

DATED 2<sup>ND</sup> OCTOBER 2018

(1) CAMBRIDGE GATE PROPERTIES LIMITED

and

(2) SG KLEINWORT HAMBROS BANK LIMITED

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

5-17 Haverstock Hill  
London  
NW3 2BP

pursuant to Section 106 of the Town and Country Planning  
Act 1990 (as amended), Section 16 of the Greater London Council (General Powers)  
Act 1974, Section 111 of the Local Government Act 1972 and  
Section 278 of the Highways Act 1980

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Legal/JL/1800.528  
vFINAL



THIS AGREEMENT is made the 2<sup>nd</sup> day of October 2018

**BETWEEN:**

1. **CAMBRIDGE GATE PROPERTIES LIMITED** (registered under company number 01835045) whose registered office is at 10 Upper Berkeley Street London W1H 7PE (hereinafter called "the Owner") of the first part
2. **SG KLEINWORT HAMBROS BANK LIMITED** (registered under company number 964058) whose registered office is at 8 St. James's Square, London SW1Y 4JU (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

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 NGL717634 subject to a charge to the Mortgagee.
- 1.2 The Owner is the freehold Owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.3 A planning application for the Development of the Property was submitted to the Council and validated on 15 July 2016 and the Council resolved at a Committee meeting on 15 December 2016 to grant permission conditionally under reference number 2016/3975/P subject to conclusion of this legal Agreement.
- 1.4 The Council is the local planning authority for the purposes of the Act and is the local authority for the purposes of Section 16 of the Greater London Council (General Powers) Act 1974 Section 111 of the Local Government Act 1972 and Section 1(1) of the Localism Act 2011 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 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.
- 1.6 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.
- 1.7 The Mortgagee as mortgagee under a legal charge registered under Title Number NGL717634 and dated 18 July 2014 is willing to enter into this Agreement to give its consent to the same.

## 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 Social Rented Housing and Intermediate Housing that meets the needs of people within the London Borough of Camden 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 Units"	the 9 Social Rented Housing Units and the 8 Intermediate Rented Housing Units within the Development to be constructed fitted out and occupied exclusively as Affordable Housing
2.4	"Affordable Housing Deferred Contribution"	the sum of £6,160,000 (Six million one hundred and sixty thousand 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
2.5	"Agreed Viability Appraisal"	<p>the viability appraisal considered by the Council in determining the Planning Permission comprising:</p> <p>(a) the documents submitted by the Owner entitled "Viability Report, 5-17 Haverstock Hill, NW3 2BP" prepared by James Brown dated 11th July 2016 and the supplementary letter prepared by James Brown dated 22nd November 2016; and</p> <p>b) the two review documents prepared by BPS Chartered Surveyors each entitled "5-17 Haverstock Hill Independent Viability Review" and dated 4th November 2016 and 25th November 2016 respectively.</p>
2.6	"the Agreement"	this planning obligation made pursuant to Section 106 of the Act
2.7	"the Certificate of Practical Completion"	the certificate issued by the Owner's contractor architect or project manager certifying that the Development has been completed
2.8	"the Construction Apprentice Default Contribution"	the sum of £7,000 (seven thousand pounds) per apprentice required on site to be paid by the Owner to the Council in lieu of construction apprentice provision
2.9	"the Construction Apprentice Support Contribution"	the sum of £20,400 (twenty thousand four hundred 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 to support the recruitment and training of construction apprentices
2.10	"Construction Management Plan"	<p>a plan setting out the measures that the Owner will adopt in undertaking demolition works 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 hereto to ensure the Demolition Phase and 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):-</p> <p>(a) a statement to be submitted to the Council giving details of the environmental protection highways safety and community liaison measures proposed to be adopted by the Owner in order to mitigate and offset potential or likely effects and impacts arising from the demolition of the existing buildings or structures on the Property and the building out of the Development;</p> <p>(b) amelioration and monitoring effects on the health and amenity of local residences site construction workers local businesses and adjoining developments undergoing construction;</p>

		<p>(c) 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);</p> <p>(d) the inclusion of a waste management strategy for handling and disposing of construction waste; and</p> <p>(e) 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</p>
2.11	"the Construction Management Plan Implementation Support Contribution"	the sum of £7,620 (seven thousand six hundred and twenty 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 Demolition Phase and the Construction Phase
2.12	"the Construction Phase"	<p>the whole period between:-</p> <p>(a) the Implementation Date; and</p> <p>(b) the date of issue of the Certificate of Practical Completion</p>

2.13	"the Contributions"	The Affordable Housing Deferred Contribution; the Construction Apprentice Default Contribution; the Construction Apprentice Support Contribution; the Construction Management Plan Implementation Support Contribution; the Highways Contribution; the Pedestrian Cyclist and Environmental Contribution; the Public Open Space Contribution; and the Travel Plan Monitoring Contribution;
2.14	"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
2.15	"Demolition"	any works for the demolition of the existing buildings at the Property as referred to in the Planning Permission and associated site clearance and references to "Demolish" shall be construed accordingly
2.16	"the Demolition Date"	the date Demolition commences
2.17	"the Demolition Phase"	the whole period between:-  (c) the Demolition Date; and  (d) the date of Implementation
2.18	"the Development"	the demolition of existing building and erection of a part-six, part-seven storey development comprising 77 residential units (8 x studio, 18 x 1-Bed, 32 x 2-Bed and 19 x 3-Bed units) (Use Class



		C3) and retail (Use Class A1-A5) use at ground floor with associated cycle parking, amenity space, refuse and recycling store and associated works at the Property in accordance with the Planning Permission
2.19	"the Employment and Training Plan"	<p>a plan setting out a package of measures to be adopted by the Owner in order to maximise employment opportunities within the Development and for it to satisfy the obligations contained in clause 4.9 and 4.10 of this Agreement to include:-</p> <ul style="list-style-type: none"> <li>a) Meeting CITB benchmarks for local employment when recruiting for construction related jobs;</li> <li>b) ensuring advertising of all construction vacancies exclusively through Kings Cross Construction Centre for a period of no less than one week before promoting more widely;</li> <li>c) to ensure the provision of 12 construction apprenticeships;</li> <li>d) make provision during the Construction Phase for an agreed number of work placements; and</li> <li>e) ensure delivery of a minimum of two supplier capacity building workshops/"Meet the Buyer" events to support small and medium enterprises within the London Borough of Camden to</li> </ul>

		tender for the contracts to include organising, supporting and promoting the event as well as provision of venue and refreshments for the events
2.20	"the Energy Efficiency and Renewable Energy Plan"	<p>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:-</p> <ul style="list-style-type: none"> <li>b) the incorporation of the measures set out in the submission document entitled Energy Statement (No.54359) to achieve a 26.5% reduction in CO2 emissions beyond the Part L 2013 baseline;</li> <li>c) 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 20% in carbon emissions in relation to the Property using a combination of complementary low and zero carbon technologies;</li> <li>d) the installation of photovoltaic panels;</li> <li>e) separate metering of all low and zero carbon technologies to enable the monitoring of energy and carbon emissions and savings;</li> <li>f) a building management system being an electronic system to monitor the Development's heating and cooling and the</li> </ul>

