

DATED 20 December 2023

(1) OLD OAK AND PARK ROYAL DEVELOPMENT CORPORATION

(2) EAMON O'LOUGHLIN AND THOMAS HENRY JAMES

(3) POCKET LIVING ATLAS ROAD LIMITED

(4) MCGOVERN BROTHERS (HAULAGE) LIMITED

DEED OF AGREEMENT
UNDER SECTION 106 OF THE TOWN AND COUNTRY
PLANNING ACT 1990 AND ALL OTHER POWERS
ENABLING RELATING TO
LAND AT ATLAS WHARF, ATLAS ROAD, LONDON NW10
6DN



Pinsent Masons

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THIS DEED OF AGREEMENT is made on 20 December

2023

BETWEEN:-

- (1) **OLD OAK and PARK ROYAL DEVELOPMENT CORPORATION** of Brent Civic Centre, 32 Engineers Way, Wembley, HA9 0FJ (the "OPDC");
- (2) **EAMON O'LOUGHLIN and THOMAS HENRY JAMES** of The Gatehouse, Cunard Road, Park Royal, London NW10 6PN (the "Owner");
- (3) **POCKET LIVING ATLAS ROAD LIMITED** (No. 13225570) whose registered office is at 3rd Floor Tower House, 10 Southampton Street, London WC2E 7HA (the "Developer"); and
- (4) **MCGOVERN BROTHERS (HAULAGE) LIMITED** (No. 00940790) whose registered office is at 32 Dudden Hill Lane, London NW10 1AQ (the "Mortgagee").

WHEREAS:-

- (A) By virtue of The Old Oak and Park Royal Development Corporation (Planning Functions) Order 2015, OPDC is the local planning authority for the area in which the Site is located for the purposes of Part 3 of the 1990 Act and is the local planning authority by whom the obligations contained in this Deed are enforceable.
- (B) The Owner is the owner of the freehold interest in the Site as is registered at the Land Registry with title number AGL139308.
- (C) The Developer has entered into a contract to purchase with the Owner in respect of the Site dated 3 March 2021 and has (jointly with the Owner) submitted the Planning Application to OPDC.
- (D) The Mortgagee has the benefit of a registered charge dated 16 December 2020 against title number AGL139308.
- (E) At a meeting of its Planning Committee on 17 November 2022 OPDC resolved to grant the Planning Permission subject to the Owner entering into this Deed without which the Planning Permission would not be granted.
- (F) Accordingly, the Parties have agreed to enter into this Deed in order to secure the planning obligations contained in it pursuant to the provisions of section 106 of the 1990 Act and all other enabling powers.

IT IS AGREED as follows:-

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement:-

"1980 Act"	means the Highways Act 1980
"1990 Act"	means the Town and Country Planning Act 1990
"2011 Act"	means the Localism Act 2011
"Additional Affordable Housing Units"	has the meaning given in Schedule 3
"Affordable Housing Units"	has the meaning given in Schedule 1

"Boroughs"	means the LBB, LBE and LBHF and "Borough" shall be construed accordingly
"Building 1"	means the building identified as Building 1 on Plan 3
"Building 2"	means the building identified as Building 2 on Plan 3
"Building 3"	means the building identified as Building 3 on Plan 3
"Class"	means a class of the Town and Country Planning (Use Classes) Order 1987 (as amended)
"Clawback Amount"	means a sum of money (A) to be paid prior to a Clawback Disposal and to be determined by OPDC under paragraphs 2.3 to 2.6 of Schedule 1 using the following formula:

$$A = B - C$$

where:

B is the Net Value of the Open Market Housing Units to be valued on the assumption that such units are to be sold free of the restrictions in Schedule 1 and based on the consideration to be paid under that Clawback Disposal for each Open Market Housing Unit which is intended to be Disposed; and

C is £167,240,000, being the Net Value of the Open Market Housing Units as at the date of the Planning Permission valued on the assumption that such units are subject to the restrictions in Schedule 1 such valuation to be adjusted by the percentage change in the average rental values for LBE's administrative area as identified (under "all categories") in the schedule of average rents by borough issued by the Office of National Statistics (or any successor in function)

and where:

"Net Value" means the proceeds of sale the Developer would receive after deduction of surveyor's and legal costs associated with the sale and any stamp duty land tax payable

"Clawback Disposal"	means a Disposal of one or more Open Market Housing Units during the Covenant Period other than: (a) a letting of an Open Market Housing Unit in accordance with the Approved Residential Management Plan; or (b) a Disposal that is part of a Disposal of the entirety of the Residential Units to a single purchaser provided that the Open Market Housing Units remain in rented tenure
"Commencement"	means the carrying out of a material operation (as defined in section 56(4) of the 1990 Act) except for the carrying out of any Excluded Works and "Commence" and "Commenced" shall be construed accordingly
"Commercial Floorspace"	means the commercial floorspace to be provided as part of the Development which falls within Class E
"Component"	means a part of the Development including but not limited to:

- (c) Open Market Housing Units;
- (d) Affordable Housing Units;
- (e) Additional Affordable Housing Units;
- (f) commercial units;
- (g) any other floorspace;
- (h) property; and
- (i) land

"Consumer Prices Index"	means the Consumer Prices Index published by the Office of National Statistics or if the index is no longer published or is unavailable for use such alternative comparable basis for indexation as notified in writing by OPDC
"Covenant Period"	means 15 years starting from (and including) the latter of the date of the Occupation of the first of the Open Market Housing Units or the date on which all of the Open Market Housing Units are available for occupation
"CPZ"	means any existing controlled parking zone enforced by the LBE as at the date of this Deed as well as any future controlled parking zone to be enforced by the LBE
"Development"	means the development of the Site pursuant to the Planning Permission comprising comprehensive redevelopment (including demolition of existing above ground structures) to provide three buildings linked by a landscaped podium comprising Class E commercial uses at ground floor with residential (Class C3) uses and rooftop plant above, together with an access and servicing route via an undercroft from Atlas Road, a new access route to the Grand Union Canal and works to the towpath, parking, landscaping and public realm improvements, and all associated works
"Disposal"	means: (a) the Sale of a Component(s) of the Development; (b) the grant of a lease of a term of less than 125 years of a Component of the Development; or (c) the grant of an assured shorthold tenancy agreement or a short term let in respect of a Component of the Development ALWAYS excluding Fraudulent Transactions and "Dispose", "Disposals" and "Disposed" shall be construed accordingly
"Excluded Works"	means works of demolition, site investigations, archaeological investigation, decontamination and any remedial work in respect of decontamination or other adverse ground conditions, site clearance, the erection of hoardings or other means of enclosure for site security operations or the erection of temporary buildings structures and/or facilities associated with the development and site preparation works (including any enabling works, the diversion and/or laying of services, creation of temporary access and any underpinning of third party walls)
"Expert"	has the meaning given in Clause 20.3

"First Occupation"	means first Occupation of the Development or any part thereof and "First Occupy" shall be construed accordingly
"GLA"	means the Greater London Authority or any successor in statutory function
"Habitable Room"¹	means any room within a Residential Unit the primary use of which is for living, sleeping or dining and which expressly includes kitchens of 13 square metres or more, living rooms, dining rooms and bedrooms but expressly excludes kitchens with a floor area of less than 13 square metres, bathrooms, toilets, corridors and halls
"Implementation"	means the carrying out of the first material operation (as defined in section 56(4) of the 1990 Act) pursuant to the Planning Permission or the service of a notice upon OPDC that the first material operation is about to be carried out pursuant to the Planning Permission, whichever is earlier and "Implemented" , "Implement" and "Implementation Date" shall be construed accordingly
"Index"	means RPI Index
"Index Linked"	means subject to indexation in accordance with Clause 18
"Interest"	means interest at a rate of 4% (four per cent) per annum greater than the Bank of England base rate in force from time to time from the date that the payment becomes due until the date of payment
"LBB"	means the London Borough of Brent
"LBE"	means the London Borough of Ealing
"LBHF"	means the London Borough of Hammersmith and Fulham
"London Plan"	means the spatial development strategy for London published by the Mayor of London and as may be amended or replaced from time to time
"Monitoring Contribution"	the sum of £45,000 (forty five thousand pounds) (Index Linked) payable by the Owner to OPDC towards the costs of OPDC monitoring the obligations in this Deed;
"Non-Residential Unit"	means a unit of non-residential floorspace comprised within the Development
"Occupation"	means the occupation of any part of the Development for its designated planning use pursuant to the Planning Permission but does not include occupation by the Owner or any contractor or other occupier for the purposes of construction, fitting out, decoration, marketing or display and "Occupy" , "Occupying" , "Occupier" and "Occupied" shall be construed accordingly
"Off Site"	means on land outside the Site
"On Site"	means on land within the Site

¹ The percentage of affordable housing in a scheme should be measured by habitable rooms. Where habitable rooms in affordable and market elements of a scheme are not of comparable size when averaged across the whole development, it may be more appropriate to assess the provision of affordable housing using habitable floorspace. Where this is the case, affordable housing should still be recorded by habitable rooms in the section 106 agreement to ensure consistency in monitoring. Applicants should present affordable housing figures as a percentage of total residential provision by habitable rooms, by units and by floorspace to enable comparison.

"Open Market Housing Units"	means the Residential Units excluding the Affordable Housing Units and excluding any Additional Affordable Housing Units (if applicable)
"Parking Permit"	means a permit issued or to be issued in the future by LBE to an Occupier of a Residential Unit to permit the parking of a motor vehicle on the highway within a CPZ
"Parties"	means the parties to this Deed
"Plan 1"	means the plan attached to this Deed at Appendix 1 marked "Plan 1" showing the Site
"Plan 2"	means the plan attached to this Deed at Appendix 1 marked "Plan 2" showing the Affordable Housing Units
"Plan 3"	means the plan attached to this Deed at Appendix 1 marked "Plan 3" showing Building 1, Building 2 and Building 3
"Plan 4"	means the plan attached to this Deed at Appendix 1 marked "Plan 4" showing the Highway Reinstatement Works
"Plan 5"	means the plan attached to this Deed at Appendix 1 marked "Plan 5" showing the Publicly Accessible Open Space
"Planning Application"	means the application for full planning permission for the Development submitted to OPDC and allocated reference number 21/0214/FUMOPDC by OPDC
"Planning Permission"	means the planning permission to be granted pursuant to the Planning Application in the form of the draft annexed hereto at Appendix 2
"Practical Completion"	means the issue of a certificate of practical completion by the Owner's architect, engineer or other certifying officer as the case may be under the relevant building contract entered into in respect of the Development or part or parts thereof and " Practically Complete " and " Practically Completed " shall be construed accordingly
"Requisite Consents"	means such grant of planning permission under the 1990 Act, Traffic Regulation Orders, Traffic Management Orders and/or other consents under the 1980 Act and/or the obtaining of consents (statutory or otherwise) including the grant or acquisition of necessary land interests as in each case are necessary for the relevant purpose
"Resident"	means an Occupier of a Residential Unit and " Residents " shall be construed accordingly
"Residential Management Plan"	means a plan setting out management principles for the Residential Units and which shall include the following requirements unless otherwise agreed in writing with OPDC: (a) each Residential Unit shall be self-contained and let separately for residential use; (b) the length of each lease of each Residential Unit shall be offered at a minimum term of three years unless a shorter term is requested by the prospective tenant;

- (c) each lease of each Residential Unit shall contain a break clause allowing the tenant to end the lease any time after the first six months of the lease with one month's notice;
- (d) the Residential Units shall be managed as a whole by a single professional property manager which:
 - (i) provides a consistent and quality level of housing management;
 - (ii) has some daily on-site presence;
 - (iii) is part of an accredited ombudsman scheme;
 - (iv) is a member of the British Property Federation and/or regulated by the Royal Institute of Chartered Surveyors;
 - (v) complies with the Royal Institute of Chartered Surveyors Private Rented Sector Code (as revised from time to time);
 - (vi) has a complaints procedure; and
 - (vii) must not charge up-front fees of any kind to tenants or prospective tenants other than deposits and rent paid in advance; and

all rent increases within the term of each lease of each Residential Unit shall be calculated by reference to an index which shall be made clear to the tenant before the start of each tenancy

"Residential Units"	means the 457 units of Class C3 residential accommodation forming part of the Development comprising the Open Market Housing Units and the Affordable Housing Units and where applicable the Additional Affordable Housing Units
"RPI Index"	means the All Items Index of Retail Prices published by the Office for National Statistics or if the index is no longer published or is unavailable for use such alternative comparable basis for indexation as notified in writing by OPDC
"Sale"	means: (a) the sale of the freehold of a Component; or (b) the grant of a lease of a Component with a term of 125 years or more and subject to nominal rent and "Sold" shall be construed accordingly
"Site"	means the land known as Atlas Wharf, Atlas Road, London, NW10 6DN as shown edged red on Plan 1
"Tenant"	means Currys Retail Limited (formerly The Carphone Warehouse Limited) registered in England and Wales (company number 02142673) of 1 Portal Way, London, W3 6RS

"Varied Planning Permission" means any planning permission(s) issued to amend, vary or replace the Planning Permission granted pursuant to section 73 of the 1990 Act from time to time

"Working Day" means any day of the week other than Saturday Sunday any bank holiday and any public holiday

- 1.2 The Interpretation Act 1978 shall apply to this Deed.
- 1.3 Where referenced in this Deed reference to a Clause paragraph Schedule Recital plan annex or appendix such reference (unless the context otherwise requires) is a reference to a Clause paragraph Schedule or Recital in this Deed or to a plan annex or appendix attached to this Deed.
- 1.4 Where in any Schedule or part of a Schedule reference is made to a paragraph such reference shall (unless the context otherwise requires) be to a paragraph of that Schedule or (if relevant) part of a Schedule.
- 1.5 The table of contents, clause headings in the body of this Deed, paragraph headings in the Schedules and the titles of plans are for reference purposes only and do not form part of this Deed and shall not be taken into account in its construction or interpretation.
- 1.6 References in this Deed to the Owner shall include reference to their respective successors in title and assigns, personal representatives and to persons claiming through or under them in relation to all or any part of the Site save where the context otherwise requires.
- 1.7 References to OPDC shall include reference to any successor body exercising any of the powers currently vested in OPDC in relation to this Deed.
- 1.8 Words including the singular meaning where the context so admits include the plural meaning and vice versa.
- 1.9 Words of the masculine gender include the feminine and neuter genders and words denoting natural persons include companies and other corporate bodies and also firms and all such words shall be construed interchangeably in that manner.
- 1.10 Words denoting an obligation on a party to do an act, matter or thing include an obligation to procure that it be done and words placing a party under a restriction (including for the avoidance of doubt any obligation preventing or restricting Commencement or Occupation) include an obligation not to cause, permit, suffer or allow infringement of the restriction.
- 1.11 Any reference to a statute or a provision thereof or a statutory instrument or a provision thereof shall include any modification, extension or re-enactment thereof for the time being in force (including for the avoidance of doubt any modification, extension or re-enactment made prior to the date of this Deed) and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given thereunder or deriving validity therefrom.
- 1.12 The word "including" means including without limitation or prejudice to the generality of any description defining term or phrase preceding that word and the word "include" and its derivatives shall be construed accordingly.
- 1.13 References to the Site include any part of it.
- 1.14 Any notice, notification, consent, request, statement or details to be made, given or submitted under or in connection with this Deed shall be made or confirmed in writing and no Party shall unreasonably withhold or delay the giving or making of the same.
- 1.15 Where in this Deed there is reference to using reasonable endeavours to achieve an outcome, the Owner shall within 20 (twenty) Working Days upon written request by OPDC provide reasonable evidence in documentary form of the steps taken to achieve such outcome.

1.16 Where in this Deed the fulfilment of an obligation, covenant or undertaking on the part of the Owner is subject to the obtaining or securing of Requisite Consents, the Owner shall:-

1.16.1 use reasonable endeavours to secure or obtain the Requisite Consents where the obligation relates to matters to be carried out or conducted On Site; and

1.16.2 endeavour in good faith (but without being required to pay any material financial consideration in addition to bearing the reasonable and proper cost of the works which are the intended subject of the Requisite Consents or being obliged to take any proceedings (or appeal) in any court public inquiry or other hearing) to secure or obtain the Requisite Consents where the obligation relates to matters to be carried out or conducted Off Site

PROVIDED THAT if the Owner in relation to a Requisite Consent of its own volition and independently of the terms of this Deed pays or has paid a material financial consideration in order to secure that Requisite Consent it shall not be able to rely upon the fact of having done so to use this Clause 1.16 to avoid or limit the obligation, covenant or undertaking under this Deed for which that Requisite Consent is required.

1.17 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.

2. **LEGAL BASIS**

2.1 This Deed is made pursuant to:-

2.1.1 section 106 of the 1990 Act;

2.1.2 sections 1, 201 and 205 of the 2011 Act; and

2.1.3 all other powers so enabling.

2.2 OPDC is the local planning authority having the power to enforce the planning obligations contained in this Deed.

3. **NATURE OF OBLIGATIONS**

3.1 Subject to Clause 3.2 below, the obligations, covenants and undertakings on the part of the Owner in this Deed are planning obligations insofar as they are capable of being lawfully made pursuant to and for the purpose of section 106 of the 1990 Act and are given (subject to Clause 19) so as to bind the Owner's freehold interest in the Site (as referred to in Recital (B)) with the intent that they shall be enforceable by OPDC not only against the Owner but also against any successors in title to or assigns of or transferees of the Owner and/or any person claiming through or under the Owner an interest or estate in the Site as if that person had been an original covenanting party and insofar as any such obligations, covenants or undertakings are not capable of falling within section 106 of the 1990 Act the same are entered into as obligations, covenants or undertakings in pursuance of any other such enabling power.

3.2 The Parties acknowledge and agree that:-

3.2.1 the Planning Permission will be granted on the basis that the Residents of the Development should not be entitled to any Parking Permit that would entitle them to park within any CPZ as at the date of this Deed;

3.2.2 paragraph 5.3 of Schedule 6 prevents Commencement of the Development until the Owner has given a unilateral undertaking to LBE pursuant to section 16 of the Greater London Council (General Powers) Act 1974 to secure restrictions on the ability of Residents to obtain such Parking Permits, with the intent that such restrictions on Parking Permits shall be enforceable by LBE not only against the Owner but also against any successors in title to or assigns of or transferees of the Owner and/or any person claiming through or under

the Owner an interest or estate in the Site, as if that person had been an original covenanting party; and

- 3.2.3 the obligations in paragraphs 3 to 5 of Schedule 6 are planning obligations insofar as they are capable of being lawfully made pursuant to and for the purpose of section 106 of the 1990 Act and in any event are covenants also given pursuant to section 201 of the 2011 Act.

- 3.3 Nothing in this Deed restricts or is intended to restrict the proper exercise at any time by OPDC of any of its statutory powers, functions or discretions.

4. **CONDITIONAL AGREEMENT**

- 4.1 This Deed is conditional upon:-

4.1.1 the grant of the Planning Permission; and

4.1.2 the Implementation of the Planning Permission

save in respect of clauses 1, 2, 3, 4, 7.1, 7.2, 8, 10, 12.1.1, 12.1.2, 12.1.3, 12.1.4, 12.2, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23 and 24 which shall come into effect immediately upon completion of this Deed.

5. **OBLIGATIONS GIVEN BY THE OWNER**

- 5.1 The Owner on behalf of itself and its successors in title to the Site covenants with OPDC to observe and perform and cause to be observed and performed the obligations and covenants on the part of the Owner contained in the Schedules to this Deed.

6. **OBLIGATIONS OF OPDC**

- 6.1 OPDC covenants with the Owner to observe and perform and cause to be observed and performed the obligations and covenants on the part of OPDC contained in this Deed.
- 6.2 OPDC covenants with the Owner that it shall use all sums received from the Owner under the terms of this Deed for the purposes specified in this Deed for which they are paid SAVE THAT any sum (or part of a sum) may be applied to a different purpose if that purpose is accepted by the Director as compliant with Regulation 122 of the Community Infrastructure Levy Regulations 2010 PROVIDED THAT notice of any reallocation of funds is provided to the Owners with evidence of such compliance.
- 6.3 Subject to Clause 6.4, OPDC covenants with the Owner that it will repay to the Owner (or the person who made the payment if not the Owner) such amount of any payment made by the Owner (or any such other person who made the payment) to OPDC under this Deed which has not been expended or committed in accordance with the provisions of this Deed within twenty (20) years of the date of receipt by OPDC of such payment together with interest (if any).
- 6.4 Where any payment is made by the Owner to OPDC pursuant to the terms of this Deed OPDC may, where it is not the authority with the statutory duty or functions to expend such monies and/or in the interests of administrative efficiency, pay such monies to the competent authority which has the statutory duty to discharge the functions for which the monies were paid ("**Other Statutory Authority**") and upon payment of monies to such Other Statutory Authority OPDC's requirement to comply with Clauses 6.2 and 6.3 shall cease to apply in respect of those monies.

7. **LEGAL COSTS AND MONITORING**

- 7.1 The Developer covenants with OPDC to pay upon completion of this Deed OPDC's reasonable and proper legal costs incurred in respect of the preparation, negotiation and completion of this Deed (inclusive of any reasonable legal costs incurred by external lawyers)

7.2 The Owner covenants with OPDC:

- 7.2.1 to pay the Monitoring Contribution to OPDC prior to Commencement of the Development; and
- 7.2.2 Not to Commence the Development until the Monitoring Contribution has been paid to OPDC.

7.3 The Owner covenants with OPDC that:

- 7.3.1 on the first anniversary of the date on which Implementation occurred and every 6 (six) months thereafter until the Occupation of the last Residential Unit constructed pursuant to the Planning Permission the Owner shall provide a monitoring report to OPDC ("**Regular Monitoring Report**") which shall set out the following:

- (a) details of progress in relation to each of the obligations contained in this Deed; and
- (b) the number, bedroom size and tenure of Residential Units Occupied in the preceding 6 (six) months and in total since Commencement

and the Owner shall provide a final Regular Monitoring Report within 20 (twenty) Working Days of Occupation of the last Residential Unit.

- 7.3.2 Within 15 (fifteen) Working Days of service of each Regular Monitoring Report on OPDC (or such later date as may either be proposed by the Owner in writing and approved by OPDC or as may be imposed by OPDC and notified in writing to the Owner) the Owner and OPDC shall meet to discuss any defaults in performance as identified by the Regular Monitoring Report and will agree forthwith such remedial action as may be required PROVIDED THAT where the Regular Monitoring Report does not identify any defaults in performance such a meeting shall not be required to be convened.

7.4 The Owner covenants with OPDC to notify OPDC immediately if the Owner has a liquidator, receiver, administrative receiver, administrator, manager or trustee in bankruptcy appointed or a winding up order made or a resolution for voluntary winding up passed or possession taken by or on behalf of any debentures secured by a floating charge or a proposal in respect of the Owner for a voluntary arrangement for a composition of debts or scheme of arrangement approved in accordance with the Insolvency Act 1986 or any such appointments, orders, resolutions, possessions or proposals for a voluntary arrangement are threatened.

8. **OWNERSHIP**

- 8.1 The Owner warrants and undertakes to OPDC that it is the freehold owner of the Site (to the extent of the interest described in recital B) of this Deed) and has full power to enter into this Deed.
- 8.2 The Owner covenants with OPDC to give OPDC written notice of any change in ownership of any of its interest in the Site or part thereof (save in respect of individual Residential Units or individual Non-Residential Units) occurring before all the obligations under this Deed have been discharged, such notice to be served within 20 (twenty) Working Days following the change and to give details of the transferee's full name and registered office (if a company) or usual address (if not a company), together with a plan showing the area of the Site to which the disposal relates.

9. **NO ENCUMBRANCES**

- 9.1 The Owner warrants and undertakes to OPDC to the extent of the Owner's interest in the Site that the Site is free from any encumbrances which would prevent the Development from being carried out and brought into beneficial use.
- 9.2 The Owner shall not encumber or otherwise deal with its interest in the Site or any part or parts thereof in any manner whatsoever whereby the obligations, covenants and undertakings imposed by

this Deed are rendered impossible to carry out save where planning permission is granted after the date of this Deed for an alternative development of the Site PROVIDED THAT this Clause shall not restrict the Owner from encumbering or otherwise dealing with its interest in the Site or any part or parts thereof on a basis that is subject to the obligations, covenants and undertakings imposed by this Deed.

