DATED 4 December 2019

(1) 254 KILBURN HR LLP

-and-

(2) OAKNORTH BANK PLC

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 22 December 2016
Between the Mayor and the Burgesses of the
London Borough of Camden,
254 Kilburn High Road LLP and Hemnall Limited (as varied by the First Deed of Variation
Dated 18 September 2018)
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
254 KILBURN HIGH ROAD LONDON NW6 2BS

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

Tel: 020 7974 5826

CLS/COM/LN/1800.1237
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THIS AGREEMENT is made on the 4th day of December 2019

BETWEEN

1. **254 KILBURN HR LLP** (LLP Regn. No. OC414736) whose registered office is at Suite 2, Fountain House, 1a Elm Park Stanmore, Middlesex, United Kingdom HA7 4AU (hereinafter called "the Owner") of the first part

2. **OAKNORTH BANK PLC** (Co. Regn. No. 8595042) of 3rd Floor, 57 Broadwick Street, Soho, London W1F 9QS (hereinafter called "the Mortgagee") of the second part

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

WHEREAS:

1.1 The Owner is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number NGL806238 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 The Mortgagee as mortgagee under a legal charge registered under Title Number NGL806238 and dated 23 February 2017 is willing to enter into this Agreement to give its consent to the same.

1.4 The Council is the local planning authority for the purposes of the Act and considers it expedient in the interests of the proper planning of its area that the Development of the Property should be restricted or regulated in accordance with this Agreement.

1.5 The Council, 254 Kilburn High Road LLP and Hemnall Limited entered into an Agreement dated 22 December 2016 pursuant to Section 106 of the Town and Country Planning Act 1990 as varied by a Deed of Variation dated 18 September 2018 (Existing Agreement).

1.6 The Owner has requested the Council agree a further variation to the Section 106 Agreement and the Council has agreed so to do as herein provided.

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

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

2. INTERPRETATION

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

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

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

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

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

2.6 References in this Agreement to the Owner and Mortgagee shall include their successors in title.

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

3. VARIATION TO THE EXISTING AGREEMENT

3.1 Clause 4.1.4 of the Existing Agreement will be deleted and replaced with the following clause:

4.1.4 To ensure that the Affordable Housing Units shall not be otherwise used, Occupied and shall be retained in perpetuity for no purpose other than for the provision of Intermediate Rented Housing and Affordable Rented Housing as the case may be

3.2 Clause 6.9 of the Existing Agreement will be deleted and replaced with the following clause:

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 or any other person appointed under any security documentation ("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 in writing 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 arrange for another Registered Provider to take the transfer of the Affordable Housing Units for a consideration not less than the amount due and outstanding under the

terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and

iii) If the Council having failed to arrange another Registered Provider 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 on 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 and 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 ALWAYS PROVIDED that the relevant Chargee shall use reasonable endeavours to assist the Council in arranging a transfer of the Affordable Housing Units and will not hinder or obstruct the transfer, with a view to ensuring the Affordable Housing Units remain units of Affordable Housing.

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

4. **COMMENCEMENT**

4.1 Without prejudice to the effect of Clause 3.5 in the Existing Agreement the provisions in this Deed shall take effect on the date hereof.

5. PAYMENT OF THE COUNCIL'S LEGAL COSTS

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

6. **REGISTRATION AS LOCAL LAND CHARGE**

6.1 This Agreement shall be registered as a Local Land Charge

7. **MORTGAGEE EXEMPTION**

7.1 The Mortgagee hereby consents to the completion of this Deed and agrees to be bound by it and to the same being registered at the Land Registry as provided in Clause 6.4 of the Existing Agreement and for the avoidance of doubt agrees to be bound by the said obligations only in the event that it becomes a mortgagee in possession of the Property.

IN WITNESS WHEREOF the Council has caused their Common Seals to be affixed and the Owner and the Mortgagee has caused this Agreement to be executed as a Deed the day and year first above written.

[redacted]

Director

EXECUTED AS A DEED BY)
254 KILBURN HR LLP)
in the presence of
acting by ~~a Director and its Secretary~~)
~~or by two Directors~~)

[redacted]

.....

~~**Director**~~ Witness Signature

MEGAN YEAMAN

.....

~~**Director/Secretary**~~ Witness Name

1 HALLESVILLE PARADE LONDON NW11 0DL

Witness Address

DEVELOPMENT MANAGER

Witness Occupation

EXECUTED AS A DEED BY)
OAKNORTH BANK ~~LIMITED~~ PLC)
by)
in the presence of:-)

[redacted]

[redacted]

.....

PHILLIP THURBON, DIRECTOR.

THIS IS A CONTINUATION OF THE DEED OF VARIATION TO THE SECTION 106 AGREEMENT IN RELATION TO 254 KILBURN HIGH ROAD LONDON NW6 2BS

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

.....[redacted].....
Authorised Signatory

DATED 4 December 2019

(1) 254 KILBURN HR LLP

-and-

(2) OAKNORTH BANK PLC

-and-

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

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