

**DATED**

**2019**

**(1) LIMITED**

**and**

**(2) MORTGAGEE PLC/LIMITED**

**and**

**(3) LESSEE/TENANT**

**and**

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

**A G R E E M E N T**

**relating to land known as**

**Highgate Newtown Community Centre, 25 Bertram Street, London N19 5DQ  
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 and  
Section 278 of the Highways Act 1980**

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

Tel: 020 7974 1918  
Fax: 020 7974 2962

**THIS AGREEMENT** is made the                      day of                      2019

**B E T W E E N:**

- i.     **APPLICANT LIMITED** (Co. Regn. No.                      ) whose registered office is at  
(hereinafter called “the Owner”) of the first part
  
- ii    **MORTGAGEE** of                      (hereinafter called “                      ”) of the second part
  
- iii   **[INTERESTED PARTY/LEASEHOLDER]** of [                      ] (hereinafter called “the                      ”) of  
the third part]
  
- iv.   **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of  
Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the  
fourth 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                      [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 27 November 2018 and the Council resolved to grant  
permission conditionally under reference number 2018/5774/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 and dated (hereinafter called "the Legal Charge") 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 housing including Social Rented Housing, London Affordable Rented Housing and Intermediate 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 "Affordable Housing Units" the 7 Intermediate Housing Units within the Development to be constructed fitted out and occupied exclusively as Affordable Housing

- 2.4 "the Agreement" this Planning Obligation made pursuant to Section 106 of the Act
- 2.5 "Carbon Offset Contribution" the sum of £52,380 (fifty two thousand three hundred and eighty pounds) or such other amount as may be agreed in writing between the Owner and the Council in accordance with the Energy Efficiency and Renewable Energy Plan 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
- 2.6 "the Certificate of Practical Completion" the certificate issued by the Owner's architect or project manager certifying that the Development has been completed
- 2.7 "CHP Air Quality Assessment" An assessment undertaken by the Owner which shall include the following information in respect of the energy centre provided as part of the Development:
- (a) technical details of any proposed combined heat and power (CHP) or combined cooling, heat and power (CCHP) system including thermal capacity;
  - (b) maximum rate of fuel consumption in kilograms or cubic metres per hour;
  - (c) efflux velocity of flue gases at working;
  - (d) proposed height of flue above ground level;

- (e) quantity of emissions released from the exhaust. This shall be expressed as the emission rate for nitrogen oxides, carbon monoxide and particulate matter including confirmation that the plant will comply with Band B of the Mayor's emission standards (as set out in the Mayor's Sustainable Design and Construction SPG) and details of any necessary NO<sub>2</sub> abatement mechanisms;
- (j) provision of plans and elevations showing the termination point of all exhaust stacks associated with the energy centre ensuring the exhaust stack shall be located away from open-windows and air inlet vents to minimise the opportunity for NO<sub>2</sub> levels to contaminate air intakes for any site ventilation systems; and
- k) modelled data to evidence that NO<sub>2</sub> levels at the ventilation inlet are below 40

2.8 "Community Facility"

means the dedicated permanent community floorspace to be provided as part of the Development and in accordance with the Community Facility Management Plan in the location shown for the purpose of identification shaded blue on plan numbers 1415-PL-GA-ST-899 F, 1415-GA-PL-ST-800 Q, 1415-GA-PL-ST-801 N 1415-GA-PL-ST-802 T 1415-GA-PL-ST-803 T annexed hereto and labelled Plan 2 and to be retained as community floorspace in accordance with the Community Facility Management Plan

2.9 "Community Facility"

Management Plan”	<p>means a plan or plans setting out the details for the management of the Community Facility including:-</p> <p>(a) measures to address/minimise amenity issues; and</p> <p>(b) details of consultation on the plan with the local community</p>
2.10 “Community Working Group”	<p>means a working group (made up of representatives of the local community (residents and businesses) and the ward councillors) that the Owner shall use to facilitate consultation with the local community in respect of matters relating to construction works associated with the management of the Construction Phase of the Development so as to minimise disruption damage to amenity and the environmental effect on the local community arising from the construction of the Development</p>
2.11 “the Construction Apprentice Default Contribution”	<p>the sum of £7,500 (seven thousand five hundred pounds) per apprentice required on site to be paid by the Owner to the Council in lieu of construction apprentice provision.</p>
2.12 “the Construction Apprentice Support Contribution”	<p>the sum of £1,700 (one thousand seven hundred pounds) per apprentice 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</p>

support the recruitment and training of apprentices

2.13 “Construction Management Plan” a plan or plans setting out the measures that the Owner will adopt in undertaking the demolition of the existing buildings 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 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):-

- a) a statement to be submitted to 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;
- b) proposals to ensure there are no adverse effects on the Conservation Area features
- c) amelioration and monitoring effects on the health and amenity of local

residences site construction workers local businesses and adjoining developments undergoing construction;

- d) 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);
- e) the inclusion of a waste management strategy for handling and disposing of construction waste;
- f) details of a Construction Working Group to be set up addressing the concerns of the local community, as well as contact details for the person responsible for community liaison on behalf of the Owner, and how these contact details will be advertised to the community and details of a complaint service; and
- g) 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

## 2.14 “the Construction Management Plan Implementation Support



Contribution”	the sum of £9,540 (nine thousand five hundred and forty 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 draft Demolition Management Plan and verification of the proper operation of the approved Demolition Management Plan and approved Construction Management Plan during the Demolition Phase and the Construction Phase respectively
2.15 “the Construction Phase”	<p>the whole period between</p> <p>(i) the Implementation Date and</p> <p>(ii) the date of issue of the Certificate of Practical Completion</p> <p>and for the avoidance of doubt includes the Demolition Phase</p>
2.16 “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
2.17 “Deferred Affordable Housing Contribution”	the sum of £3,014,540.63 (three million eight fourteen thousand five hundred and forty pounds sixty three pence) to be paid by the Owner in accordance with the terms of this Agreement to be applied by the Council in the event of receipt towards the Council’s wider