10. REGISTRATION

- 10.1 As soon as reasonably practicable after the completion of this Deed (and in any event within 10 (ten) Working Days of this Deed), the Developer shall make applications to the Land Registry for entries relating to this Deed to be made in the charges registers of the Title Number referred to in Recital (B) above so as to bind the Site as provided for in the above mentioned statutory provisions and shall provide OPDC with written notification as soon as reasonably practicable that such applications have been made.
- 10.2 If the Developer fails to notify OPDC that it has made the applications in accordance with Clause 10.1, OPDC shall (without prejudice to any other right) be entitled to register this Deed and recover the expenses incurred in doing so from the Developer and the Developer hereby covenants with OPDC to do or concur in doing all things necessary or advantageous to enable the said entries to be made.
- 10.3 The Developer covenants that it shall not make any application to the Land Registry for the removal of any notice registered pursuant to Clauses 10.1 or 10.2 without the prior written consent of OPDC.
- 10.4 OPDC shall arrange for the registration of this Deed as a Local Land Charge by LBE or its successor in statutory function.

11. RIGHT OF ACCESS

Without prejudice to OPDC's statutory rights of entry and subject to reasonable prior notice, the Owner shall permit OPDC and its authorised employees, agents, surveyors and other representatives to enter the Site and any buildings erected thereon pursuant to the Development at all reasonable times for the purpose of verifying whether or not any obligation arising under this Deed has been performed or observed but subject always to their compliance with the Owner's health and safety and site security rules and regulations from time to time in force and the Owner shall comply with any reasonable request made by OPDC for documentation held by the Owner for such purposes.

12. OWNER TO NOTIFY OPDC

- 12.1 The Owner covenants with OPDC to notify OPDC in writing of:-
- 12.1.1 the intended Implementation Date, at least 1 (one) month prior to such intended date;
 - 12.1.2 the actual Implementation Date, within 5 (five) Working Days of such actual date;
 - 12.1.3 the intended Commencement Date, at least 1 (one) month prior to such intended date;
 - 12.1.4 the actual Commencement Date, within 5 (five) Working Days of such actual date;
 - 12.1.5 the anticipated date of Substantial Implementation, at least 1 (one) month prior to such intended date;
 - 12.1.6 the actual date of Substantial Implementation, within 5 (five) Working Days of such actual date;
 - 12.1.7 the intended date for First Occupation of the Development, at least 1 (one) month prior to such intended date;
 - 12.1.8 the actual date of First Occupation of the Development, within 5 (five) Working Days of such actual date;

- 12.1.9 the intended date for First Occupation of the first Open Market Housing Unit, at least 20 (twenty) Working Days prior to such date provided that where such event is also the First Occupation of the Development a second notice notifying the same event shall not also be required to be served under clause 12.1.7 of this Deed;
 - 12.1.10 the actual date of the First Occupation of the first Open Market Housing Unit, within 5 (five) Working Days of such actual date provided that where such event is also the First Occupation of the Development a second notice notifying the same event shall not also be required to be served under clause 12.1.8 of this Deed;
 - 12.1.11 the intended date for Occupation of the 163rd Open Market Housing Unit, at least 20 (twenty) Working Days prior to such date;
 - 12.1.12 the actual date of the Occupation of the 245th Open Market Housing Unit, within 5 (five) Working Days of such actual date;
 - 12.1.13 the intended date for Practical Completion of the Development, at least 12 (twelve) months prior to such intended date; and
 - 12.1.14 the actual date of Practical Completion of the Development, with 5 (five) Working Days of such actual date.
- 12.2 In the event that the Owner fails to provide notifications as required under Clause 12.1 within 5 days of the deadline specified for each notification, the relevant notifiable event shall be deemed by OPDC (acting reasonably) for the purpose of this Deed to have taken place on the earliest date that such event could have taken place ("**Deemed Date**") AND the Owner may submit evidence of an alternative Deemed Date for OPDC's approval and if the evidence is approved in writing (acting reasonably) then that date shall be the Deemed Date AND FURTHER any such Deemed Date shall be the actual date for the purpose of Clause 12.1.

13. NOTICES

- 13.1 Any notice or other written communication to be served upon a party or given by one party to any other under the terms of this Deed shall be given in writing and shall be deemed to have been validly served or given if delivered by hand or sent by first class post or sent by recorded delivery post to the party upon whom it is to be served or to whom it is to be given and shall conclusively be deemed to have been received on:-
- 13.1.1 if delivered by hand, the next Working Day after the day of delivery; and
 - 13.1.2 if sent by first class post or recorded delivery post, the day 2 (two) Working Days after the date of posting.
- 13.2 The address for any notice or other written communication shall be within the United Kingdom only and shall be as specified below or such other address as shall be specified by the party upon whom the notice is to be served to the other parties by not less than 5 (five) Working Days' notice:-
- 13.2.1 **OPDC:-**

Director of Planning, Old Oak and Park Royal Development Corporation, Brent Civic Centre, 32 Engineers Way, Wembley, HA9 0FJ with a duplicate copy of such notice to be sent by email to planningapplications@opdc.gov.uk
 - 13.2.2 **The Owner:-**

Eamon O'Loughlin and Thomas Henry James, The Gatehouse, Cunard Road, Park Royal, London NW10 6PN
 - 13.2.3 **The Developer:-**

Thomasin Renshaw, Pocket Living, Tower House, 10 Southampton Street, London WC2E 7HA

13.2.4 The Mortgagee:-

McGovern Brothers (Haulage) Limited, 32 Dudden Hill Lane, London NW10 1AQ

- 13.3 Any notice or other written communication to be given by OPDC shall be deemed valid and effectual if on its face it is signed on behalf of OPDC by an officer or duly authorised signatory.

14. PAYMENTS

- 14.1 All payments to be made by the Owner pursuant to the terms of this Deed shall be sent to OPDC by way of electronic transfer marked for the attention of The Head of Development Management and using reference 21/0214/FUMOPDC.

- 14.2 All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly payable in respect thereof.

- 14.3 The Owner hereby acknowledges and agrees that if at any time VAT is required to be paid in respect of any of the financial contributions due under this Deed then to the extent that VAT had not been previously charged in respect of that contribution OPDC shall have the right to issue a VAT invoice to the Owner and the VAT shall be paid accordingly.

15. NO WAIVER

No waiver (whether expressed or implied) by OPDC of any breach or default in performing or observing any of the covenants, obligations or undertakings contained in this Deed shall constitute a continuing waiver and no such waiver shall prevent OPDC from enforcing any covenants, obligations or undertakings or from acting upon any subsequent breach or default in respect thereof by the Owner.

16. NO FETTER OF DISCRETION

Nothing (contained or implied) in this deed shall fetter or restrict OPDC's statutory rights, powers, discretions and responsibilities.

17. INTEREST ON LATE PAYMENT

If any payment due under this Deed is paid late, Interest will be payable from the date immediately following the date on which payment is due to the date payment is made.

18. INDEXATION

Where in this Deed any sum or value is to be paid or is otherwise referred to then unless stated to the contrary such sum or value shall be Index Linked so that such sum or value shall be increased (as the case may be) by the percentage change in the Index from the date of the planning committee meeting referred to in Recital (E) until the date of each payment (or the date that it becomes necessary to calculate such sum or value) to be calculated by reference to the most recently published figures for the Retail Price Index as at the date of the planning committee meeting referred to in Recital (E) and as at the date of each payment respectively (provided that for the avoidance of doubt such indexation shall be upwards-only such that indexation pursuant to this Clause shall never result in a sum or value being less than the amount set out in this Deed).

19. LIABILITY UNDER THE DEED

19.1 No person shall be liable for any breach of the covenants restrictions or obligations contained in this Deed:-

19.1.1 to the extent that such breach relates to any part of the Site in which that person has no interest; and/or

19.1.2 which occurs after he has parted with his entire interest in the Site (or his interest in that part of the Site on which the breach occurs) save for any prior breach for which he shall continue to be liable.

19.2 No obligations, undertakings or liabilities under this Deed shall be enforceable against individual purchasers or lessees or Occupiers of the individual Residential Units or their mortgagees or successors in title to either the purchaser or lessee or Occupier or mortgagee, save in respect of the obligations in:-

19.2.1 paragraph 5 of Schedule 2 (*Affordable Housing*); and

19.2.2 paragraphs 3.1 and 4.1 of Schedule 6 (*Car Parking*)

19.3 No obligations, undertakings or liabilities under this Deed shall be enforceable against individual purchasers or lessees or Occupiers of individual Non-Residential Units or their mortgagees or successors in title to either the purchase or lessee or Occupier or mortgagee, save in respect of the obligations in:-

19.3.1 paragraphs 2.3 – 2.5 (inclusive) of Schedule 6 (*Car Parking*); and

19.3.2 paragraph 2.3 of Schedule 7 (*Framework Travel Plan*).

19.4 No obligations, undertakings or liabilities under this Deed shall be enforceable against any mortgagee or chargee from time to time which shall have the benefit of a mortgage or charge of or on the whole or any part of the Owner's interest in the Site unless and until such mortgagee or chargee has entered into possession of the Site or any part thereof to which such obligation, covenant or undertaking relates, whereupon it will be bound by the obligations, covenants and undertakings as a person deriving title from the Owner.

19.5 No obligations, undertakings or liabilities under this Deed shall be enforceable against any statutory undertaker or other person who acquires any part of the Site or interest therein for the purposes of the supply of heat, cooling, electricity, gas, water, drainage, telecommunication services, electric vehicle charging points and associated services or public transport services.

20. DISPUTES

20.1 Where the parties are in dispute or disagreement or have any differences relating to any matter the subject of or connected with this Deed or its meaning or construction (a "**Dispute**") then (without prejudice to any provision in this Deed which specifies a particular timescale for the resolution or determination of any matter) the parties shall use their reasonable endeavours to resolve the same within 20 (twenty) Working Days of the Dispute arising.

20.2 Failing the resolution of any such Dispute within the said 20 (twenty) Working Days or within such other period as may be specified in this Deed in relation to the resolution or determination of the matter in question, the Dispute shall be referred for determination in accordance with the provisions of this Clause 20 on the reference of any of the parties to the Dispute.

20.3 The Dispute shall be referred to the decision of an independent expert (the "**Expert**") who shall be an independent person of at least 10 (ten) years' standing in the area of expertise relevant to the Dispute and in the event that the parties are unable to agree whom should be appointed within a

period of 10 (ten) Working Days following a failure of the parties to resolve the Dispute within the period set out in Clause 20.1, then any party may request:-

- 20.3.1 if such Dispute shall relate to matters concerning the construction, interpretation and/or application of this Deed, the Chairman of the Bar Council to nominate the Expert;
 - 20.3.2 if such Dispute shall relate to matters requiring a specialist chartered surveyor, the President of the Royal Institution of Chartered Surveyors to nominate the Expert;
 - 20.3.3 if such Dispute shall relate to matters requiring a specialist chartered civil engineer, the President of the Institution of Civil Engineers to nominate the Expert;
 - 20.3.4 if such Dispute shall relate to matters requiring a specialist chartered accountant, the President of the Institute of Chartered Accountants in England and Wales to nominate the Expert;
 - 20.3.5 if such Dispute shall relate to matters requiring a viability consultant, the President of the Royal Institute of Chartered Surveyors to nominate the Expert; and
 - 20.3.6 in all other cases, the President of the Law Society to nominate the Expert.
- 20.4 If the Dispute shall relate to matters falling within two or more of Clauses 20.3.1 to 20.3.6 (inclusive), the parties may agree to appoint joint Experts and in the event that the parties are unable to agree whom should be appointed as joint Experts, the parties may request the President of the Law Society to nominate such persons falling within the descriptions of Clauses 20.3.1 to 20.3.6 (inclusive) to act as joint Experts.
- 20.5 The Expert shall act as an expert and not as an arbitrator and the determination of the Expert (including any determination as to the responsibility for payment of his own costs and those of the parties) shall be final and binding upon the parties (in the absence of manifest error).
- 20.6 The Expert shall be appointed (through an agreed request statement setting out exactly the questions that he is to determine, submitted jointly by the parties to the Dispute) subject to an express requirement that he reaches his decision and communicates it to the parties to the Dispute within the minimum practical timescale allowing for the nature and complexity of the Dispute and in any event no later than 30 (thirty) Working Days from the date of his appointment to act and that he is to have particular regard to the 1990 Act in reaching his decision.
- 20.7 The terms of reference of any Expert appointed to determine a Dispute shall include the following:-
- 20.7.1 he shall call for representations from all parties with 10 (ten) Working Days of a reference to him under this Deed and shall require the parties to exchange representations within this period;
 - 20.7.2 he shall allow the parties 10 (ten) Working Days from the expiry of the 10 (ten) Working Days period referred to in Clause 20.7.1 to make counter-representations;
 - 20.7.3 any representations or counter-representations received out of time shall be disregarded by the Expert;
 - 20.7.4 he shall provide the parties with a written decision (including his reasons) within 10 (ten) Working Days of the last date for receipt of counter-representations;
 - 20.7.5 he shall be entitled to call for such independent expert advice as he shall think fit; and
 - 20.7.6 his costs and the costs of any independent expert advice called for by the Expert shall be included in his award.
- 20.8 Unless the Expert shall decide otherwise the costs of any reference to the Expert shall be borne equally by the parties to the Dispute.

21. MISCELLANEOUS PROVISIONS

21.1 The Parties agree with one another to act reasonably and in good faith in the fulfilment of this Deed.

21.2 Without prejudice to the terms of this Deed and the obligations imposed on the Owner herein, nothing in this Deed shall be construed as prohibiting or limiting any right to develop any part of the Site in accordance with any planning permission (other than the Planning Permission or a Varied Planning Permission) granted after the date of this Deed.

21.3 This Deed and the obligations, covenants and undertakings which it contains shall lapse and be extinguished automatically if and from the date that the Planning Permission:-

21.3.1 expires without the Development having been Implemented; or

21.3.2 is quashed, revoked or (without the consent of the Owner) modified.

21.4 If any provision of this Deed is declared by any court to be void, voidable, illegal or otherwise unenforceable the remaining provisions of this Deed shall continue in full force and effect and the parties shall amend that provision in accordance with the decision of the court provided that any party may seek the consent of the others to the termination of this Deed on such terms (including the entering into of another Deed) as may in all the circumstances be reasonable if the effect of the foregoing provisions would be to defeat the original intention of the parties

21.5 Where this Deed requires any matter to be agreed, approved, certified, consented to or determined by any party or any person on behalf of any party hereto under this Deed such agreement, approval, certification, consent or determination shall not be unreasonably withheld or delayed and shall be given in writing.

21.6 No variation to this Deed shall be effective unless made by deed.

21.7 All interest earned on sums paid to OPDC under this Deed shall be taken to form part of the principal sum and may be expended by OPDC accordingly.

21.8 Nothing in this Deed shall imply any obligations on the part of OPDC to any person to ensure that the Development is properly constructed.

21.9 If OPDC agrees pursuant to a Varied Planning Permission to any variation or release of any condition contained in the Planning Permission (or if any such condition is varied or released following an appeal under section 78 of the 1990 Act) the covenants and provisions of this Deed shall be deemed to bind the Varied Planning Permission and to apply in equal terms to the Varied Planning Permission save where OPDC in their determination of such an application for a Varied Planning Permission indicate that consequential amendments are required to this Deed to reflect the impact of the section 73 application and in such circumstances a separate deed pursuant to section 106 of the 1990 Act will be required to secure relevant planning obligations relating to the Varied Planning Permission.

22. GOVERNING LAW

This Deed and any dispute, controversy, proceedings or claims of whatever nature arising out of or in any way relating to this Deed or its formation (including any non-contractual disputes or claims) shall be governed and construed in accordance with English law.

23. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

Any person who is not a party to this Deed shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

24. **MORTGAGEE'S CONSENT**

24.1 The Mortgagee acknowledges and declares that:-

24.1.1 this Deed has been entered into by the Owner with its consent;

24.1.2 the Site shall be bound by the obligations contained in this Deed; and

24.1.3 the security of the Mortgagee over the Site shall take effect subject to this Deed.

24.2 The Parties agree that the Mortgagee and any mortgagee having an interest in the Site from time to time will only be liable for any breach of the provisions of this Deed during such period as it is a mortgagee in possession of the whole or any part of the Site when it becomes bound by the obligations as if it were a person deriving title from the Owner but otherwise shall have no liability under this Deed. It will not be liable for any breach of the provisions of this Deed after it has parted with or released its interest in the Site save for any breach occurring during such period as it is a mortgagee in possession of the whole or any part of the Site for which it shall continue to be liable.

25. **COUNTERPARTS**

25.1 This Deed may be executed in any number of separate counterparts, each of which when executed and delivered shall be an original, and such counterparts taken together shall constitute one and the same deed.

EXECUTED AS A DEED by the parties on the date which first appears in this Agreement

SCHEDULE 1

BUILD TO RENT

1. BUILD TO RENT PROVISION

The Owner shall:

- 1.1 submit to OPDC the Residential Management Plan for approval (as approved, the "**Approved Residential Management Plan**");
- 1.2 not Occupy or cause or permit the Occupation of any Residential Unit until the Residential Management Plan has been submitted to and approved by OPDC;
- 1.3 market, let and provide the Residential Units in accordance with the Approved Residential Management Plan (subject to any minor amendments agreed in writing with OPDC);
- 1.4 not Occupy or cause or permit the Occupation of the Residential Units except in accordance with the Approved Residential Management Plan (subject to any minor amendments agreed in writing with OPDC); and
- 1.5 upon reasonable notice from OPDC and no more frequently than every six months, provide to OPDC such evidence as OPDC reasonably requires to demonstrate the Developer's compliance with the Approved Residential Management Plan

PROVIDED THAT this paragraph 1 shall cease to apply in respect of the Open Market Housing Units upon a Clawback Disposal (PROVIDED THAT the Owner has paid the Clawback Amount).

2. BUILD TO RENT COVENANT

- 2.1 Subject to paragraph 2.8 of this Schedule 1, the Owner shall not cause or permit a Clawback Disposal unless and until the Clawback Amount has been paid to OPDC.
- 2.2 Not less than 30 Working Days before the anticipated date of a Clawback Disposal, the Owner shall give notice in writing to OPDC of such Clawback Disposal including the following information:
 - 2.2.1 the anticipated date of that Clawback Disposal;
 - 2.2.2 the Open Market Housing Unit(s) which are intended to be Disposed and its size in m² and number of Habitable Rooms;
 - 2.2.3 the amount of consideration to be paid under that Clawback Disposal for each Open Market Housing Unit which is intended to be Disposed (including documentary evidence);
 - 2.2.4 the Owner's calculation of the Clawback Amount; and
 - 2.2.5 the identity and address of the person(s) to whom the Open Market Housing Unit(s) are intended to be Disposed.
- 2.3 OPDC shall assess the information submitted under paragraph 2.2 of this Schedule 1 to determine the Clawback Amount.
- 2.4 OPDC may appoint an external consultant to assess the information submitted under paragraph 2.2 of this Schedule 1 and to determine the Clawback Amount.
- 2.5 If OPDC and/or its external consultant requests from the Owner further information or evidence to determine the Clawback Amount, the Owner shall provide any reasonably required information to OPDC and/or the external consultant (as applicable and with a copy to the other party) within 10 Working Days of receiving the relevant request and this process may be repeated until OPDC and/or

its external consultant has all the information it reasonably requires to determine the Clawback Amount.

- 2.6 OPDC shall notify the Owner in writing of the Clawback Amount and shall use reasonable endeavours to do so no later than 20 Working Days after receipt of the information submitted under paragraph 2.2 of this Schedule 1.
- 2.7 The Owner shall pay OPDC's costs which are reasonably and properly incurred in assessing the information submitted under paragraph 2.2 of this Schedule 1 and in determining the Clawback Amount including those of any external consultant appointed under paragraph 2.4 of this Schedule 1 within 20 Working Days of receipt of a written request for payment.
- 2.8 If OPDC has not notified the Owner in writing of the Clawback Amount within 30 Working Days of receipt of the information submitted under paragraph 2.2 of this Schedule 1, the Owner may cause or permit a Clawback Disposal once it has paid to OPDC an amount that the Developer reasonably estimates to be the Clawback Amount (the "**Estimated Clawback Amount**") PROVIDED THAT no later than 10 Working Days after OPDC notifies the Owner in writing of the Clawback Amount (or, if a dispute relating to the Clawback Amount is referred to dispute resolution in accordance with Clause 20, no later than 10 Working Days after the final determination of the Clawback Amount), the Owner shall pay to OPDC the difference between the Clawback Amount and the Estimated Clawback Amount (unless the difference is less than or equal to zero) together with interest accrued on such difference from the date of the payment of the Estimated Clawback Amount to the date of payment of the difference calculated in accordance with Clause 17.
- 2.9 OPDC shall use the Clawback Amount to provide Affordable Housing in its administrative area.
- 2.10 The Developer shall notify OPDC in writing promptly upon the completion of a Clawback Disposal.
- 2.11 The provisions of this paragraph 2 of Schedule 1 shall only apply during the Covenant Period.

SCHEDULE 2

AFFORDABLE HOUSING

1. DEFINITIONS

"Affordable Housing"

means housing including Discounted Market Rent Housing provided to eligible renters whose needs are not met by the market and which housing should:

- (a) meet the needs of eligible renters including availability at a cost low enough for them to afford, determined with regard to local incomes and local housing prices, and
- (b) include provision for the home to remain at an affordable rent for future eligible renters, or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision

"Affordable Housing Provider"

means:

- (a) a provider of Affordable Housing registered under section 111 of the Housing and Regeneration Act 2008 (or such other relevant previous or amended or replacement statutory provision);
- (b) an approved development partner of Homes England (or any successor agency) which is eligible to obtain grant funding;
- (c) any other body specialising in the provision of Affordable Housing; or
- (d) any other body first approved in writing by OPDC;

in each case either nominated or approved by OPDC (such approval not to be unreasonably withheld or delayed)

"Affordable Housing Target Tenure Split"

means:

- (a) 30% (thirty per cent) London Living Rent Equivalent Housing Units; and
- (b) 70% (seventy per cent) Discounted Market Rent Housing

"Affordable Housing Units"

means the 130 Residential Units to be provided as Affordable Housing as shown on Plan 2 comprising 423 Habitable Rooms and comprising not less than 35% (thirty five per cent) (by Habitable Room) of the Residential Units and **"Affordable Housing Unit"** shall be construed accordingly

"Discounted Market Rent Housing"

means housing offered to Eligible Renters:

- (a) for all lettings (including initial and each subsequent letting), in respect of the following sizes of units, at not more than the following:
 - (i) one-bedroom: 77.5 per cent of market rent;
 - (ii) two-bedroom: 77.5 per cent of market rent;
 - (iii) three-bedroom: 58.3 per cent of market rent; and

- (b) on the basis that Housing Costs in respect of the following sizes of units must not exceed 28 per cent of the corresponding annual gross income upper limit specified below (such 28 per cent being equivalent to 40 per cent of net income, with net income being assumed to be 70 per cent of gross income):

(A) one-bedroom:

- (i) for the first 3 years of the initial letting (or less where a shorter term is requested by the prospective tenant): £53,143 and £60,000 thereafter; or

- (ii) for any subsequent lettings: £60,000;

(B) two-bedroom: £60,000; and

(C) three-bedroom: £60,000.

