

DATED

*31st May*

2015/6

**(1) DERWENT CENTRAL CROSS LIMITED**

-and-

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

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**HIGHWAYS WORKS AGREEMENT**

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

**Central Cross, 18-30 Tottenham Court Road, London W1T 1BL**

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Andrew Maughan  
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CLS/COM/CJ/1781.277  
final



THIS AGREEMENT is made on the *31st* day of *May* 2015/6

**BETWEEN**

1. **DERWENT CENTRAL CROSS LIMITED** (Co. Regn. No.07320070) whose registered office is at 25 Savile Row, London W1S 2ER (hereinafter called "the Owner")
  
2. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council")

**WHEREAS:**

- (A) The Owner is registered at the Land Registry as freehold proprietor with title absolute under title number NGL355996 of the Property.
  
- (B) 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.
  
- (C) On date 30 January 2013 planning permission referenced 2012/2232/P was granted subject to a Section 106 Agreement for Development of the Property.
  
- (D) The Council consider that certain works should be carried out to the Highway which said works are hereinafter referred to as the Highway Works.
  
- (E) The Owner accepts that the Development necessitates the carrying out of the Highway Works and hereby agrees with the Council to carry them out in accordance with the covenants and the conditions which hereinafter appear.
  
- (F) The Council is satisfied that the Highway Works to be undertaken pursuant to this Agreement are of benefit to the public.
  
- (G) 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.



## 1. DEFINITIONS

In this Agreement the following expressions (arranged in alphabetical order) shall unless the context otherwise requires have the following meanings:-

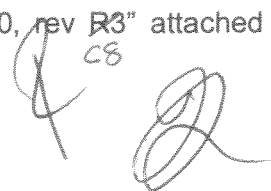
- |     |                                 |   |
|-----|---------------------------------|---|
| 1.1 | "the 1980 Act"                  | the Highways Act 1980   |
| 1.2 | "the 1991 Act"                  | the New Roads and Street Works Act 1991   |
| 1.3 | "the Agreement"                 | this deed made pursuant to Section 278 of the 1980 Act  |
| 1.4 | "the Cash Deposit"              | means the sum of £24,600 (twenty four thousand six hundred pounds) paid by the Owner to the Council to act as security for the Council's interest in the Highway Works and to be applied by the Council in the event of receipt in accordance with the terms of this Agreement      |
| 1.5 | "the Certified Supervision Sum" | shall have the meaning given to it in clause 6.2 of this Agreement  |
| 1.6 | "Code of Construction Practice" | the revised code of construction practice dated September 2005 which sets out how the Owner will implement construction activities in respect of the Highway Works together with such amendments for which there may from time to time be agreed between the Owner and the Council  |
| 1.7 | "the Completion Notice"         | shall have the meaning given to it in clause 5.5 of this Agreement  |
| 1.8 | "the Development"               | the extension of retail units and cinema entrance at 18-30 Tottenham Court Road by infilling of double-height arcade, new shopfronts with canopy above; part change of use of ground floor, mezzanine and basement to flexible retail/food and drink (Class A1 and/or Class A3) and |

associated works as shown on the plans detailed in that planning permission

- 1.9 "the Drawings" the Plan together with such other drawings and documents as the Council may agree from time to time shall be used in addition or in substitution of the same
- 1.10 "Estimated Highway Costs" the sum of £19,700 (nineteen thousand seven hundred pounds) being the amount estimated by the Council to be the cost in carrying out the Highway Works and for the avoidance of doubt excludes any statutory undertakers works
- 1.11 "Final Certificate" the certificate issued under Clause 8.5
- 1.12 "the Highway" Stephen Street in the London Borough of Camden as shown on the Plan
- 1.13 "the Highways Specification" the specification for the Highway Works described in Schedule 1 annexed hereto or amendments to that specification approved by the Council pursuant to clause 3.2.2
- 1.14 "the Highway Works" the works to the Highway and traffic management measures in the vicinity of the Property as hatched red and indicated on the Plan to include the following:-
- (i) the works set out in Schedule 1
  - (ii) those works required by the Council as set out in the Highways Specification (as amended from time to time);

- (iii) such other necessary ancillary works as the Council may reasonably require as a result of the works referred to in (i) and (ii) above;
- (iv) any necessary accommodation works; and
- (v) works which are necessarily required as a consequence of any of the above by statutory undertakers and/or telecommunications apparatus and all other equipment under in or over the Highway

- 1.15 "the Highway Works Notice" shall have the meaning given to it in clause 5.2 of this Agreement
- 1.16 "the Index" the Road Construction Tender Price Index issued from time to time
- 1.17 "the Inspection Notice" shall have the meaning given to it in paragraph 1.3 of Schedule 2 of this Agreement
- 1.18 "the Maintenance Period" the period of 12 months from the date of issue of the Provisional Certificate
- 1.19 "the Materials" the materials approved by the Council and listed in Schedule 1 and/or such other additional or substitute materials as may be agreed from time to time in writing by the Council
- 1.20 "the Notice Period" shall have the meaning given to it in clause 5.3 of this Agreement
- 1.21 "the Parties" the Council, the Mortgagee and the Owner
- 1.22 "the Plan" the drawing entitled "1917\_EW\_100, rev R3" attached in Schedule 3

