



HERBERT
SMITH
FREEHILLS

18th February 2015

THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN

and

GROUND GILBEY LIMITED

and

CANAL SIDE PROPERTIES LIMITED

and

ELCROSS ESTATES LIMITED

and

NOMURA INTERNATIONAL PLC

SUPPLEMENTAL DEED

pursuant to Section 106 and 106A of the Town and Country Planning Act 1990 and other relevant powers relating to the land comprised within the site known as Hawley Wharf, Camden

Herbert Smith Freehills LLP

THIS DEED is made the

19th

day of

February

2015

BETWEEN:-

- (1) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London, WC1H 9LP (the "**Council**");
- (2) **GROUND GILBEY LIMITED** (a company incorporated in the British Virgin Islands with registration number 458429) whose registered office is at Akara Building, 24 De Castro Street, Tortola, British Virgin Islands ("**GGL**"); and
- (3) **CANAL SIDE PROPERTIES LIMITED** (a company incorporated in the British Virgin Islands with registration number 1375210) whose registered office is at Akara Building, 24 De Castro Street, Tortola, British Virgin Islands ("**CSP**"); and
- (4) **ELCROSS ESTATES LIMITED** (Company Registration Number 04191579) whose registered address at 6 Water Lane, London, NW1 8NZ ("**EEL**"); and
- (5) **NOMURA INTERNATIONAL PLC** (Company Registration Number 01550505) whose registered office is at 1 Angel Lane, London, EC4R 3AB ("**Nomura**")

WHEREAS:

- (A) On 23 January 2013, GGL, CSP, Network Rail Infrastructure Limited, Canal & River Trust, Irish Bank Resolution Corporation Limited and the Council entered in to the Planning Agreement.
- (B) The Council is the local authority for the purposes of Section 106 of the 1990 Act for the area within which the Property is situated.
- (C) GGL is the freehold owner of those parts of the Property under Title Numbers NGL882928, LN178419, NGL789703, NGL789702, LN82827, NGL207568, LN143728, NGL310382, NGL385023, NGL428608, NGL384527, NGL342293, NGL763915, NGL732508, NGL280874, NGL312511, NGL323884, NGL877242, LN144977, NGL721454, NGL697445, NGL710460, NGL709036, NGL896374 and NGL709037.
- (D) GGL is the leasehold owner of those parts of the Property under Title Numbers NGL889432, NGL903746, NGL864602 and NGL849222.
- (E) CSP is the freehold owner of those parts of the Property under Title Numbers 343656 and 343657.
- (F) EEL is the freehold owner of that part of the Property under Title Number NGL727488.
- (G) As at the date of this Deed, Nomura holds legal charges over the Property as set out in Schedule 1 to this Deed.
- (H) As at the date of the Planning Agreement, the Third Party Land was not bound by the covenants, undertakings and obligations contained in the Planning Agreement.
- (I) This Deed is entered into for the purpose of:
 - a. ensuring that the covenants, undertakings and obligations contained in the Planning Agreement are binding on the Third Party Land for the purposes of Section 106 of the 1990 Act and other relevant powers;
 - b. amending the obligations in the Planning Agreement relating to the Demolition and Construction Management Plan; and
 - c. making clear that the Council shall not enforce the obligations in the Planning Agreement or this Deed against Nomura or another mortgagee or chargee unless they take possession of the Property.

OPERATIVE PROVISIONS

1. INTERPRETATION

- 1.1 Save where provided otherwise words and expressions used in this Deed have the meaning assigned in the Planning Agreement.
- 1.2 For the purposes of this Deed the following words and expressions have the meanings assigned:

"1990 Act" means the Town and Country Planning Act 1990 (as amended);

"New Part 6" means the new Part 6 of Schedule 1 to the Planning Agreement, as attached at Appendix 1 to this Deed;

"Original Part 6" means the original Part 6 of Schedule 1 to the Planning Agreement;

"Owner" means GGL, CSP and EEL;

"Planning Agreement" means an agreement dated 23 January 2013 between Ground Gilbey Limited, Canal Side Properties Limited, Network Rail Infrastructure Limited, Canal & River Trust, Irish Bank Resolution Corporation Limited and the Council entered into pursuant to Section 106 of the 1990 Act and Section 16 of the 1974 Act and other relevant powers;

"Third Party Land" means:

- (i) 6 Torbay Street, being that part of the Property registered under Title Number NGL71970 acquired by GGL from the Council (the **"Torbay Street Property"**); and
- (ii) 6 Water Lane, being that part of the Property owned by Elcross Estates Limited under Title Number NGL727488 (the **"Water Lane Property"**);

"Parties" means the Council, the Owner and the Mortgagee.

