

DATED 24 November 2022

OLD OAK AND PARK ROYAL DEVELOPMENT
CORPORATION

AND

NORTH KENSINGTON GATE LIMITED

AND

SOLUTUS ADVISORS LIMITED

AND

CITY AND DOCKLANDS MANAGEMENT LIMITED

DEED OF VARIATION TO A

SECTION 106 AGREEMENT

under section 106 and section 106A of the Town and Country
Planning Act 1990 and all other powers enabling relating to
land known as North Kensington Gate South, 115-129A
Scrubs Lane (odd numbers only), London NW10 6QU

THIS DEED is made on 24 November 2022

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. **NORTH KENSINGTON GATE LIMITED** a company registered in England and Wales (company number 11974748) of Regina House, 124 Finchley Road, London NW3 5JS (the "**Owner**"); and
3. **SOLUTUS ADVISORS LIMITED** a company registered in England and Wales (company number 07350379) of 48 Warwick Street, London W1B 5AW (the "**Mortgagee**"); and
4. **CITY AND DOCKLANDS MANAGEMENT LIMITED** a company registered in England and Wales (company number 04270026) of 5th Floor, Fc200 Building, 2 Lakeside Drive, Park Royal, London NW10 7FQ. (the "**Developer**");

together "**the Parties**"

RECITALS

- (A) By virtue of The Old Oak and Park Royal Development Corporation (Planning Functions) Order 2015, the OPDC is the local planning authority for the area in which the Site is located for the purposes of Part 3 of the 1990 Act and is the local planning authority by whom the obligations contained in this Deed are enforceable.
- (B) The Owner is the registered owner of the freehold interest(s) in the Site with title absolute under title numbers LN192535
- (C) The Mortgagee has registered charges dated 23 February 2021 over title number LN192535
- (D) The Developer has a registered charge dated 23 February 2021 over title number LN192535
- (E) On 30 June 2021 the Section 106 Agreement was entered into by the OPDC, the Owner and the Mortgagee which contains planning obligations binding the Site.
- (F) On 1 July 2021 the OPDC granted the Planning Permission for the Development subject to conditions and the planning obligations contained in the Section 106 Agreement.
- (G) The Developer has submitted the Section 73 Application to the OPDC.
- (H) The Parties have agreed to vary and supplement the terms of the Section 106 Agreement as set out in this Deed should the Section 73 Permission be granted and Implemented. This Deed is made under sections 106 and 106A of the Act and is supplemental to the Section 106 Agreement.

THE PARTIES AGREE AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

- 1.1 In this Deed the following words and expressions shall have the following meanings unless the context otherwise requires:

“Deed”

means this Deed of Variation;

"Implementation"

means the carrying out of the first material operation (as defined in section 56(4) of the Town and Country Planning Act 1990 (as amended) pursuant to the Section 73 Permission and “Implemented” shall be construed accordingly;

“Parties”

means the OPDC, the Owner, the Mortgagee and the Developer

“Plan”

Means the plan attached to this Deed

“Section 106 Agreement”

means the legal agreement dated 30 June 2021 made under Section 106 of the Act between (1) OPDC (2) the Owner and (3) the Mortgagee

"Section 73 Application"

means the application registered by the OPDC on 28 March 2022 under reference number 22/0006/VAROPDC for:

Section 73 application to vary Conditions 2 (Approved Plans), 3 (Land Use), 11 (Materials), 18 (Hard and Soft Landscaping), 22 (Secured by Design), 24 (Electric Vehicle Charging Points), 26 (Waste and Recycling Management Plan), 27 (Cycle Storage), 38 (Air Quality) and 45 (Overheating/Cooling Strategy) of planning permission (20/0088/FUMOPDC) for 'Demolition of existing buildings and redevelopment of the site to provide residential units (Use Class C3) within a new residential-led building ranging in height from 7 to 24 storeys (above ground), over ground floor commercial floorspace (Use Class A1/A2/A3/A5/B1A/B1C), with basement car parking, cycle parking and plant space, landscaping and associated works'. Amendments are proposed to the external appearance of the building, the internal layout (including a reduction in the size of the basement and relocation of the cycle, car parking and commercial floorspace) and to the residential layouts.

