

**DATED** **16 July** **2024**

**(1) OLD OAK AND PARK ROYAL DEVELOPMENT CORPORATION**

**(2) CULINARY QUARTER (LONDON) LIMITED**

**(3) STANDARD BANK JERSEY LIMITED**

**(4) DEPHNA GROUP LIMITED**

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**DEED OF AGREEMENT  
UNDER SECTION 106 OF THE TOWN AND  
COUNTRY PLANNING ACT 1990 AND ALL  
OTHER POWERS ENABLING RELATING TO  
LAND KNOWN AS 2 PORTAL WAY, ACTON,  
LONDON W3 6RT**

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**THIS DEED OF AGREEMENT** is made on 16 July

2024

**BETWEEN:-**

- (1) **OLD OAK and PARK ROYAL DEVELOPMENT CORPORATION** of Brent Civic Centre, 32 Engineers Way, Wembley HA9 0FJ (the "**OPDC**");
- (2) **CULINARY QUARTER (LONDON) LIMITED** incorporated in British Virgin Islands with company number 1764431 care of Dephna Estates Limited, Dephna House, 2 Portal Way, London W3 6RT (the "**Owner**"); and
- (3) **STANDARD BANK JERSEY LIMITED** (incorporated in Jersey) of Standard Bank House, PO 583, 47-49 La Motte Street, St Helier, Jersey, JE4 8XR (the "**Mortgagee**");
- (4) **DEPHNA GROUP LIMITED** (company registered no. 02033302) of 2 Portal Way, Gypsy Corner, London W3 6RT ("**DGL**")

**WHEREAS:-**

- (A) By virtue of The Old Oak and Park Royal Development Corporation (Planning Functions) Order 2015, OPDC is the local planning authority for the area in which the Site is located for the purposes of Part 3 of the 1990 Act and is the local planning authority by whom the obligations contained in this Deed are enforceable.
- (B) The Owner is the owner of the freehold interest in the Site as is registered at the Land Registry with title number AGL111633. The Owner submitted the Planning Application to OPDC.
- (C) The Mortgagee has the benefit of a registered charge dated 31 July 2014 against title number AGL111633.
- (D) DGL changed its company name on 1 May 2024 from Dephna Estates Limited. DGL has a leasehold interest in the Site pursuant to a lease dated 1 August 2020 for a term of five years and is also the beneficiary of an agreement for lease made between the Owner and DGL for a term of 10 years from 1 August 2025.
- (E) At a meeting of its Planning Committee on 7 March 2024 OPDC resolved to grant the Planning Permission subject to the Owner entering into this Deed without which the Planning Permission would not be granted.
- (F) Accordingly, the Parties have agreed to enter into this Deed in order to secure the planning obligations contained in it pursuant to the provisions of section 106 of the 1990 Act and all other enabling powers.

**IT IS AGREED** as follows:-

1. **DEFINITIONS AND INTERPRETATION**

- 1.1 In this Agreement:-

<b>"1980 Act"</b>	means the Highways Act 1980
<b>"1990 Act"</b>	means the Town and Country Planning Act 1990
<b>"2011 Act"</b>	means the Localism Act 2011
<b>"Class"</b>	means a class of the Town and Country Planning (Use Classes) Order 1987 (as amended)

<b>"Commencement"</b>	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
<b>"Consumer Prices Index"</b>	means the Consumer Prices Index published by the Office of National Statistics or if the index is no longer published or is unavailable for use such alternative comparable basis for indexation as notified in writing by OPDC
<b>"Development"</b>	means the development permitted by the Planning Permission
<b>"Excluded Works"</b>	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)
<b>"Expert"</b>	has the meaning given in Clause 20.3
<b>"First Occupation"</b>	means first Occupation of the Development or any part thereof and "First Occupy" and "First Occupied" shall be construed accordingly
<b>"GLA"</b>	means the Greater London Authority or any successor in statutory function
<b>"Implementation"</b>	means the carrying out of the first material operation (as defined in section 56(4) of the 1990 Act) pursuant to the Planning Permission or the service of a notice upon OPDC that the first material operation is about to be carried out pursuant to the Planning Permission, whichever is earlier and "Implemented", "Implement" and "Implementation Date" shall be construed accordingly
<b>"Index"</b>	means the Retail Price Index
<b>"Index Linked"</b>	means subject to indexation in accordance with Clause 18
<b>"Interest"</b>	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
<b>"London Plan"</b>	means the spatial development strategy for London published by the Mayor of London and as may be amended or replaced from time to time
<b>"Monitoring Contribution"</b>	the sum of £49,056.59 (forty nine thousand and fifty six pounds and fifty nine pence) (Index Linked) payable by the Owner to OPDC towards the costs of OPDC monitoring the obligations in this Deed;
<b>"Occupation"</b>	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
<b>"Off Site"</b>	means on land outside the Site
<b>"On Site"</b>	means on land within the Site

<b>“Parties”</b>	means the parties to this Deed
<b>“Planning Application”</b>	means the application for full planning permission for the development submitted to OPDC and allocated reference number 23/0136/FUMOPDC
<b>“Planning Permission”</b>	means the planning permission to be granted pursuant to the Planning Application in the form of the draft annexed hereto at Appendix 2
<b>“Practical Completion”</b>	means the issue of a certificate of practical completion by the Owner's architect, engineer or other certifying officer as the case may be under the relevant building contract entered into in respect of the Development or part or parts thereof and “ <b>Practically Complete</b> ” and “ <b>Practically Completed</b> ” shall be construed accordingly
<b>“Requisite Consents”</b>	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
<b>“RPI Index”</b>	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
<b>“Site”</b>	means the land known as 2 Portal Way, Acton, London, W3 6RT as shown edged red on Plan 1 attached to this Deed at Appendix 1
<b>“TfL”</b>	means Transport for London, the strategic transport authority for London with responsibility for the provision of public transport services within the Council's administrative area
<b>“Varied Planning Permission”</b>	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
<b>“Working Day”</b>	Means any day of the week other than Saturday, Sunday, any bank holiday and any public holiday

- 1.2 The Interpretation Act 1978 shall apply to this Deed.
- 1.3 Where referenced in this Deed reference to a Clause paragraph Schedule Recital plan annex or appendix such reference (unless the context otherwise requires) is a reference to a Clause paragraph Schedule or Recital in this Deed or to a plan annex or appendix attached to this Deed.
- 1.4 Where in any Schedule or part of a Schedule reference is made to a paragraph such reference shall (unless the context otherwise requires) be to a paragraph of that Schedule or (if relevant) part of a Schedule.
- 1.5 The table of contents, clause headings in the body of this Deed, paragraph headings in the Schedules and the titles of plans are for reference purposes only and do not form part of this Deed and shall not be taken into account in its construction or interpretation.
- 1.6 References in this Deed to the Owner shall include both the Owner and DGL and shall include their respective successors in title and assigns, personal representatives and to persons claiming through or under them in relation to all or any part of the Site save where the context otherwise requires.
- 1.7 References to OPDC shall include reference to any successor body exercising any of the powers currently vested in OPDC in relation to this Deed.

- 1.8 Words including the singular meaning where the context so admits include the plural meaning and vice versa.
- 1.9 Words of the masculine gender include the feminine and neuter genders and words denoting natural persons include companies and other corporate bodies and also firms and all such words shall be construed interchangeably in that manner.
- 1.10 Words denoting an obligation on a party to do an act, matter or thing include an obligation to procure that it be done and words placing a party under a restriction (including for the avoidance of doubt any obligation preventing or restricting Commencement or Occupation) include an obligation not to cause, permit, suffer or allow infringement of the restriction.
- 1.11 Any reference to a statute or a provision thereof or a statutory instrument or a provision thereof shall include any modification, extension or re-enactment thereof for the time being in force (including for the avoidance of doubt any modification, extension or re-enactment made prior to the date of this Deed) and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given thereunder or deriving validity therefrom.
- 1.12 The word "including" means including without limitation or prejudice to the generality of any description defining term or phrase preceding that word and the word "include" and its derivatives shall be construed accordingly.
- 1.13 References to the Site include any part of it.
- 1.14 Any notice, notification, consent, request, statement or details to be made, given or submitted under or in connection with this Deed shall be made or confirmed in writing and no Party shall unreasonably withhold or delay the giving or making of the same.
- 1.15 Where in this Deed there is reference to using reasonable endeavours to achieve an outcome, the Owner shall within 20 (twenty) Working Days upon written request by OPDC provide reasonable evidence in documentary form of the steps taken to achieve such outcome.
- 1.16 Where in this Deed the fulfilment of an obligation, covenant or undertaking on the part of the Owner is subject to the obtaining or securing of Requisite Consents, the Owner shall:-
  - 1.16.1 use reasonable endeavours to secure or obtain the Requisite Consents where the obligation relates to matters to be carried out or conducted On Site; and
  - 1.16.2 endeavour in good faith (but without being required to pay any material financial consideration in addition to bearing the reasonable and proper cost of the works which are the intended subject of the Requisite Consents or being obliged to take any proceedings (or appeal) in any court public inquiry or other hearing) to secure or obtain the Requisite Consents where the obligation relates to matters to be carried out or conducted Off Site

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

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

## 2. **LEGAL BASIS**

- 2.1 This Deed is made pursuant to:-

- 2.1.1 section 106 of the 1990 Act;

- 2.1.2 sections 1, 201 and 205 of the 2011 Act; and
- 2.1.3 all other powers so enabling.

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

### 3. **NATURE OF OBLIGATIONS**

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

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

### 4. **CONDITIONAL AGREEMENT**

4.1 This Deed is conditional upon:-

- 4.1.1 the grant of the Planning Permission; and
- 4.1.2 the Implementation of the Planning Permission

save in respect of Clauses 7.1, 8, 9, 10, 12, 13, 14, 23 which shall come into effect immediately upon completion of this Deed and further save in respect of the planning obligations in this Deed which are required to be satisfied on or prior to Commencement of Development being Schedule 2, paragraphs 2.1, 4.1 and 5.1, Schedule 4, paragraphs 2.1, 3.1, 5.1.1, 5.1.2 and 7 and Schedule 5, paragraph 2.2 which shall come into effect immediately upon completion of this Deed.

### 5. **OBLIGATIONS GIVEN BY THE OWNER**

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

### 6. **OBLIGATIONS OF OPDC**

6.1 OPDC covenants with the Owner to observe and perform and cause to be observed and performed the obligations and covenants on the part of OPDC contained in this Deed.

6.2 OPDC covenants with the Owner that it shall use all sums received from the Owner under the terms of this Deed for the purposes specified in this Deed for which they are paid **SAVE THAT** any sum (or part of a sum) may be applied to a different purpose if that purpose is accepted by the Director as compliant with Regulation 122 of the Community Infrastructure Levy Regulations 2010 **PROVIDED THAT** notice of any reallocation of funds is provided to the Owners with evidence of such compliance.

6.3 Subject to Clause 6.4, OPDC covenants with the Owner that it will repay to the Owner (or the person who made the payment if not the Owner) such amount of any payment made by the Owner to OPDC under this Deed which has not been expended or committed in accordance with the provisions of this Deed within ten (10) years of the date of receipt by OPDC of such payment

together with interest accrued from the date of payment by the Owner to the date of repayment by OPDC (if any).