The above annual gross income upper limits shall increase at a rate that is equal to the HBAI Index from the date of the Agreement and shall not exceed the intermediate housing income thresholds for units for sale as increased in the London Plan Annual Monitoring Report from time to time such amount at the date of this Deed being £90,000

"Discounted Market Rent Housing Units" means the 99 Affordable Housing Units as shown on Plan 2 comprising 296 Habitable Rooms to be made available for Discounted Market Rent Housing in accordance with Schedule 2 of this Agreement together with any Additional Affordable Housing Units which are to be delivered as Discounted Market Rent Housing

"DMR & LLR Statement" means a statement detailing:

- (a) the current Open Market Rent Levels which shall be objectively assessed based on comparable market evidence; and
- (b) the Housing Costs for the Discounted Market Rent Housing Units and the London Living Rent Equivalent Units and the application of any indexation

"Eligible Renter" means an existing private or social tenant or tenants whose Household Income at the date of renting the relevant London Living Rent Equivalent Housing Unit or Discounted Market Rent Housing Unit does not exceed the relevant upper limit as specified in the definition of Discounted Market Rent Housing or London Living Rent Equivalent Levels of this Schedule (as applicable)

"Habitable Rooms Schedule" means the schedule contained at Appendix 3 to this Deed setting out where the Habitable Rooms are to be provided within the Affordable Housing Units

"HBAI Index" means the Households Below Average Incomes (HBAI) Index (an index derived in accordance with the methodology used by the GLA to update rents for London Living Rent housing (as defined in the Homes for Londoners (Affordable Housing and Viability Supplementary Planning Guidance (2017)) being the annual change in the London average household income determined by the Households Below Average Income Median Income (HBAI) dataset for London (3 year rolling average data))

presently contained in Table 2.7 of the dataset published by Department for Work and Pensions

"Household" means, in relation to a person "A", A and all other persons who would, after purchasing or renting (as appropriate) an Affordable Housing Unit share that Affordable Housing Unit with A and one another as the only or main residence of both A and such other persons

"Household Income" means:

- (a) in relation to a single Eligible Renter, the gross annual income of that Eligible Renter's Household; and
- (b) in relation to joint Eligible Renters, the combined gross annual incomes of those Eligible Renters' Households

"Housing Costs" means the rent payable in respect of a Residential Unit including service charges and which at all times shall be calculated in accordance with the terms of this agreement

"Lettings Cascade Procedure" means that in respect of London Living Rent Equivalent Housing Units only:

- (a) Eligible Renters on the LBE intermediate housing waiting list or equivalent have priority in respect of the London Living Rent Equivalent Housing Units;
- (b) if LBE is unable to identify a suitable tenant for an Affordable Housing Unit or an Additional Affordable Housing Units it will be offered to Eligible Renters on the equivalent intermediate housing lists in LBB and LBHF;
- (c) if LBB and LBHF are unable to nominate to an Affordable Housing Unit or an Additional Affordable Housing Unit it will be made available to Eligible Households through the London Wide Register for a period of 3 (three) months; and

if all three Boroughs are unable to nominate to an Affordable Housing Unit or an Additional Affordable Housing Unit and the unit is not allocated through the London Wide Register in accordance with the step set out at (c) above, the nomination right returns to the Owners to be allocated on the basis of criteria to be agreed with the OPDC

"London Design Standards" means the applicable housing design standards set out in the London Plan, the Mayor of London's Housing Supplementary Planning Guidance (2016) and the Mayor of London's and Homes and Communities Agency's Funding Standards Framework – New Funding Design and Sustainability Standards for London (December 2011) and any replacement or supplementary guidance in force from time to time

"London Living Rent Equivalent Levels" means Housing Costs which do not exceed the lower of:

- (a) must not exceed 80 per cent of the Open Market Rent Level and, in respect of the following sizes of units, must not exceed the following:
 - (i) 57.5% of the Open Market Rent Level for one-bedroom units; and

- (ii) 56.5% of the Open Market Rent Level for two-bedroom units; and
 - (iii) 48% of Open Market Rent Level for three-bedroom units.
- (b) in respect of the following sizes of units, 28 per cent of the corresponding annual gross income upper limit below (such 28 per cent being equivalent to 40 per cent of net income, with net income being assumed to be 70 per cent of gross income):
- (i) one-bedroom: £60,000;
 - (ii) two-bedroom: £60,000;
 - (iii) three-bedroom: £60,000.

The above annual gross income upper limits shall increase at a rate that is equal to the HBAI Index from the date of the Agreement and shall not exceed the intermediate housing income thresholds for units for sale as increased in the London Plan Annual Monitoring Report from time to time such amount at the date of this Deed being £90,000

"London Living Rent Equivalent Housing"

means rented housing provided by an Affordable Housing Provider that is required to be offered to Eligible Renters on a time-limited tenancy:

- (a) with a minimum term of 3 (three) years unless a shorter term is requested by the prospective tenant;
- (b) with a break clause allowing the tenant to end the tenancy any time after the first 6 (six) months of the tenancy with 1 (one) months' notice;
- (c) at London Living Rent Equivalent Levels; and

PROVIDED THAT initial rents for subsequent lettings will reset in accordance with sub-paragraph (c) above

"London Living Rent Equivalent Housing Units"

means the 33 Discounted Market Rent Housing Units as shown on Plan 2 comprising 127 Habitable Rooms to be made available at London Living Rent Equivalent Levels in accordance with Schedule 2 of this Agreement together with any additional Discounted Market Rent Housing Units let at London Living Rent Equivalent Levels under an Additional Affordable Housing Scheme

"London Plan Annual Monitoring Report"

means the monitoring report published annually by the Mayor of London reviewing the progress being made in implementing the policies and addressing the objectives of the London Plan or any replacement GLA guidance or policy

"Open Market Rent Levels"

means the rental levels for the Open Market Housing Units

"Service Charges"

means all amounts payable by a tenant of the relevant Discounted Market Rent Housing Unit or London Living Rent Equivalent Housing Unit as part of or in addition to the rent and directly or indirectly for services, repairs, maintenance, improvements, insurance and/or the landlord's costs of management in relation to that Discounted Market Rent Housing Unit or London Living Rent Equivalent Housing Unit

2. **AFFORDABLE HOUSING MINIMUM AND MAXIMUM PROVISION**

- 2.1 The Owner shall provide the Affordable Housing Units in accordance with the Habitable Rooms Schedule and the remaining paragraphs of this Schedule.
- 2.2 The Owner shall provide not less than 30% (thirty per cent) of the Affordable Housing Units at London Living Rent Equivalent Levels and the remaining Affordable Housing Units as Discounted Market Rent Housing.
- 2.3 The Affordable Housing Units and Additional Affordable Housing Units shall together not exceed 50% (fifty per cent) (by Habitable Room) of the Residential Units PROVIDED THAT the tenure split of the Affordable Housing Units across the Development accords with the Affordable Housing Target Tenure Split and PROVIDED FURTHER THAT this shall not preclude the use and occupation of any Residential Units as Affordable Housing.

3. **LETTINGS CASCADE PROCEDURE**

- 3.1 The Owner shall comply with the Lettings Cascade Procedure for the Occupation of all London Living Rent Equivalent Housing Units.

4. **AFFORDABLE HOUSING PROVISION**

- 4.1 The Owner shall unless otherwise agreed in writing with OPDC provide the Affordable Housing Units in the locations shown on Plan 2 in accordance with the following tenure and unit size mix:-

	1 bed, 2 person	2 bed, 3 person	2 bed, 4 person	3 bed, 4 person	3 bed, 5 person	Total
London Living Rent Equivalent Housing Units	2	1	0	13	17	33
Discounted Market Rent Housing Units	6	88	0	1	4	99

- 4.2 The Owner shall ensure that the Affordable Housing Units are designed and constructed:-
- 4.2.1 in accordance with the London Design Standards as at the date of the Application; and
- 4.2.2 to be tenure blind from the Open Market Housing Units.
- 4.3 The Owner shall not Occupy more than 50% (fifty per cent) of the Open Market Housing Units until 50% (fifty per cent) of the Affordable Housing Units have been Practically Completed in accordance with the covenants and obligations in this Schedule and made ready for Occupation.
- 4.4 The Owner shall not Occupy more than 75% (seventy five per cent) of the Open Market Housing Units until 100% (one hundred per cent) of the Affordable Housing Units have been Practically Completed in accordance with the covenants and obligations in this Schedule and made ready for Occupation.

5. **ELIGIBILITY CRITERIA AND OCCUPATION RESTRICTIONS**

- 5.1 It is agreed that the restrictions contained in this paragraph 5 shall be subject to the provisions of paragraph 5.3.

London Living Rent Equivalent Housing Units

- 5.2 Subject to paragraph 3.1 of this Schedule 2 the London Living Rent Equivalent Housing Units shall for the lifetime of the Development:

5.2.1 not be Occupied for any purpose other than for London Living Rent Equivalent Housing;
and

5.2.2 not be let to any person other than an Eligible Renter

and all occupational leases and tenancies of such units shall include a provision preventing sub-letting and underletting unless otherwise agreed in writing by the OPDC.

Discounted Market Rent Housing Units

- 5.3 The Discounted Market Rent Housing Units shall for the lifetime of the Development:

5.3.1 not be Occupied for any purpose other than for Discounted Market Rent Housing; and

5.3.2 not be let to any person other than an Eligible Renter

and all occupational leases and tenancies of such units shall include a provision preventing sub-letting and underletting unless otherwise agreed in writing by the OPDC.

6. **MONITORING**

- 6.1 The Owner shall submit a DMR & LLR Statement to OPDC:

6.1.1 prior to the Occupation of the Development; and

6.1.2 on each subsequent anniversary of the first DMR & LLR Statement on an annual basis thereafter for the lifetime of the Development; and

6.1.3 within 28 days of any written request from OPDC for a DMR & LLR Statement.

SCHEDULE 3

VIABILITY REVIEW

PART 1

DEFINITIONS

"Additional Affordable Housing"	means any Additional Affordable Housing Units and/or any Additional Affordable Housing Contribution all of which shall be subject to the Affordable Housing Cap
"Additional Affordable Housing Contribution"	means a financial contribution in lieu of on-site delivery of Affordable Housing Units for the provision of off-site Affordable Housing in OPDC's administrative area to be made in accordance with the provisions of this Schedule 3 if an Additional Affordable Housing Scheme submitted and approved pursuant to paragraphs 3.4 or 3.5 of this Schedule 3 provides that some or all of the surplus profit shall be payable to OPDC such contribution to be subject to the Affordable Housing Cap
"Additional Affordable Housing Scheme"	means a scheme or schemes to be prepared by the Owner and submitted to OPDC in accordance with this Schedule detailing the Additional Affordable Housing Units to be provided and which: (a) confirms which Open Market Housing Units are to be converted into Additional Affordable Housing Units; (b) confirms which Discounted Market Rent Housing Units (if any) are to be let at lower rents including at London Living Rent Equivalent Levels to achieve a greater level of affordability for Eligible Renters (and, the level of the rents); (c) contains 1:50 plans showing the location, size and internal layout of each Additional Affordable Housing Unit; (d) provides a timetable for construction and delivery of the Additional Affordable Housing Units; (e) sets out the amount (if any) of any financial contribution also payable towards offsite Affordable Housing if paragraph 3.6 of this Schedule 3 applies; and (f) ensures that no block will comprise solely of Open Market Housing Units.
"Additional Affordable Housing Units"	means the Open Market Housing Units to be converted to Affordable Housing pursuant to any Additional Affordable Housing Scheme to be approved under paragraph 4 of this Schedule 3 and "Additional Affordable Housing" shall be construed the same
"Affordable Housing"	has the meaning set out in Schedule 2
"Affordable Housing Cap"	means that the Owner shall not in any circumstances be required to: (a) provide more than 50% (fifty per cent) of the total number of Habitable Rooms comprised in the Development as Affordable Housing in the Affordable Housing Target Tenure Split; or

- (b) provide more than the equivalent of 50% (fifty per cent) of the total number of Habitable Rooms in the Development as Affordable Housing in the Affordable Housing Target Tenure Split by the provision of Affordable Housing Units and Additional Affordable Housing Units at the Development and/or any Additional Affordable Housing Contribution pursuant to this Deed

"Affordable Housing Target Tenure Split"

has the meaning set out in Schedule 2

"Affordable Housing Units"

has the meaning set out in Schedule 2

"Average Affordable Housing Value"

means the average value per square metre of the total floorspace of the Discounted Market Rent Housing Units at the required level of discount determined by OPDC and the London Living Rent Equivalent Housing Units on the Site at the Review Date based on the relevant information provided to establish the Estimated GDV to be assessed by OPDC and the Owner

"Average Open Market Housing Value"

means the average value of Open Market Housing Unit floorspace per square metre on the Site at the Review Date based on the relevant information provided to establish the Estimated GDV to be assessed by OPDC and the Owner

"Build Costs"

means the build costs comprising construction of the Development attributable to the Open Market Housing Units and the Commercial Floorspace supported by evidence of these costs to OPDC's reasonable satisfaction including but not limited to:

- (a) details of payments made or agreed to be paid in the relevant building contract;
- (b) receipted invoices;
- (c) costs certified by the Owner's quantity surveyor, costs consultant or agent

but for the avoidance of doubt build costs exclude:

- (i) professional, finance, legal and marketing costs;
- (ii) all internal costs of the Owner including but not limited to project management costs, overheads and administration expenses; and
- (iii) any costs arising from Fraudulent Transactions

"Development Viability Information"

means the information required by Formula 1a and Formula 6 being:

- (a) Estimated GDV;
- (b) Estimated Build Costs;
- (c) Average Open Market Housing Value; and
- (d) Average Affordable Housing Value

and including in each case supporting evidence to OPDC's reasonable satisfaction

"Discounted Market Rent Housing" has the meaning set out in Schedule 2

"Discounted Market Rent Housing Units" has the meaning set out in Schedule 2

"Disposal" means:

- (a) the Sale of a Component(s) of the Development;
- (b) the grant of a lease of a term of less than 125 (one hundred and twenty five) years of a Component of the Development; or
- (c) the grant of an assured shorthold tenancy agreement or a short term let in respect of a Component of the Development

ALWAYS excluding Fraudulent Transactions and **"Dispose"**, **"Disposals"** and **"Disposed"** shall be construed accordingly

"Estimated Build Costs" means the sum of:

- (a) the estimated Build Costs remaining to be incurred at the Review Date; and
- (b) the actual Build Costs incurred at the Review Date

"Estimated GDV" means the price at which a sale of the Open Market Housing Units and the Commercial Floorspace would have been completed unconditionally for cash consideration on the date of the submission of the Development Viability Information pursuant to paragraph 3 of this Schedule 3 based on detailed comparable market evidence, including evidence of rental values for the Open Market Housing Units which have been let, a valuation of the remaining Open Market Housing Units and evidence of the rental yield of the Open Market Housing Units, to be assessed by OPDC and assuming:

- (a) a willing seller and a willing buyer;
- (b) that, prior to the date of valuation, there has been a reasonable period of not less than six months for the proper marketing of the interest (having regard to the nature of the property and the state of the market) for the agreement of the price and terms and for the completion of the sale;
- (c) that no account is taken of any additional bid by a prospective purchaser with a special interest;
- (d) that both parties to the transaction have acted knowledgeably, prudently and without compulsion; and
- (e) that the restrictions in Schedule 1 would continue to apply

"Eligible Renter" has the meaning set out in Schedule 2

"External Consultant" means the external consultant(s) appointed by OPDC to assess the Development Viability Information

“Formula 1a”

means the following formula to be applied for determining surplus profit available for Additional Affordable Housing:

$$\text{« Surplus profit »} = ((A - B) - (D - E)) - P$$

Where:

A = Estimated GDV (£)

B = $A \div (C + 1)$

C = Percentage change in the ONS Index of Private Rental Prices, UK for OPDC's administrative area from the grant of Planning Permission to the Review Date (using the latest index figures publicly available) (%)

D = Estimated Build Costs (£)

E = $D \div (F + 1)$

F = Percentage change in the BCIS All in Tender Index (“BCIS TPI”) from grant of Planning Permission to the Review Date (using the latest index figures publicly available) (%)

P = $(A - B) * Y$

Y = 12.5%, being developer profit as a percentage of GDV for the private residential component and the Commercial Floorspace as determined as part of the review (%)

Notes:

(A – B) represents the change in GDV of the private residential component and the Commercial Floorspace of the development from the date of planning permission to the date of review.

(D – E) represents the change in build costs of the private residential component and the Commercial Floorspace from the date of the planning permission to the date of the review.

“Formula 6”

means the following formula for determining the amount of Additional Affordable Housing where the application of Formula 1a identifies a surplus profit:

X = Additional Affordable Housing requirement (Habitable Rooms)

X = $A \div (B - C) \div D$

Where:

A = Surplus profit available for Additional Affordable Housing Units as determined in Formula 1a (£)

B = Average Open Market Housing Value (£ per m²)

C = Average Affordable Housing Value (£ per m²)

D = Average Habitable Room size for the Development being 17m²

Notes:

(B – C) represents the difference in average value of Open Market Housing per m² and average value of Discounted Market Rent Housing and London Living Rent Equivalent Level Housing Units per m² (£).

$A \div (B - C)$ represents the Additional Affordable Housing requirement by floorspace (m²).

“Fraudulent Transaction”

means:

- (a) a transaction the purpose or effect of which is to artificially reduce the Estimated GDV and/or artificially increase the Estimated Build Costs; or
- (b) a Disposal that is not an arm's length third party bona fide transaction

“London Rent Equivalent Levels”

has the meaning set out in Schedule 2

“London Rent Equivalent Level Housing”

has the meaning set out in Schedule 2

“London Rent Equivalent Level Housing Units”

has the meaning set out in Schedule 2

“Public Subsidy”

means grant funding from OPDC and/or the GLA together with any additional public subsidy secured by the Owner or Affordable Housing Provider to support the delivery of the Development (and which for avoidance shall not include loan funding)

“Sale”

means:

- (a) the sale of the freehold of a Component; or
- (b) the grant of a lease of a Component with a term of 125 (one hundred and twenty five) years or more and subject to nominal rent

and “**Sold**” shall be construed accordingly

“Substantial Implementation”

means the occurrence of the latest of the following events in respect of the Development:

- (a) letting of a contract for the site clearance and construction of substructure and concrete frame of Building 1, Building 2 or Building 3;
- (b) completion of all ground preparation works and all site-wide enabling works;
- (c) completion of the foundations for the core of all buildings within the Development;

- (d) construction of the ground floor slab of any one of Building 1, Building 2 or Building 3; and
- (e) construction of the first floor slab of any one of Building 1, Building 2 or Building 3.

“Substantial Implementation Target Date” means the date 30 (thirty) months from but excluding the date of grant of the Planning Permission

PART 2

SUBMISSION OF VIABILITY REVIEW AND USE OF SURPLUS PROFIT

1. VIABILITY REVIEW TRIGGER

- 1.1 The Owner shall notify OPDC in writing of the date on which it considers that Substantial Implementation has been achieved no later than 10 (ten) Working Days after such date and such notice shall be accompanied by full documentary evidence on an open book basis to enable OPDC to independently assess whether Substantial Implementation has been achieved and whether it was achieved on or before the Substantial Implementation Target Date.
- 1.2 No later than 5 (five) Working Days after receiving a written request from OPDC, the Owner shall provide to OPDC any additional documentary evidence reasonably requested by OPDC to enable it to determine whether Substantial Implementation has been achieved on or before the Substantial Implementation Target Date.
- 1.3 Following the Owner's notification pursuant to paragraph 1.1 of this Schedule 3, the Owner shall afford OPDC access to the Site to inspect and assess whether or not the works which have been undertaken achieve Substantial Implementation PROVIDED ALWAYS that OPDC shall:
 - 1.3.1 provide the Owner with reasonable written notice of its intention to carry out such an inspection;
 - 1.3.2 comply with relevant health and safety legislation; and
 - 1.3.3 at all times be accompanied by the Owner or its agent.
- 1.4 No later than 20 (twenty) Working Days after OPDC receives:
 - 1.4.1 notice pursuant to paragraph 1.1 of this Schedule 3; or
 - 1.4.2 if OPDC makes a request under paragraph 1.2 of this Schedule 3, the additional documentary evidence,

OPDC shall inspect the Site and thereafter provide written confirmation to the Owner within 10 (ten) Working Days of the inspection date as to whether or not OPDC considers that Substantial Implementation has been achieved and whether it was achieved on or before the Substantial Implementation Target Date.
- 1.5 If OPDC notifies the Owner that OPDC considers that Substantial Implementation has not been achieved then this paragraph 1 of this Schedule 3 shall continue to apply mutatis mutandis until OPDC has notified the Owner pursuant to paragraph 1.4 of this Schedule 3 that Substantial Implementation has been achieved.

- 1.6 The Owner shall not Occupy the Development or any part thereof until:
- 1.6.1 OPDC has notified the Owner pursuant to paragraph 1.4 of this Schedule 3 that Substantial Implementation has been achieved on or before the Substantial Implementation Target Date;
 - 1.6.2 OPDC has notified the Owner pursuant to paragraph 3.4 of this Schedule 3 that no Additional Affordable Housing is required; or
 - 1.6.3 if OPDC notifies the Owner pursuant to paragraph 3.4 of this Schedule 3 that Additional Affordable Housing is required, an Additional Affordable Housing Scheme has been approved pursuant to paragraph 3.4 or 3.5 of this Schedule 3.

2. SUBMISSION OF DEVELOPMENT VIABILITY INFORMATION AND OTHER INFORMATION

- 2.1 Where Substantial Implementation has not occurred before the Substantial Implementation Target Date (as determined by OPDC under paragraph 1.4 of this Schedule 3 or pursuant to dispute resolution in accordance with the provisions of clause 20 of this Deed):
- 2.1.1 the Owner shall submit the following information no later than 20 (twenty) Working Days after the date on which the Owner is notified pursuant to paragraph 1.4 or 1.5 of this Schedule 3 that Substantial Implementation has been achieved, on the basis that OPDC may make such information publicly available:
 - (a) the Development Viability Information;
 - (b) a written statement that applies the applicable Development Viability Information to Formula 1a (PROVIDED ALWAYS THAT if the result produced by Formula 1a is less than zero it shall be deemed to be zero) and Formula 6 thereby confirming whether in the Owner's view any Additional Affordable Housing Units can be provided; and
 - (c) where such written statement confirms that Additional Affordable Housing Units can be provided, an Additional Affordable Housing Scheme; and
 - 2.1.2 paragraphs 3 and 4 of this Schedule 3 shall apply.

3. ASSESSMENT OF DEVELOPMENT VIABILITY INFORMATION AND OTHER INFORMATION

- 3.1 OPDC shall assess the information submitted pursuant to paragraph 2 of this Schedule 3 and assess whether in its view Additional Affordable Housing Units are required to be delivered in accordance with Formula 1a and Formula 6 and for the avoidance of doubt OPDC will be entitled to rely on its own evidence in determining inputs into Formula 1a and Formula 6 subject to such evidence also being provided to the Owner.
- 3.2 OPDC may appoint an External Consultant to assess the information submitted pursuant to paragraph 2.
- 3.3 In the event that OPDC and/or an External Consultant requires further Development Viability Information or supporting evidence of the same then the Owner shall provide any reasonably required information to OPDC or the External Consultant (as applicable and with copies to the other parties) within 15 (fifteen) Working Days of receiving the relevant request and this process may be repeated until OPDC and/or the External Consultant (as applicable) has all the information it reasonably requires to assess whether in their view Additional Affordable Housing Units are required to be delivered in accordance with Formula 1a and Formula 6.
- 3.4 When OPDC or its External Consultant has completed its assessment of the information submitted pursuant to paragraph 2 of this Schedule 3, OPDC shall notify the Owner in writing of OPDC's decision as to whether any Additional Affordable Housing Units are required and whether the submitted Additional Affordable Housing Scheme is approved.

3.5 Where OPDC concludes that Additional Affordable Housing Units are required but the Owner's initial submission concluded otherwise (or proposed a different number of Additional Affordable Housing Units) either:

3.5.1 the Owner shall provide an Additional Affordable Housing Scheme (or revised Additional Affordable Housing Scheme as the case may be) to OPDC for approval (such approval not to be unreasonably withheld or delayed) within 10 (ten) Working Days of the date on which it receives OPDC's notice pursuant to paragraph 3.4 of this Schedule 3; or

3.5.2 either party may treat the matter as a Dispute and seek to resolve such Dispute pursuant to clause 20 of this Deed.

3.6 If the assessment pursuant to paragraph 3.5 of this Schedule 3 concludes that:

3.6.1 a surplus profit arises following the application of Formula 1a but such surplus profit is insufficient to provide any Additional Affordable Housing Units pursuant to Formula 6; or

3.6.2 a surplus profit arises following the application of Formula 1a but such surplus profit cannot deliver a whole number of Additional Affordable Housing Units pursuant to Formula 6,

then in either scenario the Owner shall pay any such surplus profit allocable to any incomplete Additional Affordable Housing Unit to OPDC as an Additional Affordable Housing Contribution.

3.7 The Owner shall pay OPDC's costs which are reasonably and properly incurred in assessing the information submitted pursuant to paragraph 2 of this Schedule 3 including those of the External Consultant within 20 (twenty) Working Days of receipt of a written request for payment.

3.8 On written request by the Owner, OPDC shall provide evidence of the costs incurred for which it is seeking payment under paragraph 3.7 of this Schedule 3.

4. DELIVERY OF ADDITIONAL AFFORDABLE HOUSING

4.1 Where it is determined pursuant to paragraph 3.4 of this Schedule 3 that one or more Additional Affordable Housing Units are required the Owner shall not Occupy more than 75% of the Open Market Housing Units unless and until it has:

4.1.1 Practically Completed all of the Additional Affordable Housing Units in accordance with the Additional Affordable Housing Scheme approved by OPDC and made them available for Occupation; and

4.1.2 paid any remaining surplus profit pursuant to paragraph 3.6 of this Schedule 3 to OPDC towards the delivery of offsite Affordable Housing within OPDC's administrative area.

4.2 The Parties agree that the terms of Schedule 3 shall apply mutatis mutandis to the provision of any Additional Affordable Housing Units as they apply to the provision of Affordable Housing Units.

4.3 Any Additional Affordable Housing Units provided pursuant to this paragraph 4 shall cease to be Open Market Housing Units.