2. OPERATION OF THIS DEED

- 2.1 This Deed is supplemental to the Planning Agreement and is entered into pursuant to section 106 and 106A of the 1990 Act and all other powers so enabling.
- 2.2 The covenants, undertakings and obligations contained in the Planning Agreement given to the Council are undertakings and agreements for the purposes of Section 106 of the 1990 Act and are enforceable by the Council as the local planning authority for the area in which the Property is situated.

3. THIRD PARTY LAND

- 3.1 GGL agrees as from the date hereof that the covenants, undertakings and obligations in the Planning Agreement given by GGL to the Council shall be binding on the Torbay Street Property pursuant to Section 106 of the 1990 Act as if the said covenants, undertakings and obligations in the Planning Agreement were set out herein in full with the intent that the said covenants, undertakings and obligations shall be enforceable (insofar as and to the extent that they have not already been performed under the Planning Agreement) not only against GGL but also against any successors in title to or assigns of GGL and any person claiming through or under it an interest or estate in the Torbay Street Property as if GGL had been an original covenanting party in respect of the Torbay Street Property when the Planning Agreement was entered into but not so as to render GGL liable for any breach of any obligations relating to the Torbay Street Property occurring prior to the date of this Deed.

3.2 EEL agrees as from the date hereof that the covenants, undertakings and obligations in the Planning Agreement shall be binding on the Water Lane Property pursuant to Section 106 of the 1990 Act as if the said covenants, undertakings and obligations in the Planning Agreement were set out herein in full with the intent that the said covenants, undertakings and obligations shall be enforceable (insofar as and to the extent that they have not already been performed under the Planning Agreement) not only against EEL but also against any successors in title to or assigns of EEL and any person claiming through or under it an interest or estate in the Water Lane Property as if EEL had been an original covenanting party in respect of the Water Lane Property when the Planning Agreement was entered into but not so as to render EEL liable for:

3.2.1 any breach of any obligations relating to the Water Lane Property occurring prior to the date of this Deed; or

3.2.2 any breach of any obligations relating to the Property (other than the Water Lane Property or any other part of the Property in which EEL is interested for the purposes of Section 106 of the 1990 Act) whether before or following the date of this Deed.

3.3 The Council covenants with GGL and EEL in respect of the Third Party Land to perform the covenants, undertakings and obligations contained in the Planning Agreement (insofar as and to the extent that they have not already been performed under the Planning Agreement) on the part of the Council.

4. DEMOLITION AND CONSTRUCTION MANAGEMENT PLAN

4.1 Subject to clause 4.2 of this Deed, with effect from the date of this Deed:

4.1.1 the Original Part 6 shall be replaced by the New Part 6; and

4.1.2 none of the obligations, covenants or undertakings within the Original Part 6 shall be enforceable by or against the Council, GGL, CSP or EEL.

4.2 The Original Part 6 continues to be enforceable against CRT and Network Rail.

5. MORTGAGEE

5.1 Nomura hereby consents to the Owner entering into this Deed and subject to clause 5.2 agrees that the security of its charges over the Property shall take effect subject to this Deed and the Planning Agreement.

5.2 The Parties agree that the obligations contained in this Deed and the Planning Agreement shall not be enforceable against any mortgagee or chargee of the whole or any part of the Property unless it takes possession of the Property in which case it will be bound by the obligations as a person deriving title from the Owner.

6. RELEASE

6.1 GGL and EEL will, upon disposing of the whole or any part of their respective interest in the Third Party Land be released from all obligations and covenants under this Deed in relation to the Third Party Land or the relevant part thereof (as the case may be) but without prejudice to the rights of the Council in relation to any antecedent breach of those obligations or covenants.

