

DATED 20 June 2024⁵

**(1) THE MAYOR AND BURGESSES OF THE
LONDON BOROUGH OF HARINGEY**

and

(2) NEW ROAD (CROUCH END) LIMITED

and

(3) VINEPOST LIMITED

and

(4) GALLIARD HOLDINGS LIMITED

and

(5) FORNACELLI (NEW ROAD) LIMITED

AGREEMENT RELATING TO LAND KNOWN AS

Land to the rear of 3 New Road, Hornsey London N8 8TA

**PURSUANT TO SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 AND SECTION 16 OF THE
GREATER LONDON COUNCIL (GENERAL POWERS) ACT 1974 AND ALL OTHER ENABLING POWERS**

London Borough of Haringey
Alexandra House
10 Station Road
Wood Green
London N22 7TR

Legal Ref: LEG/PP/JXF/76581
Planning Ref: HGY/2023/3302

DATE

20 June

2024⁵

PARTIES

- (1) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF HARINGEY** of Civic Centre Wood Green London N22 8LE ("Council") of the first part;
- (2) **NEW ROAD (CROUCH END) LIMITED** (company registration number 09061402) whose registered office is at 29 York Street, London W1H 1EZ ("Leaseholder") of the second part; and
- (3) **VINEPOST LIMITED** (Company Registration Number 06399847) whose registered office is at 3rd Floor, Sterling House, Langston Road, Loughton IG10 3TS ("First Mortgagee") of the third part.
- (4) **GALLIARD HOLDINGS LIMITED** (Company Registration Number 03368629) whose registered office is at 3rd Floor, Sterling House, Langston Road, Loughton IG10 3TS ("Second Mortgagee") of the fourth part.
- (5) **FORNACELLI (NEW ROAD) LIMITED** (Company Registration Number 10812954) whose registered office is at 1st Floor Arthur Stanley House, 40-50 Tottenham Street, London, United Kingdom, W1T 4RN ("Freeholder") of the fifth part.

WHEREAS

- (1) The Council is the Local Planning Authority for the purposes of the Act for the area within which the Property is situated.
- (2) The Freeholder is the owner with freehold title absolute of the Property registered at the Land Registry under title number AGL425669.
- (3) The Leaseholder is the owner with leasehold title absolute of the Property registered at the Land Registry under title number AGL433952.
- (4) The First Mortgagee holds a mortgage over the Leaseholder's interest in the Property by virtue of a legal charge dated 15 January 2019 registered in the Charges Register of title number AGL433952 and is entering into this Agreement to give its consent to it and to bind its interest in the Property.
- (5) The Second Mortgagee holds a mortgage over the Leaseholder's interest in part of the Property by virtue of a legal charge dated 28 November 2019 registered in the Charges Register of title number AGL433952 and is entering into this Agreement to give its consent to it and to bind its interest in the Property.
- (6) The Leaseholder has applied to the Council for permission to develop the Property in accordance with the Application and as part of the Development has agreed to comply with the obligations, covenants and restrictions contained herein and the Freeholder and

Leaseholder are willing to enter into this Agreement pursuant to the provisions of section 106 of the Act and section 16 of the 1974 Act and all other enabling provisions in order to facilitate the Development.

- (7) The Council having duly complied with all duties imposed on it by or under the Act and having had regard to the provisions of the development plan and all other material considerations has decided that following completion of the Agreement the Planning Permission shall be granted.
- (8) The Council 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.

NOW THIS DEED WITNESSETH as follows:

1. Enabling Powers and Interpretation

1.1. In this Agreement the following words and expressions have the following meanings:

"1972 Act"	Means the Local Government Act 1972 (as amended).
"1974 Act"	Means the Greater London Council (General Powers Act) 1974 (as amended).
"2011 Act"	Means the Localism Act 2011(as amended).
"the Act"	Means the Town and Country Planning Act 1990 as amended from time to time or any subsequent re-enactment of that Act.
"Agreement"	Means this Agreement.

"the Application"	Means the planning application seeking planning permission for the Development bearing reference HGY/2023/3302 ("Application Reference").
"Blue Badge Holder"	Means a person who holds a disabled persons badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 (as amended).
"Car Club"	Means a club operated by a Car Club Operator which residents of the Development and the general public may join and which makes cars available for hire to members either on a commercial or part-subsidised rate.
"Car Club Operator"	Means a company that is accredited by CoMoUK to operate Car Clubs, or such other company operating a Car Club as is agreed with the Council in writing.
"Car-free Dwellings"	Means all of the Dwellings "Car-free Dwelling" shall be construed accordingly.
"Carbon Offsetting Contribution"	Means a contribution of £5,700 plus a 10% (ten percent) management fee payable by the Owner to Council towards the Council's implementation of projects to reduce carbon emissions in its area to offset any proposed shortfall in meeting London Plan policies.
"Contributions"	Means the Carbon Offsetting Contribution and the Traffic Management Order Contribution, each of which is "Contribution".

