

DATED

22 MAY

2018

(1) ALMACANTAR SHAFTESBURY S.A.R.L.

and

(2) BNP PARIBAS LONDON BRANCH

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

125 Shaftesbury Avenue
London
WC2H 8AD

pursuant to
Section 106 of the Town and Country Planning Act 1990 and
Section 278 of the Highways Act 1980 and
section 111 of the Local Government Act 1972

Andrew Maughan
Borough Solicitor
London Borough of Camden
Town Hall
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London WC1H 9LP

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CLS/PK/1800.137 (third final)

THIS AGREEMENT is made the 22nd day of May 2018

BETWEEN:

1. **ALMACANTAR SHAFTESBURY S.A.R.L.** (incorporated in Luxembourg under number B178446 of at 8-10 Avenue de la Gare L-1610 Luxembourg and whose address for service in the United Kingdom is Almacantar Limited 3 Quebec Mews London W1H 7NX (hereinafter called "the Owner") of the first part
2. **BNP PARIBAS LONDON BRANCH** (incorporated in France having the United Kingdom establishment number BR000170) of 10 Harewood Avenue, London, NW1 6AA (hereinafter called the "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

1. **WHEREAS**

- 1.1 The Owner is registered at the Land Registry as the freehold proprietor with title absolute of the Property under title number NGL360957 subject to a charge to the Mortgagee.
- 1.2 The Owner is the freehold owner of the Property and is interested in the Property for the purposes of Section 106 of the Act.
- 1.3 The Planning Application for the Development of the Property was submitted to the Council and validated on 16th September 2016 and the Council resolved to grant permission conditionally under reference number 2016/5202/P subject to conclusion of this legal Agreement.
- 1.4 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.

- 1.5 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act and other powers as herein specified.
- 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 The Mortgagee as mortgagee under a legal charge registered under title number NGL360957 and dated ~~27th September 2013~~ is willing to enter into this Agreement to give its consent to the same. 21st December 2017 

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 "Affordable Housing" low cost housing that meets the needs of people who cannot afford to occupy homes available in the open market in accordance with the National Planning Policy Framework and successor documents
- 2.3 "Affordable Housing Contribution" the sum of £2,100,000 (two million one hundred thousand 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 towards the provision of Affordable Housing on the Tybalds Estate scheme, within the ward of Holborn and Covent Garden and south of the Euston Road in the London Borough of Camden

- 2.4 "this Agreement" this planning obligation made pursuant to Section 106 of the Act
- 2.5 "Carbon Off-set Contribution" the sum of £225,450 (two hundred and twenty-five thousand four hundred and fifty 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 towards off-site carbon reduction measures in the London Borough of Camden
- 2.6 "the Certificate of Practical Completion" the certificate issued by the Owner's contractor or architect or project manager certifying that the Development has been completed
- 2.7 "the Construction Apprentice Default Contribution" the sum of £7,000 (seven thousand pounds) to be paid by the Owner to the Council in lieu of construction apprentice provision.
- 2.8 "the Construction Apprentice Support Contribution" the sum of £1,700 (one thousand seven hundred pounds) per apprentice to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council to support the recruitment and training of apprentices
- 2.9 "Construction Management Plan" a plan (including such form thereof as may be approved from time to time by the Council such written approval specifically referencing the plan and the precise amendment) setting out the measures that the Owner will adopt in

undertaking any demolition of the existing buildings and the 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 annexed 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 any 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 as far as possible during the Construction Phase;
- (iii) proposals to ensure there are no adverse effects on the neighbouring listed building(s) as far as possible during the Construction Phase;
- (iv) amelioration and monitoring effects on the health and amenity of local

residences site construction workers local businesses and adjoining developments undergoing construction;

- (v) 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);
- (vi) the inclusion of a waste management strategy for handling and disposing of construction waste;
- (vii) 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; -

2.10 “the Construction Management Plan Implementation Support Contribution”

the sum of £20,000 (twenty thousand 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

- 2.11 "the Construction Phase" the whole period between
- (i) the Implementation Date and
 - (ii) the date of issue of the Certificate of Practical Completion
- 2.12 "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
- 2.13 "Deferred Housing Contribution" the sum of £3,393,555 (three million three hundred and ninety-three thousand five hundred and fifty-five pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement to be applied by the Council in the event of receipt towards the provision of Affordable Housing within the London Borough of Camden
- 2.14 "Deficit" a negative figure or figure of zero produced from the Post-Construction Viability Assessment by taking the residual site value of the Development and subtracting the sum of £130,000,000 (one hundred and thirty million pounds)
- 2.15 "the Development" remodelling, refurbishment and extension of existing office building (Class B1) at upper floor levels, roof level and within lightwells to provide 9,682sqm additional floorspace, including terraces, a new public route, a relocated office entrance (Charing Cross Road), rooftop plant and flexible retail uses (Classes A1/A3), along with associated highway, landscaping and public

