

DATED

1st August

2014

(1) GOODGE STREET (TOTTENHAM COURT ROAD) LLP

and

(2) HSBC BANK PLC

and

(3) SPENCER ADAM LESLIE

and

(4) STANLEY HAROLD DAVIS and NIGEL LINDSAY-FYNN

and

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

DEED OF VARIATION

Relating to the Agreement dated 20 September 2012
Between the Mayor and the Burgesses of the
London Borough of Camden,
Goodge Street (Tottenham Court Road) LLP, HSBC Bank Plc,
Spencer Adam Leslie, Stanley Harold Davis and Nigel Lindsay-Fynn
under sections 106 and 106A of the Town and Country Planning Act 1990 (as amended)
Relating to development at premises known as

62-63 TOTTENHAM COURT ROAD AND 1-7 GOODGE STREET

Andrew Maughan
Head of Legal Services
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP
Tel: 020 7974 6007
Fax: 020 7974 2962

CLS/COM/PM/1685.2474

FINAL 23.07.14



THIS AGREEMENT is made on the *1st* day of *August* 2014

BETWEEN

- (1) **GOODGE STREET (TOTTENHAM COURT ROAD) LLP** (LLP Registration number OC349889) whose registered office is at 25 Harley Street, London, W1G 9BR (the "Owner") of the first part;
- (2) **HSBC BANK PLC** (Company Registration number 14259) whose registered office is at 8 Canada Square London E14 5HQ (the "First Mortgagee") of the second part;
- (3) **SPENCER ADAM LESLIE** of 6 Abbey View, Mill Hill, London, NW7 4PB (the "Second Mortgagee") of the third part;
- (4) **STANLEY HAROLD DAVIS** of Dron House, Pynnales Close, Stanmore, Middlesex HA7 4AF and **NIGEL LINDSAY-FYNN** of Lee Ford, Budleigh, Salterton, Exeter, Devon EX9 7AJ (together and for the purposes of this agreement only referred to as the "Third Mortgagee") of the fourth part; and
- (5) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London, WC1H 9LP (the "Council") of the fifth part

WHEREAS:

- 1.1 The Council the Owner the First Mortgagee the Second Mortgagee and the Third Mortgagee entered into an Agreement (hereafter "the Original Agreement") dated 20 September 2012 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended)
- 1.2 The Owner is registered at the Land Registry as the freehold proprietor with title absolute of the Property under title numbers 47163, 229526, 147840 and 160435 subject to the charges of the First Mortgagee the Second Mortgagee and the Third Mortgagee.
- 1.3 The First Mortgagee is registered as mortgagee under a legal charge contained in a debenture registered under title numbers 47163, 229526, 147840 and 160435 and dated 24 April 2012 and as mortgagee under a legal charge contained in a charge

registered under title numbers 47163, 229526, 147840 and 160435 and dated 24 April 2012.

- 1.4 The Second Mortgagee and Third Mortgagee are registered as mortgagees under a legal charge registered under title numbers 47163, 229526, 147840 and 160435 and dated 26 November 2009.
- 1.5 The Application for Minor Material Amendments in respect of the Property was submitted to the Council and validated on 26 February 2014 under reference number 2014/0831/P.
- 1.6 The Council refused to grant planning permission to the Application for Minor Material Amendments on the 1st May 2014.
- 1.7 An appeal under Section 78 of the Act in respect of the refusal of the Application for Minor Material Amendments was submitted by the Owner to the Planning Inspectorate and given reference number APP/X5210/A/14/2219830.
- 1.8 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.9 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.
- 1.10 This Deed is made by virtue of the Town and Country Planning Act 1990 Sections 106 and 106A (as amended) and is a planning obligation for the purposes of that section and shall be enforceable by the Council against the Owner in respect of the Property.
- 1.11 Without prejudice to the terms of the other covenants contained in the Original Agreement the parties hereto have agreed to vary the terms of the Original Agreement as hereinafter provided.

1.12 For the avoidance of any doubt the Council objects to the Application for the Minor Material Amendments for the reasons set out in the refusal notice and the Council's appeal statement. The Council has entered into this Deed for the sole purpose of securing obligations from the Owner in the event that the Secretary of State is minded to grant planning permission.

1.13 On the basis that the Secretary of State is minded to grant planning permission, the Council and the Owner now seek to vary the terms of the Original Agreement.