Community Investment Programme within the  
London Borough of Camden

2.18 “Demolition Date”

the commencement of works comprised in the  
Demolition Phase

2.19 “the Demolition  
Management Plan

a plan setting out the measures that the  
Developer will adopt in undertaking the  
Demolition Phase of the Development using  
good site practices in accordance with the  
Council’s Considerate Constructor Manual  
(including such form thereof as may be revised  
or amended from time to time with the formal  
prior written approval of the Council such written  
approval specifically reference the Plan and  
precise amendment) to ensure the Demolition  
Phase of the Development can be carried out  
safely and with the aim of minimising as far as  
reasonably practicable impact on and  
disturbance to the surrounding environment and  
highway network including (but not limited to):-

- (i) 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  
Developer in order to mitigate and offset  
potential or likely impacts arising from  
the demolition of the existing buildings or  
structures on the Property and the  
building out of the Development;

- (ii) proposals to ensure that there are no adverse effects on the Conservation Area features;
- (iii) amelioration and monitoring effects on the health and amenity of local residences, site construction works, local businesses and adjoining developments undergoing construction;
- (iv) 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);
- (v) the inclusion of a waste management strategy for handling and disposing of demolition waste;
- (vi) details of a Construction Working Group to be set up addressing the concerns of the local community, as well as contact details for the person responsible for community liaison on behalf of the Owner, and how these contact details will be advertised to the community and details of a complaint service; and
- (vii) identifying means of ensuring the provision of information to the Council and provision of a mechanism for monitoring and revising as required from time to time.

2.20 "the Demolition Phase"

the whole period during which any works for the demolition of the existing buildings at the Property as referred to in the Planning Permission and associated site clearance is being carried out and references to Demolition shall be construed accordingly.

2.21 "the Development"

Variation of development granted under reference 2016/6088/P dated 30/06/17 for "Redevelopment of the existing Highgate Newtown Community Centre and Fresh Youth Academy and the change of use of the People's Mission Gospel Hall to provide replacement community facilities (Use Class D1) and 31 residential units (Use Class C3) with associated public open space, landscaping, cycle storage, plant and disabled parking." Incorporating the following changes: - Amend the height/bulk and massing, elevations - Increase the number of residential units from 31 to 41 - Include 7 affordable housing (intermediate) as opposed to none - Reduce the area of the community facilities, to result in a smaller increase above the existing floorspace - Remove most of the basement - Include the existing right of way on the western side of the site as shown on the site location plan and drawing numbers approved by the Planning Permission

2.22 "the Employment and Training Plan"

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 of this Agreement through (but not be limited to) the following:-

- a) 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;
- b) to ensure the provision of 5 construction apprentices;
- c) make provision during the Construction Phase for no less than 11 work placements;
- d) 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 tender for the contracts to include organising, supporting and promoting the event as well as provision of venue and refreshments for the events;
- e) commit to following the Local Procurement Code

2.23 "the Energy Efficiency and Renewable Energy Plan"

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:-

- (a) the incorporation of the measures set out in the submission document entitled Energy Strategy dated

November 2018 and produced by McBains to achieve a 37% reduction in CO2 emissions beyond the Part L 2013 baseline;

(b) 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;

(c) separate metering of all low and zero carbon technologies to enable the monitoring of energy and carbon emissions and savings;

(d) 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;

(e) a CHP Air Quality Assessment;

- (f) provision of a meter on the CHP unit so the Council can monitor how much energy is being derived from CHP;
  
- (g) 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;
  
- (h) measures to secure a post construction review of the Development by an appropriately qualified and recognised 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

- (i) 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

2.24 "the Highways Contribution"

the sum of £165,000 (one hundred and sixty five 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 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"):-

- (a) damage to the public highway in the general vicinity of the site on Bertram Street and Croftdown Road;
- (b) widening of the existing footpath from Croftdown Road which will provide a link through the site for cyclists and pedestrians;
- (c) resurfacing footpath linking Croftdown Road and Chester Road (and connecting with the Property);
- (d) amendments to traffic management orders in the vicinity of the Property; and



(e) any other works the Council acting reasonably requires as a direct result of the Development

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 undertake any responsibility in connection with any required statutory undertakers works and excludes any statutory undertakers costs

2.25 "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 that for the purposes of this Agreement the following shall be deemed not to be material operations: site or soil investigations ground investigations site survey works and the erection of temporary hoardings and fences and references to "Implementation" and "Implement" shall be construed accordingly

2.26 "Intermediate Housing"

Affordable Housing which is above target rents but is substantially 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

- 2.27 “Intermediate Rented Housing” a tenure of Affordable Housing that is occupied on the following basis:-
- (a) complies with the requirements set out for housing of this type in the National Planning Policy Framework;
  - (b) 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)
  - (c) provides housing where the annual rent costs for each Intermediate Rented Unit (including rent and service charge) shall be no more than 40% of net household income being spent (net being 70% of gross income) (or such other proportion as agreed in writing by the Council) and shall have regard to such caps on overall benefits that the Government may introduce
- 2.28 “Intermediate Rented Housing Units” the 7 units of Intermediate Housing within the Property forming part of the Development comprising 1-bedroom/studio flats the same as shown edged [ ] on Plan [ ]
- 2.29 “King’s Cross Construction Centre” the Council’s flagship skills construction training centre providing advice and information on finding work in the construction industry

