

THIS AGREEMENT is made the 14th day of January 2007³
BETWEEN the Council of the first part and the Owner of the second part and
the Chargee of the third part

Definitions

1. In this Deed unless the context otherwise requires the following expressions shall have the following meanings attributed to them:-
 - 1.1 the Council Welwyn Hatfield District Council of Council Offices The Campus Welwyn Garden City Hertfordshire AL8 6AE
 - 1.2 the Owner Galleria No Nominee 1 Limited whose registered office is situate at 46 Bedford Row, London, WC1 4LR and Galleria Nominee No 2 Limited whose registered office is also situate at 46 Bedford Row, London, WC1 4LR
 - 1.3 the Chargee Wurttembergische Hypothekenba A G care of Allen and Overy, Fleetside Legal Representative Services Limited 9 Cheapside, London, EC4V 6AD
 - 1.4 the Land All that plot of land comprising land at The Galleria, Comet Way, Hatfield, Hertfordshire as the same is shown by way of identification only edged red on the plan annexed hereto marked "A" ('the Plan')
 - 1.5 the Development Conversion of part of Multi-Story car park and service road to form additional retail space and revised internal vehicle circulation and parking spaces pursuant to the Planning Permission
 - 1.6 the Planning Application A planning application under reference S6/2000/639/FP for planning permission to carry out the Development together with plans specifications and particulars deposited with the Council

- 1.7 the Planning permission A planning permission for the Development the subject of the Planning Application in the form of the draft annexed hereto marked B
- 1.8 the Act The Town and Country Planning Act 1990
- 1.9 Implementation The implementation of the Planning Permission by the carrying out of any material operation (as defined in sub-section 56(4) of the Act) in relation to the Development and the expression "Implement" shall be construed accordingly
- 1.10 the Director The Director of Environment for the time being of the Council or such other officer that the Council may from time to time appoint to undertake the duties of the Director of Environment

Interpretations

- 2.1 The expressions "the Council" and "the Owner" and "the Chargee" include where appropriate their respective successors in title and assigns
- 2.2 References to Clauses Sub-clauses and Schedules refer to clauses sub-clauses and schedules of this Deed
- 2.3 In this Deed the singular shall include the plural and the masculine shall include the feminine and vice versa where the context so admits
- 2.4 The Clause headings do not form part of this Deed and shall not be taken into account in its construction or interpretation
- 2.5 References in this Agreement to any statute or statutory instrument shall include any amendment consolidation re-enactment modification or replacement of the same from time to time in force

Recitals

3. WHEREAS:-

- 3.1 The Council is the Local Planning Authority for the area in which the Land is situated and by whom the obligations restrictions stipulations conditions and covenants contained herein are enforceable
- 3.2 The Owner is the registered proprietor with title absolute of partly leasehold and partly freehold interests in the Land which is registered at H M Land Registry under title numbers HD 269038, HD 308319, HD 128138, HD 220783, HD 234136, HD 298053, HD 228229 and HD 290277 and the Owner warrants that it is capable of entering into this Deed and has obtained all necessary consents so to do
- 3.3 The Chargee is proprietor of the Registered Charges over of the Land contained in the Debentures dated 10 August 1999 and 24 January 2002
- 3.4 The Owner has by the Planning Application applied to the Council for planning permission to carry out the Development on the Land
- 3.5 The Council is satisfied that the Development is such as may be approved by it under the Act and has agreed to grant Planning Permission subject to the parties entering into this Agreement including all the obligations restrictions and requirements contained herein

NOW THIS DEED WITNESSETH as follows:-

Nature of Agreement

4. The parties HEREBY AGREE:-
 - 4.1 The obligations restrictions and requirements contained in this Agreement are planning obligations for the purposes of Section 106 of the Act insofar as they fall within the terms of sub-section (1) thereof to the intent that all obligations restrictions and requirements herein shall be binding upon the Owner and its successors in title and shall be registered as a local Land charge by the Council under the provisions of the Local Land Charges Act 1975
 - 4.2 Insofar as the obligations restrictions and requirements contained herein are not planning obligations within Section 106 of the Act they are entered into pursuant to Section 111 of the Local Government Act

