

Draft: 20 March 2017

DATED

2017

**(1) NYRAFF LIMITED**

and

**(2) [ ]**

and

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

**A G R E E M E N T**

relating to land known as  
**OMEGA HOUSE, 67 - 74 SAFFRON HILL LONDON EC1N 8QX**  
pursuant to Section 106 of the Town and Country Planning  
Act 1990 (as amended) and  
Section 278 of the Highways Act 1980

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CLS/COM/LMM/1800.221

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**THIS AGREEMENT** is made the                      day of                      2017

**B E T W E E N:**

- i.        **NYRAFF LIMITED** (Co. Regn. No. 02006187) whose registered office is at 2 Madrid Road, London SW13 9PD (hereinafter called “the Freeholder”) of the first part
  
- ii.        [    ] (Co. Regn. No. [    ]) whose registered office is at [    ] (hereinafter called “the Leaseholder”) of the second part
  
- iii.        **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the third part

**1.        WHEREAS**

- 1.1        The Freeholder is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number NGL332887.
  
- 1.2        The Leaseholder is registered at the Land Registry as the leasehold proprietor with Title absolute of the Property under Title Number [    ].
  
- 1.3        The Freeholder and the Leaseholder are the freehold owner of and the leasehold owners of the Property respectively and are interested in the Property for the purposes of Section 106 of the Act and shall hereinafter together collectively be referred to as “the Owner”.
  
- 1.4        A Planning Application for the development of the Property was submitted to the Council and validated on 4 July 2016 and the Council resolved to grant permission conditionally under reference number 2016/3018/P subject to conclusion of this legal Agreement.
  
- 1.5        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.

- 1.6 As local highway authority the Council considers the Highways Works to be carried out pursuant to this section 278 Agreement to be in the public benefit.
- 1.7 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.

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 Town and Country Planning Act 1990 (as amended)  |
| 2.2 | "the Agreement"                           | this Planning Obligation made pursuant to Section 106 of the Act   |
| 2.3 | "the Certificate of Practical Completion" | the certificate issued by the Owner's contractor architect or project manager certifying that the Development has been completed   |
| 2.4 | "Construction Management Plan"            | a plan setting out the measures that the Owner will adopt in undertaking the demolition and construction of the Development using good site practices in accordance with the Council's Considerate Contractor Manual and in the form of the Council's Pro Forma Construction Management Plan as set out in the First Schedule hereto to ensure the Construction Phase of the Development can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network including (but not limited to):- |

- (i) a statement to be submitted to Council giving 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 and the building out of the Development;
- (ii) proposals to ensure there are no adverse effects on the Conservation Area features;
- (iii) amelioration and monitoring effects on the health and amenity of local residences site construction workers local businesses and adjoining developments undergoing construction;
- (iv) amelioration and monitoring measures over construction traffic including procedures for notifying the owners and 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);
- (v) the inclusion of a waste management strategy for handling and disposing of construction waste; and
- (vi) identifying means of ensuring the provision of information to the Council

and provision of a mechanism for monitoring and reviewing as required from time to time

2.5 “the Construction Management Plan Implementation Support Contribution”

the sum of £1,140 (one thousand one hundred and forty 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 the event of receipt for the review and approval of the draft Construction Management Plan and verification of the proper operation of the approved Construction Management Plan during the Construction Phase

2.6 “the Construction Phase”

the whole period between

- (i) the Implementation Date and
- (ii) the date of issue of the Certificate of Practical Completion

2.7 “the Council’s Considerate Contractor Manual”

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

2.8 “Development”

means the Saffron Hill Development and/or the Onslow Street Development

2.9 “the Highways Contribution”

the sum of £8,496.33 (eight thousand four hundred and ninety six pounds thirty three

pence) 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 the following (“the Highways Works”):-

- (a) repaving the footway and vehicle crossover adjacent to the Property;
- (b) any other works the Council acting reasonably requires as a direct result of the Development

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

2.10 "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

2.11 "Jewellery Floorspace"

the 90.3m<sup>2</sup> floorspace to be provided as part of the Development at the Property identified outlined in [ ] on Plan [ ] and to be retained throughout the life of the Development as jewellery manufacturing/jewellery workshop