6.4 Where any payment is made by the Owner to OPDC pursuant to the terms of this Deed OPDC may, where it is not the authority with the statutory duty or functions to expend such monies and/or in the interests of administrative efficiency, pay such monies to the competent authority which has the statutory duty to discharge the functions for which the monies were paid ("**Other Statutory Authority**") and upon payment of monies to such Other Statutory Authority OPDC's requirement to comply with Clauses 6.2 and 6.3 shall cease to apply in respect of those monies.

## 7. **LEGAL COSTS AND MONITORING**

7.1 The 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 Commencement of Development; and
- 7.2.2 Not to Commence the Development until the Monitoring Contribution has been paid to OPDC.

7.3 The Owner covenants with OPDC 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 Owner covenants with OPDC to give OPDC written notice of any change in ownership of any of its interest in the Site or part thereof occurring before all the obligations under this Deed have been discharged, such notice to be served within 20 (twenty) Working Days following the change and to give details of the transferee's full name and registered office (if a company) or usual address (if not a company), together with a plan showing the area of the Site to which the disposal relates.

## 9. **NO ENCUMBRANCES**

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

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

## 10. **REGISTRATION**

10.1 As soon as reasonably practicable after the completion of this Deed (and in any event within 10 (ten) Working Days of this Deed), the Owner shall make applications to the Land Registry for

entries relating to this Deed to be made in the charges registers of the Title Number referred to in Recital (B) above so as to bind the Site as provided for in the above mentioned statutory provisions and shall provide OPDC with written notification as soon as reasonably practicable that such applications have been made.

- 10.2 If the 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. OPDC shall request registration of this Deed as a Local Land Charge by the London Borough of Ealing.

## 11. **RIGHT OF ACCESS**

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

## 12. **OWNER TO NOTIFY OPDC**

- 12.1 The Owner covenants with OPDC to notify OPDC in writing of:-
  - 12.1.1 the intended Implementation Date, at least 1 (one) month prior to such intended date;
  - 12.1.2 the actual Implementation Date, within 5 (five) Working Days of such actual date;
  - 12.1.3 the intended Commencement Date, at least 1 (one) month prior to such intended date;
  - 12.1.4 the actual Commencement Date, within 5 (five) Working Days of such actual date;
  - 12.1.5 the intended date for First Occupation of the Development, at least 1 (one) month prior to such intended date;
  - 12.1.6 the actual date of First Occupation of the Development, within 5 (five) Working Days of such actual date;
  - 12.1.7 the intended date for Practical Completion of the Development, at least 12 (twelve) months prior to such intended date; and
  - 12.1.8 the actual date of Practical Completion of the Development, with 5 (five) Working Days of such actual date.
- 12.2 In the event that the Owner fails to provide 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, Brent Civic Centre, 32 Engineers Way, Wembley HA9 0FJ with a duplicate copy of such notice to be sent by email to [planningapplications@opdc.gov.uk](mailto:planningapplications@opdc.gov.uk)

13.2.2 **The Owner:-**

FAO Caroline Dutot Trust Relationship Manager Standard Bank Offshore Standard Bank House, 47-49 La Motte Street, St Helier Jersey JE2 4SZ

13.2.3 **The Mortgagee:-**

Standard Bank House, 47-49 La Motte Street, St Helier Jersey JE2 4SZ

13.2.4 **DGL:-**

FAO Nimesh Sachdev ~~Dephna Group Dephna House 2 Portal Way London W3 6RT and also by email to nimesh@dephna.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 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 23/0136/FUMOPDC.
- 14.2 All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly payable in respect thereof.
- 14.3 The Owner hereby acknowledges and agrees that if at any time VAT is required to be paid in respect of any of the financial contributions due under this Deed then to the extent that VAT had not been previously charged in respect of that contribution OPDC shall have the right to issue a VAT invoice to the Owner and the VAT shall be paid accordingly.

**15. NO WAIVER**

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

## 16. NO FETTER OF DISCRETION

Nothing (contained or implied) in this Deed shall fetter or restrict OPDC's statutory rights, powers, dispositions 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 (E) until the date of each payment (or the date that it becomes necessary to calculate such sum or value) to be calculated by reference to the most recently published figures for the Retail Price Index as at the date of the planning committee meeting referred to in Recital (E) and as at the date of each payment respectively (provided that for the avoidance of doubt such indexation shall be upwards-only such that indexation pursuant to this Clause shall never result in a sum or value being less than the amount set out in this Deed).

## 19. LIABILITY UNDER THE DEED

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

- 19.1.1 to the extent that such breach relates to any part of the Site in which that person has no interest; and/or
- 19.1.2 which occurs after they have parted with their entire interest in the Site (or their interest in that part of the Site on which the breach occurs) save for any prior breach for which they shall continue to be liable.

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

19.3 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; and
- 20.3.5 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 20.3.5 (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 20.3.5 (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 they shall call for representations from all parties with 10 (ten) Working Days of a reference to them under this Deed and shall require the parties to exchange representations within this period;
- 20.7.2 they 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 they 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 they shall be entitled to call for such independent expert advice as they shall think fit; and
- 20.7.6 their costs and the costs of any independent expert advice called for by the Expert shall be included in their 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**

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

22.1 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.

22.2 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:-

- 22.2.1 expires without the Development having been Implemented; or
- 22.2.2 is quashed, revoked or (without the consent of the Owner) modified.

22.3 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

22.4 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.

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

22.6 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.

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

22.8 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)

- 22.8.1 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, and
- 22.8.2 the definitions of Planning Application, Planning Permission and Development shall be construed to include reference to the planning application for the Varied Planning Permission, the Varied Planning Permission itself and the development permitted by the Varied Planning Permission respectively;

**PROVIDED THAT**

- 22.8.3 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, and
- 22.8.4 to the extent that any of the Obligations in this Agreement have already been discharged at the date a S73 Permission is granted they shall remain discharged for the purposes of the S73 Permission.

22.9 This Deed may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

23. **GOVERNING LAW**

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

24. **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.

25. **MORTGAGEE'S CONSENT**

25.1 The Mortgagee acknowledges and declares that:-

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

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

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

25.2 The Parties agree that the Mortgagee being a full member of the Council of Mortgage Lenders or otherwise approved in writing by OPDC on a case-by-case basis 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.

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

## SCHEDULE 1

### HIGHWAYS AND TRANSPORT

#### 1. DEFINITIONS

<b>"Bus Contribution"</b>	means the sum of £351,000 (three hundred and fifty one thousand pounds) (Index Linked) to be applied towards the maintenance or delivery of additional bus capacity on routes in the proximity of the Site to be paid to OPDC and transferred to TfL
<b>"Highway Agreement"</b>	means an agreement entered into with the Highway Authority pursuant to inter alia sections 38 and 278 of the 1980 Act
<b>"Highway Authority"</b>	means the London Borough of Ealing or its successor in function
<b>"Highway Reinstatement Works"</b>	means the works being the repair and reinstatement of the highway and footways within the Highway Reinstatement Area so as to repair and/or reinstate them to at least the same condition and standards as shown in the Schedule of Highway Condition approved by OPDC pursuant to paragraph 1.1 of Schedule 3
<b>"Highway Reinstatement Area"</b>	means the highway and footways adjacent to the Site and leading to the access to the Site, known as Portal Way
<b>"Highway Works"</b>	means the highway works to be carried out within the highway boundary of Wales Farm Road, adjacent to the Site and adjacent to the interface with Portal Way and which may include but is not limited to:- <ul style="list-style-type: none"><li>(a) footway resurfacing;</li><li>(b) footway modification;</li><li>(c) relocation and/or replacement of street lighting;</li><li>(d) removal and/or replacement of palisade fencing;</li><li>(e) installation of lining and signage; and</li><li>(f) installation of trees and planting</li></ul>
<b>"Necessary Consents"</b>	means requisite consents, approvals, orders, agreements, authorisations, licences and permissions as may be required by law or otherwise in order to lawfully complete the Highways Reinstatement Works
<b>"North Acton Station Improvements Contribution"</b>	means the sum of £948,640 (nine hundred and forty eight thousand six hundred and forty pounds) (Index Linked) to be applied towards improvements at North Acton Station to be paid to OPDC and transferred to TfL
<b>"Schedule of Highway Condition"</b>	means a schedule of condition relating to the highways and footways within the Highway Reinstatement Area which shall include but not be limited to: <ul style="list-style-type: none"><li>(a) the line and level of footways and carriageways; and</li></ul>

- (b) the state of condition of access covers, surfacing, street furniture, channels and kerbs, street lighting and gullies (to be checked for blockages);

## **2. FINANCIAL CONTRIBUTIONS**

- 2.1 The Owner covenants that the Development shall not be Occupied until it has paid the following to OPDC which will be transferred to TfL:

- 2.1.1 the North Acton Station Improvements Contribution; and
  - 2.1.2 the Bus Contribution.

## **3. HIGHWAY WORKS**

- 3.1 The Owner shall:

- 3.1.1 prior to Commencement of Development submit an initial Schedule of Highway Condition to OPDC (in consultation with the Highway Authority) for written approval; and
  - 3.1.2 not Commence the Development until OPDC (in consultation with the Highway Authority) has approved the initial Schedule of Highway Condition in writing.

- 3.2 Prior to Practical Completion of the Development the Owner shall give OPDC (in consultation with the Highway Authority) the following information for written approval:

- 3.2.1 a proposed specification for the Highway Works; and
  - 3.2.2 a proposed programme for the Highway Works referred to in paragraph 3.2.1.

- 3.3 Following written approval of the information submitted for approval in accordance with paragraphs 3.2 by OPDC, the Owner shall:

- 3.3.1 unless otherwise agreed with OPDC, enter into a Highway Agreement(s) with the Highway Authority in respect of the Highway Works; and
  - 3.3.2 thereafter carry out the Highway Works in accordance with the Highway Agreement(s).

- 3.4 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 (in consultation with the Highway Authority) together with the following information for written approval:

- 3.4.1 a further Schedule of Highway Condition;
  - 3.4.2 a proposed specification for the Highway Reinstatement Works; and
  - 3.4.3 a proposed programme for the Highway Reinstatement Works referred to in paragraph 3.4.2.

- 3.5 Following written approval of the information submitted for approval in accordance with paragraph 3.3 by OPDC, the Owner shall:

- 3.5.1 unless otherwise agreed with OPDC, obtain all Necessary Consents in respect of the Highway Reinstatement Works; and

- 3.5.2 thereafter carry out the Highways Reinstatement Works in accordance with the Necessary Consents and the approved specification and approved programme referred to in 3.4.2 and 3.4.3
- 3.6 Unless otherwise agreed with OPDC the Owner shall not permit any Occupation of the Development until:
  - 3.6.1 the information submitted for approval in accordance with paragraphs 3.2 and 3.4 have been approved in writing by OPDC (in consultation with the Highway Authority);
  - 3.6.2 the Owner has entered into a Highway Agreement(s) in respect of the approved Highway Works in accordance with paragraph 3.3 and obtained all Necessary Consents in respect of the Highway Reinstatement Works in accordance with paragraph 3.5; and
  - 3.6.3 the Owner has Practically Completed the Highway Works in accordance with the Highway Agreement(s); and
  - 3.6.4 the Owner has Practically Completed the Highway Reinstatement Works.
- 3.7 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 the Highway Authority's responses to OPDC when submitting those details for approval.