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- 1.23 "Programme" the programme for the construction of the Highway Works incorporating a statement of the overall sequence in which the Highway Works are to be carried out together with an estimate of the amount of time to be spent by the Owner in carrying out and completing the Highway Works as approved by the Council and attached to this Agreement at Schedule 4
- 1.24 "the Property" the land known as Central Cross, 18-30 Tottenham Road, London W1T 1BL
- 1.25 "the Provisional Certificate" means the certificate issued under clause 8.1
- 1.26 "the Remedial Highway Works Notice" shall have the meaning given to it in clause 5.4 of this Agreement
- 1.27 "the Specification" means a specification in the form of the Manual of Contract Documents for Highway Works Specification for Highway Works published by HMSO in December 1991 as amended by subsequent updates published from time to time as approved by the Council and attached to this Agreement at Schedule 1;
- 1.28 "Statutory Undertaker" means any person, company, corporation, board or authority whose apparatus is pursuant to a statutory right or to a licence granted under Section 50 of the 1991 Act at the date of this Agreement already installed in under over or upon the land on which the Highway Works are to be carried out PROVIDED THAT such expression shall include the authorised successor to any such person company corporation board or authority;
- 1.29 "Supervision Fee" the sum of £2,360 (two thousand three hundred and sixty pounds) being the costs attributable to the administrative and technical expenses incurred by the Council, including



the cost of approving the design of the Highway Works, supervising and inspecting the Highway Works as they proceed and the issue of the Provisional Certificate and Final Certificate of completion

2. **IT IS HEREBY AGREED AND DECLARED** as follows:-

- 2.1 Where the context so admits the expression the Council shall include its statutory successors the expression the Owner shall include its successors in title.
- 2.2 The headings in this Agreement are for convenience only and shall not be deemed to be part of, or taken into consideration in the interpretation of, this Agreement.
- 2.3 References in this Agreement to statutes or regulations and delegated legislation shall include any statute regulation or delegated legislation amending re-enacting or made pursuant to the same as current and in force from time to time.

3. **THE OWNER'S COVENANTS**

The Owner hereby covenants with the Council as follows:-

- 3.1 On the date hereof to pay to the Council the Cash Deposit as security and guarantee for the due performance by the Owner of all the terms and provisions of this Agreement and the Cash Deposit shall be held by the Council and applied in accordance with Clause 5.5 of this Agreement.
- 3.2 The Owner shall carry out and complete the Highway Works in accordance with the Drawings, Programme and Highways Specification as save that:
  - 3.2.1 if the Owner wishes to revise the Programme in relation to any of the Highway Works it shall submit to the Council as the case may be in writing any revisions to the Programme at least 15 working days before implementing such revisions and shall not implement such revisions until such time as the Owner has received written notification from the Council of its approval of the revised Programme; and
  - 3.2.2 from time to time the Council may approve amendments to, additions to or substitutions of the Drawings and Highways Specification following a request

in writing by the Owner and thereafter the Owner shall carry out and complete the Highway Works in accordance with the further approved Drawings and Highways Specification.

- 3.3 The Council shall either approve or refuse with full reasons or submit to the Owner its written comments in full upon those matters referred to in clauses 3.2.1 and 3.2.2.

#### 4. EXECUTION OF HIGHWAY WORKS

- 4.1 Before commencement of the Highway Works and at no expense to the Council the Owner shall obtain such consents, licences or permissions as may be required for the purposes of carrying out the Highway Works and having obtained such consents, licences or permissions shall comply with the terms of the same in carrying out the Highway Works.

- 4.2 The Owner shall give at least 15 working days written notice to the Council of its intention to commence the Highway Works and then unless prevented from doing so by reason of any matter beyond the Owner's reasonable control shall commence and thereafter diligently carry out and complete all Highway Works to the Council's reasonable satisfaction (as evidenced by the issue of the Provisional Certificate), in accordance with this Agreement, the Drawings, Programme and Highways Specification as approved and in accordance with the terms and conditions for the execution of the Highway Works set out in Schedule 2.

- 4.3 Before the issue of the Final Certificate the Owner shall execute and complete or procure the execution and completion by all necessary parties without cost to the Council of such deeds of grant as are necessary to secure to the Council full drainage rights in respect of such parts of the surface water drainage system as are located outside the limits of the public highway and such other easements as may be reasonably and properly required respectively by the Council for the future maintenance of any structure forming part of any Highway Works as constructed **PROVIDED THAT** the Council shall not be required to issue the Final Certificate until any necessary drainage rights relating to Highway Works have been secured.

- 4.4 At any time during the carrying out of the Highway Works (but without prejudice to the obligation to carry out the Highway Works), to use reasonable endeavours not to prevent the free movement of traffic along the Highway unless a temporary closing

order has been obtained under the Road Traffic Regulation Act 1984 or other statutory provisions.

- 4.5 Nothing in this Agreement shall imply any obligation on the part of the Council to the Owner or to any person to ensure that the Highway is properly constructed.

## 5. **REMEDIAL HIGHWAY WORKS**

- 5.1 If the Highway Works or any part or parts of them (including without prejudice to the generality of this obligation any requirement to make good defects) are not executed or completed in accordance with the terms of this Agreement the Council may, subject to the following provisions of this clause 5, execute or complete the relevant part or parts of the Highway Works in accordance with the provisions of this Agreement by its own employees or by contractors and recover all of its reasonable and proper costs from the Owner.

- 5.2 Before starting any Highway Works under clause 5.1 of this Agreement, the Council shall first give the Owner 28 days written notice ("**the Highway Works Notice**") (or in the event of there being a significant danger to users of the highway such lesser period as may in the circumstances be reasonable) of its intention to do so.

