



HERBERT  
SMITH  
FREEHILLS

2 AUGUST 2017

**THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN**

and

**GROUND GILBEY LIMITED**

and

**CANAL SIDE PROPERTIES LIMITED**

and

**ELCROSS ESTATES LIMITED**

and

**CBRE LOAN SERVICES LIMITED**

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**FIFTH SUPPLEMENTAL PLANNING  
AGREEMENT**

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pursuant to Section 106 and 106A of the Town and Country Planning Act 1990 and other relevant powers relating to the land comprised within the site known as Hawley Wharf, Camden

Herbert Smith Freehills LLP

THIS DEED is made the *second* day of *August* 2017

**BETWEEN:-**

- (1) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London, WC1H 9LP (the "**Council**");
- (2) **GROUND GILBEY LIMITED** a company incorporated in the British Virgin Islands (Co. Regn. No. 458429) whose registered office is Cragmuir Chambers, PO Box 71, Road Town, Tortola, VG1110, British Virgin Islands ("**GGL**"); and
- (3) **CANAL SIDE PROPERTIES LIMITED** a company incorporated in the British Virgin Islands (Co. Regn. No. 1375210) whose registered office is at Cragmuir Chambers, PO Box 71, Road Town, Tortola, VG1110, British Virgin Islands ("**CSP**"); and
- (4) **ELCROSS ESTATES LIMITED** (Co. Regn. No. 04191579) whose registered address is 54-56 Camden Lock Place, London, NW1 8AF ("**EEL**"); and
- (5) **CBRE LOAN SERVICES LIMITED** (Co. Regn. No. 05469838) whose registered office is at St Martin's Court, 10 Paternoster Row, London, EC4M 7HP ("**Security Agent**")

**WHEREAS:**

- (A) On 23 January 2013, GGL, CSP, Network Rail Infrastructure Limited, Canal & River Trust, Irish Bank Resolution Corporation Limited and the Council entered in to the Planning Agreement.
- (B) On 19 February 2015, GGL, CSP, EEL, Nomura and the Council entered in to the First Supplemental Planning Agreement.
- (C) On 30 July 2015, GGL, CSP, EEL, Nomura and the Council entered in to the Second Supplemental Planning Agreement.
- (D) On 30 September 2015 GGL, CSP, EEL, Nomura and the Council entered in to the Third Supplemental Planning Agreement to amend the obligations relating to affordable housing in the Planning Agreement.
- (E) On 22 July 2016 GGL, CSP, EEL, the Security Agent and the Council entered into the Fourth Supplemental Planning Agreement to further amend the obligations relating to affordable housing in the Planning Agreement.
- (F) The Council is the local authority for the purposes of Section 106 of the 1990 Act for the area within which the Property is situated.
- (G) GGL is the freehold owner of those parts of the Property under Title Numbers LN82827, NGL310382, NGL385023, NGL428608, NGL384527, NGL342293, NGL763915, NGL732508, NGL280874, LN144977, NGL697445 and NGL948121.
- (H) GGL is the leasehold owner of those parts of the Property under Title Numbers NGL889432, NGL903746, NGL864602, NGL849222, NGL960147, NGL960148, and NGL960149.
- (I) CSP is the freehold owner of those parts of the Property under Title Numbers 343656 and 343657.
- (J) EEL is the freehold owner of that part of the Property under Title Number NGL727488.
- (K) As at the date of this Deed, the Security Agent holds legal charges over the Property as set out in Schedule 1 to this Deed.
- (L) This Deed is entered into for the purpose of amending the Planning Agreement in connection with its enforceability against service providers and to ensure that the Planning Agreement relates to any modification of the Main Planning Permission, the School Permission, the Listed Buildings Consent and the Conservation Area Consent, including any amendment made pursuant to section 73 of the Act.

## OPERATIVE PROVISIONS

### 1. INTERPRETATION

- 1.1 Save where provided otherwise words and expressions used in this Deed have the meaning assigned in the Planning Agreement.
- 1.2 For the purposes of this Deed the following words and expressions have the meanings assigned:

**"1990 Act"** means the Town and Country Planning Act 1990 (as amended);

**"First Supplemental Planning Agreement"** means an agreement dated 19 February 2015 between GGL, CSP, EEL, Nomura and the Council entered into pursuant to Section 106 and 106A of the 1990 Act and other relevant powers;

**"Fourth Supplemental Planning Agreement"** means an agreement dated 22 July 2016 between GGL, CSP, EEL, the Security Agent and the Council entered into pursuant to Section 106 and 106A of the 1990 Act and other relevant powers;

**"Owner"** means GGL, CSP and EEL;

**"Parties"** means the Council, the Owner and the Security Agent;

**"Planning Agreement"** means an agreement dated 23 January 2013 between GGL, CSP, Network Rail Infrastructure Limited, Canal & River Trust, Irish Bank Resolution Corporation Limited and the Council entered into pursuant to Section 106 of the 1990 Act and Section 16 of the 1974 Act and other relevant powers;

**"Second Supplemental Planning Agreement"** means an agreement dated 30 July 2015 between GGL, CSP, EEL, Nomura and the Council entered into pursuant to Section 106 and 106A of the 1990 Act and other relevant powers;

**"Supplemental Agreements"** means the First Supplemental Planning Agreement, the Second Supplemental Planning Agreement, the Third Supplemental Planning Agreement and the Fourth Supplemental Planning Agreement; and

**"Third Supplemental Planning Agreement"** means an agreement dated 29 September 2015 between GGL, CSP, EEL, Nomura and the Council entered into pursuant to Section 106 and 106A of the 1990 Act and other relevant powers.