PART 3

MISCELLANEOUS

5. PUBLIC SUBSIDY

5.1 Nothing in this Deed shall prejudice any contractual obligation on the Owner to repay or reimburse any Public Subsidy using any surplus profit that is to be retained by the Owner following the application of Formula 6.

6. **MONITORING**

- 6.1 The parties acknowledge and agree that as soon as reasonably practicable following completion of this Agreement OPDC shall report to the GLA through the Planning London Datahub the following information:
- 6.1.1 the number and tenure of the Affordable Housing Units by units and Habitable Room, including the number of Discounted Market Rent Housing Units provided at London Living Rent Equivalent Levels; and
 - 6.1.2 for each size (by number of bedrooms) of the Discounted Market Rent Housing Units and the London Living Rent Equivalent Units, the average discount to market rent and the annual gross income upper limit (as set out in the definitions of "Discounted Market Rent Housing" and "London Living Rent Equivalent Levels" in this Agreement).
- 6.2 The parties acknowledge and agree that as soon as reasonably practicable after the approval of an Additional Affordable Housing Scheme pursuant to paragraph 3.4 or 3.5 of this Schedule 3 or, if an Additional Affordable Housing Scheme is not required by OPDC, the conclusion of the assessment under paragraph 3.4 of this Schedule 3, OPDC shall report to the GLA through the Planning London Datahub the following information (to the extent applicable):
- 6.2.1 the number and tenure of the Additional Affordable Housing Units (if any) including the number of Additional Affordable Housing Units at London Living Rent Equivalent Levels, by unit and Habitable Room;
 - 6.2.2 for each size (by number of bedrooms) of the Discounted Market Rent Housing Units and the London Living Rent Equivalent Units, the average discount to market rent and the annual gross income upper limit (as set out in the definitions of "Discounted Market Rent Housing" and "London Living Rent Equivalent Levels" in this Agreement in this Agreement);
 - 6.2.3 any changes in the affordability of the Affordable Housing Units including the provision of the Discounted Market Rent Housing Units at London Living Rent Equivalent Levels by unit and Habitable Room; and
 - 6.2.4 the amount of any financial contribution payable towards offsite Affordable Housing pursuant to paragraph 3.6 of this Schedule 3.

SCHEDULE 4

HIGHWAYS AND TRANSPORT

1. DEFINITIONS

"Healthy Streets/Public Realm Contribution"	means the sum of £830,538 (eight hundred and thirty thousand five hundred and thirty eight pounds) (Index Linked) to be applied towards public realm/healthy streets improvements within the vicinity of the Site
"Highway Reinstatement Works"	means the works shown on Plan 6 being the repair and reinstatement of the highway and footways within the Highway Reinstatement Area so as to repair and/or reinstate them to at least the same condition and standards as shown in the Schedule of Highway Condition approved by OPDC pursuant to paragraph 2.1 of this Schedule 4
"Highway Reinstatement Area"	means 50 metres either side of the highway access as shown on Plan 6
"Schedule of Highway Condition"	means a schedule of condition relating to the highways and footways within the Highway Reinstatement Area which shall include but not be limited to: (a) the line and level of footways and carriageways; and (b) the state of condition of access covers, surfacing, street furniture, channels and kerbs, street lighting and gullies (to be checked for blockages);
"Public Transport Contribution"	means the sum of £657,789 (six hundred and fifty seven thousand seven hundred and eighty nine pounds) Index Linked) to be used towards increasing the capacity of the local bus network and North Acton station improvements

2. HIGHWAY WORKS

2.1 The Owner shall:

- 2.1.1 prior to Commencement of the Development submit an initial Schedule of Highway Condition to OPDC for written approval; and
- 2.1.2 not Commence the Development until OPDC has approved the initial Schedule of Highway Condition in writing.

2.2 Within 20 (twenty) Working Days of Practical Completion of the Development (or the date at which works in respect of the Development have reached a stage where further works will not adversely affect the Highway Reinstatement Area), the Owner shall give written notification of such fact to OPDC together with the following information for written approval:

- 2.2.1 a further Schedule of Highway Condition;
- 2.2.2 a proposed specification for the Highway Reinstatement Works in respect of the repair and reinstatement works to the Highway Reinstatement Area; and
- 2.2.3 a proposed programme for the Highway Reinstatement Works referred to in paragraph 2.2.2 of this Schedule 4.

2.3 Unless otherwise agreed with OPDC the Owner shall not permit any Occupation of the Development until:

2.3.1 the information submitted for approval in accordance with paragraph 2.2 of this Schedule 4 has been approved in writing by OPDC; and

2.3.2 the Owner has Practically Completed the Highway Reinstatement Works in accordance with the programme and specification for the Highway Reinstatement Works approved pursuant to paragraphs 2.2.2 and 2.2.3 of this Schedule 4.

3. PUBLIC TRANSPORT CONTRIBUTION

3.1 The Owner shall:-

3.1.1 pay the Public Transport Contribution to OPDC prior to the Commencement of Development; and

3.1.2 not Commence any part of the Development until the Public Transport Contribution has been paid in full to OPDC.

4. HEALTHY STREETS/PUBLIC REALM CONTRIBUTION

4.1 The Owner shall:-

4.1.1 pay the Healthy Street/Public Realm Contribution to OPDC prior to the Commencement of Development; and

4.1.2 not Commence any part of the Development until the Healthy Streets/Public Realm Contribution has been paid in full to OPDC.

SCHEDULE 5

PUBLIC OPEN SPACE

1. DEFINITIONS

"Green Infrastructure and Open Space Strategy"	means a plan for the ongoing operation, management and maintenance of the PAOS and the Play Space which shall set out: (a) full details of the permanent operation, management and maintenance specifications for the PAOS and Play Space, including frequency of inspections and maintenance and standard of maintenance and repair to be achieved and maintained; (b) measures to replace any trees, shrubs, grass or other plants (in perpetuity) which may die or become diseased; (c) details of the management of the PAOS and Play Space to ensure it shall (save in respect Permitted Closures) remain available for use by the general public in perpetuity; (d) details of funding arrangements to ensure that the operation, maintenance and management of the PAOS and Play Space is funded in perpetuity and that funding shall be sufficient to properly manage and maintain the PAOS and Play Space and for the avoidance of doubt this shall include details of funding arrangements to cover the periodic costs of replacement and/or refurbishment of features and/or facilities; (e) details of any Management Entity
"Management Entity"	either a company (including a residents' management company) trust or other body established or appointed by the Owner (and approved in writing by OPDC) to operate, manage and maintain the PAOS and Play Space in perpetuity
"Offsite Play Space Contribution"	means the sum of £105,206 (one hundred and five thousand two hundred and six pounds) (Index Linked) to be used towards the provision and/or enhancement and/or maintenance of playspace within the vicinity of the Site
"Permitted Closures"	means temporary closure of any area of PAOS (or part thereof) in the following circumstances:- (a) temporary closure in the case of emergency where such closure is necessary in the interests of public safety or otherwise for reasons of public safety (b) temporary closure where such temporary closure is required for the purposes of carrying out maintenance, repair, cleansing, renewal, or resurfacing works of the area of the PAOS in question, any cables, wires, pipes, sewers, drains or ducts over along or beneath them or any other area or services in the vicinity of the PAOS (c) where such temporary closure is required for the purposes of carrying of inspecting, maintaining, repairing, renewing, rebuilding, demolishing or developing any buildings now or

hereafter on the Site or any part thereof (including the erection of scaffolding)

- (d) closure for a maximum of 1 (one) day per year to assert rights of proprietorship preventing public rights from coming into being by means of prescription or other process of law
- (e) any other closure not covered by the above in relation to which OPDC's prior written Approval has been obtained

PROVIDED THAT save in the case of an emergency the Owner will be required to provide notice to the public of any Permitted Closure of not less than three days prior to the date such Permitted Closure is to commence

"Publicly Accessible Open Space" or "PAOS" means the areas of land shown Plan 5 which are to be laid out within the Site as areas of publicly accessible open space in accordance with details to be submitted and approved in writing by OPDC pursuant to the provisions of this Schedule

2. OFFSITE PLAY SPACE CONTRIBUTION

2.1 The Owner shall:-

- 2.1.1 pay the Offsite Play Space Contribution to OPDC prior to the Commencement of Development; and
- 2.1.2 not Commence any part of the Development until the Offsite Play Space Contribution have been paid in full to OPDC.

3. PROVISION OF PAOS AND PLAY SPACE

- 3.1 The Owner shall Practically Complete the PAOS and the Play Space in strict accordance with the Planning Permission and the details to be approved under Condition 16 of the Planning Permission to OPDC's satisfaction and make available the PAOS and the Play Space prior to the First Occupation of the Development and no Residential Unit shall be First Occupied until the PAOS and the Play Space are so completed and the PAOS is ready for use by the public.
- 3.2 Subject to paragraph 4.3 of this Schedule 5, the Owner shall ensure that each part of the PAOS shall remain available free of charge for public access at all times for the life of the Development from the date that it is Practically Completed.

4. PUBLIC ACCESS TO PAOS

- 4.1 From the date of Practical Completion of the PAOS (and each part thereof) the Owner shall permit the general public to have continuous access on foot and (in respect of those routes where bicycles are permitted) by bicycle to and over the PAOS at all times free of charge **SUBJECT TO:-**
 - 4.1.1 Permitted Closures; and
 - 4.1.2 any lawful requirements of the police or any other competent authority.
- 4.2 Where PAOS (or any part thereof) is subject to a Permitted Closure, it shall be re-opened as soon as reasonably practicable thereafter in accordance with a programme and timescales previously approved in writing by OPDC and such re-opening will be notified promptly to OPDC in writing.
- 4.3 Subject to paragraph 4.1 of this Schedule 5 the Owner shall not without OPDC's prior written approval erect any wall or barrier or any other object or structure or take any other steps which would

prevent or restrict, or would have the effect of preventing or restricting, pedestrian access over the completed PAOS unless agreed otherwise with OPDC in writing.

5. MANAGEMENT AND MAINTENANCE OF PAOS AND PLAY SPACE

- 5.1 The Owner shall submit a Green Infrastructure and Open Space Strategy and Management Plan to OPDC for approval prior to the Commencement of Development and shall not Commence the Development until the Green Infrastructure and Open Space Strategy and Management Plan has been submitted to and approved by OPDC.
- 5.2 To operate, manage and maintain the PAOS and the Play Space in accordance with the approved Green Infrastructure and Open Space Strategy and Management Plan in perpetuity or until such time as the freehold of the PAOS and the Play Space is transferred (as necessary) to a Management Entity who shall thereafter become responsible and liable for the operation, management and maintenance of the PAOS and the Play Space in accordance with the approved Green Infrastructure and Open Space Strategy and Management Plan in perpetuity in accordance with paragraph 4 and this paragraph 5 of this Schedule 5 as successor in title.

SCHEDULE 6

CAR PARKING

1. DEFINITIONS

"Blue Holders"	Badge	means the holder of a disabled person's badge pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 or such other successor or alternative legislation as may be in force from time to time
"Blue Badge Car Parking Spaces"		means the 14 car parking spaces to be delivered On Site for Blue Badge Holders
"Car Club"		means a club, operated by a company accredited by Carplus, that Residents may join and which makes cars available to hire to members
"Car-Free Scheme"	Housing	means a development in which occupiers are not entitled to Parking Permits allowing them or their visitors to park their vehicles within a CPZ in the vicinity of the Development
"Carplus"		means Carplus (registered charity No. 1093980) or its successor or equivalent organisation as may be agreed in writing with OPDC being the umbrella organisation for the promotion of sustainable car use and which gives accreditation to car club operators that meet set standards promoting responsible car use
"Deed of Covenant"		means a deed of covenant in substantially the same form as the draft deed of covenant annexed to this Deed at Appendix 5 subject to amendments as may be agreed by the parties acting reasonably in which the transferee or lessee (as the case may be) gives covenants to OPDC identical to the covenants within paragraphs 3, 4 and 5 of this Schedule
"Restriction"		means a restriction in the same form as the restriction annexed to this Deed at Appendix 4
"Unilateral Undertaking"		means a unilateral undertaking pursuant to section 16 of the Greater London Council (General Powers) Act 1974 in substantially the same form as the draft undertaking annexed to this Deed at Appendix 6 subject to such reasonable amendments as may be required by LBE

2. CAR CLUB MEMBERSHIP

- 2.1 Within one month following First Occupation of each Residential Unit, the Owner shall write to the relevant first Resident to notify them of the existence of the Car Club and to offer 3 (three) years' free membership of the Car Club.
- 2.2 In the event that following receipt of written notice pursuant to paragraph 2.1 of this Schedule 6 above a Resident notifies the Owner that they wish to become a member of the Car Club, the Owner shall procure a free membership for that Resident (or pay the full cost of that Resident's membership) to the Car Club for a period of not less than 3 (three) years.
- 2.3 As soon as reasonably practicable following a written request from OPDC (such request to be made no more than once each calendar year), the Owner shall provide OPDC with evidence of the acceptance or non-acceptance of the Car Club membership by the Residents.
- 2.4 It is hereby agreed that the Owner shall only be required to offer to pay for 3 (three) years' membership of the Car Club for up to two first Residents per Residential Unit.
- 2.5 The Owner undertakes that any advert or marketing in relation to the sale or letting of any of the Residential Units shall include reference to the provision of membership of the Car Club pursuant to

the terms of this Deed and the Owner shall provide evidence of the same to OPDC as soon as reasonably practicable following a written request (such request to be made no more than once in each calendar year).

3. CONTROLLED PARKING ZONES – GENERAL

3.1 The Owner for itself and its successors in title (other than Blue Badge Holders) hereby waives all rights and entitlement (if any) on the part of the Owner to a Parking Permit in the CPZ.

3.2 The Owner covenants that all material utilised for advertising or marketing each and every individual Residential Unit for letting or sale will make it clear to prospective purchasers, tenants and Occupiers that no Parking Permit (other than for a Blue Badge Holder) will be issued by LBE for any Residential Unit.

3.3 The Owner shall not Occupy nor allow or suffer any part of the Development to be Occupied unless and until the Owner has informed the intended Occupier of the Development or relevant part thereof by either notice in writing or through the inclusion of such requirements in the lease or an assured shorthold tenancy:

3.3.1 that the Development is a Car-Free Housing Scheme; and

3.3.2 that (save for any Blue Badge Holders) intended Occupiers of the Development (or any person having any connection whatsoever or relationship with any such Occupier whether contractual, personal or otherwise and who is resident at the Development) shall not be entitled to any form of permit from the LBE which would allow them to park any motor vehicle within a CPZ.

3.4 Upon receiving written request from OPDC, the Owner shall provide OPDC with such evidence as OPDC may reasonably require to demonstrate that the Owner is complying with the requirements of paragraphs 3.2 and 3.3 of this Schedule 6.

4. CONTROLLED PARKING ZONES – RESTRICTIONS ON TITLE

4.1 The Owner for itself and its successors in title (other than Blue Badge Holders) hereby covenants not to lease or transfer the whole or any part of the Site unless it has included a restrictive covenant in any such lease or transfer which provides that the tenant or owner of the whole or any part of the Site covenants not to apply to LBE for a Parking Permit for a CPZ.

4.2 The Owner hereby covenants for itself and its successors in title not to transfer its interest in the Site or grant a leasehold interest in the Site or any part thereof (other than a leasehold interest in an individual Residential Unit, or Non-Residential Unit or to a service supplier) unless the transferee or lessee (as the case may be) enters into a Deed of Covenant with OPDC.

4.3 The Owner shall not Implement the Development or any part thereof until it has entered the Restriction on its interest(s) in the Site prohibiting registration of any disposition of said registered estate(s) without a certificate signed by OPDC that the provisions of paragraph 4.1 of this Schedule 6 have been complied with.

5. CONTROLLED PARKING ZONES – UNDERTAKINGS TO AND LBE

5.1 The Owner shall:

5.1.1 give an Unilateral Undertaking to LBE and submit a copy of the same to OPDC; and

5.1.2 receive from OPDC written confirmation of discharge of the obligation in paragraph 4.1.1 of this Schedule 6 (such discharge not to be withheld or delayed unreasonably,

at least 6 months prior to first Occupation of the Development.

- 5.2 No Development or any part thereof shall be Occupied unless and until:
- 5.2.1 the Owner has given a Unilateral Undertaking to LBE and submitted a copy of the same to OPDC; and
- 5.2.2 OPDC has provided written confirmation of discharge of the obligation in paragraph 5.2.1 of this Schedule 6 (such discharge not to be withheld or delayed unreasonably).
- 5.3 The Owner shall use reasonable endeavours to agree the form of the Unilateral Undertaking with LBE and prior to Commencement of Development PROVIDED THAT for the avoidance of doubt the obligation in paragraph 5.1 of this Schedule 6 shall be capable of satisfaction by the Owner giving the Unilateral Undertaking in the form annexed to this Deed at Appendix 6.
- 5.4 Upon receiving written request from OPDC, the Owner shall provide OPDC with such evidence as OPDC may reasonably require to demonstrate that the Owner is complying with the requirements of the Unilateral Undertaking.
6. **BLUE BADGE CAR PARKING SPACES**
- 6.1 Prior to Substantial implementation, the Owner will submit to OPDC the proposed layout of the Blue Badge Car Parking Spaces.
- 6.2 Prior to Occupation, the Owner will deliver the Blue Badge Car Parking Spaces On Site.

SCHEDULE 7

FRAMEWORK TRAVEL PLAN

1. DEFINITIONS

- "Modal Split Targets"** means the modal split targets identified in the approved Framework Travel Plan
- "Residential Travel Plan"** means the travel plan to be submitted to OPDC for approval pursuant to paragraph 2.1 of this Schedule 7 which shall:
- (a) promote sustainable modes of transport and discourage use of single car occupancy by Occupiers and visitors to the Development;
 - (b) include the information and measures set out at paragraph 3 of this Schedule; and
- provide a strategy for the proposed uses of each building of the Development
- "Sustainable Transport Measures"** means measures to promote sustainable transport and encourage behavioural change (which may include the provision of physical infrastructure in order to encourage greater travel by walking and cycling) **PROVIDED THAT** such measures are in accordance with the requirements of regulation 122(2) of the Community Infrastructure Levy Regulations 2010
- "Travel Plan Monitoring"** means monitoring of the approved Framework Travel Plan by carrying out the following monitoring of travel to and from the Development which shall as a minimum include the following: -
- (a) carrying out representative surveys of the modal split of visitors to the Development (including staff) together with details of where those who have travelled by vehicle (for all or part of their journey) have parked;
 - (b) monitoring of the usage of the car parking which is available for use in the Development; and
 - (c) monitoring of the usage of cycle parking facilities by residents of, visitors to, and employees of, the Development.
- "Travel Plan Monitoring Fee"** means a sum of £1,000 (one thousand pounds) to be paid each time the fee is due in accordance with paragraph 6.1 of this Schedule 7
- "Travel Plan Monitoring Period"** means from First Occupation until 5 (five) years after First Occupation
- "Travel Plan Monitoring Officer"** means a person appointed by the Owner to monitor and promote the success in meeting the targets set out in the Framework Travel Plan
- "Travel Plan Monitoring Report"** means a report setting out the data and information gathered as part of the Travel Plan Monitoring undertaken since the date of (i) First Occupation (in the case of the first such report) or (ii) the previous Travel Plan Monitoring Report (in the case of subsequent reports) and such report shall include:-

- (a) details of trip generation rates;
- (b) details of mode share and change in mode share over time;
- (c) details of how effectively the Framework Travel Plan has operated within the previous period;
- (d) any data and information necessary for the purposes of determining whether or not the modal split targets have been achieved;
- (e) where the objectives and/or targets specified in the Framework Travel Plan have not been met or are unlikely to be met, a proposed revision to the Framework Travel Plan for approval by OPDC setting out additional and/or enhanced measures to bridge any shortfall in achieving the objectives and targets of the Framework Travel Plan together with a timetable for implementing such measures; and
- (f) where Modal Split Targets have not been achieved or are unlikely to be achieved, Sustainable Transport Measures to be implemented with the aim of seeking to achieve the Modal Split Targets in the Framework Travel Plan which shall include a timetable for the implementation of such Sustainable Transport Measures

2. SUBMISSION OF RESIDENTIAL TRAVEL PLAN

2.1 No later than 6 (six) months prior to First Occupation the Owner shall:-

- 2.1.1 submit a Residential Travel Plan to OPDC for approval;
- 2.1.2 notify OPDC of the name and contact details of the proposed Travel Plan Monitoring Officer.

2.2 No part of the Development shall be Occupied unless and until the Owner has:

- 2.2.1 submitted and obtained OPDC's approval to a Residential Travel Plan; and
- 2.2.2 appointed a Travel Plan Monitoring Officer and notified OPDC of the name and contact details of such officer.

2.3 The Owner shall thereafter implement, comply with and procure compliance with the approved Residential Travel Plan for the duration of the beneficial use of the Development, subject to any variations that may be agreed from time to time in writing between the Owner and OPDC.

3. CONTENTS OF FRAMEWORK TRAVEL PLAN

3.1 The Owner covenants with and undertakes to OPDC that the Framework Travel Plan shall:-

- 3.1.1 comply with TfL's online guidance on travel plans published in November 2013 and found at <https://tfl.gov.uk/info-for/urban-planning-and-construction/transport-assessment-guide/travel-plans> or such replacement best practice guidance as shall apply at the date of submission of the Travel Plan;
- 3.1.2 include a specimen welcome pack for all Occupiers of the Residential Units and for tenants, employees and customers of (and visitors to) Non-Residential Units;

- 3.1.3 contain clear commitments to measures aimed at:
- (a) providing and promoting public transport information (for example, maps, routes and timetables);
 - (b) positively influencing the travel behaviour of residents, employees and other users of the Development by promoting alternative travel modes to the car including initiatives to reduce reliance on the car and over time reduce car parking On Site; and
 - (c) encouraging travel by cycle, on foot and by public transport by highlighting their accessibility, availability and reviewing cycle parking space demand and use and set out measures for providing additional cycle parking spaces should further demand arise;
- 3.1.4 provide objectives and targets over the life of the Framework Travel Plan aimed at reducing car use and increasing the modal share towards more sustainable modes of transport;
- 3.1.5 set out how monitoring travel surveys will be undertaken;
- 3.1.6 contain proposals for monitoring compliance with the Framework Travel Plan and achievement of the objectives and targets; and
- 3.1.7 set out a clear process for review, consultation and approval of changes (and specifically targets) with OPDC.

4. REVIEW OF FRAMEWORK TRAVEL PLAN

- 4.1 In order to monitor the effectiveness of the Framework Travel Plan the Owner shall during the Travel Plan Monitoring Period carry out the Travel Plan Monitoring.
- 4.2 The Owner shall within 10 (ten) Working Days of the first, third and fifth anniversaries of the First Occupation of the Development submit a Travel Plan Monitoring Report to OPDC for approval.
- 4.3 Following submission of each Travel Plan Monitoring Report, the Owner and OPDC shall use reasonable endeavours to agree any necessary changes to the Framework Travel Plan to ensure that the objectives and targets set out therein are achieved and the Owner shall thereafter implement any such agreed changes.

5. MODAL SPLIT TARGETS

- 5.1 Where a Travel Plan Monitoring Report shows that any of the Modal Split Targets in the Framework Travel Plan have not been achieved or are unlikely to be achieved, the Owner shall implement the Sustainable Transport Measures that are set out in such Travel Plan Monitoring Report in accordance with the timetable set out therein as approved by OPDC.

6. TRAVEL PLAN MONITORING CONTRIBUTIONS

- 6.1 The Owner shall:-
- 6.1.1 pay the Travel Plan Monitoring Fee (Index Linked) to OPDC prior to the first anniversary of First Occupation of the Development;
 - 6.1.2 pay the Travel Plan Monitoring Fee (Index Linked) to OPDC prior to the third anniversary of First Occupation of the Development; and
 - 6.1.3 pay the Travel Plan Monitoring Fee (Index Linked) to OPDC prior to the fifth anniversary of First Occupation of the Development,

each contribution being towards OPDC's costs involved in monitoring compliance with the Framework Travel Plan.

SCHEDULE 8

EDUCATION

1. DEFINITIONS

**"Education
Contribution"**

means the sum of £561,000 (five hundred and sixty thousand) (Index Linked) to be used towards improvement works (including refurbishment and/or expansion of existing facilities and/or the construction and/or maintenance of new facilities) to address the demands arising from the Development and to be applied towards any local primary or secondary school

2. EDUCATION CONTRIBUTION

2.1 The Owner shall:-

- 2.1.1 pay the Education Contribution to OPDC prior to Commencement of the Development; and
- 2.1.2 not Commence any part of the Development until the Education Contribution has been paid in full to OPDC.

