DATED 12 March 2018

(1) MACNEIL LIMITED

-and-

(2) THE ROYAL BANK OF SCOTLAND PLC

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 30 October 2012
Between the Mayor and the Burgesses of the
London Borough of Camden,
MacNeil Limited and The Royal Bank of Scotland
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
The Mamelon Tower

149 Grafton Road

LONDON NW5 4AY

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

Tel: 020 7974 1918
Fax: 020 7974 2962

CLS/COM/ESA/1800.454
DoV FINAL

THIS DEED is made on the 12th day of March 2018

BETWEEN

1. **MACNEIL LIMITED** (Co. Regn. No. 4417618) whose registered office is at 9 Essex Park Finchley Central London N3 1ND (hereinafter called "the Owner") of the first part

2. **THE ROYAL BANK OF SCOTLAND PLC** (Co. Regn. No. SC90312) of 2nd Floor Building, 1 Centrium, Griffiths Way, St. Albans, Herts AL1 2RD (hereinafter called "the Mortgagee") of the second part

3. **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

WHEREAS:

1.1 The Council, Macneil Limited and The Royal Bank of Scotland entered into an Agreement dated 30 October 2012 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).

1.2 The Owner is registered at the Land Registry as the freehold proprietor with Title Absolute under title number LN82634 subject to a charge to the Mortgagee.

1.3 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.

1.4 The Council is the local planning authority for the purposes of the Act 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 Deed.

1.5 A new Planning Application in respect of the Property and to amend the Original Planning Permission was submitted to the Council by the Owner and validated on 21 July 2017 for which the Council resolved to grant permission conditionally under reference 2017/3663/P subject to the conclusion of this Deed.

1.6 This Deed of Variation is made by virtue of the Town and Country Planning Act 1990 Section 106A (as amended) and is a planning obligation for the purposes of that section.

1.7 Without prejudice to the terms of the other covenants contained in the Existing Agreement the parties hereto have agreed to vary the terms of the Existing Agreement as hereinafter provided.

2. **INTERPRETATION**

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

2.2 All reference in this Deed to clauses in the Existing Agreement are to clauses within the Existing Agreement.

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

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

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

2.6 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5 and 6 hereof all of which shall come into effect on the date hereof the covenants undertakings and obligations contained within this Deed shall become binding upon the Owner upon the Implementation Date.

2.7 References in this Deed to the Owner and Mortgagee shall include their successors in title.

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

2.8.1	"Deed"	this Deed of Variation made pursuant to Section 106A of the Act
2.8.2	"Existing Agreement"	the Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) dated 30 October 2012 made between the Council Macneil Limited and The Royal Bank of Scotland
2.8.3	"the Original Planning Permission"	means the planning permission granted by the Council on 30 October 2012 referenced 2012/1882/P allowing the change of use from drinking establishment (Class A4) to 2 x 3 bed maisonettes (Class C3) at basement and part ground floor level and associated alterations including installation of lightwell with railings and three windows on north elevation, provision of pavement lights and alterations to entrances and windows on east (Grafton Road) elevation/forecourt area, fenestration alterations on south (Queen's Crescent) elevation, six new ground floor level windows on west elevation and excavation works to extend the existing basement level as shown on drawing numbers OS-01; EX-11; EX-12; EX-13; EX-14; EX-15; EX-16; EX-17; EX-18; P-11B; P-02A; P-13A; P-14B; P-15A; P-16A; P-17A; P-18A; P-19A; Letter from Symon Smith Residential and Commercial Estate Agents dated 11/05/2012; Letter from MacNeil Limited dated 07/06/2012;

Life Time Homes Schedule Ref 1704/AWLTH/080612, as received 08/06/2012; Basement Impact Assessment by Michael Alexander Consulting Engineers dated July 2012 Ref: P2242/ ARC/Issue 2; Interpretive Geotechnical Report by Chelmer Site Investigations dated July 2012 Ref 3264

3. VARIATION TO THE EXISTING AGREEMENT

3.1 The following definitions contained in the Existing Agreement shall be varied as follows:

3.1.1 "Development"	variation of condition 3 (approved plans) of planning permission 2012/1882/P dated 30/10/2012 (for change of use from drinking establishment (Class A4) to 2 x 3 bed maisonettes (Class C3) at basement and part ground floor level and associated alterations) namely minor alterations comprising the replacement of all existing windows with timber framed windows and alteration to the size, number and location of ground floor windows on the side (south west) elevation (retrospective) and alteration to size of ground floor window to the rear (north west) elevation
3.1.2 "Planning Permission"	the planning permission for the Development under reference number 2017/3663/P granted by the Council in the form of the draft annexed hereto
3.1.3 "Planning Application"	the application for Planning Permission in respect of the Property submitted on 21 July 2017 by the Owner and given reference number 2017/3663/P

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2012/1882/P" shall be replaced with "Planning Permission reference 2017/3663/P".

