

**THIS DEED OF AGREEMENT** is made the 11<sup>th</sup> day of November two thousand and thirteen **B E T W E E N**

**(1) THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF RICHMOND UPON THAMES** of Civic Centre 44 York Street Twickenham Middlesex TW1 3BZ ("the Council")

**(2) HENRY BOOT DEVELOPMENTS LIMITED** (Company Registration Number 1390361) of Banner Cross Hall Sheffield S11 9PD ("the Owner")

## **INTERPRETATION**

IN this Deed the following words and expressions shall have the following meanings:-

"1990 Act"	the Town & Country Planning Act 1990
"the Appeal"	the appeal against the refusal of the Council to grant planning permission in respect of the Planning Application under appeal reference APP/L5810/A/12/2186855
"Appeal Decision"	the appeal decision of the Inspector dated 22 <sup>nd</sup> July 2013 in respect of the Planning Application
"the DCM"	the Council's Development Control Manager for the time being or such other person as may be appointed from time to time to carry out that function
"Development"	the development described in the Planning Permission
"Disabled Persons Badge"	a disabled person's badge issued pursuant to Section 21 of the Chronically Sick and Disabled Person's Act 1970
"Inspector"	means the inspector appointed by the Secretary of State to determine the Appeal and to report to the Secretary of State following determination of the Appeal in relation to the refusal of the Planning Application by the Council
"Implementation"	carrying out of a material operation on the Property within the meaning of Section 56(4) of the 1990 Act Provided That for the purposes of this Deed only the following shall be deemed not to be Implementation of the Development; any archaeological works, works of excavation; preliminary site works; demolition; site clearance, providing services and statutory undertakers equipment; diversions; site or soil investigations and decontamination; the erection of any hoardings and fences or other side security measures including the provision of any

necessary site compounds required in relation to the carrying out of those works;

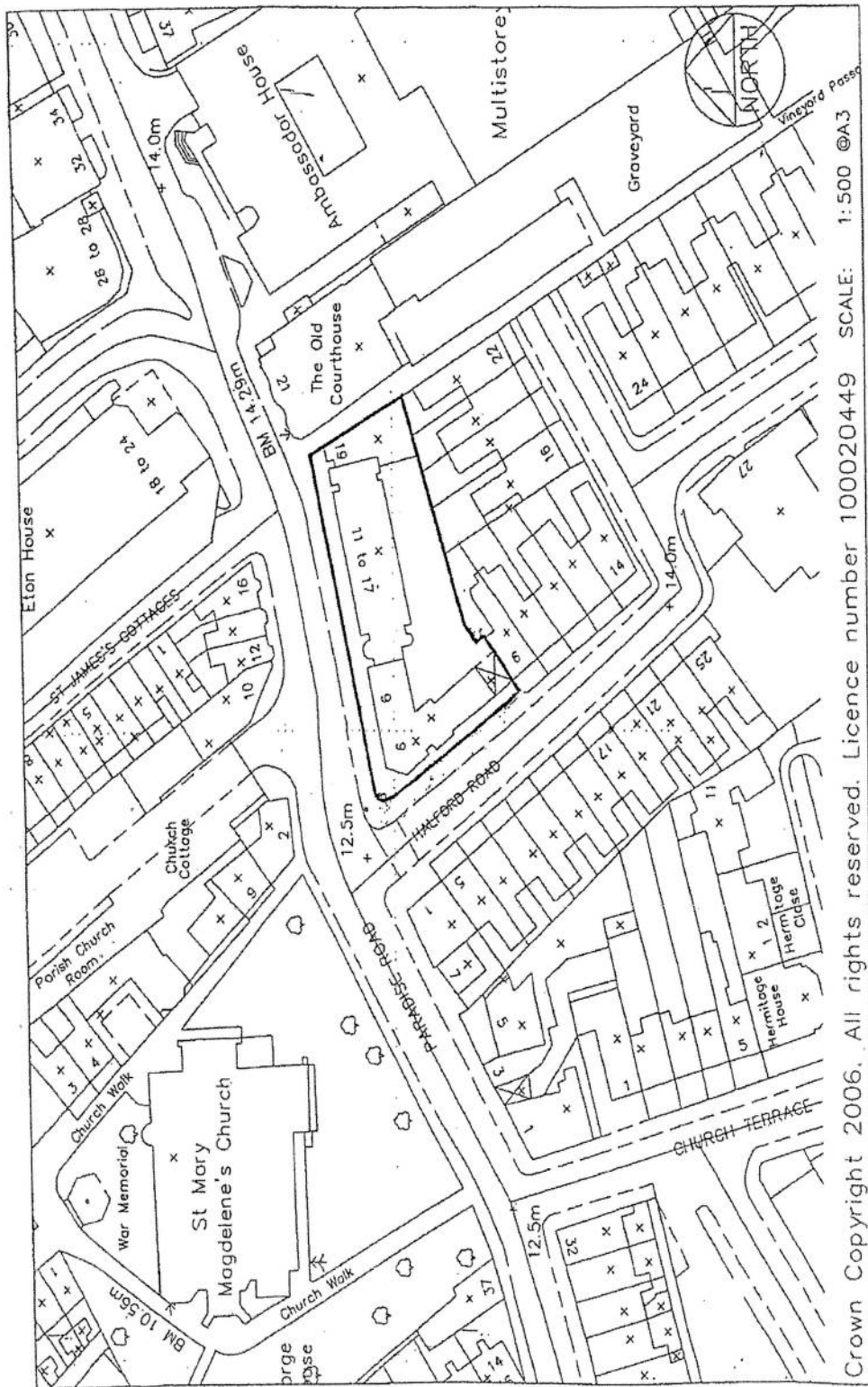
"Monitoring Fee"	the sum of one hundred and twenty five pounds (£125)
"the Planning Application"	a planning application submitted to the Council on 19 June 2012 bearing reference number 12/1486/FUL for the demolition of the existing building (Premier and Suffield House) and the erection of a 78 bed hotel
"Property"	land known as land and property at 9 – 19 Paradise Road, Richmond edged in a thick black line on the plan attached hereto