SCHEDULE 9

HEALTHCARE

1. DEFINITIONS

**"Healthcare
Contribution"**

means the sum of £293,570 (two hundred and ninety three thousand five hundred and seventy pounds) (Index Linked) to be applied towards the expansion and/or improvement of existing local primary care facilities and/or the construction and/or maintenance of new facilities to address the demand for primary healthcare arising as a result of the Development

2. HEALTHCARE CONTRIBUTION

2.1 The Owner shall:-

- 2.1.1** pay the Healthcare Contribution to OPDC prior to the Commencement of Development;
and
- 2.1.2** not Commence any part of the Development until the Healthcare Contribution has been paid in full to OPDC.

SCHEDULE 10

TRAINING AND SKILLS

1. DEFINITIONS

"Apprenticeship"	means a work based training programme which combines employment with learning and training and leads towards a nationally recognised qualification for the apprentice and can be aimed at different levels and operates within the applicable 'National Apprenticeship Service' guidelines
"Construction Period"	means the period from the Implementation Date to the date of Practical Completion of the Development
"Local Business"	means any business, trade, service, profession or industry whose established place of business is within the LBB, LBE and/or LBHF
"Local Labour, Skills and Employment Strategy and Management Plan (Construction Phase)"	means a management plan to be submitted to OPDC in accordance with this Schedule 10 which sets out the partnership arrangements regarding how the Owner and its contractors and sub-contractors will work with the OPDC, LBE, LBH, LBB and any local employment or training agencies as part of a training consortium, such arrangements to include: (a) regular reporting and review mechanisms; (b) a methodology for vacancy sharing for the purposes of recruiting Local Residents; and (c) an approach to the forecasting of future job opportunities and skills requirements to ensure an adequate pipeline of candidates (d) plans for using reasonable endeavours to provide that 20% of end user jobs for the construction phase of the Development employ Local Residents.
"Local Labour, Skills and Employment Strategy and Management Plan (Operational Phase)"	means a management plan relating to the operational phase of the Development to be submitted to OPDC in accordance with this Schedule 10 which sets out the partnership arrangements regarding how the Owner and its tenants will work with the OPDC, LBE, LBHF, LBB and any local employment or training agencies, such arrangements to include: (a) regular reporting and review mechanisms; (b) a methodology for vacancy sharing for the purposes of recruiting Local Residents for a period of at least 10 Working Days; (c) an approach to the forecasting of future job opportunities and skills requirements to ensure an adequate pipeline of candidates; and (d) plans for using reasonable endeavours to provide that 6% of end user jobs for the operational phase of the Development employ Local Residents.
"Local Residents"	means a person who is resident in the LBE, LBHF or LBB, such residency to be proven by the production of two valid proofs of address which are no more than three months old, for example: (a) council tax statement;

- (b) utility bills;
- (c) bank statements; or
- (d) other correspondence from government or state bodies.

"London Wage" **Living** means the hourly rate of pay calculated and published from time to time by the GLA as being a wage that is sufficient to give a worker in London and their family enough to afford the essentials and to save

"Paid Placement" **Work** means a work placement for a maximum of 6 months (and such 6-month period shall not be required to be a consecutive period) whereby the placement worker is paid (and where reasonably practicable paid at London Living Wage)

"Training and Skills Contribution" means the sum of £147,063 (one hundred and forty seven thousand and sixty three pounds) to be used by OPDC towards training and skills and business development/economic development activity within its administrative area

"Unpaid Placement" **Work** means a work placement of up to one month (and such one-month period shall not be required to be a consecutive period) whereby the placement worker is not paid

2. TRAINING AND SKILLS CONTRIBUTION

2.1 The Owner shall:

- 2.1.1 pay the Training and Skills Contribution to the OPDC prior to Commencement of Development; and
- 2.1.2 not Commence the Development until the Training and Skills Contribution has been paid to OPDC.

2.2 The OPDC covenants with the Owner to use the Training and Skills Contribution towards training and skills and business development/economic activity in its administrative area.

3. LOCAL EMPLOYMENT

3.1 The Owner covenants with OPDC to submit prior to the Commencement of Development to the OPDC for its written approval the Local Labour, Skills and Employment Strategy and Management Plan (Construction Phase) which sets out its plans to use reasonable endeavours to provide:

- 3.1.1 23 Apprenticeships;
- 3.1.2 12 Paid Work Placements; and
- 3.1.3 12 Unpaid Work Placements,

calculated on the basis of one opportunity for an unemployed local resident for every 10 units of accommodation with use class C3 or every 25 units of accommodation within use class C2 and/or within every 500 square metres of non-residential floorspace, 50% of which should be apprentices, 25% should be paid work placements and 25% should be unpaid work placements.

3.2 The Owner shall require that its contractors (in respect of construction vacancies and jobs) shall:

- 3.2.1 ensure compliance with the approved Local Labour, Skills and Employment Strategy and Management Plan (Construction Phase) throughout construction of the Development;

- 3.2.2 ensure the recruitment of Local Residents accounts for at least fifteen per cent (15%) of the construction jobs arising from the Development during the Construction Period;
 - 3.2.3 ensure that during the Construction Period the requisite number of construction apprenticeships at a minimum of NVQ level 2 are available at the development where each apprenticeship shall be for a period of not less than 52 weeks and at a salary not less than London Living Wage; and
 - 3.2.4 provide opportunities for Local Businesses to bid/tender for sub-contracting opportunities and the supply of goods and services during the Construction Period and to use reasonable endeavours to provide that a minimum of 10% of the build cost is paid to these Local Businesses during the Construction Period.
- 3.3 On a bi-annual basis throughout the entirety of the Construction Period and then following completion of the Construction Period but prior to first Occupation of the Development, the Owner shall:
 - 3.3.1 verify to the OPDC the amount of Local Residents employed in construction of that Phase of the Development;
 - 3.3.2 provide to OPDC proof of construction apprentices, paid and unpaid placements, their NVQ levels and salary paid;
 - 3.3.3 provide to OPDC a list of opportunities which have been tendered and awarded to Local Businesses and details of the Local Businesses sub-contracted or who have provided goods and services during the Construction Period and the percentage of build costs paid to these businesses; and
 - 3.3.4 if the percentage of build costs paid to the Local Businesses as stated pursuant to paragraph 3.3.3 of this Schedule 10 is less than 10%, then confirmation and supporting evidence is to be provided to OPDC to explain how the Owner has used reasonable endeavours to provide that a minimum of 10% of the build cost is paid to Local Businesses during the Construction Period as required pursuant to paragraph 3.2.4 of this Schedule 10.
- 3.4 The Owner covenants with the OPDC to submit prior to the Occupation of Development to the OPDC for their written approval the Local Labour, Skills and Employment Strategy and Management Plan (Operational Phase).
- 3.5 The Owner covenants with OPDC to use reasonable endeavours to ensure compliance with the approved Local Labour, Skills and Employment Strategy and Management Plan (Operational Phase) throughout the Occupation of the Development.

SCHEDULE 11

ENERGY AND SUSTAINABILITY

1. DEFINITIONS

"Air Quality Contribution"	means the sum of £12,660 (twelve thousand six hundred and sixty pounds) (Index Linked) to be applied towards air quality improvement initiatives in the OPDC area in order to mitigate impacts on air quality arising as a result of the Development
"Be Seen Energy Monitoring Guidance"	means the guidance published by the GLA explaining how developers and owners of new major developments should monitor and report actual operational energy performance to comply with London Plan Policy SI 2
"Be Seen Energy Performance Indicators"	means the 'Be Seen' energy performance indicators, as outlined in the 'Planning Stage' section/chapter of the GLA Be Seen Energy Monitoring Guidance
"Carbon Offset Contribution"	means the sum equivalent to £2,850 (two thousand eight hundred and fifty pounds) per tonne of carbon (being £95 per tonne of carbon over 30 (thirty) years) shortfall in carbon emission savings as identified by the CO ² Audit
"CO² Audit"	means an audit of the CO ² emissions of the completed Development to establish whether there is a shortfall in carbon emissions savings compared to a Zero Carbon Development
"Defects Liability Period"	means such period of time following Practical Completion of the development in which a contractor may remedy defects as may be included in the building contracts for the Development
"District Heating Network"	means an existing or future decentralised energy network providing low carbon energy, heating, electricity and hot water in the locality of the Site
"Future Proofing Measures"	means future proofing measures within the Development including but not limited to: (a) installation of sufficiently sized external buried pipework in identified distribution routes to enable connection to a District Heating Network; (b) the installation of pipework in the fabric of buildings necessary to connect to a District Heating Network; (c) suitable plant space provision for a future plate heat exchanger; (d) heating system tap-offs, provision of 'tees' and isolation valves in hot water headers to

facilitate the connection of an interfacing heat exchanger at a later date if connection to the District Heating Network is not immediately technically feasible or economically viable when first provided prior to First Occupation of the Development; and

provision of secondary side pipework designed and installed to avoid, as far as possible, those heat losses that give rise to building overheating

"Reportable Unit"

means a Reportable Unit (Energy Centre), a Reportable Unit (Non-Residential) or a Reportable Unit (Residential)

"Reportable Unit (Energy Centre)"

means either a connection to a third-party District Heating network, a self-contained Energy centre serving multiple residential/non-residential properties (within the Site) or a self-contained energy system serving multiple residential properties (within a block or building)

"Reportable Unit (Non-Residential)"

Unit

(Non- means a building with a single occupier/tenant (including block of flats' communal areas) or a Building with multiple tenants

"Reportable Unit (Residential)"

means an individual block of five or more flats or a group of five or more houses all planned to be completed within a three-year period

"Zero Carbon Development"

means a development whose net carbon dioxide emissions, taking account of emissions associated with all energy use, is equal to zero or negative across the year where "energy use" will cover both energy uses currently regulated by any applicable building regulations and other energy used in the home

2. DECENTRALISED ENERGY

2.1 The Owner covenants with OPDC that the Development:

- 2.1.1 will be designed and constructed to connect to or not prejudice the future connection to a District Heating Network; and
- 2.1.2 will be provided with a single connection point at which the Development may be connected to a District Heating Network in a location to be approved in writing by OPDC prior to Commencement.

2.2 The Owner covenants with OPDC:

- 2.2.1 to submit and obtain OPDC's approval to written approval to Future Proofing Measures prior to the Commencement of Development, and that no Development shall be Commenced until OPDC has given its written approval the Future Proofing Measures; and
- 2.2.2 no part of the Development shall be Occupied unless and until the Owner has submitted and obtained OPDC's approval to a report demonstrating that the approved Future Proofing Measures have been incorporated within the Development

3. CARBON OFF-SET CONTRIBUTION

- 3.1 Prior to Substantial Implementation of the Development, the Owner will submit to OPDC for written approval details of the consultants who will undertake the CO² Audit and details of the terms on which the appointment will be made including the deadline for the completion of the CO² Audit.
- 3.2 Prior to Practical Completion of the Development the Owner shall commission the CO² Audit and give written notification of such fact to OPDC.
- 3.3 Prior to First Occupation, the Owner shall submit the CO² Audit to OPDC for written approval, and the Owner will pay the Carbon Offset Contribution to OPDC within 20 (twenty) Working Days of OPDC's approval of the CO² Audit if the CO² Audit identifies that the Development is not a Zero Carbon Development.

4. BE SEEN REQUIREMENTS

- 4.1 Within 8 weeks of the grant of Planning Permission, the Owner shall submit to the GLA accurate and verified estimates of the Be Seen Energy Performance Indicators for the Development to the GLA's Energy Monitoring Portal in accordance with the Be Seen Energy Monitoring Guidance.
- 4.2 Prior to Occupation of the Development, the Owner shall provide updated accurate and verified 'as built' design estimates of the Be Seen Energy performance Indicators for each Reportable Unit of the development, as per the methodology outlined in the 'As-built stage' chapter/section of the Be Seen Energy monitoring Guidance (or any document that may replace it). All data and supporting evidence should be submitted to the GLA using the Be Seen as-built stage reporting webform.
- 4.3 Prior to Occupation of the Development, the Owner shall also confirm that suitable monitoring devices have been installed and maintained for the monitoring of the in-use energy performance indicators, as outlined in the 'In-use stage' of the Be Seen Energy Monitoring Guidance (or any document that may replace it).
- 4.4 On the first anniversary of Occupation or following the end of the Defects Liability Period (whichever is the later) and at least for the following four years after that date, the Owner is required to provide accurate and verified annual in-use energy performance data for all relevant indicators under each reportable unit of the development as per the methodology outlined in the 'in-use stage' chapter/section of the GLA using the Be Seen in-use stage reporting webform. This requirement will be satisfied after the Owner has reported on all relevant indicators included in the 'in-use stage' chapter of the Be Seen Energy Monitoring Guidance for at least five years.
- 4.5 In the event that the in-use stage evidence submitted under paragraph 4.4 of this Schedule 11 shows that the 'as-built stage' performance estimates derived from paragraph 4.2 of this Schedule 11 have not been or are not being met, the Owner should investigate and identify the causes of underperformance and the potential mitigation measures and set these out in the relevant comment box of the Be Seen in-use reporting webform. An action plan comprising measures identified in paragraph 4.4 of this Schedule 11 shall be submitted to and approved in writing by the GLA, identifying measures which would be reasonably practicable to implement and a proposed timescale for implementation. The action plan and measures approved by the GLA should be implemented by the Owner as soon as reasonably practicable.

5. REDUCTION OF ENERGY DEMAND

- 5.1 The Owner shall use reasonable endeavours to encourage occupiers of the Development to reduce their energy usage which shall include:-
 - 5.1.1 dissemination of marketing materials and the provision of education and training (including tips and advice) on energy saving methods;
 - 5.1.2 the promotion of the use of energy efficient appliances; and

- 5.1.3 the installation of energy efficient appliances where these are installed as part of the original construction and fit out of the Development (or any part thereof).

6. **AIR QUALITY CONTRIBUTION**

6.1 The Owner shall:-

- 6.1.1 pay the Air Quality Contribution to OPDC prior to the Commencement of Development; and
- 6.1.2 not Commence any part of the Development until the Air Quality Contribution has been paid in full to OPDC.
- 6.1.3 OPDC covenants with the Owner to use the Air Quality Monitoring Contribution towards the delivery of air quality monitoring technology, collection and analysis of air quality data, and on-going maintenance of the equipment.

SCHEDULE 12

DESIGN MONITORING

1. DEFINITIONS

"Approved Drawings"	means the drawings approved by the Planning Permission together with the drawings and other design details to be approved pursuant to Condition 2 of the Planning Permission
"Architect"	means Grid Architects
"Design Monitoring Costs"	means the monies paid in accordance with paragraph 3.2.3 of this Schedule 12 to meet OPDC's reasonable costs incurred in monitoring the design quality of the Development as detailed drawings are prepared and construction works are carried out on the Site and to ensure that all such drawings and works are completed to a satisfactory quality and are consistent with the Approved Drawings;
"Development"	means for the purposes of this Schedule only the development of the Site and all other operations and/or works authorised by the Planning Permission as may be amended and/or replaced by a S96A Amendment and/or a S73 Permission
"S73 Permission"	means a permission granted pursuant to an application for a minor material amendment to the Planning Permission pursuant to section 73 of the 1990 Act
"S96A Amendment"	means a non-material amendment to the Planning Permission approved pursuant to section 96A of the 1990 Act

2. DESIGN TEAM STATEMENT

- 2.1 None of the following applications shall be submitted unless accompanied by a statement prepared by the Owner specifying the details of the design team who were involved in the preparation of these details (the "**Design Team Statement**"):-
- 2.1.1 an application pursuant to Condition 2 of the Planning Permission;
 - 2.1.2 an application for a S96A Amendment;
 - 2.1.3 an application for a S73 Permission.
- 2.2 The Owner shall also submit a statement to OPDC specifying the design team retained in connection with the Development upon Commencement of the Development and shall thereafter retain the design team (save for in the event that the appointed design team is no longer able to continue its appointment by reason of the design team becoming insolvent or ceasing to carry on its business), subject to the provisions of this Schedule. 12

3. DESIGN MONITORING COSTS

3.1 The Owner shall retain the Architect to oversee the delivery of the Development unless:

3.1.1 OPDC agrees in writing that a specified nominated alternative architect shall be appointed by the Owner. If the Owner appoints the approved alternative architect to oversee the delivery of the Development in place of the Architect, that approved alternative architect shall be treated for the purposes of this Schedule as if it is the Architect and OPDC acknowledges that the Design Monitoring Costs payable pursuant to paragraph 3.2 of this Schedule 12 shall not become payable and the Owner shall pay the fees of the alternative architect directly; or

3.1.2 the Owner appoints an alternative architect to oversee the delivery of the Development in place of the Architect otherwise than in accordance with the provisions of paragraph 3.1.1, of this Schedule 12 but in which case the Design Monitoring Costs payable pursuant to paragraph 3.2 of this Schedule 12 become payable.

3.2 If the Architects (or any alternative architect appointed pursuant to paragraph 3.1 of this Schedule 12) cease to be retained to oversee the delivery of the design quality of the Development (including but not limited to the making of the applications referred to in paragraph 2.1 of this Schedule 12 and overseeing the construction of the Development) and OPDC's consent to any such alternative architect is not obtained, the Owner shall:-

3.2.1 notify OPDC of such non-retention within 5 Working Days of that event being confirmed; and

3.2.2 pay to OPDC (in the case where paragraph 3.1.2 of this Schedule 12 applies) within 10 Working Days of demand the Design Monitoring Costs and it is agreed that: -

(a) such costs may relate either to staff employed directly by OPDC or third party consultants retained by OPDC;

(b) OPDC may make more than one demand for payment of Design Monitoring Costs; and

(c) when OPDC notifies the Owner of the amount of the Design Monitoring Costs to be paid it shall also provide a detailed breakdown setting out how the amount has been calculated and how such monies will be spent

PROVIDED THAT the aggregate amount payable to OPDC in Design Monitoring Costs shall not exceed £50,000 (fifty thousand pounds) (Indexed).

4. RESTRICTION ON DEVELOPMENT

4.1 No further works on the Development shall be carried out if OPDC's Design Monitoring Costs have not been paid in accordance with paragraph 3.2 of this Schedule 12 when they become due.

4.2 No Development shall be carried out until the Owner has provided evidence satisfactory to OPDC that the Architects (or any architect appointed pursuant to paragraph 3.1.1 of this Schedule 12) appointed in respect of the Development shall be retained to oversee the delivery of the design quality of the Development in accordance with the Approved Drawings.

Executed as a Deed by **OLD OAK AND PARK ROYAL
DEVELOPMENT CORPORATION**
acting by:


.....
Authorised Signatory

DAVID LUNTZ
CEO, ORDC



Eurdip Jy
cfo

Executed as a deed by
POCKET LIVING ATLAS ROAD LIMITED
acting by a director in the presence of:

Signature of Director: _____

Signature of witness: _____

Name (in BLOCK CAPITALS): _____

Address: _____

Signed as a deed by **EAMON O'LOUGHLIN** in the presence of

Signature: _____

Signature of witness: _____

Name (in BLOCK CAPITALS): _____

Address: _____

Signed as a deed by **THOMAS HENRY JAMES** in the presence of

Signature: _____

Signature of witness: _____

Name (in BLOCK CAPITALS): _____

Address: _____

Executed as a deed by
MCGOVERN BROTHERS (HAULAGE) LIMITED
acting by a director in the presence of:

Signature of Director: _____

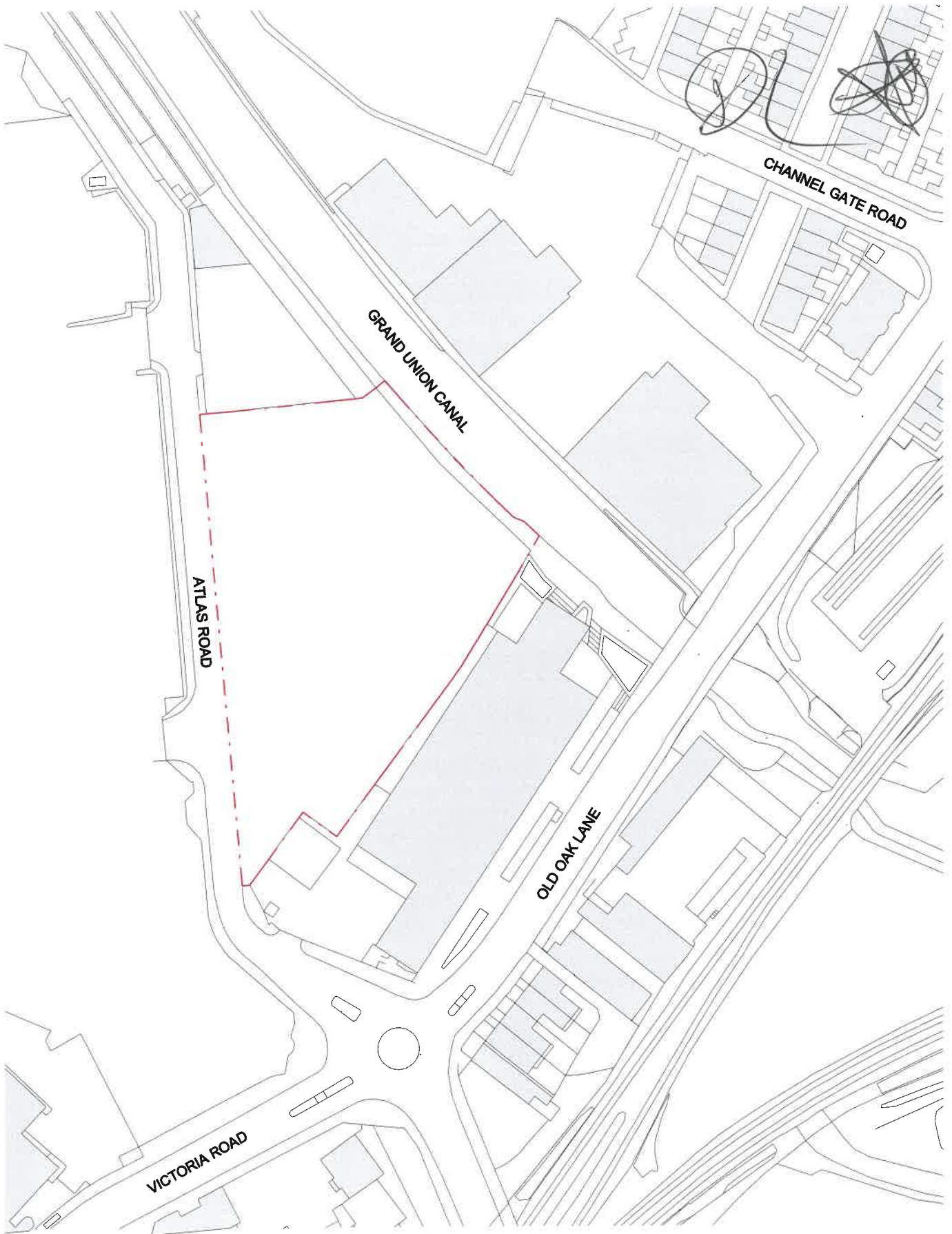
Signature of witness: _____

Name (in BLOCK CAPITALS): _____

Address: _____

APPENDIX 1

PLANS



--- Boundary Line



Tenure

DMR

BtR

LLR

Plan 2

North

0 10 20 30 40 50 m

Rev:	Notes:	Date:	Dwn:	Iss:
P1	ISSUED FOR INFORMATION	13/12/2021	HS	BCR
P2	ISSUED FOR INFORMATION	14/12/2021	HS	BCR
P3	ISSUED FOR INFORMATION	05/10/2022	HS	BCR
P4	ISSUED FOR INFORMATION	10/10/2022	HS	BCR
P5	ISSUED FOR INFORMATION	02/06/2023	BM	MKP
P6	ISSUED FOR INFORMATION	30/10/2023	EL	BCR
P7	ISSUED FOR INFORMATION	31/10/2023	EL	BCR
P8	ISSUED FOR INFORMATION	27/11/2023	BM	MKP

Key / Location:

Purpose of Issue:

ISSUED FOR INFORMATION

GRID
architects

128 Southwark Street,
London SE1 0SW

T: +44 (0) 20 7593 3260 E: info@gridarchitects.co.uk W: www.gridarchitects.co.uk

Pocket Living

Project:

Atlas Wharf

Atlas Road, London, NW10 6DN

Drawing Title:

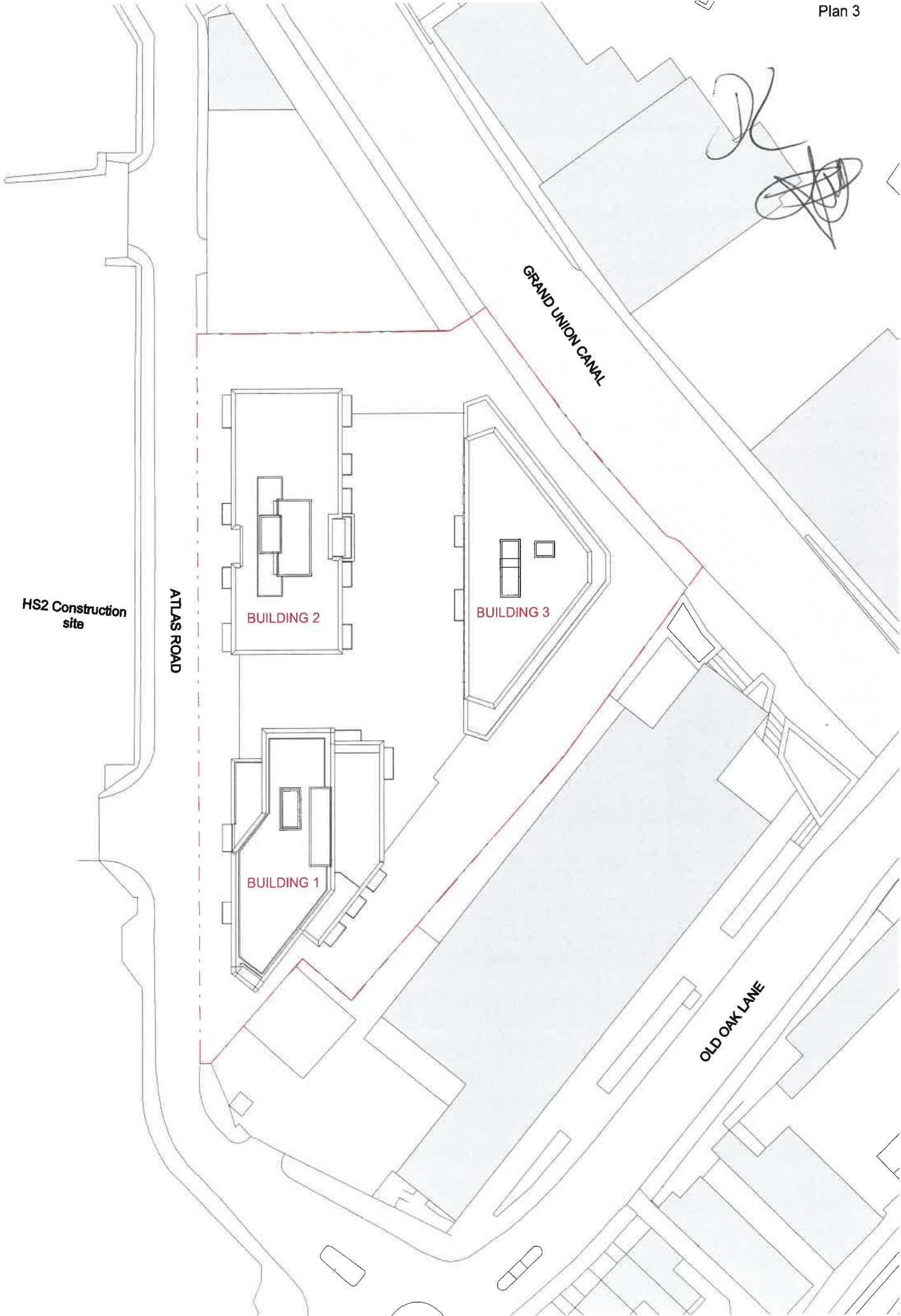
10901 - Tenure Apartment Matrix

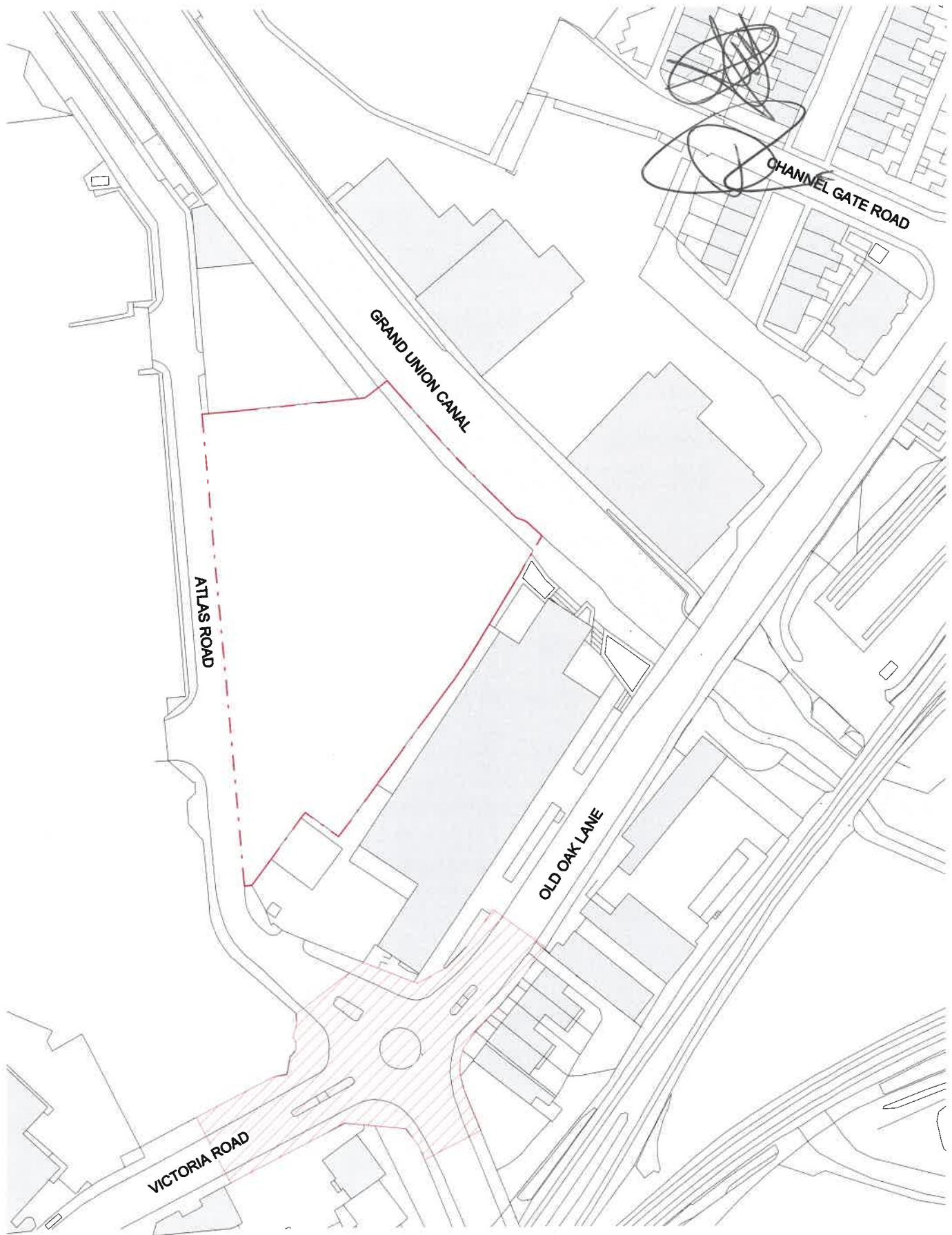
Drawn by:	Issued by:	Date of First Issue:
HS	BCR	12/08/21

GRID Project No:	Scale @A1:
21031	1 : 1000

Drawing No:	Revision:
PLAW-GRID-00-ZZ-DR-A-10901	P8

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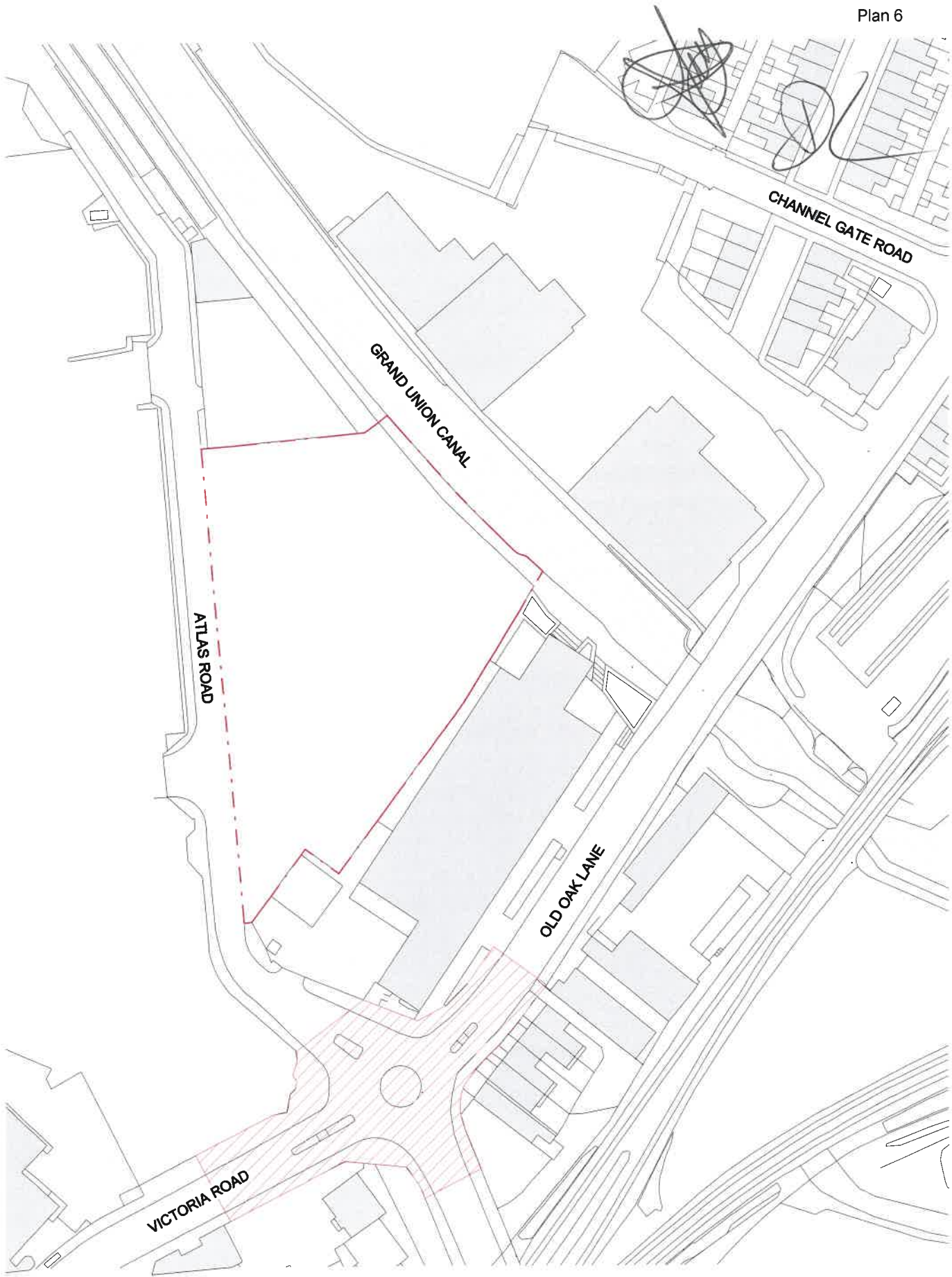


--- Boundary Line

▨▨▨ Highways Reinstatement Area



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- - - Boundary Line
- Highways Reinstatement Area

APPENDIX 2
DRAFT PLANNING PERMISSION



DECISION NOTICE

**Town and Country Planning Act 1990 (as amended)
Town and Country Planning (Development Management Procedure) (England) Order
2015**

Please see notes at the end of this notice

Applicant

Pocket Living Atlas Road Ltd and Eamon
O'Loughlin and Thomas Henry James
C/O Agent

Agent

Samantha Wells
Gerald Eve LLP
One Fitzroy
6 Mortimer Street
London
W1T 3JJ

Part I - Particulars of Application

Date of Application: 21/12/2021

Application No: 21/0214/FUMOPDC

Proposal: Demolition of existing structures and redevelopment to provide three buildings ranging in height linked by a landscaped podium, comprising Class E commercial uses at ground floor with residential units (Class C3) and rooftop plant above, together with an access and servicing route from Atlas Road, a new pedestrian access route to the Grand Union Canal and works to the towpath, parking, landscaping and public realm, and all associated works.

Location: Land at Atlas Wharf, Atlas Road, London, NW10 6DN

Part II - Particulars of Decision

In pursuance of the powers under the above Act and Order the Old Oak and Park Royal Development Corporation hereby gives notice that **PLANNING PERMISSION HAS BEEN GRANTED** for the carrying out of the development referred to in Part I hereof and as described and shown on the application and plan(s) submitted, subject to the following condition(s):

1. Time Limit for Commencement - compliance

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990 (amended by Section 51 of the Compulsory Purchase Act 2004).

2. Development in Accordance with Approved Plans and Documents – compliance

The development hereby permitted shall be carried out in accordance with the following approved drawings and documents:

PLAW-GRID-00-ZZ-DR-A-PL002-P5 – Proposed Site Plan
PLAW-GRID-00-00-DR-A-PL100-P5 – Ground Floor Plan
PLAW-GRID-00-01-DR-A-PL101-P6 – Level 01 Podium Floor Plan
PLAW-GRID-00-02-DR-A-PL102-P6 – Level 02-05 Floor Plan
PLAW-GRID-00-06-DR-A-PL106-P3 – Level 06-07 Floor Plan
PLAW-GRID-00-08-DR-A-PL108-P6 – Level 08 Floor Plan
PLAW-GRID-00-09-DR-A-PL109-P6 – Level 09 Floor Plan
PLAW-GRID-00-10-DR-A-PL110-P6 – Level 10 Floor Plan
PLAW-GRID-00-11-DR-A-PL111-P3 – Level 11-12 Floor Plan
PLAW-GRID-00-13-DR-A-PL113-P3 – Level 13 Floor Plan
PLAW-GRID-00-14-DR-A-PL114-P6 – Level 14 Floor Plan
PLAW-GRID-00-15-DR-A-PL115-P6 – Level 15-27 Floor Plan
PLAW-GRID-00-28-DR-A-PL128-P6 – Level 28 Floor Plan
PLAW-GRID-00-29-DR-A-PL129-P6 – Level 29 Floor Plan
PLAW-GRID-00-30-DR-A-PL130-P5 – Level 30 Floor Plan
PLAW-GRID-00-31-DR-A-PL131-P3 – Roof Plan
PLAW-GRID-00-ZZ-DR-A-PL200-P6 – Site Section – East West
PLAW-GRID-00-ZZ-DR-A-PL201-P6 – Site Section – North South
PLAW-GRID-00-ZZ-DR-A-PL300-P6 – Site Elevation North
PLAW-GRID-00-ZZ-DR-A-PL301-P6 – Site Elevation North East
PLAW-GRID-00-ZZ-DR-A-PL302-P6 – Site Elevation South East
PLAW-GRID-00-ZZ-DR-A-PL303-P6 – Site Elevation West
PLAW-GRID-00-ZZ-DR-A-PL304-P6 – Site Elevation East Podium
PLAW-GRID-00-ZZ-DR-A-PL305-P6 – Site Elevation West Podium
PLAW-GRID-00-ZZ-DR-A-PL306-P6 – Site Elevation South Building 2
PLAW-GRID-00-ZZ-DR-A-PL307-P6 – Site Elevation North Building 1
PLAW-GRID-00-ZZ-DR-A-PL308-P6 – Site Elevation North B3

PLAW-GRID-00-ZZ-DR-A-PL309-P6 – Site Elevation South B3
 PLAW-GRID-00-ZZ-DR-A-PL310-P6 – Site Elevation East B3
 PLAW-GRID-00-ZZ-DR-A-PL311-P6 – Site Elevation South West Building 1
 PLAW-GRID-02-ZZ-DR-A-PL403-P5 – Bay Study 3 – Building 2 W Elevation
 PLAW-GRID-02-ZZ-DR-A-PL404-P5 – Bay Study 4 – Building 2 E Elevation
 PLAW-GRID-03-ZZ-DR-A-PL405-P5 – Bay Study 5 – Building 3 NE Elevation
 PLAW-GRID-00-ZZ-DR-A-PL406-P5 – Bay Study 6 – Main Entrance
 Planning Area Schedule Revision 5
 Landscaping Podium 3001 R03
 Landscaping Ground 3000 R08
 Landscaping Roof 3002 R03
 Air Quality Assessment April 2022
 Archaeological Desk Based Assessment December 2021
 Bat Inspection File Note December 2021
 Carnon Emission Reporting Spreadsheet v1.2
 Circular and Sharing Economy Statement
 Circular and Sharing Economy Addendum October 2022
 Design and Access Statement December 2021
 DAS Addendum 1 May 2022
 DAS Addendum 2 October 2022
 DAS Addendum 3 July 2023
 Daylight and Sunlight Report
 Daylight/Sunlight Addendum May 2022
 Daylight/Sunlight and Shading Addendum October 2022
 Daylight/Sunlight Addendum July 2023
 Energy Assessment and Sustainability Strategy December 2021
 Energy Assessment and Sustainability Strategy updated Report P07 October 2022
 Energy and Sustainability Addendum Note October 2022
 Energy Addendum Note P6 July 2023
 Flood Risk Assessment and Drainage Strategy December 2021
 Fire Statement Form June 2023
 Fire Statement (London Policy D12) Statement June 2023
 Geo-Environmental Ground Investigation Report December 2021
 Green Infrastructure and Open Space Strategy and Management December 2021
 Green Infrastructure and Open Space Addendum October 2022
 Green Infrastructure Addendum July 2023
 Health Impact Assessment December 2021
 Health Impact Assessment Addendum October 2022
 Heritage Statement December 2021
 HTVIA Addendum June 2023
 Housing and Affordable Housing Statement December 2021
 Noise and Vibration Statement December 2021
 Operational Waste Management Plan December 2021
 Operational Waste Management Plan Addendum October 2022
 Outline Construction Management Plan December 2021
 Overheating Assessment Addendum June 2022
 Preliminary Ecological Appraisal December 2021
 Residential Management Plan December 2021

Town Planning Statement December 2021
Townscape and Visual Impact Assessment December 2021
Transport Assessment December 2021
Transport Assessment Addendum October 2022
Whole Life Carbon Addendum December 2021
Whole Life Carbon Addendum October 2022
Whole Life Carbon Assessment June 2022
Wind Microclimate Assessment December 2021
Wind Microclimate Assessment Addendum May 2022
Wind Assessment Addendum October 2022
Wind Assessment Addendum June 2022

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Building Heights - compliance

The development hereby permitted shall comprise three new buildings as follows:

- Building 1 – 30 storeys (+134.855m AOD)
- Building 2 – 15 storeys (+89.780m AOD)
- Building 3 – 9 storeys (+66.955m AOD)

Reason: For the avoidance of doubt and in the interest of proper planning

4. Floorspace – compliance

The development hereby permitted shall comprise the following uses and floorspace:

Use	Approved Floorspace
Residential (Use Class C3)	457 units
Non-residential floorspace (Use Class E)	682 sqm (GIA)

Reason: for the avoidance of doubt and in the interests of proper planning.

5. Contaminated Land – prior to commencement

i) The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the local planning authority:

- a. a desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in 'Model Procedures for the Management of Land Contamination' Contaminated Land Report 11, 'Guidance for the Safe Development of Housing on Land Affected by Contamination R&D66: 2008' and BS10175:2011 (+A1:2013) – 'Investigation of Potentially Contaminated Sites - Code of Practice'; and, unless otherwise agreed in writing by the local planning authority;
- b. a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top

study in accordance with BS10175:2011 (+A1:2013); and, unless otherwise agreed in writing by the local planning authority;

c. a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases and vapours when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include the nomination of a competent person to oversee the implementation of the works.

ii) Unless otherwise agreed in writing pursuant to paragraph (i) above, the development hereby permitted shall not be occupied or brought into use until there has been submitted to and approved in writing by the local planning authority a verification report prepared by the competent person approved under the provisions of (i) (c) above confirming that any remediation scheme required and approved under the provisions of (i) (c) above has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation).

iii) Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under (i) (c).

Reason: Potentially contaminative land uses (past or present) are understood to occur at, or near to, this site. The condition is required to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works in accordance with the NPPF, and OPDC Local Plan (2018-2038) policy EU13 'Land Contamination'.

6. Waterway wall survey (Canal & River Trust) – prior to commencement

i) Prior to the commencement of the development hereby approved, a survey of the condition of the waterway wall shall be submitted to and approved in writing by the Local Planning Authority.

ii) Prior to the occupation of any part of the development a further survey of the condition of the waterway wall shall be submitted to and approved in writing by the Local Planning Authority, identifying any changes in the condition of the river canal wall from the first survey approved under part (i) of this condition. Should any changes to the condition of the wall be identified, a method statement and schedule of works for the repairs shall also be submitted to and approved in writing by the Local Planning Authority prior to occupation. The repair works identified shall be carried out in accordance with the agreed method statement and schedule of works, by a date to be confirmed in the schedule of works.

Reason: To ensure that the structural integrity of the Grand Union Canal is maintained.

7. Ecological Mitigation – prior to commencement

Prior to commencement, a further bat survey shall be undertaken by a licensed ecologist and submitted to and approved in writing by the Local Planning Authority, including details of any required mitigation measures.

Reason: To ensure adequate protection for protected species that may be present on the site in accordance with London Plan (2021) policy G6 'Biodiversity and access to nature', and OPDC Post Submission Modified Draft Local Plan (2021) policy EU2 'Urban Greening and Biodiversity'.

8. Construction and Environmental Management Plan – prior to commencement

No development shall commence (except for site investigations work) until a detailed Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include, but not be limited to, the following details (where appropriate):

- i) a construction programme including a 24 hour emergency contact number;
- ii) complaints procedures, including complaint response procedures;
- iii) air quality mitigation measures, including dust suppression;
- iv) parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- v) arrangements to demonstrate how any concurrent construction with HS2 works shall not impede the construction of the HS2 works;
- vi) arrangements to minimise the potential for noise and vibration disturbance, with consideration of the unique circumstances and sensitivity of the chapel;
- vii) locations for loading/unloading and storage of plant and materials used in constructing the development;
- viii) details showing the siting, design and maintenance of security hoardings;
- ix) wheel washing facilities and measures to control the emission of dust and dirt during construction;
- x) site lighting details;
- xi) site drainage control measures;
- xii) tree protection measures in accordance with BS 5837:2012;
- xiii) details of ecological mitigation measures including checks for nesting birds, operational lighting scheme for bats and method statement for removal of japanese knotweed.
- xv) details of biodiversity and arboricultural mitigation measures including a pre-commencement check by an ecological clerk of works (ECoW) to determine whether nesting birds are present;
- xvi) a scheme for recycling/disposing of waste resulting from demolition and construction works in accordance with the waste hierarchy and circular economy principles;
- xvii) An Unexploded Ordnance assessment to be undertaken;
- xviii) Membership of the Considerate Constructors Scheme.

The development, including any works of demolition, shall only be carried out in accordance with the approved CEMP.

Reason: To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties, and to support ecology/retention of trees in accordance with London Plan (2021) Policies T3 'Transport capacity, connectivity and safeguarding', D14 'Noise', G6 'Biodiversity and access to nature', and G7

'Trees and woodlands' and OPDC Local Plan (2018-2028) Policies T7 'Freight, Servicing and Deliveries' and T8 'Construction', EU5 'Noise and Vibration' and EU2 'Urban Greening and Biodiversity'.

9. Construction Logistics Plan – prior to commencement

No development shall commence, including any works of demolition, until a detailed Construction Logistics Plan (CLP) has been submitted to and approved in writing by the Local Planning Authority. The CLP shall include information on:

- (i) forecast programme and construction trips generated;
- (ii) booking systems;
- (iii) consolidated or re-timed trips; and
- (iv) secure off-street loading and drop off facilities;
- (v) use of logistics and consolidation centres;
- (vi) re-use of materials on-site;
- (vii) collaboration with other sites in the area;
- (viii) use of rail and water for freight; and
- (ix) implementation of a staff travel plan
- (x) any areas for the parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction); and
- (xi) compliance with the Construction Logistics Strategy for the wider OPDC area, if available.

The development, including any works of demolition, shall only be carried out in accordance with the approved CLP.

Reason: To limit any impact on the local highway network and to protect the amenity of local residents in accordance with London Plan (2021) Policy T7 'Deliveries, servicing and construction' and OPDC Local Plan (2018-2038) Policy T8 'Construction'. The details are required prior to commencement because the demolition phase must be addressed in the CLP.

10. Circular Economy – prior to commencement

Prior to commencement of development, (except for removal of Japanese knotweed and site investigations work) an updated Circular Economy Statement including a pre-demolition audit shall be submitted to and approved in writing by the Local Planning Authority.