- space in accordance with the provisions of clause 4.3 of this Agreement
- 2.12 "the Level Plans" plans demonstrating the levels at the interface of the Development the boundary of the Property and the Public Highway
- 2.13 "Occupation Date" the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
- 2.14 "the Onslow Street Development" Erection of first floor extension to side/rear of building (Onslow Street side) (Class B1(c) as shown on the site location plan, Design & Access Statement and drawing numbers 1500/000, 1500/100, 1500/101, 1500/102, 1500/103, 1500/110, 1500/111, 1500/112, 1500/113, 1500/199, 1500/251, 1500/252, 1500/253 and 1500/240.;
- 2.15 "the Onslow Street Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 4 July 2016 for which a resolution to grant permission has been passed conditionally under reference number 2016/4143/P subject to conclusion of this Agreement
- 2.16 "the Onslow Street Planning Permission" a planning permission granted for the Onslow Street Development pursuant to the Onslow Street Planning Application substantially in the draft form annexed hereto
- 2.17 "the Parties" mean the Council and the Owner

- 2.18 "Planning Obligations Monitoring Officer" a planning officer of the Council from time to time allocated to deal with all planning obligations pursuant to S106 of the Act to whom all notices, correspondence, approvals etc must be sent in the manner prescribed at clause 6.1 hereof
- 2.19 "the Property" the land known as Omega House, 67-74 Saffron Hill the same as shown edged red on the plan annexed hereto
- 2.20 "the Public Highway" any carriageway footway and/or verge adjoining the Property maintainable at public expense
- 2.21 "the Saffron Hill Development" erection of two storey extension at front elevation at second floor. Alterations and refurbishment throughout building including revised fenestration details (Class B1(a)) as shown on the site location plan and Design & Access Statement and drawing numbers 1500/000, 1500/100, 1500/101, 1500/102, 1500/103, 1500/110, 1500/111, 1500/112, 1500/113, 1500/199 A, 1500/220 A, 1500/221, 1500/230, 1500/231, 1500/232, 1500/233 and 1500/400
- 2.22 "the Saffron Hill Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 4 July 2016 for which a resolution to grant permission has been passed conditionally under reference number



2016/3018/P subject to conclusion of this Agreement

2.23 "the Saffron Hill Planning Permission"

a planning permission granted for the Saffron Hill Development pursuant to the Saffron Hill Planning Application substantially in the draft form annexed hereto

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

3.1 This Agreement is made in pursuance of Section 106 of the Act, and is a planning obligation for the purposes of Section 106 as aforesaid, and shall be enforceable by the Council against the Owner as provided herein and against any person deriving title to any part of the Property from the Owner and insofar as it is not a planning obligation its provisions may be enforceable by the Council under any relevant statutory powers.

3.2 Words importing the singular shall include the plural and vice versa and any words denoting actual persons shall include companies corporations and other artificial persons.

3.3 Any reference to a specific statute or statutes include any statutory extension or modification amendment or re-enactment of such statute and any regulation or orders made under such statute.

3.4 The clause and paragraph headings do not form part of this 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 Council hereby agrees to grant the Planning Permission on the date hereof.

3.7 The Parties save where the context states otherwise shall include their successors in title.

#### 4. **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

##### 4.1 **CONSTRUCTION MANAGEMENT PLAN**

4.1.1 On or prior to the Implementation Date to:

- (i) pay to the Council the Construction Management Plan Implementation Support Contribution in full; and
- (ii) submit to the Council for approval a draft Construction Management Plan.

4.1.2 Not to Implement nor allow Implementation of the Development until such time as the Council has:

- (i) received the Construction Management Plan Implementation Support Contribution in full; and
- (ii) approved the Construction Management Plan as demonstrated by written notice to that effect.

4.1.3 The Owner acknowledges and agrees that the Council will not approve the Construction Management Plan unless it demonstrates to the Council's reasonable satisfaction that the Construction Phase of the Development can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network.

4.1.4 To ensure that throughout the Construction Phase the Development shall not be carried out otherwise than in strict accordance with the requirements of the Construction Management Plan and not to permit the carrying out of any works comprised in demolition or building out the Development at any time when the requirements of the Construction Management Plan are not being complied with and in the event of non compliance with this sub-clause the Owner shall forthwith take any steps required to remedy such non-compliance.