- 2.30 “Landscaping Works” the works to the public realm part of the Development and shown on the landscaping plan to be approved by the Council under condition 7 of the Planning Permission including the new courtyard and pedestrian and cycling link through the Development
- 2.31 “Landscaping Management Plan” a plan setting out the package of measures to be adopted by the owner in the management of the Landscaping Works
- 2.32 “the Level Plans” plans demonstrating the levels at the interface of the Development the boundary of the Property and the Public Highway
- 2.33 “Local Procurement Code” the code annexed to the Second Schedule hereto
- 2.34 "Occupation Date" the date when any part of the Development is occupied and the phrases “Occupy”, “Occupied” and “Occupation” shall be construed accordingly
- 2.35 “the Original Viability Assessment” the viability assessment commissioned by the Owner and produced and submitted on the Owner’s behalf by Savills dated November 2018 and entitled Viability Assessment Report
- 2.36 “Parking Management Plan” a plan identifying the disabled car parking spaces to be provided as part of the Development and 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 vehicular access to the

Development and securing the minimisation of conflicts between car and pedestrian movements

- 2.37 "the Parties" mean the Council the Owner the Mortgagee and the Lessee
- 2.38 "Pedestrian Cycling and Public Realm Contribution" the sum of £60,000 (sixty 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 following liaison with the Owner towards the provision of pedestrian, cycling and public realm improvements in the vicinity of the Development
- 2.39 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 27 November 2018 for which a resolution to grant permission has been passed conditionally under reference number 2018/5774/P subject to conclusion of this Agreement
- 2.40 "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
- 2.41 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto

2.42 “Post Construction  
Viability Assessment”

an open book assessment to be carried out by the Owner in respect the entire Development and submitted to the Council in accordance with the terms of this Agreement such assessment to be based on the same percentage developer’s return on market housing value and on the same percentage contractor’s return on development cost as the Original Viability Assessment or such alternative percentages as agreed by the Council in writing with a view inter alia to evidence to the Council’s reasonable satisfaction the residual site value of the Development, such assessments shall include (but not be limited to) the following:-

- (a) a copy of the Original Viability Assessment
- (b) 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 show any revenue and/or costs incurred in relation to the Development;
- (c) a solicitors certification confirming the sales of the Residential Units were arm’s length third party bona fide transactions and not:-
  - (i) designed to reduce the revenue received from sales of the Residential Units;
  - (ii) confined to transactions between the Owner and subsidiary companies of the Owner;

- (iii) transactions between the Owner and its employees; or
  - (iv) transactions including deferred consideration coverage or loans or finance deals from the Owner;
- (d) details of any grant funding received in relation to the Development whether related to Affordable Housing or any other aspect of the Development;
  - (e) details of any rent discount to be applied to the Community Facility
  - (f) any further information the Council acting reasonably requires
- 2.43 "the Property" the land known as Highgate Newtown Community Centre, 25 Bertram Street, London N19 5DQ the same as shown edged red on the plan annexed hereto labelled Plan 1
- 2.44 "the Public Highway" any carriageway footway and/or verge adjoining the Property maintainable at public expense
- 2.45 "Registered Provider" a registered provider of Affordable Housing registered as such by the Regulator
- 2.46 "Regulator" means the Home and Communities Agency and any successor organisation
- 2.47 "Residential Units" the residential units forming part of the Development
- 2.48 "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

2.49 "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

2.50 "the Servicing Management Plan" a plan generally in accordance with the document submitted with the Planning Application produced by JMP entitled draft Servicing Management Plan and dated November 2016 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 Development securing the minimisation of conflicts between service vehicles and car and pedestrian movements and the minimisation of damage to amenity from such servicing and deliveries which shall include inter alia the following (to the extent relevant):-

(a) a requirement for delivery vehicles to unload from a specific suitably located area;

(b) details of the person/s responsible for directing and receiving deliveries to the Property;

(c) measures to avoid a number of delivery vehicles arriving at the same time;

- (d) expected hours of loading and unloading of vehicles related to the Development;
- (e) likely frequency and duration of delivery/servicing movements (including the methodology for generating these figures) and measures to be taken to avoid any conflicts;
- (f) likely size of delivery/servicing vehicles proposed to attend the Property and identification of where each type of vehicle will stop to service the Development;
- (g) swept path diagrams identifying where and how servicing vehicles will manoeuvre into and out of and within the Property (such swept path diagrams shall demonstrate that vehicles will have a sufficient turning area to be able to both enter and exit the Property in forward gear);
- (h) likely nature of goods to be delivered;
- (i) measures taken to ensure minimisation of impact on local residents including steps to ameliorate noise arising from the servicing of the Development;
- (j) measures taken to ensure pedestrian management and public safety during servicing including a statement setting out how highway safety will be maintained during servicing movements;



- (k) measures taken to address servicing movements on and around the Property with a view inter alia to combining and/or reducing servicing to minimize traffic and service vehicle activity at the Property; and
- (l) identifying means of ensuring the provision of information requested by the Council and provision of a mechanism for review and update as required from time to time

2.51 “Surplus”

a positive figure produced from a Post Construction Viability Assessment by taking the residual site value of the Development and subtracting the sum of £2,450,000 (two million and forty hundred and fifty thousandpounds)

2.52 “the Sustainability Plan”

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:-

- (a) achieve the targets set out in the submission document entitled Sustainability Statement by Icení dated November 2018 and sustainable design measures and climate change adaptation measures to satisfy the aims and objectives of the Council’s strategic policies on sustainability contained within its Development Plan;

- (a) include a design stage Building Research Establishment Environmental Assessment

Method (BREEAM) review report completed by a licensed BREEAM assessor in respect of the Community Facility with a target of achieving a Very Good or Excellent rating and attaining at least 60% of the credits in each of Energy and Water and 40% of the credits in Materials categories;

- (b) in respect of the Residential Units achieve a maximum internal water use of 105 litres/person/day, allowing 5 litres/person/day for external water use;
- (c) 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;
- (d) details of maintenance and management relative to sustainability measures included in the Sustainability Plan;
- (e) measures to secure a post construction review of the Development by an appropriately 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;

(f) measures to secure the provision of a post completion BREEAM certificate certifying that the Development achieves a BREEAM Very Good rating; and