Prior to the occupation of the development, a post construction monitoring report should be completed in line with the GLA's Circular Economy Statement Guidance. The post-construction monitoring report shall be submitted to the GLA, currently via email at: circulareconomystatements@london.gov.uk, along with any supporting evidence as per the guidance. Confirmation of submission to the GLA shall be submitted to, and approved in writing by, the local planning authority, prior to occupation of the development.

Reason: To ensure the development contributes towards the principles of the circular and sharing economy in accordance with London Plan (2021) Policy SI 7 'Reducing waste and supporting the circular economy', and OPDC Local Plan (2018-2038) Policy EU7 'Circular and Sharing Economy'.

11. Radar Mitigation – prior to commencement

Prior to commencement of development (excluding demolition) mitigation to be agreed and implemented in relation to the H10 Radar at Heathrow Airport.

Reason: To ensure that the development does not endanger the safe movement of aircraft or the operation of Heathrow Airport through interference with communication, navigational aids and surveillance equipment.

12. Piling Method Statement (Thames Water) – prior to commencement of any piling

No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason: To protect water infrastructure in the vicinity of the site because the proposed works will be in close proximity to underground sewerage utility infrastructure, in accordance with London Plan (2021) Policies SI 5 'Water infrastructure' and OPDC Local Plan (2018-2038) Policy EU3 'Water'.

13. Fire Strategy – prior to above ground works

Prior to the commencement of above ground works, an updated Fire Strategy produced by the appointed and suitably qualified fire safety engineers confirming compliance with Part B of Schedule 1 to the Building Regulations 2010 (as amended) shall be submitted to and approved by the Local Planning Authority, in consultation with the London Fire Brigade. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development is safe in relation to fire safety in accordance with Policy D12 of the London Plan (2021).

14. Materials – prior to above ground works

Prior to the commencement of above ground works:

a) Samples of the facing materials, including glazing, and elevation drawings annotated to show where the materials are to be located shall be submitted to and approved in writing by the local planning authority;

b) Sample panels shall be constructed on site to show the typical facades including glazing, cladding and frames where relevant, made available for inspection by the local planning authority and approved in writing.

The development shall only be carried out in accordance with the approved details.

Reason: To ensure that the appearance of the building is suitable and it contributes positively to the character and appearance of the area in accordance with London Plan (2021) Policies D3 'Optimising site capacity through the design-led approach' and D4 'Delivering good design', and OPDC Local Plan (2021) Policy D3 'Well-designed Buildings'.

15. External Equipment – prior to above ground works

Prior to the casting of 1st floor slab, details of any external equipment to be installed on the building including window cleaning equipment and mechanical plant shall be submitted to and approved in writing by the local planning authority. The equipment shall only be installed in accordance with the approved details.

Reason: In the interests of the character and appearance of the area in accordance with London Plan (2021) Policy D4 'Delivering good design', and OPDC Local Plan (2018-2038) Policy D3 'Well-designed Buildings'.

16. Hard and Soft Landscaping – prior to above ground works

Prior to the casting of 1st floor slab, full details of the hard and soft landscaping for all areas of the site (public open space, public realm, communal amenity areas) shall be submitted to and approved in writing by the Local Planning Authority. The details submitted shall include: -

- i) details of all materials and hard landscaping across the site;
- ii) details of all boundary treatments to the development;
- iii) details of any fences, walls or other means of enclosure;
- iv) details of shrub and tree planting across the site;
- v) details of biodiversity enhancements including how the development meets the UGF score of 0.4;
- vi) details of all play equipment;
- vii) details of all street furniture;
- viii) details of all signage;
- ix) details of all external lighting;
- xii) a programme of the implementation of the landscaping and the bringing into use of all areas of public open spaces, public realm and communal amenity areas;
- xiii) a landscaping maintenance and management plan.

The development shall be carried out in accordance with the agreed details (including the agreed programme agreed under criterion xii) and thereafter shall be maintained and managed in accordance with the plan agreed under criterion xiii). Any plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the character and appearance of the area, to ensure appropriate accessibility and to support biodiversity in accordance with London Plan

(2021) Policies D3 'Optimising site capacity through the design-led approach', D4 'Delivering good design', G5 'Urban greening' and G6 'Biodiversity and access to nature', and OPDC Local Plan (2018-2038) Policies D1 'Public Realm' and EU2 'Urban Greening and Biodiversity'.

17. Secured by Design – prior to above ground works

Prior to the commencement of above ground works, details of the 'Secured by Design' measures to be incorporated in the development shall be submitted to and approved in writing by the Local Planning Authority. The details shall demonstrate how the Development incorporates the principles and practices of Secured by Design. The development shall only be carried out in accordance with the approved details.

In aiming to satisfy this condition the applicant should seek the advice of the local Metropolitan Police Crime Prevention Design advisor.

Reason: To ensure that the Development is safe and that the risk of crime, and the fear of crime, is reduced in accordance with the NPPF and Policy D11 'Safety, security and resilience to emergency' of the London Plan (2021).

18. Waste and Recycling Management Plan – prior to above ground works

Notwithstanding the submitted details and prior to the commencement of above ground works, a waste and recycling management plan to show sufficient capacity for the waste and recycling generated during the operational phase of the development, and details of how servicing vehicles will safely access the site shall be submitted to and approved in writing by the local planning authority. The plan shall thereafter be adhered to at all times for the lifetime of the development.

Reason: To ensure that adequate arrangements have been made for the storage and collection of waste and recycling in accordance with London Plan (2021) Policies SI 7 'Reducing waste and supporting the circular economy', SI 8 'Waste capacity and net waste self-sufficiency' and T7 'Deliveries, servicing and construction', and OPDC Local Plan (2018-2038) Policy EU7 'Circular and Sharing Economy'.

19. Cycle Storage – Prior to above ground works

Prior to the commencement of above ground works, details of secure cycle storage that meets London Cycle Design Standards shall be submitted to and approved in writing by the local planning authority. The cycle storage shall be provided in accordance with the approved details, made available at all times to everyone using the development and not used for any other purpose, unless otherwise agreed in writing. The development shall not be brought into use until the cycle storage has been provided in accordance with the approved details.

Reason: To encourage cycling as a means of sustainable transport in accordance with London Plan (2021) Policy T5 'Cycling', and OPDC Local Plan (2018-2038) Policy T3 'Cycling'.

20. Noise Assessment – prior to above ground works

Prior to the commencement of above ground works, a noise assessment shall be submitted to and approved in writing by the local planning authority. The assessment shall identify current and future sources of noise and vibration disturbance for the proposed residential units and rooftop amenity areas and shall provide details of attenuation measures to be installed as mitigation, where necessary. The design and installation of new items of fixed plant shall be such that when operating the cumulative noise level LAeq Tr arising from the proposed plant, measured or predicted at 1m from the facade of the nearest noise sensitive premises, shall be a rating level of at least 5dB(A) below the background noise level LAF90 Tbg. The measurement and/or prediction of the noise should be carried out in accordance with the methodology contained within BS 4142:2014. The development shall not proceed above ground level until the noise assessment has been approved in writing by the local planning authority. The agreed attenuation measures shall be provided in full accordance with the proposed details before any of the residential units are first brought into use.

Reason: To minimise the risk of noise or vibration disturbance for future residents in accordance with London Plan (2021) Policy D14 'Noise', and OPDC Local Plan (2018-2038) Policy EU5 'Noise and Vibration'.

21. Internal Noise Transmission – prior to above ground works

Prior to the commencement of above ground works a scheme of sound insulation and noise control measures shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented to the satisfaction of the local planning authority prior to the first occupation of any of the residential units and permanently retained thereafter to achieve the following internal noise targets:

- Bedrooms (23:00-07:00 hrs) 30 dB LAeq;
- Living Rooms (07:00-23:00 hrs) 35 dB LAeq; and
- Kitchens, bathrooms, WCs and utility rooms (07:00-23:00 hrs) 45 dB LAeq.

Reason: To minimise the risk of noise or vibration disturbance for future residents in accordance with London Plan (2021) Policy D14 'Noise', and OPDC Local Plan (2018-2038) Policy EU5 'Noise and Vibration'.

22. Microclimate – prior to above ground works

Prior to above ground works, an updated Wind Assessment shall be undertaken in respect of the balconies that are currently identified as being unsuitable for sitting (in the summer/winter months), with a view to improving this through further mitigation measures.

The development shall be carried out in accordance with any other additional mitigation measures identified in the updated Wind Assessment, along with the wind mitigation measures set out in the Wind Microclimate Assessment dated December 2021 and the Wind Microclimate Assessment Addendum dated May 2022 and October 2022 by XCO2, or as otherwise agreed in writing with the local planning authority.

Reason: To ensure that the microclimate around the buildings is appropriate in accordance with London Plan (2021) policy D8 'Public Realm' and Local Plan (2021) policy D5 'Amenity'.

23. Solar Panels – prior to above ground works

Prior to above ground works, the applicant shall explore whether further PV panels can be incorporated onto the roof spaces of the development to demonstrate they have maximised the opportunity for PV. A detailed roof layout clearly labelling any constraints to additional PV and detailed calculations of amenity area requirements shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure the development maximises energy efficiency measures in accordance with London Plan (2021) policies SI 2 'Minimising greenhouse gas emissions' and SI 3 'Energy infrastructure, and OPDC Local Plan 2018-2038 policy EU9 'Minimising Carbon Emissions and Overheating'.

24. Detailed Drawings – prior to relevant works

Notwithstanding the submitted details, prior to the commencement of work on the corresponding part of the development, detailed drawings comprising elevations and sections of the following parts of the development at 1:20 or 1:50 as appropriate with references to the heritage context shall be submitted to and approved in writing by the local planning authority:

- a) A bay study of the materials, cladding and glazing;
- b) Residential entrances (with canopies where relevant);
- c) Principle features on all facades;
- d) Balconies (including soffits and balustrades);
- e) Shopfronts and windows/glazing to the commercial uses;
- f) Typical window openings including surrounds;
- g) The parapets/roof edges and screens at the top of the building;
- h) Any roof level structures including flues and lift overruns;

The development shall only be carried out in accordance with the approved details.

Reason: To ensure that the appearance of the building/development is suitable and it contributes positively to the character and appearance of the area in accordance with London Plan (2021) Policies D3 'Optimising site capacity through the design-led approach' and D4 'Delivering good design', and OPDC Local Plan (2018-2038) Policy D3 'Well-designed Buildings'.

25. Water Supply (Thames Water) – prior to occupation

No development shall be occupied until confirmation has been provided that either:-

- i) all water network upgrades required to accommodate the additional demand to serve the development have been completed; or
- ii) a development and infrastructure phasing plan has been agreed with Thames Water to allow development to be occupied. Where a development and infrastructure

phasing plan is agreed no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan.

Reason: The development may lead to no / low water pressure and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional demand anticipated from the new development.

26. Telecommunications Apparatus and Antennae/Satellite Dishes – prior to occupation

Prior to the occupation of the development, details to show appropriate locations for any telecommunications apparatus and communal antennae and satellite dishes that can be used by occupants of the development shall be submitted to and approved in writing by the local planning authority. Notwithstanding any provisions to the contrary, no telecommunications apparatus shall be installed on the building without the prior written agreement of the Local Planning Authority and any installation shall be in accordance with such.

Reason: In the interests of the character and appearance of the area in accordance with London Plan (2021) Policy D4 'Delivering good design' and OPDC Local Plan (2018-2038) Policy D3 'Well-designed Buildings'.

27. Lighting Strategy – prior to occupation

Prior to the occupation of the development, a lighting strategy to address all external lighting across the development including a lux plan indicating any light spill over the waterspace and any CCTV scheme shall be submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details.

Reason: In the interests of the character and appearance of the area in accordance with London Plan (2021) Policy D4 'Delivering good design', and OPDC Local Plan (2018-2021) Policy D3 'Well-designed Buildings'.

28. Car Parking Management Plan – prior to occupation

Prior to first occupation of any part of the development, a Car Parking Management Plan to demonstrate how the 14 accessible parking bays will be allocated and managed shall be submitted to and approved in writing by the local planning authority. The car parking spaces shall be provided and maintained for the lifetime of the development.

The development shall not be occupied until the Car Parking Management Plan has been approved in writing and the Plan shall be adhered to thereafter.

Reason: To provide suitable parking for disabled persons in accordance with London Plan (2021) Policy T6 'Car parking' and OPDC Local Plan (2018-2038) Policies D2 'Accessible and Inclusive design' and T4 'Parking'.

29. Delivery and Servicing Plan – prior to occupation

No part of the development shall be brought into use until a Delivery and Servicing Plan has been submitted to and approved in writing by the Local Planning Authority. The revised Delivery and Servicing Plan shall include, but not be limited to, the following details:

- (i) details of deliveries to the site, including the size and type of vehicles and when they will access the site;
- (ii) measures to reduce vehicle movements;
- (iii) the routing of delivery/servicing vehicles including swept-path analysis; and
- (iv) dedicated areas for the loading/unloading of vehicles.

The approved Delivery and Servicing Plan shall be adhered to at all times.

Reason: To avoid blocking the highway network and to protect the amenity of people in neighbouring properties in accordance with London Plan (2021) Policies T3 'Transport capacity, connectivity and safeguarding' and T7 'Deliveries, servicing and construction', and OPDC Local Plan (2018-2038) Policies T1 'Roads and Streets' and T7 'Freight, Servicing and Deliveries'.

30. Ventilation/Extraction System – prior to occupation of the relevant commercial unit

Prior to the occupation of any relevant commercial unit, details of a ventilation/extraction system to serve any commercial unit identified for restaurant or café use shall be submitted to and approved in writing by the local planning authority. The approved system shall be installed in full accordance with the approved details before any of the units are brought into use and maintained thereafter.

Reason: To prevent nuisance from cooking smells for people using neighbouring properties in accordance with London Plan (2021) Policy SI 1 'Improving air quality', and OPDC Local Plan (2018-2038) Policy EU4 'Air Quality'.

31. Whole Life Carbon Assessment – prior to occupation of each building

Prior to the occupation of each building the post-construction tab of the GLA's whole life carbon assessment template shall be completed accurately and in its entirety in line with the GLA's Whole Life Carbon Assessment Guidance. The post-construction assessment should provide an update of the information submitted at planning submission stage, including the whole life carbon emission figures for all life-cycle modules based on the actual materials, products and systems used. This should be submitted to the GLA at: ZeroCarbonPlanning@london.gov.uk, along with any supporting evidence as per the guidance. Confirmation of submission to the GLA shall be submitted to, and approved in writing by, the local planning authority, prior to occupation of the relevant building.

Reason: In the interests of sustainable development and to maximise on-site carbon dioxide savings.

32. Drainage Strategy – compliance

The development hereby permitted shall be carried out in accordance with the approved Flood Risk and Drainage Strategy dated December 2021 prepared by Bridges Pound, or as otherwise agreed in writing with the local planning authority.

Reason: To minimise the risk of surface water flooding in the vicinity of the site in accordance with London Plan (2021) Policy SI 13 'Sustainable drainage', and OPDC Local Plan (2018-2038) Policy EU3 'Water'.

33. Opening Hours - compliance

Customers shall not be permitted within any restaurant or café (Class E use) premises before 06.00 or after 00.00 on Monday to Saturday (not including bank holidays and public holidays) and before 07.00 or after 00.00 on Sundays, bank holidays and public holidays.

Reason: To protect the amenity of local residents in accordance with London Plan (2021) Policy D14 'Noise, and OPDC Local Plan (2018-2038) Policy TC11 'Night Time Economy Uses'.

34. Accessibility - compliance

All residential units indicated on the approved drawings as being suitable for wheelchair users shall be compliant with part M4 category 3 of the Building Regulations. All other units shall be compliant with part M4 category 2 of the Building Regulations.

Reason: To provide suitable access for disabled persons in accordance with London Plan (2021) Policy D7 'Accessible housing', and OPDC Local Plan (2018-2038) Policy D2 'Accessible and Inclusive Design'.

35. Electric Vehicle Charging Points – compliance

Electric vehicle charging points (EVCP) shall be provided for 20% of the car parking spaces from the outset, with passive provision provided for the remaining 80%. The EVCP shall be constructed and marked out and the charging points installed prior to any of the residential units being brought into use and thereafter retained permanently to serve the vehicles of occupiers.

Reason: To encourage the use of electric vehicles in the interests of sustainability in accordance with London Plan (2021) OPDC Local Plan (2028-2038) Policy T4 'Parking'.

36. Amenity Spaces – compliance

The podium garden, the roof gardens on Buildings 1 and 3, and the residents canalside terrace shall be laid out in accordance with the approved details prior to occupation of any of the residential units and thereafter retained and maintained for use by all residents for the lifetime of the development, unless otherwise agreed in writing with the local planning authority.

Reason: In the interests of providing private amenity space and child play space for all residents in accordance with London Plan (2021) Policies D5 'Inclusive design'

and S4 'Play and informal recreation', and OPDC Local Plan (2021-2038) Policy D8 'Play Space, EU1 'Open Space', and H4 'Design of Family Housing'.

37. Energy Strategy - compliance

The development hereby approved shall be implemented in accordance with the Energy and Sustainability Statement by Meinhardt dated 7 October 2022, or as otherwise agreed in writing with the local planning authority. The measures contained in the Energy and Sustainability Statement shall be maintained for the lifetime of the development.

Reason: To ensure the development maximises energy efficiency measures in accordance with London Plan (2021) Policies SI 2 'Minimising greenhouse gas emissions', SI 3 'Energy infrastructure' and SI 4 'Managing heat risk' and OPDC Local Plan (2018-2038) Policy EU9 'Minimising Carbon Emissions and Overheating.

38. Noisy Working Hours – compliance

Building work which can be heard at the boundary of the site must only be carried out between the following hours:

- 08.00 – 18.00 Monday to Friday;
- 08.00 – 13.00 on Saturdays;
- Not at all on Sundays, bank holidays and public holidays.

Reason: In the interests of the amenity of local residents in accordance with London Plan (2021) policy D14 'Noise' and OPDC Local Plan (2018-2038) Policy EU5 'Noise and Vibration'.

39. Water Efficiency - compliance

The development hereby approved shall fully comply with the optional requirements set out in paragraph (2)(b) of Requirement G2 of the Building Regulations 2010, as amended, to ensure that mains water consumption would meet a target of 105 litres or less per head per day, excluding an allowance of 5 litres or less per head per day for external water consumption for the residential uses, as well as complying with the BREEAM 'Excellent' requirements for a 40% reduction in water consumption for the non-residential uses.

Reason: To ensure the development delivers appropriate levels of water efficiency in accordance with London Plan (2021) policy SI 5 'Water infrastructure, OPDC Local Plan (2018-2038) Policy EU3 'Water'.

40. Residential Management Plan - compliance

The development hereby approved shall be managed in accordance with the approved Residential Management Plan prepared by Say and dated December 2021, or as otherwise agreed in writing with the local planning authority.

Reason: To ensure the development is operated and managed in accordance with London Plan Policy H11 'Build to Rent' and OPDC Local Plan Policy H6 'Build to Rent'.

41. Air Quality – compliance

On-site plant and machinery must comply with the London Non-Road Mobile Machinery (NRMM) Low Emission Zone standards for the Opportunity Areas (London Plan Policy SI 1 (D)).

Reason: To ensure the development contributes to improvements in air quality in accordance with London Plan (2021) Policy SI 1 'Improving air quality' and OPDC Local Plan 2018-2038 Policy EU4 'Air Quality'.

Proposed Informatives

1. You are advised that this permission has been granted subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990.
2. Under the terms of the Planning Act 2008 (as amended) and Community Infrastructure Levy Regulations 2010 (as amended), this development will be liable to pay the Mayor of London's Community Infrastructure Levy. This will be calculated in accordance with the MCIL2 Charging Schedule 2019. Liability to pay CIL must now be assumed by submitting an Assumption of Liability Form to OPDC at planningapplications@opdc.london.gov.uk.
3. The applicant is advised that prior to making a submission in relation to conditions requiring further details of external materials, that they should discuss the materials to be submitted with an Approved Building Control Surveyor in order to ensure that they meet with current fire safety regulations.
4. The applicant is strongly encouraged to consider the use of a sprinkler system within the development. Sprinkler systems installed in buildings can significantly reduce the damage caused by fire and the consequential cost to businesses and can reduce the risk to life.
5. The applicant and/or contractor are encouraged to sign up to the Fleet Recognition Scheme (FORS) which promotes better safety standards during construction. The FORS guidance can be found at <http://www.tfl.gov.uk/info-for/freight/safety-and-the-environment/managing-risks-wrrr>.
6. The applicant is advised that the application site is in the vicinity of land that may be required to construct and/or operate Phase One of a high-speed rail line between London and the West Midlands, known as High Speed Two. Powers to construct and operate High Speed Two were secured on 23 February 2017 when Royal Assent was granted for Phase One of HS2. More information can be found at: <https://www.gov.uk/government/collections/high-speed-raillondon-west-midlands-bill> and active engagement is encouraged between all parties on respective construction programmes.
7. Access to, or oversailing of, the Canal and River Trust's land or water during the construction and operation of the development (including via the creation of the new towpath accesses) must be agreed in writing with the Canal & River Trust before development commences. Please contact Bernadette McNicolas in the Canal & River

Trust's Estate Team at Bernadette.mcnichols@canalrivertrust.org.uk for further information.

8. The applicant/developer should refer to the current Canal & River Trust "Code of Practice for Works affecting the Canal & River Trust to ensure that any necessary consents are obtained, and liaise with the Trust's Third Party Work's Engineer: <http://canalrivertrust.org.uk/about-us/for-businesses/undertaking-works-on-our-property>.
9. Any surface water discharge to the waterway will require prior consent from the Canal & River Trust. Please contact Liz Murdoch from the Canal & River Trust Utilities Team (Liz.Murdoch@canalrivertrust.org.uk).
10. The applicant/developer is encouraged to contact the Canal & River Trust's Water Sales team to discuss the potential for using the canal water for heating and cooling via Maurice.Bottomley@canalrivertrust.org.uk.

Proactive and Positive Statement

In accordance with the National Planning Policy Framework and with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 the following statement explains how the OPDC as Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with this planning application:

OPDC, as the local planning authority, has worked with the applicant in a positive and proactive manner by offering a full pre-application service to ensure that the applicant had the opportunity to submit an application that was likely to be considered favourably. In addition, the local planning authority provided guidance on how outstanding planning matters could be addressed prior to determination of the application. The application complies with relevant national, regional and local planning policy and OPDC has decided to grant planning permission accordingly.

Dated this:

Emma Williamson

Director of Planning

Old Oak and Park Royal Development Corporation

Old Oak and Park Royal Development Corporation
TOWN AND COUNTRY PLANNING ACT 1990
Statement of Applicant's Rights

Appeals to the Secretary of State

- * If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State for Communities and Local Government under section 78 of the Town and Country Planning Act 1990.
- * If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice or within 12 weeks in the case of a householder¹ appeal.
- * Appeals must be made using the correct form, which is available from the Planning Inspectorate (a copy of which must be sent to Old Oak and Park Royal Development Corporation), or can be completed online.

The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (e-mail: enquiries@pins.gsi.gov.uk) or (Tel: 0117 372 8000).

To make an appeal online, please use www.planningportal.gov.uk/pes. The Inspectorate will publish details of your appeal on the internet. This may include copies of documentation from the original planning application and relevant supporting documents supplied to the local authority, and or information, including personal information belonging to you that you are happy will be made available in this way. If you supply personal information belonging to a third party please ensure you have their permission to do so. More detailed information about data protection and privacy matters is available on the Planning Portal.

- * The Secretary of State can allow a longer period for giving notice of an appeal, but the Secretary of State will not normally be prepared to use this power unless there are special circumstances, which excuse the delay in giving notice of appeal.
- * If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.
- * The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of any Development Order and to any directions given under a Development Order.

¹ For the purposes of an appeal, a householder development is development in the boundary of, or to an existing dwellinghouse for purposes incidental to the enjoyment of the dwellinghouse, that does not involve change of use or a change to the number of dwellings.
Please note, this does not include development in the boundary of, or to an existing flat or maisonette.

- * In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based its decision on a direction given by the Secretary of State.

Purchase Notices

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that the owner can neither put the land to a reasonably beneficial use in its existing state, nor render the land capable of a reasonably beneficial use, either carrying out any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his/her interest in the land, in accordance with the provisions of Part VI of the Town and Country Planning Act 1990 (as amended).

