to pay to the Council the Public Open Space Contribution.
- 4.4.2 Not to Implement or to permit Implementation until such time as the Council has received the Public Open Space Contribution.

4.5 **MONITORING FEE**

- 4.5.1 Within 3 days of the date of the issue of the Appeal Planning Permission the Owner and/or the Developer hereby covenant to the Council to pay the Monitoring Fee to the Council.

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

- 5.1 The Owner and/or the Developer shall give written notice to the Council prior to the Implementation Date specifying that Implementation of the Planning Permission is to take place.
- 5.2 Within seven days following completion of the Development the Owner and/or the Developer shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 6.1 hereof quoting the Appeal Planning Permission reference APP/X5210/A/13/2207697 (Council reference 2013/3494/P) the date upon which the Development is ready for Occupation.
- 5.3 The Owner and Developer 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 and Developer 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 and Developer's possession (at the Owner and Developer's expense) for the purposes of monitoring compliance with the obligations contained herein.
- 5.4 The Owner and the Developer agree declare and covenant to the Council that they 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 Deed and further shall jointly and severally indemnify the Council for any expenses or liability arising to the Council in respect of breach by the Owner of any obligations contained herein save to the extent that any

act or omission of the Council its employees or agents has caused or contributed to such expenses or liability.

- 5.5 Submission of any document or plan required to be sent to the Council under the terms of this Deed shall be made by the Owner and/or Developer sending the full document and any appendices in electronic format (where practicable) to the Council's Planning Obligations Monitoring Officer referring to the names dates and Parties to this Deed and citing the specific clause of this Deed to which such plan relates quoting the Appeal Planning Permission reference APP/X5210/A/13/2207697 (Council reference 2013/3494/P).
- 5.6 Payment of the financial contributions pursuant to Clause 4 of this Deed shall be made by 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 Deed and citing the specific clause of this Deed to which such Contribution relates 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.
- 5.7 All consideration given in accordance with the terms of this Deed 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 Deed upon presentation of an appropriate value added tax invoice addressed to the Owner and/or Developer.
- 5.8 The Education Contribution and Public Open Space Contribution referred to in this Deed as payable or to be applied by any party under this Deed shall be paid or applied TOGETHER WITH if such payment or application is made more than three months from the date of this Deed 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 AIIRP") figure last published by the Central Statistical Office at the date hereof is the denominator ("X") and the last AIIRP figure published before the date such payment or application is made ("Y") less the last published AIIRP figure at the date hereof ("X") is the numerator so that
- $$A = \frac{B \times (Y-X)}{X}$$
- 5.9 All costs and expenses payable to the Council under this Deed 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 Deed to be served under or in connection with this Deed shall be in writing and shall specifically refer to the name, date and Parties to the Deed and shall cite the clause of the Deed 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 Appeal Planning Permission reference number APP/X5210/A/13/2207697 (Council reference 2013/3494/P) and in the case of any notice or approval from the Council this shall be signed by a representative of the Council's Environment Department.

- 6.2 This Deed shall be registered as a Local Land Charge.
- 6.3 The Developer agrees to pay the Council its proper and reasonable legal costs incurred in reviewing this Deed on or prior to the date of completion of the Deed.
- 6.4 The Owner hereby covenants to the Council that it will within 28 days from the date of issue of the Appeal Planning Permission apply to the Chief Land Registrar of the Land Registry to register this Deed 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 Deed 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 fully and effectually exercised.
- 6.6 The Owner nor the Mortgagee nor their successors in title nor any person deriving title from them shall be bound by the obligations in this Deed 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 Deed (other than those contained in this sub-clause) shall not have any effect until this Deed has been dated.
- 6.8 If the Planning Permission is quashed or revoked or otherwise withdrawn or expires before effluxion of time for the implementation of the Development this Deed shall forthwith determine and cease to have effect.

7. MORTGAGEE EXEMPTION

- 7.1 The Mortgagee hereby consents to the completion of this Deed and agrees to be bound by it and to the same being registered at the Land Registry as provided in Clause 6.4 hereof for the avoidance of doubt the Mortgagee (and those deriving title through or under it) agrees to be bound by the said obligations only in the event that they become a mortgagee in possession of the Property.
- 7.2 The Mortgagee will not be personally liable as mortgagee for any breach of covenants once the Mortgagee has parted with its interests in the Property.

8. **RIGHTS OF THIRD PARTIES**

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

IN WITNESS whereof the Owner and the Developer and the Mortgagee have executed this instrument as their Deed the day and year first before written

EXECUTED AS A DEED BY)

NORMAN LINTON (HOLDINGS) LIMITED)

acting by one director)

JACK LINTON

Director

In the presence of:

Witness

Signed [Signature]

Name Burke

Address 70 WINDHAM ROAD CT. MISSISSAUGA L4W 1A2

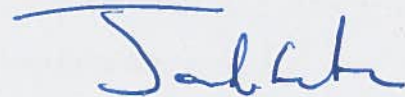
Occupation GENERAL MANAGER

EXECUTED AS A DEED BY

LINTON PROPERTY DEVELOPMENTS LIMITED

acting by one Director

)
)
)
)



JACK LINTON

Director

In the presence of:

Witness

Signed 

Name Brian Fern

Address 20 Winkham Road GT. MISSENDEN HP16 9AR

Occupation GENERAL MANAGER

EXECUTED AS A DEED BY

BARCLAYS BANK PLC

acting by

Fiona L. Freeman

FIONA LYNNE FREEMAN

its duly authorised attorney

in the presence of:

Name of witness

IAN FOSTER

Signed

[Signature]

Barclays Bank PLC

Real Estate Team

Level 17

1 Churchill Place

London E14 5HP

Occupation of Witness

BANKING