7. MISCELLANEOUS

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

7.2 This Deed is a local land charge and shall be registered as such by the Council.

- 7.3 GGL, CSP and EEL hereby covenant with the Council that they will within 28 days from the date hereof apply to the Chief Land Registrar of the Land Registry to register the Deed in the Charges Register of their titles in the Property and will furnish the Council forthwith on written demand with official copies of such titles to show the entry of this Deed in the Charges Register of those titles.
- 7.4 The Owner agrees to pay the Council its reasonable legal costs properly incurred in preparing this Deed on or prior to the date of this Deed.

IN WITNESS whereof the parties have executed this Deed the day and year first above written.

Schedule 1

Company	Property	Title Number	Date of charge
Ground Gilbey Limited	8 to 16 Leybourne Road, AJ Autos and 6 Haven Street, 9 Chalk Farm Road, and the land and arches at Hawley Wharf, Leybourne Road and Haven Street, London	NGL849222	30 January 2014
Ground Gilbey Limited	6 Chalk Farm Road, London NW1	NGL207568	30 January 2014
Ground Gilbey Limited	The Caernarvon Castle, 7-8 Chalk Farm Road, London NW1	LN82827	30 January 2014
Ground Gilbey Limited	Land and arches at Leybourne Road	NGL864602	30 January 2014
Ground Gilbey Limited	Land at Leybourne Road, London	NGL877242	30 January 2014
Ground Gilbey Limited	4,6 and 8 Castlehaven Road, London NW1	LN178419	30 January 2014
Ground Gilbey Limited	14,16 and 18 Castlehaven Road, London NW1	LN144977	30 January 2014
Ground Gilbey Limited	1 to 5 Chalk Farm Road, London NW1	LN143728	30 January 2014
Ground Gilbey Limited	Land on the south west side of Haven Street, London	NGL789702	30 January 2014
Ground Gilbey Limited	Land on the south west side of Haven Street, London	NGL789703	30 January 2014
Canal Side Properties Limited	2 Torbay Street, London NW1	343656	30 January 2014
Canal Side Properties Limited	Land and buildings in the rear of 51 and 53 Kentish Town Road	343657	30 January 2014
Ground Gilbey Limited	Waterside House, 47 Kentish Town Road, St Pancras, London NW1 8NX	NGL709036	30 January 2014
Ground Gilbey Limited	Land at Hawley Wharf, London	NGL889432	30 January 2014

Ground Gilbey Limited	1 Water Lane, Kentish Town Road and parking spaces, London NW1 8NZ	NGL721454	30 January 2014
Ground Gilbey Limited	17 Hawley Road, St Pancras, London	NGL323884	30 January 2014
Ground Gilbey Limited	2-3 Water Lane, Kentish Town Road, London NW1	NGL697445 and NGL709037	30 January 2014
Ground Gilbey Limited	James Cameron House, 12 Castlehaven Road, London NW1	NGL882928	30 January 2014
Ground Gilbey Limited	8a Torbay Street, London	NGL342293	30 January 2014
Ground Gilbey Limited	5 Water Lane	NGL896374	30 January 2014
Ground Gilbey Limited	1 Hawley Road, London NW1 8RP	NGL310382	30 January 2014
Ground Gilbey Limited	9-13 (odd) Hawley Road and the sites of 1,3 and 5 Torbay Street, London NW1 8RR	NGL280874	30 January 2014
Ground Gilbey Limited	(New Arches) Leasehold land and airspace at Water Lane, Kentish Town Road and Torbay Street	NGL903746	30 January 2014
Ground Gilbey Limited	3 Hawley Road, London NW1 8RP	NGL385023	30 January 2014
Ground Gilbey Limited	4 Torbay Street, London NW1 8RP	NGL732508	30 January 2014
Ground Gilbey Limited	8 Torbay Street, London NW1 8RP	NGL763915	30 January 2014
Ground Gilbey Limited	5 Hawley Road, London NW1 8RP	NGL428608	30 January 2014
Ground Gilbey Limited	15 Hawley Road, London NW1 8RP	NGL312511	30 January 2014
Ground Gilbey Limited	3, 5 and 7 Hawley Road, London NW1 8RP	NGL384527	30 January 2014
Ground Gilbey Limited	4 Water Lane, London NW1	NGL710460	30 January 2014