APPENDIX 3
HABITABLE ROOMS SCHEDULE

Floor	Number	Type	Bedrooms	Occupancy	Habitable Rooms
Building 1					
1	1.0109	Type 3	2	3	3
	1.0110	Type 2	2	3	3
2	1.0201	Type 1	2	3	3
	1.0209	Type 3	2	3	3
	1.0210	Type 2	2	3	3
3	1.0301	Type 1	2	3	3
	1.0309	Type 3	2	3	3
	1.0310	Type 2	2	3	3
4	1.0401	Type 1	2	3	3
	1.0409	Type 3	2	3	3
	1.0410	Type 2	2	3	3
5	1.0501	Type 1	2	3	3
	1.0509	Type 3	2	3	3
	1.0510	Type 2	2	3	3
6	1.0601	Type 1	2	3	3
	1.0609	Type 3	2	3	3
	1.0610	Type 2	2	3	3
7	1.0701	Type 1	2	3	3
	1.0709	Type 3	2	3	3
	1.0710	Type 2	2	3	3
8	1.0801	Type 1	2	3	3
	1.0809	Type 3	2	3	3
	1.0810	Type 2	2	3	3
9	1.0901	Type 1	2	3	3
	1.0909	Type 3	2	3	3
	1.0910	Type 2	2	3	3
10	1.1001	Type 1	2	3	3
	1.1009	Type 3	2	3	3
	1.1010	Type 2	2	3	3
11	1.1108	Type 3	2	3	3
	1.1109	Type 2	2	3	3
12	1.1208	Type 3	2	3	3
	1.1209	Type 2	2	3	3
13	1.1308	Type 3	2	3	3
	1.1309	Type 2	2	3	3
14	1.1408	Type 3	2	3	3
	1.1409	Type 2	2	3	3
15	1.1508	Type 3	2	3	3
	1.1509	Type 2	2	3	3
16	1.1608	Type 3	2	3	3
	1.1609	Type 2	2	3	3
17	1.1708	Type 3	2	3	3
	1.1709	Type 2	2	3	3
18	1.1808	Type 3	2	3	3
	1.1809	Type 2	2	3	3
19	1.1908	Type 3	2	3	3
	1.1909	Type 2	2	3	3
20	1.2008	Type 3	2	3	3
	1.2009	Type 2	2	3	3
21	1.2108	Type 3	2	3	3
	1.2109	Type 2	2	3	3
22	1.2208	Type 3	2	3	3
	1.2209	Type 2	2	3	3
23	1.2308	Type 3	2	3	3
	1.2309	Type 2	2	3	3
24	1.2408	Type 3	2	3	3
	1.2409	Type 2	2	3	3
25	1.2508	Type 3	2	3	3
26	1.2608	Type 3	2	3	3
27	1.2708	Type 3	2	3	3
28	1.2808	Type 3	2	3	3
Building 2					
1	2.0101	Type 14	3	5	4
	2.0103	Type 21	2	3	3
	2.0104	Type 21	2	3	3
	2.0105	Type 20	2	3	3
	2.0107	Type 16	1	2	2

	2.0108	Type 45	1	2	2
	2.0109	Type 17	3	4	4
2	2.0201	Type 14	3	5	4
	2.0203	Type 21	2	3	3
	2.0204	Type 21	2	3	3
	2.0205	Type 20	2	3	3
	2.0207	Type 16	1	2	2
	2.0208	Type 45	1	2	2
	2.0209	Type 17	3	4	4
	2.0301	Type 14	3	5	4
3	2.0303	Type 21	2	3	3
	2.0304	Type 21	2	3	3
	2.0305	Type 20	2	3	3
	2.0307	Type 16	1	2	2
	2.0308	Type 45	1	2	2
	2.0309	Type 17	3	4	4
	2.0401	Type 14	3	5	4
4	2.0403	Type 21	2	3	3
	2.0404	Type 21	2	3	3
	2.0405	Type 20	2	3	3
	2.0407	Type 16	1	2	2
	2.0408	Type 45	1	2	2
	2.0409	Type 17	3	4	4
	2.0501	Type 14	3	5	4
5	2.0503	Type 21	2	3	3
	2.0504	Type 21	2	3	3
	2.0509	Type 17	3	4	4
	2.0601	Type 14	3	5	4
6	2.0603	Type 21	2	3	3
	2.0604	Type 21	2	3	3
	2.0609	Type 17	3	4	4
	2.0701	Type 14	3	5	4
7	2.0703	Type 21	2	3	3
	2.0704	Type 21	2	3	3
	2.0709	Type 17	3	4	4
	2.0801	Type 14	3	5	4
8	2.0803	Type 21	2	3	3
	2.0804	Type 21	2	3	3
	2.0809	Type 17	3	4	4
	2.0901	Type 14	3	5	4
9	2.0903	Type 21	2	3	3
	2.0904	Type 21	2	3	3
	2.0909	Type 17	3	4	4
	2.1001	Type 14	3	5	4
10	2.1003	Type 21	2	3	3
	2.1004	Type 21	2	3	3
	2.1009	Type 17	3	4	4
	2.1101	Type 14	3	5	4
11	2.1103	Type 21	2	3	3
	2.1104	Type 21	2	3	3
	2.1109	Type 17	3	4	4
	2.1201	Type 14	3	5	4
12	2.1203	Type 21	2	3	3
	2.1204	Type 21	2	3	3
	2.1209	Type 17	3	4	4
	2.1301	Type 14	3	5	4
13	2.1309	Type 17	3	4	4
	2.1401	Type 14	3	5	4
14	2.1409	Type 17	3	4	4
Building 3					
2	3.0201	Type 31	3	5	4
	3.0206	Type 31	3	5	4
3	3.0301	Type 31	3	5	4
4	3.0401	Type 31	3	5	4
5	3.0501	Type 31	3	5	4
6	3.0601	Type 31	3	5	4
7	3.0701	Type 31	3	5	4
TOTAL					423

APPENDIX 4

RESTRICTION

No disposition of the registered estate (other than a charge, or the grant of a leasehold interest in an individual Residential Unit or unit of Commercial Floorspace as defined in the deed of agreement made under section 106 of the Town and Country Planning Act 1990 dated [●] between the Old Oak and Park Royal Development Corporation, Eamon O'Loughlin and Thomas Henry James, Pocket Living Atlas Road Limited and McGovern Brothers (Haulage) Limited (the "**S106 Agreement**")) by the proprietor of the registered estate is to be registered without a certificate signed by the Old Oak and Park Royal Development Corporation of City Hall, The Queen's Walk, More London Riverside, London SE1 2AA that the provisions of paragraph 3.1 of Schedule 6 (inclusion of restrictive covenant not to apply for a Parking Permit) of the S106 Agreement have been complied with or that they do not apply to the disposition

APPENDIX 5
DRAFT DEED OF COVENANT

DATED

202[●]

OLD OAK AND PARK ROYAL DEVELOPMENT
CORPORATION

AND

[COVENANTOR]

DEED OF COVENANT

THIS DEED is made on

202[●]

BETWEEN:

- (1) **OLD OAK AND PARK ROYAL DEVELOPMENT CORPORATION** of City Hall, The Queen's Walk, More London Riverside, London SE1 2AA (the "**OPDC**"); and
- (2) **[Covenantor]** [a company registered in England and Wales (company number [insert company number]) whose registered office is at [insert address] (the "**COVENANTOR**")

RECITALS

- (A) The Covenantor has on the date of this deed acquired the Property from the Seller.
- (B) The Covenantor has agreed to comply with the Seller's Obligations in the Original Agreement as if were the Owner named in that Original Agreement.
- (C) The Covenantor has agreed to enter into this Deed of Covenant to record that Agreement.

OPERATIVE PROVISIONS

1. INTERPRETATION

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

"Original Agreement"

the deed dated [●] made between (1) OPDC, (2) the Owner [and (3) other parties];

"Owner"

the party to the Original Agreement so named;

"Property"

[insert title details] which comprises [part of] the Site as defined in the Original Agreement;

"Seller"

[insert details];

"Seller's Obligations"

all obligations and restrictions on the Owner and all covenants provided by the Owner in relation to Controlled Parking Zones in [paragraphs 3, 4 and 5 of Schedule 5] of the Original Agreement.

- 1.2 Words and expressions defined in the Original Agreement have the same meanings in this Deed unless an alternative meaning is given in this Deed when the alternative meaning will apply.

- 1.3 The parties to this Deed 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.

2. OBLIGATIONS

The Covenantor covenants with OPDC to comply with the Seller's Obligations as if the Seller's Obligations were set out in full in this Deed of Covenant and references to the Owner in the Seller's Obligations were references to the Covenantor.

3. **EXECUTION**

The Covenantor has executed this Deed of Covenant as a deed and it is delivered on the date set out above.

The common seal of)
OLD OAK AND PARK ROYAL)
DEVELOPMENT CORPORATION)
was affixed in the presence of:

Authorised Signatory

Executed as a deed by)
[Covenantor])
acting by a director and a secretary/two)
directors:

Director

Director/Secretary

APPENDIX 6
DRAFT UNILATERAL UNDERTAKING

DATED _____ **2021** [●]

FROM:-

(1) []

(2) []

TO:-

(3) []

UNILATERAL UNDERTAKING

pursuant to section 16 of the Greater London Council
(General Powers) Act 1974 and all other powers enabling
relating to land known [●]



Pinsent Masons

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THIS UNDERTAKING is made on [] 202[●]

FROM:-

- (1) [] (No. []) [of/whose registered office is at] [] (the "**Owner**"); and
(2) [] (No. []) [of/whose registered office is at] [] (the "**Mortgagee**").

TO:-

- (3) [] of [] (the "**Council**").

WHEREAS:-

- (A) OPDC is the local authority for the area in the vicinity of the Site for the purposes of section 16 of the 1974 Act and is the local authority by whom the obligations contained in this Undertaking are enforceable.
- (B) By virtue of The Old Oak and Park Royal Development Corporation (Planning Functions) Order 2015, the Old Oak and Park Royal Development Corporation ("**OPDC**") is the local planning authority for the area in which the Site is located for the purposes of Part 3 of the 1990 Act.
- (C) The Owner is the owner of the freehold interest in the Site as is registered at the Land Registry with title number [●].
- (D) The Mortgagee has the benefit of a registered charge dated [●] against title number [●].
- (E) The Owner submitted the Planning Application to OPDC.
- (F) At meetings of its Planning Committee on [●] OPDC resolved to grant the Planning Permission subject to the Owner entering into the S106 Agreement and securing obligations to restrict Occupiers of the Site from holding Parking Permits, without which the Planning Permission would not be granted.
- (G) The S106 Agreement has been entered into and the Planning Permission has been granted.
- (H) This Undertaking is being given to satisfy the requirements of paragraph [5] of Schedule [5] of the S106 Agreement.

IT IS AGREED as follows:-

1. INTERPRETATION

- 1.1 In this Undertaking the following words and expressions and abbreviations have the following meanings, unless the context otherwise requires:-

"1974 Act"	means the Greater London Council (General Powers) Act 1974
"1990 Act"	means the Town and Country Planning Act 1990
"Blue Badge"	means a disabled parking badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970

"Commencement"	means the carrying out of a material operation (as defined in section 56(4) of the 1990 Act but disregarding for the purposes of this Undertaking the following operations: ground investigations for assessing site conditions; archaeological investigations; demolition and site clearance; site survey works; diversion and laying of services; erection of any temporary means of enclosure; temporary display of site notices and advertisements; and any works requires to be undertaken to discharge pre-commencement conditions on the Planning Permission) and "Commenced" shall be construed accordingly
"Commencement Date"	means the date upon which the Development is Commenced
"CPZ"	means any controlled parking zone enforced by OPDC as at the date of the S106 Agreement
"Development"	means [●]
"Occupation"	means the occupation of any part of the Development for its designated planning use but does not include occupation by the Owner or any contractor or other occupier for the purposes of construction, fitting out, decoration, marketing or display and "Occupier" shall be construed accordingly
"Parking Permit"	means a permit issued or to be issued in the future by LBE to an Occupier of a Residential Unit to permit the parking of a motor vehicle on the highway within a CPZ
"Planning Application"	means the application for full planning permission submitted to OPDC for the Development and allocated reference number [●]
"Planning Permission"	means the planning permission for the Development granted by OPDC on [●] and bearing reference number [●] and shall include any amended, varied or replacement permission granted pursuant to section 96A or section 73 of the 1990 Act from time to time
"Residential Unit"	means a unit of residential accommodation comprised within the Development and falling within Use Class C3
"S106 Agreement"	means the agreement dated [●] and made pursuant to section 106 of the 1990 Act in respect of the Planning Permission between (1) OPDC, (2) the Owner and (3) the Mortgagee
"Site"	means the land known as [●] as shown edged red on the plan annexed to this Undertaking the freehold interest in which is owned by the Owner under title number [●]
"Use Classes"	shall be defined by reference to the Town and Country Planning (Use Classes) Order 1987

"Working Day"

means any day of the week other than Saturday, Sunday or any bank holiday.

- 1.2 Where in this Undertaking reference is made to a Clause paragraph Schedule Recital Plan Annex or Appendix such reference (unless the context otherwise requires) is a reference to a Clause paragraph Schedule or recital in this Undertaking or to a plan annex or appendix attached to this Undertaking.
- 1.3 Where in any Schedule or part of a Schedule reference is made to a paragraph such reference shall (unless the context otherwise requires) be to a paragraph of that Schedule or (if relevant) part of a Schedule.
- 1.4 References in this Undertaking to the Owner shall include reference to its successors in title and assigns and to persons claiming through or under it in relation to all or any part of the Site save where the context otherwise requires.
- 1.5 References to the Council shall include reference to any successor body exercising any of the powers currently vested in Council in relation to this Undertaking.
- 1.6 Words including the singular meaning where the context so admits include the plural meaning and vice versa.
- 1.7 Words of the masculine gender include the feminine and neuter genders and words denoting natural persons include companies and other corporate bodies and also firms and all such words shall be construed interchangeably in that manner.
- 1.8 Words denoting an obligation on a party to do an act, matter or thing include an obligation to procure that it be done and words placing a party under a restriction (including for the avoidance of doubt any obligation preventing or restricting Commencement or Occupation) include an obligation not to cause, permit, suffer or allow infringement of the restriction.
- 1.9 Any reference to a statute or a provision thereof or a statutory instrument or a provision thereof shall include any modification, extension or re-enactment thereof for the time being in force (including for the avoidance of doubt any modification, extension or re-enactment made prior to the date of this Undertaking) and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given thereunder or deriving validity therefrom.
- 1.10 The word "including" means including without limitation or prejudice to the generality of any description defining term or phrase preceding that word and the word "include" and its derivatives shall be construed accordingly.
- 1.11 The Clause and paragraph headings in the body of this Undertaking and in the Schedules hereto do not form part of this Undertaking and shall not be taken into account in its construction or interpretation.
- 1.12 References to the Site include any part of it.

2. LEGAL EFFECT

- 2.1 This Undertaking is made pursuant to section 16 of the 1974 Act and will come into effect on the date hereof, save for Clause 3 which shall come into force upon the Commencement Date.
- 2.2 The covenants undertakings restrictions and requirements imposed upon the Owner under this Undertaking create obligations pursuant to section 16 of the 1974 Act which are enforceable by OPDC as local authority against the Owner and the Owner's successors in title and assigns.
- 2.3 Insofar as any provisions in this Undertaking are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity, illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Undertaking.

2.4 No waiver (whether express or implied) by the Council of any breach or default in performing or observing any of the covenants, undertakings, terms or conditions of this Undertaking shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said covenants, undertakings, terms or conditions or from acting upon any subsequent breach or default.

2.5 The covenants, undertakings, restrictions and obligations herein shall be enforceable without any limit of time against the Owner and its respective successors in title and assigns or any person claiming title through or under the Owner to the Site or any part thereof as if that person had also been an original covenanting party in respect of the interest or estate for the time being held by that person.

3. **THE OWNER'S COVENANTS**

The Owner hereby covenants with the Council to observe and perform and cause to be observed and performed the obligations, undertakings, covenants and restrictions contained in the Schedule to this Undertaking.

4. **OWNER'S CAPACITY TO ENTER INTO THIS UNDERTAKING**

The Owner hereby warrants that it has full power to enter into this Undertaking and that it has obtained all necessary consents from any mortgagee, chargee or any other person having a title or right in the Site.

5. **FURTHER TERMS**

5.1 The covenants and undertakings in this Undertaking shall be registered by the Council as local land charges for the purposes of the Local Land Charges Act 1975.

5.2 Nothing in this Undertaking shall prohibit or limit the right to develop any part of the Site in accordance with any planning permission (other than the Planning Permission) granted after the date of the Planning Permission.

6. **NOTICE PROVISIONS**

6.1 The Owner shall give the Council written notice of Commencement no later than 10 (ten) Working Days after the Commencement Date.

6.2 The Owner shall give the Council written notice of any change in ownership of any freehold or leasehold interest in the Site no later than 10 (ten) Working Days after such change in ownership and such notice shall give details of the transferee's or lessee's full name and registered office (if a company or usual address if not).

6.3 Any notice or other written communication to be served upon a party or given by one party to any other under the terms of this Undertaking shall be given in writing (which for this purpose shall not include email) and shall be deemed to have been validly served or given if delivered by hand or sent by first class post or sent by recorded delivery post to the party upon whom it is to be served or to whom it is to be given and shall conclusively be deemed to have been received on:-

6.3.1 if delivered by hand, the next Working Day after the day of delivery; and

6.3.2 if sent by first class post or recorded delivery post, the day 2 (two) Working Days after the date of posting.

6.4 The address for any notice or other written communication shall be within the United Kingdom only and shall be as specified below or such other address as shall be specified by the party upon whom the notice is to be served to the other parties by not less than 5 (five) Working Days' notice:-

6.4.1 in the case of the Council, to [], bearing the reference [];

6.4.2 in the case of the Owner, to []; and

6.4.3 in the case of the Mortgagee, []

7. **REVOCATION**

This Undertaking shall cease to have effect (insofar as it has not already been complied with and save for any obligations which are already outstanding) if the Planning Permission shall be quashed, modified (without the consent of the Owner) or revoked or if the Planning Permission shall expire prior to Commencement of the Development.

8. **LIABILITY UNDER THIS UNDERTAKING**

8.1 No person shall be liable for any breach of the covenants restrictions or obligations contained in this Undertaking:-

8.1.1 to the extent that such breach relates to any part of the Site in which that person has no interest and/or

8.1.2 which occurs after he has parted with his entire interest in the Site (or his interest in that part of the Site on which the breach occurs) save for any prior breach for which he shall continue to be liable.

9. **DISPUTE RESOLUTION**

9.1 Where the Owner and the Council (referred to hereafter in this Clause as the "**parties**") are in dispute or disagreement or have any differences relating to any matter the subject of or connected with this Undertaking or its meaning or construction (a "**Dispute**") then (without prejudice to any provision in this Undertaking which specifies a particular timescale for the resolution or determination of any matter) the parties shall use their reasonable endeavours to resolve the same within 20 (twenty) Working Days of the Dispute arising.

9.2 Failing the resolution of any such Dispute within the said 20 (twenty) Working Days or within such other period as may be specified in this Undertaking in relation to the resolution or determination of the matter in question, the Dispute shall be referred for determination in accordance with the provisions of this Clause 9 on the reference of any of the parties to the Dispute.

9.3 The Dispute shall be referred to the decision of an independent expert (the "**Expert**") who shall be an independent person of at least 10 (ten) years' standing in the area of expertise relevant to the Dispute and in the event that the parties are unable to agree whom should be appointed within a period of 10 (ten) Working Days following a failure of the parties to resolve the Dispute within the period set out in Clause 9.1, then any party may request:-

9.3.1 if such Dispute shall relate to matters concerning the construction, interpretation and/or application of this Undertaking, the Chairman of the Bar Council to nominate the Expert;

9.3.2 if such Dispute shall relate to matters requiring a specialist chartered surveyor, the President of the Royal Institution of Chartered Surveyors to nominate the Expert; and

9.3.3 in all other cases, the President of the Law Society to nominate the Expert.

9.4 If the Dispute shall relate to matters falling within two or more of Clauses 9.3.1 to 9.3.3 (inclusive), the parties may agree to appoint joint Experts and in the event that the parties are unable to agree whom should be appointed as joint Experts, the parties may request the President of the Law Society to nominate such persons falling within the descriptions of Clauses 9.3.1 to 9.3.3 (inclusive) to act as joint Experts.

9.5 The Expert shall act as an expert and not as an arbitrator and the determination of the Expert (including any determination as to the responsibility for payment of his own costs and those of the parties) shall be final and binding upon the parties.

9.6 The Expert shall be appointed (through an agreed request statement setting out exactly the questions that he is to determine, submitted jointly by the parties to the Dispute) subject to an express requirement that he reaches his decision and communicates it to the parties to the Dispute within the minimum practical timescale allowing for the nature and complexity of the Dispute and in any event no later than 30 (thirty) Working Days from the date of his appointment to act and that he is to have particular regard to the 1990 Act in reaching his decision.

9.7 The terms of reference of any Expert appointed to determine a Dispute shall include the following:-

9.7.1 he shall call for representations from all parties with 10 (ten) Working Days of a reference to him under this Undertaking and shall require the parties to exchange representations within this period;

9.7.2 he shall allow the parties 10 (ten) Working Days from the expiry of the 10 (ten) Working Days period referred to in Clause 9.7.1 to make counter-representations;

9.7.3 any representations or counter-representations received out of time shall be disregarded by the Expert;

9.7.4 he shall provide the parties with a written decision (including his reasons) within 10 (ten) Working Days of the last date for receipt of counter-representations;

9.7.5 he shall be entitled to call for such independent expert advice as he shall think fit; and

9.7.6 his costs and the costs of any independent expert advice called for by the Expert shall be included in his award.

9.8 Unless the Expert shall decide otherwise the costs of any reference to the Expert shall be borne equally by the parties to the Dispute.

10. **GOVERNING LAW**

This Undertaking and any dispute, controversy, proceedings or claims of whatever nature arising out of or in any way relating to this Undertaking or its formation (including any non-contractual disputes or claims) shall be governed and construed in accordance with English law.

11. **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

It is hereby declared that none of the terms of this Undertaking shall be construed as being enforceable by any third party (other than OPDC) pursuant to the Contracts (Rights of Third Parties) Act 1999.

12. **[MORTGAGEE'S CONSENT**

12.1 The Mortgagee acknowledges and declares that:-

12.1.1 this Undertaking has been entered into by the Owner with its consent;

12.1.2 the Site shall be bound by the obligations contained in this Undertaking; and

12.1.3 the security of the Mortgagee over the Site shall take effect subject to this Undertaking.

12.2 The Parties agree that the Mortgagee will only be liable for any breach of the provisions of this Deed during such period as it is a mortgagee in possession of the whole or any part of the Site when it becomes bound by the obligations as if it were a person deriving title from the Owner. It will not be liable for any breach of the provisions of this Deed after it has parted with or released its interest in the Site save for any prior breach for which it shall continue to be liable.]

IN WITNESS whereof this undertaking has been executed as a deed on the date first above written.

SITE PLAN

SCHEDULE

OWNER'S COVENANTS – PERMIT FREE

The Owner covenants with the Council:

1. Not to apply for a Parking Permit or knowingly suffer or permit any Resident (other than a Blue Badge holder) to apply for a Parking Permit for any CPZ in the Council's area and if such a Parking Permit is issued the Owner covenants on becoming aware of such issue to notify the Council in writing immediately thereafter.
2. That all material utilised for advertising or marketing each and every individual Residential Unit with the Development for letting or sale will make it clear to prospective tenants and Residents that no Parking Permit (other than for a Blue Badge holder) will be issued by the Council for any Residential Unit.
3. That in respect of every freehold transfer or lease granted, assigned, transferred or otherwise provided in respect of the Residential Units, the following covenants will be imposed (or a covenant of substantially the same nature) in respect of any transfer, tenancy agreement, licence or other instrument entitling Occupation of the Residential Unit:

"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 [council] and OPDC that they shall not apply for nor knowingly permit an application to be made by any person residing in the premises to the Council for any resident's parking permit (save for a disabled person's "blue badge" issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970) in respect of such premises (such parking permit entitling the resident to park within any controlled parking zone that was in force on or before [insert date of s106 Agreement] (being the date of an agreement made pursuant to section 106 of the Town and Country Planning Act 1990 between (1) the Old Oak and Park Royal Development Corporation (the "OPDC"), (2) [●] and (3) [●], in respect of a planning permission granted by OPDC under reference [●])) and if such a permit is issued then it shall be surrendered within seven days of written request to do so from the Council and this covenant shall also be enforceable by OPDC and the Council under section 1 of the Contracts (Rights of Third Parties) Act 1999".

4. Upon receiving written request from Council, to provide the Council with such evidence as the Council may reasonably require to demonstrate compliance with this schedule.