

DATED **26 March** **2025**

(1) OLD OAK AND PARK ROYAL DEVELOPMENT CORPORATION

(2) TIAGO PROPERTIES LIMITED

**DEED OF AGREEMENT
UNDER SECTION 106 OF THE TOWN AND
COUNTRY PLANNING ACT 1990 AND ALL
OTHER POWERS ENABLING RELATING TO
PARK ROYAL ROAD EAST AND WEST SITES,
LONDON W3 6XA**



Pinsent Masons

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THIS DEED OF AGREEMENT is made on

2025

BETWEEN:-

- (1) **OLD OAK and PARK ROYAL DEVELOPMENT CORPORATION** of One West Point, 7 Portal Way, North Acton, London W3 6RT (the "**OPDC**"); and
- (2) **TIAGO PROPERTIES LIMITED** (incorporated in the British Virgin Islands) care of Hallmark Estates Limited, 46 Great Marlborough Street, London W1F 7JW (the "**TPL**")

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) TPL is the owner of the freehold interests in the Site as is registered at the Land Registry with title numbers MX318269 and NGL207359. TPL has submitted the Planning Application to OPDC.
- (C) At a meeting of its Planning Committee on 25 July 2024, OPDC resolved to grant the Planning Permission subject to TPL entering into this Deed without which the Planning Permission would not be granted.
- (D) 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;
"Academic Year"	means the academic year of a Higher Education Provider commencing in September or October each year or such other time as specified by the relevant Higher Education Provider;
"Boroughs"	means LBE, LBHF, LBB and "Borough" shall be construed accordingly;
"Block"	means Block A or Block B (as the context may require) and "Blocks" shall be construed accordingly;
"Block A"	means the building to be located on the East Site;
"Block B"	means building to be located on the West Site;
"Block Commercial Floorspace"	B means the commercial floorspace within Block B comprising the flexible commercial uses (Class E) at ground and lower ground floor comprising 355 sqm GIA;

"Class"	means a class of the Town and Country Planning (Use Classes) Order 1987 (as amended);
"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 (and for the avoidance of doubt where reference is made to "Commencement of the East Site" or "Commencement of the West Site" , then these expressions shall too be construed accordingly);
"Commercial Floorspace"	means both the Block B Commercial Floorspace and the Industrial Floorspace;
"CPZ"	means any controlled parking zone enforced by the LBE as at the date of this Deed;
"Development"	means demolition of all existing buildings and structures and the redevelopment of the Site through construction of a building known as Block A (East Site) for student accommodation (sui generis) with ancillary facilities including classrooms, flexible space and two auditoriums, and light industrial use (Class E(g)(iii)); construction of a second building known as Block B (West Site) comprising residential units (Use Class C3) with flexible commercial uses (Class E) at ground and lower ground floor; and, associated works of landscaping, public realm improvements and other works associated with the development;
"East Site"	means the land forming part of the Site known as 5-7 Park Royal Road on which Block A is to be located as shown edged red on Plan 1, the freehold of which is registered at the Land Registry under Title Number MX318269;
"East Site Owner"	means TPL in relation to its freehold interest in the East Site and any subsequent successors in title to that interest;
"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 (and for the avoidance of doubt, where reference is made to "First Occupation of the East Site" or "First Occupation of the West Site" then these expressions shall also be construed accordingly);
"GLA"	means the Greater London Authority or any successor in statutory function;
"Higher Education Provider"	means an education institution that provides a designated course that has been approved by the Department for Education for higher education study which allows the student to apply for government-financed student loans (and in respect of the Private Student Accommodation Units a Higher Education Provider can also include a proxy for a Higher Education

	Provider) or such other body as maybe agreed by OPDC in writing from time to time;
"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 and "Implemented" , "Implement" and "Implementation Date" shall be construed accordingly (and for the avoidance of doubt, where reference is made to "Implementation of the East Site" , the "East Site Implementation Date" , "Implementation of the West Site" or "West Site Implementation Date" then these expressions shall also be construed accordingly);
"Index"	means the Retail Prices Index;
"Index Linked"	means subject to indexation in accordance with Clause 18;
"Industrial Floorspace"	means the industrial floorspace within Block A comprising light industrial use (Class E(g)(iii)) of 2,082 sqm GIA;
"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 £50,000 (fifty thousand pounds) (Index Linked) payable by the Owner to OPDC towards the costs of OPDC monitoring the obligations in this Deed;
"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 (and for the avoidance of doubt, where reference is made to "Occupation of the East Site" or "Occupation of the West Site" then these expressions shall also be construed accordingly);
"Owner"	means collectively the East Site Owner and the West Site Owner and their successors in title;
"Off Site"	means on land outside the Site;
"On Site"	means on land within the Site;
"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 East Site (marked "Site A"), the West Site (marked "Site B") and the Site;
"Plan 2"	means the plan attached to this Deed at Appendix 1 marked "Plan 2" showing the Highway Reinstatement Area;
"Plan 3"	means the plan attached to this Deed at Appendix 2 marked "Plan 3" showing the Highway Works;
"Planning Application"	means the application for full planning permission for the Development submitted to OPDC and allocated reference number 23/0014/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 one or more certificate(s) of practical completion of any works carried out pursuant to the Planning Permission (or as the context may allow any part, section, phase or Block thereof) by an independent architect, engineer or other certifying officer as the case may be under the relevant building contract and "Practically Complete" and "Practically Completed" shall be construed accordingly;
"Private Student Accommodation Units"	means Student Accommodation Units which are not Affordable Student Accommodation Units (as defined in Schedule 1);
"Reasonable Endeavours"	means that the parties under such an obligation shall not be required to take proceedings (including any appeal) in any court public inquiry or other hearing (unless specified to the contrary) but subject thereto such party shall be bound to attempt to fulfil the relevant obligation by the expenditure of such effort and/or sums of money and the engagement of such professional or other advisers as in all the circumstances may be reasonable;
"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 Units"	means units of Class C3 residential accommodation forming part of Block B on the West Site comprising the 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;
"Site"	means collectively the East Site and the West Site;
"Student"	means students enrolled in a full-time higher education course at a Higher Education Provider and any student linked to the Higher Education Provider and "Student" shall be construed accordingly;

"Student Accommodation"	means up to 888 Student Accommodation Units forming part of Block A on the East Site;
"Student Accommodation Unit"	means any one studio or single bedroom unit forming part of the Student Accommodation and "Student Accommodation Units" shall be construed accordingly;
"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;
"West Site"	means the land forming part of the Site known as Units 2-4 Lower Park Industrial Estate on which Block B is to be located, as shown edged red on Plan 1, the freehold of which is registered at the Land Registry under Title Number NGL207359;
"West Site Owner"	means TPL in relation to its freehold interest in the West Site and any subsequent successors in title to that interest;
"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 in this Deed 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 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 "East Site Owner" or the "West Site Owner" shall include reference to their respective successors in title, assigns and to persons claiming through or under them in relation to all or any part of their interest in the East Site or the West Site (as the case may be) 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, the East Site or the West Site include any part of them.
- 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 East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) 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 East Site Owner or the West Site Owner is subject to the obtaining or securing of Requisite Consents, the East Site Owner or the West Site Owner severally 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 East Site Owner or the West Site 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.
- 1.18 References in this Deed to Section 73 of the 1990 Act shall also be interpreted to mean Section 73B of the 1990 Act (when in force).

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 East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) 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 East Site Owner's freehold interest in the East Site and the West Site Owner's freehold interest in the West Site (as the context may require) with the intent that they shall be enforceable by OPDC against the East Site Owner (in respect of the East Site only) and the West Site Owner (in respect of the West Site only) and their respective successors in title to or assigns of or transferees of any parts of the Site that they own and/or any person claiming through or under the East Site Owner or the West Site Owner an interest or estate in the East Site or the West Site (as the context may require) 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 PROVIDED FURTHER THAT the obligations stated in Clause 5.2 below shall be enforceable jointly and severally by OPDC against the East Site Owner and the West Site Owner.

3.2 The Parties acknowledge and agree that:-

3.2.1 the Planning Permission will be granted on the basis that Occupiers of the Residential Units and/or the Student Accommodation Units and/or any unit of Commercial Floorspace 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 of Schedule 5 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 Occupiers 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 5 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 clause 1 (Definitions and Interpretation), 2 (Legal Basis), 3 (Nature of Obligations), 4 (Conditional Agreement), 7.1 (Legal Costs), 7.4 (Liquidation/Winding Up), 8 (Ownership), 9 (Encumbrances), 10 (Registration), 11 (Right of Access), 12 (Owner to Notify OPDC), 13 (Notices), 14 (Payments), 15 (No Waiver), 16 (No Fetter of Discretion), 17 (Interest on Late Payment), 19 (Liability Under Deed), 20 (Disputes), 21 (Miscellaneous Provisions), 22 (Governing Law) and 23 (Contracts (Rights of Third Parties) Act 1999) and Schedule 9 (Design Monitoring) which shall come into effect immediately upon completion of this Deed.

5. OBLIGATIONS GIVEN BY THE OWNER

- 5.1 The East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) on behalf of themselves and their successors in title to the East Site and the West Site respectively severally covenant with OPDC to observe and perform and cause to be observed and performed the obligations and covenants on the part of the East Site Owner or the West Site Owner respectively contained in the Schedules to this Deed and as set out below:

Obligations binding the East Site Owner	Obligations binding the West Site Owner
Affordable Housing Provision Schedule 1, para 2.1, 9 – 11	Affordable Housing Provision Schedule 1, para 2.2 – 8
Viability Review Schedule 2	Delivery and Servicing Plan Schedule 3, para 6.2
Delivery and Servicing Plan Schedule 3, para 6.1	Car Parking Management Plan Schedule 3, para 7.2
Car Parking Management Plan Schedule 3, para 7.1	Offsite Play Space Contribution Schedule 4, para 2.1
Public Access Areas Schedule 4, para 3	Car Club Membership Schedule 5, para 2
Green Infrastructure and Open Space Strategy and Management Plan Schedule 4, para 4.2	Green Infrastructure and Open Space Strategy and Management Plan Schedule 4, para 4.1
Controlled Parking Schedule 5, paras 3.1-3.3, 3.5 & 4.1 – 4.3	Controlled Parking Schedule 5, paras 3.1 – 3.2, 3.4-3.5 & 4.1-4.2, 4.4
Residential Travel Plan Schedule 6, paras 2.1 – 2.2, 2.5, 3 – 5, 6.1	Residential Travel Plan Schedule 6, paras 2.3 – 2.4, 2.5, 3 – 5, 6.2
Affordable Workspace Contribution Schedule 7, para 4.1	Affordable Workspace Contribution Schedule 7, para 4.2
Energy Schedule 8, paras 2.1 – 5	Energy Schedule 8, paras 2.3 – 5
Industrial Floorspace Restriction Schedule 7, para 5	
Employment & Skills, Schedule 7, para 2.3	

- 5.2 The East Site Owner and the West Site Owner on behalf of themselves and their successors in title to the East Site and the West Site respectively jointly and severally covenant with OPDC to observe and perform and cause to be observed and performed the remaining obligations and covenants on the part of the Owner (which are not set out in Clause 5.1 above) contained in the Schedules to this Deed and as may be set out below:

Obligations binding the Owner jointly and severally	
Construction Phasing	Schedule 1, para 12
Highway	Schedule 3, paras 2 – 5

Offsite Publicly Accessible Open Space Contribution	Schedule 4, para 2.2
Controlled Parking	Schedule 5, para 5
Employment & Skills	Schedule 7, para 2.1-2.2, 2.4-2.6, 3
Design	Schedule 9

6. OBLIGATIONS OF OPDC

6.1 OPDC covenants with the East Site Owner and the West Site 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:

6.2.1 the East Site Owner that it shall use all sums received from the East Site Owner under the terms of this Deed;

6.2.2 the West Site Owner that it shall use all sums received from the West Site 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 East Site Owner or the West Site Owner (as may be required) with evidence of such compliance.