## SCHEDULE 2

### PUBLIC OPEN SPACE

#### 1. DEFINITIONS

<b>"Green Infrastructure"</b>	means the green infrastructure to be shown on the Green Infrastructure and PAOS Delivery Plan (to be submitted and approved in writing by OPDC pursuant to the provisions of this Schedule)
<b>"Green Infrastructure and PAOS Delivery Plan"</b>	means a detailed plan for the delivery and layout of the Green Infrastructure and PAOS which shall contain details of the hard and soft landscaping features of the Green Infrastructure and PAOS, including the design, specification, landscaping and boundary treatments and details of any equipment for the Green Infrastructure and PAOS and details of the location and design of One Portal Way Connection Works (should those works be required in accordance with this Schedule)
<b>"Management and Maintenance Plan"</b>	means a plan for the ongoing operation, management and maintenance of the Green Infrastructure and PAOS which shall set out:
(a)	full details of the permanent operation, management and maintenance specifications for the Green Infrastructure and PAOS including frequency of inspections and maintenance and standard of maintenance and repair to be achieved and maintained and which must demonstrate compliance with the Mayor's Public London Charter;
(b)	measures to replace any trees, shrubs, grass or other plants (in perpetuity) which may die or become diseased;
(c)	details of the management of the Green Infrastructure and PAOS to ensure it shall (save in respect Permitted Closures) remain available for use by the general public in perpetuity;
(d)	details of funding arrangements to ensure that the operation, maintenance and management of the Green Infrastructure and PAOS is funded in perpetuity and that funding shall be sufficient to properly manage and maintain the Green Infrastructure and PAOS and for the avoidance of doubt this shall include details of funding arrangements to cover the periodic costs of replacement and/or refurbishment of features and/or facilities;
(e)	details of any Management Entity
<b>"Management Entity"</b>	either a company (including a residents' management company) trust or other body established or appointed by the Owner (and approved in writing by OPDC) to operate, manage and maintain the PAOS and Play Space in perpetuity
<b>"Mayor's Public London Charter"</b>	means the Mayor of London's Public London Charter (September 2021) and as the same may be updated or replaced from time to time
<b>"One Portal Way Connection Strategy"</b>	means a strategy outlining:
	(a) the works required to create a pedestrian ground level connection between the Site and the neighbouring One Portal Way site in a location to be shown on the Green Infrastructure

and PAOS Delivery Plan ("One Portal Way Connection Works");

(b) a program for the delivery of the One Portal Way Connection Works

**"Permitted Closures"** means temporary closure of any area of PAOS or the Play Space (or part thereof) in the following circumstances:-

(a) temporary closure in the case of emergency where such closure is necessary in the interests of public safety or otherwise for reasons of public safety

(b) temporary closure where such temporary closure is required for the purposes of carrying out maintenance, repair, cleansing, renewal, or resurfacing works of the area of the PAOS or Play Areas in question, any cables, wires, pipes, sewers, drains or ducts over along or beneath them or any other area or services in the vicinity of the PAOS or Play Areas

(c) where such temporary closure is required for the purposes of carrying out, inspecting, maintaining, repairing, renewing, rebuilding, demolishing or developing any buildings now or hereafter on the Site or any part thereof (including the erection of scaffolding)

(d) closure for a maximum of 1 (one) day per year to assert rights of proprietorship preventing public rights from coming into being by means of prescription or other process of law

(e) any other closure not covered by the above in relation to which OPDC's prior written Approval has been obtained

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

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

## 2. PROVISION OF GREEN INFRASTRUCTURE AND PAOS

2.1 The Owner shall submit a Green Infrastructure and PAOS Delivery Plan to OPDC for approval prior to the Commencement of Development and shall not Commence the Development until the Green Infrastructure and PAOS Delivery Plan has been submitted to and approved by OPDC.

2.2 The Owner shall Practically Complete the Green Infrastructure and PAOS in strict accordance with the Green Infrastructure and PAOS Delivery Plan to OPDC's satisfaction and make available the Green Infrastructure and PAOS prior to the First Occupation of the Development and the Development shall not be Occupied until the Green Infrastructure and PAOS are so completed and ready for use by the public.

2.3 Subject to paragraph 3, the Owner shall ensure that each part of the PAOS shall remain available free of charge for public access at all times (other than in the event of a Permitted Closure) for the life of the Development from the date that it is Practically Completed.

### 3. PUBLIC ACCESS TO PAOS

3.1 From the date of Practical Completion of the PAOS (and each part thereof) the Owner shall permit the general public to have continuous access on foot and (in respect of those routes where bicycles are permitted) by bicycle to and over the PAOS at all times free of charge **SUBJECT TO:-**

3.1.1 Permitted Closures; and

3.1.2 any lawful requirements of the police or any other competent authority.

3.2 Where PAOS (or any part thereof) is subject to a Permitted Closure, it shall be re-opened as soon as reasonably practicable thereafter in accordance with a programme and timescales previously approved in writing by OPDC and such re-opening will be notified promptly to OPDC in writing.

3.3 Subject to paragraph 3.1 the Owner shall not without OPDC's prior written approval erect any wall or barrier or any other object or structure or take any other steps which would prevent or restrict, or would have the effect of preventing or restricting, pedestrian access over the completed PAOS except in accordance with the Green Infrastructure and PAOS Delivery Plan.

### 4. MANAGEMENT AND MAINTENANCE OF GREEN INFRASTRUCTURE AND PAOS

4.1 The Owner shall submit a Management and Maintenance Plan to OPDC for approval prior to the Commencement of Development and shall not Commence Development until the Management and Maintenance Plan has been submitted to and approved by OPDC.

4.2 The Owner covenants with OPDC to operate, manage and maintain the Green Infrastructure and the PAOS in accordance with the approved Management and Maintenance Plan in perpetuity or until such time as the freehold of the Green Infrastructure and PAOS is transferred (as necessary) to a Management Entity who shall thereafter become responsible and liable for the operation, management and maintenance of the Green Infrastructure and PAOS in accordance with the approved Management and Maintenance Plan in perpetuity in accordance with paragraph 3 above and this paragraph 4 as successor in title.

### 5. CONNECTION TO ONE PORTAL WAY

5.1 The Owner covenants that the Development shall not be Commenced until the One Portal Way Connection Strategy has been submitted to, and approved by, OPDC.

5.2 Upon receipt of notice from OPDC that the One Portal Way Connection Works are required to be undertaken the Owner shall undertake those works in accordance with the specification and program set out in the approved One Portal Way Connection Strategy.

## SCHEDULE 3

### TRAVEL PLAN AND DELIVERY AND SERVICING

#### 1. DEFINITIONS

**“Businesses”** means any natural or legal person Occupying one or more Kitchen Units

**“Business Occupants Cap”** means that there shall be not more than 140 Businesses Occupying the Kitchen Units

**“Delivery and Servicing Strategy”** means a strategy to secure measures to be adopted by the Owner for the management of deliveries and servicing, which shall include (but is not limited to) the following:

- (a) measures to ensure compliance with the Vehicle Arrival Caps
- (b) measures to ensure all vehicles enter the Servicing Area when undertaking collections and do not wait on or in the vicinity of Portal Way or Wales Farm Road; and
- (c) measures to ensure all vehicles arriving at the Site to undertake collections of food or drinks for Off-Site delivery only visit the Site between the hours of 9am – 11pm daily;
- (d) measures to ensure pedestrian management and public safety during servicing;
- (e) details of parking (vehicle, motorcycle and cycle parking), maximum dwell times, management, monitoring and enforcement provisions (“Parking Design and Management Plan”);
- (f) details of non-operational parking arrangements (such as disabled parking spaces and staff cycle spaces);
- (g) a strategy to encourage the use of cargo bikes for food deliveries;

**“DSS Contribution”** means a sum not exceeding £300,000 (three hundred thousand pounds) payable by the Owner in accordance with paragraph 11 of this Schedule and to be used by OPDC and/or to be provided to TfL or LBE as appropriate for the purpose of implementing the Tier 2 Measures

**“DSS Interim Monitoring Report”** means a report that provides:

- (a) the DSS Monitoring Information that has been gathered since the last previously approved DSS Monitoring Report;
- (b) a specific response(s) to OPDC’s notification served pursuant to paragraph 11.1 of this Schedule; and
- (c) where the DSS Monitoring Information shows that there has been non-compliance with any of the obligations in paragraph 7.1 of this Schedule the report shall set out the Tier 1 Measures together with a programme for the delivery of such measures PROVIDED THAT the period for putting in place such measures shall not exceed 20 (twenty) Working Days

<b>“DSS Monitoring”</b>	means monitoring of motorised traffic in the DSS Monitoring Area in order to gather information (“DSS Monitoring Information”) on the following:
(a)	the number of motorised vehicles visiting the Site for the purposes of making deliveries to the Development and/or to pick-up food or drinks produced in the Kitchen Units for delivery Off-Site
(b)	accidents involving motorised vehicles which have been reported to the Owner occurring both within the DSS Monitoring Area and its surrounds that involve vehicles travelling to the Development to make deliveries or from the Development to make an Off-Site delivery
<b>“DSS Monitoring Area”</b>	means the area shaded red shown on the Service Area Plan
<b>“DSS Monitoring Period”</b>	means the period commencing on the date when the Kitchen Space is First Occupied and ending on the date which is 10 (ten) years from the date the Kitchen Space is fully Occupied for the first time
<b>“DSS Monitoring Report”</b>	means a report which is prepared by the Owner and submitted to OPDC and TfL and which sets out:
(a)	details of the DSS Monitoring undertaken during the preceding year and the outcome of that monitoring;
(b)	copies of the data gathered during the relevant period of DSS Monitoring which may include but shall not be limited to the Owner’s application-based data, and other raw data including CCTV recordings
(c)	the Owner’s position on whether the data gathered pursuant to (b) in the definition of DSS Monitoring means that the DSS Monitoring Area should be extended
(d)	details of the number of Businesses that have been in Occupation of the Kitchen Units during the relevant period of DSS Monitoring
(e)	specifically identifying where any of the following have been breached:
(i)	the Business Occupants Cap;
(ii)	the Vehicle Arrival Caps; or
(iii)	the DSS Permitted Arrival Hours
(f)	where the DSS Monitoring Information shows that there has been non-compliance with any of the obligations in paragraph 7.1 of this Schedule the report shall set out the Tier 1 Measures together with a programme for the delivery of such measures PROVIDED THAT the period for putting in place such measures shall not exceed 20 (twenty) Working Days
<b>“DSS Permitted Arrival Hours”</b>	means the hours of 9am to 11pm daily

<b>“Kitchen Unit”</b>	means an individual commercial kitchen unit situated on the Site authorised as part of the Development and “ <b>Kitchen Units</b> ” shall be construed accordingly
<b>“Modal Split Targets”</b>	means the modal split targets identified in the approved Travel Plan
<b>“Motorcycle”</b>	means a motorcycle, scooter or moped
<b>“Servicing Area”</b>	means the servicing area situated on the lower ground level of the Site as shown on the Servicing Area Plan
<b>“Servicing Area Plan”</b>	means drawing DFA-DPW-DFA-V1-DR-A-02001-SO (appended to this Deed)
<b>“Sustainable Transport Measures”</b>	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) <b>PROVIDED THAT</b> such measures are in accordance with the requirements of regulation 122(2) of the Community Infrastructure Levy Regulations 2010
<b>“Tier 1 Measures”</b>	means mitigation measures that the Owner will put in place to remedy non-compliance with any obligations in paragraph 7.1 of this Schedule
<b>“Tier 2 Measures”</b>	means mitigation measures that OPDC in consultation with TfL and/or LBE as appropriate may put in place to address any non-compliance with the obligations in paragraph 7.1 of this Schedule
<b>“Tier 3 Measures”</b>	means mitigation measures that OPDC in consultation with TfL and/or LBE as appropriate may put in place in accordance with paragraph 12 of this Schedule
<b>“Travel Plan”</b>	means the travel plan to be submitted to OPDC and TfL for approval pursuant to paragraph 2.1 of this Schedule which shall:
	<ul style="list-style-type: none"><li>(a) promote sustainable modes of transport and discourage use of single car occupancy by Occupiers and visitors to the Development;</li><li>(b) include the information and measures set out at paragraph 3 of this Schedule;</li><li>(c) be in accordance with and expand upon the framework travel plan prepared by RPS Group reference JNY11463-04b Version 04b dated 15 June 2023 which was submitted with the Planning Application</li></ul>
<b>“Travel Monitoring Plan”</b>	means monitoring of the approved Travel Plan by carrying out the following monitoring of travel to and from the Development which shall as a minimum include the following: - <ul style="list-style-type: none"><li>(a) carrying out TRICS compliant surveys of the modal split of visitors to the Development (including staff) together with details of where those who have travelled by vehicle (for all or part of their journey) have parked;</li><li>(b) monitoring of the usage of the car parking which is available for use in the Development; and</li></ul>

(c) monitoring of the usage of cycle parking facilities by residents of, visitors to, and employees of, the Development.