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

4. COMMENCEMENT

4.1 Without prejudice to the effect of Clause 3.5 in the Existing Agreement the provisions in this Deed shall take effect on the Implementation of the Planning Permission referenced 2017/3663/P.

5 PAYMENT OF THE COUNCIL'S LEGAL COSTS

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

6. REGISTRATION AS LOCAL LAND CHARGE

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

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

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

.....

Director

.....

Director/Secretary

CONTINUATION OF SECTION 106 IN RELATION TO THE MAMELON TOWER
149 GRAFTON ROAD LONDON NW5 4AY

EXECUTED as a Deed)
By THE ROYAL BANK OF SCOTLAND PLC)
by)
in the presence of:-)

.....

Frances Parratt

Signed and Delivered as a deed)
for and on behalf of)
THE ROYAL BANK OF SCOTLAND PLC)
by a duly authorised Attorney)

in the presence of:

Thomas Hartley
Documenter
Corporate Documentation + Operations

Witness' Signature - Bank Employee

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

.....

Authorised Signatory

Camden

Regeneration and Planning
Development Management
London Borough of Camden
Town Hall
Judd Street
London
WC1H 9JE

Tel 020 7974 4444

planning@camden.gov.uk
www.camden.gov.uk/planning

SBW Planning Ltd
117 Mount Pleasant Road
London
N4 4NJ

Application Ref: **2017/3663/P**

20 December 2017

Dear Sir/Madam

FOR INFORMATION ONLY - THIS IS NOT A FORMAL DECISION
Town and Country Planning Act 1990 (as amended)

DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT

Address:
The Mamelon Tower
149 Grafton Road
LONDON NW5 4AY

Proposal:
Variation of condition 3 (approved plans) of planning permission 2012/1882/P dated 30/10/2012 (for change of use from drinking establishment (Class A4) to 2 x 3 bed maisonettes (Class C3) at basement and part ground floor level and associated alterations) namely minor alterations comprising the replacement of all existing windows with timber framed windows and alteration to the size, number and location of ground floor windows on the side (south west) elevation (retrospective) and alteration to size of ground floor window to the rear (north west) elevation.

Drawing Nos:
Superseded: 1704.P.11B; 1704.P.14B; 1704.P.15A; 1704.P.16A; 1704.P.17A

Proposed: 1704.P.41; 1704.P.44; 1704.P.45; 1704.P.46; 1704.P.47

The Council has considered your application and decided to grant permission subject to the conditions and informatives (if applicable) listed below **AND** subject to the successful conclusion of a Section 106 Legal Agreement.

The matter has been referred to the Council's Legal Department and you will be contacted shortly. If you wish to discuss the matter please contact **Aidan Brookes** in the Legal Department on **020 7 974 1947**.

Once the Legal Agreement has been concluded, the formal decision letter will be sent to you.

Condition(s) and Reason(s):

1 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 of the London Borough of Camden Local Plan 2017.

2 For the purposes of this decision, condition no.3 of planning permission 2012/1882/P shall be replaced with the following condition:

REPLACEMENT CONDITION 3

The development hereby permitted shall be carried out in accordance with the following approved plans- EX-11; EX-12; EX-13; EX-14; EX-15; EX-16; EX-17; EX18; P-02A; P-13A; P-18A; P-19A; 1704.P.41; 1704.P.44; 1704.P.45; 1704.P.46; 1704.P.47; Letter from Symon Smith Residential and Commercial Estate Agents dated 11/05/2012; Letter from MacNeil Limited dated 07/06/2012; Life Time Homes Schedule Ref 1704/AWLTH/080612, as received 08/06/2012; Basement Impact Assessment by Michael Alexander Consulting Engineers dated July 2012 Ref: P2242/ ARC/Issue 2; Interpretive Geotechnical Report by Chelmer Site Investigations dated July 2012 Ref 3264.

Reason: For the avoidance of doubt and in the interest of proper planning.

3 The proposed development shall not be occupied until the whole of the waste storage and removal facilities shown on the approved drawings is provided. The whole of the waste storage and removal provision shall be permanently maintained and retained thereafter.

Reason: To ensure that sufficient provision for the storage and collection of waste has been made in accordance with the requirements of policy CC5, A1 and A4 of the London Borough of Camden Local Plan 2017.