## **4.2 HIGHWAYS CONTRIBUTION**

- 4.2.1 On or prior to the Implementation Date to:-
- (i) pay to the Council the Highways Contribution in full; and
  - (ii) submit to the Council the Level Plans for approval.
- 4.2.2 Not to Implement or to allow Implementation until such time as the Council has:-
- (i) received the Highways Contribution in full; and
  - (ii) approved the Level Plans as demonstrated by written notice to that effect.
- 4.2.3 For the avoidance of doubt the Owner acknowledges that the Council has the right reserved to it to construct the Public Highway to levels it considers appropriate and does not undertake any responsibility in connection with any required statutory undertakers works and that the Highways Contribution excludes any statutory undertakers costs.
- 4.2.4 On completion of the Highway Works the Council may provide to the Owner a certificate specifying the sum (“the Certified Sum”) expended by the Council in carrying out the Highway Works.
- 4.2.5 If the Certified Sum exceeds the Highway Contribution then the Owner shall within fourteen days of the issuing of the said certificate pay to the Council the amount of the excess.

## **4.3 JEWELLERY FLOORSPACE**

- 4.3.1 Not to Occupy or permit Occupation of the Development until the Jewellery Floorspace has been provided as jewellery manufacturing and/or jewellery workshop space to the satisfaction of the Council (as evidenced by notice in writing)
- 4.3.2 To retain the Jewellery Floorspace for jewellery manufacturing and/or jewellery workshop space throughout the life of the Development and not to Occupy the Development at any time when the Jewellery Floorspace is not being provided as jewellery manufacturing and/or jewellery workshop space
- 4.3.3 Not to use the Jewellery Floorspace for any other purpose than jewellery

manufacturing and/or jewellery workshop space

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 Planning Permission 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 the Planning Permission reference 2016/3018/P the date upon which the Development is 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 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 If satisfied as to the compliance of the Owner in respect of any obligation in this Agreement the Council shall (if requested to do so in writing and subject to payment of a fee of £1,000 in respect of each such obligation) provide through its Head of Legal Services a formal written certification of compliance, partial compliance or ongoing compliance (as and if appropriate) with the provisions of any such obligation.
- 5.6 Submission of any plan for approval by the Council under the terms of this Agreement shall be made by the Owner to the Council sending the full document and

any appendices in electronic format (where practicable) 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 plan relates quoting the Planning Permission reference 2016/3018/P.

5.7 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 via electronic transfer (where practicable) The owner shall notify the Planning Obligations Monitoring Officer that payment has been made referring to names date and Parties to this Agreement and citing the specific clause of this Agreement to which such contribution relates quoting the planning reference 2016/3018/P. Electronic Transfer be made directly to the Co-operative Bank Plc of 1 Islington High Street London N1 9TR quoting Sort Code 08-90-33 and London Borough of Camden General Account no. 61030019

5.7 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.

5.8 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

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

5.9 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 Permission reference number 2016/3018/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 on written demand with official copies of such title to show the entry of this Agreement in the Charges Register of the title to the Property.
- 6.5 Nothing contained or implied in this 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 Owner nor its 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.

6.8 If the Planning Permission is quashed or revoked or otherwise withdrawn or expires before effluxion of time for the commencement of development this Agreement shall forthwith determine and cease to have effect.

7. **JOINT AND SEVERAL LIABILITY**

7.1 All Covenants made by the Owner in this Agreement are made jointly and severally and shall be enforceable as such.

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 has executed this instrument as a Deed the day and year first before written

**EXECUTED AS A DEED BY** )  
**NYRAFF LIMITED** )  
**acting by a Director and its Secretary** )  
**or by two Directors** )

.....  
**Director**

.....  
**Director/Secretary**

**EXECUTED AS A DEED BY** )

[ ] LIMITED )  
acting by a Director and its Secretary )  
or by two Directors )

.....

Director

.....

Director/Secretary

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

.....

Authorised Signatory



**THE FIRST SCHEDULE**  
**Pro Forma**  
**Construction Management Plan**

The Council has produced a pro-forma Construction Management Plan that can be used to prepare and submit a Construction Management Plan to meet technical highway and environmental health requirements. This document should be prepared, submitted and receive approval from the Council well in advance of works starting.

The pro-forma Construction Management Plan can be found on the Council's website at:-

<https://www.camden.gov.uk/ccm/content/environment/planning-and-built-environment/two/planning-applications/making-an-application/supporting-documentation/planning-obligations-section-106/>

Please use the Minimum Requirements (also available at the link above) as guidance for what is required in the CMP and then download the Construction Management Plan

**It should be noted that any agreed Construction Management Plan does not prejudice further agreement that may be required for things such as road closures or hoarding licences**