"Section 73 Permission"

means the planning permission to be granted pursuant to the Section 73 Application under section 73 of the 1990 Act;

1.2 This Deed varies and is supplemental to the Section 106 Agreement

1.3 In this Deed, unless the context otherwise requires:

- (a) References to clauses paragraphs and schedules are references to those in the Section 106 Agreement; and
- (b) Words and phrases whose meanings are not varied by this Deed have the same meanings as in the Section 106 Agreement.

- 1.4 This Deed is made pursuant to sections 106 and 106A of the Act and to the statutory provisions and in consideration of the covenants contained herein and for the avoidance of doubt it is agreed and declared that the said covenants are ones to which section 111 of the Local Government Act 1972, section 16 of the Greater London Council (General Powers) Act 1974, section 106 of the TCPA 1990, Section 1 of the Localism Act 2011 and all other powers so enabling apply.
- 1.5 This Deed contains planning obligations which are enforceable by the OPDC and which bind each and every part of the Site.
- 1.6 The Parties agree that except as varied by this Deed, and to the extent the obligations in the Section 106 Agreement have not already been satisfied, any remaining and/or on-going obligations in the Section 106 Agreement shall remain in full force and effect and shall be binding upon the Parties and their respective successors in title and assignees.
- 1.7 Nothing in this Deed affects the validity or effect of the Section 106 Agreement or the OPDC's powers in respect of any subsisting or antecedent breach or omission in relation to the Section 106 Agreement.

2 VARIATION OF THE SECTION 106 AGREEMENT

- 2.1 It is hereby agreed between the Parties to this Deed that the Section 106 Agreement shall be read and construed and shall take effect as varied as follows:

Plan 2 (Affordable Housing Plan) at Schedule 1 shall be deleted and replaced with the Plan

3 LEGAL EFFECT

- 3.1 The Parties agree that in all other respects the Section 106 Agreement (as varied by this Deed) shall remain in full force and effect.

4 COMMENCEMENT

- 4.1 This Deed comes into effect:
 - (a) on the grant of the Section 73 Permission; and
 - (b) Implementation of the Section 73 Permission

save in respect of clauses 5 and 6.1 which come into effect immediately upon completion of this Deed.

5 COSTS

- 5.1 On or before the completion of this Deed the Owner shall pay to the OPDC the OPDC's reasonable legal costs in this matter.

6 DEVELOPER'S CONSENT

- 6.1 The Developer acknowledges and declares that the Section 106 Agreement was entered into by the Owner with its consent and that the Site is bound by the obligations contained in the Section 106 Agreement and that the security of the charge referred to at Recital D over the Site takes effect subject to the Section 106 Agreement PROVIDED THAT the Developer shall otherwise have no liability under the Section 106 Agreement unless it takes possession of all

or any part of the Site in which case it too will be bound by the obligations as a person deriving title from the Owner.

- 6.2 The Developer acknowledges and declares that this Deed has been entered into by the Owner with its consent and that the Site shall be bound by the obligations contained in the Section 106 Agreement (as varied by this Deed) and that the security of the charge over the Site referred to at Recital D takes effect subject to the Section 106 Agreement (as varied by this Deed) PROVIDED THAT the Developer shall otherwise have no liability under the Section 106 Agreement (as varied by this Deed) unless it takes possession of all or any part of the Site in which case it too will be bound by the obligations as a person deriving title from the Owner.

7 MISCELLANEOUS

- 7.1 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 7.2 This Deed shall be registrable as a local land charge by the OPDC.
- 7.3 Insofar as any clause or clauses of this Deed 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 Deed.
- 7.4 Nothing contained or implied in this Deed shall prejudice or affect the rights, discretions, powers, duties and obligations of the OPDC under all statutes, by-laws, statutory instruments, orders and regulations in the exercise of their functions as a local planning authority.

8 OWNERSHIP

- 8.1 The Owner warrants and undertakes to the OPDC that:
- (a) it is the freehold owner of that part of the Site registered under title number LN192535 and has full power to enter into this Deed;
 - (b) so far as it is aware there are no persons with a legal interest affecting the Owner's title referred to at Recital (B) other than those referred to at Recitals (C) and (D); and
 - (c) there is no person (other than the parties to this Deed) having a charge or any other interest affecting the Owner's title referred to at Recital (B) whose consent is necessary for the Owner to enter into this Deed.