2. INTERPRETATION

2.1 All words and phrases defined in the Original Agreement shall have the same meaning in this Deed save where the context otherwise dictates and for the avoidance of any doubt the Original Agreement shall remain in full force and effect save as varied by this Deed.

2.2 All reference in this Deed to clauses in the Original Agreement are to clauses within the Original Agreement unless otherwise stated.

2.3 In this Deed the following expressions shall unless the context otherwise states have the following meaning now allocated to it.

2.3.1 "Application for Minor Material Amendments" the application for Minor Material Amendments in respect of the Property submitted to the Council and validated on 26 February 2014 under reference number 2014/0831/P

2.3.2 "Deed" this Deed of Variation made pursuant to Section 106A of the Act

2.3.3 "Original Agreement" means the Section 106 Agreement relating to the Property made under the Town and Country Planning Act 1990 (as amended) dated 20 September 2012 made between the Council the Owner, the First Mortgagee, Second Mortgagee

and Third Mortgagee in respect of planning application 2011/1821/P and 2011/1837/C

2.3.4 "Secretary of State"

means the Secretary of State for Communities and Local Government, or a successor to his functions in relation to the appeal of the Council's refusal of the Application for Minor Material Amendments, or an inspector appointed by him for the purposes of that appeal

2.4 Where in this Agreement reference is made to a clause schedule or recital such reference (unless the context otherwise requires) is a reference to a clause schedule or recital of this Agreement.

2.5 Headings are for ease of reference only and are not intended to be construed as part of this Agreement and shall not be construed as part of this Agreement and shall not effect the construction of this Agreement.

2.6 Unless the context otherwise requires references to the singular shall include the plural and vice versa.

2.7 References to the parties save where the context states otherwise shall include their successors in title.

2.8 If permission granted in respect of the Application for Minor Material Amendments is quashed or expires before Implementation or is revoked this Deed shall cease to have effect.

3. VARIATION TO THE ORIGINAL AGREEMENT

3.1 Subject to the grant of planning permission by the Secretary of State in respect of the Application for Minor Material Amendments, and subject also to Implementation of the Development as amended by that permission, the following definitions contained in the Original Agreement shall be varied in the following manner:

3.1.1 "Development"

(i) Planning Permission: Erection of a five storey building plus basement at 5-7 Goodge Street and rebuilding to five storeys plus basement at 62-63 Tottenham Court Road and 1-3 Goodge Street (including mansard roof), following part/complete demolition of existing buildings, all in association with the provision of retail space at ground floor level and 8 additional residential units (9 in total) to upper floors (Classes A1/C3] as shown on drawing nos: Site Location Plan; 4840/T(10) E01 A; E02 A; E03 A; E04 A; E05 A; P00 A; P0-1 A; P01 A; P02 A; P03 A; P04 A; S02 A; 4840/T(20) E01 E; E02 F; E03 C; E04 D; E05 C; D01 B; D02 A; P-1 D; P00 F; P01 E; P02 E; P03 E; P04 F; P05 E; P101 B; S02 A; 4840/T(11) P0-1 A; P00 A; P01 A; P02 A; P03 A; Structural observations on the demolition of 63 Tottenham Court Road by Bridges Pound; External Building Fabric Report 17152/EBF1 by Han Tucker Associates dated 01/03/2011; 'Comments on Structure to Cards Galore (ref: Bridges Pound Ltd_L1327/JB/21st Mar 2011); Design and Access Statement revision A June 2011; Proposed Basement Planning Comments by Bridges Pound as amended by the Minor Material Amendments

(ii) Conservation Area Consent: In respect of the application for Conservation Area Consent Part/complete demolition of existing buildings associated with planning application ref 20011/1821/P to redevelop the site

3.1.3 "Planning Permission"

the Original Planning Permission as amended by the Minor Material Amendments granted for the Development or any planning permission

granted for the Development by the Secretary of State under appeal reference APP/X5210/A/14/2219830