		<p>hours of use of plant;</p> <p>g) the incorporation of a Combined Heat and Power (CHP) system of a size and specification to be agreed by the Council, including details and method of installation of CHP unit(s) and full energy calculations justifying the size of the CHP and limiting the use of electricity for any heating as reasonable;</p> <p>h) the incorporation of any measures agreed in the air quality assessment as part of the Planning Permission in relation to the CHP;</p> <p>i) provision of a meter on the CHP unit so the Council can monitor how much energy is being derived from CHP;</p> <p>j) include a pre-Implementation design-stage review by an appropriately qualified and recognised independent professional in respect of the Property including Full Design stage SAP (for residential) and/or NCM (for non-residential) 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;</p> <p>k) measures to secure a post construction review of the Development by an appropriately qualified and recognised</p>
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		<p>independent professional in respect of the Property (including but not limited to photographs, installation contracts and full As-Built SAP (for residential) and/or NCM (for non-residential) calculations) 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</p> <p>l) 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</p>
2.21	"the Highways Contribution"	<p>the sum of £35,284.23 (thirty five thousand, two hundred and eighty four pounds and twenty three pence) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in event of receipt for the carrying out works to the public highway and associated measures in the vicinity of the Property such works to include the following ("the Highways Works"):-</p> <p>a) reducing the crossover and resurfacing the footways adjacent to the Property;</p> <p>b) any other works the Council acting reasonably requires as a direct result of the Development,</p> <p>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</p>

		undertake any responsibility in connection with any required statutory undertakers works and excludes any statutory undertakers costs
2.22	"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 save for operations consisting of archaeological investigations, investigations for the purpose of assessing ground conditions, erection of any temporary means of enclosure, and Demolition and references to "Implementation" and "Implement" shall be construed accordingly
2.23	"Intermediate Housing"	Affordable Housing which is above target rents but is below open market levels and is affordable to people who at the commencement of their occupancy are in need of intermediate housing in terms set out in paragraph 3.61 of the London Plan (subject to annual reviews) to include Intermediate Rented Housing and other sub-market rent as agreed in writing by the Council
2.24	"Intermediate Rented Housing"	<p>Affordable Housing available for rent above target rents but below open market levels occupied on the following basis:-</p> <ul style="list-style-type: none"> <li>(a) comply with the requirements set out for housing of this type in the National Planning Policy Framework and the Homes and Communities Agency document entitled: <i>Affordable Homes Programme 2015-2018</i> and successor documents;</li> <li>(b) is consistent with Camden Supplementary Planning Document "Camden Planning</li> </ul>

		<p>Guidance CPG2 - Housing" and the requirements set out in paragraph 3.61 of the London Plan or its successor policies (subject to annual reviews);</p> <p>(c) provides housing where the annual housing costs for each intermediate rented home (including rent and service charge) shall:-</p> <p>(i) be affordable to rent to individuals who are on incomes of £30,000 - £40,000 per annum so that they are paying no more than 40% of net income on rent and service charge;</p> <p>(ii) not exceed the Inner North London Local Housing Allowance rates for homes with the same number of bedrooms;</p> <p>(iii) not exceed rents for market homes with the same number of bedrooms available in any part of the London Borough of Camden;</p> <p>(iv) have regard to such caps on overall benefits that the Government may introduce;</p> <p>(v) the annual rent payable not to increase by more than the percentage increase in the Consumer Price Index for the year plus 1%";</p> <p>(vi) tenancies for single households to be assured shorthold tenancies for a minimum term of 2 years;</p> <p>(vii) tenancies for shared households to be assured shorthold tenancies for a term of</p>
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		<p>6 months with the option of rolling over for a minimum term of 2 years where both parties are in agreement; and</p> <p>(viii) tenancies to be marketed to people who are registered on the Council's Intermediate Housing Register of Interest and let in accordance with the Council's Priority Matrix as set out in Schedule 1 of the Council's Intermediate Housing Strategy and successor policies.</p>
2.25	"Intermediate Rented Housing Units"	the 8 units of Intermediate Rented Housing forming part of the Development comprising 2 x studio; 4 x 1 bedroom units; and 2 x 2 -bedroom units the same as shown edged with a broken blue line on the floor plans annexed hereto at the Second Schedule
2.26	"King's Cross Construction Centre"	the Council's flagship skills construction training centre providing advice and information on finding work in the construction industry
2.27	"Local Procurement Code"	the code annexed to the Third Schedule hereto
2.28	"Market Housing Units"	the 60 Residential Units within the Development which are not Affordable Housing Units
2.29	"Occupation Date"	the date when any part of the Development is occupied pursuant to the Planning Permission but not including occupation by persons engaged in construction, fitting out or decoration or occupation for marketing or display or site security and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly

2.30	"the Parties"	mean the Council the Owner and the Mortgagee
2.31	"the Pedestrian Cyclist and Environmental Contribution"	the sum of £30,000 (thirty 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 provision of various transport pedestrian cycle and public realm improvements in the vicinity of the Development
2.32	"the Planning Application"	a planning application in respect of the development of the Property submitted to the Council and validated on 15 July 2016 and in relation to which a resolution to grant permission has been passed conditionally under reference number 2016/3975/P subject to conclusion of this Agreement
2.33	"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
2.34	"the Planning Permission"	a planning permission granted for the Development pursuant to the Planning Application substantially in the draft form annexed hereto at the Fourth Schedule
2.35	"the Property"	the land known as 5-17 Haverstock Hill London NW3 2BP the same as shown edged red on the site plan annexed hereto at the Second Schedule
2.36	"the Public Highway"	any carriageway footway and/or verge adjoining the Property maintainable at public expense



