DATED 21 August 2018

(1) 48 SHOOT UP HILL LIMITED

-and-

(2) MIZRAHI TEFAHOT BANK LIMITED

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 7 September 2016
Between the Mayor and the Burgesses of the
London Borough of Camden and
IFL Limited
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
48 SHOOT UP HILL, LONDON NW2 3QB

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/OO/1800.685

THIS DEED is made on the 21st day of August 2018

BETWEEN

A. **48 SHOOT UP HILL LIMITED** (Co. Regn. No. 10449590) whose registered office is at 3 Theobald Court, Theobald Street, Borehamwood, Herts, United Kingdom, WD6 4RN (hereinafter called "the Owner") of the first part

B. **MIZRAHI TEFAHOT BANK LIMITED** (incorporated in Israel) of 30 Old Broad Street, London EC2N 1HT (hereinafter called "the Mortgagee") of the third part

C. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the fourth part

WHEREAS:

1.1 The Council and IFL Limited entered into an Agreement dated 7 September 2016 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 LN63710 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 Mortgagee as mortgagee under a legal charge registered under Title Number LN63710 and dated 14 December 2016 is willing to enter into this Deed to give its consent to the same.

1.5 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.

1.6 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 7

March 2018 for which the Council resolved to grant permission conditionally under reference 2018/1223/P subject to the conclusion of this Deed.

1.7 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.

1.8 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, 4, 5, 6 and 7 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 7 September 2016 made between the Council and IFL Limited
2.8.3	"the Original Planning Permission"	means the planning permission granted by the Council on 7 September 2016 referenced 2016/1089/P allowing the excavation of basement with front and rear lightwells; alteration of the residential mix to comprise 4x1-bed and 3x2-bed units and associated works as shown on drawing numbers GAL 228 (PC) 001; GAL 228 (PC) 002; GAL 228 (PC) 003C; GAL 228 (PC) 004C

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"	shall mean the development authorised by the planning permission with reference 2016/1089/P dated 7 September 2016 as amended by: Variation of condition 3 (approved plans) of planning permission 2016/1089/P dated 07.09.2016 for: excavation of basement with front and rear lightwells; alteration of the residential mix to comprise 4x1-bed and 3x2-bed units and associated works. Namely, alterations to the internal layout and residential mix comprising of 4 x 2 Bed and 3 x 1Bed flats; new window arrangement at all levels; lowering of the ground level under the footprint of the building; new external staircase front elevation; installation of 3 x rooflights to the rear elevation; new disabled access and erection of bin and cycle storage to the front elevation, following the reduction of the existing ground level as shown on drawing numbers: 161115/LP/01, 161115/PC/003 REVH, 16115/PC/ 004 REVH, 161115/P/07 REVO, 161115/P/08 REVC, GAL228 (PC) 002, GAL 228 (PC) 003 REVC, Design and Access Statement commissioned by the Design Works date 04 July 2018 and Brochure of the Stairiser SR & CR Inclined platform lifts
3.1.2	"Planning Permission"	the planning permission for the Development under reference number 2018/1223/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 7 March 2018 by the Owner and given reference number 2018/1223/P

3.2 The following definitions shall be added to the Existing Agreement:

2.19	"Residents Parking Bay"	a parking place designated by the Council by an order under the Road Traffic Regulation Act 1984 or other relevant legislation for use by residents of the locality in which the Development is situated
2.20	"Residents Parking Permit"	a parking permit issued by the Council under section 45(2) of the Road Traffic Regulation Act 1984 allowing a vehicle to park in Residents Parking Bays

3.3 The following clauses shall be added to the Existing Agreement:

"3.8 The Parties acknowledge that the Development shall be treated as being permanently designated as "car capped" housing in accordance with Clause 4.3.1 and 4.3.2 for all relevant purposes."

"4.3 **CAR CAPPED**

4.3.1 To ensure that prior to occupying any residential unit (being part of the Development) each new occupier of the Development is informed by the Owner of the Council's policy that they shall not be entitled (unless they are the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970) to:

(i) be granted a Residents Parking Permit to park a vehicle in a Residents Parking Bay; and

(ii) buy a contract to park within any car park owned, controlled or licensed by the Council.

4.3.2 Not to occupy or use (or permit the occupation or use of) any residential unit (being part of the Development) at any time during which the occupier of the residential unit holds a Residents Parking Permit to park a vehicle in a Residents Parking Bay or is permitted to park a vehicle in any car park owned, controlled or licensed by the Council unless the occupier is the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970).