"CoMoUK"	Means the national charity promoting responsible car use.
"the Development"	Means the development of the Property consisting of the change of use and conversion of part ground floor, and upper floors first and second from (vacant) office use to provide 5 no. self-contained flats, insertion of a new ground floor window opening for Flat No. 2 on southern elevation, and the installation of a new skylight (Flat No. 5), associated landscaping and bicycle storage in accordance with the documents submitted with the Application and Planning Permission.
"Due Date"	Means the date upon which any payment due under any of the provisions of this Agreement is to be made.
"Dwelling"	Means a dwelling (including a house flat or maisonette) to be constructed pursuant to the Planning Permission.
"the Implementation Date"	Means the date of implementation of the Planning Permission by the carrying out of a material operation as defined in Section 56 of the Act and references to "Implementation" and "Implement" shall be construed accordingly.
"Index"	Means the All-Items Index of Retail Prices issued by the Office for National Statistics or any replacement publication or index agreed by the Council in the event that the All-Items Index of Retail Prices becomes no longer maintained.

"Occupation Date"	Means the date on which any part of the Development (or any part or phase) is first occupied for the purposes set out in the Planning Permission excluding occupation for the purposes of fitting out or marketing the Development (or any part or phase) and the terms "Occupy", "Occupied", "Occupier" and "Occupation" shall be construed accordingly.
"Owner"	Means the Freeholder and the Leaseholder each of which is jointly and severally liable for the performance of the Owner covenants obligations undertakings and restrictions contained in this Agreement.
"the Parties"	Means the parties to this Agreement and their successors in title and the term Party shall be construed accordingly.
"Payment Form"	Means the form to be used by the Owner when making financial payments to the Council in accordance with this Agreement as set out in the Second Schedule of this Agreement.
"Planning Obligations Monitoring Officer"	Means an officer of the Council from time to time allocated to deal with and monitor all obligations.
"the Plan"	Means the plan annexed as the First Schedule to this Agreement.
"the Planning Permission"	Means the planning permission for the Development pursuant to the Application.

“the Property”	Means the land and premises known as commercial unit, 3 New Road, Hornsey, London N8 8TA shown indicatively edged in red on the Plan.
“Resident’s Parking Permit”	Means a permit issued under the Traffic Management Order which permits the holder to park in accordance with the Traffic Management Order.
“the Traffic Management Order”	Means the relevant order for the time being in force made under the Road Traffic Regulation Act 1984 (as amended) which establishes a controlled parking zone in which the Property is situated.
“Traffic Management Order Contribution”	Means the sum of £4,000 to be pooled towards the costs associated with amending the Traffic Management Order and advertising the same which amendment shall remove the Development from those premises the residents of which may apply for a Resident’s Parking Permit.
“Working Days”	Means any day except Saturday, Sunday, Christmas Day, Good Friday, and any statutory bank holiday.

- 1.2. This Agreement is made pursuant to section 106 of the Act, section 111 of the 1972 Act, section 16 of the 1974 Act, section 1 of the 2011 Act and any other enabling statutory provisions.
- 1.3. Words importing the singular shall include the plural and vice versa.
- 1.4. Any reference to a specific statute or statutes includes any statutory extension or modification amendment or re-enactment of such statute and any regulations or orders made under such statute.
- 1.5. The clause and paragraph headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation.
- 1.6. Unless otherwise indicated words importing persons include firms, companies, other corporate bodies, or legal entities and vice versa.

- 1.7. Any obligation, covenant, undertaking or agreement by any Owner not to do any act or thing includes an obligation, covenant, undertaking or agreement not to permit or allow the doing of that act or thing.

2. Taking Effect

This Agreement shall have immediate effect save for clause 4 which shall take effect on the date on which the Planning Permission is granted.