(g) 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

2.53 "the Travel Plan Monitoring Contribution"

the sum of £6,244 (six thousand two hundred and forty four 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 approve the Owner's Travel Plan over a six year period from the date of first Occupation of the Development

2.54 "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

2.55 "The Travel Plan"

a plan securing a package of measures to promote sustainable travel to and from the Property to be adopted by the Owner and to include:

- (a) the elements set out in the Third Schedule hereto;
- (b) provision for an initial substantial review of the plan within six months of the Occupation Date ensuring the plan is updated upon receipt of results of the review and further approved in writing by the Council;
- (c) a mechanism for monitoring and reviewing of the plan on the first anniversary of the Occupation Date;
- (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
- (e) provision for the appointment of Travel Plan Co-ordinator prior to the Occupation Date and a mechanism in place to advise the Council of direct contact details and any subsequent changes in the post;
- (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

2.56 "Tree Replacement Plan"

a strategy which confirms the tree planting measures that has been agreed with adjoining

landowners to replace the trees that will be removed by the Development on adjoining land.

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 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 of interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6 and 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 and 4.2 for all relevant purposes.
- 3.9 Where any approval, agreement, consent, certificate or expression of satisfaction is to be given by the Council under this Agreement, such approval, agreement, consent, certificate or expression of satisfaction shall not be unreasonably withheld or delayed.
- 3.10 The Owner hereby covenants with the Council to perform the obligations set out in Clause 4 of this Agreement to the extent that such obligations relate to the interest it holds at the relevant time.
- 3.11 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.

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

The Owner hereby covenants with the Council as follows:-

##### 4.1 **CAR FREE DEVELOPMENT**

- 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 DEFERRED AFFORDABLE HOUSING CONTRIBUTION**

4.2.1 The Parties agree that notwithstanding the remaining clauses in 4.2 of this Agreement, the Owner may at any time following Implementation pay the Council the Deferred Affordable Housing Contribution in full.

4.2.2 The Owner shall submit the Post Construction Viability 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 PROVIDED the Owner shall have exchanged on the sale of at least 22 Residential Units and provides sufficient information to the Council to evidence the same.

4.2.3 Not to occupy more than [22] Residential Units until such time as the Post Construction Viability Assessment has been submitted to the Council for approval in writing.

- 4.2.4 Upon the issue of the approval of the Post Construction Viability Assessment the Council shall provide to the Owner a certificate specifying the sum (“the Viability Certified Sum”) properly assessed by the Council in accordance with the provisions of Clause 4.2 of this Agreement as being recoverable from the Deferred Affordable Housing Contribution under the terms of this Agreement.
- 4.2.5 The Owner shall pay the Council’s reasonable costs in assessing the Post Construction Viability Plan. The Council shall notify the Owner in writing of these costs and the Owner shall pay the specified sum within 28 days of receipt of such notice.
- 4.2.6 In the event that the approved Post Construction Viability Assessment shows a Deficit the Viability Certified Sum in respect of the Post Construction Viability Assessment shall be zero and the Owner shall have no obligation to pay the Deferred Affordable Housing Contribution.
- 4.2.7 In the event that the approved Post Construction Viability Assessment shows a Surplus the Viability Certified Sum shall be the full amount of the Surplus up to the limit of the Affordable Housing Deferred Contribution which will be retained by the Owner for use in the Council’s wider Community Investment Programme.
- 4.2.8 Not to Occupy or permit Occupation of any more than 22 Residential Units until such time as the Owner has confirmed to the Council that the Viability Certified Sum has been retained for use in the Council’s wider Community Investment Programme.
- 4.2.9 For the purposes of this clause 4.2 the Parties shall operate in accordance with the following procedure:-
- (i) the Owner shall provide no less than 28 days’ notice that it intends to submit the Post Construction Viability Assessment to the Council for approval;
  - (ii) upon receipt of the Post Construction Viability Assessment the Council will use reasonable endeavours to respond to the Owner in writing within 28 days of receipt whether it approves or wishes to question or challenge



any one or more of the constituent parts of the Post Construction Viability Assessment;

- (iii) if the Council agrees the Post Construction Viability Assessment the document shall be deemed agreed for the purposes of clause 4.2 of this Agreement;
- (iv) if the Council wishes to question or challenge the Post Construction Viability Assessment the Parties shall use reasonable endeavours to resolve their differences by discussion directly or through their appointed representatives and shall act in good faith and cooperate with each other in order to reach agreement as quickly as possible.

#### **4.3 HIGHWAYS CONTRIBUTION**

4.3.1 On or prior to the Implementation Date to:-

- (i) pay to the Council the Highways Contribution in full; and
- (ii) submit to the Council the Level Plans for approval.

4.3.2 Not to Implement or to allow Implementation until such time as the Council has:-

- (i) received the Highways Contribution in full; and
- (ii) approved the Level Plans as demonstrated by written notice to that effect.

4.3.3 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.

4.3.4 Subject to the receipt of the Highways Contribution the Council shall consult with the Owner on the proposals for and timings of the Highway Works with the aim for the Highway Works to be completed in accordance with an agreed timeframe and on completion of the Highway Works the Council shall provide to the Owner a certificate specifying the sum ("the Certified Sum") reasonably and properly expended by the Council in carrying out the Highway Works together with a breakdown detailing how the Highways Contribution has been spent.

4.3.5 If the Certified Sum exceeds the Highway Contribution then the Owner shall within fourteen days of the issuing of the said certificate pay to the Council the amount of the excess.

4.3.6 If the Certified Sum is less than the Highway Contribution then the Council shall within fourteen days of the issuing of the said certificate pay to the Owner the amount of the unspent element of the Highway Contribution

#### 4.4 **DEMOLITION MANAGEMENT PLAN AND CONSTRUCTION MANAGEMENT PLAN**

4.4.1 On or prior to the Demolition Date to:

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

4.4.2 Not to commence Demolition until such time as the Council has:

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

4.4.3 On or prior to the Implementation Date (excluding the Demolition Phase) to:

- i) submit to the Council for approval a draft Construction Management Plan for the construction of the Development.