**“Travel Plan Monitoring Period”** means from First Occupation until 5 (five) years after First Occupation

**“Travel Plan Monitoring Officer”** means a person appointed by the Owner to monitor and promote the success in meeting the targets set out in the Travel Plan

**“Travel Plan Monitoring Report”** means a report setting out the data and information gathered as part of the Travel Plan Monitoring undertaken since the date of (i) First Occupation (in the case of the first such report) or (ii) the previous Travel Plan Monitoring Report (in the case of subsequent reports) and such report shall include:-

- (a) details of trip generation rates;
- (b) details of mode share and change in mode share over time through TRICS compliant surveys;
- (c) details of how effectively the 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 Travel Plan have not been met or are unlikely to be met, a proposed revision to the 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 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 Travel Plan which shall include a timetable for the implementation of such Sustainable Transport Measures

**“Vehicle Caps”** **Arrival** means the type of vehicles (Column A in the table below) arriving at the Site in order to service or make deliveries to the Development or to pick up food or drinks for Off Site delivery shall not exceed the number specified in the corresponding row of Columns B and C (unless otherwise agreed in writing with OPDC):

<b>Column A – Vehicle Type</b>	<b>Column B - Total daily arrivals at the Site or vicinity</b>	<b>Column C - Total weekly arrivals at the Site or vicinity</b>
Motorcycle	225	1,575
Car or van	332	2,327

## 2. SUBMISSION OF TRAVEL PLAN

- 2.1 No later than 6 (six) months prior to First Occupation the Owner shall:-
  - 2.1.1 submit a Travel Plan to OPDC for approval;
  - 2.1.2 notify OPDC of the name and contact details of the proposed Travel Plan Monitoring Officer.
- 2.2 No part of the Development shall be Occupied unless and until the Owner has:
  - 2.2.1 submitted and obtained OPDC's approval to a Travel Plan; and
  - 2.2.2 appointed a Travel Plan Monitoring Officer and notified OPDC of the name and contact details of such officer.
- 2.3 The Owner shall thereafter implement, comply with and procure compliance with the approved Travel Plan for the duration of the beneficial use of the Development, subject to any variations that may be agreed from time to time in writing between the Owner and OPDC.

## 3. CONTENTS OF TRAVEL PLAN

- 3.1 The Owner covenants with and undertakes to OPDC that the Travel Plan shall:-
  - 3.1.1 comply with TfL's online guidance on travel plans published in November 2013 and found at <https://tfl.gov.uk/info-for/urban-planning-and-construction/transport-assessment-guide/travel-plans> or such replacement best practice guidance as shall apply at the date of submission of the Travel Plan;
  - 3.1.2 include a specimen welcome pack for all Occupiers, employees and customers of (and visitors to) the Development;
  - 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 employees and other users of the Development by promoting alternative travel modes to the car including initiatives to reduce reliance on the car and over time reduce car parking On Site; and
    - (c) encouraging travel by cycle, on foot and by public transport by highlighting their accessibility and 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 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 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 TRAVEL PLAN**

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

#### **5. MODAL SPLIT TARGETS**

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

#### **6. TRAVEL PLAN MONITORING CONTRIBUTIONS**

- 6.1 The Owner shall:-
  - 6.1.1 pay £1,000 (one thousand pounds) (Index Linked) to OPDC prior to First Occupation of the Development;
  - 6.1.2 pay £1,000 (one thousand pounds) (Index Linked) to OPDC prior to the third anniversary of First Occupation of the Development; and
  - 6.1.3 pay £1,000 (one thousand pounds) (Index Linked) to OPDC prior to the fifth anniversary of First Occupation of the Development,

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

#### **7. KITCHEN SPACE AND DELIVERY AND SERVICING RESTRICTIONS**

- 7.1 The Owner covenants that:
  - 7.1.1 the number of Businesses Occupying the Kitchen Units shall not exceed the Business Occupants Cap;
  - 7.1.2 the number of vehicles arriving at the Site for the purposes of making deliveries to the Development or to pick up food or drink for delivery Off-Site shall not exceed Vehicle Arrival Caps;
  - 7.1.3 Motorcycles shall not arrive at the Site or its vicinity for the purposes of making deliveries or for the collection of food or drink for Off-Site delivery outside of the DSS Permitted Arrival Hours;
- 7.2 The Kitchen Units shall not be Occupied unless the obligations referred to at paragraph 7.1 are being complied with.

#### **8. ULTRA-LOW EMISSIONS DELIVERY FLEET TARGET**

- 8.1 The Owner covenants to use reasonable endeavours not to permit Occupation of a Kitchen Unit other than to Businesses which:

8.1.1 use a delivery fleet consisting of light goods electric vehicles (or other emerging new ultra-low emissions vehicle technologies) and/or electric bicycles and/or cargo bikes in increasing target increments, being (unless otherwise agreed in writing between the Parties):

- (a) 25% of the delivery fleet by 2028;
- (b) 50% of the delivery fleet by 2031; and
- (c) 90% of the delivery fleet by 2033

## **9. DELIVERY AND SERVICING STRATEGY**

9.1 The Owner covenants that:

- 9.1.1 the Development shall not be occupied until a Delivery and Servicing Strategy has been submitted to, and approved by, OPDC; and
- 9.1.2 the Kitchen Units shall not be Occupied unless the approved Delivery and Servicing Strategy is being complied with.

## **10. MONITORING OF DELIVERY AND SERVICING STRATEGY**

10.1 This paragraph 10 shall apply during the DSS Monitoring Period.

10.2 On the first anniversary of the date the Kitchen Space is First Occupied and each anniversary thereafter throughout the duration of the DSS Monitoring Period the Owner shall submit a DSS Monitoring Report to OPDC for approval.

## **11. DSS INTERIM MONITORING REPORT**

11.1 If OPDC considers there may be non-compliance by the Owner of any of the obligations in paragraph 7.1 it may at any time notify the Owner that it requires a DSS Interim Monitoring Report to be submitted to it for approval and in such notification OPDC shall specify the particular obligation(s) in paragraph 7.1 that it believes the Owner may not be complying with.

11.2 If the OPDC notifies the Owner pursuant to paragraph 11.1 the Owner shall prepare a DSS Interim Monitoring Report and submit the same to OPDC within one month of receiving OPDC's notification.

## **12. DSS CONTRIBUTION**

12.1 In the event that:

12.1.1 OPDC is not satisfied in its absolute discretion that the Tier 1 Measures listed in the DSS Monitoring Report(s) or the DSS Interim Monitoring Reports as may be required sufficiently remedy any non-compliance with any of the obligations contained in paragraph 7.1 of this Schedule; or

12.1.2 Within 20 (twenty) Working Days of the deadline to submit the DSS Monitoring Report pursuant to paragraph 9.2 of this Schedule and/or any DSS Interim Monitoring Report pursuant to paragraph 10.2 of this Schedule;

- (a) the Owner has failed to submit a DSS Monitoring Report (and/or DSS Interim Monitoring Report); or
- (b) the Owner fails to submit a DSS Monitoring Report (and/or DSS Interim Monitoring Report) which OPDC considers acceptable, in its absolute discretion;

then OPDC may at any time notify the Owner that it requires payment of the DSS Contribution ("DSS Contribution Demand Notice")

12.2 A DSS Contribution Demand Notice shall specify:

- 12.2.1 the basis on which OPDC is not satisfied that the relevant Tier 1 Measure(s) have been put in place;
- 12.2.2 the Tier 2 Measures required by OPDC;
- 12.2.3 the estimated cost of the Tier 2 Measures to be covered by the DSS Contribution; and
- 12.2.4 an anticipated programme for the implementation of the Tier 2 Measures

12.3 Within 10 (ten) Working Days of a DSS Contribution Demand Notice being served the Owner shall pay the DSS Contribution to OPDC

12.4 OPDC shall:

- 12.4.1 in its absolute discretion apply any part of the DSS Contribution received to the Tier 2 Measures
- 12.4.2 provide details of any Tier 2 Measures that differ materially from those specified in the relevant DSS Contribution Demand Notice to the Owner as soon as reasonably practicable; and
- 12.4.3 to the extent that access to the Site is required and PROVIDED THAT the Owner will grant all necessary rights for the Tier 2 Measures to be implemented, give the Owner not less than 20 (twenty) Working Days written notice of its intention to implement the Tier 2 Measures

12.5 Notwithstanding any payment of the DSS Contribution, the Owner shall be under a continuing obligation to comply with the Delivery and Servicing Strategy

### 13. TIER 3 MEASURES

13.1 In the event that the Owner has paid the DSS Contribution in full and OPDC considers there may be non-compliance by the Owner of any of the obligations in paragraph 7.1 it may at any time notify the Owner that it intends to implement the Tier 3 Measures ("Tier 3 Measures Notice")

13.2 The Tier 3 Measures Notice shall specify:

- 13.2.1 the basis on which OPDC considers there may be non-compliance with the obligations in paragraph 7.1 of this Schedule; and
- 13.2.2 the Tier 3 Measures required by OPDC which may include a reduction in any or all of:
  - (a) the Vehicle Arrival Caps;
  - (b) the DSS Permitted Arrival Hours;
  - (c) the Business Occupants Cap;

that OPDC considers, in its absolute discretion necessary in order to mitigate the non-compliance outlined in accordance with 13.2.1 above

13.3 The Tier 3 Measures shall take affect within 10 (ten) Working Days of the issue of the Tier 3 Measures Notice

13.4 Notwithstanding the implementation of the Tier 3 Measures by OPDC, the Owner shall be under a continuing obligation to comply with the Delivery and Servicing Strategy

**14. DELIVERY AND SERVICING STRATEGY MONITORING CONTRIBUTIONS**

14.1 The Owner shall pay £1,000 (one thousand pounds) (Index Linked) to OPDC on each of the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth and tenth anniversaries of the date of First Occupation, with each contribution being towards OPDC's costs involved in monitoring compliance with the approved Delivery and Servicing Strategy.