Executed as Deed by **ELCROSS ESTATES**)
LIMITED acting by ALON SHAMIR)
a director, in the presence of)
.....)
Witness' name: ARIN CALVAZIAN)
Witness' address: 12 CASTLEHAYEN RD)
NW 1 80LW)
Witness' occupation: PROJECT MANAGER)


.....
Director

Appendix 1

New Part 6

PART 6
DEMOLITION AND CONSTRUCTION MANAGEMENT

RELEVANT DEFINITIONS

"Community Working Group" means a working group which the Owner shall use to facilitate consultation with the local community in respect of matters relating to construction works associated with the management of the Construction Phase so as to minimise disruption damage to amenity and the environmental effect on the local community arising from the construction of the Development.

"Council's Considerate Contractor Manual" means the document produced by the Council from time to time entitled "Guide for Contractors Working in Camden" relating to the good practice for developers engaged in building activities in the London Borough of Camden.

"Demolition Management Plan" means a plan setting out the measures that the Owner will adopt in undertaking the demolition of the existing buildings and structures on the Property using good site practices in accordance with the Council's Considerate Contractor Manual to ensure the demolition can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network. The Demolition Management Plan shall include (but not be limited to) the following:

- (i) details of the environmental protection, highways safety, and community liaison measures proposed to be adopted by the Owner in order to mitigate and offset potential or likely effects and impacts arising from the demolition of the existing buildings or structures on the Property;
- (ii) incorporation of the provisions set out in the **Second Schedule**;
- (iii) if deemed appropriate following a feasibility study, details about how the Regents Canal will be used for waterborne freight throughout demolition;
- (iv) proposals to ensure the protection and preservation of the listed buildings during demolition;
- (v) proposals to ensure there are no adverse effects on any conservation area features;
- (vi) proposals to ensure there are no adverse effects on the health and amenity of local residences, site construction workers, local businesses and adjoining developments undergoing construction;

- (vii) proposals for monitoring construction traffic and procedures for notifying the owners or occupiers of the residences and businesses in the locality in advance of major operations, delivery schedules and amendments to normal traffic arrangements (if any);
- (viii) details of a waste management strategy for handling and disposing of demolition waste; and
- (ix) methods for monitoring compliance with and reviewing the Demolition Management Plan as required from time to time.

"Implementation of the School Permission" means the date of implementation of the development authorised by the School Permission by the carrying out of a material operation as defined in Section 56 of the Act which is not a Preparatory Operation.

"Main Site" means all parts of the Property other than the School Site.

"Main Site Construction Management Plan" means a plan setting out the measures that the Owner will adopt in undertaking the construction of the Development on the Main Site using good site practices in accordance with the Council's Considerate Contractor Manual to ensure the construction of the Development on the Main Site can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network. The Main Site Construction Management Plan shall include (but not be limited to) the following:

- (i) details of the environmental protection, highways safety, and community liaison measures proposed to be adopted by the Owner in order to mitigate and offset potential or likely effects and impacts arising from the building out of the Development on the Main Site;
- (ii) incorporation of the provisions set out in the **Second Schedule**;
- (iii) if deemed appropriate following a feasibility study, details about how the Regents Canal will be used for waterborne freight throughout the construction of the Development on the Main Site;
- (iv) proposals to ensure the protection and preservation of the listed buildings during the construction of the Development on the Main Site;
- (v) proposals to ensure there are no adverse effects on any conservation area features;

- (vi) proposals to ensure there are no adverse effects on the health and amenity of local residences, site construction workers, local businesses and adjoining developments undergoing construction;
- (vii) proposals for monitoring construction traffic and procedures for notifying the owners or occupiers of the residences and businesses in the locality in advance of major operations, delivery schedules and amendments to normal traffic arrangements (if any);
- (viii) details of a waste management strategy for handling and disposing of construction waste; and
- (ix) methods for monitoring compliance with and reviewing the Construction Management Plan as required from time to time.