9 NO ENCUMBRANCES

- 9.1 The Owner warrants and undertakes to the OPDC that the Site remains free from any encumbrances which would prevent the Development from being carried out and brought into beneficial use.

10 JURISDICTION

- 10.1 This Deed is governed by and interpreted in accordance with the law of England and Wales and the Parties submit to the non-exclusive jurisdiction of the courts of England and Wales.

11 DELIVERY

11.1 The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

IN WITNESS whereof this Deed has been duly executed as a Deed by the Parties hereto the day and year first before written

Executed as a deed and delivered for and on behalf of OLD OAK AND PARK ROYAL
DEVELOPMENT CORPORATION

Authorised Signatory

Authorised Signatory

Name (BLOCK)

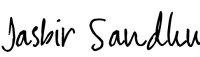
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Position

Position

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Executed as a deed by)

NORTH KENSINGTON)
GATE LIMITED)

acting by

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Gary Sacks
86B7E31AA59949D...

Signature

In the presence of:

Witness signature

Witness name

Address

Occupation

DocuSigned by:
J
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Executed as a deed by:

Name:

Signature:

as attorney for

**SOLUTUS ADVISORS
LIMITED**

DocuSigned by:
Tracy Boshell
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In the presence of:

Witness signature

Witness name

Address

Occupation

DocuSigned by:
Emma Clarke
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Executed as a deed by

**CITY AND DOCKLANDS
MANAGEMENT LIMITED**

acting by

DocuSigned by:
Gary Sacks
86B7E31AA59949D...

Signature

In the presence of:

Witness signature

Witness name

Address

Occupation

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Certificate Of Completion

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Source Envelope:

Document Pages: 10

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Certificate Pages: 6

Initials: 5

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James Kon

Churchill House

137-139 Brent St

London, London NW4 4DJ

james.kon@asserson.co.uk

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james.kon@asserson.co.uk

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Signer Events

Gary Sacks

gary.sacks@cityanddocklands.com

MD

Security Level: Email, Account Authentication
(None)**Signature**

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Gary Sacks

gary.sacks@cityanddocklands.com

MD

Security Level: Email, Account Authentication
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Tracy Boshell

tboshell@fi-rem.com

Director

Security Level: Email, Account Authentication
(None)

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Signature Adoption: Pre-selected Style

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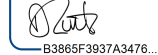
David Lunts

david.lunts@opdc.london.gov.uk

OPDC CEO

Security Level: Email, Account Authentication
(None)

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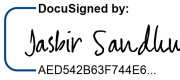
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Intermediary Delivery Events	Status	Timestamp
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Jeremy Harris jeremy.harris@cityanddocklands.com Director Solicitor 5th Floor, FC200 Building, 2 Lakeside Drive, Park Royal, London NW10 7FQ Witness for Gary Sacks (gary.sacks@cityanddocklands.com) Security Level:	DocuSigned by:  C9834749002D451... Signature Adoption: Uploaded Signature Image Using IP Address: 185.39.250.245	Sent: 11/15/2022 3:35:55 PM Viewed: 11/15/2022 3:36:30 PM Signed: 11/15/2022 3:36:57 PM
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Witness Events	Signature	Timestamp
Emma Clarke ec@solutus.co.uk Head of Servicing (UK) 10 Lee Street, Longridge, PR3 3EN. Head of Servicing (UK). Head of Servicing (UK) Canal Mill, Botany Bay, Chorley, Lancashire, PR6 9AF Witness for Tracy Boshell (tboshell@fi-rem.com) Security Level: Electronic Record and Signature Disclosure: Accepted: 11/15/2022 4:27:22 PM ID: 6608708d-fd95-472a-a360-2400d9837806	DocuSigned by:  3DF91CF7AAD8427... Signature Adoption: Pre-selected Style Using IP Address: 212.241.198.150	Sent: 11/15/2022 3:52:24 PM Viewed: 11/15/2022 4:27:22 PM Signed: 11/15/2022 4:28:37 PM

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