Not to Implement nor allow Implementation of the Development (excluding Demolition) until such time as the Council has:

- ii) approved the Construction Management Plan for the construction of the Development as demonstrated by written notice to that effect.

4.4.4 The Owner acknowledges and agrees that the Council will not approve the Demolition Management Plan or Construction Management Plan unless it demonstrates to the Council's reasonable satisfaction that the Demolition Phase and

Construction Phase of the Development (as appropriate) can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network.

- 4.4.5 To ensure that throughout the Demolition Phase and Construction Phase the Development shall not be carried out otherwise than in strict accordance with the requirements of the Demolition Management Plan or Construction Management Plan (as appropriate) 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 Demolition Management Plan or Construction Management Plan (as appropriate) are not being complied with and in the event of non compliance with this sub-clause the Owner shall forthwith take any steps required to remedy such non-compliance.

#### **4.5 CARBON OFFSET CONTRIBUTION**

- 4.5.1 Prior to the Implementation Date to pay to the Council the Carbon Offset Contribution.
- 4.5.2 Not to Implement or to permit Implementation until such time as the Council has received the Carbon Offset Contribution.

#### **4.6 PEDESTRIAN CYCLING AND PUBLIC REALM CONTRIBUTION**

- 4.6.1 On or prior to the Occupation Date to pay to the Council the Pedestrian Cycling and Public Realm Contribution.
- 4.6.2 Not to Occupy or to permit Occupation until such time as the Council has received the Pedestrian Cycling and Public Realm Contribution.

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

- 4.7.1 On or prior to the Implementation Date (excluding demolition and enabling works) to submit to the Council for approval the Energy Efficiency and Renewable Energy Plan.

- 4.7.2 Not to Implement nor permit Implementation (excluding demolition and enabling works) 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 Unless otherwise agreed in writing not to Occupy or permit Occupation of the relevant part of the Development 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 have been incorporated into the Property.
- 4.7.4 Following the Occupation Date the Owner shall Occupy the Development in strict accordance with the Energy Efficiency and Renewable Energy Plan as approved by the Council and in the event the Council identifies any material non-compliance it shall give the Owner written notice of such non-compliance and the Owner shall forthwith take any steps reasonably required by the Council to remedy such non-compliance and where any such non-compliance is not remedied within a reasonable timescale imposed by the Council the relevant part of the Development shall not be Occupied or permitted to be Occupied until the non-compliance is remedied.

#### 4.8 **SUSTAINABILITY PLAN**

- 4.8.1 On or prior to the Implementation Date (excluding demolition and enabling works) to submit to the Council for approval the Sustainability Plan.
- 4.8.2 Not to Implement nor permit Implementation (excluding demolition and enabling works) until such time as the Council has approved the Sustainability Plan as demonstrated by written notice to that effect.
- 4.8.3 Unless otherwise agreed in writing not to Occupy or permit Occupation of the relevant part of the Development 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 Property.
- 4.8.4 Following the Occupation Date the Owner shall Occupy the Development in strict accordance with the requirements of the Sustainability Plan and in the event the

Council identifies any material non-compliance it shall give the Owner written notice of such non-compliance and the Owner shall forthwith take any steps reasonably required by the Council to remedy such non-compliance and where any such non-compliance is not remedied within a reasonable timescale imposed by the Council the relevant part of the Development shall not be Occupied or permitted to be Occupied until the non-compliance is remedied

#### **4.9 EMPLOYMENT AND TRAINING PLAN**

4.9.1 Prior to the Implementation Date (excluding demolition and enabling works) to submit to the Council for approval the Employment and Training Plan.

4.9.2 Not to Implement nor permit Implementation (excluding demolition and enabling works) until such time as the Council has approved the Employment and Training Plan as demonstrated by written notice to that effect.

4.9.3 To ensure that throughout the Construction Phase the Development shall not be carried out otherwise than in strict accordance with the requirements of the Employment and Training Plan and not to permit the building out of the Development at any time when the requirements of the Employment and Training Plan are not being complied with and in the event of non-compliance with this sub-clause the Owner shall forthwith take any steps required to remedy such non-compliance.

#### **4.10 LOCAL EMPLOYMENT**

4.10.1 The Owner shall work in partnership with (i) the King's Cross Construction Centre; and (ii) take the following specific measures during the Construction Phase (excluding the Demolition Phase) 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 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) that the King's Cross Construction Centre is supplied with a full labour programme for the lifetime of the Development (with six-monthly updates) demonstrating (i) what skills and employment are needed through the life of the programme, 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
- e) 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 Construction Phase.

4.10.2 The Owner shall ensure that at all times during the Construction Phase (excluding the Demolition Phase) no less than 5 construction apprentices 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 (unless a shorter period is agreed in writing with the Council); and
- (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>.
- (iv) the Construction Apprentice Support Contribution (based on the each individual apprentice placement) has been paid in full.

4.10.4 The Owner shall ensure that during the Construction Phase (excluding the Demolition Phase) of the Development no less than 11 work placements and/or work experience opportunities are provided at the Development.

4.10.5 Notwithstanding the provisions in clauses 4.10.2 and 4.10.3 (above) of this

Agreement, during the Construction Phase (excluding the Demolition 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.

4.10.6 On or prior to the Implementation Date to pay the Council the Apprentice Support Contribution in full

4.10.7 Not to Implement or permit Implementation (excluding demolition and enabling works) until such time as the Apprentice Support Contribution has been paid to the Council in full.

4.10.8 If the Owner is unable to provide the apprentices in accordance with Clause 4.10.2 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; and

b) shall not Occupy or permit Occupation until such time as the Construction Apprentice Default Contribution (based on the each individual apprentice placement) has been paid in full.