## SCHEDULE 4

### EMPLOYMENT, TRAINING AND SKILLS

#### DEFINITIONS

<b>“Affordable Workspace Contribution”</b>	means the sum of £1,175,541.12 (one million, one hundred and seventy five thousand, five hundred and forty one pounds and twelve pence) (Index Linked) to be used towards the provision of off-site affordable workspace
<b>“Apprenticeship”</b>	means a work based training programme which combines employment with learning and training and leads towards a nationally recognised qualification for the apprentice and can be aimed at different levels and operates within the applicable ‘National Apprenticeship Service’ guidelines and “Apprentice” shall be construed accordingly
<b>“Construction Period”</b>	means the period from the Implementation Date to the date of Practical Completion of the Development
<b>“Employment, Skills and Training Contribution”</b>	means the sum of £340,625 (three hundred and forty thousand, six hundred and twenty five pounds) (Index Linked) to be used towards supporting local employment, training and skills (including Off-Site skills and training centres)
<b>“Local Labour, Skill and Employment Strategy and Management Plan (Construction Phase)”</b>	means a written strategy to secure the commitments set out in this Schedule 3 which sets out the partnership arrangements regarding how the Owner and its contractors and sub-contractors will work with OPDC, LBE, LBHF, LBB and any local employment or training agencies as part of a training consortium, such arrangements to include:  (a) regular reporting and review mechanisms;  (b) a methodology for the purpose of recruiting Local Residents in accordance with paragraph 4 of this Schedule;  (c) a methodology for providing Apprenticeships and Work Placements in accordance with paragraph 5 of this Schedule; and  (d) an approach to the forecasting of future job opportunities and skills requirements to ensure an adequate pipeline of candidates
<b>“Local Labour, Skills and Employment Strategy and Management Plan (Operational Phase)”</b>	means a management plan relating to the operational phase of the Development to be submitted by OPDC in accordance with this Schedule 3 which sets out the partnership arrangements regarding how the Owner and its tenants will work with the OPDC, LBE, LBHF, LBB and any local employment or training agencies, such arrangements to include:  (a) regular reporting and review mechanisms;  (b) a methodology for vacancy sharing for the purpose of recruiting Local Residents for a period of at least 10 Working Days;  (c) an approach to the forecasting of future job opportunities and skills requirements to ensure an adequate pipeline of candidates; and  (d) plans for using reasonable endeavours to provide that 63 end user jobs for the operational phase of the Development employ Local Residents.

<b>"London Living Wage"</b>	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
<b>"Local Business"</b>	means any business, trade, service, profession or industry whose established place of business is within the LBB, LBE and/or LBHF
<b>"Local Resident(s)"</b>	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:-
	(g) council tax statement;
	(h) utility bills;
	(i) bank statements; or
	(j) other correspondence from government or state bodies.
<b>"Local Supply Chains Contribution"</b>	means the sum of £8,300 (eight thousand three hundred) (Index Linked) to be used towards local supply chain initiatives within the OPDC administrative area
<b>"Work Placement"</b>	means a placement for a maximum of 6 months (and such 6 month period shall not be required to be a consecutive period) whereby the placement worker is paid (and where reasonably practicable is paid the London Living Wage)

## 2. EMPLOYMENT SKILLS AND TRAINING CONTRIBUTION

- 2.1 The Owner shall:
  - 2.1.1 pay the Employment Skills and Training Contribution to OPDC prior to Commencement of Development; and
  - 2.1.2 not Commence Development until the Employment, Skills and Training Contribution has been paid to OPDC.
- 2.2 OPDC covenants to use the Employment, Training and Skills Contribution towards training and skills and business development activity in its administrative area.

## 3. LOCAL SUPPLY CHAINS CONTRIBUTION

- 3.1 The Owner shall:
  - 3.1.1 pay the Local Supply Chains Contribution to OPDC prior to Commencement of Development; and
  - 3.1.2 not Commence Development until the Local Supply Chains Contribution has been paid in full to OPDC
- 3.2 The Owner covenants to use the Local Supply Chains Contribution towards local supply chain initiatives within its administrative area.

**4. LOCAL LABOUR, SKILLS AND EMPLOYMENT STRATEGY AND MANAGEMENT PLAN (CONSTRUCTION PHASE)**

4.1 The Owner shall:

- 4.1.1 submit the Local Labour, Skills and Employment Strategy and Management Plan (Construction Phase) to OPDC for written approval prior to the Commencement of Development;
- 4.1.2 not Commence Development until the Local Labour, Skills and Employment Strategy and Management Plan (Construction Phase) has been approved in writing by OPDC; and
- 4.1.3 implement and comply at all times with the approved Local Labour, Skills and Employment Strategy and Management Plan (Construction Phase), subject to such amendments as may be agreed in writing with OPDC from time to time.

**5. AFFORDABLE WORKSPACE CONTRIBUTION**

5.1 The Owner shall:

- 5.1.1 pay 50% (fifty percent) of the Affordable Workspace Contribution to OPDC prior to Commencement of Development; and
- 5.1.2 not Commence Development until 50% (fifty percent) of the Affordable Workspace Contribution has been paid to OPDC; and
- 5.1.3 pay the remaining 50% (fifty percent) of the Affordable Workspace Contribution to OPDC prior to first Occupation of the Development; and
- 5.1.4 not to Occupy the Development until the Affordable Workspace Contribution has been paid in full to OPDC.

5.2 OPDC covenants to use the Affordable Workspace Contribution towards the provision of affordable workspace in its administrative area.

**6. APPRENTICESHIPS AND WORK PLACEMENTS**

6.1 The Owner shall use reasonable endeavours to provide not less than 23 (twenty-three) Apprenticeships during the Construction Period with a view to each Apprenticeship leading to a minimum qualification of NVQ Level 2.

6.2 Each Apprentice employed pursuant to paragraph 6.1 shall be:

- 6.2.1 a Local Resident;
- 6.2.2 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 of an apprentice overruns the expiration date of the relevant contract or sub-contract the Owner shall ensure the continuation of the relevant apprenticeship elsewhere on the Development;
- 6.2.3 supported through paid day release to undertake relevant training; and
- 6.2.4 provided with on the job training and supervised on-site by an experienced operative in a trade related to his or her training needs.

6.3 The Owner shall use reasonable endeavours to provide not less than 23 (twenty-three) Work Placements during the Construction Period.

6.4 The Owner shall upon written request provide OPDC with written evidence of its compliance with the provisions of this paragraph 6.

## 7. LOCAL PROCUREMENT

- 7.1 The Owner shall no later than 3 (three) months prior to the Commencement of Development provide OPDC with a schedule of the construction contracts and suppliers required in connection with the Development during the Construction Period, such schedule to:
  - 7.1.1 include the estimated value/budget of packages, expected start and completion timeframes and any additional health and safety requirements for specific packages; and
  - 7.1.2 show all opportunities for contracted and sub-contracted supplies and services.
- 7.2 The Owner shall use reasonable endeavours to ensure that the total value of contracts procured from Local Businesses throughout the Construction Period shall be no less than 10% (ten per cent) of the total value of the goods and services procured.
- 7.3 The Owner shall report the value of all orders placed with Local Businesses to OPDC on the completion of the tendering stage for construction of the Development.
- 7.4 The Owner shall upon written request provide OPDC with written evidence of its compliance with the provisions of this paragraph 7.

## 8. LOCAL LABOUR, SKILLS AND EMPLOYMENT STRATEGY AND MANAGEMENT PLAN (OPERATIONAL PHASE)

- 8.1 The Owner shall:
  - 8.1.1 submit the Local Labour, Skills and Employment Strategy and Management Plan (Operational Phase) to OPDC for written approval prior to Occupation of the Development;
  - 8.1.2 not Occupy the Development until the Local Labour, Skills and Employment Strategy and Management Plan (Operational Phase) has been approved in writing by OPDC; and
  - 8.1.3 implement and comply at all times with the approved Local Labour, Skills and Employment Strategy and Management Plan (Operational Phase), subject to such amendments as may be agreed in writing with OPDC from time to time.
- 8.2 The Owner shall upon written request provide OPDC with written evidence of its compliance with the provisions of this paragraph 8.

## SCHEDULE 5

## ENERGY AND SUSTAINABILITY

## 1. DEFINITIONS

<b>"Building"</b>	means the building referred to in the definition of "Development"
<b>"Carbon Offset Contribution"</b>	means the sum equivalent to £2,850 (two thousand eight hundred and fifty pounds) per tonne of carbon (being £95 per tonne of carbon over 30 (thirty) years) shortfall in carbon emission savings as identified by the CO <sup>2</sup> Audit, or such other sum as published in updated guidance published by either OPDC or the Mayor of London from time to time
<b>"CO<sup>2</sup> Audit"</b>	means an audit of the CO <sup>2</sup> emissions of the completed Development to establish whether there is a shortfall in carbon emissions savings compared to a Zero Carbon Development
<b>"Defects Liability Period"</b>	means such period of time following Practical Completion of the Building in which a contractor may remedy defects as may be included in the building contract for the Building;
<b>"District Heating Network"</b>	means an existing or future decentralised energy network providing low carbon energy, heating, electricity and hot water in the locality of the Site
<b>"Energy Performance Monitoring"</b>	means monitoring of the energy performance of the completed Development in accordance with London Plan 2021 Policy SI 2 (and related guidance)
<b>"Energy Performance Monitoring Period"</b>	means a period of not less than 5 (five) years commencing on the date of First Occupation
<b>"Energy Performance Monitoring Report"</b>	means a report to be submitted on each anniversary of the date of First Occupation during the Energy Performance Monitoring Period setting out the data and information gathered during the Energy Performance Monitoring
<b>"Future Proofing Measures"</b>	means future proofing measures within the Development including but not limited to: <ul style="list-style-type: none"> <li>(a) installation of sufficiently sized external buried pipework in identified distribution routes to enable connection to a District Heating Network;</li> <li>(b) the installation of pipework in the fabric of buildings necessary to connect to a District Heating Network;</li> <li>(c) suitable plant space provision for a future plate heat exchanger;</li> <li>(d) heating system tap-offs, provision of 'tees' and isolation valves in hot water headers to</li> </ul>

		facilitate the connection of an interfacing heat exchanger at a later date if connection to the District Heating Network is not immediately technically feasible or economically viable when first provided prior to First Occupation of the Development; and
	(e)	provision of secondary side pipework designed and installed to avoid, as far as possible, those heat losses that give rise to building overheating.
<b>"Sustainability Measures"</b>	<b>Compensatory</b>	means measures to remedy or otherwise provide compensatory measures to secure an acceptable or comparable level of sustainable design and construction within the Development in the event that the BREEAM Excellent rating is not achieved
<b>"Sustainability Penalty"</b>		means an amount equivalent to the cost at the date of the post completion review of the BREEAM rating meeting the sustainability targets associated with a BREEAM Excellent rating by other means in the event that the BREEAM Excellent rating has not been achieved and OPDC agrees it is impractical to apply Sustainability Compensatory Measures which sum shall be utilised by OPDC towards the provision of measures towards securing sustainability on other sites within its administrative area
<b>"Zero Carbon Development"</b>		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