realm improvements as shown on drawing numbers

Existing plans

231_P10.000, 231_P10.001, 231_P10.100,
231_P10.101, 231_P10.102, 231_P10.103,
231_P10.104, 231_P10.105, 231_P10.106,
231_P10.107, 231_P10.108, 231_P10.109,
231_P10.110, 231_P10.111, 231_P10.112,
231_P10.113, 231_P10.200, 231_P10.201,
231_P10.202, 231_P10.203, 231_P10.204,
231_P10.205, 231_P10.206, 231_P10.207,
231_P10.300, 231_P10.301, 231_P10.302,
231_P10.303, 231_P10.304, 231_P10.305

Proposed plans

231_P20.001, 231_P20.100 1, 231_P20.101 B,
231_P20.102 A, 231_P20.103 A, 231_P20.104
A, 231_P20.105 A, 231_P20.106 A,
231_P20.107 A, 231_P20.108 A, 231_P20.109,
231_P20.110 A, 231_P20.111 A, 231_P20.112
A, 231_P20.113 B, 231_P20.115 A,
231_P20.116 A, 231_P30.000 A, 231_P30.001
A, 231_P30.002 A, 231_P30.003, 231_P30.004
A, 231_P30.005 A, 231_P30.006 A,
231_P30.007, P30.011, P30.012, 231_P30.013,
231_P40.001, 231_P40.002 A, 231_P40.003 A,
231_P40.004 A, 231-01-DetailFacade, WIE SA
05 0004 A01, 231_SK1694

Documents

Air Quality Assessment (Waterman) September
2016, Demolition and Construction Works
Management & Logistics Plan (Outline) (A. I. A.)
August 2016, Daylight and Sunlight Report (GIA)
September 2016, Daylight and Sunlight
Addendum - Trentishoe Mansions and 1A
Phoenix Street (GIA) 28/11/2016, Letter from
GIA (17/03/2017), Drainage Strategy

(Waterman) September 2016, Economic Benefits Statement (Volterra) September 2016, Energy Strategy (RES) September 2016, Financial Viability Statement (Gerald Eve) September 2016, Flood Risk Assessment (AKT II Ltd) September 2016, Historic Environment Desk-Based Assessment (Waterman) September 2016, Housing Study (DSDHA) September 2016, Planning Noise Assessment (Waterman) September 2016, Planning Statement (Gerald Eve) September 2016, Preliminary Ecological Appraisal (Waterman) September 2016, Preliminary Environmental Risk Assessment (Waterman) September 2016, Site Waste Management Plan (Waterman) September 2016, Statement of Community Involvement (London Communications Agency) September 2016, Sustainability Statement (RES) September 2016, Transport Assessment (Waterman) September 2016, Townscape and Visual Impact Assessment (Peter Stewart Consultancy/Miller Hare Ltd) September 2016, Design and Access Statement (DSDHA) September 2016, Design and Access Statement – Addendum (DSDHA) November 2016, Arboricultural Development Report (tree: fabrik) September 2016, Site Waste Management Plan (Waterman) September 2016, Framework Travel Plan WIC10216TP-001 (Waterman) January 2017

2.16 “the Employment and Training Contribution”

the sum of £259,529 (two hundred and fifty-nine thousand five hundred and twenty-nine pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement to

be applied by the Council in the event of receipt towards employment and training needs in the London Borough of Camden

2.17 “the Energy Efficiency and Renewable Energy Plan”

a strategy setting out a package of measures to be adopted by the Owner in the management of the Development with a view to reducing carbon energy emissions through (but not be limited to) the following: -

- (i) incorporation of the measures set out in the submission document entitled “Energy Statement” dated September 2016 by RES to achieve a 22.8% reduction in CO2 emissions beyond the Part L 2013 baseline;
- (ii) further details (including detailed drawings, any necessary surveys and system specifications) of how the Owner will reduce the Development’s carbon emissions from renewable energy technologies located on the Property ensuring the Owner will target a reduction of at least 4% in carbon emissions in relation to the Property using a combination of complementary low and zero carbon technologies;
- (iii) separate metering of all low and zero carbon technologies to enable the monitoring of energy and carbon emissions and savings;
- (iv) a building management system being an electronic system to monitor the Development’s heating cooling and the hours of use of plant;