1972 and where appropriate Sections 38 and 278 of the Highways Act and all other enabling powers and this Agreement shall be registered as a local land charge by the Council under the provisions of the Local Land Charges Act 1975

- 4.3 Any expense incurred or to be incurred by the Council for which the Owner is or may become liable under this Agreement may be recoverable by the Council as provided by Section 291 of the Public Health Act 1936 and the Council reserves its right to pursue recovery of any monies due under this Agreement by civil action
- 4.4 None of the provisions of this Deed other than Clause 5.1 below shall take effect unless or until both of the following shall have been satisfied:-
- 4.4.1 the Planning Permission shall have been granted which shall be granted on the date of this Agreement
- 4.4.2 Implementation
- 4.5 No person shall be liable for any breach of the planning obligations or other provisions of this Agreement after he shall have parted with his entire interest in the Land or that part thereof on which such breach occurs but with out prejudice to liability for any subsisting breach

Owner's Covenants

5. The Owner HEREBY COVENANTS with the Council:-
- 5.1 To observe and perform the obligations as to the manner of carrying out the Development and otherwise contained in the Schedule
- 5.2 On the date hereof to pay the whole of the reasonable costs incurred by the Council in the preparation and completion of this Agreement

Chargee's Covenants

- 5.3 The Chargee hereby consents to the Owner entering into the obligations contained herein and the Chargee agrees and covenants with the Council (so as to bind the Chargee's interest in the Land) in the all terms

hereof and as if this Agreement had been executed and registered as a Local Land Charge prior to the creation of its interest in the Land

Agreements and Declarations

6. IT IS HEREBY AGREED AND DECLARED as follows:-

6.1 Nothing in this Agreement shall be construed as restricting the exercise by the Council of any powers exercisable by it under the Act or under any other Act PROVIDED ALWAYS THAT this Agreement shall remain in full force and effect notwithstanding the terms and conditions of any planning permission which may be or have been at any time issued by the Council or any other competent authority pursuant to the provisions of the Act

6.2 No waiver (whether expressed or implied) by the Council of any breach or default by the Owner in performing or observing any of the terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing at any time any of the said terms or conditions or from acting upon any subsequent breach or default in respect thereof by the Owner

IN WITNESS whereof the Council and the Owner and Chargee have executed this Agreement as a Deed the day and year first before written

The Schedule

Not to Implement (or to carry out the development permitted under) the planning permission granted by the Council under reference S6/1999/0960/FP dated 4 January 2000

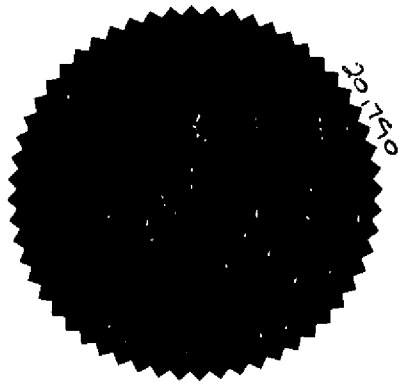
THE COMMON SEAL of WELWYN)
HATFIELD DISTRICT COUNCIL)
is hereunto affixed in the)
presence of:-)



Chairman of the Council



Solicitor to the Council
(being its Authorised Officer):-



The Common Seal of the said)
Galleria Nominee No 1 LIMITED)
was hereunto affixed in the)
presence of :-)

Director

Secretary

THE COMMON SEAL of the said)
Galleria Nominee NO 2 LIMITED)
was hereto affixed in the)
presence of:-)

Director

Secretary

SIGNED by)
an authorised signatory)
of the Charge:-)

Date 14th January 200~~7~~³

WELWYN HATFIELD DISTRICT COUNCIL

and

GALLERIA NOMINEE NO 1 LIMITED

and

GALLERIA NOMINEE NO 2 LIMITED

and

WURTTENBERGISCHE HYPOTHEKENBANK A G

AGREEMENT

under Section 106 of the Town and Country Planning Act 1990 relating to plot of land comprising land at Galleria, Comet Way, Hatfield, Hertfordshire

Solicitor to the Council
Welwyn Hatfield District Council
Council Offices
The Campus
Welwyn Garden City
Herts.
AL8 6AE