## 2. DECENTRALISED ENERGY

- 2.1 The Owner covenants with OPDC that the Development:
  - 2.1.1 will be designed and constructed to connect to or not prejudice the future connection to a District Heating Network; and
  - 2.1.2 will be provided with a single connection point at which the Development may be connected to a District Heating Network in a location to be approved in writing by OPDC prior to Commencement.
- 2.2 The Owner covenants with OPDC:
  - 2.2.1 to submit and obtain OPDC's approval to written approval to Future Proofing Measures prior to the Commencement of Development, and that no Development shall be Commenced until OPDC has given its written approval the Future Proofing Measures; and
  - 2.2.2 no part of the Development shall be Occupied unless and until the Owner has submitted and obtained OPDC's approval to a report demonstrating that the approved Future Proofing Measures have been incorporated within the Development

### 3. CARBON OFF-SET CONTRIBUTION

#### 3.1 The Owner shall:

- 3.1.1 provide an updated energy report including the CO<sup>2</sup> Audit to OPDC with an assessment of the completed development prior to first Occupation of the Development;
- 3.1.2 if the updated energy report identifies that the zero carbon target cannot be fully achieved on-site, to pay the Carbon Offset Contribution to OPDC prior to first Occupation of the Development to make up the shortfall; and
- 3.1.3 not Occupy or permit or suffer Occupation of the Development until the Carbon Offset Contribution has been paid in full to OPDC if payment of this contribution is required pursuant to paragraph 3.1.2 above

### 4. BE SEEN

- 4.1 The Development shall not be Occupied until the Owner has provided updated accurate and verified 'as-built' design estimates of the 'Be Seen' energy performance indicators for the Building, as per the methodology outlined in the 'As-built stage' chapter / section of the GLA 'Be Seen' energy monitoring guidance (or any document that may replace it). All data and supporting evidence should be submitted to the GLA using the 'Be Seen' as-built stage reporting webform ([Be Seen As-built Stage webform | London City Hall](#)). The owner should also confirm that suitable monitoring devices have been installed and maintained for the monitoring of the in-use energy performance indicators, as outlined in the 'In-use stage' of the GLA 'Be Seen' energy monitoring guidance document (or any document that may replace it).
- 4.2 Upon the first anniversary of the date of First Occupation or following the end of the Defects Liability Period (whichever is the later) and at least for the following four years after that date, the Owner is required to provide accurate and verified annual in-use energy performance data for all relevant indicators for the Building as per the methodology outlined in the 'In-use stage' chapter / section of the GLA 'Be Seen' energy monitoring guidance document (or any document that may replace it). All data and supporting evidence should be submitted to the GLA using the 'Be Seen' in-use stage reporting webform ([\(Be Seen As-built Stage webform | London City Hall\)](#)). This obligation will be satisfied after the Owner has reported on all relevant indicators included in the 'In-use stage' chapter of the GLA 'Be Seen' energy monitoring guidance document (or any document that may replace it) for at least five years.
- 4.3 In the event that the 'In-use stage' evidence submitted under paragraph 4.2 shows that the 'As-built stage' performance estimates derived from paragraph 4.1 have not been or are not being met, the Owner should investigate and identify the causes of underperformance and the potential mitigation measures and set these out in the relevant comment box of the 'Be Seen' in-use stage reporting webform. An action plan comprising measures identified in paragraph 4.2 shall be submitted to and approved in writing by the GLA, identifying measures which would be reasonably practicable to implement and a proposed timescale for implementation. The action plan and measures approved by the GLA should be implemented by the Owner as soon as reasonably practicable.

## SCHEDULE 6

### DESIGN MONITORING

#### DEFINITIONS

**"Approved Drawings"**

means the drawings approved by the Planning Permission together with the drawings and other design details to be approved pursuant to condition 1 of the Planning Permission

**"Architect"**

means Down Farmer Architect of Unit 502, Peckham Levels, 95A Rye Ln, London SE15

**"Design Monitoring Costs"**

means the monies paid in accordance with paragraph 3.2.2 of this Schedule 6 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

**"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 to vary the Planning Permission pursuant to section 73 of the 1990 Act

**"S96A Amendment"**

means a non-material amendment to the Planning Permission approved pursuant to section 96A of the 1990 Act

#### 2. DESIGN TEAM STATEMENT

2.1 None of the following applications shall be submitted unless accompanied by a statement prepared by the Owner specifying the details of the design team who were involved in the preparation of these details (the **"Design Team Statement"**):

- 2.1.1 an application pursuant to condition 1 of the Planning Permission;
- 2.1.2 an application for a S96A Amendment;
- 2.1.3 an application for a S73 Permission.

2.2 The Owner shall also submit a statement to OPDC specifying the design team retained in connection with the Development upon Commencement of 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 6.

#### 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 Architects (or any alternative architect appointed pursuant to paragraph 3.1.1 of this Schedule 5) cease to be retained to oversee the delivery of the design quality of the Development (including but not limited to the making of the applications referred to in paragraph 2.1 of this Schedule 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 and 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 6 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 6) in respect of the Development shall be retained to oversee the delivery of the design quality of the Development in accordance with the Approved Drawings.

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

Signed by:

*Emma Williamson*

2E86482727A841E

Authorised Signatory

Signed by:

*Gurdip Juty*

E5C1A29C542F4A7

Authorised Signatory

Executed as a Deed for and on behalf of **CULINARY  
QUARTER (LONDON) LIMITED**, a company  
incorporated in the British Virgin Islands  
acting by **LUMBRO CORPORATE SERVICES LIMITED**  
who, in accordance with the laws of that territory, is  
acting under the authority of the company.

.....  
Signature in the name of **CULINARY  
QUARTER (LONDON) LIMITED**

**LUMBRO CORPORATE SERVICES LIMITED** is  
incorporated in Jersey under company registration  
number 6976 and is acting by  
..... and  
..... who, in accordance with  
the laws of that territory, is acting under the authority of  
**LUMBRO CORPORATE SERVICES LIMITED**

.....  
Signature in the name of **LUMBRO  
CORPORATE SERVICES LIMITED**

Signatures of authorised signatories  
of **LUMBRO CORPORATE  
SERVICES LIMITED**

.....  
Authorised Signatory

.....  
Authorised Signatory

Executed as a Deed by **STANDARD BANK JERSEY  
LIMITED** acting by two authorised signatories

Alison Eagar  
.....  
Full Name (Authorised Signatory)

Signed by:

*Alison Eagar*

0844BBF25A94492

.....  
Signature

Steven Key  
.....  
Full Name (Authorised Signatory)

Signed by:

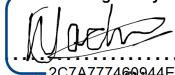
*Steven Key*

2811FB3307C746E

.....  
Signature

Executed as a Deed by **DEPHNA GROUP LIMITED**  
acting by a director in the presence of a witness

Nimesh Sachdev  
.....  
Full Name (Director)

DocuSigned by:  
  
2C7A777400944E0  
.....  
Signature of Director

in the presence of:

John Murphy  
.....  
Full Name (Witness)

99 London road  
.....  
Enfield  
.....  
EN2 6EU  
.....  
Address

Signed by:  
  
5A8E45B32EEF4AA  
.....  
Signature of Witness

**APPENDIX 1**

**PLANS**

DOWEN FARMER ARCHITECTS

Unit 801, Level 6,  
Peckham Levels,  
95a Rye Ln,  
London  
SE15 4ST

T: 020 8058 7997  
W: www.dowenfarmer.com

**Project**  
Portal Way

**Project address**  
Dephra House  
2 Portobello Way  
London  
W3 8RT

**Client**  
Dephra Group

**Sheet number**  
1091-DFA-DPW-DFA-V1-GA-DR-A-02001-S0

**Sheet name**  
Lower Ground Floor - 1/100

**Sheet scale**  
1 : 100 @ A0

**Date/time**  
15/06/2023 12:32:55

Rev	Description	Date	Issued	Checked
1	Planning Submission	26/05/23	SM	TF

Initial

AE

S6

EW

GJ

**Project status**  
**Planning**

**GENERAL NOTES:**

This drawing is not for construction and is for information purposes only. Contractor to provide detailed design and construction information. This drawing is to be read in conjunction with all relevant architects' and engineers' drawings and specifications. Drawings to be read in line with the Building Regulations and all dimensions to be checked on site with any discrepancies reported to the architect.

OS information not accurate and not to be used for measurements.

Dowen Farmer Architects Ltd is incorporated in England & Wales. Company registration number 10861309.

Portal Way





**APPENDIX 2**  
**DRAFT PLANNING PERMISSION**



## FULL PLANNING PERMISSION APPROVAL

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

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**Please see notes at the end of this notice**

**Applicant**

Culinary Quarter (London) Limited  
c/o Agent

**Agent**

Matt Hill  
Maddox Planning  
33 Boradwick Street  
London  
W1F 0DQ

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**Part I - Particulars of Application**

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Date of Application: 21-Jun-2023

Application No: 23/0136/FUMOPDC

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Proposal: Demolition of existing buildings on-site and redevelopment through construction of a mixed-use building comprising commercial kitchens and ancillary space (Use Class E (g(iii))); public space at upper ground floor including food hall (Use Class E); commercial/retail units at lower ground floor fronting Portal Way (Use Class E); and associated servicing, delivery, parking, public realm and landscaping.

Location: 2 Portal Way, London, W3 6RT

## Part II - Particulars of Decision

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

### 1. Time Limit for Commencement - compliance

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

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

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

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

Drawing Title	Drawing No.	Date
Existing Location Plan	1091-DFA-DPW-DFA-V1-LP-DR-A-00101-S0	26/05/2023
Existing Block Plan	1091-DFA-DPW-DFA-V1-LP-DR-A-00102-S0	26/05/2023
Existing Ground Floor	1091-DFA-DPW-DFA-V1-GA-DR-A-01101-S0	26/05/2023
Existing First Floor	1091-DFA-DPW-DFA-V1-GA-DR-A-01102-S0	26/05/2023
Existing Roof Floor	1091-DFA-DPW-DFA-V1-GA-DR-A-01103-S0	26/05/2023
Existing North Elevation	1091-DFA-DPW-DFA-V1-EL-DR-A-01201-S0	26/05/2023
Existing East Elevation	1091-DFA-DPW-DFA-V1-EL-DR-A-01202-S0	26/05/2023
Existing South Elevation	1091-DFA-DPW-DFA-V1-EL-DR-A-01203-S0	26/05/2023
Existing West Elevation	1091-DFA-DPW-DFA-V1-EL-DR-A-01204-S0	26/05/2023
Demolition Ground Floor	1091-DFA-DPW-DFA-V1-GA-DR-A-01401-S0	26/05/2023
Demolition First Floor	1091-DFA-DPW-DFA-V1-GA-DR-A-01402-S0	26/05/2023
Demolition Roof Plan	091-DFA-DPW-DFA-V1-GA-DR-A-01403-S0	26/05/2023