- (v) measures to enable future connection to a local energy network at the boundary of the Property including:
 - (a) safeguarded space for a future heat exchanger;
 - (b) provisions made in the building fabric and/or design (such as soft-points in the building plant room walls) to allow pipes to be routed through from the outside to a later date;
 - (c) the provision of domestic hot water isolation valves to facilitate the connection of an interfacing heat exchanger;
 - (d) provision for external buried pipework routes to be safeguarded to a nearby road or similar where connection to the DHN would be made.
- (vi) include a pre-Implementation design-stage review by an appropriately qualified and recognised independent professional in respect of the Property including Full Design stage NCM calculations certifying that the measures incorporated in the Energy Efficiency and Renewable Energy Plan are achievable in the Development and satisfy the aims and objectives of the Council's strategic policies on the reduction of carbon emissions contained within its Development Plan;
- (vii) measures to secure a post-construction review of the Development by an appropriately qualified and recognised independent professional in respect of the Property (including but not limited to photographs, installation contracts and full

NCM certifying that the measures incorporated in the Energy Efficiency and Renewable Energy Plan have been achieved in the Development and will be maintainable in the Development's future management and occupation; and

- (viii) identifying means of ensuring the provision of information to the Council and provision of a mechanism for review and update as required from time to time

2.18 "the Environmental Improvements Contribution"

the sum of £539,596 (five hundred and thirty-nine thousand five hundred and ninety-six 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 provision of pedestrian, cycling and environmental improvements in the vicinity of the Development

2.19 "the Highways Works Contribution"

the sum of £276,923.26 (two hundred and seventy-six thousand nine hundred and twenty-three pounds and twenty-six 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 (of sufficient quality appropriate to the context and setting of the Development) to the public highway and associated measures in the vicinity of the Property such works to include the following ("the Highways Works"):

- (i) to repave the footways on Shaftesbury Avenue, Stacey Street, Phoenix Street and

Charing Cross Road adjacent to the Development;

- (ii) any other works required as a direct result of the impact of the Development (such works as considered necessary by the Council)

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 undertaker's costs

2.20 "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 which is not a Preparatory Operation and references to "Implementation" and "Implement" shall be construed accordingly

2.21 "King's Cross Construction Skills Centre"

the Council's flagship skills construction training skills centre providing advice and information on finding work in the construction industry

2.22 "the Level Plans"

plans demonstrating the levels at the interface of the Development the boundary of the Property and the Public Highway

2.23 "Local Procurement Code"

the code annexed to the Fourth Schedule hereto

2.24 "Occupation Date"

the first date when any part of the Development is occupied (but does not include occupation by personnel engaged marketing cleaning decoration or security operations) and the

phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly

- 2.25 "the Parties" the Council, the Owner and the Mortgagee
- 2.26 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 16th September 2016 for which a resolution to grant permission has been passed conditionally under reference number 2016/5202/P subject to conclusion of this Agreement
- 2.27 "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
- 2.28 "the Planning Permission" a planning permission granted for the Development substantially in the draft form at the Second Schedule annexed hereto
- 2.29 "the Post-Construction Viability Assessment" an assessment to be undertaken by the Owner and submitted to the Council in accordance with the terms of this Agreement such assessment to:-
- (i) be presented in the same form as the Owner's viability assessment submitted to the Council on 6th September 2016 entitled "Financial Viability Statement (Gerald Eve)

September 2016” or such other form as agreed by the Council in writing save that:

- (a) the developer’s percentage profit on gross development cost shall be fixed at 20%; and
 - (b) the residual land value shall be specified as an output of such assessment
- (ii) the developer’s percentage profit shall be applied to the same elements of gross development cost as applied in the Owner’s viability assessment submitted on 6th September 2016 entitled “Financial Viability Statement (Gerald Eve) September 2016”; and
- (iii) the assessment shall be based on the same percentage yield on the Development and the same purchaser’s costs in pounds sterling as the Owner’s viability assessment submitted on 6th September 2016 entitled “Financial Viability Statement (Gerald Eve) September 2016” or such alternative as agreed by the Council in writing

with a view inter alia to evidence to the Council’s reasonable satisfaction of the value of the Property such assessment to include (but not be limited to) the following:-

- (iv) a copy of the Owner’s viability assessment submitted on 6th September 2016 entitled “Financial Viability Statement (Gerald Eve) September 2016” showing the Owner’s profit on the Gross Development Cost as 6.4%;

- (v) receipted invoices; certified costs; certified copies of sales contracts; and best estimates of costs yet to be incurred and value of any unsold space and any other evidence reasonably required by the Council to show any revenue and/or costs incurred in relation to the Development;

- (vi) a solicitor's certification confirming that the sale, lease, assigning, sub-letting, grant of a licence, given control to any person or otherwise demised of the floorspace forming part of the Development were arm's length third party bona fide transactions and not :-
 - (a) designed to reduce the revenue received from sales of the floorspace forming part of the Development;
 - (b) confined to transactions between the Owner and subsidiary companies of the Owner;
 - (c) transactions between the Owner and its employees; or
 - (d) transactions including deferred consideration coverage or loans or finance deals from the Owner;

- (vii) payment of £6,000 (six thousand pounds) to cover the Council's costs in verifying the material and information contained within the assessment;