6.3 Subject to Clause 6.4, OPDC covenants with the East Site Owner and the West Site Owner that it will repay to the East Site Owner or the West Site Owner (as applicable, or the person who made the payment if not the East Site Owner or the West Site Owner) such amount of any payment made by the East Site Owner or the West Site Owner to OPDC under this Deed which has not been expended or committed in accordance with the provisions of this Deed within fifteen (15) years of the date of receipt by OPDC of such payment together with interest.

6.4 Where any payment is made by the East Site Owner or the West Site 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.

6.5 OPDC covenants with the Owner to use Reasonable Endeavours within twenty (20) Working Days after the OPDC receives:

6.5.1 the list of companies or organisations capable of being the Affordable Housing Providers for the Development pursuant to paragraph 3.1 of Schedule 1;

6.5.2 the Affordable Housing Management Plan pursuant to paragraph 3.3.2 of Schedule 1;

6.5.3 details of the location of the Wheelchair Affordable Housing Units pursuant to paragraph 5.1.2 of Schedule 1;

6.5.4 the Student Accommodation Management Plan pursuant to paragraph 9.1.1 of Schedule 1;

- 6.5.5 the initial Schedule of Highway Condition pursuant to paragraph 2.1.1 of Schedule 3;
- 6.5.6 any Delivery and Servicing Plan pursuant to paragraphs 6.1.1 and 6.2.1 of Schedule 3;
- 6.5.7 any Car Parking Management Plan pursuant to paragraph 7.1.1 and 7.2.1 of Schedule 3;
- 6.5.8 the Public Access and Community Use Management Plan pursuant to paragraph 3.1.1 of Schedule 4;
- 6.5.9 the Green Infrastructure and Open Space Strategy and Management Plan pursuant to paragraph 4.1.1 of Schedule 4;
- 6.5.10 a copy of the Unilateral Undertaking to LBE pursuant to paragraph 5.1.1 of Schedule 5;
- 6.5.11 any Residential Travel Plan pursuant to paragraphs 2.2.1 and 2.4.1 of Schedule 6;
- 6.5.12 any Local Labour, Skills and Employment Strategy and Management Plan pursuant to paragraph 2.1.1 of Schedule 7;
- 6.5.13 details of any Future Proofing Measures pursuant to paragraph 2.2 of Schedule 8,

to notify the Owner in writing that:

- (a) the submitted details or document are approved; or,
- (b) the submitted details or document is not approved, in which case this Clause 6.5 shall continue to apply *mutatis mutandis* until OPDC has notified the Owner that the submitted details or document have been approved; or,
- (c) additional time is required by OPDC to consider the submitted details or document in which case OPDC shall use Reasonable Endeavours to notify the Owner in writing in respect of limb (a) or limb (b) under this paragraph 6.5.13 within twenty (20) Working Days from the notification that additional time is required pursuant to this limb (c) of paragraph 6.5.13.

7. LEGAL COSTS AND MONITORING

- 7.1 The Owner covenants with OPDC to pay upon completion of this Deed OPDC's reasonable and proper legal costs incurred in respect of the Planning Application and the preparation, negotiation and completion of this Deed (inclusive of any reasonable legal costs incurred by external lawyers appointed by OPDC).
- 7.2 The Owner covenants with OPDC:
 - 7.2.1 to pay the Monitoring Contribution to OPDC prior to Implementation of the Development; and
 - 7.2.2 not to Implement the Development until the Monitoring Contribution has been paid to OPDC.
- 7.3 The West Site Owner covenants with OPDC that:
 - 7.3.1 on the first anniversary of the date on which Implementation of the West Site occurred and every 6 (six) months thereafter until the Occupation of the last Residential Unit constructed pursuant to the Planning Permission the West Site 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 West Site 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 West Site 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 West Site 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 and has full power to enter into this Deed.
- 8.2 The East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) covenant with OPDC to give OPDC written notice of any change in ownership of any of their respective interests in the Site or part thereof (save in respect of individual Residential Units, individual Student Accommodation Units or individual unit of Commercial Floorspace) 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 East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) severally warrant and undertake to OPDC that their respective interests in the Site are free from any encumbrances which would prevent the Development from being carried out and brought into beneficial use.
- 9.2 The East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) severally covenant to OPDC not to encumber or otherwise deal with their 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 East Site Owner or the West Site Owner (as the case may be) 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 Owner shall make applications to the Land Registry for entries relating to this Deed to be made in the charges registers of the Title Numbers 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 Owner 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 Owner and the Owner 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 Owner 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.

11. **RIGHT OF ACCESS**

Without prejudice to OPDC's statutory rights of entry and subject to reasonable prior notice, the East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) 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 East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) severally covenant with OPDC to notify OPDC in writing of the following events in relation to the East Site or the West Site (as the case may be) :-

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 Residential Unit, at least 20 (twenty) Working Days prior to such date;

12.1.10 the actual date of the First Occupation of the first Residential Unit, within 5 (five) Working Days of such actual date;

12.1.11 the intended date for first Occupation of the first Student Accommodation Unit, at least 20 (twenty) Working Days prior to such date;

12.1.12 the actual date of the first Occupation of the first Student Accommodation 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 East Site Owner or the West Site Owner fail to provide notification in accordance with Clause 12.1, 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.

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, One West Point, 7 Portal Way, North Acton, London W3 6RT with a duplicate copy of such notice to be sent by email to planningapplications@opdc.gov.uk

13.2.2 **TPL:-**

Andrew Bacon, Hallmark Property Group, 46 Great Marlborough Street, London W1F 7JW with a duplicate copy of such notice to be sent by email to andrew@hallmarkpropertygroup.com

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 East Site Owner or the West Site 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 23/0014/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 East Site Owner and the West Site Owner hereby severally acknowledge and agree 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 East Site Owner or the West Site Owner (as the case may be) 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 East Site Owner or the West Site Owner (as the case may be).

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 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 (C) 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 Index as at the date of the planning committee meeting referred to in Recital (C) 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 individual Student Accommodation 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 paragraphs 6.2 and 7 of Schedule 1 (*Affordable Housing*) in respect of the West Site only;

19.2.2 paragraphs 3.1 and 4.1 of Schedule 5 (*Car Parking*); and

19.2.3 paragraph 2.5 of Schedule 6 (*Residential Travel Plan*).

19.3 No obligations, undertakings or liabilities under this Deed shall be enforceable against individual purchasers or lessees or Occupiers of a unit of Commercial Floorspace 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 4.1 and 4.2 of Schedule 5 (*Car Parking*).

19.4 Subject to paragraphs 7 and 8 of Schedule 1, 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 East Site Owner's interest in the East Site or the West Site Owner's interest in the West Site unless and until such mortgagee or chargee has entered into possession of the East Site or the West Site (as the case may be) 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 East Site Owner or West Site Owner (as the case may be).

- 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 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 AND JURISDICTION**

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 and the parties submit to the exclusive jurisdiction of the courts of England

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.

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

SCHEDULE 1

AFFORDABLE HOUSING

1. DEFINITIONS

"Affordable Housing" means housing including London Affordable Rented Housing and Social Rented Housing provided to eligible households whose needs are not met by the market and which housing should (a) meet the needs of eligible purchasers or 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 in perpetuity at an affordable price for future eligible purchasers or renters, or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision within Greater London (as defined in section 2 of the London Government Act 1963)

"Affordable Housing Management Plan" means a management plan submitted by the West Site Owner to OPDC in accordance with this Schedule and which sets out details in relation to how the Affordable Housing shall be accessed, secured, managed, maintained and monitored

"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; or
- (c) any other body specialising in the provision of Affordable Housing

in each case either nominated or approved by OPDC (such approval not to be unreasonably withheld or delayed and to be issued in accordance with paragraph 3.1 of this Schedule)

"Affordable Housing Nominations Agreement" means in the case of the Affordable Housing Units an agreement to be entered between the Affordable Housing Provider and the Boroughs (where the Affordable Housing Provider is not any of the Boroughs) providing the Boroughs with nomination rights in respect of the Affordable Housing Units as follows:

- (a) 70% to LBE;
- (b) 10% to LBHF;
- (c) 10% to LBB; and
- (d) 10% to GLA

(using the OPDC's rounding calculation and the OPDC's nominations policy principles to adjust to whole numbers of units);

"Affordable Housing Units" means the 32 (thirty two) Residential Units to be provided as Affordable Housing in Block B comprising 112 Habitable Rooms and **"Affordable Housing Unit"** shall be construed accordingly

"Affordable Student Accommodation"	means a Student Accommodation Unit that is provided at a rental cost for the Academic Year equal to or below 55 per cent of the maximum income that a new full-time student studying in London and living away from home could receive from the Government's maintenance loan for living costs for that Academic Year or such higher maximum level applicable from time to time and the initial annual rental cost for which should not exceed the level set out in the London Plan Annual Monitoring Report for the relevant Academic Year
"Affordable Student Accommodation Units"	means not less than 238 (two hundred and thirty eight) Student Accommodation Units (studio or single units) which comprise the Affordable Student Accommodation to be provided pursuant to this Schedule and "Affordable Student Accommodation Unit" shall be construed accordingly
"Cascade"	means in order of priority: (i) Students at a local Higher Education Provider; (ii) Students at other Higher Education Providers with good sustainable transport connections to the Site; (iii) any other Student at a Higher Education Provider; or (iv) any other Student with a need to reside in London; or such other cascade that may be agreed with OPDC from time to time
"Chargee"	means any mortgagee or chargee of the Affordable Housing Provider of the Affordable Housing Units and any receiver (including an administrative receiver) and manager appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator
"Date of Deemed Service"	means, in each instance where a Chargee has served a Default Notice under paragraph 8.1.1 of this Schedule: (a) in the case of service by delivery by hand of the Default Notice to OPDC's registered offices at during office hours the date on which the Default Notice is so delivered; or (b) in the case of service by using first class registered post to OPDC's registered offices, the second Working Day after the date on which the Default Notice is posted (by being placed in a post box or being collected by or delivered to Royal Mail) PROVIDED THAT the Chargee is able to evidence that the Default Notice was actually delivered to OPDC (by Royal Mail proof of delivery or otherwise)
"Default Notice"	means a notice in writing served on OPDC by the Chargee under paragraph 8.1.1 of this Schedule of the Chargee's intention to enforce its security over the relevant Affordable Housing Units
"Disposal"	has the meaning give to it in Schedule 2 of this Deed
"Habitable Room"	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
"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
"Intention Notice"	means a notice in writing served on the Chargee by OPDC under paragraph 8.2 of this Schedule that OPDC is minded to purchase the relevant Affordable Housing Units
"London Affordable Rented Housing"	means rented housing provided by an Affordable Housing Provider that has the same characteristics as Social Rented Housing except that it is not required to be let at Target Rents but is subject to other rent controls that require it to be offered to eligible households in accordance with Part VI of the Housing Act 1996 at a rent that is: (a) including Service Charges, up to 80% (eighty per cent) of local market rents; and (b) excluding Service Charges, no higher than the benchmark rents published by the GLA annually in accordance with the Mayor's Funding Guidance
"London Affordable Rented Housing Units"	means the Affordable Housing to be made available for London Affordable Rented Housing in accordance with this Schedule and "London Affordable Rented Housing Unit" shall mean any one of them
"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 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
"London Student Accommodation Affordable Rent"	means the maximum annual rent cost (inclusive of service charges, utilities and estate charges) for affordable purpose-built student accommodation published annually by the London Plan Annual Monitoring Report
"Mayor's Funding Guidance"	means "Homes for Londoners: Affordable Homes Programme 2016-21 Funding Guidance" published by the Mayor of London in November 2016 or any update or replacement guidance
"Moratorium Period"	means, in each instance where a Chargee has served a Default Notice under paragraph 8.1.1 of this Schedule, the period from (and including) the Date of Deemed Service on OPDC of the Default Notice to (and including) the date falling 3 (three) months after such Date of Deemed Service (or such longer period as may be agreed between the Chargee and OPDC)
"Nominated Student Accommodation Units"	means:

		(a) the 151 (one hundred and fifty-one) Private Student Accommodation Units; and, (b) the 238 (two hundred and thirty-eight) Affordable Student Accommodation Units, to be nominated pursuant to a Student Accommodation Nominations Agreement
"Non-Student"		means any person who is not a Student (and reference to "Non-Students" shall be construed accordingly)
"Option"		means the option to be granted to OPDC (and/or its nominated substitute Affordable Housing Provider) in accordance with paragraph 8.3 of this Schedule for the purchase of the Affordable Housing Units
"Rent Standard"		means the standard relating to rent set by the Regulator of Social Housing from time to time having regard to the Welfare Reform and Work Act 2016, the Rent Guidance and the Direction on the Rent Standard 2014 issued by the Department for Communities and Local Government in May 2014 together with the Rent Standard Guidance published by the Department for Communities and Local Government in April 2015 or such other replacement guidance or direction or legislation
"RTA Purchaser"		means a tenant of an Affordable Housing Unit who purchases that Affordable Housing Unit under the provisions of the right to acquire created by section 180 of the Housing and Regeneration Act 2008 or the preserved right to buy created by Part V of the Housing Act 1985 or any other statutory right in force from time to time entitling tenants of a Registered Provider to purchase their homes
"Service Charges"		means all amounts payable by a tenant or owner (as appropriate) of the relevant London Affordable Rented 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 London Affordable Rented Housing Unit
"Social Housing"	Rented	means rented housing owned and managed by Affordable Housing Providers and let at Target Rents
"Social Housing Units"	Rented	means the Affordable Housing Units to be made available for Social Rented Housing in accordance with this Schedule
"Student Accommodation Management Plan"		means a management plan submitted to OPDC and which sets out how the Student Accommodation shall be managed and monitored including: (a) day to day management (b) access and security (c) communal area management (d) accessibility management (e) maintenance (f) individual room management

- (g) tenancy agreements (including but not limited to tenant conduct and car ownership)
- (h) moving in and moving out strategy
- (i) antisocial behaviour
- (j) fire and health & safety
- (k) community liaison (including but not limited to complaints procedure)

and which may be amended from time to time with the agreement of OPDC

“Student Accommodation Nominations Agreement”

means a completed and binding agreement or agreements with a Higher Education Provider (in the form of a contract or a lease or a freehold transfer of the relevant parts of the Student Accommodation) that either:-

- (a) secures the operation and management of the Nominated Student Accommodation Units by the Higher Education Provider directly; or
- (b) grants rights to the Higher Education Provider to nominate any of its Students to become Occupants of the Nominated Student Accommodation Units;
- (c) contains details of the protocol for the marketing and letting of the Nominated Student Accommodation Units

and to be submitted to OPDC for approval in accordance with the provisions of paragraph 9 of this Schedule and for the avoidance of doubt:

- (i) any Student Accommodation Nominations Agreement approved pursuant to this Schedule may be amended from time to time with the agreement of OPDC;
- (ii) the provisions of this Schedule shall apply to any replacement Student Accommodation Nominations Agreement

"Sums Due"

means all sums due to a Chargee of the Affordable Housing Units pursuant to the terms of its Charge including (without limitation) all interest and reasonable legal and administrative fees costs and expenses

"Target Rents"

means rents for Social Rented Housing conforming with the pattern produced by the rents formula set out in the Rent Guidance and subject to the limit on rent changes and rent caps set out therein and subject to indexation as permitted by the Rent Standard from time to time

"Transfer"

either the transfer of the freehold interest or the grant of a lease of (a minimum) 125 (one hundred and twenty five) year leasehold interest and **“Transferred”** shall be construed accordingly

2. MINIMUM AFFORDABLE HOUSING PROVISION

- 2.1 The East Site Owner covenants with OPDC to provide not less than 238 Student Accommodation Units as Affordable Student Accommodation Units.

- 2.2 The West Site Owner covenants with OPDC to provide not less than the higher of 32 Residential Units or 112 Habitable Rooms as either Social Rented Housing Units or London Affordable Rented Housing Units.

3. AFFORDABLE HOUSING MANAGEMENT

- 3.1 Prior to the Commencement of the West Site, the West Site Owner shall submit to OPDC and obtain its approval to a list of companies or organisations involved in the provision of Affordable Housing who if approved shall be capable of being Affordable Housing Providers for the West Site.
- 3.2 The West Site Owner shall not Commence the West Site until OPDC has approved the list of companies or organisations submitted pursuant to paragraph 3.1 of this Schedule.
- 3.3 Unless otherwise agreed in writing, prior to Occupation of Block B the West Site Owner shall:
- 3.3.1 enter into an agreement with an Affordable Housing Provider for the Transfer of the Affordable Housing Units;
 - 3.3.2 submit an Affordable Housing Management Plan to OPDC for approval;
 - 3.3.3 enter into an Affordable Housing Nominations Agreement for the London Affordable Rented Housing Units and Social Rented Housing Units with the Boroughs and/or GLA to provide the Boroughs and the GLA with nomination rights in respect of 100% (one hundred per cent) of the London Affordable Rented Housing Units and/or Social Rented Housing Units for the life of Block B and provide evidence of the same to OPDC's satisfaction.
- 3.4 The West Site Owner shall not Occupy or permit Occupation of Block B until it has complied with paragraphs 3.3.1 to 3.3.3 and the OPDC has approved the Affordable Housing Management Plan. Thereafter the West Site Owner shall implement the approved Affordable Housing Management Plan.
- 3.5 Upon the Transfer of any Affordable Housing Units to an Affordable Housing Provider the obligations imposed on the West Site Owner in this Schedule in relation to those Affordable Housing Units shall be binding on and shall be observed and performed by the Affordable Housing Provider as the West Site Owner's successor in title and where any obligation is expressed as an obligation on the West Site Owner to procure any act on the part of the Affordable Housing Provider, such obligation shall be construed as an obligation of the Affordable Housing Provider to itself perform the obligation in question.

4. AFFORDABLE HOUSING PROVISION

- 4.1 The West Site Owner shall, unless otherwise agreed in writing with OPDC, provide all of the Residential Units within Block B as Affordable Housing Units in accordance with the following tenure and unit size mix:-

Tenure	No. of homes	Homes %	No. of habitable rooms	Habitable rooms %
London Affordable Rented Housing /Social Rented Housing				
2 bed 3 person	11	34%	33	29.5%
2 bed 3 person (Wheelchair Affordable Housing Units)	5	15.5%	15	13.5%
3 bed 5 person	11	34%	44	39%

3 bed 6 person	5	15.5%	20	18%
Total	32	100%	112	100%

- 4.2 The West Site Owner shall ensure that the Affordable Housing Units are designed and constructed in accordance with the London Design Standards.

5. WHEELCHAIR AFFORDABLE HOUSING UNITS

- 5.1 The West Site Owner shall:-

- 5.1.1 provide not less than 10% (ten per cent) of the Affordable Housing Units as dwellings for wheelchair users within Part M4(3) Category 3(2)(b) of Approved Document M (Access to and use of buildings: Volume 1 – Dwellings, 2015 edition incorporating 2016 amendments, published in accordance with the Building Regulations 2010 as amended)) across all unit sizes and tenures (the "**Wheelchair Affordable Housing Units**");
- 5.1.2 not Commence the West Site until details of the location of the Wheelchair Affordable Housing Units (including 1:50 floor plans of the proposed units) have been submitted to and approved by OPDC;
- 5.1.3 notify OPDC at least 6 (six) months prior to Practical Completion of each Wheelchair Affordable Housing Unit and thereafter from the date of such notification until the date of Practical Completion of such unit:
- (a) actively market the unit as a Wheelchair Affordable Housing Unit; and
 - (b) use Reasonable Endeavours to Dispose of the Wheelchair Affordable Housing Unit to a Household which includes a person with accessibility needs giving priority to Households which include a wheelchair user,

PROVIDED THAT in the event that any such unit has either not been sold or a tenancy has not been granted to a Household including a person with accessibility needs by the date of Practical Completion of the Wheelchair Affordable Housing Unit and evidence of the same has been provided to and approved by OPDC then the West Site Owner shall be entitled to market, let or sell (as appropriate) that unit to Households which do not include a person with accessibility needs.

- 5.2 For each and every subsequent Disposal of a Wheelchair Affordable Housing Unit, the West Site Owner shall:-

- 5.2.1 actively market the unit as a Wheelchair Affordable Housing Unit;
- 5.2.2 use Reasonable Endeavours to grant a tenancy for the Wheelchair Affordable Housing Unit to a Household which includes a wheelchair user, such Reasonable Endeavours to include implementing any additional measures agreed between the West Site Owner and OPDC at meetings held pursuant to paragraph 5.2.3; and
- 5.2.3 in the event that, following marketing, a tenancy is not granted to a Household including a wheelchair user, the West Site Owner shall report this to OPDC (such report to contain details and evidence of the steps the West Site Owner has taken in satisfaction of its obligations in paragraph 5.2.1 and 5.2.2) and shall, at OPDC's request, meet with OPDC to discuss a strategy for the future marketing of the Wheelchair Affordable Housing Units.

6. ELIGIBILITY CRITERIA AND OCCUPATION RESTRICTIONS

- 6.1 It is agreed that the restrictions contained in this paragraph 6 shall be subject to the provisions of paragraph 7.

- 6.2 The Affordable Housing Units shall not be Occupied for any purpose other than for London Affordable Rented Housing Units or Social Rented Housing Units for the lifetime of Block B and all occupational leases and tenancies of such units shall include a provision preventing sub-letting and underletting.

7. EXCLUSION OF LIABILITY

- 7.1 The obligations and restrictions contained in paragraph 6 of this Schedule shall not bind:-
- 7.1.1 a Chargee of the whole or any part of the Affordable Housing who has first complied with the provisions of paragraph 8;
 - 7.1.2 any RTA Purchaser;
 - 7.1.3 any voluntary right to buy purchaser exercising a voluntary right to buy or acquire in accordance with a voluntary right to buy scheme promoted by the GLA; or
 - 7.1.4 any person or body deriving title through or from any of the parties mentioned in paragraphs 7.1.1 to 7.1.3.