3.2 The following definitions shall be added to the Original Agreement:-

3.2.1 "Minor Material Amendments"

shall mean amendment to condition 2 of the Original Planning Permission (works to be carried out in accordance with the approved plans of the Original Planning Permission) for the erection of a five storey building plus basement at 5-7 Goodge Street and rebuilding to five storeys plus basement at 62-63 Tottenham Court Road and 1-3 Goodge Street (including mansard roof), following part/complete demolition of existing buildings, all in association with the provision of retail space at ground floor level and 8 additional residential units (9 in total) to upper floors (Classes A1/C3), namely for changes to the height of the extract duct on the rear of 62 Tottenham Court Road, alterations to the roofline and plant screening, erection of a replacement front facade at 1-3 Goodge Street and alterations to windows as shown on drawing Nos: 4848/ T(20)D01 rev C; 4840/ T(20) D02 rev C; 4840/ T(20) D03; 4840/ T(20) D04; 5315 T(20) D05; 4840/ T(20) E01 rev G; 4840/ (T20) E02 Rev H; 4840/T(20) E03 rev E; 4840/T(20) E04 rev F; 4840 / T(20) E05 rev D; 5315 /T (20) P00 rev H; 5315 /(T20) P01rev G; 5315 /(T20) P02 rev G; 5315 /(T20) P03 rev F; 5315 /(T20) P04 rev G; 5315 /(T20) P05 rev G; 4840/ T(20) P-1 rev G; 4840/ T(20) S02 rev B.

3.2.2 "the Original Planning Permission"

means the planning permission granted by the Secretary of State on 6 December 2012 (Council reference 2011/1821/P) decided on appeal ref APP/X5210/A/12/2177819, dated 06/12/2012, allowing erection of a five storey building plus basement at 5-7 Goodge Street and rebuilding to five storeys plus basement at 62-63 Tottenham Court Road and 1-3 Goodge Street (including mansard roof), following part/complete demolition of existing buildings, all in association with the provision of retail space at ground floor level and 8 additional residential units (9 in total) to upper floors (Classes A1/C3)

3.2.3 "Secretary of State"

means the Secretary of State for Communities and Local Government, or a successor to his functions in relation to the appeal of the Council's refusal of the Application for Minor Material Amendments, or an inspector appointed by him for the purposes of that appeal

3.3 In all other respects the Original Agreement (as varied by this Deed) shall continue in full force and effect.

4. PAYMENT OF THE COUNCIL'S LEGAL COSTS

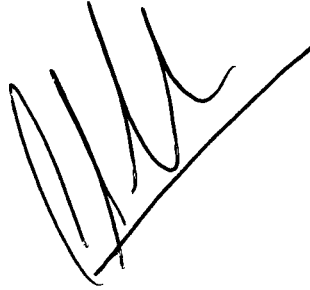
4.1 The Owner agrees to pay to the Council (prior to completion of this Deed) its reasonable legal costs incurred in preparing this Deed.

5. REGISTRATION AS LOCAL LAND CHARGE

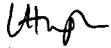
5.1 This Deed shall be registered as a Local Land Charge.

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


EXECUTED AS A DEED BY)
GOODGE STREET (TOTTENAM)
COURT ROAD) LLP)
acting by a)
member in the presence of:)



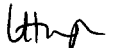
Member signature and address


LYNNE HUGHES
23 Old Bond St, London
Assurance

EXECUTED AS A DEED BY)
SPENCER ADAM LESLIE)
in the presence of:)




Witness Signature
Witness Name
Address
Occupation


LYNNE HUGHES
23 Old Bond St, London W1U 4PL
Assurance

EXECUTED AS A DEED BY)
STANLEY HAROLD DAVIS)
in the presence of:)
DAVID M. KAYE



Witness Signature
Witness Name
Address
Occupation


DAVID MALCOLM KAYE
7 HOLBROOK GARDENS ALDENHAM, WD25 8AB
CHARTERED SECRETARY

EXECUTED AS A DEED BY)
NIGEL LINDSAY-FYNN)
in the presence of:)

Nigel Lindsay-Fynn

.....
DAVID M. KAYE

Witness Signature

David M. Kaye

Witness Name

DAVID MALCOLM KAYE

Address

7 HOLBROOK GARDENS, ALDCHAM, WD25 8AB

Occupation

CHARTERED SECRETARY

Signed and Delivered by:

TIMOTHY STEPHENS

T. Stephens

Attorney for HSBC Bank plc

Witness Signature

Peter Roberts

Witness Name

PETER ROBERTS

Witness Address

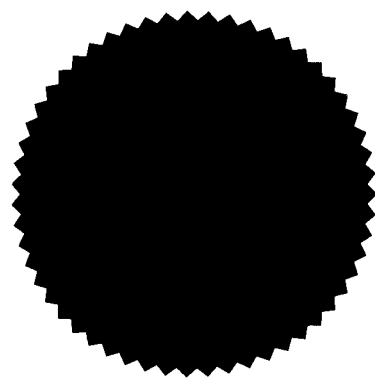
HSBC 70 PALL MALL

Witness Occupation

LONDON

BANK OFFICIAL

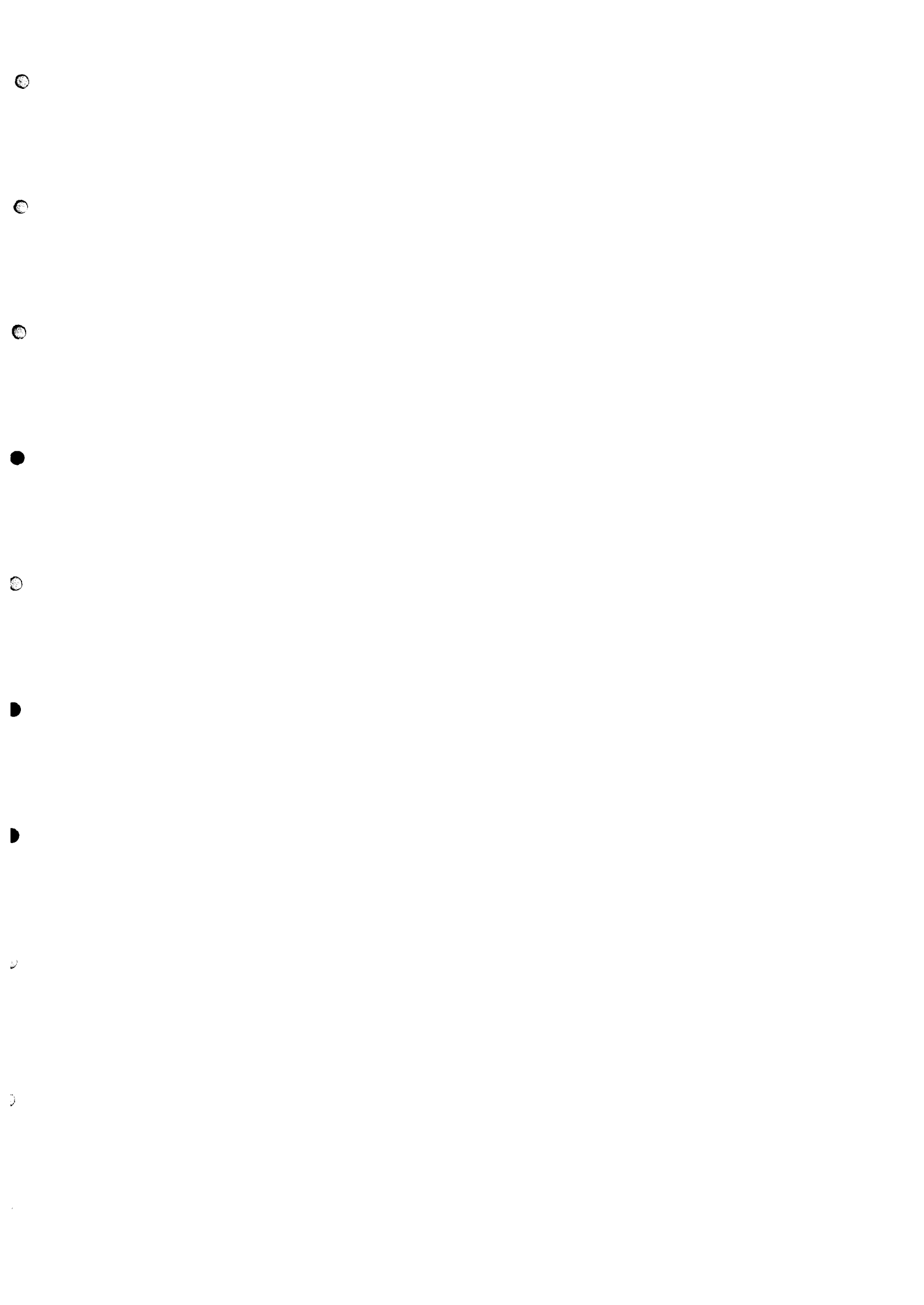
THE COMMON SEAL OF THE MAYOR)
AND BURGESSES OF THE LONDON)
BOROUGH OF CAMDEN was hereunto)
Affixed by Order:-)



R. Alexander

.....
Authorised Signatory

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DATED

1st August

2014

(1) GOODGE STREET (TOTTENHAM COURT ROAD) LLP

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(2) HSBC BANK PLC

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(4) STANLEY HAROLD DAVIS and NIGEL LINDSAY-FYNN

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**(5) THE MAYOR AND BURGESSES OF
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