"School Construction Management Plan" means a plan setting out the measures that the Owner will adopt in undertaking the construction of the School using good site practices in accordance with the Council's Considerate Contractor Manual to ensure the construction of the School can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network. The School Construction Management Plan shall include (but not be limited to) the following:

- (i) details of the environmental protection, highways safety, and community liaison measures proposed to be adopted by the Owner in order to mitigate and offset potential or likely effects and impacts arising from the building out of the School;
- (ii) incorporation of the provisions set out in the Second Schedule;
- (iii) if deemed appropriate following a feasibility study, details about how the Regents Canal will be used for waterborne freight throughout the construction of the School;
- (iv) proposals to ensure the protection and preservation of the listed buildings during the construction of the School;
- (v) proposals to ensure there are no adverse effects on any conservation area features;
- (vi) proposals to ensure there are no adverse effects on the health and amenity of local residences, site construction workers, local businesses and adjoining developments undergoing construction;
- (vii) proposals for monitoring construction traffic and procedures for notifying the owners or occupiers of the residences and businesses in the locality in advance of major operations, delivery schedules and amendments to normal traffic arrangements (if any);

- (viii) details of a waste management strategy for handling and disposing of construction waste; and
- (ix) methods for monitoring compliance with and reviewing the School Construction Management Plan as required from time to time.

"**School Construction Phase**" means the date of Implementation of the School Permission until the Handover Date.

OPERATIVE PROVISIONS

1. Prior to the Demolition Date the Owner shall submit to the Council for approval the Demolition Management Plan after consultation with the local community and TfL on the contents of the proposed plan and shall not Demolish or permit Demolition until the Demolition Management Plan has been approved by the Council (as demonstrated by written notice to that effect).
2. The Owner acknowledges and agrees that the Council will not approve the Demolition Management Plan unless it demonstrates to the Council's reasonable satisfaction that demolition of the existing buildings and structures on the Property can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network.
3. The Owner shall ensure that throughout demolition the Development shall not be carried out otherwise than in strict accordance with the requirements of the Demolition Management Plan and shall not permit the carrying out of any works comprised in demolition at any time when the requirements of the Demolition Management Plan are not being complied with and in the event of non-compliance with this **paragraph 3** the Owner shall upon notice from the Council forthwith take any steps required to remedy such non-compliance.
4. The Owner acknowledges that the Demolition Management Plan may be varied by any requirements imposed in a notice served under section 60 or a consent given under section 61 of the Control of Pollution Act 1974.

5. No later than 6 months after the Demolition Date and prior to the Implementation Date of the Main Planning Permission the Owner must submit to the Council for approval the Main Site Construction Management Plan after consultation with the local community and TfL on the contents of the proposed plan and shall not Implement the Development on the Main Site or permit the Implementation of the Development on the Main Site until the Main Site Construction Management Plan has been approved by the Council (as demonstrated by written notice to that effect).
6. The Owner acknowledges and agrees that the Council will not approve the Main Site Construction Management Plan unless it demonstrates to the Council's reasonable satisfaction that the construction of the Development on the Main Site can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network.
7. The Owner shall ensure that throughout the construction of the Development on the Main Site the Development on the Main Site shall not be carried out otherwise than in strict accordance with the requirements of the Main Site Construction Management Plan and shall not permit the carrying out of any works comprised in building out the Development on the Main Site at any time when the requirements of the Main Site Construction Management Plan are not being complied with and in the event of non-compliance with this **paragraph 7** the Owner shall upon notice from the Council forthwith take any steps required to remedy such non-compliance.
8. The Owner acknowledges that the Main Site Construction Management Plan may be varied by any requirements imposed in a notice served under section 60 or a consent given under section 61 of the Control of Pollution Act 1974.
9. No later than 6 months after the Demolition Date and prior to the School Implementation Date the Owner must submit to the Council for approval the School Construction Management Plan after consultation with the local community and TfL on the contents of the proposed plan and shall not Implement the Development on the School Site or permit the Implementation of the Development

on the School Site until the School Construction Management Plan has been approved by the Council (as demonstrated by written notice to that effect).