2.37	"Public Open Space Contribution"	the sum of £100,457 (one hundred thousand four hundred and fifty seven 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, maintenance and / or improvement of existing public open spaces and/or nature conservation improvements to parks and open space and/or the obtaining of land to make public open spaces in the vicinity of the Development
2.38	"Registered Provider"	a registered provider of Affordable Housing registered as such by the Regulator
2.39	"Regulator"	means the Regulation Committee, a statutory committee of the Home and Communities Agency, operating under the name Regulator of Social Housing and any successor organisation
2.40	"the Residential Units"	the 77 dwellings forming part of the Development and which comprises the Market Housing Units and the Affordable Housing Units
2.41	"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
2.42	"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
2.43	"Retail Units"	the retail units comprised within the Development

		coloured in light beige on the floor plans annexed hereto at the Second Schedule
2.44	"the Service Management Plan"	<p>a plan setting out a package of measures to be adopted by the Owner and approved by the Council from time to time for the management of the deliveries and servicing to the Property securing the minimisation of service vehicle with car conflicts and pedestrian movements and damage to amenity from such servicing and deliveries which shall include inter alia the following:-</p> <ul style="list-style-type: none"> <li>(a) a requirement for delivery and servicing vehicles to load/ unload from a specific suitably located area;</li> <li>(b) details of the person/s responsible for directing and receiving deliveries to the Property;</li> <li>(c) measures to avoid a number of delivery vehicles arriving at the same time;</li> <li>(d) likely frequency and duration of servicing movements and measures to be taken to avoid any conflicts;</li> <li>(e) likely nature of goods to be delivered;</li> <li>(f) the likely size of the delivery vehicles entering the Property;</li> <li>(g) measures taken to ensure pedestrian management and public safety during servicing including a statement setting out how highway safety will be maintained</li> </ul>

		<p>during servicing movements;</p> <p>(h) measures taken to address servicing movements on and around the Property with a view inter alia to combining and/or reducing servicing and minimise the demand for the same;</p> <p>(i) provision of swept path drawings to ascertain manoeuvring when entering and exiting the Property in accordance with the drawings submitted and agreed with the Council;</p> <p>(j) details of arrangements for refuse storage and servicing; and</p> <p>(k) 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</p>
2.45	"Social Rented Housing"	<p>Affordable Housing units available for rent in perpetuity such that:-</p> <p>(a) the total cost of rent and service and management charges meets targets for Social Rented Housing set by the Regulator from time to time;</p> <p>(b) the units comply with the requirements set out for housing of this type in the National Planning Policy Framework and the Homes and Communities Agency document entitled: <i>Affordable Homes Programme 2015-2018</i> and successor document;</p>

		<p>(c) provision is consistent with Camden Supplementary Planning Document "Camden Planning Guidance CPG2 - Housing" and the requirements set out in paragraph 3.61 of the London Plan or its successor policies (subject to annual reviews); and</p> <p>(d) the units are managed by the Council or a Registered Provider who has entered into a standard nominations agreement with the Council providing for nominations to the Council in respect of all such units within the Development</p>
2.46	Social Rented Housing Units"	the 9 units of Social Rented Housing forming part of the Development comprising 2 x 2-bedroom units and 7 x 3-bedroom units the same as shown edged in red on the floor plans annexed hereto at the Second Schedule
2.47	"the Sustainability Plan"	<p>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:-</p> <p>i) in respect of the Residential Units:</p> <p>(a) achieve the targets set out in the submission document entitled Sustainability Statement (No.54359) including sustainable design measures and climate change adaptation measures in line with policies contained in the Council's Core Strategy policy CS13 (Tackling climate change through promoting higher environmental standards) and Development Policy DP22 (Sustainable design and construction); and</p>

		<p>(b) achieve a maximum internal water use of 105 litres/person/day, allowing 5 litres/person/day for external water use</p> <p>ii) In respect of the Retail Units:</p> <p>(a) achieve the targets set out in the submission document entitled Sustainability Statement (No.54359) including BREEAM New Construction;</p> <p>(b) include a design stage Building Research Establishment Environmental Assessment Method (BREEAM) review report completed by a licensed BREEAM assessor in respect of the Retail Units with a target of achieving Excellent and attaining at least 60% of the credits in each of Energy and Water and 40% of the credits in Materials categories;</p> <p>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;</p> <p>iv) details of maintenance and management relative to sustainability measures included in the Sustainability Plan;</p> <p>v) measures to secure a post construction review of the Development by an appropriately</p>
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		<p>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</p> <p>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</p>
2.48	"the Travel Plan"	<p>a plan setting out a package of measures to be adopted by the Owner in the management of the Residential Units within the Development 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:-</p> <p>(a) the elements set out in the Fifth Schedule hereto;</p> <p>(b) provision for an initial substantial review of the plan within six months of the Occupation Date including provision of a TRICS after survey ensuring the plan is updated upon receipt of results of the review and further approved in writing by the Council;</p> <p>(c) a mechanism for monitoring and reviewing of the plan on the first anniversary of the Occupation Date;</p>

		<p>(d) 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;</p> <p>(e) provision for the appointment of Travel Plan Co-ordinator prior to the Occupation Date for a continuous period of not less than 6 years from the Occupation Date and a mechanism in place to advise the Council of direct contact details and any subsequent changes in the post; and</p> <p>(f) 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</p>
2.49	"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
2.50	"the Travel Plan Monitoring Contribution"	the sum of £ 3,061 (three thousand and sixty one 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

		Owner's Travel Plan over a six year period from the date of first Occupation of the Development
2.51	"TRICS"	the acronym for Trip Rate Information Computer System which is the UK's national system of trip generation analysis
2.52	"Viability Update Assessment"	<p>an assessment to be undertaken by the Owner and submitted to the Council in accordance with the terms of this Agreement such assessment to:-</p> <p>(a) be presented substantially in the same form as the Agreed Viability Appraisal or such other form as agreed by the Council in writing; and</p> <p>(b) be based on the same percentage developer's return on the overall Gross Development Value (i.e. 18.33%) as per the Agreed Viability Appraisal or such alternative percentages as agreed by the Council in writing,</p> <p>with a view inter alia to evidence to the Council's reasonable satisfaction the residual site value of the Property such assessment shall include (but not be limited to) the following:-</p> <p>(c) a copy of the Agreed Viability Appraisal;</p> <p>(d) 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 demonstrate any revenue</p>



