

DATED

20 May

2015

(1) WARMHAZE LIMITED

and

(2) EFG PRIVATE BANK LIMITED

and

(3) THE MAYOR AND BURGESSES OF THE
LONDON BOROUGH OF CAMDEN

HIGHWAYS WORKS AGREEMENT

pursuant to Section 278 of the Highways Act 1980
Relating to development at premises known as

10-14 BELMONT STREET LONDON NW1 8HH

Andrew Maughan
Head of Legal Services
London Borough of Camden
Town Hall, Judd Street
London WC1H 9LP

Tel: 020 7974 2063
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PLANNING/CJ/1781.43
final



THIS AGREEMENT is made the 20 day of May 2015

B E T W E E N:

1. **WARMHAZE LIMITED** (Co. Regn. No. 03872313) whose registered office is at 46 Great Marlborough Street, London W1F 7JW (hereinafter called "the Owner")
2. **EFG PRIVATE BANK LIMITED** (Co. Regn No. 2321802) of Leconfield House, Curzon Street, London W1J 5JB (hereinafter called "the Mortgagee")
3. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council")

1. **WHEREAS**

- (A) The Owner is registered at the Land Registry as the freehold proprietor with Title absolute of part of the Property being Nos 10 and Nos 12 Belmont Street London NW1 8HH under Title Numbers 293159 and NGL817679 respectively subject to a charge to the Mortgagee.
- (B) O'Neill Investments Limited (Co. Regn. No. 4396806) of 19 Arkley Lane, Barnet, Herts EN5 3JR is registered at the Land Registry as the freehold proprietor with Title absolute of part of the Property being No 14 Belmont Street London NW1 8HH under Title Number NGL342426.
- (C) The Council is the local highway authority for the purposes of the 1980 Act for the London Borough of Camden including highways adjacent to the Property.
- (D) The Council has resolved to grant planning permission referenced 2014/3924/P subject to the conclusion of this s278 Agreement for works to the highway immediately adjacent to the Property.
- (E) The Council consider that certain works should be carried out to the Highway which said works are hereinafter referred to as the Highway Works.

- (F) The Owner accepts that the Development necessitates the carrying out of the Highway Works and hereby agrees to pay for those works.
- (G) The Mortgagee as mortgagee under a legal charge registered under Title Number 293159 and dated 26 February 2014 is willing to enter into this Agreement to give its consent to the same.
- (H) The Council is satisfied that the Highway Works to be undertaken pursuant to this Agreement are of benefit to the public.
- (I) This Agreement is made pursuant to Section 111 of the Local Government Act 1972 and Section 278 of the Highways Act 1980 and all other enabling powers.

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 Highways Act 1980 |
| 2.2 | "the Agreement" | this Highway Agreement made pursuant to Section 278 of the Act |
| 2.3 | "the Development" | Erection of 3 x storey dwellinghouses following demolition of the existing houses as shown on drawing numbers:- 140325-A(S)001, 140325-A(S)090, 140325-A(S)100, 140325-A(S)110, 140325-A(S)120, 140325-A(S)130, 140325-A(S)300, 140325-A(S)301, 140325-A(S)302, 140325-A(S)303, 140325-A(S)400, 140325-A(S)401, 140325-A(S)401, 150209-A(GA)090, 150209-A(GA)100, 150209-A(GA)110, 150209-A(GA)120, 150209-A(GA)130, 150209-A(GA)140, 150209-A(GA)300, 150209-A(GA)301, 150209-A(GA)400, 150209-A(GA)401, 150209- |

A(GA)403, Basement Impact Assessment - 10
Belmont Street, Basement Impact Assessment -
12 Belmont Street, Design and Access
Statement and Sustainability Statement

- 2.4 "the Highways Contribution" the sum of £5,469 (five thousand four 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 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 repaving the footway adjoining the Property ("the Highways Works") all works will be subject to final measure and any level adjustment required 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
- 2.5 "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
- 2.6 "the Level Plans" plans demonstrating the levels at the interface of the Development the boundary of the Property and the Public Highway
- 2.7 "the Parties" mean the Council the Owner and the Mortgagee
- 2.8 "the Planning Application" a planning application in respect of the development of the Property submitted to the