**WHEREAS:**

- (1) the Council is the local planning authority for its administrative area within which the Property is situate for the purposes of the Town and Country Planning Act 1990 and for the purposes of Section 106(9) of the 1990 Act is the local planning authority by whom the planning obligations contained within this Deed are enforceable
- (2) The Owner is registered at the Land Registry with absolute title under title numbers SGL27912 and SGL453448 as the proprietor of the freehold interest in the Property
- (3) the Planning Application was refused by the Council on 15<sup>th</sup> October 2012 but was subsequently granted on Appeal by the Inspector on 22<sup>nd</sup> July 2012 subject to a number of conditions
- (4) Condition 20 of the Appeal Decision places an obligation on the Owner precluding any commercial occupier or visitor to the Development from obtaining a resident or commercial parking permit within any controlled parking zone which may be in force in the area at any time
- (5) Policies DM TP2 and DM TP8 of the LDF Development Management Plan 2011 provide that the Council will only approve new development where the transport infrastructure can accommodate it or be adapted to it and new development should be acceptable in terms of traffic generation and traffic impact in the road

**NOW THIS DEED WITNESSETH** as follows:-

1. THIS Deed is made pursuant to Section 106 of the 1990 Act and the obligations contained in this Deed are planning obligations for the purposes of that section insofar as they fall within the terms of Section 106 of the 1990 Act
2. Subject to the provisions of clauses 3 and 4(b) the obligations contained in this Deed are conditional upon the Implementation of the Appeal Decision



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3. THE Council hereby COVENANTS with the Owner:-
- (a) to accept the Owner's covenant contained in Clause 4 hereunder
  - (b) that this Deed is to the Council's approval for the purposes of Condition 20 of the Appeal Decision
  - (c) that it acknowledges receipt of a copy of this Deed for the purposes of Section 106(10) of the 1990 Act
4. THE Owner hereby COVENANTS with the Council:-
- (a) to ensure that in any contract of employment or licence permitting a visitor to occupy the Property the Owner will provide that as a result of entering into such an agreement no existing or future member of staff or visitor shall be permitted to apply for a car parking permit by reason of entering into the aforementioned contract, unless such person is or becomes entitled to be a holder of a Disabled Persons' Badge
  - (b) On the date hereof to pay the Council's reasonable and proper legal costs in the preparation and completion of this Deed in the sum of six hundred and eighty pounds (£680) and the Monitoring Fee