8. CHARGEES IN POSSESSION

- 8.1 In order to benefit from the protection granted by paragraph 7.1.1, a Chargee must:
- 8.1.1 serve a Default Notice on OPDC by delivery by hand to OPDC's registered offices during OPDC office hours or using first class registered post to OPDC's registered offices in either case addressed to the Head of Planning and Head of Legal Services of OPDC prior to seeking to dispose of the relevant Affordable Housing Units;
 - 8.1.2 when serving the Default Notice, provide to OPDC official copies of the title registers for the relevant Affordable Housing Units; and
 - 8.1.3 subject to paragraph 8.6 below, not exercise its power of sale over or otherwise dispose of the relevant Affordable Housing Units before the expiry of the Moratorium Period except in accordance with paragraph 8.3 below.
- 8.2 From the first day of the Moratorium Period to (but excluding) the date falling 1 (one) calendar month later, OPDC may serve an Intention Notice on the Chargee.
- 8.3 Not later than 15 (fifteen) Working Days after service of the Intention Notice (or such later date during the Moratorium Period as may be agreed in writing between OPDC and the Chargee), the Chargee will grant OPDC (and/or OPDC's nominated substitute Affordable Housing Provider) an exclusive option to purchase the relevant Affordable Housing Units which shall contain the following terms:
- 8.3.1 the sale and purchase will be governed by the Standard Commercial Property Conditions (Third Edition – 2018 Revision) (with any variations that may be agreed between the parties to the Option (acting reasonably));
 - 8.3.2 the price for the sale and purchase will be agreed in accordance with paragraph 8.4.2 below or determined in accordance with paragraph 8.5 below;
 - 8.3.3 provided that the purchase price has been agreed in accordance with paragraph 8.4.2 below or determined in accordance with paragraph 8.5 below, but subject to paragraph 8.3.4 below, OPDC (or its nominated substitute Affordable Housing Provider) may (but is not obliged to) exercise the Option and complete the purchase of the relevant Affordable Housing Units at any time prior to the expiry of the Moratorium Period;
 - 8.3.4 the Option will expire upon the earlier of (i) notification in writing by OPDC (or its nominated substitute Affordable Housing Provider) that it no longer intends to exercise the Option and (ii) the expiry of the Moratorium Period; and

8.3.5 any other terms agreed between the parties to the Option (acting reasonably).

8.4 Following the service of the Intention Notice:

8.4.1 the Chargee shall use Reasonable Endeavours to reply to enquiries raised by OPDC (or its nominated substitute Affordable Housing Provider) in relation to the Affordable Housing Units as expeditiously as possible having regard to the length of the Moratorium Period; and

8.4.2 OPDC (or its nominated substitute Affordable Housing Provider) and the Chargee shall use Reasonable Endeavours to agree the purchase price for the relevant Affordable Housing Units, which shall be the higher of:

(a) the price reasonably obtainable in the circumstances having regard to the restrictions as to the use of the relevant Affordable Housing Units contained in this Schedule; and

(b) (unless otherwise agreed in writing between OPDC (or its nominated substitute Affordable Housing Provider) and the Chargee) the Sums Due.

8.5 On the date falling 10 (ten) Working Days after service of the Intention Notice, if OPDC (or its nominated substitute Affordable Housing Provider) and the Chargee have not agreed the price pursuant to paragraph 8.4.2(a) above:

8.5.1 OPDC (or its nominated substitute Affordable Housing Provider) and the Chargee shall use Reasonable Endeavours to agree the identity of an independent surveyor having at least 10 (ten) years' experience in the valuation of affordable/social housing within the London area to determine the dispute and, if the identity is agreed, shall appoint such independent surveyor to determine the dispute;

8.5.2 if, on the date falling 15 (fifteen) Working Days after service of the Intention Notice, OPDC (or its nominated substitute Affordable Housing Provider) and the Chargee have not been able to agree the identity of an independent surveyor, either party may apply to the President for the time being of the Royal Institution of Chartered Surveyors or his deputy to appoint an independent surveyor having at least 10 (ten) years' experience in the valuation of affordable/social housing within the London area to determine the dispute;

8.5.3 the independent surveyor shall determine the price reasonably obtainable referred to at paragraph 8.4.2(a) above, due regard being had to all the restrictions imposed upon the relevant Affordable Housing Units by this Agreement;

8.5.4 the independent surveyor shall act as an expert and not as an arbitrator;

8.5.5 the fees and expenses of the independent surveyor are to be borne equally by the parties;

8.5.6 the independent surveyor shall make his/her decision and notify OPDC, OPDC's nominated substitute Affordable Housing Provider (if any) and the Chargee of that decision no later than 14 days after his/her appointment and in any event within the Moratorium Period; and

8.5.7 the independent surveyor's decision will be final and binding (save in the case of manifest error or fraud).

8.6 The Chargee may dispose of the relevant Affordable Housing Units free from the obligations and restrictions contained in paragraph 6 of this Schedule which shall determine absolutely in respect of those Affordable Housing Units (but subject to any existing tenancies) if:

8.6.1 OPDC has not served an Intention Notice before the date falling 1 (one) calendar month after the first day of the Moratorium Period;

8.6.2 OPDC (or its nominated substitute Affordable Housing Provider) has not exercised the Option and completed the purchase of the relevant Affordable Housing Units on or before the date on which the Moratorium Period expires; or

8.6.3 OPDC (or its nominated substitute Affordable Housing Provider) has notified the Chargee in writing pursuant to the Option that it no longer intends to exercise the Option.

8.7 OPDC (and its nominated substitute Affordable Housing Provider, if any) and the Chargee shall act reasonably in fulfilling their respective obligations under paragraphs 8.1 to 8.6 above (inclusive).

9. STUDENT ACCOMMODATION MANAGEMENT

9.1 The East Site Owner shall:

9.1.1 prior to first Occupation of the Student Accommodation submit a Student Accommodation Management Plan to OPDC for approval;

9.1.2 not Occupy or permit Occupation of Block A until OPDC has approved the Student Accommodation Management Plan;

9.1.3 thereafter implement the approved Student Accommodation Management Plan.

9.2 Subject to paragraph 9.5 of this Schedule, prior to first Occupation of the Student Accommodation the East Site Owner shall:

9.2.1 use Reasonable Endeavours to enter into a Student Accommodation Nominations Agreement with one or more Higher Education Provider (or proxy for a Higher Education Provider) during the Academic Year for no less than 151 (one hundred and fifty one) Private Student Accommodation Units,

9.2.2 use Reasonable Endeavours to enter into a Student Accommodation Nominations Agreement with one or more Higher Education Provider (but NOT a proxy for a Higher Education Provider) during the Academic Year for no less than 238 (two hundred and thirty eight) Affordable Student Accommodation Units;

9.2.3 provide a copy of the agreement(s) completed pursuant to paragraph 9.2.1 and paragraph 9.2.2 to OPDC;

for the life of Block A and ensuring that any such agreement shall dovetail with the end of construction or the expiry of an existing agreement so the required number of Student Accommodation Units are continuously covered by a Student Accommodation Nominations Agreement.

9.3 Subject to paragraph 9.5, the Owner shall not Occupy or permit Occupation of Block A until it has fully complied with paragraphs 9.1 and 9.2.

9.4 Where paragraphs 9.2.1 and 9.2.2 of this Schedule apply and the East Site Owner has provided OPDC with evidence of the use of Reasonable Endeavours and the reasons for having failed to enter into a Student Accommodation Nominations Agreement for the relevant Private Student Accommodation Units and Affordable Student Accommodation Units and OPDC has confirmed in writing that it is satisfied that the East Site Owner has used Reasonable Endeavours then from the date of such confirmation it is hereby agreed the East Site Owner may directly let the Private Student Accommodation Units and the Affordable Student Accommodation Units in the absence of Student Accommodation Nominations Agreement(s) in accordance with the Cascade PROVIDED THAT the East Site Owner shall continue to use Reasonable Endeavours to enter into a Student Accommodation Nominations Agreement in respect of the Private Student Accommodation Units and the Affordable Student Accommodation for the next Academic Year.

9.5 The obligations at paragraph 9.2 to 9.4 of this Schedule shall not apply if the Student Accommodation is owned, operated or controlled by a Higher Education Provider.

10. STUDENT HOUSING PROVISION

10.1 The East Site Owner shall ensure:

- 10.1.1 that the design, construction and layout of the Affordable Student Accommodation Units are the equivalent of and shall be indistinguishable from the Private Student Accommodation Units;
- 10.1.2 subject to paragraphs 9.4 and 9.5 of this Schedule that the Student Accommodation is allocated in accordance with the provisions contained within the Student Accommodation Nominations Agreement(s);
- 10.1.3 subject to paragraphs 9.4 and 9.5 of this Schedule not to let or allow the Student Accommodation Units to be Occupied other than by Students during the Academic Year;
- 10.1.4 subject to paragraphs 9.4 and 9.5 of this Schedule not to let or allow the Affordable Student Accommodation Units to be let other than as Affordable Student Accommodation by Students nominated pursuant to the Student Accommodation Nominations Agreement during the Academic Year;
- 10.1.5 that any Student communal areas shall be equally accessible to all Students at the same times on equal terms without the requirement for any additional fees or charges in excess of the rent to be paid in relation to each Student Accommodation Unit.

10.2 In circumstances where the Affordable Student Accommodation Units have been completed and are ready for Occupation part way through the Academic Year and the East Site Owner has not entered into a Student Accommodation Nominations Agreement(s) the East Site Owner may directly let the Affordable Student Accommodation Units in accordance with the Cascade for the remainder of that Academic Year.

10.3 None of the Private Student Accommodation Units shall be Occupied until the Affordable Student Accommodation Units are Practically Completed and made ready for Occupation and OPDC have been given written notice of the date when the Occupation of the Private Student Accommodation Units is intended to occur which notice shall be given not less than fourteen (14) days prior to Occupation first occurring.

10.4 Subject to paragraphs 10.5 and 10.6 of this Schedule, the rent charges (inclusive of service charges, utilities and estate charges) for the letting of any Affordable Student Accommodation Units shall not exceed the London Student Accommodation Affordable Rent applicable at the time.

10.5 For so long as the London Student Accommodation Affordable Rent is published annually, the East Site Owner shall once every three years from the date of the First Occupation of the Student Accommodation submit to OPDC for their approval a report detailing:-

- 10.5.1 the current rent charges (inclusive of service charges, utilities and estate charges) for the letting of each Affordable Student Accommodation Unit; and
- 10.5.2 whether the current rent charges (together with any annual increases pursuant to paragraph 10.4 of this Schedule) require recalibration to reflect the most recently published London Student Accommodation Affordable Rent,

and thereafter the proposed recalibrated rent charges set out in the approved report shall be effective from the beginning of the next Academic Year until the submission of the next report pursuant to this paragraph 10.5.

10.6 If the London Student Accommodation Affordable Rent ceases to be published annually, the East Site Owner shall submit to OPDC for approval a report annually detailing:-

- 10.6.1 the current rent charges (inclusive of service charges, utilities and estate charges) for the letting of each Affordable Student Accommodation Unit; and

- 10.6.2 the proposed rent charges (inclusive of service charges, utilities and estate charges) for the letting of the Affordable Student Accommodation Units for the following Academic Year, which shall not exceed 55% of the maximum income that a new full-time student staying in London and living away from home could receive from the Government's maintenance loan for living costs for that Academic Year,

and thereafter the proposed rent charges set out in the approved report shall be effective from the beginning of the next Academic Year until the submission of the next report pursuant to this paragraph 10.6.

11. STUDENT ACCOMMODATION (GENERAL PROVISIONS)

- 11.1 During each Academic Year, the East Site Owner covenants with OPDC as follows:-
- 11.1.1 to ensure that the Student Accommodation is used at all times as a single planning unit;
 - 11.1.2 to ensure that the Student Accommodation is used and occupied for no purpose other than its authorised purpose as student accommodation;
 - 11.1.3 that no part of the Student Accommodation shall at any time be used as separate, independent self-contained dwelling unit not forming part of the single planning unit; and
 - 11.1.4 that no part of the Student Accommodation shall be sold leased licensed or otherwise disposed of in any form as a separate unit of use or occupation other than in accordance with the provisions in this Schedule.
- 11.2 For the avoidance of doubt, outside the Academic Year the East Site Owner is permitted to market and let the Student Accommodation to Non-Students.

12. CONSTRUCTION PHASING

- 12.1 The Owner shall not Occupy Block A until there has been Substantial Implementation of Block B.
- 12.2 No more than 50% (fifty per cent) of the Student Accommodation Units in Block A shall be Occupied until Block B has been Practically Completed and is ready for Occupation.