### 2. OPERATION OF THIS DEED

- 2.1 This Deed is supplemental to the Planning Agreement and Supplemental Agreements and is entered into pursuant to Section 106 and 106A of the 1990 Act and all other powers so enabling.
- 2.2 The covenants, undertakings and obligations contained in this Deed given to the Council are undertakings and agreements for the purposes of Section 106 of the 1990 Act and are enforceable by the Council as the local planning authority for the area in which the Property is situated.

### 3. AMENDMENTS TO THE PLANNING AGREEMENT

- 3.1 Subject to clause 3.3 of this Deed and with effect from the date that the Deed is granted, the Parties agree that the Planning Agreement shall be modified as follows:
- 3.1.1 the definition of "Permissions" at clause 2.2 of the Planning Agreement shall be deleted and replaced by the following wording:

**"Permissions"** means the Main Planning Permission, the School Permission, the Listed Buildings Consent and the Conservation Area Consent or any modification to such permissions, including, for the avoidance of doubt, the planning permissions granted and given reference numbers 2014/7458/P, 2015/4562/P, 2015/5682/P and 2016/3940/P, and all future permissions granted in relation to an application made pursuant to section 73 of the Act.

- 3.2 Subject to clause 3.3 of this Deed and with effect from the date of this Deed, the Parties agree that the Planning Agreement shall be modified as follows:
- 3.2.1 two new definitions shall be inserted at clause 2.2 of the Planning Agreement to read as follows:
- "Essential Service Provider" means an energy service company, statutory undertaker, services utility company or provider that shall acquire an interest in the Property solely for the purpose of providing Essential Services;
- "Essential Services" means the supply of electricity, gas, water, heat, power, drainage, telecommunications services or public transport services to or for the benefit of the Development
- 3.2.2 A new clause 11.4 shall be inserted to read as follows:
- 11.4 The obligations contained in this Agreement shall not be enforceable against any Essential Service Provider carrying out Essential Services
- 3.3 The Planning Agreement shall continue to be enforceable against CRT and Network Rail.
4. **MORTGAGEE**
- 4.1 The Security Agent hereby consents to the Owner entering into this Deed and subject to clause 4.2 agrees that the security of its charges over the Property shall take effect subject to this Deed and the Planning Agreement and the Supplemental Agreements.
- 4.2 The Parties agree that the obligations contained in this Deed and the Planning Agreement and the Supplemental Agreements 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.
5. **MISCELLANEOUS**
- 5.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Deed.
- 5.2 This Deed is a local land charge and shall be registered as such by the Council.
- 5.3 GGL, CSP and EEL hereby covenant with the Council that they will within 28 days from the date hereof apply to the Chief Land Registrar of the Land Registry to register the Deed in the Charges Register of their titles in the Property and will furnish the Council forthwith on written demand with official copies of such titles to show the entry of this Deed in the Charges Register of those titles.
- 5.4 The Owner agrees to pay the Council its reasonable legal costs properly incurred in preparing this Deed on or prior to the date of this Deed.
- 5.5 This Deed is governed by and shall be interpreted in accordance with the law of England.

**IN WITNESS** whereof the parties have executed this Deed the day and year first above written.

Schedule 1

Chargor	Title Number	Freehold or Leasehold
Ground Gilbey Limited	NGL849222	Leasehold
Ground Gilbey Limited	LN82827	Freehold
Ground Gilbey Limited	NGL864602	Leasehold
Ground Gilbey Limited	LN144977	Freehold
Canal Side Properties Limited	343656	Freehold
Canal Side Properties Limited	343657	Freehold
Ground Gilbey Limited	NGL889432	Leasehold
Ground Gilbey Limited	NGL697445	Freehold
Ground Gilbey Limited	NGL342293	Freehold
Ground Gilbey Limited	NGL310382	Freehold
Ground Gilbey Limited	NGL280874	Freehold
Ground Gilbey Limited	NGL903746	Leasehold
Ground Gilbey Limited	NGL385023	Freehold
Ground Gilbey Limited	NGL732508	Freehold
Ground Gilbey Limited	NGL763915	Freehold
Ground Gilbey Limited	NGL428608	Freehold
Ground Gilbey Limited	NGL384527	Freehold
Elcross Estates Limited	NGL727488	Freehold
Ground Gilbey Limited	NGL948121	Freehold
Ground Gilbey Limited	NGL960147	Leasehold
Ground Gilbey Limited	NGL960148	Leasehold
Ground Gilbey Limited	NGL960149	Leasehold

THE COMMON SEAL of THE MAYOR  
AND BURGESSES OF THE LONDON  
BOROUGH OF CAMDEN was hereunto  
affixed in the presence of:

*R Alexander*

Authorised signatory

EXECUTED as a Deed by **GROUND  
GILBEY LIMITED** (a company  
incorporated in the British Virgin Islands)

by JOSEPH BETTS  
and GRAINNE MCINLEY  
being persons who in accordance with  
the laws of the territory are acting under  
the authority of the company

EXECUTED as a Deed by **CANAL  
SIDE PROPERTIES LIMITED** (a company  
incorporated in the British Virgin Islands)

by JOSEPH BETTS  
and GRAINNE MCINLEY  
being persons who in accordance with  
the laws of the territory are acting under  
the authority of the company

Signed as a Deed by **CBRE LOAN  
SERVICES LIMITED** for and on its behalf  
by its duly authorised signatories

*Piotr Tokarski*  
PIOTR TOKARSKI  
Authorised Signatory

*Steven Harle*  
STEVEN HARLE  
Authorised Signatory

EXECUTED as Deed by **ELCROSS ESTATES  
LIMITED** acting by DAVID BROWN  
a director, in the presence of

Witness' name: LAUREN SOTT  
Witness' address: 215 CHALK  
FARM ROAD, LONDON, NW1 8AB  
Witness' occupation: SOLICITOR

*David Brown*  
Director