Council and validated on 29 July 2014 for which a resolution to grant permission has been passed conditionally under reference number 2014/3924/P subject to conclusion of this Agreement

2.9 "Planning Obligations
Monitoring Officer"

a planning officer of the Council from time to time allocated to deal with obligations relating to planning permissions and highways works and to whom all notices, correspondence, approvals etc must be sent in the manner prescribed at clause 6.1 hereof

2.10 "the Property"

the land known as 10-14 Belmont Street, London NW1 8HH the same as shown shaded grey on the plan annexed hereto

2.11 "the Public Highway"

any carriageway footway and/or verge adjoining the Property maintainable at public expense

NOW THIS DEED WITNESSETH as follows:-

- 3.1 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.
- 3.2 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.
- 3.3 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 Parties save where the context states otherwise shall include their successors in title.
- 3.7 Where any approval, consent or other form of agreement is to be given by the Council under this Agreement such approval, consent or other form of agreement shall not be unreasonably withheld or delayed.

4. HIGHWAYS WORKS

The Owner hereby covenants with the Council as follows:

- 4.1 On or prior to Implementation to pay to the Council the Highways Contribution in full.
- 4.2 On or prior to the Implementation Date to submit to the Council the Level Plans for approval.
- 4.3 Not to Implement or to permit Implementation until such time as the Council has received the Highways Contribution in full.
- 4.4 Not to Implement nor permit Implementation until such time as the Council has approved the Level Plans.
- 4.5 The Owner acknowledges that the Council has the right reserved to it to construct the Public Highway to levels it considers appropriate.
- 4.6 On completion of the Highway Works the Council shall, within twenty eight (28) days of receipt of a written request for the same, provide to the Owner a certificate specifying the sum ("the Certified Sum") expended by the Council in carrying out the Highway Works.
- 4.7 If the Certified Sum exceeds the Highway Contribution then the Owner shall within fourteen (14) days of the issuing of the said certificate pay to the Council the amount of the excess.
- 4.8 If the Certified Sum is less than the Highway Contribution then the Council shall

within fourteen (14) days of the issuing of the said certificate pay to the Owner the amount of the difference.

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

- 5.1 The Owner shall give written notice to the Council on or prior to the Implementation Date specifying that Implementation of the Development has taken or is about to take place.
- 5.2 Within seven 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 2014/3924/P the date upon which the Development will be 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 and proper 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 Payment of the Highways 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 the Planning Reference 2014/3924/P or by Electronic Transfer directly to the National Westminster Bank, Hampstead Village

Branch, quoting Sort Code 50-30-03 and London Borough of Camden General Account No. 24299480 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 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

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

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 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 2014/3924/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 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 or the Mortgagee 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.
- 6.7 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.

7. **MORTGAGEE EXEMPTION**

7.1 The Mortgagee hereby consents to the completion of this Agreement and agrees to be bound by it and to the same being registered at the Land Registry as provided in Clause 6.4 hereof and for the avoidance of doubt agrees to be bound by the said obligations only in the event that it becomes a mortgagee in possession of the Property.

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 Mortgagee have executed this instrument as their Deed the day and year first before written

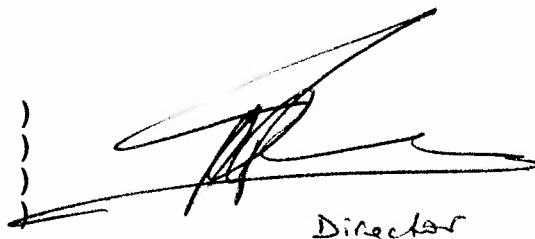
EXECUTED AS A DEED BY
WARMHAZE LIMITED
acting by a Director and its Secretary
~~or by two Directors~~ in the

Presence of:

Witness:

Director

Director/Secretary


Director

EXECUTED AS A DEED BY
EFG PRIVATE BANK LIMITED
By
in the presence of:-


PHILIP AMPHLETT
EXECUTIVE DIRECTOR



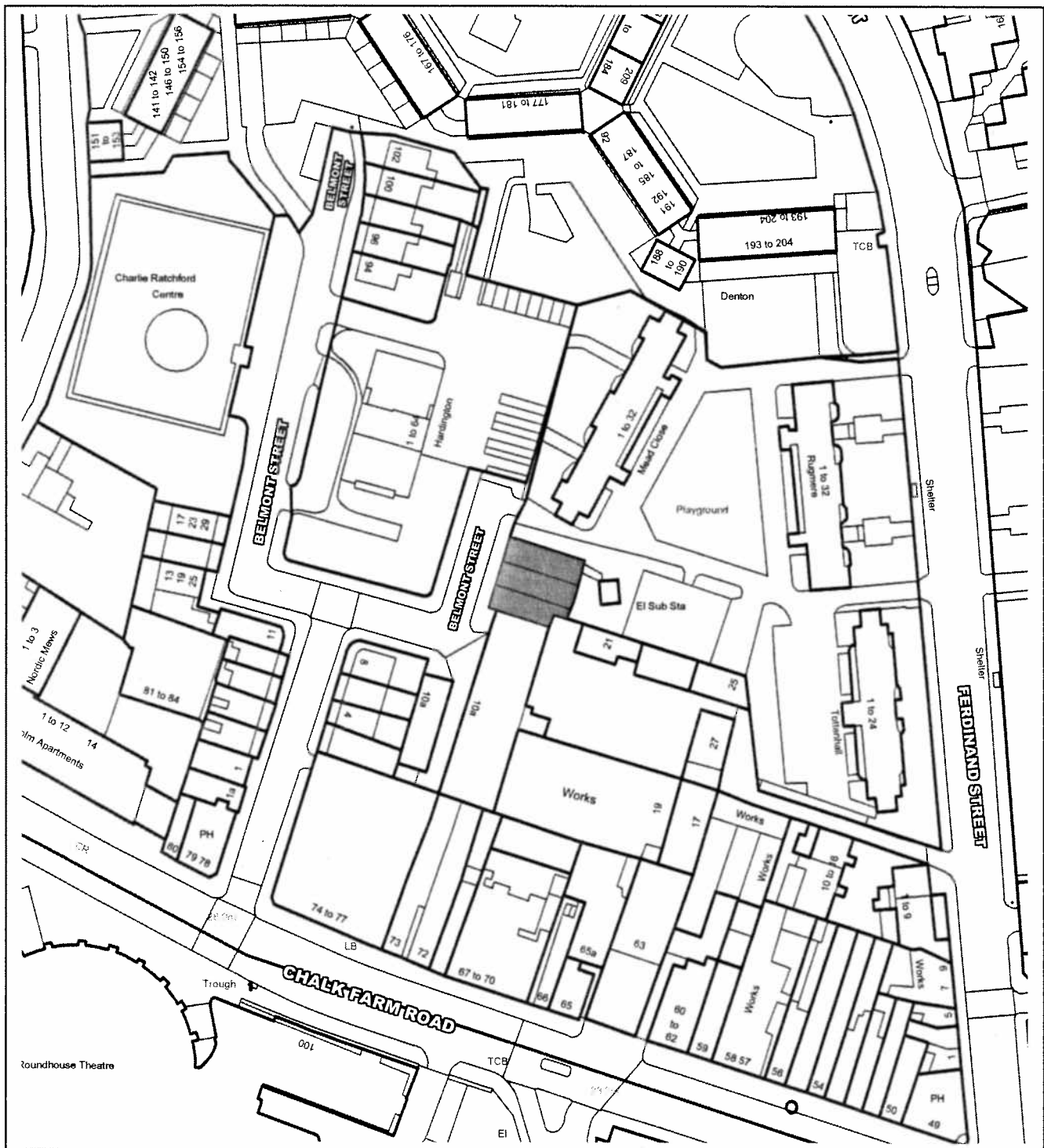
PETER JAMES MARTIN
c/o EFG Private Bank Ltd - Leconfield House
Aldgate Street - LONDON E3 7JW

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


Authorised Signatory



10-14 Belmont Street, London NW1 8HH



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