SCHEDULE 2

VIABILITY REVIEW

PART 1

DEFINITIONS

"Additional Affordable Housing"	means any Additional Affordable Student Accommodation Units and/or any Additional Affordable Student Accommodation Contribution all of which shall be subject to the Affordable Housing Cap
"Additional Affordable Student Accommodation Contribution"	means a financial contribution payable to OPDC in lieu of the provision of Additional Affordable Student Accommodation Units which can include but not be limited to the use by OPDC for the purposes of making existing or new Affordable Student Accommodation more affordable and made in accordance with the provisions of this Schedule if an Additional Affordable Student Accommodation Scheme submitted and approved pursuant to paragraph 3.4 or 3.5 of this Schedule 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 Student Accommodation Scheme"	means a scheme to be prepared by the East Site Owner and submitted to OPDC in accordance with the provisions of this Schedule and which identifies how some or all of the surplus profit identified in the Early Stage Review could be applied towards the provision of Additional Affordable Student Accommodation Units, to include: (a) details of which Private Student Accommodation Units would be converted into Additional Affordable Student Accommodation Units; (b) 1:50 plans showing the location, size and internal layout of each Additional Affordable Student Accommodation Unit with reference (as applicable) to plans and drawings approved as part of the Planning Application; (c) a timetable for construction and delivery of the Additional Affordable Student Accommodation Units; (d) the amount (if any) of any financial contribution payable towards offsite Affordable Housing in the event that: (i) surplus profit arises from the Early Stage Review but such surplus profit is insufficient to provide any Additional Affordable Student Accommodation Units; or (ii) if a surplus profit arises from the Early Stage Review and such profit is sufficient to deliver one or more Additional Affordable Student Accommodation Units but also delivers a further sum which is insufficient to provide a whole further Additional Affordable Student Accommodation Unit (so, by way of example, if the Early Stage Review surplus profit is sufficient to provide 2.35 Additional Affordable Student Accommodation Units then 2 Additional Affordable Student Accommodation Units shall be provided and the 0.35 shall be used

to calculate the Additional Affordable Student Accommodation Contribution)

"Additional Affordable Student Accommodation Units"	means the Private Student Accommodation Units to be converted to Affordable Student Accommodation pursuant to any Additional Affordable Student Accommodation Scheme to be approved under paragraph 3 and "Additional Affordable Student Accommodation" shall be construed accordingly
"Affordable Housing Cap"	means that the East Site Owner shall not in any circumstances be required to deliver Additional Affordable Student Accommodation and/or pay an Additional Affordable Student Accommodation Contribution beyond the point where the total amount of the Affordable Housing Units, the Affordable Student Accommodation for the Development (being the Affordable Student Accommodation and the Additional Affordable Student Accommodation) and any Additional Affordable Student Accommodation Contribution comprise the financial equivalent of providing 50% (fifty per cent) of the total number of Habitable Rooms for the Development as Affordable Housing
"Average Affordable Student Accommodation Value"	means the average value of Affordable Student Accommodation Units at the Early Stage Review Date based on the relevant information provided to establish the Early Stage Review GDV to be assessed by OPDC and the Owner
"Average Private Student Accommodation Value"	means the average value of the Private Student Accommodation Units at the Early Stage Review Date based on the relevant information provided to establish the Early Stage Review GDV to be assessed by OPDC and the Owner
"Build Costs"	means the build costs comprising construction of the Private Student Accommodation Units 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 East Site Owner's quantity surveyor, costs consultant or agent but for the avoidance of doubt build costs exclude: (d) professional, finance, legal and marketing costs; (e) all internal costs of the East Site Owner including but not limited to project management costs, overheads and administration expenses; and (f) any costs arising from Fraudulent Transactions
"Component"	means a part of the Development including but not limited to: (a) the Private Student Accommodation Units; (b) the Affordable Student Accommodation Units; (c) Commercial Floorspace;

		(d) any other floorspace; (e) property; and (f) land but for avoidance of doubt excludes the Affordable Housing Units
"Development Viability Information"	means	(a) in respect of Formula 1a: (i) Early Stage Review GDV; and (ii) Early Stage Review Build Costs; (b) in respect of Formula 2: (i) Average Private Student Accommodation Value (ii) Average Affordable Student Accommodation Value; and including in each case supporting evidence to OPDC's reasonable satisfaction
"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
"Early Review"	Stage	means the upwards only review of the financial viability of the Development at the Early Stage Review Date in accordance with paragraphs 2 and 3 of this Schedule to determine whether Additional Affordable Student Accommodation Units can be provided as part of the East Site and/or an Additional Affordable Student Accommodation Contribution is payable
"Early Stage Review Build Costs"		means the sum of: (a) the estimated Build Costs remaining to be incurred; and (b) the Build Costs actually incurred at the Early Stage Review Date
"Early Stage Review Date"		means the date of the submission of the Development Viability Information pursuant to paragraph 2 of this Schedule

"Early Stage Review GDV" means the estimated Market Value at the Early Stage Review Date of the Private Student Accommodation Units based on detailed comparable evidence.

"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 at the Early Stage Review for determining surplus profit available for Additional Affordable Student Accommodation Units:

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

Where:

A = Early Stage Review GDV (£)

B = $A \div (C + 1)$ Assumed application stage GDV for the Private Student Accommodation Units at the date of the Planning Permission (£)

C = Percentage change in value of the Private Student Accommodation Units from grant of Planning Permission to the Early Stage Review Date using the Land Registry House Price Index (or such other index agreed between the parties at the time of the Early Stage Review Date)

D = Early Stage Review Build Costs as determined at the Early Stage Review Date (£)

E = $D \div (F+1)$ Assumed application stage Build Costs at the date of the Planning Permission (£)

F = Percentage change in Build Costs from grant of the Planning Permission to the Early Stage Review Date using the Build Cost Information Service All-in Tender Price Index

P = $(A - B) * Y$

Y = Target Return (%)

Notes:

(A - B) represents the change in GDV of the Private Student Accommodation Units from the date of Planning Permission to the date of the Early Stage Review.

(D - E) represents the change in build costs for the Private Student Accommodation Units from the date of Planning Permission to the date of the Early Stage Review.

P represents developer profit on change in GDV.

"Formula 2" means the following formula for determining the amount of Additional Affordable Student Accommodation where the application of Formula 1a identifies a surplus profit:

X = Additional Affordable Student Accommodation Units requirement (by Habitable Rooms)

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

Where:

- A** = Average Private Student Accommodation Value (£ per m²)
- B** = Average Affordable Student Accommodation Value (£ per m²)
- D** = Average Habitable Room size for the Student Accommodation being 21.4m²
- E** = Surplus profit available for Additional Affordable Student Accommodation Units as determined in Formula 1a (£)

Notes:

(A – B) represents the difference in Average Private Student Accommodation Value per m² and the Average Affordable Student Accommodation Value per m² (£).

"Fraudulent Transaction"

means:

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

"Market Value"

means the price at which the sale of the relevant property interest would have been completed unconditionally for cash consideration on the Early Stage Review Date based on detailed comparable market evidence, including evidence of rental values achieved for any Component of the Development which has been Disposed but not Sold, 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 6 (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; and
- (d) that both parties to the transaction have acted knowledgeably, prudently and without compulsion

"Public Subsidy"

means 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

"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 following:

- (a) in respect of Block B, the letting of a contract or contracts for the construction of Block B;
- (b) in respect of either Block A or Block B (whichever is the earlier):
 - (1) completion of all ground preparation works and any enabling works for the first Block;
 - (2) completion of the foundations for the first Block;
 - (3) construction of the lower basement slab for the first Block

"Substantial Implementation Target Date"

means the date 24 (twenty-four) months from but excluding the date of grant of the Planning Permission provided that such date may be extended to account for any unreasonable delays in obtaining approvals from the Building Safety Regulator evidenced by the East Site Owner to the reasonable satisfaction of OPDC

"Target Return"

means profit on value of 15% (fifteen per cent) as a percentage of GDV.

PART 2

EARLY STAGE REVIEW

1. EARLY REVIEW TRIGGER

- 1.1 The East Site Owner shall notify OPDC in writing of the date on which it considers that Substantial Implementation has been achieved no later than 5 (five) 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 East Site 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, the East Site 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 East Site 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 East Site 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; or
 - 1.4.2 if OPDC makes a request under paragraph 1.2 of this Schedule, the additional documentary evidence,
- OPDC shall inspect the Site and thereafter provide written confirmation to the East Site 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 East Site Owner that OPDC considers that Substantial Implementation has not been achieved then this paragraph 1 of this Schedule shall continue to apply mutatis mutandis until OPDC has notified the East Site Owner pursuant to paragraph 1.4 of this Schedule that Substantial Implementation has been achieved.
- 1.6 The East Site Owner shall not Occupy Block A or any part thereof until:
- 1.6.1 OPDC has notified the East Site Owner pursuant to paragraph 1.4 of this Schedule that Substantial Implementation has been achieved on or before the Substantial Implementation Target Date;
 - 1.6.2 OPDC has notified the East Site Owner pursuant to paragraph 3.4 of this Schedule that no Additional Affordable Student Accommodation or no Additional Affordable Student Accommodation Contribution is required; or
 - 1.6.3 if OPDC notifies the East Site Owner pursuant to paragraph 3.4 of this Schedule that Additional Affordable Student Accommodation is required, an Additional Affordable Student Accommodation Scheme has been approved pursuant to paragraph 3.4 or 3.5 of this Schedule.

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 or pursuant to dispute resolution in accordance with the provisions of clause 20 of this Deed):
- 2.1.1 the East Site Owner shall submit the following information no later than 20 (twenty) Working Days after the date on which the East Site Owner is notified pursuant to paragraph 1.4 of this Schedule that Substantial Implementation has been achieved, on the basis that OPDC may make such information publicly available:
 - (a) the Development Viability Information for Formula 1a and Formula 2;
 - (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 2 thereby confirming whether in the East Site Owner's view any Additional Affordable Student Accommodation can be provided; and
 - (c) where such written statement confirms that Additional Affordable Student Accommodation can be provided, an Additional Affordable Student Accommodation Scheme; and
 - (d) paragraphs 3 and 4 of this Schedule 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 and assess whether in its view Additional Affordable Student Accommodation is required to be delivered in accordance with Formula 1a and Formula 2 and for the avoidance of doubt OPDC will be entitled to rely on its own evidence in determining inputs into Formula 1a and Formula 2 subject to such evidence also being provided to the East Site Owner.
- 3.2 OPDC may appoint an External Consultant to assess the information submitted pursuant to paragraph 2 of this Schedule.
- 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 East Site Owner shall provide any reasonably required information to OPDC or the External Consultant (as applicable and with copies to the other parties) within 10 (ten) 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 Student Accommodation or an Additional Affordable Student Accommodation Contribution is required to be delivered in accordance with Formula 1a and Formula 2.
- 3.4 When OPDC or its External Consultant has completed its assessment of the information submitted pursuant to paragraph 2 of this Schedule, OPDC shall notify the East Site Owner in writing of OPDC's decision as to whether there is surplus profit to apply towards the provisions of Additional Affordable Student Accommodation and if so:
- 3.4.1 whether any Additional Affordable Student Accommodation Units are required;
- 3.4.2 whether some or all the surplus profit identified shall be paid to OPDC as a financial contribution towards Additional Affordable Student Accommodation in OPDC's administrative area (including but not limited to surplus profit allocable to any incomplete Additional Affordable Student Accommodation Unit if the surplus profit is insufficient to provide any Additional Affordable Student Accommodation Unit or cannot deliver a whole number of Additional Affordable Student Accommodation Units pursuant to Formula 2); and
- 3.4.3 whether the submitted Additional Affordable Student Accommodation Scheme is approved.
- 3.5 Where OPDC concludes that Additional Affordable Student Accommodation Units and/or an Additional Affordable Student Accommodation Contribution are required but these differ to the East Site Owner's initial Additional Affordable Student Accommodation Scheme and/or identifies a different Additional Affordable Student Accommodation Contribution, the East Site Owner shall provide an Additional Affordable Student Accommodation Scheme (or revised Additional Affordable Student Accommodation 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.
- 3.6 Unless otherwise agreed, the East Site Owner shall not Occupy any of the Private Student Accommodation Units that may be required in order to meet the requirements of the Additional Affordable Student Accommodation Scheme until the Additional Affordable Student Accommodation Scheme has been approved by OPDC.
- 3.7 The East Site Owner shall pay OPDC's costs which are reasonably and properly incurred in assessing the information submitted pursuant to paragraph 2 of this Schedule including those of the External Consultant within 20 (twenty) Working Days of receipt of a written request for payment.