		<p>received and/or costs incurred in relation to the Development;</p> <p>(e) a solicitors certification confirming the sales of the residential units forming part of the Development were arm's length third party bona fide transactions and not:-</p> <p>(i) designed to reduce the revenue received from sales of the residential units forming part of the Development;</p> <p>(ii) confined to transactions between the Owner and subsidiary companies of the Owner;</p> <p>(iii) transactions between the Owner and its employees; or</p> <p>(iv) transactions including deferred consideration coverage or loans or finance deals from the Owner;</p> <p>(f) payment of £5,000 to cover the Council's costs in verifying the material and information contained within the assessment;</p> <p>(g) details of any grant funding received in relation to the Development whether related to Affordable Housing or any other aspect of the Development;</p> <p>(h) any further information the Council acting</p>
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		reasonably requires
2.53	"Viability Update Deficit"	a negative figure or figure of zero produced from the Viability Update Assessment by taking the residual site value of the Development and subtracting the sum of £6.53 million ( <i>the existing land value benchmark figure</i> )
2.54	"Viability Update Surplus"	a positive figure produced from the Viability Update Assessment by taking the residual site value of the Development and subtracting the sum of £6.53 million ( <i>the existing land value benchmark figure</i> )
2.55	"the Wheelchair Accessible Accommodation Plan"	<p>a plan securing the following:-</p> <ul style="list-style-type: none"> <li>(a) the provision of 90% of the Market Housing Units as accessible and adaptable in accordance with Part M of the Building Regulations 2000 (as amended);</li> <li>(b) the provision of 7 of Market Housing Units as designed to be easily adaptable to meet the needs of a wheelchair user in accordance with Part M of the Building Regulations 2000 (as amended);</li> <li>(c) measures to ensure the Development is easily accessible to residents and visitors to the Development who are wheelchair users; and</li> <li>(d) principles of inclusive design and access inform and are fully integrated within the Development</li> </ul>

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

- 3.1 This Agreement is made in pursuance of Section 106 of the Act, and is a planning obligation for the purposes of Section 106 as aforesaid, and is also made in pursuance of Section 16 of the Greater London Council (General Powers) Act 1974 Section 111 of the Local Government Act 1972 and Section 1(1) of the Localism Act 2011 and Section 278 of the Highways Act 1980, and shall be enforceable by the Council against the Owner as provided herein and against any person deriving title to any part of the Property from the Owner and insofar as it is not a planning obligation its provisions may be enforceable by the Council under any relevant statutory powers.
- 3.2 Words importing the singular shall include the plural and vice versa and any words denoting actual persons shall include companies corporations and other artificial persons.
- 3.3 Any reference to a specific statute or statutes include any statutory extension or modification amendment or re-enactment of such statute and any regulation or orders made under such statute.
- 3.4 The clause and paragraph headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5 (except for 5.2), 6, 7 and 8 hereof all of which shall come into effect on the date hereof the covenants undertakings and obligations contained within this Agreement shall become binding upon the Owner upon the Demolition 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.
- 3.8 The Parties acknowledge that the Development shall be treated as being permanently designated as "car free" housing in accordance with Clause 4.4.1 and 4.4.2 for all relevant purposes..

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

The Owner hereby covenants with the Council as follows:-

##### 4.1 **AFFORDABLE HOUSING**

- 4.1.1 To commence all works of construction conversion and fitting out necessary to make the Affordable Housing Units as approved by the Council suitable for occupation as Affordable Housing and thereafter to proceed with and complete such works in a good and workmanlike manner using good quality materials to the reasonable satisfaction of the Council (as demonstrated by written notification to that effect) in accordance with the specification approved by a Registered Provider.
- 4.1.2 To ensure that the Affordable Housing Units shall not be otherwise used, occupied and shall be retained in perpetuity for no purpose other than (i) in respect of the Social Rented Units for the provision of Social Rented Housing for occupation by tenants at rental levels being in accordance with the targets set by the Regulator and (ii) in respect of the Intermediate Rented Housing Units for the provision of Intermediate Rented Housing as the case may be.
- 4.1.3 Not to Occupy or allow Occupation any part of the Development until such time as:
- (i) the Affordable Housing Units have been transferred or demised to a Registered Provider approved by the Council for a term of no less than 125 years; and
  - (ii) the works of construction conversion and fitting out of the Affordable Housing Units have been completed in accordance with the requirement of Sub-Clause 4.1.1 hereof.
- 4.1.6 To ensure that the Affordable Housing Units are constructed, occupied and used solely as Affordable Housing pursuant to the objects and purpose of the Council so as to provide accommodation for the households in need of Affordable Housing in accordance with the definition of the eligible persons criteria as agreed by the Government, the Homes and Community Agency (or successor bodies) or the Council from time to time.

- 4.1.7 The Registered Provider or the Council shall not dispose of its interest in the freehold or leasehold of the Affordable Housing Units or any part thereof (except by way of mortgage) other than to any other Registered Provider registered with the Regulator or any other body organisation or company registered with the Charity Commissioners for England and Wales and approved by the Homes and Communities Agency or the Regulator or the Council.

## 4.2 AFFORDABLE HOUSING REVIEW

- 4.2.1 The Parties agree that notwithstanding the remaining clauses in 4.2 of this Agreement, the Owner may at any time following Demolition pay the Council the Affordable Housing Deferred Contribution in full.
- 4.2.2 To submit the Viability Update Assessment to the Council for approval in writing either:-
- (a) on the date of issue of the Certificate of Practical Completion; or
  - (b) at any time after Implementation ALWAYS PROVIDED the Owner has exchanged on the sales of no less than 40 Market Housing Units forming part of the Development and provides sufficient information to the Council to evidence the same.
- 4.2.3 Not to complete on the sale of more than 40 Market Housing Units until such time as the Viability Update Assessment has been submitted to the Council for approval in writing.
- 4.2.4 Upon the issue of the approval of the Viability Update Assessment the Council will provide to the Owner the following:-
- (a) a certificate specifying the sum ("the Assessment Certified Sum") reasonably and properly expended by the Council in assessing the Viability Update Assessment; and

(b) a certificate specifying the sum ("the Viability Certified Sum") properly assessed by the Council as being recoverable from the Affordable Housing Deferred Contribution under the terms of this Agreement.