4.3.3 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.3.1 and 4.3.2 in this Agreement shall continue to have effect in perpetuity.

4.3.4 On or prior to the Occupation Date the Owner shall inform the Council's Planning Obligations Monitoring Officer of the official unit numbers of the residential units forming part of the Development (as issued and agreed by the Council's Street Name and Numbering Department), identifying those residential units that in the Owner's opinion are affected by the Owner's obligation in Clause 4.3.1 and 4.3.2 of this Agreement."

3.4 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2016/1089/P" shall be replaced with "Planning Permission reference 2018/1223/P".

3.5 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 2018/1223/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

7. **MORTGAGEE EXEMPTION**

7.1 The Mortgagee hereby consents to the Existing Agreement (as varied by this Deed) and to the same being registered at the Land Registry as provided in Clause 6 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.

7.2 The Parties agree that the obligations contained in the Existing Agreement (as varied by this Deed) shall not be enforceable against any mortgagee or chargee of the whole or any part of the Property unless it takes possession of the Property in which case it will be bound by the obligations as a person deriving title from the Owner.

IN WITNESS WHEREOF the Council has caused its Common Seal to be affixed, and the Owner and the Mortgagee have caused this Deed to be executed as a Deed the day and year first above written.

EXECUTED AS A DEED BY)
48 SHOOT UP HILL LIMITED)
acting by a Director)
in the presence of:-/)

STEPHEN GEE
.....
Director

.....
Witness Signature

Witness Name: Cynthia Mawr

Address: 80 Old Broadgate, London EC2N 1HQ.

Occupation: Assistant relationship manager.

CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO 48 SHOOT UP HILL, LONDON NW2 3QB

EXECUTED AS A DEED by)
and)
on behalf of)
MIZRAHI TEFAHOT BANK LIMITED)

.....
Authorised Signatory

ELTON HILLMAN
HEAD OF CREDIT
MIZRAHI TEFAHOT BANK LIMITED
LONDON BRANCH

Antony Taylor
Senior Account Relationship Manager
Authorised Signature

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

.....
Duly Authorised Officer

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

The Design Works
32 Grange Road Plympton
Plymouth
PL7 2HY

Application Ref: **2018/1223/P**

16 August 2018

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:
48 Shoot-up Hill
London
NW2 3QB

Proposal:
Variation of condition 3 (approved plans) of planning permission 2016/1089/P dated 07/09/2016 (excavation of basement with front and rear lightwells; alteration of the residential mix to comprise 4x1-bed and 3x2-bed units and associated works) Namely, alterations to the internal layout and residential mix comprising 4 x 2 Bed and 3 x 1Bed flats; new window arrangement at all levels; lowering of the ground level under the footprint of the building; new external staircase to front elevation; installation of 3 x rooflights to the rear elevation; new disabled access and erection of bin and cycle storage to the front elevation, following the reduction of the existing ground level.

Drawing Nos: Superseded: GAL 228 (PC) 001; GAL 228 (PC) 002; GAL 228 (PC) 003C; GAL 228 (PC) 004C.

Proposed: 161115/LP/01, 161115/PC/003 REVH, 16115/PC/ 004 REVH, 161115/P/07 REVO, 161115/P/08 REVC, GAL228 (PC) 002, GAL 228 (PC) 003 REVC, Design and Access Statement commissioned by the Design Works date 04 July 2018 and Brochure of the Stairiser SR & CR
Inclined platform lifts.

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 The development hereby permitted must be begun not later than the end of three years from the date of the original planning permission ref 2016/1089/P dated 07/09/2016.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2 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 D1of the London Borough of Camden Local Plan 2017..

3 For the purposes of this decision, condition no. 3 of planning permission 2016/1089/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: 161115/LP/01, 161115/PC/003 REVH, 16115/PC/ 004 REVH, 161115/P/07 REVO, 161115/P/08 REVC, GAL228 (PC) 002, GAL 228 (PC) 003 REVC, Design and Access Statement commissioned by the Design Works date 04 July 2018 and Brochure of the Stairiser SR & CR Inclined platform lifts.

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

4 The development shall not be constructed other than in accordance with the conclusions, methodologies and recommendations of the Basement Impact Assessment by Lyons O'Neill Structural Engineers hereby approved, including inter alia the need for further pre-commencement trial excavations and pre-condition surveys, monitoring and surface water mitigation measures. In the event that further evidence of site or building conditions necessitate amendments to the BIA or associated methodologies they shall be submitted to the local planning authority for approval in writing prior to the commencement of development and the development shall be constructed in accordance with such amendments.

