

DATED

25 May

2022

**(1) BELCAP RE L LIMITED**

-and-

**(2) THE MAYOR AND THE BURGESSES OF  
THE LONDON BOROUGH OF CAMDEN**

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**SECOND DEED OF VARIATION  
UNDER S106 and S106A OF THE TOWN AND COUNTRY  
PLANNING ACT 1990 (AS AMENDED)**

Relating to the s106 Agreement dated 17 April 2018 and  
s106 First Deed of Variation dated 28 September 2020  
Relating to development at premises known as  
**LAND TO THE REAR OF 1-3 BRITANNIA STREET, LONDON WC1X 9BN**  
also known as **PLANTWORKS, 1A BRITANNIA STREET**

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

Tel: 020 7974 1918

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CLS/COM/LMM/1800.2189  
DoV FINAL 12.05.22

THIS DEED OF AGREEMENT is made on the 25<sup>th</sup> day of May 2022

**BETWEEN**

1. **BALCAP RE LIMITED** (Co. Regn. No. 09858849) whose registered office is at Plantworks, 1a Britannia Street (hereinafter called "the Owner") of the first part
2. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the second part

**WHEREAS:**

- 1.1 The Council and the Owner entered into an Agreement dated 17 April 2018 pursuant to Section 106 of the Act.
- 1.2 The Council, the Owner and United Trust Bank Limited entered into the First Deed of Variation on 28 September 2020 pursuant to Section 106A of the Act to vary the terms of the Existing Agreement.
- 1.3 The Owner is registered at the Land Registry as the freehold proprietor with Title Absolute under title number NGL975674 subject to a charge to Together Commercial Finance Limited (Co. Regn. No. 2058813) whose registered office is at Lake View Lakeside Cheadle SK8 3GW.
- 1.4 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.5 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 Deed.
- 1.6 The Owner has submitted to the Council an Application for Non Material Amendment in respect of the Property to amend the Original Planning Permission which was validated on 3 May 2022 for which the Council resolved to approve conditionally under reference 2022/1904/P subject to the conclusion of this Deed.

1.7 This Deed is made by virtue of Section 106A of the Act 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 (as amended by the First Deed of Variation) 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 (as amended by the First Deed of Variation) shall have the same meaning in this Deed save where the context otherwise dictates and for the avoidance of any doubt the Existing Agreement (as amended by the First Deed of Variation) shall remain in full force and effect save as varied by this Deed.

2.2 All reference in this Deed to clauses in the Existing Agreement are to clauses within the Existing Agreement (as amended by the First Deed of Variation).

2.3 Headings are for ease of reference only and are not intended to be construed as part of this Second Deed of Variation and shall not affect the construction of the Second Deed of Variation.

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

2.5 References in this Agreement to the Owner shall include its successors in title.

2.6 If the approval of the Non Material Amendment is quashed or expires before Implementation or is revoked this Deed shall cease to have effect.

## **3. DEFINITIONS**

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

3.1.1 "Application for Non Material Amendment"	the application for Non Material Amendment in respect of the Property submitted to the Council and validated on 3 May 2022 for which a resolution to grant approval has been made conditionally by the Council under reference number 2022/1904/P subject to conclusion of this Deed
3.1.2 "Deed"	this Deed of Variation made pursuant to Section 106A of the Act
3.1.3 "Existing Agreement"	the Section 106 Agreement under the Act dated 17 April 2018 made between Balcap Re Limited and the Council
3.1.4 "First Deed of Variation"	the Deed of Variation to the Existing Agreement dated 28 September 2020 between Balcap Re Limited, United Trust Bank and the Council
3.1.5 "Original Planning Permission"	the planning permission granted under reference number 2020/0030/P for variation of condition 2 (approved drawings) of planning permission ref: 2016/6356/P dated 17/04/2018 for the demolition of 2 storey light industrial building (B1c use) and redevelopment of the site including the erection of a 3 storey plus basement building to provide office (B1a use) and flexible gallery (D1 use)/office use at basement level (abbreviated); namely, the addition of a green wall, planter boxes, and amendment to design of entrance door as shown on the following drawings: Superseded drawings: P_01 rev P2, P_03 rev B, P_04 rev B, P_11 rev P2, P_12 rev B, P_13 rev B; Amended drawings: P_01 rev P4, P_03 rev D, P_04 rev