**4. IT IS HEREBY AGREED and DECLARED:-**

*Miscellaneous agreements and declarations*

- (a) Nothing contained or implied in this Deed shall prejudice or affect the rights powers duties and obligations of the Council in the exercise of its functions as local authority 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 Deed
- (b) If any provision in this Deed shall be held to be void invalid illegal or unenforceable or if voidable is avoided this shall not affect the operation validity legality and enforceability of any other provision of this Deed provided severance therefrom is possible
- (c) Reference to the masculine feminine and neuter genders shall include the other genders and reference to the singular shall include the plural and vice versa
- (d) A reference to a clause is a reference to a clause contained in this Deed
- (e) The expressions "the Council" and "the Owner" shall include their respective successors in title and assignees

*Local land charge provisions*

- (f) This Deed is a Local Land Charge and shall be registered as such in the Council's Register of Local Land Charges immediately on completion thereof

*Reference to statutes and statutory instruments*

- (g) References in this Deed to any statutes or statutory instruments shall include and refer to any statute or statutory instrument amending consolidating or replacing them respectively from time to time and for the time being in force

#### *Variations*

- (h) The covenants undertakings and restrictions contained in this Deed shall only be capable of being varied by a memorandum to be endorsed upon or annexed to this Deed by or on behalf of the relevant parties hereto or by a subsequent deed of variation
- (i) This Deed shall continue to be valid and enforceable following an amendment or variation to the Planning Permission achieved through the submission of a planning application pursuant to Section 73 of the 1990 Act as if this Deed had been completed pursuant to such an application

#### *English law applicable*

- (j) The construction validity and performance of this Deed shall be governed by English law

#### *Effect of revocation of planning permission*

- (k) In the event of the Planning Permission being revoked by the Council or any other authority having powers in relation to planning matters or otherwise withdrawn or modified by any statutory procedure without the consent of the Owner or their successors in title the obligations of the Owner under this Deed shall thereupon cease absolutely

#### *Waivers not to be of a continuing nature*

- (l) No waiver (whether express or implied) by the Council of any breach or default by the Owner in performing or observing any of the terms and conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said terms or conditions or from acting upon any subsequent breach or default in respect thereto by the Owner

#### *Liability of subsequent owners and release of former owners*

- (m) The provisions hereof shall be enforceable by the Council against the Owner and all persons who shall have derived title through or under it in respect of the Property (but so that no person shall be liable to the Council for any breach of the provisions committed after such a person has parted with all of its freehold interest in such land)

#### *Contracts (Rights of Third Parties) Act 1999*

- (n) The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Deed and no person who is not a party to this Deed is to have the benefit of or is capable of enforcing any term in this Deed and no party is to have any rights to enforce this Deed other than those falling within the definitions of the Council and the Owner

#### *Release*

- (o) This Deed shall be deemed to have been revoked and be of no effect (without any further act or deed on the part of either the Council or the Owner) if the Planning Permission having been granted shall be varied or revoked other than at the request of the Owner or the Planning Permission having been granted is quashed following a successful legal challenge

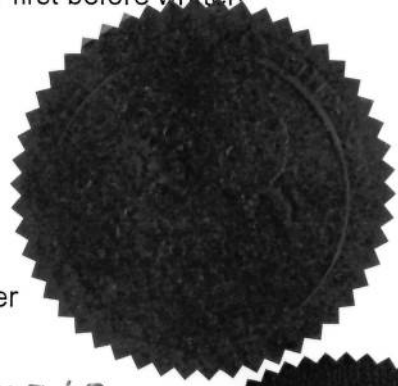
**IN WITNESS** whereof with the intent that these presents should be executed as a deed the parties hereto have duly executed the same the day and year first before written

**THE COMMON SEAL of the MAYOR  
AND BURGESSES  
OF THE LONDON BOROUGH OF  
RICHMOND UPON THAMES** was  
hereunto affixed in the presence of:- )  
)  
)  
)  
)



Authorised Officer

Seal Reg. No.  
2815/03



Executed as a Deed by

affixing the Common Seal of  
**HENRY BOOT DEVELOPMENTS LIMITED**  
in the presence of :

Director 

Director/Secretary 

Dated

11th November 2013

**MAYOR AND BURGESSES OF  
THE LONDON BOROUGH  
OF RICHMOND UPON THAMES**

**-and-**

**HENRY BOOT DEVELOPMENTS LIMITED**

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**DEED OF AGREEMENT  
made under Section 106 of the  
Town & Country Planning Act 1990  
relating to  
9-19 Paradise Road, Richmond**

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