Proposed Basement Floor	1091-DFA-DPW-DFA-V1-GA-DR-A-02000-S0	16/02/2024
Proposed Lower Ground Floor	1091-DFA-DPW-DFA-V1-GA-DR-A-02001-S0	08/02/2024
Proposed Ground Floor	1091-DFA-DPW-DFA-V1-GA-DR-A-02002-S0	08/02/2024
Proposed First Floor	1091-DFA-DPW-DFA-V1-GA-DR-A-02003-S0	08/02/2024
Proposed Second Floor	1091-DFA-DPW-DFA-V1-GA-DR-A-02004-S0	08/02/2024
Proposed Third Floor	1091-DFA-DPW-DFA-V1-GA-DR-A-02005-S0	08/02/2024
Proposed Fourth Floor	1091-DFA-DPW-DFA-V1-GA-DR-A-02006-S0	08/02/2024
Proposed Fifth Floor	1091-DFA-DPW-DFA-V1-GA-DR-A-02007-S0	08/02/2024
Proposed Sixth Floor	1091-DFA-DPW-DFA-V1-GA-DR-A-02008-S0	08/02/2024
Proposed Seventh Floor	1091-DFA-DPW-DFA-V1-GA-DR-A-02009-S0	08/02/2024
Proposed Eight Floor	1091-DFA-DPW-DFA-V1-GA-DR-A-02010-S0	08/02/2024
Proposed Ninth Floor	1091-DFA-DPW-DFA-V1-GA-DR-A-02011-S0	08/02/2024
Proposed Tenth Floor	1091-DFA-DPW-DFA-V1-GA-DR-A-02012-S0	08/02/2024
Proposed Eleventh Floor	1091-DFA-DPW-DFA-V1-GA-DR-A-02013-S0	08/02/2024
Proposed Roof Plan	1091-DFA-DPW-DFA-V1-GA-DR-A-02014-S0	13/06/2023
Proposed North Elevation	1091-DFA-DPW-DFA-V1-EL-DR-A-03101-S0	26/02/2024
Proposed East Elevation	1091-DFA-DPW-DFA-V1-EL-DR-A-03102-S0	26/02/2024
Proposed South Elevation	1091-DFA-DPW-DFA-V1-EL-DR-A-03103-S0	26/02/2024
Proposed West Elevation	1091-DFA-DPW-DFA-V1-EL-DR-A-03104-S0	26/02/2024
Proposed Section A-A	1091-DFA-DPW-DFA-V1-SC-DR-A-01001-S0	26/05/2023
Proposed Section B-B	1091-DFA-DPW-DFA-V1-SC-DR-A-01002-S0	26/05/2023
Proposed Section C-C	1091-DFA-DPW-DFA-V1-SC-DR-A-01003-S0	26/05/2023
Proposed Section D-D	1091-DFA-DPW-DFA-V1-SC-DR-A-01004-S0	26/05/2023

Proposed Typical Kitchen Layout Types	1091-DFA-DPW-DFA-V1-GA-DR-A-05101-S0	26/05/2023
Proposed Staff Rest + Toilet Layouts	1091-DFA-DPW-DFA-V1-GA-DR-A-05201-S0	26/05/2023
Proposed Cycle Storage	1091-DFA-DPW-DFA-V1-GA-DR-A-05202-S0	26/05/2023
Proposed Refuse Store	1091-DFA-DPW-DFA-V1-GA-DR-A-05203-S0	13/06/2023
Proposed Facade Typical Bay Study	1091-DFA-03300	15/02/2024
Proposed PV Panel Layout	N/A	January 2024

Document Title	Prepared By	Date
Air Quality Assessment	Redmore Environmental Ltd	21/02/2024
Biodiversity net gain assessment	Greengage Environmental	December 2022
Circular economy statement (Rev 06)	Ensphere Group Ltd	January 2024
Daylight and sunlight assessment	Herrington Consulting Ltd	01/06/2023
Daylight and sunlight assessment (addendum)	Herrington Consulting Ltd	08/01/2024
Delivery and servicing plan	RPS	15/06/2023
Design and access statement	Dower Farmer Architects	June 2023
Design and access statement addendum	Dower Farmer Architects	January 2024
Desk Study (land contamination) (Rev 01)	Geotechnical and Environmental Associates Limited	31/05/2023
Energy and sustainability assessment including BREEAM Pre-Assessment	MWL	February 2024
Fire strategy (Rev 03)	Ashton Fire	22/02/2024
Framework travel plan	RPS	15/06/2023
Health impact assessment	Greengage Environmental	June 2023
Landscape strategy	Studio Bosk	09/06/2023
Noise and vibration assessment (Rev C)	ALN Acoustic Design Ltd	11/10/2023
Odour assessment	Redmore Environmental Ltd	05/06/2023
Outline Construction Logistics Plan	RPS	15/06/2023
Planning statement	Maddox Planning	16/06/2023
Preliminary ecological assessment	Greengage Environmental	May 2023

Site Waste Management Plan (construction)	RPS	11/07/2023
Statement of Materiality	Dower Farmer Architects	February 2024
Surface Water Drainage & Flood Risk Assessment Report (Rev B)	Pitman Associates Ltd	December 2023
Townscape visual impact assessment	Lichfields	June 2023
Transport assessment	RPS	15/06/2023
Transport Addendum Report	RPS	19/02/2023
Wind microclimate assessment	RWDI Anemos Ltd	16/06/2023
Whole lifecycle carbon assessment	Ensphere Group Ltd (Rev 05)	October 2023

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

### 3. Floorspace – compliance

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

Use	Approved Floorspace
Use Class E g(iii)	17,909 sqm (GIA)
Use Class E	1,240 sqm (GIA)

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

### 4. Building Height – compliance

The development hereby permitted shall comprise a new building of 12 storeys from food hall level (upper ground floor) and a maximum height of 59 metres above ground level from Portal Way.

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

### 5. Contaminated Land – prior to commencement

- i) The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the local planning authority:
  - a) site investigation report documenting the ground conditions of the site and incorporating the recommendations of the Desk Study (dated May 2023); and, unless otherwise agreed in writing by the local planning authority;
  - b) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases and vapours when the site is developed and proposals for future maintenance and monitoring. This scheme should take into account the recommendations of the Desk Study (dated May 2023) and any additional recommendations identified in the report approved under part a). Such scheme shall include the nomination of a competent person to oversee the implementation of the works.

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

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

## 6. Construction Logistics Plan – prior to commencement

No development shall commence, including any works of demolition, until a detailed Construction Logistics Plan (CLP) has been submitted to and approved in writing by the Local Planning Authority, in accordance with relevant Transport for London guidance and in consultation with Transport for London and the relevant Highways Authority. The CLP shall include, but not be limited to, the following details (where appropriate):

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

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

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

## **7. Construction and Environmental Management Plan – prior to commencement**

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

- i) a construction programme including a 24 hour emergency contact number;
- ii) complaints procedures, including complaint response procedures;
- iii) air quality mitigation measures, including dust suppression;
- iv) parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- v) arrangements to demonstrate how any concurrent construction with HS2 works shall not impede the construction of the HS2 works;
- vi) arrangements to minimise the potential for noise and vibration disturbance;
- vii) locations for loading/unloading and storage of plant and materials used in constructing the development;
- viii) details showing the siting, design and maintenance of security hoardings;
- ix) wheel washing facilities and measures to control the emission of dust and dirt during construction;
- x) site lighting details;
- xi) site drainage control measures;
- xii) details of biodiversity and arboricultural mitigation measures including a pre-commencement check by an ecological clerk of works (ECoW) to determine whether nesting birds are present;
- xiii) a scheme for recycling/disposing of waste resulting from demolition and construction works in accordance with the waste hierarchy and circular economy principles;
- xiv) membership of the Considerate Constructors Scheme; and
- xv) details of cranes and other tall construction equipment (including details of obstacle lighting).

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

Reason: To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties, and to support ecology/retention of trees, and to ensure that the site does not obstruct air traffic movements or impede the effective operation of air traffic navigation transmitter systems in accordance with London Plan (2021) Policies T3 'Transport capacity, connectivity and safeguarding', D14 'Noise', G6 'Biodiversity and access to nature', and G7 'Trees and woodlands' and OPDC

Local Plan (2018-2028) Policies T7 'Freight, Servicing and Deliveries' and T8 'Construction', EU5 'Noise and Vibration' and EU2 'Urban Greening and Biodiversity'. The details are required prior to commencement because the demolition phase must be addressed in the CEMP.

#### **8. Detailed Plans for Fibre Connectivity – prior to commencement**

Prior to the commencement of development, excluding any works of demolition, detailed plans demonstrating the provision of sufficient ducting space for full fibre connectivity infrastructure within the development shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: In the interest of delivering digital connectivity infrastructure in accordance with London Plan (2021) Policy SI 6 'Digital connectivity infrastructure'. The details are required prior to commencement because the details affect works below ground.

#### **9. Materials – prior to above ground works**

Prior to the commencement of above ground works:

- a) Samples of the facing materials on the building's inner and outer facades, including glazing and key junctions, and elevation drawings annotated to show where the materials are to be located shall be submitted to and approved in writing by the local planning authority.
- b) The proposed scope of a full-size mock up panel of the building's inner and outer facade shall be submitted to and approved in writing by the local planning authority.
- c) A full-size mock up panel shall be constructed on site to show the building's typical inner and outer facades including architectural features, key junctions, glazing, cladding and frames where relevant, made available for inspection by the local planning authority and approved in writing.

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

Reason: To ensure that the appearance of the building is suitable and it contributes positively to the character and appearance of the area in accordance with London Plan (2021) Policies D3 'Optimising site capacity through the design-led approach' and D4 'Delivering good design', and OPDC Local Plan (2018-2028) Policy D3 'Well-designed Buildings'.

#### **10. Detailed Drawings – prior to above ground works**

Notwithstanding the submitted details, prior to the commencement of work on the corresponding part of the development, detailed drawings comprising plans, elevations, sections and 3d axonometric drawings (as appropriate) of the following parts of the development, including the building's outer and inner facades, at 1:10,

1:20 or 1:50 as appropriate shall be submitted to and approved in writing by the local planning authority:

- a) A bay study of the materials, cladding and glazing;
- b) Building entrances;
- c) Principle features on all facades;
- d) Balconies (including soffits and balustrades);
- e) Windows/glazing to the commercial uses;
- f) Typical window openings including surrounds;
- g) The parapets/roof edges and screens at the top of the building;
- h) Any roof level structures including flues and lift overruns; and
- i) Details of maintenance and prevention of weathering.

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

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

## **11. Hard and Soft Landscaping – prior to above ground works**

Prior to the commencement of above ground works, full details of the hard and soft landscaping for all areas of the site (public realm and communal/staff amenity areas) shall be submitted to and approved in writing by the Local Planning Authority. The details submitted shall include:

- i) details of all materials and hard landscaping across the site;
- ii) details of all boundary treatments to the development;
- iii) details of any fences, walls or other means of enclosure;
- iv) details of shrub and tree planting across the site;
- v) details of biodiversity enhancements;
- vi) details of all street furniture;
- vii) details of all signage;
- viii) details how a potential future pedestrian/cycle connection to 1 Portal Way to the north of the site can be facilitated should both sites come forward;
- ix) details of the wayfinding strategy/signage with reference to food hall access and the pedestrian connection through the building;
- x) details of all external lighting;
- xi) a programme of the implementation of the landscaping and the bringing into use of all areas of public open spaces and communal/staff amenity areas;
- xii) a landscaping maintenance and management plan.

The submitted landscape details shall be designed to accord with the design principles, layout and materials of OPDC's scheme of public realm enhancement for Portal Way in order to ensure sufficient consistency of public realm treatment along the length of Portal Way.

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

Reason: In the interests of the character and appearance of the area, to ensure appropriate accessibility and to support biodiversity in accordance with London Plan (2021) Policies D3 'Optimising site capacity through the design-led approach', D4 'Delivering good design', D8 'Public Realm', G5 'Urban greening' and G6 'Biodiversity and access to nature', and OPDC Local Plan (2018-2038) Policies D1 'Public Realm' and EU2 'Urban Greening and Biodiversity'.

