

DATED

2019

(1) QHA LIMITED

and

(2) LLOYDS BANK PLC

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

30- 32 ALBANY STREET, LONDON, NW1 4EA

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 1(1) of the Localism Act 2011

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

Tel: 020 7974 1478

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CLS/COM/PM/
FINAL 040719

THIS AGREEMENT is made the day of 2019

B E T W E E N:

- i. **QHA LIMITED** (company registration number: 05893443) of [REDACTED] and 32 Albany Street, London, NW1 4EA (hereinafter called "the Owner") of the first part;
- ii. **LLOYDS BANK PLC** (company registration number: 2065) of Pendeford Securities [REDACTED] (hereinafter called "the Mortgagee") of the second part;
- iii. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the third part;

1. WHEREAS

- 1.1 The Owner is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number NGL551682 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 25th October 2017 and the Council resolved to grant permission conditionally under reference number 2017/4134/P subject to conclusion of this legal Agreement.
- 1.4 The Council is the local planning authority for the purposes of the Act for the area in which the Property is situated and considers it expedient in the interests of the proper planning of its area that the development of the Property should be restricted or regulated in accordance with this Agreement.
- 1.5 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.

1.6 The Mortgagee as mortgagee under a legal charge registered under Title Number NGL551682 and dated 19th June 2009 is willing to enter into this agreement and 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 housing including social rented housing, affordable rented housing that meets the needs of people who cannot afford to occupy homes available in the open market in accordance with the National Planning Policy Framework and successor documents
- 2.3 "the Agreement" this Planning Obligation made pursuant to Section 106 of the Act
- 2.4 "the Development" Change of use of first and second floors from ancillary kitchen, function room and landlord accommodation to public house (Class A4), to create 3 x 1-bed serviced apartments at first and second floor levels (Class C1) and 1 x 3-bed ancillary landlord accommodation (Class A4) at second and third floor levels; erection of three storey rear/side extension and insertion of new rear/side door to existing yard; installation of 3 x rear/side dormer windows; excavation of existing basement down by 0.45m and installation of new external metal staircase to front lightwell as

shown on 240 01-00; 240 01-01; 240 01-02; 240 01-03; 240 01-04; 240 01-05; 240 01-06; 240 01-08; 240 01-09 A; 240 01-10 A; 240 01-11; 240 01-12; 240 02-01 D; 240 02-02 D; 240 02-03 C; 240 02-04 C; 240 02-05 Cx; 240 02-06 C; 240 02-08 A; 240 02-09 E; 240 02-10 C; 240 02-11 D; 240 02-12 A; 240 02-15 C; 240 02-18; Design and Access Statement (prepared by Tillman Architects, dated June 2017); Second Supporting Statement (prepared by Trowers & Hamlins Ltd, received 12/11/2018); Supporting Statement (prepared by Trowers & Hamlins Ltd, received 18/07/2017).

2.5 "the Existing Occupiers"

██████████ and ██████████

2.6 "the Implementation Date"

the date of implementation of the Development by the carrying out of a material operation as defined in Section 56 of the Act and references to "Implementation" and "Implement" shall be construed accordingly

2.7 "the Landlord Accommodation Unit"

the residential accommodation unit to be used strictly in conjunction with the Public House and occupied by reason of employment in the A4 use (regardless of whether a relationship of landlord and tenant is created with the Owner) and located on the second and third floor level of the Property as shown outlined in blue on Plan 2

2.8 "Occupation Date"

the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly

2.9 "the Parties"

mean the Council the Owner and the Mortgagee

- 2.10 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 25th October 2017 for which a resolution to grant permission has been passed conditionally under reference number 2017/4134/P subject to conclusion of this Agreement
- 2.11 "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
- 2.12 "Plan 1" the plan appended at Appendix 1 showing the Property
- 2.13 "Plan 2" the plan (drawing numbers 240 02-03D, 240 02-04D, 240 02-05D) appended at Appendix 2 showing the Landlord Accommodation Unit outlined in blue and the Serviced Accommodation Units outlined in red.
- 2.14 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto.
- 2.15 "the Property" the land known as 30- 32 Albany Street, London, NW1 4EA the same as shown shaded grey on the Plan 1 annexed hereto