D, P\_11 rev P4, P\_12 rev D, P\_13 rev D, Living wall design proposal option 1 ref: MWA\_ANS\_KCR\_001 rev B, MWA\_ANS\_KCR\_002 rev A, Typical Living Wall Irrigation with Tank Layout dated 24/09/2019, ANS Living wall module 2019 dated 17/01/2019 rev A, ANS Global Maintenance Schedule, ANS Living wall product guide 2019

#### **4. VARIATION TO THE EXISTING AGREEMENT**

- 4.1 The following definitions contained in the Existing Agreement shall be varied as follows:

4.1.1 "Development"

variation of condition 2 (approved drawings) of planning permission ref: 2016/6356/P dated 17/04/2018 for the demolition of 2 storey light industrial building (B1c use) and redevelopment of the site including the erection of a 3 storey plus basement building to provide office (B1a use) and flexible gallery (D1 use)/office use at basement level (abbreviated); namely, the addition of a green wall, planter boxes, and amendment to design of entrance door as shown on the following drawings: Superseded drawings: P\_01 rev P2, P\_03 rev B, P\_04 rev B, P\_11 rev P2, P\_12 rev B, P\_13 rev B; Amended drawings: P\_01 rev P4, P\_03 rev D, P\_04 rev D, P\_11 rev P4, P\_12 rev D, P\_13 rev D, Living wall design proposal option 1 ref: MWA\_ANS\_KCR\_001 rev B, MWA\_ANS\_KCR\_002 rev A, Typical Living Wall Irrigation with Tank Layout dated 24/09/2019, ANS Living wall module 2019 dated 17/01/2019 rev A, ANS Global Maintenance Schedule, ANS Living wall product guide 2019 as amended by the Non-Material Amendment



4.1.3 "Planning Permission" the Original Planning Permission as amended by the Non-Material Amendment given approval under reference number 2022/1904/P to be issued by the Council substantially in the form of the draft annexed hereto

4.2 The following definition shall be added to the Existing Agreement:-

4.2.1 "Carbon Offset Contribution" the sum of £6,555 (six thousand five hundred and fifty five pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of receipt towards off-site carbon reduction measures in the vicinity of the Development

4.2.2 "Non-Material Amendment" shall mean the amendments (change from Air Source Heat Pumps to Air Handling Units) to planning permission ref: 2020/0030/P granted 28/09/2020 which itself varied 2016/6356/P granted 17/04/2018 for the demolition of 2 storey light industrial building (B1c use) and redevelopment of the site including the erection of a 3 storey plus basement building to provide office (B1a use) and flexible gallery (D1 use)/office use at basement level (abbreviated) as shown on Drawing Nos: P\_00 rev P2, P\_03 rev D, cover letter dated 03/05/2022, Energy Efficiency and Renewable Energy and Sustainability Plan, S106 Pro-forma - Part B Post Completion

4.3 The following clause shall be added to Clause 4 of the Existing Agreement:-

4.10 On the date of this Deed to pay to the Council the Carbon Offset Contribution.

4.4 In all other respects the Existing Agreement (as varied by the First Deed of Variation and this Deed) shall continue in full force and effect.

**5. PAYMENT OF THE COUNCIL'S LEGAL COSTS**

5.1 The Owner agrees to pay the Council its proper and reasonable legal costs incurred in preparing this Deed on or prior to the date of completion of the Deed.

**6. REGISTRATION AS LOCAL LAND CHARGE**

6.1 This Deed shall be registered as a Local Land Charge by the Council.

**7. COMMENCEMENT**

7.1 The provisions in this Deed shall take effect on the Council's approval of the Non Material Amendment pursuant to the Application for Non Material Amendment but for the avoidance of doubt without prejudice to the effect of Clause 3.6 in the Existing Agreement.