- (viii) details of any grant funding received in relation to the Development whether

related to Affordable Housing or any other aspect of the Development;

(ix) any further information the Council acting reasonably requires

2.30 "Preparatory Operation"

erection of contractors' work compounds, erection of site offices, erection of temporary fencing or hoardings to site boundaries or temporary means of enclosure for site security

2.31 "the Property"

the land known as 125 Shaftesbury Avenue, London, WC2H 8AD the same as shown edged red on the plan at the Third Schedule annexed hereto

2.32 "the Public Highway"

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

2.33 "the Service Management Plan"

a plan setting out a package of measures to be adopted by the Owner and approved by the Council from time to time (such written approval specifically referencing the plan and the precise amendment) for the management of the deliveries and servicing to the Development securing the minimisation of conflicts between service vehicle and car and pedestrian movements and the minimisation of damage to amenity from such servicing and deliveries which shall include inter alia the following: -

(i) a requirement for delivery vehicles to unload from a specific suitably located area;

- (ii) details of the person(s) responsible for directing and receiving deliveries to the Development;
- (iii) measures to avoid a number of delivery vehicles arriving at the same time;
- (iv) likely frequency and duration of servicing movements and measures to be taken to avoid any conflicts;
- (v) likely nature of goods to be delivered;
- (vi) the likely size of the delivery vehicles entering the Development;
- (vii) measures taken to ensure pedestrian management and public safety during servicing including a statement setting out how highway safety will be maintained during servicing movements
- (viii) measures taken to address servicing movements on and around the Development with a view inter alia to combining and/or reducing servicing and minimise the demand for the same
- (ix) provision of swept path drawings to ascertain manoeuvring when entering and exiting the Development in accordance with the drawings submitted and agreed with the Council;
- (x) details of arrangements for refuse storage and servicing; and

- (xi) identifying means of ensuring the provision of information to the Council and provision of a mechanism for review and update as required from time to time

2.34 "Surplus"

a positive figure produced from the Post-Construction Viability Assessment by taking the residual site value of the Development and subtracting the sum of £130,000,000 (one hundred and thirty million pounds)

2.35 "the Sustainability Plan"

a plan including a post construction review securing the incorporation of sustainability measures in the carrying out of the Development in its fabric and in its subsequent management and occupation which shall: -

- (i) achieve the targets set out in the submission document entitled "Sustainability Statement" dated September 2016 by RES;
- (ii) include a design stage Building Research Establishment Environmental Assessment Method (BREEAM) review report completed by a licensed BREEAM assessor in respect of the Property with a target of achieving at least a "Excellent" rating and attaining at least 60% of the credits in each of the "Energy" and "Water" categories and 40% of the credits in the "Materials" category;
- (iii) include a pre-Implementation review by an appropriately qualified recognised and independent professional in respect of the Property certifying that the

measures incorporated in the Sustainability Plan are achievable in the Development and satisfy the aims and objectives of the Council's strategic policies on sustainability contained within its Development Plan;

- (iv) details of maintenance and management relative to sustainability measures included in the Sustainability Plan;
- (v) measures to secure a post construction review of the Development by an appropriately qualified recognised and independent professional in respect of the Property (including a written report, photographs and installation contracts) certifying that the measures incorporated in the Sustainability Plan have been achieved in the Development and will be maintainable in the Development's future management and occupation; and
- (vi) identifying means of ensuring the provision of information to the Council and provision of a mechanism for review and update as required from time to time

2.36 "the Travel Plan
Monitoring Contribution"

the sum of £6,244 (six thousand two hundred and forty-four 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 approve the Owner's Travel Plan over a six-year period from the date of first Occupation of the Development

2.37 "the Travel Plan Co-ordinator"

an appropriately qualified and/or experienced person appointed by the Owner to deliver the objectives of the Travel Plan and be responsible for the coordination, implementation, reporting and review of the Travel Plan with a view to securing an ongoing process of continuous improvement

2.38 "the Travel Plan"

a plan including such form thereof as may be revised or amended from time to time with the formal prior written approval of the Council (such written approval specifically referencing the plan and the precise amendment) setting out a package of measures to be adopted by the Owner in the management of the Property with a view to inter alia reducing trips in motor vehicles to and from the Property and promoting the use of environmentally friendly transport incorporating (but not limited to) the following: -

- (i) the elements set out in the Fifth Schedule hereto;
- (ii) provision for an initial substantial review of the plan within six months of the Occupation Date ensuring the plan is updated upon receipt of results of the review and further approved in writing by the Council;
- (iii) a mechanism for monitoring and reviewing of the plan on the first anniversary of the Occupation Date;
- (iv) measures to ensure subsequent reviews on the third and fifth anniversary of the

Occupation Date using the initial survey referred to in (b) for baseline monitoring, ensuring the plan is updated where required upon receipt of results of the review and further approved in writing by the Council

- (v) provision for the appointment of Travel Plan Co-ordinator prior to the Occupation Date and a mechanism in place to advise the Council of direct contact details and any subsequent changes in the post;
- (vi) identifying means of ensuring the provision of information to the Council and provision of a mechanism for review and update as required from time to time

2.39 "the Walkway" the through route connecting Caxton Walk and New Compton Street as shown shaded red on the plan at Annex 1 to the Walkways Agreement at the Sixth Schedule annexed hereto

2.40 "the Walkway Agreement" a legal agreement between the Council and the Owner substantially in the form annexed hereto at the Sixth Schedule.