- 5.3 The Highway Works Notice shall specify the Highway Works which have not been executed or completed in accordance with the terms of this Agreement and the period of the notice ("**the Notice Period**") given.

- 5.4 If before the expiry of the Notice Period the Owner serves written notice ("**the Remedial Highway Works Notice**") upon the Council that the Owner intends forthwith to execute and/or to complete the part of the Highway Works specified in the Highway Works Notice in accordance with the terms of this Agreement the Council shall not be entitled to execute or to complete such part of the Highway Works unless the Owner thereafter fails to execute and/or complete them to the Council's reasonable satisfaction within 14 days of the issue of the Remedial Highway Works Notice or such other time as agreed by the Council in the circumstances.

- 5.5 If either:-

5.5.1 the Notice Period has expired and the Owner has not served a Remedial

Highways Works Notice and has failed to complete the Highway Works specified in the Highway Works Notice in accordance with the terms of this Agreement to the reasonable satisfaction of the Council; or

5.5.2 the Owner has served a Remedial Highways Works Notice within the Notice Period but has failed to complete the Highways Works specified in the Highways Works Notice in accordance with the terms of this Agreement to the reasonable satisfaction of the Council within 14 days of the issue of the Remedial Highway Works Notice or such other time as agreed by the Council pursuant to clause 5.4 (as applicable).

then the Council shall serve a notice on the Owner ("**the Completion Notice**") confirming that the works will be undertaken by the Council. The Completion Notice shall be accompanied by an estimate of all the reasonable and proper costs anticipated by the Council to be incurred in undertaking the Highway Works specified in the Highway Works Notice (or such part of them as remain outstanding) and such costs, once reasonably and properly incurred, shall be recovered by the Council from the Cash Deposit.

## 6. **PAYMENTS ACCOUNT AND INDEMNITY**

6.1 The Owner shall pay on or prior to the date of this Agreement to the Council the Supervision Fee.

6.2 On the issue of the Final Certificate the Council shall issue the Owner and the Account Holder a certificate specifying the reasonable and proper sum ("the Certified Supervision Sum") expended by the Council in supervising the Highway Works accompanied by evidence of the time spent in such supervision.

6.3 If the Certified Supervision Sum is more than the Supervision Fee the Owner shall within 15 working days pay the excess to the Council.

6.4 If the Certified Supervision Sum is less than the Supervision Fee the Council shall within 15 working days pay the Owner the difference between the Certified Supervision Sum and Supervision Fee.

6.5 The Owner shall pay to the Council within 15 working days of demand (no demands to be issued after the date of issue of the Final Certificate):

- (a) from time to time during the undertaking of the Highway Works the reasonable and proper costs and expenses properly incurred by the Council pursuant to this Agreement in the testing of materials used or to be used in undertaking the Highway Works;
- (b) any costs reasonably and properly incurred by the Council pursuant to this Agreement in connection with the necessary diversion and/or protection of the apparatus of Statutory Undertakers required as a consequence of the Highway Works and as evidenced by copies of their invoices;
- (c) any costs reasonably and properly incurred by the Council pursuant to this Agreement in making and implementing traffic regulation orders (as defined in the Road Traffic Regulation Act 1984 and any other statute) which the Council properly deem necessary as a direct result of the Highway Works and whether made or implemented prior to during or within six months following the completion of the Highway Works.

6.6 The Owner indemnifies the Council from and against all actions, costs, claims, demands, charges and expenses whatsoever:-

- (a) arising or which may arise out of or be incidental to the execution of the Highway Works by the Owner and the use of the Highway Works until (but not after) the issue of the Final Certificate which arises as a result of a breach by the Owner of the obligation on its part contained in this Agreement but not otherwise; and
- (b) arising or which may arise out of the Owner's failure to comply with any consents, licences or permissions obtained for the carrying out of the Highway Works

save to the extent that that such actions, costs, claims, demands, charges and expenses are caused or contributed to by negligent acts or omissions on the part of the Council, its employees or agents PROVIDED ALWAYS THAT the Council shall:

- (i) take reasonable steps to mitigate its costs or expenses;
- (ii) forthwith notify the Owner in writing of any such actions costs claims demands charges and expenses; and

- (iii) fully and properly consult with the Owner at all material times regarding any such actions costs claims demands charges and expenses and shall not settle or pay any such actions costs claims demands charges and expenses without paying proper regard to any representations made by the Owner.

## **7. ACCESS TO THE PUBLIC HIGHWAY**

- 7.1 The Council without prejudice to its statutory powers and duties give to the Owner licence to enter and to remain, with or without workmen, plant and machinery, upon so much of the public highway under the Council's control as the Council shall agree in writing is reasonably necessary for the Owner to carry out its obligations under this Agreement and it is agreed and declared that such licence issued in accordance herewith extends to breaking open (subject where appropriate to making good on its surface) and, without limitation to the other provisions of this Agreement, carrying out works in on or under the public highway.

## **8. CERTIFICATION OF THE HIGHWAY WORKS**

- 8.1 When the Highway Works have been completed in accordance with the provisions of this Agreement to the Council's reasonable satisfaction the Council shall issue the Provisional Certificate to that effect.
- 8.2 The Owner shall at its expense maintain the Highway Works for the Maintenance Period save for any mechanical sweeping and salting of the Highway, which shall be carried out by the Council at its own expense.
- 8.3 Upon the expiration of the Maintenance Period the Owner shall as soon as practicable reinstate and make good any defects or damage to the Highway Works due to faulty survey, design, materials or workmanship which may have arisen or be discovered during such period (including any defect in or damage to the roads surface water drainage system) to the reasonable satisfaction of the Council as demonstrated by written notice to that effect not to be unreasonably withheld or delayed.
- 8.4 Following the issue of the Provisional Certificate referred to in clause 8.1 the Council will authorise the immediate return of 75% of the Cash Deposit (or such part thereof as is then held by the Council under the terms of this Agreement) to the Owner.