4. DELIVERY OF ADDITIONAL AFFORDABLE STUDENT ACCOMMODATION

- 4.1 Where it is determined pursuant to paragraph 3.4 of this Schedule that Additional Affordable Student Accommodation is required the East Site Owner shall provide the Additional Affordable Student Accommodation Units in accordance with the Additional Affordable Student Accommodation Scheme.

- 4.2 The Parties agree that the terms of Schedule 1 shall apply mutatis mutandis to the provision of any Additional Affordable Student Accommodation as they apply to the provision of Affordable Student Accommodation.
- 4.3 Where it is determined pursuant to paragraph 3.4 of this Schedule that any surplus profit should be paid to OPDC as an Additional Affordable Student Accommodation Contribution the East Site Owner shall pay such financial contribution in accordance with the Additional Affordable Student Accommodation Scheme.

PART 3

MISCELLANEOUS

1. PUBLIC SUBSIDY

- 1.1 Nothing in this Deed shall prejudice any contractual obligation on the East Site Owner to repay or reimburse any Public Subsidy using any surplus profit that is to be retained by the East Site Owner following the application of Formula 2.

2. MONITORING

- 2.1 The parties acknowledge and agree that as soon as reasonably practicable following completion of this Deed OPDC shall report to the GLA through the London Development Database the number and tenure of the Affordable Housing Units and Affordable Student Accommodation Units by units and (as applicable) Habitable Room.
- 2.2 The Parties acknowledge and agree that as soon as reasonably practicable after the approval of the Additional Affordable Student Accommodation Scheme pursuant to paragraph 3.4 of this Schedule, or if an Additional Affordable Student Accommodation Scheme is not required by OPDC, the conclusion of the assessment under paragraph 3.4 of this Schedule, OPDC shall report to the GLA through the London Development Database the following information (to the extent applicable):
- 2.2.1 the number and tenure of the Additional Affordable Student Accommodation Units by unit numbers and habitable room (if any); and
- 2.2.2 the amount of any Additional Affordable Student Accommodation Contribution payable.

SCHEDULE 3

HIGHWAYS AND TRANSPORT

1. DEFINITIONS

"Bus Contribution"	means the sum of £240,500 (two hundred and forty thousand five hundred pounds) (Index Linked) to be applied towards increasing the capacity of the local bus network which serve bus stops within 250 metres of the Site and towards local bus network improvements
"Car Parking Management Plan"	means a car parking management plan or plans detailing how all parking spaces on the East Site or the West Site (as the context may require) will be monitored, managed and enforced, including (as applicable): (a) provisions to control use of the on-street disabled parking bay; (b) provisions to make available the secondary disabled parking bay on the East Site, subject to demand
"Delivery and Servicing Plan"	means a delivery and servicing plan or plans to minimise the impacts on the road network in connection with the East Site or the West Site (as the context may require) and ensure a safe environment for active modes including the following provisions (as applicable): (a) delivery restriction times for all Commercial Floorspace outside daytime hours; (b) details of how deliveries and servicing will be managed across all land uses, including monitoring mechanisms, enforcement of loading restrictions in relation to the on-street servicing bay and use of a booking system; (c) in relation to the East Site, investigation of opportunities for consolidation of post/parcel deliveries to the Student Accommodation, and Reasonable Endeavours to implement these opportunities if feasible; (d) in relation to the East Site, a move-in and move-out Student plan in order to accommodate a large number of seasonal arrivals
"Highway Agreement"	means an agreement entered into with the Highway Authority pursuant to inter alia sections 38 and 278 of the 1980 Act
"Highway Authority"	means LBE or such successor or replacement highway authority
"Highway Reinstatement Works"	means works of repair and reinstatement of the highway, footways and cycle lanes 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 this Schedule 3
"Highway Reinstatement Area"	means the area shown shaded blue on Plan 2 in Appendix 1
"Highway Works"	means the highway works shown indicatively on Plan 3 in Appendix 1 and which include:-

- (a) footway resurfacing, footway modification, relocation and/or replacement of street lighting, installation of lining and signage and installation of trees and planting;
- (b) provision of servicing and deliveries layby on Park Royal Road (the extent/length, design and signage associated with the layby to be defined in the Highway Agreement);
- (c) extension of the adopted highway to include the realigned pavement and (if required) a potential future cycleway;
- (d) the implementation of a traffic regulation order to secure the servicing and deliveries layby for servicing and delivery use (not general parking);
- (e) Reasonable Endeavours to provide an active EV charging point for the on-street parking spaces on the western side of Park Royal Road;
- (f) the provision of the Highway Reinstatement Works

"Public Realm Contribution" means the sum of £1,000,000 (one million pounds) (Index Linked) to be ringfenced towards public realm improvements in the vicinity of the Site with priority given to Park Royal Road including:

- (a) a shared cycle lane/pavement between the bridge immediately to the north of the Site and Victoria Road to the south of the Site;
- (b) two zebra crossings across Park Royal Road;
- (c) upgrade of the Western Avenue underpass and the 'North Cemetery Route';
- (d) path widening, re-surfacing, and introduction of new trees, greening and lighting

"Public Transport Contribution" means the sum of £436,568 (four hundred and thirty six thousand five hundred and sixty eight pounds) (Index Linked) to be applied towards North Acton station improvements

"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);

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 Prior to Practical Completion of the Development the Owner shall give OPDC the following information for written approval:
 - 2.2.1 a proposed specification for the Highway Works (other than in respect of the Highway Reinstatement Works); and
 - 2.2.2 a proposed programme for the Highway Works referred to in paragraph 2.2.1 of this Schedule.
- 2.3 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:
 - 2.3.1 a further Schedule of Highway Condition;
 - 2.3.2 a proposed specification for the Highway Reinstatement Works; and
 - 2.3.3 a proposed programme for the Highway Reinstatement Works.
- 2.4 Following written approval of the information submitted for approval in accordance with paragraphs 2.2 and 2.3 of this Schedule by OPDC, the Owner shall:
 - 2.4.1 unless otherwise agreed with OPDC, enter into a Highway Agreement with the Highway Authority in respect of the Highway Works; and
 - 2.4.2 thereafter carry out the Highway Works in accordance with the Highway Agreement.
- 2.5 Unless otherwise agreed with OPDC, the Owner shall not permit any Occupation of the Development until:
 - 2.5.1 the information submitted for approval in accordance with paragraphs 2.2 and 2.3 of this Schedule have been approved in writing by OPDC;
 - 2.5.2 the Owner has entered into a Highway Agreement(s) in respect of the approved Highway Works in accordance with paragraph 2.4 of this Schedule; and
 - 2.5.3 the Owner has Practically Completed the Highway Works in accordance with the Highway Agreement.
- 2.6 The Owner shall consult with the Highway Authority in respect of the approval of the information required to be submitted pursuant to this paragraph and shall provide details of LBE's responses to OPDC when submitting those details for approval.

3. PUBLIC REALM CONTRIBUTION

- 3.1 The Owner shall:-
 - 3.1.1 pay the Public Realm Contribution to OPDC prior to the Commencement of Development; and
 - 3.1.2 not Commence any part of the Development until the Public Realm Contribution has been paid in full to OPDC.

4. PUBLIC TRANSPORT CONTRIBUTION

4.1 The Owner shall:-

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

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

5. BUS CONTRIBUTION

5.1 The Owner shall:-

5.1.1 pay the Bus Contribution to OPDC prior to the Commencement of Development; and

5.1.2 not Commence any part of the Development until the Bus Contribution has been paid in full to OPDC.

6. DELIVERY AND SERVICING PLAN

6.1 The East Site Owner shall:-

6.1.1 submit a Delivery and Servicing Plan for Block A to OPDC for approval prior to the Occupation of Block A; and

6.1.2 not Occupy Block A until the Delivery and Servicing Plan for Block A has been submitted to and approved by OPDC.

6.2 The West Site Owner shall:-

6.2.1 submit a Delivery and Servicing Plan for Block B to OPDC for approval prior to the Occupation of Block B; and

6.2.2 not Occupy Block B until the Delivery and Servicing Plan for Block B has been submitted to and approved by OPDC.

7. CAR PARKING MANAGEMENT PLAN

7.1 The East Site Owner shall:-

7.1.1 submit a Car Parking Management Plan for Block A to OPDC for approval prior to the Occupation of Block A; and

7.1.2 not Occupy Block A until the Car Parking Management Plan for Block A has been submitted to and approved by OPDC.

7.2 The West Site Owner shall:-

7.2.1 submit a Car Parking Management Plan for Block B to OPDC for approval prior to the Occupation of Block B; and

7.2.2 not Occupy Block B until the Car Parking Management Plan for Block B has been submitted to and approved by OPDC.

SCHEDULE 4

PUBLIC OPEN SPACE AND PUBLIC ACCESS

1. DEFINITIONS

"Green Infrastructure and Open Space Strategy and Management Plan" means a plan for the long-term management and maintenance of the proposed biodiversity features for the East Site or West Site (as applicable)

"Offsite Publicly Accessible Open Space Contribution" means the sum of £513,586.50 (five hundred and thirteen thousand five hundred and eighty six pounds fifty pence) (Index Linked) to be used towards the Off Site delivery of publicly accessible open space projects or related improvements in the vicinity of the Site

"Offsite Play Space Contribution" means the sum of £126,900 (one hundred and twenty six thousand nine hundred pounds) (Index Linked) to be used towards the Off Site delivery of play space improvements in the vicinity of the West Site

"Permitted Closures" means temporary closure of any area of Public Access Areas (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

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 Public Access Area 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 Public Access Areas

where such temporary closure is required for the purposes 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)

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

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 East Site 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;

for the avoidance of doubt, any Permitted Closures will be in addition to any closures or hours of non-operation of the Public Access Areas detailed in any Public Access and Community Use Management Plan approved pursuant to this Schedule from time to time

"Public Areas"	Access	means public access to the following facilities in Block A in accordance with the approved Public Access and Community Use Management Plan and subject to any Permitted Closures:
		(a) café;
		(b) co-working space;
		(c) classrooms; and
		(d) cinema/auditorium
"Public Access and Community Use Management Plan"		means a plan to be submitted to OPDC for approval pursuant to this Schedule and as may be amended from time to time and agreed with OPDC setting out management and community use of the Public Access Areas which shall include the following provisions:
		(a) specified minimum number of hours per calendar month when public access will be allowed to the Public Access Areas (focussed, but not limited to hours when those areas are not generally in use by The Stay Club and its residents and the Stay Campus);
		(b) no charge to recognised local voluntary groups, community-based organisations, OPDC Employment and Skills Hub and ward members for council-related business;
		(c) an affordable charge for all other users, including the Occupiers of the Industrial Floorspace;
		(d) how there will be community reach out to local residents/local community groups to advertise the space;
		(e) appropriate reviewing and reporting mechanisms to monitor and update the plan as appropriate and subject to approval by OPDC

2. OFFSITE PUBLICLY ACCESSIBLE OPEN SPACE CONTRIBUTION AND OFFSITE PLAY SPACE CONTRIBUTION

2.1 The West Site Owner shall:-

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

2.2 The Owner shall:-

- 2.2.1 pay the Offsite Publicly Accessible Open Space Contribution to OPDC prior to the Commencement of Development; and
- 2.2.2 not Commence any part of the Development until the Offsite Publicly Accessible Open Space Contribution has been paid in full to OPDC.