NOW THIS DEED WITNESSETH as follows: -

3.1 This Agreement is made in pursuance of Section 106 of the Act, Section 278 of the Highways Act 1980 and Section 111 of the Local Government Act 1972 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 of interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6, 7, 8 and 9 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 **AFFORDABLE HOUSING ADDITIONAL DEVELOPMENT**

4.1.1 If at any time after the date of this Agreement: -

- (i) any planning permission is granted for the further development of the Property which gives consent for the development of residential units or additional floorspace for residential purposes;
- (ii) any additional floorspace is created on the Property for residential purposes; and/or
- (iii) any residential units are created within the Property

any of which exceeds the Council's minimum requirement for Affordable Housing as set out in the Council's "Camden Development Policies (adopted November 2010)" the Owner shall enter into a legal agreement under section 106 of the Act with the

Council to secure that an appropriate percentage of the residential units created under this sub-clause 4.1.1 (i) - (iii) inclusive are provided as Affordable Housing (as on-site contribution or off-site contribution or financial contribution) such percentage to be applied to the aggregate total of the residential units permitted by the Planning Permission and the additional residential floorspace created under sub-clause 4.1.1 (i) - (iii) inclusive.

- 4.1.2 Not to Occupy or allow Occupation of any of the residential floorspace created under sub-clause 4.1.1 (i) – (iii) inclusive of this Agreement until such time as the residential floorspace has been provided as Affordable Housing (as on-site contribution or off-site contribution or financial contribution).

4.2 **CONSTRUCTION MANAGEMENT PLAN**

- 4.2.1 On or prior to the Implementation Date to submit to the Council for approval a draft Construction Management Plan.
- 4.2.2 Not to Implement nor allow Implementation of the Development until such time as the Council has approved the Construction Management Plan as demonstrated by written notice to that effect.
- 4.2.3 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.
- 4.2.4 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.

4.3 AFFORDABLE HOUSING CONTRIBUTION

4.3.1 On or prior to the Implementation Date to pay to the Council the Affordable Housing Contribution in full.

4.3.2 Not to Implement or to permit Implementation until such time as the Council has received the Affordable Housing Contribution in full.

4.4 CONSTRUCTION MANAGEMENT PLAN IMPLEMENTATION SUPPORT CONTRIBUTION

4.4.1 On or prior to Implementation to pay to the Council the Construction Management Plan Implementation Support Contribution in full.

4.4.2 Not to Implement or to permit Implementation until such time as the Council has received the Construction Management Plan Implementation Support Contribution in full.

4.5 CARBON OFF-SET CONTRIBUTION

4.5.1 On or prior to Implementation to pay to the Council the Carbon Off-Set Contribution in full.

4.5.2 Not to Implement or to permit Implementation until such time as the Council has received the Carbon Off-Set Contribution in full

4.6 EMPLOYMENT AND TRAINING CONTRIBUTION

4.6.1 On or prior to the Implementation Date to pay to the Council the Employment and Training Contribution in full.

4.6.2 Not to Implement or to permit Implementation until such time as the Council has received the Employment and Training Contribution.

4.7 TRAVEL PLAN MONITORING CONTRIBUTION

- 4.7.1 On or prior to the Occupation Date to pay to the Council the Travel Plan Monitoring Contribution in full.
- 4.7.2 Not to Occupy or permit Occupation until such time as the Council has received the Travel Plan Monitoring Contribution.

4.8 HIGHWAYS WORKS CONTRIBUTION

- 4.8.1 On or prior to Implementation to pay to the Council the Highways Works Contribution in full.
- 4.8.2 Not to Implement or to permit Implementation until such time as the Council has received the Highways Works Contribution.

4.9 ENVIRONMENTAL IMPROVEMENTS CONTRIBUTION

- 4.9.1 On or prior to Implementation to pay to the Council the Environmental Improvements Contribution in full.
- 4.9.2 Not to Implement or to permit Implementation until such time as the Council has received the Environmental Improvements Contribution.