#### **4.11 LOCAL PROCUREMENT**

4.11.1 Prior to Implementation (excluding demolition and enabling works) 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.

4.11.2 On or prior to Implementation (excluding demolition and enabling works) 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.

4.11.3 To ensure that throughout the construction of the Development 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 steps required to remedy such non-compliance.

4.11.4 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.

#### 4.12 **TRAVEL PLAN**

4.12.1 On or prior to the Occupation Date to:-

- (a) submit to the Council the Travel Plan for approval; and
- (b) pay to the Council the Travel Plan Monitoring Contribution

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

- (a) the Council has approved the Travel Plan as demonstrated by written notice to that effect; and
- (b) the Council has received the Travel Plan Monitoring Contribution in full.

4.12.3 Following the Occupation Date the Owner shall Occupy the Development in strict accordance with the Travel Plan as approved by the Council from time to time and in the event the Council identifies any material non-compliance it shall give the Owner written notice of such non-compliance and the Owner shall forthwith take any steps reasonably required by the Council to remedy such non-compliance and where any such non-compliance is not remedied within a reasonable timescale imposed by the Council the relevant part of the Development shall not be Occupied or permitted to be Occupied until the non-compliance is remedied

#### 4.13 **COMMUNITY FACILITY**

4.13.1 Prior to Occupation of the Community Facility to submit to the Council for approval the Community Facility Management Plan in respect of the relevant Community Facility.

4.13.2 Not to Occupy or permit Occupation of the Community Facility (or the relevant part thereof) until the Council has approved the Community Facility Management Plan for the relevant Community Facility (as demonstrated by written notice to that effect).



4.13.3 Not to Occupy or permit Occupation any of the Residential Units until the Community Facility has been built to shell and core..

4.13.4 Following the Occupation Date the Owner shall Occupy the Development in strict accordance with the Community Facility Management Plan as approved by the Council from time to time and in the event the Council identifies any material non-compliance it shall give the Owner written notice of such non-compliance and the Owner shall forthwith take any steps reasonably required by the Council to remedy such non-compliance and where any such non-compliance is not remedied within a reasonable timescale imposed by the Council the relevant part of the Development shall not be Occupied or permitted to be Occupied until the non-compliance is remedied

#### 4.14 **SERVICING MANAGEMENT PLAN**

4.14.1 On or prior to the Occupation Date to submit to the Council for approval the Servicing Management Plan.

4.14.2 Not to Occupy nor permit Occupation until such time as the Council has approved the Servicing Management Plan as demonstrated by written notice to that effect.

4.14.3 Following the Occupation Date the Owner shall Occupy the Development in strict accordance with the Servicing Management Plan as approved by the Council from time to time and in the event the Council identifies any material non-compliance it shall give the Owner written notice of such non-compliance and the Owner shall forthwith take any steps reasonably required by the Council to remedy such non-compliance and where any such non-compliance is not remedied within a reasonable timescale imposed by the Council the relevant part of the Development shall not be Occupied or permitted to be Occupied until the non-compliance is remedied

#### 4.15 **PARKING MANAGEMENT PLAN**

4.15.1 On or prior to the Occupation Date to submit to the Council for approval the Parking Management Plan.

4.15.2 Not to Occupy nor permit Occupation until such time as the Council has approved the

Parking Management Plan as demonstrated by written notice to that effect.

4.15.3 Following the Occupation Date the Owner shall Occupy the Development in strict accordance with the Parking Management Plan as approved by the Council from time to time and in the event the Council identifies any material non-compliance it shall give the Owner written notice of such non-compliance and the Owner shall forthwith take any steps reasonably required by the Council to remedy such non-compliance and where any such non-compliance is not remedied within a reasonable timescale imposed by the Council the relevant part of the Development shall not be Occupied or permitted to be Occupied until the non-compliance is remedied

#### **4.16 LANDSCAPING MANAGEMENT PLAN**

4.16.1 Prior to Occupation of the Development to submit to the Council for approval the Landscaping Management Plan.

4.16.2 Not to Occupy or permit Occupation of the Development until the Council has approved the Landscaping Management Plan (as demonstrated by written notice to that effect).

4.16.3 Not to Occupy or permit Occupation of more than 50% of the Residential Units until the Landscaping Works have been provided in accordance with the Landscaping Management Plan and are available for use by the public in accordance with the Landscaping Management Plan

#### **4.17 AFFORDABLE HOUSING**

4.17.1 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.

4.17.2 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) for the provision of Social Rented Housing for occupation by tenants at rental levels being in accordance with the targets set by the Regulator (ii) for the provision of Intermediate Housing in accordance with the Intermediate Housing Scheme; and (iii) for the provision of Intermediate Housing for occupation in accordance with the Intermediate Housing Scheme as the case may be.

4.17.3 Not to occupy or allow occupation of 50% of the residential units 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;
- (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 4.1.3 hereof.

4.17.4 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.

4.17.5 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.

#### **4.18 TREE REPLACEMENT PLAN**

4.18.1 On or prior to the Occupation Date to submit to the Council for approval the Tree Replacement Plan.

4.18.2 Not to Occupy nor permit Occupation until such time as the Council has approved the

Tree Replacement Plan as demonstrated by written notice to that effect.

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 2018/5774/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 2018/5774/P.
- 5.7 Payment of the Highways Contribution pursuant to Clause 4.8 of 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 2018/5774/P. Electronic Transfer be made directly to the Co-operative Bank Plc of 1 Islington High Street London N1 9TR quoting Sort Code 08-90-33 and London Borough of Camden General Account no. 61030019
- 5.8 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.
- 5.9 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

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

5.10 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 2018/5774/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                    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 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. **JOINT AND SEVERAL LIABILITY**

8.1 All Covenants made by the Owner [and the                    ] in this Agreement are made jointly and severally and shall be enforceable as such.