4 The proposed development shall not be occupied until the whole of the 7 spaces of cycle parking provision shown on the approved drawings is provided. The whole of the cycle parking provision shall be permanently maintained and retained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy T1 of the London Borough of Camden Local Plan 2017.

5 The lifetime homes features and facilities, as indicated on the drawings and documents hereby approved shall be provided in their entirety prior to the first occupation of any of the new residential units and shall be permanently maintained and retained thereafter.

Reason: To ensure that the internal layout of the building provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance with the requirements of policy H6 of the London Borough of Camden Local Plan 2017.

Informative(s):

1 Reason for granting permission

The proposed alteration to the windows on the south west elevation would be sympathetic to the host property and would match the windows on the upper floors which are being considered as part of the related application 2017/3666/P. Timber is considered to be an appropriate material. The proposed alteration to the windows would not raise any concerns regarding overlooking or loss of privacy as windows have already been approved at ground floor level.

No objections have been received. The planning and appeal history of the site has been taken into account when coming to this decision.

As such, the proposed development is in general accordance with policies D1 and A1 of the Camden Local Plan 2017. The development also accords with the NPPF and the London Plan 2016.

2 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 2363).

3 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Compliance and Enforcement team [Regulatory Services], Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.

4 The Mayor of London introduced a Community Infrastructure Levy (CIL) to help pay for Crossrail on 1st April 2012. Any permission granted after this time which adds more than 100sqm of new floorspace or a new dwelling will need to pay this CIL. It will be collected by Camden on behalf of the Mayor of London. Camden will be sending out liability notices setting out how much CIL will need to be paid if an affected planning application is implemented and who will be liable.

Executive Director Supporting Communities

The proposed charge in Camden will be £50 per sqm on all uses except affordable housing, education, healthcare, and development by charities for their charitable purposes. You will be expected to advise us when planning permissions are implemented. Please use the forms at the link below to advise who will be paying the CIL and when the development is to commence. You can also access forms to allow you to provide us with more information which can be taken into account in your CIL calculation and to apply for relief from CIL.

http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil

We will then issue a CIL demand notice setting out what monies needs to paid when and how to pay. Failure to notify Camden of the commencement of development will result in a surcharge of £2500 or 20% being added to the CIL payment. Other surcharges may also apply for failure to assume liability and late payment. Payments will also be subject to indexation in line with the construction costs index.

Please send CIL related documents or correspondence to CIL@Camden.gov.uk

5 This consent is without prejudice to, and shall not be construed as derogating from, any of the rights, powers, and duties of the Council pursuant to any of its statutory functions or in any other capacity and, in particular, shall not restrict the Council from exercising any of its powers or duties under the Highways Act 1980 (as amended). In particular your attention is drawn to the need to obtain permission for any part of the structure which overhangs the public highway (including footway). Permission should be sought from the Council's Engineering Service Network Management Team, Town Hall, Argyle Street WC1H 8EQ, (tel: 020 7974 6956) or email highwayengineering@camden.gov.uk

6 The private forecourt area on the Grafton Road elevation has an established public right of way which has been enjoyed by the public as a right of way for over 20 years. Under section 31 of the Highways Act 1980, therefore, the Council would consider this forecourt as being dedicated highway, although not maintainable at the public expense.

7 If a revision to the postal address becomes necessary as a result of this development, application under Part 2 of the London Building Acts (Amendment) Act 1939 should be made to the Camden Contact Centre on Tel: 020 7974 4444 or Environment Department (Street Naming & Numbering) Camden Town Hall, Argyle Street, WC1H 8EQ.

8 Your attention is drawn to the fact that there is a separate legal agreement with the Council which relates to the development for which this permission is granted. Information/drawings relating to the discharge of matters covered by the Heads of Terms of the legal agreement should be marked for the attention of the Planning Obligations Officer, Sites Team, Camden Town Hall, Argyle Street, WC1H 8EQ.

9 The correct street number or number and name must be displayed permanently on the premises in accordance with regulations made under Section 12 of the London Building (Amendments) Act 1939.

10 You are advised that Section 44 of the Deregulation Act 2015 [which amended the Greater London Council (General Powers) Act 1973)] only permits short term letting of residential premises in London for up to 90 days per calendar year. The person who provides the accommodation must be liable for council tax in respect of the premises, ensuring that the relaxation applies to residential, and not commercial, premises.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Yours faithfully

Supporting Communities Directorate

Executive Director Supporting Communities

DATED 12 March 2018

(1) MACNEIL LIMITED

-and-

(2) THE ROYAL BANK OF SCOTLAND PLC

-and-

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

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