- 4.2.5 If the Assessment Certified Sum exceeds the payment made in accordance with clause 2.52(f) 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.
- 4.2.6 In the event the approved Viability Update Assessment shows a Viability Update Deficit the Viability Certified Sum shall be zero and the Owner shall have no obligation to pay the Affordable Housing Deferred Contribution or any part thereof.
- 4.2.7 In the event the Viability Update Assessment shows a Viability Update Surplus that is less than two times the Affordable Housing Deferred Contribution the Viability Certified Sum shall be half of the Viability Update Surplus.
- 4.2.8 In the event the Viability Update Assessment shows a Viability Update Surplus that is greater than or equal to two times the Affordable Housing Deferred Contribution the Viability Certified Sum shall be the full amount of the Affordable Housing Deferred Contribution.
- 4.2.9 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.
- 4.2.10 Not to complete on the sale or Occupy or permit Occupation of any more than 45 Market Housing Units until such time as the Council has confirmed receipt of the Viability Certified Sum in writing.
- 4.2.11 For the avoidance of doubt, the Owner shall not be liable to pay anything more than the Affordable Housing Deferred Contribution under clauses in 4.2

#### **4.3 ARCHITECT RETENTION**

- 4.3.1 Not to Implement or permit Implementation of the Development until the Council has confirmed that the final design of the Development has been prepared and detailed

by Piercy & Company Architects or other suitably qualified firm of architects having experience in high quality and high density mix use and flatted residential schemes ("the Approved Architect") as demonstrated by written notice to that effect.

4.3.2 Unless otherwise agreed in writing with the Council, to ensure that throughout the Construction Phase the Development shall not be carried out otherwise than in accordance with the final design (or such amendments to the final design as may be agreed in writing with the Council) as prepared by the Approved Architect and not to permit the carrying out of any works comprised in building out the Development at any time when the final design as prepared by the Approved Architect (or such amendments to the final design as may be agreed in writing with the Council) is not being complied with and in the event of non-compliance with this sub-clause the Owner shall upon notice from the Council forthwith take any steps required to remedy such non-compliance PROVIDED THAT nothing in this clause shall prevent the Owner during the Construction Phase from changing the Approved Architect to any other suitably qualified firm of architects having the requisite experience SUBJECT TO obtaining the Council's written agreement to the same.

4.3.3 Unless otherwise agreed in writing by the Council (such agreement not to be unreasonably withheld or delayed) not to Occupy or permit Occupation of any part of the Development until such time as the Approved Architect has confirmed in writing to the Council that the Development has been carried out and completed in accordance with the final design approved by the Planning Permission and any details approved pursuant to the conditions contained within the Planning Permission.

#### **4.4 CAR FREE**

4.4.1 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.

4.4.2 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).

4.4.3 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.4.1 and 4.4.2 in this Agreement shall continue to have effect in perpetuity.

4.4.4 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 4.4.1 and 4.4.2 of this Agreement.

#### **4.5 CONSTRUCTION MANAGEMENT PLAN**

4.5.1 On or prior to the Demolition to:

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

4.5.2 Not to Demolish nor allow Demolition of the Development until such time as the Council has:

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

4.5.3 Not to amend the approved Construction Management Plan without the further written approval of the Council.



- 4.5.4 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 Demolition Phase and 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.
- 4.5.5 To ensure that throughout the Demolition Phase and the Construction Phase the Development shall not be carried out otherwise than in strict accordance with the requirements of the approved Construction Management Plan (as amended from time to time in accordance with the terms of this Agreement) 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 reasonable steps required to remedy such non-compliance.

#### **4.6 EMPLOYMENT AND TRAINING PLAN**

- 4.6.1 Prior to the Demolition Date to submit to the Council for approval the Employment and Training Plan.
- 4.6.2 Not to Demolish nor permit Demolition until such time as the Council has approved the Employment and Training Plan as demonstrated by written notice to that effect.
- 4.6.3 Not to amend the approved Employment and Training Plan without the further written approval of the Council.
- 4.6.4 Unless otherwise agreed in writing by the Council, to ensure that throughout the Demolition Phase and the Construction Phase the Development shall not be carried out otherwise than in strict accordance with the requirements of the Employment and Training Plan (as may be amended in accordance with this Agreement) 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 Employment and Training Plan (as may be amended in accordance with this Agreement) are not being complied with and in the event of non-compliance with this sub-clause the Owner shall forthwith take any reasonable steps required to remedy such non-compliance.

#### **4.7 ENERGY EFFICIENCY AND RENEWABLE ENERGY PLAN**

- 4.7.1 On or prior to the Implementation Date to submit to the Council for approval the Energy Efficiency and Renewable Energy Plan.
- 4.7.2 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.
- 4.7.3 Not to amend the approved Energy Efficiency and Renewable Engery Plan without the further written approval of the Council.
- 4.7.4 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 (and as may be amended in accordance with this Agreement) have been incorporated into the Property.
- 4.7.5 Unless otherwise agreed in writing by the Council, ffollowing 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 amended from time to time in accordance with the terms of the Agreement and shall not Occupy or permit Occupation of the Development otherwise than in strict accordance with the requirements of the Sustainability Plan, unless otherwise agreed in writing by the Council.

#### **4.8 HIGHWAYS WORKS**

- 4.8.1 On or prior to the Demolition Date to pay to the Council the Highways Contribution in full.
- 4.8.2 Not to Implement or to allow Demolition until such time as the Council has received the Highways Contribution in full.
- 4.8.3 For the avoidance of doubt the Owner acknowledges that the Council has the right reserved to it to construct the Public Highway to levels it considers appropriate and does not undertake any responsibility in connection with any required statutory

undertakers works and that the Highways Contribution excludes any statutory undertakers costs.

- 4.8.4 On completion of the Highway Works the Council may provide to the Owner a certificate specifying the reasonably incurred sum ("the Certified Sum") expended by the Council in carrying out the Highway Works.
- 4.8.5 If the Certified Sum exceeds the Highways Contribution then the Owner shall within fourteen days of the issuing of the said certificate pay to the Council the amount of the excess.
- 4.8.6 If the Highways Contribution exceeds the Certified Sum then the Council shall within fourteen days of the issuing of the said certificate pay to the Owner the amount of the surplus unexpended amount.