3. PUBLIC ACCESS AREAS

3.1 The East Site Owner shall:-

- 3.1.1 submit the Public Access and Community Use Management Plan for Block A to OPDC for approval prior to Occupation of Block A;
- 3.1.2 not Occupy Block A until the Public Access and Community Use Management Plan for Block A has been submitted to and approved by OPDC;
- 3.1.3 thereafter, implement the approved Public Access and Community Use Management Plan for Block A and allow public access to the Public Access Areas in accordance with the approved Public Access and Community Use Management Plan for Block A (as may be amended from time to time with the approval of the OPDC) **SUBJECT TO:-**
 - (a) Permitted Closures; and
 - (b) any lawful requirements of the police or any other competent authority;
- 3.1.4 review the measures within the Public Access and Community Use Management Plan on an annual basis (unless an alternative time period is agreed in writing between the East Site Owner and OPDC) following First Occupation of Building A, and if requested by the OPDC, submit a revised Public Access and Community Use Management Plan to the OPDC for approval.

3.2 Where the Public Access Areas (or any part thereof) are subject to a Permitted Closure:

- 3.2.1 the Public Access Areas 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;
- 3.2.2 for the avoidance of doubt, the Permitted Closures will be in addition to any closures or hours of non-operation of the Public Access Areas detailed in any Public Access and Community Use Management Plan approved pursuant to this Schedule from time to time.

4. GREEN INFRASTRUCTURE AND OPEN SPACE STRATEGY AND MANAGEMENT PLAN

4.1 The West Site Owner shall:-

- 4.1.1 submit a Green Infrastructure and Open Space Strategy and Management Plan for the West Site to OPDC for approval prior to the Commencement of Development on the West Site; and
- 4.1.2 not Commence the Development on the West Site until the Green Infrastructure and Open Space Strategy and Management Plan for the West Site has been submitted to and approved by OPDC;
- 4.1.3 thereafter implement the approved Green Infrastructure and Open Space Strategy and Management Plan in respect of the West Site.

4.2 The East Site Owner shall:-

- 4.2.1 submit a Green Infrastructure and Open Space Strategy and Management Plan for the East Site to OPDC for approval prior to the Commencement of Development on the East Site; and
- 4.2.2 not Commence the Development on the East Site until the Green Infrastructure and Open Space Strategy and Management Plan for the East Site has been submitted to and approved by OPDC;
- 4.2.3 thereafter implement the approved Green Infrastructure and Open Space Strategy and Management Plan in respect of the East Site.

SCHEDULE 5

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
"Car Club"		means a club, operated by a Car Club Operator that Residents may join and which makes cars available to hire to members on a short term basis as and when required subject to availability fees and membership rules
"Car Club Operator"		means a company that is accredited by CoMoUK (registered charity 1093980) or any successor or equivalent organisation to operate Car Clubs 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
"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
"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 4 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 3
"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 5 subject to such reasonable amendments as may be required by LBE

2. CAR CLUB MEMBERSHIP

- 2.1 Prior to First Occupation of each Residential Unit, the West Site 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 a Resident notifies the West Site Owner that they wish to become a member of the Car Club, the West Site 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 West Site 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 West Site 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 West Site 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 West Site 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 East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) for themselves and their successors in title (other than Blue Badge Holders) hereby waive all rights and entitlement (if any) on the part of the East Site Owner or the West Site Owner (as the case may be) to a Parking Permit in the CPZ.
- 3.2 The East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) severally covenant that all material utilised for advertising or marketing each and every individual:
- 3.2.1 in respect of the West Site, Residential Unit for letting or sale; or,
- 3.2.2 in respect of the East Site, Student Accommodation Unit,
- 3.3 will make it clear to prospective purchasers, tenants, Students and Occupiers (as applicable) that no Parking Permit (other than for a Blue Badge Holder) will be issued by LBE for any Residential Unit and/or Student Accommodation Unit (as applicable).
- 3.4 The East Site Owner shall not Occupy nor allow or suffer any part of Block A to be Occupied unless and until the East Site Owner has informed the intended Occupier of Block A or relevant part thereof by notice in writing:
- 3.4.1 that Block A is a Car-Free Housing Scheme; and
- 3.4.2 that (save for any Blue Badge Holders) intended Occupiers of Block A (or any person having any connection whatsoever or relationship with any such intended Occupier whether contractual, personal or otherwise and who is already resident at Block A) shall not be entitled to any form of permit from LBE which would allow them to park any motor vehicle within a CPZ.
- 3.5 The West Site Owner shall not Occupy nor allow or suffer any part of Block B to be Occupied unless and until the West Site Owner has informed the intended Occupier of Block B or relevant part thereof by notice in writing:
- 3.5.1 that Block B is a Car-Free Housing Scheme; and
- 3.5.2 that (save for any Blue Badge Holders) intended Occupiers of Block B (or any person having any connection whatsoever or relationship with any such intended Occupier whether contractual, personal or otherwise and who is already resident at Block B) shall not be entitled to any form of permit from LBE which would allow them to park any motor vehicle within a CPZ.
- 3.6 Upon receiving written request from OPDC, the East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) shall provide OPDC with such evidence as OPDC may reasonably require to demonstrate that the East Site Owner or the West Site Owner (as applicable) are complying with the requirements of paragraphs 3.2 - 3.4 of this Schedule.

4. CONTROLLED PARKING ZONES – RESTRICTIONS ON TITLE

- 4.1 The East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) for themselves and their successors in title (other than Blue Badge Holders) hereby severally covenant not to lease or transfer the whole or any part of the East Site or the West Site (as the case may be) unless they have 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 East Site or the West Site (as the case may be) covenants not to apply to LBE for a Parking Permit for a CPZ.

- 4.2 The East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) hereby covenant for themselves and their successors in title not to transfer their interest in the East Site or the West Site (as the case may be) or grant a leasehold interest in the East Site or the West Site (as the case may be) or any part thereof (other than a leasehold interest in an individual Residential Unit, Student Accommodation Unit or unit of Commercial Floorspace 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 East Site Owner shall not Implement the East Site 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 have been complied with.
- 4.4 The West Site Owner shall not Implement the West Site 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 have been complied with.
5. **CONTROLLED PARKING ZONES – UNDERTAKINGS TO LBE**
- 5.1 No Development or any part thereof shall be Commenced unless and until:
- 5.1.1 the Owner has given a Unilateral Undertaking to LBE and submitted a copy of the same to OPDC; and
- 5.1.2 OPDC has provided written confirmation of discharge of the obligation in paragraph 5.1.1 of this Schedule (such discharge not to be withheld or delayed unreasonably).
- 5.2 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 Undertakings.

SCHEDULE 6

RESIDENTIAL TRAVEL PLAN

1. DEFINITIONS

- "Modal Split Targets"** means the modal split targets identified in the approved Residential Travel Plan
- "Residential Travel Plan"** means the travel plan or plans to be submitted to OPDC for approval pursuant to paragraph 2.1 and 2.3 of this Schedule in connection with the East Site or the West Site (as the context may require) which shall:
- (a) promote sustainable modes of transport and discourage use of single car occupancy by Occupiers and visitors to Block A or Block B (as the context may require);
 - (b) include the information and measures set out at paragraph 3 of this Schedule;
 - (c) be in accordance with and expand upon the travel plan submitted with the Planning Application
- "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 an approved Residential Travel Plan by carrying out the following monitoring of travel to and from a Block which shall as a minimum include the following (as applicable): -
- (a) carrying out representative surveys of the modal split of visitors to each Block (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 each Block; and
 - (c) monitoring of the usage of cycle parking facilities by residents of, visitors to, and employees of, each Block.
- "Travel Plan Monitoring Officer"** means a person appointed by the Owner to monitor and promote the success in meeting the targets set out in a Residential Travel Plan
- "Travel Plan Monitoring Period"** means the period from First Occupation of the relevant Block of the Development until 5 (five) years after First Occupation of the relevant Block of the Development
- "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 Residential 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 Residential Travel Plan have not been met or are unlikely to be met, a proposed revision to the Residential 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 Residential 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 Residential 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 of the East Site the East Site Owner shall:-
 - 2.1.1 submit a Residential Travel Plan for the East Site 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 East Site shall be Occupied unless and until the East Site Owner has:
 - 2.2.1 submitted and obtained OPDC's approval to a Residential Travel Plan for the East Site; and
 - 2.2.2 appointed a Travel Plan Monitoring Officer and notified OPDC of the name and contact details of such officer.
- 2.3 No later than 6 (six) months prior to First Occupation of the West Site the West Site Owner shall:-
 - 2.3.1 submit a Residential Travel Plan for the West Site to OPDC for approval;
 - 2.3.2 notify OPDC of the name and contact details of the proposed Travel Plan Monitoring Officer.
- 2.4 No part of the West Site shall be Occupied unless and until the West Site Owner has:
 - 2.4.1 submitted and obtained OPDC's approval to a Residential Travel Plan for the West Site; and
 - 2.4.2 appointed a Travel Plan Monitoring Officer and notified OPDC of the name and contact details of such officer
- 2.5 The East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) shall thereafter severally implement, comply with and procure compliance with the approved Residential Travel Plan for the East Site or the West Site (as the context may require) for the duration

of the beneficial use of Block A or Block B (as applicable), subject to any variations that may be agreed from time to time in writing between the East Site Owner or the West Site Owner and OPDC.

- 2.6 The East Site Owner and the West Site Owner shall each be entitled to appoint the same Travel Plan Monitoring Officer.

3. **CONTENTS OF RESIDENTIAL TRAVEL PLAN**

- 3.1 The East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) covenant severally with and undertake to OPDC that the Residential Travel Plan for the East Site or the West Site (as applicable) 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 relevant Travel Plan;
- 3.1.2 include a specimen welcome pack for all Occupiers and for tenants, employees and customers of (and visitors to) a unit of Commercial Floorspace;
- 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 Block A or Block B (as applicable) 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 relevant Residential 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 relevant Residential 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 RESIDENTIAL TRAVEL PLAN**

- 4.1 In order to monitor the effectiveness of each Residential Travel Plan, the East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) shall during the Travel Plan Monitoring Period carry out the Travel Plan Monitoring.
- 4.2 The East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) (as applicable) 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 East Site Owner (in respect of the East Site) or the West Site Owner (in respect of the West Site) and OPDC shall use Reasonable Endeavours to agree any necessary changes to the Residential Travel Plan for the East Site or the

West Site (as applicable) to ensure that the objectives and targets set out therein are achieved and the East Site Owner or the West Site 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 relevant Residential Travel Plan have not been achieved or are unlikely to be achieved, the East Site Owner (in respect of the East Site) or the West Site Owner (in respect of the West Site) (as applicable) 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 CONTRIBUTION

- 6.1 The East Site Owner shall:-

- 6.1.1 pay £1,000 (pounds) (Index Linked) to OPDC prior to the first anniversary of First Occupation of the East Site;
- 6.1.2 pay £1,000 (pounds) (Index Linked) to OPDC prior to the third anniversary of First Occupation of the East Site; and
- 6.1.3 pay £1,000 (pounds) (Index Linked) to OPDC prior to the fifth anniversary of First Occupation of the East Site,

each contribution being towards OPDC's costs involved in monitoring compliance with the Residential Travel Plan for the East Site.