8.5 At the expiration of the Maintenance Period the Council shall issue the Final Certificate **PROVIDED THAT:**

- (a) any necessary reinstatement or other works to the Highway Works have been completed respectively to the Council's reasonable satisfaction in accordance with Clause 8.3;
- (b) all monies due to be paid to the Council under this Agreement have been paid;
- (c) the grant of any easements required to be made to the Council and requested by the Council under this Agreement has been completed; and
- (d) the Council has been provided with the "As Built" drawings described in clause 10 of this Agreement and the Health and Safety File relating to the Highway Works in accordance with paragraph 9 of Schedule 2 of this Agreement.

8.6 Upon the issue of the Final Certificate the Highway Works shall become maintainable at public expense with effect from that date and:

- (a) the Owner shall have no further liability in relation thereto; and
- (b) the Council will immediately authorise the return of the remaining 25% of the Cash Deposit (or such part thereof which is held by the Council) to the Owner.

## 9 "AS BUILT" DRAWINGS

9.1 Within one month of the issue of the Provisional Certificate the Owner shall provide the Council with three copies of a compact disc of CAD drawings showing to a scale of 1:500 (or such other scale as the Council shall reasonably require) the Highway Works "as built".

9.2 The "as built" drawings must include:

- (a) all departures from the approved Drawings;
- (b) the position of all Statutory Undertakers plant and equipment;
- (c) any additional levels boreholes retards or other information which the Council reasonably consider to be useful for the purposes of the public record;
- (d) separate titled drawings outlining or identifying;

- (i) the location direction of flow and construction materials of all new and existing drainage ditches and the location of outfalls or soakaways; and
- (ii) all street lighting illuminated signs and cables;
- (e) the highway boundary by means of red edging;
- (f) signs and road markings on highway and location and details of sign faces; and
- (g) all completed finishes on the highway that is (but without limitation) high friction surfacing, wearing course, tactile paving, carriageway, footway finishes and kerb types.

## 10. DELEGATION OF THE OWNER'S OBLIGATIONS

10.1 It is agreed that the performance of the obligations on the part of the Owner to carry out the Highway Works on behalf of the Council may be delegated to a contractor or sub-contractors on the Council's list of approved contractors **PROVIDED THAT:**

- (a) the Owner shall remain liable to the Council for the due performance and observance of this Agreement; and
- (b) the contract by which the obligations contained in this Agreement are delegated ("**the Contract**") shall incorporate the Highways Specification and the description of the Highway Works appearing in Schedule 1 and the Drawings and/or such other drawings as may be agreed by the Council to be contract drawings for the purposes of the Contract;
- (c) the Owner shall provide the Council forthwith upon receipt of written demand from the Council with a copy of the Contract and shall have regard to any reasonable representations made by the Council before letting the Contract; and
- (d) the Owner shall ensure that for the purposes of the Contract the amount of insurance cover against losses and claims for injuries or damage to persons or property arising out of or in consequence of the Highway Works shall not be less than five million pounds (£5,000,000.00) in respect of any one incident.



## 11. **NOTICES**

- 11.1 Any notice or demand required by this Agreement to be given or made shall be in writing and shall be deemed to have been validly served if delivered by hand or sent by registered or recorded post to the party to be served at their address specified on page 1 of this Agreement or other address notified by a party to all other parties for the purposes of this Agreement

## 12. **ASSIGNMENT**

- 12.1 The Owner shall not, without the written consent of the Council (not to be unreasonably withheld), have the right to assign or transfer the benefit of this Agreement or any part of it.
- 12.2 The Owner shall procure from any assignee or transferee referred to in clause 12.1 a covenant for the benefit of the Council (as the case may be) to the effect that the assignee or transferee shall comply with the obligations of the Owner contained in this Agreement and on production of such covenant to the Council the Owner shall automatically be released from all obligations under this Agreement but without prejudice to liability for any breach committed prior to the production of the covenant.

## 13 **PAYMENT OF COSTS RELATED TO THIS AGREEMENT**

- 13.1 The Owner hereby covenants to pay to the Council on the execution of this Agreement all proper and reasonable legal costs incurred in the preparing of this Agreement on or prior to the date of completion of the Agreement.

## 14. **THIRD PARTIES**

- 14.1 Nothing in this Agreement shall confer on any third party any benefit or right to enforce any term of this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999.

## SCHEDULE 1

### THE HIGHWAYS WORKS, MATERIALS AND SPECIFICATION

The Highway Works shall include the following items:

- Re-laid existing granite edge kerb
- Granite paving (flame-textured, max flag size 750mm length x 600mm x 65mm thick, laid 90 degrees to the kerb with a 375mm staggered bond) bedded on 30mm cement mortar (1 : 3 cement : sand) on existing substrate
- 3-courses 400mm square pre-cast concrete buff-coloured blister tactile paving to either side of the Stephen Street raised table (bed and base as per the granite paving above)
- New granite edge kerb laid to the extent of the tactile paving, size to match existing.