#### **4.9 LOCAL EMPLOYMENT**

- 4.9.1 The Owner shall (unless agreed otherwise by the Council in writing) in carrying out the works comprised in the Demolition Phase and the Construction Phase of the Development work in partnership with (i) the King's Cross Construction Centre; and (ii) take the following specific measures to ensure:-
- a) construction Industry Training Board benchmarks for local employment are met or exceeded when recruiting construction-related jobs;
  - b) all contractors and sub-contractors provide information about all vacancies arising as a result of the Demolition Phase and the Construction Phase of the Development to the King's Cross Construction Centre;
  - c) the King's Cross Construction Centre is notified of all vacancies, arising from the building contract for the Development for employees, self-employees, contractors and sub-contractors;
  - d) ensuring advertising of all construction vacancies exclusively through Kings Cross Construction Centre for a period of no less than one week before promoting more widely;

- e) that the King's Cross Construction Centre is supplied with a full labour programme for the Demolition Phase and Construction Phase (with six-monthly updates) demonstrating: (i) what skills and employment are needed through the Demolition Phase and Construction Phase, and (ii) 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; and
- f) from the Demolition Date, the Council is provided with a detailed six-monthly labour return for monitoring the employment and self-employment profile of all workers referred by the Kings Cross Construction Centre and employed during the Demolition Phase and the Construction Phase.

4.9.2 Subject to Clause 4.9.8 the Owner shall ensure that at all times during the Demolition Phase and the Construction Phase no less than 12 construction apprentice shall be employed at the Development always ensuring each apprentice shall be:-

- (i) recruited through the Kings Cross Construction Centre;
- (ii) employed for a period of not less than 52 weeks;
- (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>; and
- (iv) the Construction Apprentice Support Contribution (based on the each individual apprentice placement) has been paid in full.

4.9.3 The Owner shall ensure that during the Demolition Phase and the Construction Phase an agreed number of work placements and/or work experience opportunities are provided at the Development of no less than 2 weeks each to be recruited through the Kings Cross Construction Centre.

4.9.4 Notwithstanding the provisions in clauses 4.9.2 and 4.9.3 (above) of this Agreement, during the Demolition Phase and 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 Kings Cross Construction.

- 4.9.6 On or prior to the Demolition Date to pay the Council the Construction Apprentice Support Contribution in full.
- 4.9.7 Not to Demolish or permit Demolition until such time as the Construction Apprentice Support Contribution has been paid to the Council in full.
- 4.9.8 If the Owner is unable to provide the apprentices in accordance with Clause 4.9.2 of this Agreement for reasons demonstrated to the satisfaction of the Council it shall:
- a) forthwith pay the Council the Construction Apprentice Default Contribution in respect of each individual apprentice placement not provided in the amount of £7,000 (seven thousand pounds) per apprentice;
  - b) shall not Occupy or permit Occupation until such time as the Construction Apprentice Default Contribution (based on the each individual apprentice placement not provided) has been paid in full.

#### **4.10 LOCAL PROCUREMENT**

- 4.10.1 Prior to Demolition 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.
- 4.10.2 On or prior to Demolition 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.
- 4.10.3 Unless otherwise agreed in writing with the Council, to ensure that throughout the construction of the Development it 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 reasonable steps required to remedy such non-compliance.

4.10.4 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.

#### **4.11 PEDESTRIAN CYCLIST AND ENVIRONMENTAL CONTRIBUTION**

4.11.1 On or prior to the Implementation Date to pay to the Council the Pedestrian Cyclist and Environmental Contribution in full.

4.11.2 Not to Implement or to permit Implementation until such time as the Council has received the Pedestrian Cyclist and Environmental Contribution in full.

#### **4.12 PUBLIC OPEN SPACE CONTRIBUTION**

4.12.1 On or prior to the Implementation Date to pay to the Council the Public Open Space Contribution.

4.12.2 The Owner hereby covenants with the Council not to Implement or to permit Implementation until such time as the Council has received the Public Open Space Contribution.

#### **4.13 SERVICE MANAGEMENT PLAN**

4.13.1 On or prior to the Implementation Date to submit to the Council for approval the Service Management Plan.

4.13.2 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.

4.13.3 Not to amend the approved Service Management Plan without the further written approval of the Council.

4.13.4 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 accordance with the Service Management Plan as approved by the Council from time

to time (and as may be amended in accordance with this Agreement) and shall not Occupy or permit Occupation of the Development otherwise than in accordance with the requirements of the approved Service Management Plan (as may be amended in accordance with this Agreement).

#### **4.14 SUSTAINABILITY PLAN**

- 4.14.1 On or prior to the Implementation Date to submit to the Council for approval the Sustainability Plan.
- 4.14.2 Not to Implement nor permit Implementation until such time as the Council has approved the Sustainability Plan as demonstrated by written notice to that effect.
- 4.14.3 Not to amend the approved Sustainability Plan without the further written approval of the Council.
- 4.14.4 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 Sustainability Plan as approved by the Council have been incorporated into the Development, unless otherwise agreed in writing by the Council.
- 4.14.5 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 from time to time and shall not Occupy or permit Occupation of the Development otherwise than in strict accordance with the requirements of the Sustainability Plan, unless otherwise agreed in writing by the Council.

#### **4.15 TRAVEL PLAN**

- 4.15.1 On or prior to the Occupation Date to:
  - (i) pay to the Council the Travel Plan Monitoring Contribution in full; and
  - (ii) submit to the Council the Travel Plan for approval.

4.15.2 Not to Occupy or permit Occupation of any part of the Development until such time as the Council has:

- (i) received the Travel Plan Monitoring Contribution in full
- (ii) approved the Travel Plan as demonstrated by written notice to that effect.

4.15.3 Not to amend the approved Travel Plan without the further written approval of the Council.

4.15.4 The Owner covenants with the Council to implement and comply with the measures contained within the approved Travel Plan (as may be amended in accordance with this Agreement) and 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 Travel Plan as approved by the Council from time to time (and as may be amended in accordance with this Agreement) and in the event of non-compliance with this clause the Owner shall upon notice from the Council forthwith take any steps reasonably and properly required by the Council to remedy such non-compliance.

