

DATED _____ 2022

THE COUNCIL OF THE CITY OF MANCHESTER

-and-

CENTURION INVESTMENTS (JS VII) LIMITED

-and-

MALAYAN BANKING BERHAD

AGREEMENT

pursuant to Section 106 Town and Country Planning Act 1990
relating to the property at 121 Princess Street
in the City of Manchester

City Solicitor
Manchester City Council
P O Box 532
Town Hall
Albert Square
Manchester M60 2LA

THIS AGREEMENT is made the _____ day of _____ 2022

BETWEEN

- (1) **THE COUNCIL OF THE CITY OF MANCHESTER** of Town Hall, Albert Square, Manchester ("**the Council**") and;
- (2) **CENTURION INVESTMENTS (JS VII) LIMITED** whose registered office is at 28 Esplanade, St Helier, Jersey JE2 3QA ("**the Owner**"); and
- (3) **MALAYAN BANKING BERHAD** whose registered office is at 2 Battery Road, Maybank Tower 16-00, Singapore, 0449907 ("**the Mortgagee**")

WHEREAS

- A. The Council is the local planning authority for the purposes of the Act for the area in which the Property is situated and is minded to grant the Planning Permission subject to the completion of this Agreement.
- B. The Owner is the registered proprietor with title absolute of the freehold of the part of the Property registered under title number LA57971 and of the leasehold of the part of the Property registered under title number LA82651 at the Land Registry, both of which are subject to a legal charge to the Mortgagee. The Owner has also recently acquired the long leasehold interest in the ground floor, basement mezzanine, basement and atrium of the Property registered under title number MAN254356.
- C. The Owner submitted the Application to the Council in order to amend the Prior Approval.
- D. The Council as local planning authority is satisfied that the Application is such as may be approved by the Council under the Act and is minded to grant the Planning Permission subject to the prior completion of this Agreement.
- E. The Parties agree that the Planning Obligations meet the tests for planning obligations as set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.
- F. The Mortgagee, as proprietor of a legal charge registered under Title Numbers LA57972 and LA82651 dated 16 July 2018, is willing to enter into this Agreement to give its consent to the same.

NOW THIS AGREEMENT WITNESSETH as follows:

Definitions and Interpretation

1. In this Agreement unless the context otherwise requires the following words and expressions and phrases shall have the meanings hereby ascribed to them

“Act” the Town and Country Planning Act 1990 (as amended)

“Agreement” this Agreement

“Application” the application received by the Council under reference number [x] to vary condition 2 of the Prior Approval

“Development” the development of the Property pursuant to the Planning Permission

“Plan” the plan annexed to this Agreement and showing edged red thereon the Property

“Planning Obligations” the obligations of the Owner specified in Schedule 1 to this Agreement

“Planning Permission” planning permission under the Act for the Development to be granted pursuant to the Application [substantially in the draft form appended at Schedule 2]

“Prior Approval” the prior approval granted by the Council with reference 1221754/JO/2018, as amended pursuant to the decision dated 24 May 2021 in respect of the planning appeal with reference APP/B4215/W/19/3232722

“Property”

the property against which this Agreement may be enforced, being the property at 121 Princess Street, M1 7AG, Manchester, shown edged red on the attached Plan.

“Working Day”

any day apart from Saturday and Sunday, Christmas Day, Good Friday and any statutory Bank Holiday in England

2. A reference in this Agreement to an Act of Parliament or to any order, regulation, statutory instrument or the like shall include a reference to any amendment or re-enactment of the same.
3. Words importing the masculine gender include the feminine gender and vice versa and words in the singular include the plural and vice versa and words importing individuals shall be treated as importing corporations and vice versa.
4. Any headings or side notes are for ease of reference only and shall not affect the construction of this Agreement.
5. Where in this Agreement reference is made to any clause, paragraph, schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph, schedule or recital in this Agreement.
6. If any party to this Agreement comprises more than one person then that party shall be jointly and severally liable under this Agreement.
7. Words denoting an obligation on a party to this Agreement to do any act matter or thing include an obligation to procure that it be done and words placing a party to this Agreement under a restriction include an obligation not to permit or allow infringement of that restriction.
8. This Agreement is:
 - 8.1 made in pursuance of Section 106 of the Act, Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other powers and enactments which may give validity hereto and facilitate the enforcement of the obligations and provisions herein contained; and