3. Application of enabling powers

- 3.1. It is hereby agreed that the covenants and conditions in this Agreement are planning obligations for the purposes of Section 106 of the Act (save for 4.3 (car-free development) and clause 8.2 (payment of the Council's legal costs)) and that the Council is the local planning authority by whom they may be enforced and all covenants and conditions in this Agreement are enforceable by the Council pursuant to section 16 of the 1974 Act and all other enabling statutory provisions as noted above.
- 3.2. Both positive and restrictive covenants and undertakings herein on the part of the Owner are entered into with the intent that the same shall be enforceable without limit of time not only against the Owner but also against its successors in title and assigns and any person corporate or otherwise claiming through or under the Owner an interest or estate created after the date hereof in the Property or any part or parts thereof as if that person had also been an original covenanting party in respect of such of the covenants and undertakings which relate to the interest or estate for the time being held by that person.
- 3.3. No person shall be liable for any breach of any of the planning obligations or other provisions of this Agreement after it shall have parted with its entire interest in the Property but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 3.4. This Agreement shall cease to have effect (insofar only as it has not already been complied with and without prejudice to any subsisting liability) if the Planning Permission shall be quashed or revoked or otherwise withdrawn or shall expire prior without Implementation.

4. Obligations of the Owner

The Owner hereby covenants and undertakes for itself and its successors in title with the Council as follows:

4.1. General

4.1.1 Not to carry out continue or procure the Development without performing and observing the obligations stipulations and other matters set out in this Agreement and on the part of the Owner to be performed and observed unless otherwise agreed in writing by the Parties.

4.1.2 Subject to compliance with all health and safety requirements to permit the Planning Obligations Monitoring Officer access to the Property during the carrying out of the Development to inspect whether the provisions of this Agreement are being observed and performed in accordance with this Agreement.

4.1.3 Not to encumber or otherwise deal with their interest in the Property or any part or parts thereof in any manner whatsoever whereby the obligations, covenants and undertakings imposed by this Agreement are rendered impossible to carry out.

4.2. The Contributions

4.2.1 On or prior to the Implementation Date to pay to the Council the Contributions.

4.2.2 Not to:

- (i) Implement, cause, or permit Implementation;
 - (ii) Occupy or cause or permit the Occupation of the Development or any part thereof;
 - (iii) use or cause or permit the use of the Development or any part thereof;
- until such time as the Council has received the Contributions in full by direct bank transfer to the Council's bank in accordance with clause 7.1.

4.3 Car-Free Development

4.3.1 The Property shall not be used and/or Occupied by anyone who has a Resident's Parking Permit save for the application of clause 4.3.5.

4.3.2 In the event that a Resident's Parking Permit is issued in respect of the Car-free Dwellings it shall be surrendered to the Council within 7 days of a written demand therefor from the Council.

- 4.3.3 Prior to the Occupation of each Car-free Dwelling any resident shall be informed by the Owner of the contents of this Agreement and that as a result they shall not be entitled to apply for a Resident's Parking Permit from the Council and any disposal licence transfer lease or tenancy to any resident shall contain an obligation for the resident to comply with and raise no objection to the provisions of clauses 4.3.1 and 4.3.2 above in substantially the form set out below:

"the transferee/lessee for himself and his successors in title being the owner or owners for the time being of the terms of years hereby granted hereby covenant with the transferor/lessor and separately with the Mayor and Burgesses of the London Borough of Haringey ("the Council") not to apply for nor knowingly permit an application to be made by any person residing in the premises to the Council for a resident's parking permit in respect of such premises and if such a permit is issued then it shall be surrendered within 7 days of written request to do so from the Council and this covenant shall also be enforceable by the Council under the Contracts (Rights of Third Parties) Act 1999, section 1 SAVE THAT any resident who holds a disabled persons badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 (as amended) shall be entitled to resident's parking permit."

- 4.3.4 Any advertisement in relation to the marketing or sale of any Car-free Dwelling within the Development is to include specific reference that the Development is a car-free Development.
- 4.3.5 The restrictions in clauses 4.3.1 to 4.3.4 shall not apply in respect of any Occupier or resident of the Development who is a Blue Badge Holder.

4.4 Car Club

- 4.4.1 To ensure that residents of the Development are offered free membership of a Car Club for a period of five years from the Occupation Date of their Residential Unit PROVIDED THAT during this five-year period the Owner shall not be obliged to offer memberships to more than two (2) qualifying Occupier of each Residential Unit.
- 4.4.2 To pay into the Car Club a credit of ONE HUNDRED POUNDS (£100.00) per annum for a period of five years from the Occupation Date in respect of each Residential Unit to the Occupiers of each Residential Unit up to a maximum of two (2).

- 4.4.3 For five years from the Occupation Date of each Residential Unit to provide marketing literature to the residents of that Residential Unit PROVIDED THAT this marketing literature shall include the incentives detailed in clauses 4.4.1 and 4.4.3 above.
- 4.4.4 To provide evidence of compliance with the provisions of this clause 4.5 to the Council's Transportation Planning Team when asked to do so and not to Occupy or cause or permit Occupation until the Council has confirmed in writing that it is satisfied that if applicable the Car Club has been provided and all the related provisions of this Agreement have been complied with.
- 4.4.5 In the event that any Occupier of a Residential Unit notifies the Owner that instead of using the Car Club they will instead purchase a bicycle the Owner shall instead of providing the credit pursuant to clause 4.4.2 pay the Occupier the equivalent of that credit by way of voucher (to the value of at least £150) only due to the Residential Unit less any credit already paid for the purposes of purchasing a bicycle.