9. **RIGHTS OF THIRD PARTIES**

9.1 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

**OR**

**IN WITNESS** whereof the Council and the Owner have caused their respective common seals to be hereunto affixed [and the Mortgagee has executed this instrument as a Deed] the day and year first before written

**THE COMMON SEAL OF/ )**  
**EXECUTED AS A DEED BY )**  
**LIMITED )**  
**was hereunto affixed )**  
**in the presence of:-/ )**  
**acting by a Director and its Secretary )**  
**or by two Directors )**

.....  
**Director**

.....  
**Director/Secretary**

**EXECUTED AS A DEED BY )**  
**in the presence of: )**

.....  
**Witness Signature**

**Witness Name**

**Address**

**Occupation**



**EXECUTED as a Deed** )  
**By Mortgagee** )  
**by** )  
**in the presence of:-** )

.....

**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 LOCAL PROCUREMENT CODE**

### **1. INTRODUCTION**

The use of local procurement agreements is a useful tool in helping the Council to improve economic prosperity and diversity in the local area which is a key aim of the Camden Community Strategy and the Camden Local Plan (adopted July 2017). The sourcing of goods and services locally will also help to achieve a more sustainable pattern of land use and reduce the need to travel. The use of section 106 Agreements attached to the grant of planning permission will be used as a mechanism to secure appropriate levels of local procurement of goods and services. A fuller explanation of the policy background and the justification for the use of local procurement agreements and when they will be required is contained within paragraph 30 of the Camden Planning Guidance (adopted July 2015) which can be viewed on the Council's web site. This document is in line with the objectives of other organizations such as the London Development Agency and Government Office for London.

The purpose of this code is to maximise the opportunities available to Local Businesses in Camden from larger property developments taking place in Camden both during and after the construction phase. The local procurement code describes how the Owner in partnership with Camden Labour Market & Economy Service will ensure that Local Businesses benefit directly from the opportunities arising from both the Construction Phase of the Development and the end use of the Property.

The requirements of the local procurement code apply to the Owner, main contractor and subcontractors appointed by them as well as tenants subsequently occupying the building. The code is designed to support Owner s and contractors in fulfilling their commitments to the planning agreements by clarifying what is required from the outset. Although the wording is emphatic, Camden Labour Market & Economy Service seeks to work in partnership with contractors to assist them in meeting specifications and in finding suitable local companies. They will provide a regularly updated pre-screened directory of local companies in construction, fitting-out and furnishing trades in support of local procurement agreements.

### **2) MAIN REQUIREMENTS OF THE CODE**

#### **A) CONSTRUCTION.**

We will request that the Owner meets with London Borough of Camden's Labour Market & Economy Service's Local Procurement Team ("the Local Procurement Team") at least 1 month in advance of tendering contracts to clarify how the local procurement code will work and the co-operation required from the Owner , main contractor and subcontractors.

The Council will seek to ensure that the Owner inserts the following clauses in the tender documentation issued to the main contractor:

## **2.1 Actions & Responsibilities of Main Contractor**

1. The main contractor will provide the Local Procurement Team with information on the estimated timing of their procurement programme and a schedule of works packages to be let ("the Procurement Schedule") and to provide updates of the Procurement Schedule as and when it is updated or revised.
2. The main contractor will work with the Local Procurement Team to: include local companies on their tender lists wherever possible and to aim to achieve the procurement of construction contracts and goods and services from companies and organisations based in Camden towards a target of 10% of the total value of the construction contract.
3. The main contractor is required to provide regular monitoring information to the Local Procurement Team every six to eight weeks during the construction phase, via e-mail, phone, fax or liaison meeting providing details of:

- all local companies which are sent a tender enquiry or a tender invitation detailing the date and the works package or items concerned;
- the outcome of all works packages tendered, where there is a local company on the tender list, stating whether the local company was unsuccessful, successful or declined to tender and the contract value in the case of a contract being awarded to a local company.
- All local wholesalers and building materials suppliers which are asked to provide prices and the value of any purchases of materials and other wholesaler supplies procured.

(The Local Procurement Team can provide a pro forma local procurement log to assist in the monitoring process)

Full contact details of all subcontractors appointed (whether local or from elsewhere)

4. The main contractor should include a written statement in the tender documentation sent out to sub contractors informing them of their s106 requirement obligations as set out in section 2.2 below and ensure cooperation is agreed as a prerequisite to accepting sub contract tenders
5. The main contractor should provide an opportunity for the Local Procurement Team to brief subcontractors on the requirements of the Local Procurement code.
6. The main contractor will identify any actions that are required in order to overcome known barriers to Local Businesses to accessing their supply chain in respect of the Construction Phase.

## **2.2 Actions And Responsibilities of Sub-Contractors**

1. All sub-contractors appointed will be required to work with the Local Procurement Team and to aim to achieve the procurement of construction goods and services from companies and organisations based in Camden towards a target of 10% of the total value of their construction sub-contract. (A regularly updated sub-directory of local suppliers will be supplied to subcontractors by the Local Procurement Team).
2. All subcontractors are required to provide regular monitoring information either to the main contractor or directly to the Local Procurement Team every six to eight weeks during the construction phase, via e-mail, phone, fax or liaison meeting providing details of :
  - All local wholesalers and building materials suppliers which are asked to provide prices and the value of any subsequent purchases of materials and other wholesaler supplies procured.
  - All local companies which are sent a tender enquiry or a tender invitation detailing the date and the works package concerned and the outcome of all sub-contracts tendered.

## **B. POST CONSTRUCTION: FITTING OUT BY TENANTS AND FACILITIES MANAGEMENT**

### **Fitting out by tenants**

Where the tenants of a development are responsible for fitting out the building(s), we will require the Owner s to inform them that they also fall under the provisions of this s106 on local procurement and provide guidance in writing to their tenants setting out

the above clauses contained in section 2 above, which will apply to them as the Owner , their main contractor and subcontractors.