- 8.2 to the extent that any of the obligations contained in the Agreement are not planning obligations within the meaning of section 106 of the Act, they are entered into pursuant to the other powers identified in clause 8.1.
9. The Owner consents to their interest in the Property being bound by this Agreement and covenants with the Council in the terms set out in Schedule 1 to this Agreement, those covenants in Schedule 1 being Planning Obligations under section 106 of the Act and enforceable by the Council in its capacity as local planning authority.
10. The Owner covenants with the Council to pay to the Council on the date hereof such sum as notified in respect of the Council's legal costs in connection with this Agreement. Receipt by the Council of the payment of such sum shall not create any lawyer-client type contractual relationship between the Council nor absolve the Owner from any liability or obligation imposed upon them by the terms of this Agreement or by statute or at common law.
12. The Council covenants with the Owner to issue the Planning Permission within three Working Days of the date hereof.
14. Nothing herein contained or implied shall prejudice or affect the rights, powers, duties and obligations of the Council in exercise of its functions as a local authority and the rights, powers, duties and obligations of the Council under all public and private statutes, byelaws, orders and regulations may be fully and effectually exercised in relation to the Property or any part thereof and any works executed thereon as if this Agreement had not been executed by the Council and in particular nothing in this Agreement shall restrict the Council and any other authority from exercising powers of compulsory purchase in respect of any part of the Property.
15. No failure or delay by the Council to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.
17. No person who is not a party to this Agreement may enforce any terms hereof pursuant to the Contracts (Rights of Third Parties) Act 1999 provided that this clause shall not affect any right of action of any person to whom this Agreement has been lawfully assigned or becomes vested in law.
18. If any provision of this Agreement shall be prohibited by or adjudged by a court to be unlawful, void or unenforceable such provision shall to the extent required

be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement and shall not in any way affect any other circumstances or the validity or enforcement of this Agreement.

19. Any approval given by the Council under this Agreement or for the purposes of this Agreement shall not be deemed to be approval for any other purpose whatsoever.
20. Nothing in this Agreement prohibits or limits the right to develop any part of the Property in accordance with a planning permission, other than the Planning Permission, granted after the date of this Agreement, whether or not pursuant to an appeal.
21. This Agreement shall be registered in the Council's Register of Local Land Charges immediately on completion hereof.
22. If any sum payable to the Council under the terms of this Agreement is not paid at the time specified herein the party responsible for making the payment shall pay to the Council interest on such sum calculated on a daily basis and compounded quarterly from the due date until payment at the rate of 4% per annum over Barclays Bank plc base rate from time to time in force and such amount shall be recoverable by action as a liquidated sum.
23. The Owner agrees with the Council to give the Council written notice within ten Working Days of any change in ownership of any of its interests in the Property occurring before all the Planning Obligations under this Agreement have been discharged such notice to give details of the transferee's full name and registered office (if a company) or usual address (if not a company) together with the area of the Property or unit of occupation purchased by reference to a plan.
24. This Agreement is conditional upon the grant of Planning Permission save for the provisions of this clause and clauses 1, 10, 11, 12, 21, 22, 25, 26, 29 to 33 which shall have effect upon completion of this Agreement.
25. The provisions of this Agreement (other than this clause which shall be of immediate effect) shall be of no effect until this Agreement has been dated.
26. 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.

27. If the Planning Permission shall at any time be revoked or for any reason cease to remain extant this Agreement shall forthwith determine and cease to have effect in which case the registration of this Agreement on the register of local land charges will be cancelled.
28. The Council will upon the written request of the Owner at any time after the Planning Obligations under this Agreement have been fulfilled or determined issue written confirmation thereof and thereafter cancel all related entries in the Register of Local Land Charges and at the Land Registry.
29. All acts required to be undertaken by the Owner under this Agreement shall in all respects be at the cost of the Owner.
30. This Agreement shall be governed by and interpreted in accordance with the laws of England.
31. Communication - any notice or document to be served on or sent pursuant to this Agreement shall either be delivered personally or sent by first class post:
 - 31.1 to the Council at the following address or such other address as may be notified from time to time: Planning and Building Control Department, Ref.[x], Manchester City Council, PO Box 532, Town Hall, Manchester, M60 2LA; and
 - 31.2 to the Owner at their registered office or such other address as may be notified from time to time.
32. Notwithstanding any other provisions of this Agreement the obligations contained within Schedule 1 shall not be binding upon or enforceable against any:
 - 32.1 occupier of any individual units within the Property or their mortgagees; or
 - 32.2 statutory utilities where the land is held for their operational purposes
33. The parties agree that no obligation in this Agreement shall be binding on or enforceable against the Mortgagee or any other chargee or mortgagee from time to time who shall have the benefit of a charge or mortgage of or on any part or parts of the Site unless and until the Mortgagee or any other such chargee or mortgagee has entered into possession of the Site or part thereof to which such obligation relates and shall have no liability (save for any

antecedent breach while mortgagee or charge in possession) after it has discharged its security or has disposed of the Property or the part thereof which is subject to its security whether by sale or otherwise.

IN WITNESS whereof this Agreement has been executed as a deed in the manner hereinafter appearing and delivered the day and year first before written.

SCHEDULE 1

THE PLANNING OBLIGATIONS

1. The Owner covenants with the Council not to occupy or permit the occupation of the ground and basement floors of the Property as a nightclub, live entertainment venue or bar.

SCHEDULE 2

DRAFT PLANNING PERMISSION

THE COMMON SEAL of **THE COUNCIL OF THE**
CITY OF MANCHESTER was hereunto affixed in
pursuance of an Order of the Council of the said City:

.....
Authorised Signatory

Executed as a **DEED** by
CENTURION INVESTMENTS (JS VII) LIMITED
acting by
who, in accordance with the laws of Jersey,
is acting under the authority of the company

.....
Authorised signatory

Executed as a **DEED** by
MALAYAN BANKING BERHAD
acting by
who, in accordance with the laws of Singapore,
is acting under the authority of the company

.....
Authorised signatory

APPENDIX: THE PLAN