4.10 DEFERRED HOUSING CONTRIBUTION

- 4.10.1 The Parties agree that notwithstanding the remaining clauses in this clause 4.10 of this Agreement the Owner may at any time following Implementation pay the Council the Deferred Housing Contribution in full.
- 4.10.2 To submit the Post-Construction Viability Assessment to the Council for approval in writing at such time as the Owner has exchanged contracts on the sale, lease, assigning, sub-letting, grant of a licence, given control to any person of or otherwise demised of not less than 30% of the floorspace forming part of the Development and provide sufficient information to the Council (in the opinion of the Council) to evidence the same.

- 4.10.3 Not to complete on the sale, lease, assigning, sub-letting, grant of a licence, given control to any person of, or otherwise demised of more than 50% of the floorspace forming part of the Development until such time as the Post-Construction Viability Assessment has been submitted to the Council for approval in writing.
- 4.10.4 Upon issue of approval of the Post-Construction Viability Assessment the Council will provide to the Owner the following: -
- (i) a certificate specifying the sum ("the Assessment Certified Sum") reasonably and properly expended by the Council in assessing the Post-Construction Viability Plan; and
 - (ii) a certificate specifying the sum ("the Viability Certified Sum") properly assessed by the Council in accordance with the provisions of this Agreement as being recoverable from the Deferred Housing Contribution under the terms of this Agreement.
- 4.10.5 If the Assessment Certified Sum exceeds the payment made under clause 2.29 (vii) (Post-Construction Viability Assessment) of this Agreement then the Owner shall within twenty-eight (28) days of the issuing of the said certificate pay to the Council the amount of the excess.
- 4.10.6 In the event the approved Post-Construction Viability Assessment shows a Deficit the Viability Certified Sum shall be zero and the Owner shall have no obligation to pay the Deferred Housing Contribution or any part thereof.
- 4.10.7 In the event the Post-Construction Viability Assessment shows a Surplus that is less than two times the Deferred Housing Contribution the Viability Certified Sum shall be half of the Surplus up to the limit of the Deferred Housing Contribution.
- 4.10.8 In the event the Post-Construction Viability Assessment shows a Surplus that is greater than or equal to two times the Deferred Housing Contribution the Viability Certified Sum shall be the full amount of the Deferred Housing Contribution.
- 4.10.9 The Owner shall within 28 days of receipt of the Viability Certified Sum pay to the Council the sum specified within the Viability Certified Sum.

4.10.10 Not to Occupy or permit Occupation of any more than 50% of the floorspace forming part of the Development until such time as the Council has confirmed receipt of the Viability Certified Sum in writing.

4.11 ENERGY EFFICIENCY AND RENEWABLE ENERGY PLAN

4.11.1 On or prior to the Implementation Date to submit to the Council for approval the Energy Efficiency and Renewable Energy Plan.

4.11.2 Not to Implement nor permit Implementation until such time as the Council has approved the Energy Efficiency and Renewable Energy Plan as demonstrated by written notice to that effect.

4.11.3 Not to Occupy or permit Occupation of the Property until a satisfactory post-completion review has been submitted to and approved by the Council in writing confirming that the measures incorporated in the Energy Efficiency and Renewable Energy Plan as approved by the Council have been incorporated into the Property.

4.11.4 Following the Occupation Date the Owner shall not Occupy or permit Occupation of any part of the Development at any time when the Development is not being managed in strict accordance with the Energy Efficiency and Renewable Energy Plan as approved by the Council from time to time and shall not Occupy or permit Occupation of the Development otherwise than in strict accordance with the requirements of the Energy Efficiency and Renewable Energy Plan.

4.12 HIGHWAYS

4.12.1 On or prior to the Implementation Date to submit to the Council the Level Plans for approval.

4.12.2 Not to Implement or to allow Implementation until such time as the Council has approved the Level Plans as demonstrated by written notice to that effect.

4.12.3 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 Works Contribution excludes any statutory undertaker's costs.

4.12.4 The Council shall use all reasonable endeavours to design and complete the Highway Works as soon as reasonably practicable after the date of issue of the Certificate of Practical Completion or such other timescale agreed in writing with the Owner.

4.12.5 On completion of the Highway Works the Council shall provide to the Owner a certificate specifying the sum ("the Certified Sum") expended by the Council in carrying out the Highway Works.

4.12.6 If the Certified Sum exceeds the Highway Contribution then the Owner shall within twenty-one (21) days of the issuing of the said certificate pay to the Council the amount of the excess.

4.12.7 If the Certified Sum is less than the Highway Contribution then the Council shall within twenty-one (21) days of the issuing of the said certificate repay to the Owner the amount by which the Highways Works Contribution exceeds the Certified Sum.

4.12.8 The Council shall provide such information as is reasonably requested by the Owner in respect of the cost and progress of the Highway Works.

4.13 LOCAL EMPLOYMENT

4.13.1 In carrying out the works comprised in the Construction Phase of the Development the Owner shall use reasonable endeavours to achieve a target of no less than 20% of the workforce is comprised of residents of the London Borough of Camden.