- 6.2 The West Site Owner shall:-

- 6.2.1 pay £1,000 (pounds) (Index Linked) to OPDC prior to the first anniversary of First Occupation of the West Site;
- 6.2.2 pay £1,000 (pounds) (Index Linked) to OPDC prior to the third anniversary of First Occupation of the West Site; and
- 6.2.3 pay £1,000 (pounds) (Index Linked) to OPDC prior to the fifth anniversary of First Occupation of the West Site,

each contribution being towards OPDC's costs involved in monitoring compliance with the Residential Travel Plan for the West Site.

SCHEDULE 7

TRAINING AND SKILLS

1. DEFINITIONS

“Affordable Workspace Contribution”	means the sum of £271,872 (two hundred and seventy one thousand eight hundred and seventy two pounds) (Index Linked) to be applied towards the provision of Off Site affordable workspace in the vicinity of the Site
"Construction Period"	means the period from the Implementation Date to the date of Practical Completion of the Development
“Employment, Training and Skills Contribution”	means the sum of £156,550 (one hundred and fifty six thousand five hundred and fifty pounds) (Index Linked) to be applied towards supporting employment, training and skills (including Off Site skills and training centres) and local supply chain initiatives in the vicinity of the Site
“Local Labour, Skills and Employment Strategy and Management Plan”	means a plan setting out the written strategy and management of local labour, skills and employment opportunities for the Site during the Construction Period which: (a) sets out the partnership arrangements for how the Owner and its contractors and sub-contractors will work with OPDC (and the LBB, LBE and LBHF as appropriate) and any local employment or training agencies as part of an employment and training consortium, such arrangements to include appropriate reporting and review mechanisms; and (b) sets out agreed protocols and processes for joint working between the Owner and OPDC (and the LBB, LBE and LBHF as appropriate) specifically around vacancy sharing for the purposes of recruiting Local Residents to vacancies and apprenticeships to include an agreed approach to the forecasting of future job opportunities and skills requirements to ensure an adequate pipeline of candidates
"London Living Wage"	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
"Local Business"	means any business, trade, service, profession or industry whose established place of business is within the LBB, LBE and/or LBHF
"Local Resident(s)"	means a person who is resident in the LBB, LBE or LBHF, such residency to be proven by the production of two valid proofs of address which are no more than 3 (three) months old, for example:- (a) council tax statement (b) utility bills (c) bank statements or (d) other correspondence from government or state bodies
“Operational Period”	means the period after Practical Completion of the Development when the Development shall be in operation and Occupied

2. EMPLOYMENT, TRAINING AND SKILLS

- 2.1 The Owner shall:
- 2.1.1 submit a Local Labour, Skills and Employment Strategy and Management Plan to OPDC for written approval prior to the Commencement of the Development;
 - 2.1.2 not Commence the Development until the Local Labour, Skills and Employment Strategy and Management Plan has been approved in writing by OPDC; and
 - 2.1.3 implement and comply at all times with the approved Local Labour, Skills and Employment Strategy and Management Plan during the Construction Period, subject to such amendments as may be agreed in writing with OPDC from time to time.
- 2.2 The Owner shall use Reasonable Endeavours to employ:
- 2.2.1 not less than 20 (twenty) construction trade apprentices during the Construction Period with a view to each apprenticeship leading to a minimum qualification of NVQ Level 2; and,
 - 2.2.2 not less than 20 (twenty) work placements during the Construction Period for Local Residents.
- 2.3 The East Site Owner shall use Reasonable Endeavours to employ not less than 6 (six) job opportunities for Local Residents based on unemployment percentage as an average across LBB, LBE and LBHF of 5.4% during the Operational Period.
- 2.4 The Owner shall use Reasonable Endeavours to ensure that each person employed pursuant to paragraph 2.2 shall be:-
- 2.4.1 a Local Resident;
 - 2.4.2 employed for a period of not less than 52 weeks and paid at a rate of not less than the London Living Wage and if the period of employment overruns the expiration date of the relevant contract or sub-contract the Owner shall ensure the continuation of the relevant employment elsewhere on the Development;
 - 2.4.3 supported through paid day release to undertake relevant training; and
 - 2.4.4 provided with on the job training and supervised on-site by an experienced operative in a trade related to his or her training needs.
- 2.5 The Owner shall use Reasonable Endeavours to spend 10% of the build cost of the Development on Local Businesses during the Construction Period.
- 2.6 The Owner shall upon written request provide OPDC with written evidence of its compliance with the provisions of this paragraph 2 of this Schedule.

3. EMPLOYMENT, TRAINING AND SKILLS CONTRIBUTION

- 3.1 The Owner shall:-
- 3.1.1 pay the Employment, Training and Skills Contribution to OPDC prior to Commencement of Development;
 - 3.1.2 not Commence the Development until the Employment, Training and Skills Contribution has been paid in full to OPDC.

4. AFFORDABLE WORKSPACE CONTRIBUTION

4.1 The East Site Owner shall:-

4.1.1 pay 85% (eighty five per cent) of the Affordable Workspace Contribution to OPDC prior to Commencement of the East Site;

4.1.2 not Commence the East Site until 85% of the Affordable Workspace Contribution has been paid in full to OPDC.

4.2 The West Site Owner shall:-

4.2.1 pay 15% (fifteen per cent) of the Affordable Workspace Contribution to OPDC prior to Commencement of the West Site;

4.2.2 not Commence the West Site until 15% of the Affordable Workspace Contribution has been paid in full to OPDC.

5. INDUSTRIAL FLOORSPACE

5.1 The East Site Owner shall not Occupy the Student Accommodation in Block A until there has been Practical Completion of the Industrial Floorspace.

SCHEDULE 8

ENERGY AND SUSTAINABILITY

1. DEFINITIONS

"Carbon Offset Contribution"	means the sum(s) to be calculated (at a rate of £95 per tonne of carbon over 30 (thirty) years) to address any shortfall in carbon emission savings as identified by the CO ² Audit
"CO² Audit"	means an audit of the CO ² emissions of a completed Block to establish whether there is a shortfall in carbon emissions savings compared to a Zero Carbon 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
"Energy Performance Monitoring"	means monitoring of the energy performance of the completed Block in accordance with London Plan 2021 Policy SI 2 (and related guidance)
"Energy Performance Monitoring Period"	means a period of not less than 5 (five) years commencing on the date of First Occupation of a Block
"Energy Performance Monitoring Report"	means a report to be submitted on each anniversary of the date of First Occupation of a Block during the Energy Performance Monitoring Period setting out the data and information gathered during the Energy Performance Monitoring
"Future Proofing Measures"	means future proofing measures within the Development or a Block 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 a Block; and (e) provision of secondary side pipework designed and installed to avoid, as far as

possible, those heat losses that give rise to building overheating.

"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 East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) covenant severally 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 connection points at which the East Site and the West Site may be connected to a District Heating Network in locations to be approved in writing by OPDC prior to Commencement.
- 2.2 The East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) covenant severally with OPDC to submit and obtain OPDC's written approval to Future Proofing Measures prior to the Commencement of Development on the East Site and West Site (unless otherwise agreed), and that, unless otherwise agreed, no Development on the East Site or West Site (as applicable) shall be Commenced until OPDC has given its written approval the Future Proofing Measures.
- 2.3 The East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) covenant severally with OPDC that no part of Block A or Block B (as the context requires) shall be Occupied (unless otherwise agreed) unless and until the East Site Owner or the West Site Owner (as the case may be) has submitted and obtained OPDC's approval to a report demonstrating that the approved Future Proofing Measures have been incorporated within relevant Block.

3. CARBON OFF-SET CONTRIBUTION

- 3.1 Prior to Practical Completion of a Block, the East Site Owner or the West Site Owner (as the case may be) 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 Within 20 (twenty) Working Days of First Occupation of a Block the East Site Owner or the West Site Owner (as the case may be) shall commission the CO² Audit and give written notification of such fact to OPDC.
- 3.3 On completion of each CO² Audit the CO² Audit shall be submitted to OPDC for written approval, and the East Site Owner or the West Site Owner (as the case may be) will pay the relevant Carbon Offset Contribution for a Block to OPDC within 20 (twenty) Working Days of submission of OPDC's approval of the relevant CO² Audit.

4. ENERGY PERFORMANCE MONITORING

- 4.1 In order to monitor a Block's energy performance, the East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) shall carry out the Energy Performance Monitoring during the Energy Performance Monitoring Period for each Block.
- 4.2 The East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) respectively shall prepare and submit to OPDC for approval an Energy Performance Monitoring

Report for the relevant Block by no later than 2 weeks after each anniversary of First Occupation of the relevant Block during the Energy Performance Monitoring Period.

5. REDUCTION OF ENERGY DEMAND

5.1 The East Site Owner (in respect of the East Site) and the West Site Owner (in respect of the West Site) shall use Reasonable Endeavours to encourage Occupiers 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 Block (or any part thereof).

SCHEDULE 9

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 conditions 2, 9, 10, 11, 14, 15, 16, 17, 18, 19 and 26 of the Planning Permission
"Architect"	means Maccleanor Lavington Limited
"Design Monitoring Costs"	means the monies paid in accordance with paragraph 3.2.2 of this Schedule 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 drawings and works are completed to a satisfactory quality and are consistent with the Approved Drawings (including if required, OPDC seeking the Architect's advice in relation to design quality if not retained by the Owner)
"Development"	means for 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 pursuant to section 73 of the 1990 Act to modify conditions attached to the Planning Permission
"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 and confirmation that the Architect has produced and approved all related design documentation (the **"Design Team Statement"**):
- 2.1.1 an application pursuant to conditions 2, 9, 10, 11, 14, 15, 16, 17, 18, 19 and 26 of the Planning Permission;
 - 2.1.2 an application for a S96A Amendment which seeks amendments to Approved Drawings;
 - 2.1.3 an application for a S73 Permission which seeks amendments to Approved Drawings.
- 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.

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 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 but in which case the Design Monitoring Costs payable pursuant to paragraph 3.2 of this Schedule become payable.

3.2 If the Architect (or any alternative architect appointed pursuant to paragraph 3.1.1 of this Schedule) ceases 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 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 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 the Design Monitoring Costs shall not exceed £50,000 (fifty thousand pounds) (Index Linked).

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 when they become due.

4.2 No Development shall be carried out until the Owner has provided evidence satisfactory to OPDC that the Architect appointed (or any architect appointed pursuant to paragraph 3.1.1 of this Schedule) 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.

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

Executed as a **Deed** by affixing the Common Seal of
the **OLD OAK AND PARK ROYAL DEVELOPMENT**
CORPORATION in the presence of:

.....
Authorised Officer

Name (BLOCK)

Position

Executed as a Deed by **TIAGO PROPERTIES LIMITED**
acting by:

.....
Full Name (Director)

.....
Signature of Director

.....
Full Name (Director/Secretary)

.....
Signature of Director/Secretary

APPENDIX 1

PLANS

PLAN 1 – SITE, EAST SITE AND WEST SITE

PLAN 2 - HIGHWAY WORKS REINSTATEMENT

PLAN 3 - HIGHWAY WORKS

APPENDIX 2

DRAFT PLANNING PERMISSION

APPENDIX 3

RESTRICTION

No disposition of the registered estate (other than a charge, or the grant of a leasehold interest in an individual Residential Unit, Student Accommodation 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 and Tiago Properties 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 4.1 of Schedule 5 (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 4

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 5
DRAFT UNILATERAL UNDERTAKING

DATED

202[●]

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

CONTENTS

Page

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 [LBB][LBE] or [LBHF] 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 [REDACTED], bearing the reference [REDACTED];

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

6.4.3 in the case of the Mortgagee, [REDACTED]

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 Occupier of a Residential Unit (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.
24. 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 Occupiers that no Parking Permit (other than for a Blue Badge holder) will be issued by the Council for any Residential Unit.
25. 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".

26. 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.