5 Council's Covenants

5.1 Purpose of Contributions

The Council hereby covenants with the Owner to use all sums received from the Owner under the terms of this Agreement for the purposes specified in this Agreement for which they are to be paid or for such other purposes for the benefit of the Development as the Owner and the Council shall agree.

5.2 Discharge of Obligations

At the written request of the Owner, the Council shall provide written confirmation of the discharge of the obligations contained in this Agreement when satisfied that such obligations have been performed.

6 Notice to the Council/Other Matters

6.1 The Owner shall give written notice to the Council on or prior to the Implementation Date specifying that Implementation of the Development has taken place or when it will take place.

6.2 If the Owner fails to give written notice of the Implementation Date to the Council in accordance with the above the Due Date for the contributions shall be the date the Planning Permission is issued.

- 6.3 Within 7 (seven) days following completion of the Development the Owner shall certify in writing to the Planning Obligations Monitoring Officer quoting the Application reference the date upon which the Dwellings forming the Development are ready for Occupation.
- 6.4 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.
- 6.5 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 the Agreement and further shall indemnify the Council for any expenses or liability arising to the Council in respect of any 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.
- 6.6 Unless otherwise specified where any agreement consent approval confirmation or expression of satisfaction is to be obtained from any Party under the terms of this Agreement the Parties hereby agree that the same shall be in writing and not be unreasonably withheld or delayed.

7 Payments VAT and Index linking

- 7.1 Payment of financial contributions pursuant to the terms of this Agreement shall be made by the Owner to the Council sending the full amount by direct bank transfer to the Council's bank account in accordance with the Payment Form (amended to record such payment as applicable) and the Owner shall send the completed Payment Form the Planning Obligations Monitoring Officer.

- 7.2 All considerations 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 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.
- 7.3 Any financial contributions referred to in this Agreement as payable or to be applied by any party other than the Council under this Agreement shall be increased by a percentage equivalent to the percentage increase (if any) in the Index from the date of this Agreement to the date that the relevant contribution is paid.
- 7.4 All financial contributions costs and expenses payable to the Council under this Agreement shall bear interest at the rate of 4% above the base rate of the Barclays Bank plc from time to time being charged from the Due Date until payment is made.

IT IS HEREBY AGREED AND DECLARED by the Parties hereto that:

8 Notices

- 8.1 The provision 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 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 Haringey, Planning Obligations Monitoring Officer, quoting the planning reference number on the front page 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 Development Management Unit.
- 8.2 **Payment of Council's Costs**
The Owner agrees to pay the Council its legal costs incurred in preparing and settling this Agreement and monitoring costs in the sum of £ 1,795.00 in respect of the monitoring of the discharge of the obligations in the Agreement on or prior to the date of completion of the Agreement.
- 8.3 **Registration**
8.3.1 This Agreement is a Local Land Charge.

- 8.3.2 The Owner hereby covenants with the Council that it will within 28 (twenty-eight) days from the date hereof apply to the Chief Land Registrar to register this Agreement in the Charges Register to the title to the Property and will furnish the Council forthwith on written demand with office copies of such title to show the entry of this Agreement in the Charges Register of the title to the Property and the Owner covenants not to make any application to the Land Registry for the removal of any such registration without first obtaining the Council's approval.
- 8.3.3 Following the performance and satisfaction of all of the obligations contained in this Agreement the Council shall upon receiving a written request in writing from the Owner forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.

8.4 Waiver

- 8.4.1 The failure by any party to enforce at any time or for any period any one or more of the terms and/or obligations of this Agreement including those contained in any Schedule of appendix hereto shall not be a waiver of those terms and/or obligations or of the right at any time subsequently to enforce all terms of this Agreement.
- 8.4.2 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.
- 8.4.3 If any provision in this Agreement shall in whole or in part be held to be invalid or unenforceable under any enactment or rule of law such provision shall to that extent be deemed not to form part of this Agreement and the enforceability of the remainder of this Agreement shall not be affected.

8.5 Third Party Rights

The Parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it (other than a successor in title or a successor in statutory function).