## SCHEDULE 2

### TERMS AND CONDITIONS FOR THE EXECUTION OF THE HIGHWAY WORKS

#### 1. ACCESS

- 1.1 The Owner shall during the progress of the Highway Works:-
- (a) give or procure for the Council and any person or persons duly authorised by them unfettered access to every part of the Highway Works and permit them to inspect the same as they proceed and all materials used or intended to be used therein; and
  - (b) give effect to any reasonable and proper requirements made or reasonable and proper direction given by the Council to conform to the Drawings and/or the Programme and/or the Highways Specification in so far as they affect the Highway Works.
- 1.2 Subject to paragraph 1.5, the Owner shall not cover up or put out of view any works forming part of the Highway Works without the approval of the Council and shall afford full opportunity for the Council to examine and measure such works and to examine foundations before permanent work is placed thereon in accordance with the remainder of this paragraph 1.
- 1.3 The Owner shall give at least five working days notice to the Council ("the Inspection Notice") whenever such works or foundations is or are ready or about to be ready for examination.
- 1.4 The Council shall use reasonable endeavours upon receipt of the Inspection Notice to either:-
- (a) notify the Owner within five working days that no inspection is required and give its approval that the works may be covered up; or
  - (b) attend the site of the works within five working days for the purpose of examining and measuring such works or of examining such foundations.
- and shall in any event provide such notification or attend the site within ten working days of receipt of the Inspection Notice.

1.5 If the Council does not comply with paragraph 1.4 the Owner may cover up or put out of view the relevant works.

## **2. TESTING OF MATERIALS**

2.1 Before commencement and during the construction of the Highway Works the Owner shall submit for approval to the Council a list of suppliers from whom it wishes to obtain the Materials for incorporation in the Highway Works together (if the Council acting reasonably shall deem it necessary) with test certificates for such materials and the Owner shall at its own cost provide the Council with any samples of materials they may reasonably request for testing purposes.

2.2 The Council shall have power in its reasonable discretion to test or require the testing of Materials plant or processes proposed to be used in any Highway Works and to reject any materials plant or processes so tested which they may reasonably and properly find to be not in accordance with the Highways Specification and the Drawings relating to any Highway Works.

2.3 The Owner shall as soon as is reasonably practicable replace or repair any materials plant or process which have been found not in accordance with the Highways Specification and the Drawings with such as are so in accordance.

2.4 The Council shall for the purposes of this Schedule be allowed reasonable access and admission to the Highway Works or the places where materials or plant for the Highway Works may be stored or are in the course of preparation manufacture or use but only where such places are able to be accessed by the Owner.

2.5 The Owner shall as soon as is reasonably practicable remove any such materials or plant as are rejected by the Council pursuant to paragraph 2.2 of this Schedule which are not capable of repair or remedy from the site of the Highway Works and in any event if the Owner shall wish to continue to store such rejected irreparable materials or plant the site of the Highway Works they shall be stored separately from those materials plant and workmanship which have not been rejected or which the Owner may use in execution of the Highway Works.

## **3. OPENING UP OF THE HIGHWAY WORKS**

3.1 During the construction of the Highway Works and prior to the issue of the Final Certificate the Council may issue instructions to the Owner to open up or expose any

part of the Highway Works which have been covered up without previously being inspected by the Council within five working days of those instructions and the Council will use all reasonable endeavours to confirm in writing any oral instruction as soon as possible after the oral instruction has been given.

3.2 Should the Owner fail to comply with any such instructions pursuant to paragraph 3.1 the Council may open up or expose the relevant part of the Highway Works causing as little damage or inconvenience as is possible to any other part or parts of the Highway Works.

3.3 If the Owner failed to comply with the notice provisions in paragraph 1.3 And an inspection reveals that the relevant part or parts of the Highway Works has not or have not been completed in accordance with the Drawings and the Highways Specification THEN all reasonable and proper costs in respect of such uncovering and inspection and of reinstating the part or parts of the Highway Works uncovered shall be borne by the Owner and otherwise such costs shall be borne by the Council.

#### 4. **STATUTORY UNDERTAKERS**

4.1 Prior to the commencement of the Highway Works the Owner shall give notice to Statutory Undertakers of the proposal to carry out the Highway Works as if they were works for road purposes or major highway works as defined in Section 86 of the 1991 Act and at the same time shall deliver a copy of such notice to the Council.

4.2 The Owner shall at no cost to the Council carry out any works or measures to plant and equipment as are required by Statutory Undertakers in consequence of the Highway Works on the site of the Highway Works including payment of the costs of any diversions or new installations necessary for their completion PROVIDED THAT in the event that any requirement made by any Statutory Undertaker is considered to be unreasonable by the Council it may at the reasonable request of the Owner join with the Owner in resisting such requirement.

4.3 The Highway Works referred to in Schedule 1 shall be deemed not to have been completed until the cost of any such diversions or new installations pursuant to paragraph 4.2 has been paid by the Owner **PROVIDED THAT** in the event that any requirement made by any Statutory Undertaker shall be unreasonable the Council shall at the reasonable request of the Owner join with the Owner in resisting such requirement.

4.4 The Owner shall cause all highway or other drains or sewers all existing utilities and statutory undertakers apparatus (including but not limited to gas and water mains pipes electric cables (if any) or telephone cables (if any)) which are to be laid by the Owner under the Highway Works together with all necessary connections from them to the boundary of the Highway Works to be laid in so far as is practicable under the Highway Works before the foundations of the Highway Works are laid and shall also in so far as is practicable cause the connections from electric cables to any street lamps to be laid before the paving of any footways comprised in the Highway Works is carried out.