### **Facilities Management**

The Owner and their agents shall provide opportunities for local businesses to bid/tender for the provision of facilities management services and other post construction supply of goods and services.

The Council will assist the Owner, occupier and their contractors in identifying suitable local companies to bid for facilities management contracts and to source local goods and services.

## THE THIRD SCHEDULE THE TRAVEL PLAN

### **PART I: Components of the Travel Plan**

The Travel Plan will be a basis for promoting sustainable travel to and from the Property.

The National Planning Policy Framework states that... “*All developments which generate significant amounts of movement should be required to provide a Travel Plan.*”

For further advice on developing a Travel Plan see the Transport for London’s travel plan guidance website:

<http://www.tfl.gov.uk/info-for/urban-planning-and-construction/travel-plans>

The Owner will implement the Travel Plan where appropriate in partnership with the Council and/or with public transport operators.

### **In drawing up the Travel Plan (“the Plan) the Owner shall ensure that provisions relating to the following matters are contained within the Plan:-**

#### **1. Public Transport and walking**

- a. Review the public transport needs of occupiers and visitors and consider potential park and ride type services or shuttle-type services for occupiers, or suggest further enhancements to the scheduled London Bus network
- b. Provide in-house public transport information and ensure that this is regularly updated (both Transport for London and National Rail travel information is available from their respective websites: [www.tfl.gov.uk/](http://www.tfl.gov.uk/) [www.nationalrail.co.uk](http://www.nationalrail.co.uk))
- c. Consider provision of interest-free annual season ticket/travelcard loans for travel on buses, the underground, trains and trams for any commercial occupiers of the Development
- d. Encourage walking through the provision of information on the best pedestrian routes to and from the Property for occupiers and visitors

**2. Taxis and Minicabs**

Consideration must be given to the provision and management of Taxi access to the Property

**3. Traffic Restraint**

The Plan must seek to reduce the volume and impact of vehicles generated by the Development

**4. On-Street Parking Controls**

The plan should aim to contain the transport impacts of the site (including parking, loading and unloading) to within the curtilage of the site and reduce the impact of the site on surrounding on-street parking.

**5. Parking and Travel**

A review of occupier's travel should have the principal aim of reducing non-essential single occupant driver trips to the site and increasing the proportion of trips undertaken by bicycle and on foot. With regards to car travel and car parking, this should include:

- a. a review and/ or development of criteria to reduce car allowances and include measures to limit the use of car parking and permits in and around the Property.
- b. a review of any on-site parking charges
- c. consideration and/or review of pool vehicles for work related trips including more environmentally friendly vehicles and alternative forms of transport for some trips.
- d. consider the use of partial homeworking/teleworking/teleconferencing where feasible and appropriate

**6. Traffic Management**

An assessment must be made of the impacts of the proposed car park access changes on existing internal congested traffic flows and seek further enhancements to internal traffic flow to better manage congestion

**7. Cycling**

The following cycle measures must be provided in sufficient quantity in line with annual travel surveys to be subsequently carried out:



- a. secure and well-lit workplace cycle parking

Consideration shall also be given to providing the following, especially in commercial developments:

- b. changing and showering facilities
- c. cycle allowance for work-related journeys
- d. cycle and equipment loans and insurance
- e. cycle repair facilities
- f. cycle pool for work-related journeys
- g. a Bicycle Users Group (BUG) to progress cyclists issues on site
- h. work with the Council to improve cycle routes to/from the Property

#### **8. Facilities for Goods Movement and Servicing**

A Servicing Management Plan for the site must seek to:

- a. identify the number and type of servicing vehicles required for the Property;
- b. Limit the size of vehicle where a larger vehicle will create servicing conflicts;
- c. Manage the timing of deliveries to avoid conflict with other servicing vehicles, conflict with loading or parking restrictions in the area or conflict with heavy pedestrian or traffic flows
- d. encourage suppliers and delivery contractors to use alternatively-fuelled vehicles (such as electric and LPG vehicles and cycles) – organisations can apply to the Energy Saving Trust ([www.est.org.uk](http://www.est.org.uk)) for alternatively- fuelled vehicle grants

### **PART II: Review and Monitoring of the Travel Plan**

The Owner shall ensure that the Plan contains arrangements for the review and monitoring of the Travel Plan and that this is carried out on an ongoing basis and at least in years one, three and five following occupation and including an initial survey undertaken three months following the Occupation Date. These arrangements will deal with the matters set out below establishing firm timescales for the taking of each step, specific targets to be adopted for the measuring of the effectiveness of each measure and a reporting mechanism to the Council. It is acknowledged that it will be appropriate to amend the Travel Plan by agreement in the light of developing circumstances.

1. **Review the Property's Transport Accessibility**

The first stage will be to review the Property's accessibility by all modes. An accessibility report will be produced and this will form the basis for the next stages.

2. **Consultation with occupiers**

This will involve meeting occupiers of the Property to promote the concept of a Travel Plan. The meetings will seek to identify a common set of objectives for encouraging walking, cycling and public transport usage combined with reducing reliance on the private car.

3. **User Consultation and Travel Surveys**

This stage will be based around consultation. It will be extremely important to secure the support of occupiers and users of the Development if the Plan is to succeed. This stage will include occupier and user travel surveys to examine the use of existing modes of travel, attitudes towards sustainable modes of transport and the most effective measures to promote sustainable transport for commuting journeys and business journeys. The Owner will consult with the Council at this stage.

4. **Implementation**

Stages 1 to 3 will provide the base information for the review of the Travel Plan.

5. **Monitor and Review**

The Travel Plan will secure an ongoing process of continuous improvement. Each version of the Travel Plan shall set out a mechanism of next steps to be tackled in line with results collated from the surveys and shall also set out a mechanism for reporting back to the Council on an annual basis on how effectively the Travel Plan is being in maximising the use of sustainable transport.