Reason: To safeguard the appearance and structural stability of neighbouring buildings and the character of the immediate area in accordance with the requirements of policies A5 and D1 of the London Borough of Camden Local Plan 2017.

5 The cycle storage hereby approved shall be provided in its entirety prior to the first occupation of any of the units and permanently 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.

6 Prior to the commencement of construction/demolition works on site, tree protection measures shall be installed in accordance with the approved drawings and evidence of this shall be submitted to the council. The protection shall then remain in place for the duration of works on site, unless otherwise agreed in writing by the local authority.

Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenities of the area in accordance with the requirements of policies A2 and A3 of the London Borough of Camden Local Plan 2017.

Informative(s):

1 Reason for granting permission:

Planning permission is sought for external and internal alterations to the scheme, including the change the change the residential mix to 4 x 2 Bed and 3 x 1Bed Flats.

The basement would be lowered by an additional 300mm to match the light well at lower-ground level, by virtue of its limited depth the change in floor level would be considered acceptable. The changes to the residential mix and the layout of the internal floor space would represent an improvement to the plan form of the host building. Overall, the seven flats would have gross internal areas (GIA) of 379sqm, 113.2sqm (basement), and 105sqm (on the ground floor), 102sqm (first floor) and 58.94sqm at second floor level.

The 1 bedroom flats at basement, ground and first floors would be below the 50sqm floor space required by the National space standards and the units would measure approximately 46.1sqm, 47.1sqm and 45sqm respectively. However, considering the majority of the units of the previous planning permission (2016/1089/P) did not accord with London Plan residential space standards, the current shortfall is considered no worse than the approved scheme. The two bedroom flats would fall short of the required 61sqm for a 2Bed 3P flat by between 2sqm to 5sqm. All the units would benefit from good levels of natural light, outlook and ventilation. Moreover, the residential mix would provide high priority housing in accordance with Local Plan policy H7.

No objection is raised to the replacement windows to the front, rear and side elevations which would all be timber framed and the installation of three roof lights to the rear roof slope are considered acceptable in design terms.

The vertical slope to the front elevation would be reduced by approximately 900mm, removing the external staircase and glass balustrade to the front elevation. New windows are proposed at lower ground floor level. New pillars are proposed to the entrance of the existing vehicle crossover with would be widen to promote better access to and from the public highway.

The disabled access has been revised and a chair platform lift is proposed, the Council's building control access officer was consulted and raised no objection providing the proposed steps have contrasting nosings and meet part M4(1)1.8.

The proposed cycle provision has been submitted and assessed by the Council's transport planners who where satisfied with the proposed cycle storage for 10 bikes, which would be step free and would be fully enclosed. The proposed arrangements are considered satisfactory in accordance with Policy T1 of the London Borough of Camden Local Plan 2017. The proposed refuse storage is also considered appropriate in terms of its size, access and location.

There would be no changes to the parking provision at the site and a S106 legal agreement has been agreed by the applicant which ensures that the site will be car capped to limit the impact of the proposal on the local transport infrastructure.

The new window arrangement would not exacerbate current levels of overlooking at the site and would not harm neighbouring amenity as a result.

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

The proposed development is in general accordance with policies A1, A5, D1, T1 and T2 of the London Borough of Camden Local Plan 2017. The proposed development also accords with the London Plan 2016; Fortune Green and West Hampstead Neighbourhood Plan 2015 and the National Planning Policy Framework 2012.

2 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 Noise and Licensing Enforcement Team, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (Tel. No. 020 7974 4444 or search for 'environmental health' on the Camden website 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.

3 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that 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, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).

4 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.

5 This proposal may be liable for the Mayor of London's Community Infrastructure Levy (CIL) and the Camden CIL. Both CILs are collected by Camden Council after a liable scheme has started, and could be subject to surcharges for failure to assume liability or submit a commencement notice PRIOR to commencement. We issue formal CIL liability notices setting out how much you may have to pay once a liable party has been established. CIL payments will be subject to indexation in line with construction costs index. You can visit our planning website at www.camden.gov.uk/cil for more information, including guidance on your liability, charges, how to pay and who to contact for more advice.

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 21 August 2018

(1) 48 SHOOT UP HILL LIMITED

-and-

(2) MIZRAHI TEFAHOT BANK LIMITED

-and-

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

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