- 2.16 "the Public House" the drinking establishment (currently known as the Queen's Head and Artichoke) being part of the Property (Class A4 of the Use Classes Order) and for the avoidance of doubt includes the Landlord Accommodation Unit
- 2.17 "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
- 2.18 "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
- 2.19 "Serviced Accommodation Unit" any of the three 1 bed units in the Property to be rented by the Owner as temporary living accommodation (within C1 use of the Use Classes Order) and to not be Occupied by the same person(s) for more than twenty eight consecutive days and located on the first and second floor of the Property as shown outlined in red on Plan 2 annexed hereto
- 2.20 Use Classes Order means the Town and Country Planning (Use Classes) Order 1987 (as amended)

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

- 3.1 This Agreement is made in pursuance of Section 106 of the Act, and is a planning obligation for the purposes of Section 106 as aforesaid, and shall be enforceable by

the Council against the Owner as provided herein and against any person deriving title to any part of the Property from the Owner and insofar as it is not a planning obligation its provisions may be enforceable by the Council under any relevant statutory powers.

- 3.2 Words importing the singular shall include the plural and vice versa and any words denoting actual persons shall include companies corporations and other artificial persons.
- 3.3 Any reference to a specific statute or statutes include any statutory extension or modification amendment or re-enactment of such statute and any regulation or orders made under such statute.
- 3.4 The clause and paragraph headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6, 7 and 8 hereof all of which shall come into effect on the date hereof the covenants undertakings and obligations contained within this Agreement shall become binding upon the Owner upon the Implementation Date.
- 3.6 The Council hereby agrees to grant the Planning Permission on the date hereof.
- 3.7 The Parties save where the context states otherwise shall include their successors in title.
- 3.8 The Parties acknowledge that the Development shall be treated as being permanently designated as "car free" housing in accordance with Clause 4.1 for all relevant purposes.

4. **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

4.1 **CAR FREE**

- 4.1.1 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.
- 4.1.2 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).
- 4.1.3 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.1.1 and 4.1.2 in this Agreement shall continue to have effect in perpetuity.
- 4.1.4 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 4.1.1 and 4.1.2 of this Agreement.

4.2 EXEMPTION FROM CAR FREE REQUIREMENT

- 4.2.1 The restrictions in Clause 4.1.1 and 4.1.2 of this Agreement shall not apply to the Landlord Accommodation Unit (forming part of the Development) for the period of time that the Existing Occupiers can demonstrate the following to the Council's reasonable satisfaction:-
- a. that the Existing Occupiers have returned to Occupy the Landlord Accommodation Unit as their primary home following completion of the Development; and

b. that all utilities bills, Council Tax invoices and bank statements are addressed to the Existing Occupiers at the specified address of the Landlord Accommodation Unit.

4.2.2 The Parties acknowledge that the Landlord Accommodation Unit shall only be exempt from the obligation contained in clause 4.1 while the Existing Occupiers are in Occupation of the Landlord Accommodation Unit.

4.2.3 The Owner shall give written notice to the Council when the Existing Occupiers are no longer in Occupation of the Landlord's Accommodation in the Development.

4.3 THE LANDLORD ACCOMMODATION UNIT

4.3.1 The Landlord Accommodation Unit to be Occupied strictly in conjunction with the use of the Public House in Class A4 use of the Use Classes Order.

4.3.2 Not to allow Occupation (or permit the Occupation or use of) the Landlord Accommodation Unit unless by Occupiers employed to work in the Public House.

4.3.3 For the avoidance of any doubt if at any time after the date of this Agreement the use Public House in the Property should cease then the Occupation of the Landlord Accommodation Unit shall also cease.

4.3.4 If any time after the date of this Agreement the Owner allows or permits the Occupation of the Landlord Accommodation Unit as residential accommodation to person(s) not employed in the use of the Public House (for the purposes of letting or sale) then the Owner (or successor in title in whole or part) shall:

(a) make an application to the Council for planning permission or approval under a Development Order (or other such similar or successor legislation) for the additional unit or floorspace for residential (C3 of the Use Classes Order) purposes at the Property AND

(b) shall enter into a s106 agreement with the Council prior to the grant of such planning permission or approval under Development Order for the creation of such additional residential (C3) floorspace / units and securing an

appropriate Affordable Housing contribution be provided (either as on-site Affordable Housing contribution, off-site Affordable Housing contribution or financial contribution towards Affordable Housing provision in the Borough) with such contribution to be calculated by reference to adopted planning policy and guidance and be subject to the aggregate total of residential (C3) units / floorspace in the Property at such time and the additional residential floorspace to be created under this clause (and under clauses 4.4 and 4.5 (as the case may be)) in the Property;

- 4.3.5 Not Occupy or allow Occupation of any of the additional residential (C3) floorspace created under Clause 4.3.4 of this Agreement until such time that the appropriate Affordable Housing contribution has been provided either as on-site Affordable Housing contribution, off-site Affordable Housing contribution or financial contribution towards Affordable Housing provision in the Borough (whichever is appropriate under application of the relevant planning policy or guidance).
- 4.3.6 The calculation under this clause shall apply to all successors in title of the Property whether or not their ownership of the Property is for whole or part.