4.13.2 In order to facilitate compliance with the requirements of sub-clause 4.13.1 hereof the Owner shall work in partnership with:

- (i) King's Cross Construction Skills Centre and Camden Job Centres and local colleges and schools; and
- (ii) take the following specific measures to ensure: -
 - (a) all contractors and sub-contractors provide information about all vacancies arising as a result of the Construction Phase of the Development to King's Cross Construction Skills Centre;

- (b) that prior to any advertisement or notice being placed with any advertising or employment agency or similar organisation for a period of at least one (1) week the King's Cross Construction Skills Centre is notified of all vacancies arising from the building contract for the Development for employees, self-employees, contractors and sub-contractors;
- (c) that King's Cross Construction Skills Centre is supplied with a full labour programme for the lifetime of the Development (with six-monthly updates) demonstrating
 - (1) what skills and employment are needed through the life of the programme, and
 - (2) measures to ensure that these needs are met as far as possible through the provision of local labour from residents of the London Borough of Camden
- (e) the Council is provided with a detailed six-monthly labour return for monitoring the employment and self-employment profile of all workers referred by Kings Cross Construction Skills Centre and employed during the Construction Phase.

4.13.3 If the Owner has submitted information to the Council seeking to demonstrate that for reasons beyond its control it is unable to achieve the target of 20% as outlined in sub-clause 4.13.1 hereof and the Council considers the information submitted by the Owner to be satisfactory for the purpose of discharging sub-clause 4.13.1 then the Council shall give written notice to the Owner to the effect that the Council accepts that the Owner is unable for reasons beyond its control to achieve the target of 20%.

4.13.4 To ensure that during the Construction Phase not less than 28 (twenty-eight) construction industry apprentices shall be employed at the Development always ensuring each apprentice and/or trainee (as the case may be) shall be:-

- (i) recruited through the Kings Cross Construction Skills Centre;
- (ii) employed for a period of not less than 52 weeks; and
- (iii) paid at a rate not less than the national minimum wage rate for 21-24 year olds. All apprentice candidates aged 25 and above will be paid the national minimum wage as set out at <https://www.gov.uk/national-minimum-wage-rates>

4.13.5 On or prior to the date of commencement of employment of each construction industry apprentice to pay to the Council the Construction Apprentice Support Contribution.

4.13.6 During the Construction Phase the Owner shall provide training opportunities on site for employees resident within the London Borough of Camden and to provide a six-monthly statement setting out the details of candidates employed to the Kings Cross Construction Skills Centre.

4.13.7 If the Owner is unable to provide the apprentices in accordance with Clause 4.13.4 of this Agreement for reasons demonstrated to the satisfaction of the Council it shall:

- (i) forthwith pay the Council the Construction Apprentice Default Contribution in respect of each individual apprentice placement not provided; and
- (ii) not Occupy or permit Occupation until such time as the Construction Apprentice Default Contribution (based on the cost each individual apprentice placement) has been paid in full.

4.13.8 Following the Occupation Date of the Development the Owner shall ensure that at all times it will (unless otherwise agreed with the Council at the request of the Owner) have in its employ no less than one end use apprentice always ensuring the apprentice shall be: -

- (i) recruited in liaison with the Council's Economic Development Team;
- (ii) be resident in the London Borough of Camden;
- (iii) be paid at a rate not less than the national minimum wage rate for 21-24 year olds. All apprentice candidates aged 25 and above will be paid the national minimum wage as set out at <https://www.gov.uk/national-minimum-wage-rates>;
- (iv) be employed on a fulltime basis for at least 52 weeks;
- (v) be provided with appropriate on the job training or day release to enable the apprentice to train for and achieve a Level 2 or Level 3 Apprenticeship Framework qualification; and
- (vi) be supervised by a member of staff within the completed Development

4.14 LOCAL PROCUREMENT

- 4.14.1 Prior to Implementation to agree a programme during the construction of the Development to provide opportunities for local businesses to bid/tender for the provision of goods and service to the Development in accordance with the Council's Local Procurement Code.
- 4.14.2 On or prior to Implementation to meet with the Council's Economic Development Local Procurement Team (or any successor department) at least one month before tendering contracts to agree the specific steps that will be taken to give effect to the Local Procurement Code.
- 4.14.3 To ensure that throughout the construction of the Development shall not be carried out otherwise than in accordance with the requirements of the Local Procurement Code and in the event of non-compliance with this sub-clause the Owner shall forthwith take any steps required to remedy such non-compliance.
- 4.14.4 To provide opportunities for local businesses to bid/tender for the provision of facilities management services and other post construction supply of goods and services.