4.5 The Owner shall use reasonable endeavours to ensure that all statutory undertakers apparatus (including but not limited to gas and water mains pipes electric cables (if any) or telephone cables (if any)) which are to be laid by the Owner are properly adopted by the relevant Statutory Undertaker and that any connections to such apparatus are properly approved by the relevant Statutory Undertaker.

## 5. **PREVENTION OF MUD BEING CARRIED ON THE PUBLIC HIGHWAY**

5.1 Provision shall be made by the Owner at no cost to the Council at the site of the Highway Works and on the adjoining public highway to take all reasonable practicable steps to prevent the deposit of mud dust and other materials on public highways by vehicles and plant leaving the site of the Highway Works and in accordance with the Code of Construction Practice.

## 6. **TRAFFIC CONTROL**

6.1 During the period when any Highway Works are being executed the Owner shall institute at its own cost reasonable measures approved by the Council before their implementation to maintain the flow and safety of traffic and pedestrians on the highways in the vicinity of the site of the Highway Works and shall use reasonable endeavours to ensure that contractors site traffic in respect of the Highway Works and the Development shall adhere to such route or routes when approaching or departing from the site of the Highway Works as may from time to time be agreed with the Council.

## 7. **ROAD SAFETY**

7.1 During the period over which the Highway Works are being executed the Owner shall comply with the provisions of Chapter Eight of the Department of Transport's Traffic Signs Manual 1991 (published by HMSO) and any amendment thereto for lighting and signing the Highway Works and any further reasonable requirements of the highway authority.

## 8. **FINAL SITE CLEARANCE**

8.1 On completion of the Highway Works the Owner shall clear away and remove from the site of the Highway Works all construction plant surplus material rubbish and temporary works of every kind and leave the site of the Highway Works in a workmanlike condition.

## 9. **CDM REGULATIONS**

9.1 Within 12 months of the issue of the Provisional Certificate the Owner shall supply to the Council in relation to any Highway Works the health and safety file relating to the Highway Works pursuant to the Construction (Design and Management) Regulations 2007 together with one copy (or two copies if the Highway Works include structures or bridges) of the said file.

9.2 The Health and Safety file shall:

- (a) include a report summarising the construction phase of the Highway Works;
- (b) identify any significant problems encountered during the construction phase of the Highway Works and describe how those problems were overcome;
- (c) include details of the design options for the Highway Works selected by the Owner (including the Owner's Contractor) any significant design changes and the reasons for the changes;
- (d) include a section describing all materials used in the Highway Works their source of supply and their level of performance together with the name and address of the manufacturer and shall describe any problems encountered;
- (e) include a report summarising details of the handover walk through with the officers nominated by the Council to undertake that function (amongst others) together with the date of that activity, the names of the attendees, a summary of the issues raised and consequential actions; and
- (f) include the "As built" drawings referred to in clause 10 of this Agreement.





**SCHEDULE 3**

**The Plan**

The attached drawing numbered 1917\_EW\_100 rev ~~R3~~ <sup>R3</sup>

Handwritten signature and initials in black ink, consisting of a stylized 'P' and a circular scribble.



*K Alexander*

**ORMS**  
Architecture  
Design

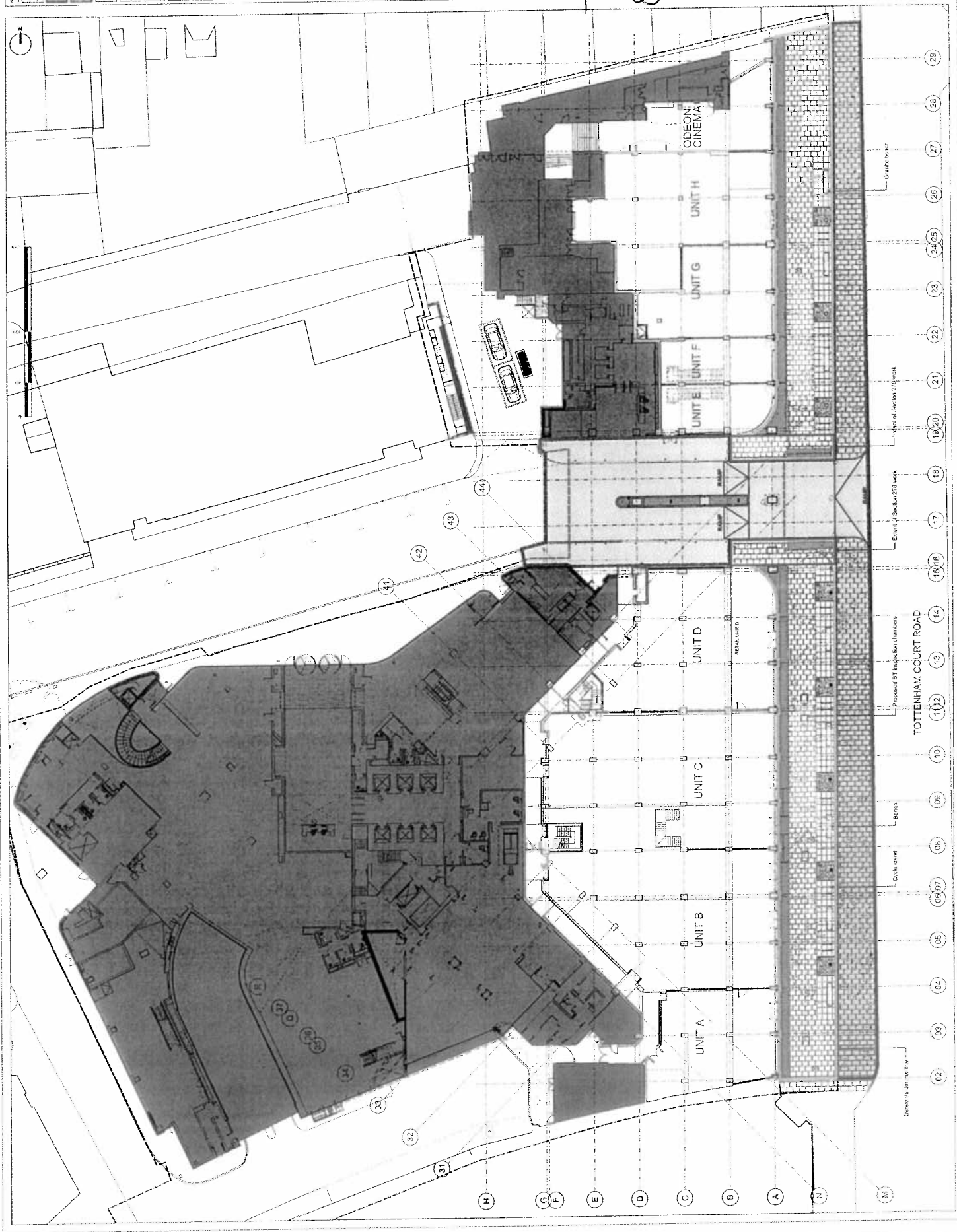
1 Owen's Yard, 52-71 City Road, London, EC1Y 1PG  
T: 0207 833 833  
F: 0207 833 834  
E: orms@orms.co.uk

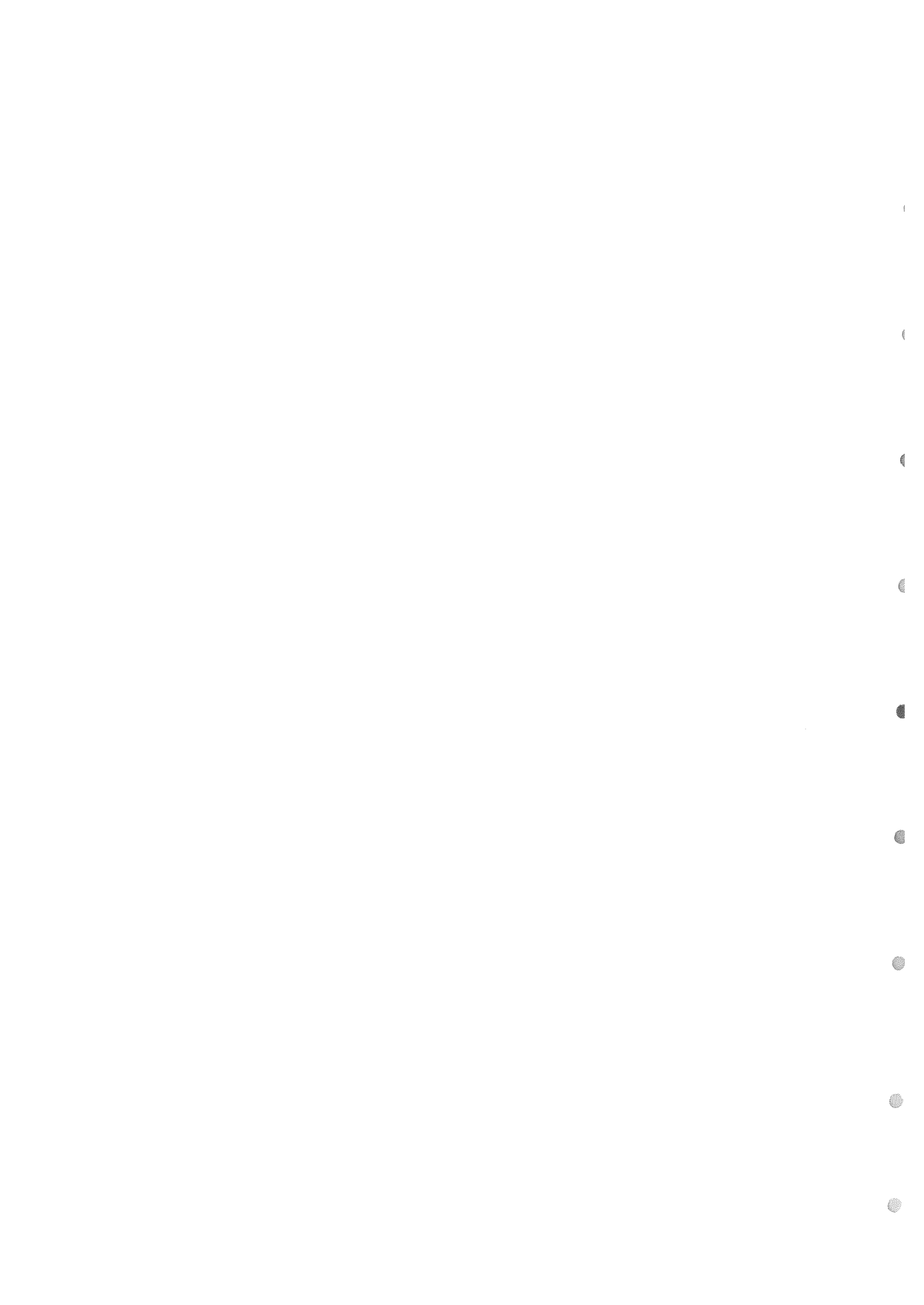
Project: Central Cross, Phase 3 - Retail  
Drawing title: External Works  
Proposed Parameters: P000000