4.4 THE SERVICED ACCOMMODATION UNIT

- 4.4.1 Each Serviced Accommodation Unit to be used for temporary accommodation within a C1 use of the Use Classes Order.
- 4.4.2 Not to allow Occupation (or permit the occupation or use) of a Serviced Accommodation Unit unless it is in strictly within a C1 use.
- 4.4.3 The Owner shall ensure that the number of consecutive nights occupied by the same person(s) in any of the individual Serviced Accommodation Unit in the Property does not exceed 28 (twenty eight).
- 4.4.4 The Owner shall retain a record of the rental occupation of each Serviced Accommodation Unit during each calendar year of Occupation and identify means of providing this information to the Council should it be required for inspection from time to time.

4.4.5 If at any time after the date of this Agreement the Owner allows the Occupation of a Serviced Accommodation Unit as residential accommodation in a C3 use of the Use Classes Order (whether for the purposes of letting or a future sale) then the Owner (or successor in title in whole or part) shall:

(a) make an application to the Council for planning permission or approval under a Development Order (or other such similar or successor legislation) for the development of additional units or additional floorspace for residential (C3) purposes at the Property AND

(b) shall enter into a s106 agreement with the Council prior to the grant of such planning permission or approval under Development Order for the creation of such additional residential (C3) floorspace / units and securing an appropriate Affordable Housing contribution be provided (either as on-site Affordable Housing contribution, off-site Affordable Housing contribution or financial contribution towards Affordable Housing provision in the Borough) with such contribution to be calculated by reference to adopted planning policy and guidance and be subject to the aggregate total of residential (C3) units / floorspace in the Property at such time and the additional residential floorspace to be created under this clause (and clauses 4.3 and 4.5 (as the case may be)) in the Property.

4.4.6 Not to Occupy or allow Occupation of any of the additional residential (C3) floorspace created under Clause 4.4.5 of this Agreement until such time that the appropriate Affordable Housing contribution has been provided either as on-site Affordable Housing contribution, off-site Affordable Housing contribution or financial contribution towards Affordable Housing provision in the Borough (whichever is appropriate under application of the relevant planning policy or guidance).

4.4.7 The calculation under this clause shall apply to all successors in title of the Property whether or not their ownership of the Property is for whole or part.

4.5 **POTENTIAL REQUIREMENT TO PROVIDE AFFORDABLE HOUSING**

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

(a) any application for planning permission or approval under a Development Order (or other such similar or successor legislation) which gives rise to the

development of additional units or additional floorspace for residential (C3) use purposes at the Property; and/or

(b) any additional floorspace is created on the Property for residential (C3) use purposes; and/or

(c) any additional units are created within the Property (including by means of sub-division) for residential (C3) use purposes;

then the Owner shall enter into a s106 agreement with the Council prior to the grant of such planning permission or approval under Development Order allowing the creation of such additional residential (C3) floorspace / units securing the following:-

- 4.5.2 That an appropriate Affordable Housing contribution is provided (either as on-site Affordable Housing contribution, off-site Affordable Housing contribution or financial contribution towards Affordable Housing provision in the Borough) and such contribution to be calculated by reference to adopted planning policy and guidance subject to the aggregate total of residential (C3) units / floorspace permitted by the Planning Permission and the additional residential floorspace created under clause 4.5.1 (or clause 4.3 or 4.4) within the Property.
- 4.5.3 Not to Occupy or allow Occupation of any of the additional residential (C3) floorspace created under Clause 4.5.1 of this Agreement until such time that the appropriate Affordable Housing contribution has been provided either as on-site Affordable Housing contribution, off-site Affordable Housing contribution or financial contribution towards Affordable Housing provision in the Borough (whichever is appropriate under application of the relevant planning policy or guidance).
- 4.5.4 The calculation of Affordable Housing contribution under this clause shall apply to all successors in title of the Property whether their ownership of the Property remains in whole or in part of the Property.