#### **4.16 WHEELCHAIR ACCESSIBLE ACCOMMODATION PLAN**

4.16.1 On or prior to the Implementation Date to submit to the Council for approval the draft Wheelchair Accessible Accommodation Plan.

4.16.2 Not to Implement nor permit Implementation until such time as the Council has approved the Wheelchair Accessible Accommodation Plan as demonstrated by written notice to that effect.

4.16.3 Not to amend the approved Wheelchair Accessible Accommodation Plan without the further written approval of the Council.

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 Wheelchair Accessible Accommodation Plan as approved by the Council from time to time (and as may be amended in accordance with this Agreement) and shall not Occupy or permit Occupation of the



Development otherwise than in strict accordance with the requirements of the Wheelchair Accessible Accommodation Plan (as may be amended in accordance with this Agreement).

5. **NOTICE TO THE COUNCIL/OTHER MATTERS**

- 5.1 The Owner shall give written notice to the Council on or prior to the both the Demolition Date and Implementation Date specifying that Demolition or Implementation of the Planning Permission (as the case may be) has taken or is about to take place.
- 5.2 Within seven days following completion of the Development the Owner shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 6.1 hereof quoting the Planning Permission reference 2016/3975/P the date upon which the Development is ready for Occupation.
- 5.3 The Owner shall act in good faith and shall co-operate with the Council to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests of the Council to have access at reasonable notice to any part of the Property or any requests to provide documentation within the Owner's possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein.
- 5.4 The Owner agrees declares and covenants with the Council that it shall observe and perform the conditions restrictions and other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision imposed by this Agreement and further shall indemnify the Council for any expenses or liability arising to the Council in respect of breach by the Owner of any obligations contained herein save to the extent that any act or omission of the Council its employees or agents has caused or contributed to such expenses or liability.
- 5.5 If satisfied as to the compliance of the Owner in respect of any obligation in this Agreement the Council shall (if requested to do so in writing and subject to payment of a fee of £1,000 in respect of each such obligation) provide through its Head of

Legal Services a formal written certification of compliance, partial compliance or ongoing compliance (as and if appropriate) with the provisions of any such obligation.

- 5.6 Upon the performance, discharge or other fulfilment of the obligations of the Owner under this Agreement, such obligations shall absolutely cease and determine save in the respect of any antecedent breach.
- 5.7 Submission of any plan for approval by the Council under the terms of this Agreement shall be made by the Owner to the Council sending the full document and any appendices in electronic format (where practicable) to the Planning Obligations Monitoring Officer referring to the names dates and Parties to this Agreement and citing the specific clause of this Agreement to which such plan relates quoting the Planning Permission reference 2016/3975/P.
- 5.8 Payment of a contribution pursuant to this Agreement shall be made by the Owner to the Council sending the full amount via electronic transfer (where practicable). The Owner shall notify the Planning Obligations Monitoring Officer that payment has been made referring to names date and Parties to this Agreement and citing the specific clause of this Agreement to which such contribution relates quoting the planning reference 2016/3975/P. Electronic Transfer be made 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.
- 5.9 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.
- 5.10 Any sums referred to in this Agreement as payable or to be applied by any party other than the Council under this Agreement shall be paid or applied TOGETHER WITH if such payment or application is made more than three months from the date of this Agreement a further sum ("A") being equal to the original sum payable ("B") multiplied by a figure being a fraction of which the All Items of Retail Prices ("the

AIIRP") figure last published by the Central Statistical Office at the date hereof is the denominator ("X") and the last AIIRP figure published before the date such payment or application is made ("Y") less the last published AIIRP figure at the date hereof ("X") is the numerator so that

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

- 5.11 All costs and expenses payable to the Council under this Agreement shall bear interest at the rate of 4% above the Base Rate of the National Westminster Bank plc from time to time being charged from the date such payment is due until payment is made.

6. **IT IS HEREBY AGREED AND DECLARED** by the Parties hereto that:-

- 6.1 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval or agreement to be served under or in connection with this Agreement and any such notice or approval shall be in writing and shall specifically refer to the name, date and Parties to the Agreement and shall cite the clause of the Agreement to which it relates and in the case of notice to the Council shall be addressed to the London Borough of Camden, Planning Obligations Officer, Urban Design and Renewal, Planning and Public Protection, Culture and Environment Directorate, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the Planning Permission reference number 2016/3975/P and in the case of any notice or approval or agreement from the Council this shall be signed by a representative of the Council's Environment Department.
- 6.2 This Agreement shall be registered as a Local Land Charge.
- 6.3 The Owner agrees to pay the Council its proper and reasonable legal costs incurred in preparing this Agreement on or prior to the date of completion of the Agreement.
- 6.4 The Owner hereby covenants with the Council that it will within 28 days from the date hereof apply to the Chief Land Registrar of the Land Registry to register this Agreement in the Charges Register of the title to the Property and will furnish the

Council forthwith on written demand with official copies of such title to show the entry of this Agreement in the Charges Register of the title to the Property.

- 6.5 Nothing contained or implied in this Agreement shall prejudice or affect the Council's powers to enforce any specific obligation term or condition nor shall anything contained or implied herein prejudice or affect any provisions, rights, powers, duties and obligations of the Council in the exercise of its functions as Local Planning Authority for the purposes of the Act or as a local authority generally and its rights, powers, duties and obligations under all public and private statutes, bye laws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement.
- 6.6 Neither the Owner or the Mortgagee nor their successors in title nor any person deriving title from them shall be bound by the obligations in this Agreement in respect of any period during which it no longer has an interest in the Property but without prejudice to liability for any breach committed prior to the time it disposed of its interest.
- 6.7 For the avoidance of doubt the provisions of this Agreement (other than those contained in this sub-clause) shall not have any effect until this Agreement has been dated.
- 6.8 If the Planning Permission is quashed or revoked or otherwise withdrawn or expires before effluxion of time for the Demolition or Implementation of Development this Agreement shall forthwith determine and cease to have effect.
- 6.9 Subject to the provisions of paragraph (i) – (iii) below the restrictions contained in Clause 4.1 hereof shall not be binding upon a mortgagee or chargee ("the Chargee") of the Registered Provider of the Affordable Housing Units nor any receiver appointed by such Chargee or on any person deriving title from such Chargee in possession PROVIDED that the following conditions have been satisfied:
- i) In the event of the Registered Provider entering into liquidation or having a receiver or administrative receiver appointed or such steps are taken or legal proceedings are initiated for its winding up or defaults on any other terms of the mortgage or charge so that the Chargee exercises its power of sale then any

Chargee of the Affordable Housing Units or any such receiver or administrative receiver shall give notice to the Council of its intention to dispose ("the Default Notice").