Scale: 3:500 @ A1  
Date: April 13  
1917 EW 100  
Rev: 00

Sheet:  For information  For issue  For construction

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Rev: 01  
Rev: 02  
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## **SCHEDULE 4**

### **The Programme**

The plan identifies the proportion of works to the footway and part carriage way of Stephen Street to be carried out by the Owner. These were carefully considered and include provision to enable pedestrian movement to be maintained during the works to be carried out by the owner and thereafter the works to be carried out by the Council. The programme for construction of those Highway works identified in Schedule 1 and to be carried out by the Owner involved construction commencing on 5<sup>th</sup> January 2015 and those works have been completed on 13<sup>th</sup> April 2015. During the construction phase the Council inspected the works and it is anticipated the Provisional Certificate is capable of being issued.

**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** )  
**DERWENT CENTRAL CROSS LIMITED** )  
acting by a Director and its Secretary )  
or by two Directors )

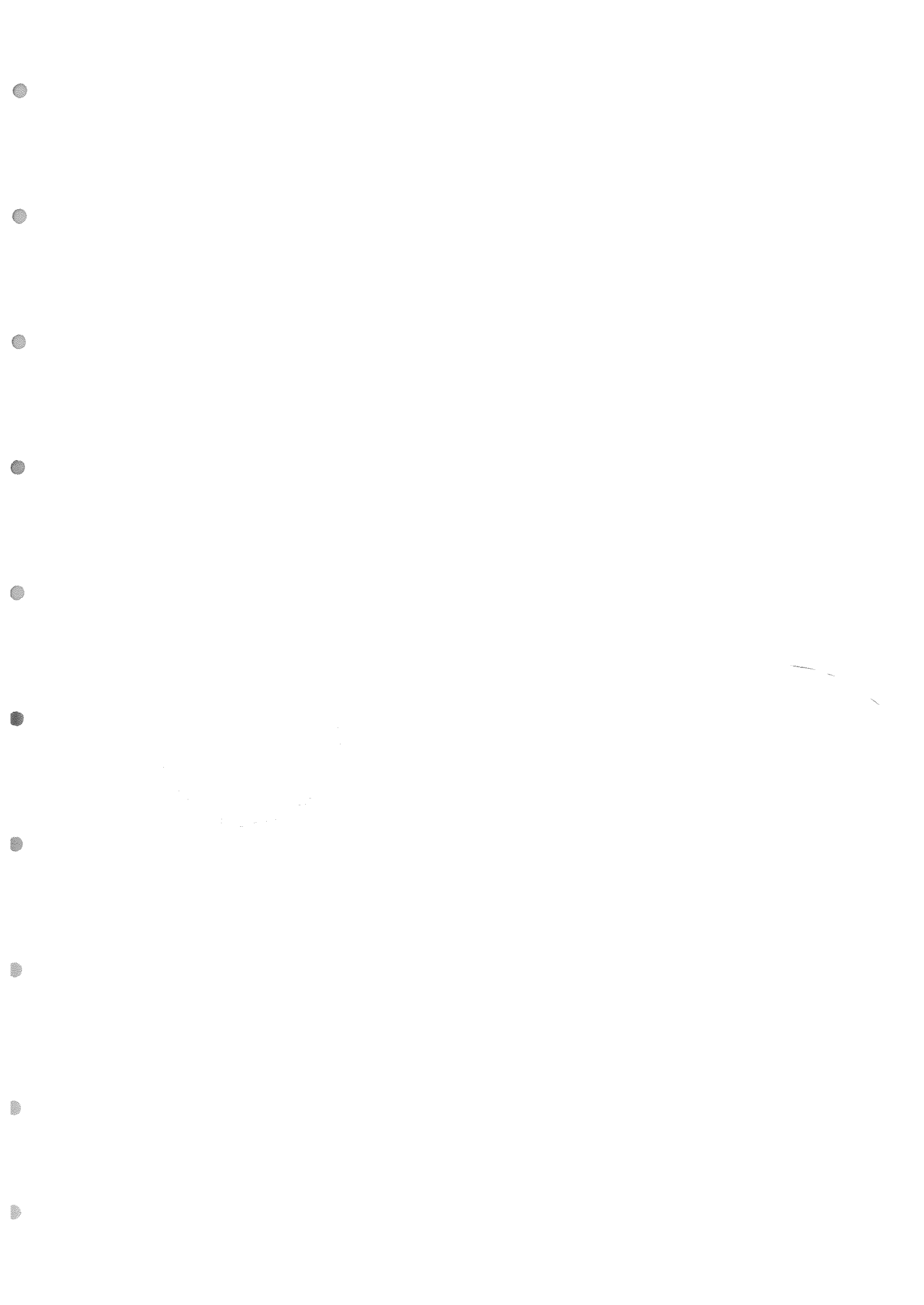
.....  
Director

.....  
Director/Secretary 215

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

.....  
R. Alexander  
Duly Authorised Officer





DATED

*31st May*

2015/6

**(1) DERWENT CENTRAL CROSS LIMITED**

-and-

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

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**HIGHWAYS WORKS AGREEMENT**

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

**Central Cross, 18-30 Tottenham Court Road, London W1T 1BL**

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

Tel: 020 7974 2463  
Fax: 020 7974 2962

CLS/COM/CJ/1781.277  
final