4.15 SERVICE MANAGEMENT PLAN

- 4.15.1 On or prior to Occupation to submit to the Council for approval the Service Management Plan.
- 4.15.2 Not to Occupy or permit Occupation of any part of the Development until such time as the Council has approved the Service Management Plan as demonstrated by written notice to that effect.
- 4.15.3 After the Occupation Date, not to Occupy or permit Occupation of any part of the Development at any time when the Development is not being managed in strict accordance with the Service Management Plan as approved by the Council from time to time and shall not Occupy or permit Occupation of the Development otherwise than in strict accordance with the requirements of the Service Management Plan.

4.16 **SUSTAINABILITY PLAN**

- 4.16.1 On or prior to the Implementation Date to submit to the Council for approval the Sustainability Plan.
- 4.16.2 Not to Implement nor permit Implementation until the Sustainability Plan has been approved by the Council as demonstrated by written notice to that effect
- 4.16.3 Not to Occupy or permit Occupation of the Property until a satisfactory post-completion review has been submitted to and approved by the Council in writing confirming that the measures incorporated in the Sustainability Plan as approved by the Council have been incorporated into the Property.
- 4.16.4 Following the Occupation Date the Owner shall not Occupy or permit Occupation of any part of the Development at any time when the Development is not being managed in strict accordance with the Sustainability Plan as approved by the Council and shall not Occupy or permit Occupation of the Development otherwise than in strict accordance with the requirements of the Sustainability Plan.

4.17 **TRAVEL PLAN**

- 4.17.1 On or prior to the Implementation Date to submit to the Council the Travel Plan for approval.
- 4.17.2 Not to Implement or permit Implementation of any part of the Development until such time as the Council has approved the Travel Plan as demonstrated by written notice to that effect.
- 4.17.3 The Owner covenants with the Council that after the Occupation Date the Owner shall not Occupy or permit Occupation of any part of the Development at any time when the Development is not being managed in strict accordance with the Travel Plan as approved by the Council from time to time and shall not Occupy or permit Occupation of the Development otherwise than in strict accordance with the requirements of the Travel Plan.

4.18 **WALKWAYS AGREEMENT**

4.18.1 Prior to the issue of the Certificate of Practical Completion to enter in to the Walkways Agreement with the Council.

4.18.2 At no time to Occupy or permit Occupation of any part of the Development unless the Walkways Agreement is being complied with.

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 2016/5202/P the date upon which the Development is ready for Occupation.

5.3 The Owner and the Council shall act in good faith and shall co-operate with each other and the Council to facilitate the discharge and performance of all obligations contained herein (acting reasonably) 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 Borough Solicitor 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 to the Council 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 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 reference 2016/5202/P.
- 5.7 Payment of any financial contribution pursuant to Clause 4 (Obligations of the Owner) 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 application reference 2016/5202/P or by electronic transfer directly to the National Westminster Bank of Hampstead Village, Enfield Customer Service Centre, PO Box 145 Baird Road Middlesex EN1 1FN 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.
- 5.8 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.
- 5.9 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 Index of Retail Prices ("the AllRP") figure last published by the Central Statistical Office at the date hereof is the denominator ("X") and the last AllRP figure published before the date such payment or application is made ("Y") less the last published AllRP figure at the date hereof ("X") is the numerator so that

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

5.10 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 2016/5202/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 against the Owner 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 The Owner or the Mortgagee or their successors in title or any person deriving title from them shall not 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 or is modified (other than by agreement with or at the request of the Owner) this Agreement shall forthwith determine and cease to have effect and the Council will effect cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.

7. **MORTGAGEE EXEMPTION**

The Mortgagee hereby consents to the completion of this Agreement 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**

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

9. **JURISDICTION**

This Agreement is governed by and interpreted in accordance with the law of England and the Parties agree that the courts of England shall have jurisdiction to

settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

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

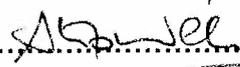
EXECUTED AS A DEED BY)
ALMACANTAR SHAFTESBURY S.A.R.L.)
acting by a Director and its Secretary)
or by two Directors a company)
incorporated in Luxembourg acting by)
Director Name: (CAPITALS) who in)
accordance with the laws of that)
territory are acting under the)
Director Signature: authority of)
the company)
Director/Secretary Name (CAPITALS))
Director/Secretary Signature:)

Almacantar Shaftesbury Sarl

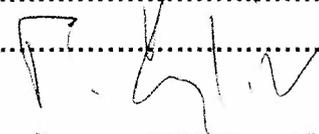
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authorised signatory
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authorised signatory
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EXECUTED AS A DEED BY)
BNP PARIBAS LONDON BRANCH)
a company incorporated)
in France by:)

Name: (CAPITALS))
Signature:)

STEPHEN NEVILLE


Name: (CAPITALS))
Signature:)

PH. LANQUETOT


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

R. Alexander
.....
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