- ii) In the event of receipt of a Default Notice the Council shall be at liberty for a period of three calendar months from receipt of the Default Notice ("the Specified Period") to seek to identify another Registered Provider to agree to take a transfer of the Affordable Housing Units.
- iii) If the Council having failed to locate another Registered Provider ready able and willing to take a transfer of the Affordable Housing Units within the Specified Period then should the Chargee or any such receiver or administrative receiver take possession of the Affordable Housing Units as appropriate otherwise enforce its security in relation to the same at any time thereafter then the Specified Period shall be deemed to have elapsed and the obligations of any Chargee and the terms of this Agreement shall be determined in relation to the Affordable Housing Units and shall cease to bind the Affordable Housing Units ALWAYS PROVIDED that any person claiming title from a Chargee, receiver or administrative receiver who has obtained title to the Affordable Housing Units after the procedure set out in this sub Clause has been followed shall not be bound by the restrictions contained in Clause 4.1 hereof as will any person deriving title therefrom.

6.10 For the purposes of Clause 6.9(i) of this Agreement service of the Default Notice on the Council must be sent to each and all of the following recipients (or their successor position or title) quoting the address of the property and planning reference 2016/3975/P for the Default Notice to be properly served:-

- (a) The Chief Executive;
- (b) The Director of Culture and Environment;
- (c) The Assistant Director Regeneration and Planning;
- (d) The Planning Obligations Monitoring Officer; and
- (e) The Head of Legal Services.

6.11 Any tenant (or person claiming title from such tenant or any successors in title thereto and their respective mortgagees and chargee) of a Registered Provider at the

Property who exercises a right to acquire pursuant to the Housing Act 1996 (or any statutory successor thereto) or has subsequently purchased from the Registered Provider all the remaining shares of a Shared Ownership unit so that the tenant owns the entire Affordable Housing Unit (staircased to 100%) shall be released from the obligations of Clause 4.1.

6.12 The relevant Registered Provider shall use all Reasonable Endeavours to apply the monies received by the Registered Provider in respect of the sale of such tenant for the provision of Affordable Housing within the London Borough of Camden in the first instance or, in the event the Registered Provider can show to the Council's reasonable written satisfaction that such funds are unable to be applied within the London Borough of Camden, within the North London Region (or successor region).

6.13 This Agreement is to be governed by and interpreted in accordance with the laws of England and Wales. The courts of England and Wales are to have jurisdiction in relation to any disputes between the parties arising out of or related to this Agreement.

## **7. MORTGAGEE EXEMPTION**

7.1 The Mortgagee hereby consents to the Owner entering into this Agreement and agrees that the security of its charges over the Property shall take effect subject to this Agreement PROVIDED THAT it shall have no liability under this Agreement unless it becomes mortgagee in possession of the Property.

7.2 The Parties agree that the obligations contained in this Agreement 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 respect of its interest in the Property.

## **8. RIGHTS OF THIRD PARTIES**

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

9. **COUNCIL COVENANTS**

- 9.1 The Council shall use reasonable endeavours to liaise with the Owner's project manager for the Development (should the Owner's project manager contact the Council) to establish a programme that aims to have the Highways Works completed at the same time as the Development and the Council shall use its reasonable endeavours to achieve that aim.
- 9.2 Where the agreement, approval, consent or expression of satisfaction is required from the Council under the terms of this Agreement such agreement, approval, consent or expression of satisfaction shall not be unreasonably withheld or delayed.
- 9.3 The Council shall act reasonably and proportionately when seeking to enforce any of the terms of this Agreement including notifying the Owner of any obligation to which the Council considers has been breached and stating what steps the Council considers to be required in order to bring about compliance with such obligation or obligations and allowing a reasonable period of time to rectify such breaches before taking enforcement action and agrees that the obligations in this Agreement shall only be enforceable against the Owner to the extent that they relate to the interest it holds at the relevant time.
- 9.4 Payment of the Contributions referred to in this Agreement shall be made on the basis that the Contribution shall only be applied by the Council towards the purposes specified in this Agreement PROVIDED THAT if any part of such Contribution has not been expended or committed for such purposes at the end of the expiration of 10 years from receipt of payment of that Contribution or Occupation (whichever is the later) (and in the case of Contributions payable in instalments where all the necessary instalments are necessary to address the impacts created by the extent of the Development that has been constructed at that time the date when the whole of that Contribution shall have been paid) the uncommitted or unexpended balance of the Contribution shall be repaid by the Council to the person who paid the relevant contribution following a request in writing to the Council ALWAYS PROVIDED for the avoidance of doubt, sums or any part of them shall be deemed to have been

committed if the Council has entered into any contract or given any commitment or undertaking (whether enforceable at law or otherwise) the performance or fulfilment of which will require the Council to expend such sums in the future AND ALWAYS FURTHER PROVIDED the Council shall on written request of the party who actually paid the sum provide such evidence as may reasonably be required in order to confirm the expenditure of the sums paid under this Agreement.

**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  
CAMBRIDGE GATE PROPERTIES LIMITED  
acting by a Director:

Director Name: (CAPITALS)

Director Signature:

In the presence of:

Witness Name: (CAPITALS)

Witness Signature:

Witness Address:

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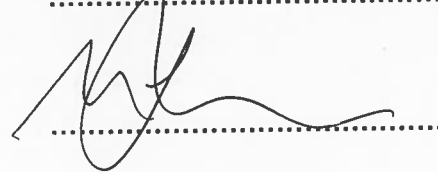
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MARK STEWART



MONICA TANAYO.

Monica T.

Flat 1, POND HOUSE, POND PLACE, SW3 6QU.



EXECUTED as a DEED by SG KLEINWORT  
HAMBROS BANK LIMITED acting by two  
Directors/a Director and the Secretary:

)  
)  
)  
)



Director John Maitland



Director/Secretary Mohammed Chokeir

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

  
.....  
Authorised Signatory



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

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

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

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

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

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

**THE SECOND SCHEDULE**  
**SITE PLAN AND FLOOR PLANS**