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

EXECUTED AS A DEED BY )  
BALCAP RE LTD )  
Acting by a Director and Its Secretary )  
Or by two Directors )  
Or in the presence of a witness )

.....  
Director

.....  
Director/Secretary/Witness

Witness name: STEPHEN CHAPMAN

Witness signature: [REDACTED]

Witness address:

Witness occupation: ACCOUNTANT

FLAT 1, 3 THE PRINCER BUILDING SE3 ONX

**CONTINUATION OF SECTION 106A DEED OF VARIATION IN RELATION TO  
LAND TO THE REAR OF 1-3 BRITANNIA STREET, LONDON WC1X 9BN  
also known as PLANTWORKS, 1A BRITANNIA STREET**

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



.....  
**Authorised Signatory**



**ANNEXURE  
DRAFT DEED OF VARIATION**



Application ref: 2022/1904/P  
Contact: Laura Dorbeck  
Tel: 020 7974 1017  
Email: [Laura.Dorbeck@camden.gov.uk](mailto:Laura.Dorbeck@camden.gov.uk)  
Date: 6 May 2022

Marek Wojciechowski Architects  
66-68 Margaret Street  
London  
W1W 8SR

**Development Management**  
Regeneration and Planning  
London Borough of Camden  
Town Hall  
Judd Street  
London  
WC1H 9JE  
Phone: 020 7974 4444  
[planning@camden.gov.uk](mailto:planning@camden.gov.uk)  
[www.camden.gov.uk](http://www.camden.gov.uk)

Dear Sir/Madam

Town and Country Planning Act 1990 (as amended)

**Grant of Non-Material Amendments to planning permission subject to Section 106 Legal Agreement**

Address:  
**Rear of 1-3 Britannia Street**  
**London**  
**WC1X 9BN**

Proposal: Amendments (change from Air Source Heat Pumps to Air Handling Units) to planning permission ref: 2020/0030/P granted 28/09/2020 which itself varied 2016/6356/P granted 17/04/2018 for the demolition of 2 storey light industrial building (B1c use) and redevelopment of the site including the erection of a 3 storey plus basement building to provide office (B1a use) and flexible gallery (D1 use)/office use at basement level (abbreviated).

Drawing Nos: P\_00 rev P2, P\_03 rev D, cover letter dated 03/05/2022, Energy Efficiency and Renewable Energy and Sustainability Plan, S106 Pro-forma - Part B Post Completion.

The Council has considered your application and confirms that the proposals are acceptable as non-material amendments to the planning permission set out above **subject to** the conclusion of a Section 106 Legal Agreement.

Informative(s):

1 Reason for granting approval

The proposed non-material amendment involves the replacement of the previously approved Air Source Heat Pumps (ASHP) which were to be installed within an acoustic enclosure to the eastern corner of the site at first floor level with Air Handling Units (AHU) instead. The units have already been installed and therefore retrospective permission is sought.

The AHUs are installed within the approved acoustic enclosure and as such there would be no visual impacts arising from the amendment. The enclosure would also prevent noise egress from the units and they would be subject to the same conditions requiring them to comply with Camden's noise standards, and as such, there would be no new impact on neighbouring amenity by way of noise disturbance. The proposed amendments do not involve any alterations to the previously approved drawings.

The AHUs would not provide the same carbon savings as ASHPs and as such, the applicant is proposing to meet this shortfall with a carbon offset contribution which is considered acceptable and would ensure the proposals still met the Council's sustainability policies. A deed of variation to the original S106 legal agreement shall be agreed to secure the contribution of £6,555, based on the following calculation.

$11.9\text{t}/\text{CO}_2/\text{annum (current)} - 9.6\text{t (approved)} = 2.3 \text{ tonnes.}$   
At the current offset price of £95/t  
 $2.3\text{t} \times £95 \times 30 \text{ years} = £6,555$

The proposed amendment is considered to be non-material as it does not change the nature or description of development; does not change the application site area, increase the height of the building or change the number of units; does not result in changes to external details that would materially alter the appearance of the building, materially compromise the overall design of the building or materially impact on the character and appearance of the Conservation Area; does not materially change windows or doors in any elevation facing any neighbour which may raise issues of greater visual intrusion, loss of light or feeling of enclosure; and does not materially impact on any neighbours or other statutory and non-statutory bodies.

Given the nature of the application as a non-material amendment to a previously approved scheme, no neighbour consultations were undertaken. The site's planning history was taken into account when coming to this decision. The full impact of the proposed development has already been assessed by virtue of the previous permission 2020/0030/P granted on 28/09/2020.

2 You are advised that this decision relates only to the change from air source heat pumps to air handling units as set out in the description and shall only be read in the

context of the substantive permission 2020/0030/P granted 28/09/2020 and is bound by all the conditions and obligations attached to that permission.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2021.

Yours faithfully

Chief Planning Officer

DRAFT