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

- 5.1 The Owner shall give written notice to the Council on or prior to the Implementation Date specifying that Implementation of the Planning Permission has taken or is about to take place.
- 5.2 Within seven days following completion of the Development the Owner shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 6.1 hereof quoting the Planning Permission reference 2017/4134/P the date upon which the Development is ready for Occupation.
- 5.3 The Owner shall act in good faith and shall co-operate with the Council to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests of the Council to have access to any part of the Property or any requests to provide documentation within the Owner's possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein.
- 5.4 The Owner agrees declares and covenants with the Council that it shall observe and perform the conditions restrictions and other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision imposed by this Agreement and further shall indemnify the Council for any expenses or liability arising to the Council in respect of breach by the Owner of any obligations contained herein save to the extent that any act or omission of the Council its employees or agents has caused or contributed to such expenses or liability.
- 5.5 If satisfied as to the compliance of the Owner in respect of any obligation in this Agreement the Council shall (if requested to do so in writing and subject to payment of a fee of £1,000 in respect of each such obligation) provide through its Head of Legal Services a formal written certification of compliance, partial compliance or ongoing compliance (as and if appropriate) with the provisions of any such obligation.
- 5.6 Submission of any plan for approval by the Council under the terms of this Agreement shall be made by the Owner to the Council sending the full document and any appendices in electronic format (where practicable) to the Planning Obligations Monitoring Officer referring to the names dates and Parties to this Agreement and citing the specific clause of this Agreement to which such plan relates quoting the Planning Permission reference 2017/4134/P.

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, Placeshaping Service, Urban Design and Development Team, 2nd Floor, 5 Pancras Square, London, N1C 4AJ quoting the Planning Permission reference number 2017/4134/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, 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 commencement of development this Agreement shall forthwith determine and cease to have effect.

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.

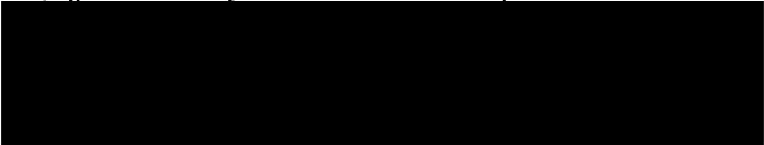
7.2 The Parties agree that the obligations contained in this Agreement shall not be enforceable against any mortgagee or chargee of the whole or any part of the Property unless it takes possession of the Property in which case it will be bound by the obligations as a person deriving title from the Owner.

8. **RIGHTS OF THIRD PARTIES**

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

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

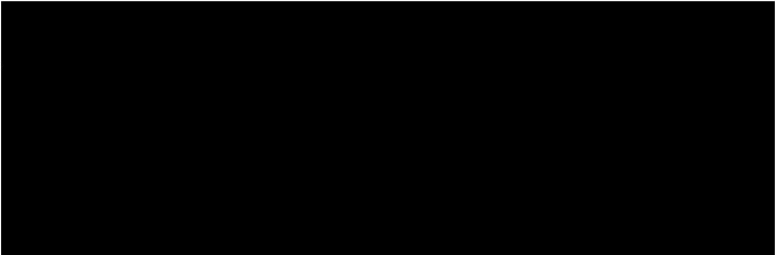
EXECUTED AS A DEED BY)
QHA LIMITED)



Witness Name

Address

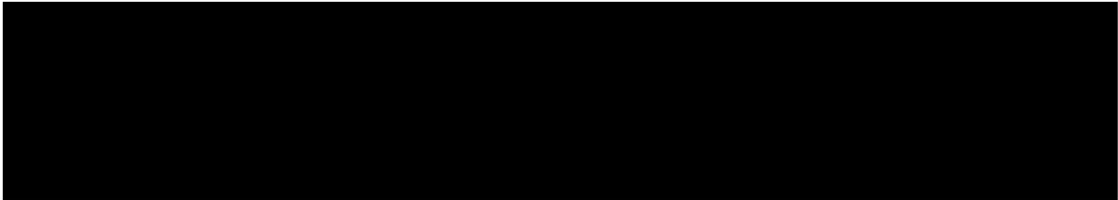
Occupation



EXECUTED AS A DEED BY)
LLOYDS BANK PLC)
by)



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



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