10. The Owner acknowledges and agrees that the Council will not approve the School Construction Management Plan unless it demonstrates to the Council's reasonable satisfaction that the School Construction Phase can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network.
11. The Owner shall ensure that throughout the School Construction Phase the works to construct the school shall not be carried out otherwise than in strict accordance with the requirements of the School Construction Management Plan and shall not permit the carrying out of any works comprised in constructing the School at any time when the requirements of the School Construction Management Plan are not being complied with and in the event of non-compliance with this **paragraph 11** the Owner shall upon notice from the Council forthwith take any steps required to remedy such non-compliance.
12. The Owner acknowledges that the School Construction Management Plan may be varied by any requirements imposed in a notice served under section 60 or a consent given under section 61 of the Control of Pollution Act 1974.
13. The Council agrees that the Owner may apply to the Council for approval of variations to the approved Demolition Management Plan, Construction Management Plan or School Construction Management Plan following consultation with the local community and TfL and in the event that the Council approves such variations (as demonstrated by written notice to that effect) the Owners obligations in **paragraph 3 and 7 and 11** of this Agreement shall apply to the approved varied Demolition Management Plan, Construction Management Plan or School Construction Management Plan (as the case may be).
14. During the Construction Phase, the Owner shall at its own expense:

- (a) convene the Community Working Group from such persons (subject to a maximum of 12 people) as the Council shall nominate as having a direct interest in the carrying out of the Development and or local residents associations, local business or business organizations and local schools;
- (b) procure that the project managers for the Development or their nominated deputies and a representative from the relevant contractor (and any other appropriate professional representatives of the Owner) shall be a member of the Community Working Group and shall attend all meetings of the group;
- (c) appoint a person (the "**Liaison Officer**") responsible for liaising with the Council residents' groups, local people and businesses and other interested parties about the operation of the Community Working Group and the management of the Construction Phase such person or his representative to organise and attend all meetings of the Community Working Group all such meetings to take place within easy walking distance of the Property;
- (d) give a minimum of seven days written notice of each meeting of the Community Working Group to all members of such working group and to provide suitable facilities for the meetings of the Community Working Group;
- (e) ensure that meetings of the Community Working Group shall take place every month during the Construction Phase (unless otherwise agreed) **ALWAYS PROVIDED** that any member of the Community Working Group shall be entitled on reasonable grounds by giving written notice of not less than 10 days to the Liaison Officer to request a meeting of the Community Working Group (except in an emergency in which case such notice can specify a shorter period) be convened and a meeting of the Community Working Group so convened if in response to such request shall consider matters specified in the notice as requiring discussion and **PROVIDED ALSO** that if the Community 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 Community Working Group decides;

- (f) ensure that an accurate written minute is kept of each meeting of the Community Working Group recording discussion and any decisions taken by the Community Working Group (this to be circulated by the Owner to all members of the group within seven days of each meeting);

- (g) in the event of the majority of members of the Community Working Group (having particular regard to the Council's Considerate Constructor Manual) voting in favour of making a recommendation to the Owner in respect of the management of the Construction Phase (each member of the group having one vote on any motion proposed) use Reasonable Endeavours to give effect to implementing any reasonable recommendation and in the event of any reasonable recommendation not being adopted by the Owner the Owner shall notify the next meeting of the Community Working Group of this fact together with written reasons as to why this is the case; and

- (h) provide: (i) a telephone complaints service that shall be available for 24 hours per day to local residents such line to be staffed by a representative of the Owner having control over the Construction Phase during all periods of construction activity and an answer phone service outside periods of construction activity; and (ii) a fully operable and accessible computer web site setting out information about the progress of the Construction Phase and measures being taken to limit its impact on the amenity of the local community (with particular emphasis being placed on identifying key dates when "high impact" construction activities are programmed to take place and the measures designed to address such impacts) and the Owner shall expeditiously take any action reasonably necessary to deal with any such reasonable complaints (and shall give each meeting of the Community Working Group written information about any such complaints received and action taken in respect of them).