## **12. Secured by Design – prior to above ground works**

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

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

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

## **13. Operational Waste and Recycling Management Plan – prior to above ground works**

Prior to the commencement of above ground works, an operational waste and recycling management plan shall be submitted to and approved in writing by the local planning authority. The plan shall include, but not be limited to, the following details (where appropriate):

- Demonstration of how operational waste will be managed in accordance with the waste hierarchy;
- Demonstration of sufficient on-site waste storage capacity in respect of the waste and recycling generated during the operational phase of the development. This applies to the main storage area at lower ground floor as well as the food hall and the individual kitchens;
- Set out the number of bins proposed broken down by waste stream and plans to illustrate;
- Provide evidence to demonstrate that the development supports the separate collection of dry recyclable streams (at least card, paper, mixed plastics, metals and glass), food waste and other waste; and
- Details of how waste collection will be safely managed across the site.

The plan shall thereafter be adhered to at all times for the lifetime of the development.

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

#### **14. Cycle Parking and Storage – prior to above ground works**

Prior to the commencement of above ground works, details of secure cycle parking and storage that meets London Cycle Design Standards shall be submitted to and approved in writing by the local planning authority in consultation with Transport for London.

The cycle parking provision shall comprise no less than 5% allocation for larger / adapted cycles and 10% allocation as Sheffield stands.

The cycle parking and storage shall be provided in accordance with the approved details, made available at all times to everyone using the development and not used for any other purpose, unless otherwise agreed in writing. The development shall not be brought into use until the cycle storage has been provided in accordance with the approved details.

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

#### **15. External Equipment – prior to above ground works**

Prior to the commencement of above ground works, details including maintenance of any external equipment to be installed on the building including window cleaning equipment, mechanical plant or kitchen extraction/filtration systems shall be submitted to and approved in writing by the local planning authority. The equipment shall only be installed in accordance with the approved details.

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

#### **16. Noise Mitigation Measures – prior to above ground works**

Prior to the commencement of above ground works, details of the noise mitigation measures identified within the Noise Impact Assessment (dated October 2023), including details of the atmosphere-side duct attenuators and demonstration that the 'Kitchen Unit Ventilation Noise Limit' of 65dB LWA, specified within the Noise Impact Assessment, is not exceeded, shall be submitted to and approved in writing by the local planning authority.

The agreed noise mitigation measures shall be provided in full accordance with the proposed details before any of the commercial kitchens are first brought into use, and maintained for the lifetime of the development.

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

#### **17. BREEAM – prior to above ground works**

Prior to the commencement of above ground works, a BREEAM review report with a target of achieving an "Excellent" rating shall be submitted to and approved in writing by the local planning authority. Following this, within six months of the date of first occupation, a BREEAM certificate confirming the building has achieved BREEAM "Excellent" shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure the development maximises opportunities for reducing carbon emissions in accordance with London Plan (2021) Policy SI 2 'Minimising greenhouse gas emissions' and OPDC Local Plan (2018-2038) Policy D3 'Well-Designed Buildings'.

#### **18. Fire Statement – prior to above ground works**

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

The development shall be carried out in accordance with the approved details. The measures contained in the updated Fire Statement shall be maintained for the lifetime of the development.

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

#### **19. Telecommunications Apparatus and Antennae/Satellite Dishes – prior to occupation**

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

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

#### **20. Lighting Strategy – prior to occupation**

Prior to the occupation of the development, a lighting strategy to address all external lighting across the development including a lux plan and any CCTV scheme shall be

submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details.

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

## **21. Circular Economy Post-Construction Assessment – prior to occupation**

Prior to the occupation of the development, a post-construction monitoring report should be completed in line with the GLA's Circular Economy Statement Guidance.

The post-construction monitoring report shall be submitted to the GLA, currently via email at: [circulareconomystatements@london.gov.uk](mailto:circulareconomystatements@london.gov.uk), along with any supporting evidence as per the guidance. Confirmation of submission to the GLA shall be submitted to, and approved in writing by, the local planning authority, prior to occupation of the development.

Reason: In the interests of sustainable waste management and in order to maximise the re-use of materials in accordance with London Plan (2021) Policy S1 7 'Reducing waste and supporting the circular economy' and OPDC Local Plan (2018-2038) Policy EU7 'Circular and Sharing Economy'.

## **22. Whole Life Cycle Post-Construction Assessment – prior to occupation**

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

Reason: In the interests of sustainable development and to maximise on-site carbon dioxide savings in accordance with London Plan (2021) Policy S1 7 'Reducing waste and supporting the circular economy' and OPDC Local Plan (2018-2038) Policy EU7 'Circular and Sharing Economy'.

## **23. Ventilation/Extraction System – prior to occupation of the relevant commercial unit**

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

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

#### **24. Electric Vehicle Charging - compliance**

All operational car parking spaces shall be installed with electric vehicle charging points (EVCP).

The EVCP shall be constructed and marked out and the charging points installed prior to occupation and thereafter retained permanently to serve the vehicles of occupiers.

Reason: To encourage the use of electric vehicles in the interests of sustainability in accordance with London Plan (2021) Policies T6.2 'Office Parking' and T7 'Deliveries, servicing and construction' and OPDC Local Plan (2018-2038) Policy T4 'Parking'.

#### **25. Odour Mitigation Measures – compliance**

The development shall not be operated other than in accordance with the odour mitigation measures set out within the submitted Odour Assessment (dated June 2023), and the mitigation measures shall be maintained throughout the lifetime of the development.

Reason: In order to prevent odour nuisance to neighbouring occupiers and in accordance with Policy EU5 of the Local Plan.

#### **26. Opening Hours – compliance**

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

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

#### **27. Energy Strategy - compliance**

The development hereby approved shall be implemented in accordance with the Energy Strategy (dated February 2024), or as otherwise agreed in writing with the local planning authority. The measures contained in the Energy Strategy shall be maintained for the lifetime of the development.

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

#### **28. Noisy Working Hours – compliance**

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

- 08.00 – 18.00 Monday to Friday;
- 08.00 – 13.00 on Saturdays;

- Not at all on Sundays, bank holidays and public holidays.

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

### **29. Non-Road Mobile Machinery – compliance**

No Non-Road Mobile Machinery (NRMM) shall be used on the site unless it is compliant with the NRMM Low Emission Zone requirements (or any superseding requirements) and until it has been registered for use on the site on the NRMM register (or any superseding register).

Reason: To ensure that air quality is not adversely affected by the development, in accordance with London Plan (2021) Policy SI 1 'Air quality' and OPDC Local Plan (2018-2038) policies EU4 'Air Quality' and T8 'Construction'.

### **30. Publicly accessible public realm – compliance**

The on-site open space provided at upper and lower ground levels shall remain publicly accessible 24 hours a day.

Reason: To ensure a high quality, inclusive, accessible and coordinated multi-functional public realm at all times of the day in accordance with Local Plan (2018-2038) Policy D1 'Public Realm'

### **31. East-west access route – compliance**

The stepped and step-free east-west route through the building/food hall shall remain open to the public during the following hours:

09.00 – 23.30 Monday to Sunday.

Reason: To ensure a high quality, inclusive, accessible and coordinated multi-functional public realm at all times of the day in accordance with Local Plan (2018-2038) Policy D1 'Public Realm'

### **32. Ecological Mitigation – compliance**

The development, including any works of demolition, shall only be carried out in full accordance with the ecological measures set out in the approved Preliminary Ecological Appraisal (dated May 2023), the approved Biodiversity Impact Assessment (dated December 2022), and the ecological mitigation measures secured within the approved Construction and Environmental Management Plan (Condition 7) and landscape details (Condition 11).

The ecological measures shall be maintained throughout the lifetime of the development.

Reason: To ensure adequate protection for protected species that may be present on the site in accordance with London Plan (2021) Policy G6 'Biodiversity and access to nature', and OPDC Local Plan (2018-2038) Policy EU2 'Urban Greening and Biodiversity'.

### **33. Drainage Strategy – compliance**

The development hereby permitted shall be carried out in accordance with the approved Surface Water Drainage & Flood Risk Assessment Report (dated December 2023), or as otherwise agreed in writing with the local planning authority, and this approved report shall thereafter be maintained for the lifetime of the development.

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

### **34. Food hall – compliance**

The food hall hereby permitted at upper ground floor level is ancillary to the commercial kitchens hereby permitted on levels 1 to 12 of the building, and must only be used for the sale of food and drink produced in the commercial kitchens to visiting members of the public where consumption of that food and drink is principally undertaken on the premises, for the lifetime of the development.

Reason: To ensure place making, activation and vibrancy in the public realm in accordance with OPDC Local Plan (2018-2038) Policies D1 'Public Realm' and TCC2 'Vibrancy'.

### **Proposed Informatives**

1. You are advised that this permission has been granted subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990.
2. Under the terms of the Planning Act 2008 (as amended) and Community Infrastructure Levy Regulations 2010 (as amended), this development will be liable to pay the Mayor of London's Community Infrastructure Levy and OPDC's Community Infrastructure Levy. This will be calculated in accordance with the MCIL2 Charging Schedule 2019 and OPDC CIL Charging Schedule 2024. Liability to pay CIL must now be assumed by submitting an Assumption of Liability Form to OPDC at [planningapplications@opdc.london.gov.uk](mailto:planningapplications@opdc.london.gov.uk).
3. The applicant is advised that prior to making a submission in relation to conditions requiring further details of external materials, that they should discuss the materials to be submitted with an Approved Building Control Surveyor in order to ensure that they meet with current fire safety regulations.
4. The applicant is strongly encouraged to consider the use of a sprinkler system within the development. Sprinkler systems installed in buildings can significantly reduce the damage caused by fire and the consequential cost to businesses and can reduce the risk to life.
5. The applicant and/or contractor are encouraged to sign up to the Fleet Recognition Scheme (FORS) which promotes better safety standards during construction. The FORS guidance can be found at <http://www.tfl.gov.uk/info-for/freight/safety-and-the-environment/managing-risks-wrrr>.

### **Proactive and Positive Statement**

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

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

Dated this:

**Emma Williamson**  
Director of Planning  
Old Oak and Park Royal Development Corporation

## Old Oak and Park Royal Development Corporation

### TOWN AND COUNTRY PLANNING ACT 1990

#### Appeals to the Secretary of State

- \* If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State for the Environment under Section 78 of the Town and Country Planning Act 1990.
- \* If you want to appeal then you must do so within SIX months of the date of this notice, using a form, which is available from the Planning Inspectorate, (a copy of which must be sent to Old Oak and Park Royal Development Corporation Planning Policy and Decisions Team) or complete an application online.

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

- \* To make an appeal online, please use [www.planningportal.gov.uk/pcs](http://www.planningportal.gov.uk/pcs). The Inspectorate will publish details of your appeal on the internet. This may include copies of documentation from the original planning application and relevant supporting documents supplied to the local authority, and or information, including personal information belonging to you that you are happy will be made available in this way. If you supply personal information belonging to a third party please ensure you have their permission to do so. More detailed information about data protection and privacy matters is available on the Planning Portal.
- \* The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances, which excuse the delay in giving notice of appeal.
- \* The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.
- \* In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based its decision on a direction given by him.

#### Purchase Notice

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