8.6 Dispute Resolution

Save as otherwise herein expressly provided any dispute or differences arising between the parties as to their respective rights duties or obligations and to any other matter or things in any way arising out of or in connection with the subject matter of this Agreement may be referred for the determination of an independent expert to be agreed upon by the parties or failing agreement by a person nominated by the President for the time being of the Law Society / Chartered Institute of Housing and the decision of the said expert shall be final and binding on the parties and the said expert's fees and expenses shall be payable as the expert directs provided that nothing in this clause shall fetter the Council in exercising its discretion in carrying out its functions.

8.7 Change in Ownership

The Owner shall provide the Council with a certified copy (including a plan if appropriate) of any conveyance transfer lease assignment mortgage or other disposition ("Disposition") of all or any part of the Property (save to the owner and/or occupier of a single Market Housing Unit or mortgagee thereof) occurring before all the obligations under this Agreement have been discharged, including the name and address of the person to whom the Disposition was made and the nature and extent of the interests disposed of to them within 21 (twenty-one) days of such Disposition.

8.8 Non-Compliance

In the event of any non-compliance with any of the provisions of this Agreement the Owner shall upon notice from the Council forthwith take any steps reasonably required by the Council to remedy such non-compliance.

9 Confirmation of Interest

The Owner hereby warrants and confirms that apart from the Parties hereto there are no other persons with a legal estate or beneficial interest in the rents and profits or proceeds of sale of the Property or any part thereof.

10 First Mortgagee

The First Mortgagee hereby consents to the Owner entering into this Agreement and acknowledges that from the date hereof the Property shall be bound by the planning obligations restrictions and undertakings contained herein and if the First Mortgagee becomes mortgagee in possession of the Property or any part thereof it shall be bound by the provisions of this Agreement as if it were a person deriving title from the Owner and the First Mortgagee further agrees that it will not carry out or procure the Development or any part of the Development without performing and observing the terms and obligations contained in this Agreement.

11 Second Mortgagee

The Second Mortgagee hereby consents to the Owner entering into this Agreement and acknowledges that from the date hereof the Property shall be bound by the planning obligations restrictions and undertakings contained herein and if the Second Mortgagee becomes mortgagee in possession of the Property or any part thereof it shall be bound by the provisions of this Agreement as if it were a person deriving title from the Owner and the Second Mortgagee further agrees that it will not carry out or procure the Development or any part of the Development without performing and observing the terms and obligations contained in this Agreement.

12 Jurisdiction

This Agreement is governed by and interpreted in accordance with the law of England and Wales.

FIRST SCHEDULE

The Plan



Ordnance Survey (c) Crown Copyright 2015. All rights reserved. Licence number 100022432

Handwritten signature: Fredman



SECOND SCHEDULE

Payment Form

1. Your name:
2. Your bank account name:
3. Your bank and branch name and address:
4. Your Sort Code:
5. Your account number:
6. Amount to be transferred to the Council:
7. The Legal Agreement to which the payment relates:
.....
8. The contributions being paid pursuant to the abovementioned Legal Agreement:
.....
.....
.....

NOTES

The Council's Bank details are:

London Borough of Haringey
Barclays Bank plc
Wood Green Branch
London N22
Sort Code: 20-98-47
Account Number: 73294617

Please note that unless we receive your payment before 2.00 p.m. on any day our finance systems will not be able to confirm receipt of the funds until the following day.

You are advised to check with the Council's Planning Obligations Monitoring Officer that the Council's bank details have not changed prior to the payment being made.



IN WITNESS whereof the parties have executed this instrument as a Deed and delivered it the day and year first before written

THE COMMON SEAL OF

THE MAYOR AND BURGESSES OF THE

LONDON BOROUGH OF HARINGEY

was affixed by Order:

)

)

)



725208

Anita Prodromou
ANITA PRODROMOU
.....

Authorised Officer

Senior Lawyer - Property and Planning

EXECUTED AS A DEED by)
NEW ROAD (CROUCH END) LIMITED)
acting by a director)
In the presence of:)

Signature of Director:

Signature of witness:

Name (in BLOCK CAPITALS):

Address:

EXECUTED AS A DEED by the **VINEPOST LIMITED**)
acting by a director)
In the presence of:)

Signature of Director:

Signature of witness:

Name (in BLOCK CAPITALS):

Address:

EXECUTED AS A DEED by the)
GALLIARD HOLDINGS LIMITED)
acting by a director)
In the presence of:)

Signature of Director:

Signature of witness:

Name (in BLOCK CAPITALS):

Address:

EXECUTED AS A DEED by the)
FORNACELLI (NEW ROAD) LIMITED)
acting by a director)
In the presence of:)

Signature of Director:

Signature of witness:

Name (in BLOCK CAPITALS):

Address:

