



dated 22 November 2017

Greater London Authority

and

The Royal Borough of Kingston Upon Thames

Affordable Housing Grant Agreement (local authority)

in relation to the Housing Zones Programme – Cambridge Road Estate

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Affordable Housing Grant Agreement

dated 22 November 2017

Parties

- (1) **Greater London Authority** of City Hall, The Queen's Walk, More, London SE1 2AA (the **GLA**); and
- (2) **The Royal Borough of Kingston Upon Thames** of 5 – 8 Tadlow, Washington Road, Kingston-upon-Thames, KT1 3JL (the **Borough**).

Introduction

- (A) The GLA is empowered under the Act to make available funding to support the delivery of the Housing Zone Programme.
- (B) The Borough has submitted proposals (on behalf of itself, the Borough and others) to the GLA pursuant to the Housing Zones Programme in respect of the proposed construction and/or delivery of the Zone Outputs within the Zone and the GLA has agreed in principle to make Zone Funding available.
- (C) The GLA has agreed in principle to make Zone Funding available to the Borough and its partners pursuant to the terms of the Overarching Borough Agreement to enable the delivery of certain Zone Outputs.
- (D) The Borough has agreed to deliver the Affordable Dwellings referred to in this Agreement and which facilitate or contribute to the delivery of the Zone Outputs.
- (E) This Agreement sets out the terms and conditions upon which a specific amount of Zone Funding, in the form of Scheme Grant, will be advanced to the Borough by the GLA in relation to the Affordable Zone Outputs.
- (F) Grant paid by the GLA to the Borough pursuant to this Agreement is social housing assistance as defined in Section 32(13) of the Housing and Regeneration Act 2008.
- (G) This Agreement together with statutory and other instruments constitutes an entrustment (within the meaning of the SGEI Decision) from the GLA to the Borough to provide suitable accommodation for families and residents in London who are failed by the housing market.
- (H) The grant funding provided under this Agreement is (at its date) made in compliance with the requirements set out in the European Commission's Decision of 20 December 2011 concerning public service compensation granted for Services of General Economic Interest (2012/21/EU).

1 Definitions and interpretation

1.1 Definitions

In this Agreement unless the context otherwise requires the following terms shall have the meanings given to them below:

Act means the Greater London Authority Act 1999;

Actual Development Costs means the amount of Development Costs actually incurred by the Borough in developing the Scheme as such amount is certified by the Borough pursuant to Condition 8.2.3 or 8.4.3;

Additional Design and Quality Standards means the standards offered by the Borough and accepted by the GLA through OPS which are additional to the requirements of the Design and Quality Standards;

Advertising Requirements means:

- (a) such form of wording together with warnings examples and annual percentage rate illustrations as the GLA may from time to time provide to the Borough for the purpose of illustration within any advertisement relating to the Equity Loans; and
- (b) all other requirements of the Consumer Credit (Advertisements) Regulations 2004 and 2010 so far as the same are applicable to this Agreement.

Affordable Dwelling means:

- (a) a house, flat or maisonette developed with the benefit of grant payable under this Agreement and in relation to the Scheme as more particularly described in the Scheme Details; and
- (b) a Nil Grant Unit.

Affordable Home Ownership means low cost home ownership on Shared Ownership Lease terms or on Equity Loan Terms;

Affordable Home Ownership Dwelling means a Flexible Dwelling to be disposed of on Affordable Home Ownership terms;

Affordable Housing means subsidised housing provided by the Borough pursuant to this Agreement that will be made permanently available:

- (a) at an Affordable Rent;
- (b) as Social Rent Accommodation;
- (c) on a Rent to Save basis; or
- (d) on Affordable Home Ownership terms.

Affordable Rent means low cost rental accommodation as defined in Section 69 of the HRA 2008, other than Social Rent Accommodation, made permanently available for letting to persons at rents (inclusive of service charges), not exceeding the Affordable Rent Level and let on secure tenancy terms;

Affordable Rent Dwelling means an Affordable Dwelling to be occupied on an Affordable Rent basis;

Affordable Rent Level means in relation to each Affordable Rent Dwelling a figure calculated in accordance with the applicable requirements of Legislation and (to the extent applicable) the methodology for affordable rents set out in Chapter 3 of the Rent Guidance, as the same may be amended and updated from time to time representing the lower of:

- (a) 80% of the market rent for an equivalent property; and
- (b) the relevant Local Housing Allowance figure for an equivalent property

located in each case in the Broad Market Rental Area in which the relevant Affordable Rent Dwelling is located;

Affordable Zone Outputs means:

- (a) the total number, type and tenure (including Agreed Purposes) of Affordable Dwellings to be delivered pursuant to this Agreement as set out in the aggregated Scheme Details; and
- (b) the timescales for their development and delivery set out in such Scheme Details;

Agreed Purposes means the purposes for which each of the Affordable Dwellings is to be used as such purposes are described in the Scheme Details;

Agreement means this Affordable Housing Grant Agreement (including its Schedules, Annexures and Appendices (if any));

AHGA Rent Dwelling means an Affordable Rent Dwelling and/or a Social Rent Dwelling;

Approved Lender means the lender providing mortgage finance to an Eligible Purchaser (secured by a prior legal charge) and who is:

- (a) a Qualifying Lender; and
- (b) aware of the terms of Equity Loans and who has confirmed that it will provide prior loans to Eligible Purchasers acquiring property funded through the GLA's affordable housing programmes from time to time;

Availability Period means a period from the date of this Agreement until 31 March 2024 unless otherwise brought to an end pursuant to clause 9.5;

Balancing Sum means such sum as represents the amount by which Public Sector Subsidy in respect of the Scheme (or such part thereof as has been delivered) exceeds the aggregated Actual Development Costs incurred by the Borough in the delivery of the Scheme;

Bid means the submission by the Borough of its proposal for the development of the Zone including any supporting information relating to the Affordable Dwellings;

Borough Affiliate means a third party whose relationship with the Borough falls within limb (b) of the definition of Borough Party;

Borough Party means:

- (a) the Borough, the Building Contractor, any member of the Professional Team, agent, employee or subcontractor of any tier of the Borough and the Borough's Representative;
- (b) any subsidiary, associate or joint venture in which a local authority has a material interest sufficient to require group financial statements to be prepared which account for these interests, in accordance with CIPFA's Code of Practice on Local Authority Accounting in the United Kingdom 2017/18 (as amended or updated) which is the Statement of Recommended Practice on local authority accounting or any code or other document which replaces it as the Statement of Recommended Practice;

Borough's Representative means Roy Thompson, Deputy Chief Executive, Royal Borough of Kingston, Guildhall 2, High Street, Kingston Upon Thames, KT1 1EU or such other person agreed by the GLA to act as the Borough's representative from time to time for the purposes of this Agreement;

Broad Market Rental Area has the meaning specified in paragraph 4 of Schedule 3B to the Rent Officers (Housing Benefit Functions) Order 1997, or article 3 of the Rent Officers (Universal Credit Functions) Order 2013 as appropriate;

Building Contract means the contract entered into between the Borough and the Building Contractor relating to the construction and development of the Scheme;

Building Contractor means the building contractor or developer appointed or to be appointed by the Borough in respect of the Scheme;

Business Day means any day other than a Saturday, Sunday or a statutory Bank Holiday in England;

Capital Grant has the meaning set out in the Recovery Determination;

Capital Grant Recoverable means such amount of Capital Grant and interest thereon as the GLA is entitled to recover under the Recovery Determination;

Capital Funding Guide means the "Affordable Housing Capital Funding Guide" published on the website of the GLA from time to time or any successor guide so published subject to such amendments, variations or updates to the same as the GLA may publish on its website from time to time;

CDM Regulations means the Construction (Design and Management) Regulations 2015 S.I. No. 2015151;

CEDR means the Centre for Effective Dispute Resolution;

Compliance Audit means the procedure (in a form advised by the GLA from time to time) by which an auditor independent of the Borough certifies whether the Scheme satisfies the GLA's procedural compliance requirements (as described in the Capital Funding Guide);

Condition Precedent means receipt by GLA of the Legal Opinion;

Confidential Information means in respect of the GLA all information relating to the GLA's business and affairs, its employees, suppliers including OPS systems, data and software programs and otherwise relating to the existence or terms of this Agreement in respect of which the Borough becomes aware in its capacity as a party to this Agreement or which is received by the Borough in relation to this Agreement from either the GLA or any of its advisers or from any third party if the information was obtained by that third party directly or indirectly from the GLA or any of its advisors in whatever form in either case (including information given orally and any document electronic file or other means of recording or representing information which includes derives or is copied from such information) and in the case of the Borough means such specific information as the Borough shall have identified to the GLA in writing prior to the date hereof as confidential information for the purposes of this Agreement;

Consents means any necessary approval, authorisation, consent, exemption, licence, permit, permission or registration by or from any Relevant Authority;

Contract Monitoring Schedule means the schedule set out in Schedule 6 (as may be varied from time to time in accordance with this Agreement);

CORE means the national information source "Continuous Recording" that records information on new Affordable Housing occupiers and the properties they rent or buy;

CPI means the general index of consumer prices (for all items) published by the Office for National Statistics or, if that index is not published for any month, any substituted index or index figures published by that Office and where this Agreement refers to CPI, this shall be the figure for CPI for September of the preceding year;

Data Controller has the meaning ascribed to it in the DPA;

Data Subject has the meaning ascribed to it in the DPA;

Decision Allowable Costs means those costs incurred by the Borough in providing the Affordable Housing as specified in OPS (calculated using generally acceptable accounting principles) as follows:

- (a) the Development Costs;
- (b) all other direct costs of providing the Affordable Housing;
- (c) a proper proportion of costs (including for common infrastructure) if these are shared between Affordable Housing and other construction on Sites where the Affordable Housing is situated; and/or
- (d) other costs permitted under the SGEI Decision of operating the Affordable Housing as affordable housing;

Decision Net Costs means under the SGEI Decision the maximum amount of aid which may be provided without Unlawful State Aid arising;

Decision Revenue means all income (including all Public Sector Subsidy but excluding Agreement Funding) which the Borough or a Borough Affiliate receives for the purposes of or earns from the Affordable Housing;

Default Event has the meaning given to it in Condition 4.1;

Design and Quality Standards means the standards set out in the London Housing Design Guide as published by the GLA subject to any waivers agreed by the GLA in its absolute discretion;

Development Agreement means the agreement relating to the development of the Scheme to be entered into between the Borough and the Development Partner or a separate joint venture vehicle set up for the purpose of delivery the Scheme;

Development Costs means the costs relating to the development of the Scheme incurred or to be incurred in respect of the Scheme by the Borough in respect of the heads of expenditure set out in Part 1 to Schedule 2 or such other heads of expenditure as the GLA may in its absolute discretion agree in respect of the Scheme **provided that** any costs falling within the heads of expenditure set out in Part 2 to Schedule 2 shall not be capable of being treated as Development Costs;

Development Extension Event means any event which the GLA agrees in writing, in its absolute discretion, will impact adversely on the Borough's ability to appoint a Development Partner and/or enter into a Development Agreement in accordance with the relevant Milestone Date and should therefore result in an extension of such dates (but, for the avoidance of doubt, which shall not be extended beyond 30 June 2019);

Development Partner means the development partner to be appointed by the Borough following an OJEU regulated procurement process;

Direction means a direction by the Secretary of State under Section 15 of the Local Government Act 1999

Disposal means, other than a Permitted Disposal, a transaction the effect of which is that the legal or beneficial title in any Affordable Dwelling or property comprised in the Scheme on which the Affordable Dwellings are to be developed (as the case may be) transfers to becomes vested in or is leased to or reverts to another person;

Disposal Notification means a written notification addressed to GLA which identifies

- (a) the nature of the Disposal;
- (b) the number and address of the Affordable Dwelling and/or other property comprised within the Disposal;
- (c) the disponent other than in the case of an individual purchaser of an Affordable Dwelling which is for use as his/her only or principal home; and
- (d) the amount of Scheme Grant allowed to the Affordable Dwelling or property comprised within the Disposal and the quantum of such grant which the Borough will repay to the GLA and/or recycle into the Borough's RCGF in accordance with the terms of this Agreement and the Recovery Determination.

DPA means the Data Protection Act 1998;

EIR means the Environmental Information Regulations 2004, together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such statutory instrument;

EIR Exemption means any applicable exemption to EIR;

Eligible Purchaser means a person (including a prospective Tenant of a Rent to Save Dwelling):

- (a) who satisfies the eligibility criteria issued from time to time by the GLA in relation to its programmes from time to time relating to the funding of Affordable Housing;
- (b) who in the case of an Affordable Home Ownership Dwelling is taking out a prior fixed first charge with an Approved Lender;
- (c) who is not connected with the Borough (save where the GLA confirms in writing that any such person qualifies as an Eligible Purchaser); and
- (d) who has provided written confirmation to the Borough that they (and any co-purchaser or co-Tenant) do not currently own a property.

Equity Loan means a loan which is equal in amount to a percentage to be acquired agreed between the Borough and the mortgagor (not exceeding twenty per centum (20%) of the market value of the dwelling) multiplied by the market value of the dwelling to be acquired as determined by the Borough when it makes the loan;

Equity Loan Dwelling means an Affordable Dwelling disposed of or to be disposed of on Equity Loan Terms;

Equity Loan Terms means a disposal of a dwelling by the Borough to an Eligible Purchaser and facilitated by an Equity Loan secured by an Equity Mortgage;

Equity Loan Units means the number of Flexible Dwellings disposed of or to be disposed of on Equity Loan Terms set out within the Scheme Details;

Equity Mortgage means a mortgage in the form specified in the Capital Funding Guide under which, in consideration for an Equity Loan, the mortgagor agrees that on the loan becoming repayable he shall pay to the Borough an amount which is equal to the agreed percentage multiplied by the value of the dwelling, determined in accordance with the terms of the mortgage, at the date upon which the loan becomes repayable;

Exempted Information means any Information that is designated as falling or potentially falling within the FOIA Exemptions or the EIR Exemptions;

FCA means the Financial Conduct Authority and anyone assuming the regulatory functions of the FCA from time to time;

Final Disposal Date means the first anniversary of the Phase 2 Completion Date;

Financial Year means from the date of this Agreement to the next 31 March and thereafter from 1 April to 31 March in each year until the expiry of the Term or earlier termination of this Agreement;

First Drawdown Date means the date upon which the Borough receives the first payment of First Tranche Grant under this Agreement;

First Tranche Grant means such sum as is equivalent to seventy five per centum (75%) of the Phase 1 Scheme Grant as set out in the Scheme Details;

Flexible Dwelling means an Affordable Dwelling to be occupied on Flexible Product Terms;

Flexible Product Terms means accommodation made available:

- (a) on a Rent to Save basis; or
- (b) as Affordable Home Ownership.

Flexible Tenure Mix means in relation to the Scheme the split between Rent to Save Units, Shared Ownership Units and Equity Loan Units;

FOIA means the Freedom of Information Act 2000, and any subordinate legislation made under such Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation;

FOIA Authority means a public authority as defined by the FOIA and/or EIR;

FOIA Exemption means any applicable exemption to FOIA;

Fund Proceeds means those proceeds of the RCGF (if any) utilised by the Borough in meeting in whole or in part the Development Costs;

Funding Prospectus means the GLA's publication entitled "Housing Zones – A Prospectus" and dated July 2014;

Further Application Request means a request made by the Borough pursuant to Condition 13.3.3;

GLA Group means the Greater London Authority, any Functional Body of the Greater London Authority as defined by the Greater London Authority Act 1999 (as amended from time to time) and subsidiaries thereof;

GLA's Representative means such person or persons as the GLA may nominate to act as its representative from time to time for the purposes of this Agreement;

Grant Reconciliation Exercise means the exercise conducted pursuant to Condition 13. A worked example of the application of the Grant Reconciliation Exercise is set out in Schedule 3 for illustrative purposes only;

Homes and Communities Agency means the body corporate established under Section 1 of the HRA 2008;

Housing Moves means the scheme operated by the GLA to facilitate the mobility of existing tenants within London of London Boroughs or Registered Providers or such other scheme as the GLA shall designate from time to time;

Housing Zone means an area of land within Greater London designated as such by the Mayor of London;

Housing Zones Programme means the programme to be administered by the GLA which provides grants loans or equity investments to certain parties to contribute to the regeneration or development of Housing Zones within Greater London as described in the Funding Prospectus;

HRA 2008 means the Housing and Regeneration Act 2008;

HS Act means the Health and Safety at Work etc. Act 1974;

Information has the meaning in relation to:

- (a) the FOIA, information given under Section 84 of the FOIA and which is held by the GLA or the Borough (as appropriate) at the time of receipt of a Request for Information; and
- (b) EIR, information given under the definition of environmental information in Section 2 of the EIR and which is held by the GLA or Borough (as appropriate) at the time of receipt of a Request for Information.

Information Commissioner has the meaning set out in Section 6 of the DPA 1998;

Initial Sales Receipts means the figure set out in the field headed "Anticipated Initial Sales Receipts" in the Scheme Details;

Intellectual Property Rights shall include without limitation all rights to, and any interests in, any patents, designs, trademarks, copyright, know-how, trade secrets and any other proprietary rights or forms of intellectual property (protectable by registration or not) in respect of any technology, concept, idea, data, program or other software (including source and object codes), specification, plan, drawing, schedule, minutes, correspondence, scheme, formula, programme, design, system, process logo, mark, style, or other matter or thing, existing or conceived, used, developed or produced by any person;

Investment Partner means a Registered Provider which has been confirmed by the GLA as having "Investment Partner Status" under the GLA's Investment Partner qualification procedure;

Law means any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate Legislation or notice of any Regulatory Body;

Legal Opinion means a legal opinion in the form set out in Schedule 6 given by the Borough's solicitor and dated prior to the date hereof;

Legislation means:

- (a) any Act of Parliament;
- (b) any subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978;

- (c) any exercise of the Royal Prerogative; and
- (d) any enforceable EU right within the meaning of Section 2 of the European Communities Act 1972;

in each case in the United Kingdom; and

- (e) any regulations, orders, bye-laws or codes of practice of any local or statutory or EU Competent Authority or United Kingdom Competent Authority (as the case may be) having jurisdiction over the territory in which the Scheme is situated;

Local Housing Allowance means an allowance determined in accordance with paragraph 2 of Schedule 3B to the Rent Officers (Housing Benefit Functions) Order 1997, or paragraph 2 of Schedule 1 to the Rent Officers (Universal Credit Functions) Order 2013, as appropriate;

London Housing Design Guide means the "London Housing Design Guide" published by the London Development Agency in August 2010 (as the same may be amended, varied, updated or replaced from time to time);

London Living Wage means the basic hourly wage of £9.75 (before tax, other deductions and any increase for overtime) as may be updated from time to time by the Resolution Foundation, overseen by the Living Wage Commission, or any successor body carrying out the relevant calculation;

London Plan means "The London Plan Spatial Developments Strategy for London" published by the GLA in July 2011 (as the same may be amended, varied, updated or replaced from time to time);

Material Adverse Effect means the effect of any event or circumstance which is reasonably likely to be materially adverse to the ability of the Borough to deliver the Affordable Zone Outputs or the Scheme within the time limits (if any) for doing so and for the avoidance of doubt includes the circumstance in which the Borough does not or will not be able to deliver the Flexible Tenure Mix;

Mayoral Concordat means the "*Mayoral Concordat for New Homes for Londoners*" published in March 2014 on the website of GLA as such document may be updated, amended or replaced from time to time;

Milestone means each stage in the development of the Scheme agreed by the parties and set out in the Scheme Details (including as a minimum a Start on Site Date and a Scheme Completion Date);

Milestone Date means the date set out in the Scheme Details by which the relevant Milestone must have been achieved (as the same may be varied by the GLA pursuant to Condition 7.2);

Milestone Extension Events means any of the following:

- (a) exceptionally adverse weather conditions;

- (b) delay in receipt of any necessary permission or approval of any statutory body which the Borough has taken all practicable steps to avoid or reduce;
- (c) the exercise after the date of this Agreement by the United Kingdom Government of any statutory power which directly affects the execution of the construction works necessary to the delivery of the Scheme by restricting the availability or use of labour which is essential to the proper carrying out of such works or preventing the Borough from, or delaying in, securing such goods or materials or such fuel or energy as are essential to the proper carrying out of such works;
- (d) the use or threat of terrorism and/or the activity of the relevant authorities in dealing with such use or threat;
- (e) fire, explosion, lightning, storm, tempest, flood, bursting or overflowing of water tanks, apparatus or pipes, ionising radiation, earthquakes, riot and civil commotion;
- (f) failure by any statutory undertaker, utility company or other like body to carry out works or provide services;
- (g) any accidental loss or damage to the development or any roads servicing it;
- (h) any failure or shortage of power, fuel or transport;
- (i) any blockade or embargo;
- (j) any:
 - i official or unofficial strike;
 - ii lockout;
 - iii go-slow; or
 - iv other dispute

generally affecting the house building industry or a significant sector of it;
- (k) the appointment of the Building Contractor under the Building Contract has been terminated or the Building Contract has been terminated; or
- (l) any material failure by the Building Contractor under the terms of the Building Contract which has the direct result of delaying the Borough's compliance with a Milestone Date and which did not result from the Borough's failure effectively to manage the Building Contract

unless:

- (a) any of the events arises (directly or indirectly) as a result of any wilful default or wilful act of the Borough or, save in respect of the event referred to in (k) above, any of its subcontractors of any tier; or
- (b) in respect of the event referred to in (f) above, such event arises as a result of any failure by the Borough (whether wilful or otherwise) to notify the relevant statutory undertaker or utility company of the requirement for works or services to be completed by the date required to enable the Borough to complete the Scheme by the Scheme Completion Date.

Milestone Failure means a failure by the Borough fully to achieve any Milestone by the relevant Milestone Date;

Nil Grant Unit means a house, flat or maisonette comprised within the Scheme in respect of which units the Borough did not seek grant funding under this Agreement;

Non Compliance Notification Date means the date on which the GLA notifies the Borough that it has become aware that the Scheme in respect of which it has paid Scheme Grant does not meet the Scheme Details;

Ongoing Obligations means the Borough's obligations under Conditions 6.2 to 6.8 inclusive;

Open Book means the declaration of all price components including profit margins, central office overheads, site overheads, preliminaries, contingencies and the cost of all materials, goods, equipment, work and services with all and any books of accounts, correspondence, agreements, orders, invoices, receipts and other documents available for inspection;

Open Book Obligations mean the obligations set out in Condition 14;

OPS means the "GLA Open Project System", being the GLA's on-line investment management system from time to time or any successor system;

Other Contribution means the aggregate of the figures set out in the fields headed "Provider's Other Resources" and "Provider cross subsidy from Newbuild Market Sale Development" in the Scheme Details;

Overarching Borough Agreement means the agreement dated 20 December 2016 and entered into between the GLA (1) and the Borough (2);

Output Homes means the homes described in Condition 3.1.5;

Over Commitment has the meaning ascribed to it in Condition 13.2.2;

Permitted Disposal means any of the following:

- (a) the grant of a tenancy complying with Condition 6.5 in respect of an AHGA Rent Dwelling;
- (b) the grant of a Shared Ownership Lease (which, for the avoidance of doubt, does not include the subsequent acquisition by the occupier of

an increased share of the equity of the relevant Affordable Home Ownership Dwelling);

- (c) a disposal of the Site or any part thereof to the Development Partner or any vehicle set up for the purpose of delivery **provided that** the GLA approves in advance the terms of the disposal and that such terms provide for the Site to be returned to the Borough and that the Borough is the immediate landlord of the Affordable Dwellings at the point that they are let in accordance with Condition 6.5;
- (c) a disposal to a statutory undertaker for the purposes of the supply or transmission (whether exclusively or otherwise) of statutory services to the Site;
- (d) a disposal pursuant to or required by a planning obligation within the meaning of s106 or s299A of the TCPA in connection with the Scheme;
- (e) a disposal to a highway authority for the purposes of or in connection with the adoption of roads, footpaths or cycleways on the Site;
- (f) the grant of any mortgage or charge; or
- (g) the grant of an easement;

Personal Data has the meaning ascribed to it in the DPA;

Phase means either Phase 1 or Phase 2 (as applicable);

Phase 1 means the first phase of the Scheme as identified in the Scheme Details;

Phase 1 Completion Date means the date identified in the Scheme Details;

Phase 1 Scheme Grant means the amount payable by the GLA in respect of Phase 1 as set out in the Scheme Details;

Phase 2 means the second phase of the Scheme as identified in the Scheme Details;

Phase 2 Completion Date means the date identified in the Scheme Details;

Phase 2 Scheme Grant means the amount payable by the GLA in respect of Phase 2 as set out in the Scheme Details;

Practical Completion means the point at which the Scheme or each of the respective Phases (as applicable) is complete for all practical purposes and in particular:

- (a) all applicable statutory requirements have been complied with and all consents obtained;
- (b) neither the existence nor execution of any minor outstanding works would affect its use;
- (c) any stipulations identified under the Building Contract as being essential for practical completion to take place have been satisfied; and

- (d) all information required by the Building Contract to be delivered at practical completion has been delivered to the Borough.

Process has the meaning ascribed to it in the DPA;

Procurement Law means (as the case may be):

- (a) prior to the date on which the United Kingdom ceases to be a Member State of the European Union all applicable United Kingdom and European Union procurement Legislation and any implementing measures including European Union Directives 2014/23/EU (on the award of concession contracts) and 2014/24/EU (on Public Procurement); the Public Contracts Regulations 2015, the Concession Contracts Regulations 2016 insofar as the same are applicable; and
- (b) on or after the date the United Kingdom ceases to be a Member State of the European Union the Public Contracts Regulations 2015, the Concession Contracts Regulations 2016 (insofar as the same are applicable) together with any statutory modification or replacement regulations or Legislation on procurement by public bodies (including Registered Providers);

Professional Team means the architect, civil & structural engineer, the mechanical & electrical engineer and any other consultant appointed by the Borough in connection with the Scheme;

Prohibited Act means:

- (a) offering, giving or agreeing to give to any servant of the GLA any gift or consideration of any kind as an inducement or reward:
 - i for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement; or
 - ii for showing or not showing favour or disfavour to any person in relation to this Agreement;
- (b) entering into this Agreement or any other agreement with the GLA relative to this Agreement in connection with which commission has been paid or has been agreed to be paid by the Borough or on its behalf, or to its knowledge, unless before the relevant agreement is entered into particulars of any such commission and of the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to the GLA;
- (c) committing any offence:
 - i under Legislation creating offences in respect of fraudulent acts;
 - ii at common law in respect of fraudulent acts in relation to this Agreement; or
 - iii under the Bribery Act 2010; or

- (d) defrauding or attempting to defraud or conspiring to defraud the GLA or the Regulator.

Public Sector Subsidy means all funding or subsidy in relation to the Scheme in money or money's worth (including the Scheme Grant) received or receivable by the Borough from public sector bodies including for this purpose funding from the European Commission, government bodies (whether national or local) or bodies in receipt of lottery funds from the National Lottery Distribution Fund pursuant to the National Lotteries Acts 1993 and 1998 and any further funding by the GLA not provided under this Agreement;

Qualifying Lender means an institution authorised by the FCA to "enter into a regulated mortgage constraint as lender" and "Qualifying Lenders" shall be construed accordingly;

Quarter Date means 31 March, 30 June, 30 September or 31 December;

RCGF means the Recycled Capital Grant Fund maintained by the Borough in accordance with the Recovery Determination;

Recoverable Amount has the meaning given to it in Condition 11.2;

Recovery Determination means the Recovery of Capital Grants and Recycled Capital Grant Fund (Greater London) General Determination 2017 and any successor determination or other instrument;

Register means the register maintained by the Regulator pursuant to Section 111 of the HRA 2008;

Registered Provider means (as appropriate) a local authority entered on the Register pursuant to Section 114 of the HRA 2008 or a body entered on the Register as a non-profit organisation (as such term is defined in Section 115 of the HRA 2008);

Regulator means the Homes and Communities Agency acting through the Regulation Committee established by it pursuant to Part 2 of the HRA 2008 or any similar future authority (including any statutory successor) carrying on substantially the same regulatory or supervisory functions;

Regulatory Body means government departments or regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Agreement or any other affairs of the GLA;

Relevant Authority means any governmental or other authority, court with relevant jurisdiction, the local planning authority, landlord, funder, adjoining landowner or any other person whose consent is required to undertake the Works necessary to the delivery of the Scheme or perform the Borough's obligations under this Agreement;

Relevant Event has the meaning attributed to it in the Recovery Determination;

Remaining Units means any Flexible Dwellings comprised within the Scheme which have not been sold or let to Eligible Purchasers by the Final Disposal Date;

Rent Guidance means the "Guidance on Rents for Social Housing" issued by the Secretary of State for Communities and Local Government on 23 May 2014 as such

document and/or associated guidance may be amended, updated or replaced from time to time by such Secretary of State or any successor body with similar or equivalent jurisdiction or authority;

Rent to Save means accommodation let initially on an intermediate rent basis to Eligible Purchasers on assured shorthold tenancies at rents (inclusive of service charge) of no more than eighty per centum (80%) of the market rent level in the relevant local area and together with a legally enforceable right to purchase the relevant Rent to Save Dwelling within an agreed period on Affordable Home Ownership terms;

Rent to Save Dwelling means a Flexible Dwelling let to a Tenant on a Rent to Save basis;

Rent to Save Units means the number of Flexible Dwellings disposed of or to be disposed of as Rent to Save Dwellings set out in the Scheme Details;

Rental Stream Capacity means the figure set out in the field headed "Anticipated Capacity Generated by Rental Income" in the Scheme Details;

Report means a report under Section 114(3) or Section 114A of the Local Government Finance Act 1988 or Section 5 of the Local Government and Housing Act 1989;

Request for Information shall have the meaning set out in FOIA or any request for information under EIR which may relate to the Scheme, this Agreement or any activities or business of the GLA;

Reservation Period means a period not exceeding five (5) years from the date on which the Tenant took occupation of the relevant Rent to Save Dwelling agreed between the Borough and the Tenant as the period within which the Tenant may acquire the dwelling on an Affordable Home Ownership basis;

Review Meeting means a meeting held pursuant to Conditions 3.3 to 3.4;

Scheme means the scheme for the development of the Affordable Dwellings as described in the Scheme Details in respect of which the GLA has agreed to advance grant funding in accordance with the terms of this Agreement and shall for the avoidance of doubt include each Phase;

Scheme Completion Date means:

- (a) with respect to Phase 1 the Phase 1 Completion Date; and/or
- (b) with respect to Phase 2 the Phase 2 Completion Date

Scheme Delivery Timetable means the timetable for construction and completion of the Scheme as agreed by the GLA through the Scheme Details;

Scheme Details means in relation to the Scheme the descriptive and other details in respect of that Scheme summarised in Schedule 4 but as more particularly described in OPS and as accepted by the GLA through OPS on or prior to the First Drawdown Date as described in Schedule 4 (as the same may be varied from time to time in accordance with the terms of this Agreement);

Scheme Grant or **SG** means (save where the context requires otherwise) the amount of grant payable by the GLA in respect of the Scheme being the total of Phase 1 Grant and Phase 2 Grant as set out in the Scheme Details and shall include every tranche thereof;

Scheme Longstop Date means in relation to the Scheme the date set out in the Scheme Details;

Scheme Obligations has the meaning given in Condition 6.1;

Second Tranche Grant means such sum as is equivalent to twenty five per centum (25%) of the Phase 1 Scheme Grant as set out in the Scheme Details;

Section 106 Agreement means an agreement entered into by a local planning authority and a person under section 106 of the Town and Country Planning Act 1990;

Section 106 Scheme means a scheme where the Affordable Housing is part of a larger scheme (controlled by a party other than the Borough) comprising accommodation which is non-residential and/or residential which is not Affordable Housing which is subject to a Section 106 Agreement;

Secure Legal Interest means the Borough has in respect of the Site:

- (a) freehold title registered with title absolute;
- (b) leasehold title (where the lease has at least 60 years unexpired duration or where the Scheme comprises Affordable Home Ownership Dwellings 99 years unexpired duration) registered with title absolute;
- (c) freehold title registered with possessory title or good leasehold title (where the lease has at least 60 years unexpired duration or where the relevant Scheme comprises Affordable Home Ownership Dwellings 99 years unexpired duration) and in each case defective title indemnity insurance in favour of the Borough with a limit of indemnity to at least the Total Grant for that Site; or
- (d) a binding contract with the owner of the legal and beneficial interest in the Site (owning either a freehold interest or leasehold interest of at least sixty (60) years unexpired duration or where the relevant Scheme comprises Affordable Home Ownership Dwellings 99 years unexpired duration) to secure one of the interests in (a) to (c) and that, securing that interest is conditional only upon matters that are within the direct and unilateral control of the Borough.

SGEI Decision means the European Commission's Decision on Services of General Economic Interest dated 20 December 2011 (2012/21/EU);

SGEI Decision Overpayment means the extent to which Public Sector Subsidy (including Agreement Funding) exceeds the Decision Net Costs;

SGEI Information means such information about or relating to the Decision Allowable Costs, the Decision Revenue, the Decision Net Costs and such other information as the GLA may reasonably request;

SGEI Review means a review by the GLA of the provision or use of the Total Grant to determine whether an SGEI Decision Overpayment has arisen in relation to the Scheme;

Shared Ownership Lease means a shared ownership lease that meets:

- (a) the conditions (except conditions (d) and (g)) specified in or under Section 5A(2) of the Rent Act 1977; and
- (b) any applicable requirements of the Capital Funding Guide.

Shared Ownership Units means the number of Flexible Dwellings disposed of or to be disposed of by way of Shared Ownership Lease set out within the Scheme Details;

Site means the site (including any part of it) identified to the GLA as being the area of land comprised or to be comprised in the Scheme and/or the Affordable Dwellings and common areas developed as part of the Scheme;

Social Rent Accommodation means low cost rental accommodation as defined in Section 69 of the HRA 2008 let at a rent calculated in accordance with the formula for calculating social rents set out in Legislation and (to the extent applicable) Chapter 2 of the Rent Guidance and is let on secure tenancy terms (including to persons nominated by any relevant local authority);

Social Rent Dwellings means an Affordable Dwelling to be occupied on a Social Rent Accommodation basis;

Standard Literature means the explanatory and other documentation from time to time supplied by the GLA for provision to the Eligible Purchaser, the Approved Lender and the Eligible Purchaser's conveyancers;

Start on Site Date means the date on which:

- (a) the Borough and Building Contractor have entered into the Building Contract;
- (b) the Building Contractor has taken possession of the Site; and
- (c) the Start on Site Works have commenced on the relevant Phase.

Start on Site Works means any work of construction or demolition in relation to any dwelling including:

- (a) the digging of a trench which is to contain the foundations, or part of the foundations, of such dwelling;
- (b) the laying of any underground main or pipe to the foundations, or part of the foundations, of such dwelling or to any such trench as per (a) above;
- (c) any operation in the course of laying out or constructing a road or part of a road; or
- (d) such works of demolition or service diversion as are set out in section 2 of the Capital Funding Guide;

State Aid means (as the case may be):

- (a) any aid granted by a Member State of the European Union or through the resources of such Member State in any form whatsoever which distorts or threatens to distort competition by favouring a particular undertaking or the production of certain goods, in so far as such aid affects trade between European Union Member States; or
- (b) any aid benefit or advantage (which includes but is not limited to assets, rates, funds and land) granted by or through a public sector body which is subject to any United Kingdom Competition Requirements;

Subcontractor means any subcontractor appointed by the Borough to undertake all or part of the Works;

Submitted Standards means in respect of the Scheme:

- (a) the Design and Quality Standards; and
- (b) the Additional Design and Quality Standards (if any).

Tenancy Standard means the standard described in The Regulatory Framework for Social Housing in England published by the Regulator on 31 March 2015 as the same may be amended and updated from time to time;

Tenant means (as the context requires):

- (a) a tenant occupying a Rent to Save Dwelling on the basis of an assured shorthold tenancy;
- (b) a prospective assured shorthold tenant of a Rent to Save Dwelling; or
- (c) a tenant occupying an AHGA Rent Dwelling.

Term means the period of time from the date hereof until:

- (a) 31 March 2025 (or such later date as the GLA may reasonably require); or
- (b) the date of any earlier termination by the GLA of the entirety of this Agreement.

Termination Event means this Agreement is terminated pursuant to Condition 4.4;

Third Tranche Grant means such sum as is equivalent to the Phase 2 Scheme Grant as set out in the Scheme Details;

Tranche means either of the First Tranche Grant, Second Tranche Grant or Third Tranche Grant;

Total Grant means the aggregate of the figures set out in the fields headed "Total GLA Funding Requested" and "RCGF Attributed to Scheme" in the Scheme Details;

Total Scheme Costs means the total aggregate development costs incurred in delivering the Scheme;

Undrawn Amount means such part of the Scheme Grant as has not been paid to the Borough under this Agreement;

United Kingdom Competition Requirement means any Legislation which:

- (a) is in force and/or in effect and/or applies (in England) on or after the date the United Kingdom ceases to be a Member State of the European Union; and
- (b) which regulates any aid funding assets or advantage granted or directed by a public sector body to the extent that the same has the ability to threaten to or actually distort either competition or an economic market in the United Kingdom and/or in any part of the European Economic Area and/or in any other country or countries;

Unlawful State Aid means (as the case may be):

- (a) State Aid which has been granted in contravention of Article 108(3) Treaty of the Functioning of the European Union (**TFEU**), does not benefit from an exemption from notification and has not been approved by a decision of the European Commission under Article 107(2) or (3) TFEU;
- (b) State Aid which has been granted after the United Kingdom ceases to be a Member State of the European Union to the extent that the same is granted contrary to or is an infringement of any United Kingdom Competition Requirement;

VAT means Value Added Tax as presently charged under the Value Added Tax Act 1994 or any tax of a similar nature;

Waiver Condition means provision of satisfactory evidence by the Borough to the GLA that the relevant Prohibited Act was committed by:

- (a) an employee acting independently of the Borough; or
- (b) a subcontractor of any tier (or any employee of a subcontractor not acting independently of the subcontractor); or
- (c) an employee of a subcontractor of any tier acting independently of such subcontractor; or
- (d) any person not specified in parts (a), (b) or (c)

and the GLA is satisfied that the Borough and/or the subcontractor (as applicable) has taken such action as is appropriate taking into account the nature and the circumstances of the relevant Prohibited Act. "Acting independently" for these purposes means not acting with the authority or knowledge of any one or more of the directors of the Borough or relevant subcontractor;

Withholding Event means an event or circumstance of the type described in Condition 10.1;

Works means all of the works (including design, infrastructure works and all other works necessary for obtaining access to the Affordable Dwellings) to be undertaken in order to ensure that the Affordable Dwellings meet the Submitted Standards and are constructed in accordance with the Scheme Details;

Zone has the meaning ascribed to it in the Overarching Borough Agreement

Zone Funding has the meaning ascribed to it in the Overarching Borough Agreement;

Zone Outputs has the meaning attributed to it in the Overarching Borough Agreement;

1.2 Interpretation

1.2.1 Words denoting any gender include all other genders.

1.2.2 The singular includes the plural and vice versa.

1.2.3 Any reference in this Agreement to any condition, sub-condition, paragraph, schedule or section heading is, except where it is expressly stated to the contrary, a reference to such condition, sub-condition, paragraph, schedule or section heading of this Agreement.

1.2.4 Any reference to this Agreement or to any other document shall include (except where expressly stated otherwise) any variation, amendment or supplement to such document to the extent that such variation, amendment or supplement is not prohibited under the terms of this Agreement.

1.2.5 Any reference to any enactment, order, direction, determination, regulation or similar instrument shall (except where expressly stated otherwise) be construed as a reference to the enactment, order, direction, determination, regulation or instrument (including any EU instrument) as amended, replaced, consolidated or re-enacted.

1.2.6 A reference to a person includes firms, partnerships and corporate bodies and their successors and permitted assignees or transferees.

1.2.7 Headings are for convenience of reference only.

1.2.8 A party means a party to this Agreement.

1.2.9 The words includes or including are to be construed without limitation.

1.2.10 A document in the agreed form is to be the form of the relevant document agreed between the parties and for the purpose of identification initialled by each of them or on their behalf (in each case with such amendments as may be agreed by or on behalf of the parties) or in the form set out in a Schedule to this Agreement.

1.2.11 A paragraph in a Schedule shall be construed as references to a paragraph in that particular Schedule.

- 1.2.12 A deliberate act or omission of any person shall exclude acts or omissions which were within the contemplation of the parties or which were otherwise provided for in this Agreement.
- 1.2.13 In any case where the consent or approval of the GLA (or any officer of the GLA) is required or a notice is to be given by the GLA, such consent or approval or notice shall only be validly given if it is in writing and signed by (if relevant) the officer stipulated in this Agreement or such other person as may be specified by the GLA by notice in writing to the Borough.
- 1.2.14 An obligation to do anything includes an obligation to procure its being done.
- 1.2.15 Any restriction includes an obligation not to permit infringement of the restriction.
- 1.2.16 When there are two or more persons affected by the obligations under this Agreement such obligations are to bind each such person jointly and severally.
- 1.2.17 Save where a contrary intention is shown, or where an express discretion is given by this Agreement, the GLA shall act in a commercially reasonable manner in exercising its rights hereunder (including in granting approvals hereunder).
- 1.2.18 If there is any ambiguity or conflict between the implied terms and the express terms of this Agreement then the express terms shall prevail.
- 1.2.19 The Borough shall in relation to the delivery of its obligations under this Agreement be responsible as against the GLA for the acts or omissions of any Borough Party as if they were the acts or omissions of the Borough.
- 1.2.20 Neither the giving of any approval, consent, examination, acknowledgement, knowledge of the terms of any agreement or document nor the review of any document or course of action by or on behalf of the GLA shall, unless otherwise expressly stated in this Agreement or agreed in writing by the GLA, relieve the Borough of any of its obligations under this Agreement or of any duty which it may have hereunder to ensure the correctness, accuracy or suitability of the matter or thing which is the subject of the approval, consent, examination, acknowledgement or knowledge nor confer impose or imply any liability or responsibility on or on behalf of the GLA in respect of or in connection with the matter to or in relation to which such approval consent examination acknowledgement was given or review made.
- 1.2.21 In the event of any conflict between the Scheme Details summarised in Schedule 4 and the Scheme Details set out in OPS (and accepted by the GLA) in OPS, the latter shall prevail.
- 1.2.22 Nothing in Schedule 6 will compel the GLA to make a payment otherwise than under the terms of this Agreement and in the event of any conflict between the payment of the Tranches in Schedule 6 and the terms of this Agreement, the latter shall prevail.

2 The Zone Offer

- 2.1 The parties acknowledge the terms of the Overarching Borough Agreement and agree that the delivery by the Borough of the Affordable Dwellings comprised within the Scheme contributes directly to the delivery of the Zone Outputs.
- 2.2 The GLA has agreed to make the Scheme Grant available to the Borough to develop the Affordable Dwellings subject to and in accordance with the terms and conditions of this Agreement and the Borough acknowledges that the terms of this Agreement represent the conditions upon which the GLA makes the Scheme Grant available to it.
- 2.3 The Borough acknowledges and agrees that:
- 2.3.1 the Scheme Grant is being made available by the GLA on the express understanding that it is applied solely for the purposes of funding the Development Costs in respect of the Affordable Dwellings which are to be:
- (a) in the case of the Flexible Dwellings, disposed of to Eligible Purchasers on Flexible Product Terms; and/or
 - (b) in the case of the AHGA Rent Dwellings, let to Tenants in accordance with the Tenancy Standard;
- 2.3.2 all Fund Proceeds identified in the Scheme Details must be applied solely for the purposes of funding the Development Costs in respect of the Affordable Dwellings;
- 2.3.3 the Public Sector Subsidy in respect of the Scheme may not exceed an amount equal to the aggregated Actual Development Costs incurred by the Borough in respect of the delivery of the Scheme;
- 2.3.4 all funding under this Agreement is subject to the provisions of Sections 30, 34 and 333ZE of the Act and any determinations made under such provisions and the provisions of Condition 11 represent the events and principles determined by the GLA for the purposes of Sections 31-34 of the HRA 2008;
- 2.3.5 the terms of the Capital Funding Guide are incorporated with this Agreement (mutatis mutandis);
- 2.3.6 all Fund Proceeds used for the purposes of funding (in whole or in part) the Development Costs constitute social housing assistance for the purposes of Section 32 of the HRA 2008 and are subject to the terms of the Recovery Determination;
- 2.3.7 any failure by the Borough to observe or comply with the terms of this Agreement or the occurrence of a Default Event or Withholding Event constitutes a failure to comply with a condition attached to the making of Capital Grant for the purposes of paragraph 8(e) of the Recovery Determination.
- 2.4 The Borough shall comply with the Open Book Obligations.

3 **Monitoring and Reporting**

3.1 The Borough acknowledges the high importance to the GLA of it being advised when any circumstance occurs which may:

- 3.1.1 impact on the Borough's ability to deliver the Scheme in accordance with the terms of this Agreement;
- 3.1.2 change any assumptions in relation to the Scheme which would provide an opportunity for the Borough to deliver more Affordable Dwellings with the Scheme Grant;
- 3.1.3 indicates that the GLA is making available more grant than is required to deliver the Scheme;
- 3.1.4 give rise to the making of a Report or a Direction; or
- 3.1.5 impact on the Borough's ability to deliver the homes (including the number and tenure type) referenced in the Contract Monitoring Schedule in accordance with the timescales set out therein;

(collectively the **Contract Monitoring Outputs**).

3.2 The Borough shall comply fully with the contract management and reporting obligations set out in this Condition 3.

3.3 The GLA and the Borough shall attend a Review Meeting within ten (10) Business Days of each Quarter Date (or within such longer period as the GLA may at its absolute discretion agree) to discuss (but without limitation):

- 3.3.1 the Borough's performance against the information contained in the Scheme Details and any matters which may adversely impact on the Borough's performance against the same;
- 3.3.2 progress updates in relation to the Scheme including delivery forecasts, progress against previously given delivery forecasts, lettings and sales forecasts and progress against previously given lettings and sales forecasts;
- 3.3.3 the occurrence of any Milestone Extension Event, Development Extension Event or change in Flexible Tenure Mix in respect of the Scheme;
- 3.3.4 the Contract Monitoring Outputs;
- 3.3.5 the information supplied pursuant to the Open Book Obligations;
- 3.3.6 the position on agreeing nomination arrangements in respect of Affordable Dwellings with relevant Local Housing Authorities, the Housing Moves service and in line with the Mayor's Housing Strategy;
- 3.3.7 the Reservation Periods in relation to the Scheme and the actual and projected take up by Tenants of the right to purchase their Rent to Save Dwellings;
- 3.3.8 the existence of any Over Commitment in relation to the Scheme;

- 3.3.9 the existence of any Remaining Units and the steps being taken to procure their disposal on Flexible Product Terms;
- 3.3.10 such other matters in relation to the performance of this Agreement as are notified by either party to the other in writing at least five (5) Business Days prior to the date of the Review Meeting.
- 3.4 The GLA or the Borough may also call a Review Meeting at any time outside of the quarterly cycle provided that the party requesting the meeting:
 - 3.4.1 gives reasonable prior written notice to the other of such meeting; and
 - 3.4.2 includes with the notice an agenda for such meeting.
- 3.5 The GLA's Representative and the Borough's Representative (or, where agreed with the GLA in advance, such other member of the Borough's executive management team as shall be nominated in writing by the Borough) shall attend all Review Meetings during the Term or for such longer period as the GLA (acting reasonably) requires to enable it to monitor the take up of Flexible Dwellings by Eligible Purchasers.
- 3.6 Save as otherwise agreed between the parties, any meeting under this Condition 3 shall be minuted by the Borough and such minutes shall be distributed within ten (10) Business Days following the meeting to the GLA and any other attendee.
- 3.7 The Borough shall provide the GLA as soon as reasonably practicable with such information as the GLA shall reasonably require to support or facilitate the discussions referred to in this Condition 3.
- 3.8 The Borough must keep OPS fully updated and ensure that it accurately reflects the agreed Scheme Details from time to time.
- 3.9 Within ten (10) Business Days of each Quarter Date, the Borough must provide the GLA with a written report (or a report in such other form as the GLA may at its absolute discretion agree) on its progress in delivering the Output Homes against the timescales set out in the Contract Monitoring Schedule.
- 3.10 The Borough shall ensure that it and any Borough Affiliate (at its or their cost) co-operates with the GLA during an SGEI Review and it shall if requested promptly provide the GLA with SGEI Information and such other information, evidence and/or explanation as the GLA may reasonably require.

4 **Default**

- 4.1 The following circumstances shall constitute a Default Event:
 - 4.1.1 failure by the Borough to comply with its obligations in Condition 3 and/or any information supplied in connection with its obligations in Condition 3 whether in relation to the Open Book Obligations or otherwise is materially deficient, misleading or inaccurate;
 - 4.1.2 the Borough is unable to make the representations and give the warranties set out in Schedule 1 (in any case in whole or in part) and there is a resulting Material Adverse Effect in relation to the Scheme;

- 4.1.3 the Borough is or becomes subject to a Direction which would in the opinion of the GLA have a Material Adverse Effect;
 - 4.1.4 a Prohibited Act has been committed by or on behalf of the Borough (in respect of which the Waiver Condition has not been satisfied);
 - 4.1.5 not used;
 - 4.1.6 a breach of the Open Book Obligations;
 - 4.1.7 the GLA determines (acting reasonably) that proper progress has not been made by the Borough in delivering the Affordable Zone Outputs;
 - 4.1.8 not used;
 - 4.1.9 the Borough's status as a Registered Provider is lost or removed;
 - 4.1.10 the Borough's Investment Partner status is lost or removed;
 - 4.1.11 the Regulator directs or recommends that grant is not to be paid to the Borough;
 - 4.1.12 a breach of the Borough's obligations under Condition 6.5.7;
 - 4.1.13 a breach of any of Conditions 6.1 (subject to Condition 4.1.18), 6.2 or 6.5 (other than Condition 6.5.7);
 - 4.1.14 a failure or inability by the Borough to comply with:
 - (a) the requirements of Conditions 8.1 to 8.4; or
 - (b) any obligation to pay or repay the GLA any amounts due under this Agreement; and/or
 - 4.1.15 any other breach of the Agreement or failure to comply with a term of this Agreement which has a Material Adverse Effect in relation to the Scheme;
 - 4.1.16 the Borough (either by its own actions or omissions, or those of its contractors or agents) harms the GLA's, the Housing Zones Programme's or the Mayor of London's reputation or brings the GLA, the Housing Zones Programme or the Mayor of London into disrepute;
 - 4.1.17 a failure by the parties to agree the matters referred to in Condition 13.3.1;
 - 4.1.18 a failure by the Borough to appoint a Development Partner and/or enter into the Development Agreement by 31 December 2018 for reasons not attributable to a Development Extension Event, and in any event, a failure to appoint a Development Partner and/or enter into the Development Agreement by 30 June 2019.
- 4.2 The Borough must notify the GLA immediately in writing on the occurrence of a Default Event.

4.3 Without prejudice to Condition 4.4, in the event of the occurrence of a Default Event and for so long as the Default Event subsists (or another Default Event has occurred and is continuing) the GLA shall be entitled to reject the submission of the Scheme on OPS or otherwise.

4.4 Where the Default Event is:

4.4.1 an occurrence specified in any of Conditions 4.1.2, 4.1.3, 4.1.4, 4.1.9, 4.1.10, 4.1.13, 4.1.15, 4.1.16, 4.1.17, 4.1.18 and/or Condition 11.3.3(d), the GLA shall be entitled forthwith and without any liability to the Borough to terminate the Agreement;

4.4.2 an occurrence specified in any of Conditions 4.1.1, 4.1.6, 4.1.7, 4.1.11, 4.1.12 or 4.1.14 the GLA may serve notice on the Borough requiring the Borough to remedy the breach or failure and if within a period of thirty (30) Business Days following service of such notice:

(a) the breach or failure has not been remedied;

(b) where so permitted by the GLA the Borough has not given an undertaking to remedy the breach on terms satisfactory to the GLA; or

(c) if it becomes apparent that the Default Event is incapable of remedy either within such period or at all;

the GLA shall be entitled on giving not less than ten (10) Business Days' notice and without any liability to the Borough to exercise the termination rights in Condition 4.5;

4.5 Where Condition 4.4.2 applies the GLA may terminate this Agreement in its entirety such termination to take effect at the end of the notice period referred to in Condition 4.4.2.

4.6 Where the GLA purports to terminate this Agreement in accordance with this Condition 4 and the Borough disputes its entitlement to do so the provisions of Condition 22 shall apply.

5 **Scheme Confirmations**

5.1 The Borough must upload such details in respect of the Scheme as the GLA may require onto the GLA's OPS within five (5) Business Days of the date of this Agreement or such later date as the GLA may agree or prescribe.

5.2 The Borough is deemed to represent and warrant to the GLA in relation to the Scheme that:

5.2.1 the Scheme:

(a) is consistent with the Bid; and

(b) is in its opinion (acting reasonably) deliverable in accordance with the Scheme Delivery Timetable and the Submitted Standards;

5.2.2 the Borough:

- (a) possesses or will possess a Secure Legal Interest in the Site;
- (b) has obtained all Consents necessary for the lawful development of the Scheme to the Submitted Standards as are then required; and
- (c) is not the subject of a Report or a Direction nor do any circumstances exist that would give rise to the making of such a Report or Direction.

6 **Scheme Obligations**

6.1 The Borough must in relation to the Scheme:

- 6.1.1 carry out the acquisition of the Site and procure the design construction and completion of the Scheme so that:
 - (a) the Scheme is (subject to Condition 7.2) delivered in accordance with the Scheme Delivery Timetable;
 - (b) when delivered, the Scheme fully complies with the Scheme Details and meets the Submitted Standards;
 - (c) any applicable requirements of the London Plan are satisfied; and
 - (d) any applicable requirements of the Procurement Law are complied with.
- 6.1.2 actively market the Flexible Dwellings with a view to ensuring (as far as practicable) the disposal or letting of such dwellings to Eligible Purchasers at the relevant Scheme Completion Date (or as soon as reasonably possible thereafter) and in any event by the Final Disposal Date;
- 6.1.3 advertise all Flexible Dwellings through the First Steps portal at www.sharetobuy.com/firststeps or such other website address notified by the GLA to the Boroughs from time to time; and
- 6.1.4 offer through the Housing Moves service at least 5% of AHGA Rent Dwellings on each Site and at least 10% on each Site comprising 150 dwellings or more (or such other percentage notified in either case by the GLA to the Borough from time to time following consultation) on the initial letting of such AHGA Rent Dwellings.

(collectively the **Scheme Obligations**).

6.2 In delivering the Scheme and in operating and administering the Scheme after Practical Completion, the Borough must:

- 6.2.1 observe and comply with Legislation, the Capital Funding Guide, the London Plan and the Recovery Determination;
- 6.2.2 prior to undertaking any marketing in respect of Equity Loan Dwellings, ensure it is in a position to comply with the Advertising Requirements, in respect of the Equity Mortgages;
- 6.2.3 procure that:

- (a) all potential purchasers of Equity Loan Dwellings (who are introduced to it or who introduce themselves) are provided with the Standard Literature and are advised to consult a mortgage advisor;
- (b) no representations about the Affordable Housing or its suitability for Eligible Purchasers are made or permitted to be made by or on its behalf save as set out in the Standard Literature;
- (c) in no circumstances will it restrict any Eligible Purchaser's ability to consult an independent financial and/or legal advisor or make any direct charge to the Eligible Purchasers for the provision of Flexible Dwellings (excluding any reservation fee);
- (d) any advertisement issued by or on its behalf which makes reference to Equity Loan Dwellings or the assistance available from the GLA shall comply with the Advertising Requirements;
- (e) it takes its own legal advice in relation to complying with the Advertising Requirements, and compliance with the requirements of the relevant Legislation;
- (f) the GLA has up to date information in respect of the marketing of Flexible Dwellings and current availability and that such information is supplied in a manner which enables it to be uploaded directly onto any website maintained by the GLA or its nominee; and
- (g) it continues actively to market any Remaining Units on Flexible Product Terms.

6.3 The Borough shall procure that the GLA's Representative (or any person nominated by him) shall have at all reasonable times and upon giving reasonable notice the right to enter onto the Site and to take such action as he considers appropriate to inspect the progress of the Scheme and to monitor compliance by the Borough with its obligations under this Agreement provided that any such person taking access to the Site will observe any reasonable site regulations relating to security and health and safety.

6.4 The Borough must in relation to each Phase notify the GLA in writing (save in respect of Condition 6.4.1, where notification is required to be given through OPS unless the GLA agrees otherwise):

6.4.1 immediately once the Start on Site Date has occurred;

6.4.2 immediately, in the event of the receipt by it of any other Public Sector Subsidy or guarantees of it, or the offer of same, in respect of the Scheme (or any part of it) beyond any amount of Public Sector Subsidy notified to the GLA by the Borough pursuant to Condition 5.1;

6.4.3 immediately upon becoming aware of any event or circumstance which may have a Material Adverse Effect;

- 6.4.4 of any other event or circumstance in relation to the Scheme as the GLA may reasonably require from time to time and within such timeframes as the GLA may reasonably require.
- 6.5 Without prejudice to Condition 6.2, the Borough must in operating and administering the Scheme after Practical Completion:
- 6.5.1 subject to Condition 11.1:
- (a) market, use and continue to use a Flexible Dwelling as a Rent to Save Dwelling or Affordable Home Ownership Dwelling;
 - (b) use and continue to use each Affordable Rent Dwelling as Affordable Rent; and/or
 - (c) use and continue to use each Social Rent Dwelling as Social Rent Accommodation;
- 6.5.2 not charge a higher initial rent in relation to a Rent to Save Dwelling or AHGA Rent Dwelling than that set out in the Scheme Details;
- 6.5.3 not increase the rent in relation to a Rent to Save Dwelling or AHGA Rent Dwelling more than once in any consecutive period of twelve months;
- 6.5.4 not increase the rent in relation to a Rent to Save Dwelling or an AHGA Rent Dwelling (when compared with the rent payable immediately before the relevant rent increase date) by more than CPI + 1% per annum;
- 6.5.5 comply with the Regulator's Tenancy Standard and with applicable terms of the Rent Guidance (or any subsequent guidance relating to Affordable Rent or Social Rent Accommodation matters) in respect of the AHGA Rent Dwellings;
- 6.5.6 observe and comply with the requirements of the Capital Funding Guide in relation to:
- (a) any disposal of the Affordable Home Ownership Dwellings and ensure that such disposal takes effect only at arms' length and on market terms;
 - (b) the form and content of any Shared Ownership Lease granted by or to be granted by the Borough in relation to an Affordable Dwelling;
 - (c) the letting, management or disposal of Rent to Save Dwellings and/or the AHGA Rent Dwellings;
- 6.5.7 comply with the GLA's requirements in relation to Compliance Audit;
- 6.5.8 participate in the CORE system from time to time and complete the "Initial Sales" data screens on OPS promptly following the sale of any Affordable Home Ownership Dwelling;
- 6.5.9 in relation to each Rent to Save Dwelling the Borough must:

- (a) use its reasonable endeavours to ensure that the Tenant has a savings plan in place to raise sufficient funds to enable him to purchase the Rent to Save Dwelling within the Reservation Period;
 - (b) review the Tenant's saving plan at regular intervals to assess the likelihood of the Tenant being able to purchase the Rent to Save Dwelling within the Reservation Period;
 - (c) take all reasonable steps to regain possession of a Rent to Save Dwelling if the Tenant has not acquired the relevant dwelling within the Reservation Period or has not taken substantive and credible steps towards doing so or has indicated that he does not wish to acquire the Rent to Save Dwelling; and
 - (d) where the Tenant permanently vacates the Rent to Save Dwelling, continue to market and use the dwelling as a Flexible Dwelling;
- 6.5.10 in relation to each AHGA Rent Dwelling use the most appropriate form of tenancy having regard to the terms of the Tenancy Standard and the efficient use of public funds;
- 6.5.11 provide the GLA with a Disposal Notification prior to a Disposal taking place;
- 6.5.12 save where the GLA agrees otherwise, procure on any Disposal a written acknowledgement from the disponent in favour of the GLA that the amount of Scheme Grant allocated to the property comprised in the Disposal pursuant to this Agreement is social housing assistance received by it for the purposes of Section 33(7) of the HRA 2008.
- 6.5.13 use all reasonable endeavours to ensure that any person providing the Disposal Notification or any other notifications or certificates from the Borough to the GLA pursuant to this Agreement (the **Borough Notifications**) is a senior officer of the Borough with access to the information and knowledge needed accurately to give the information required;
- 6.5.14 notify the GLA if it becomes aware that any Borough Notification is erroneous in any material respect; and
- 6.5.15 provide the GLA with such information (and within such timescales) as the GLA may reasonably require to enable the GLA to monitor compliance by the Borough with its obligations under this Agreement.
- 6.6 The Borough shall ensure that the GLA's requirements from time to time in relation to public relations and publicity for capital projects (including site signage) as notified to the Borough from time to time or otherwise as included in the Capital Funding Guide are observed and implemented in respect of the Scheme.
- 6.7 In discharging its obligations under this Agreement, the Borough must act at all times with the utmost good faith, with the intent to deliver the Scheme and with proper regard to the need for efficiency in the use of public funds.

6.8 Where the Borough is aware that it is in breach of an obligation under this Condition 6 it must promptly notify the GLA of the fact and take all such steps as are appropriate in the circumstances to remedy the breach.

7 Changes to Scheme

7.1 The parties may in relation to the Scheme from time to time agree changes to the Scheme Details and where such changes are agreed they shall be implemented by the Borough amending the Scheme Details in OPS and the electronic confirmation of that amendment by the GLA through OPS and if for any reason it is not possible to make and/or confirm the amendments to the Scheme Details in the manner contemplated by this Condition 7.1 the parties shall:

7.1.1 evidence such changes in a written memorandum signed and dated by each of the GLA's Representative and the Borough's Representative; and

7.1.2 make and confirm the change in OPS at the earliest opportunity.

7.2 Where a Milestone Failure occurs or is in the reasonable opinion of the GLA likely to occur (having regard to the information supplied at the Review Meeting or pursuant to Condition 6.4) and such failure is directly caused by a Milestone Extension Event, the GLA shall subject to Conditions 7.3 and 7.4 extend the relevant Milestone Date and associated Scheme Completion Date by such period as it (acting reasonably) considers appropriate to take account of the delay caused or likely to be caused by the Milestone Extension Event.

7.3 The GLA shall not be obliged to extend a Milestone Date:

7.3.1 unless a Milestone Extension Event exists; or

7.3.2 in circumstances where such extension would (when taken individually or together with other extensions in relation to the Borough) in the GLA's reasonable opinion materially and adversely affect the delivery of the Scheme or (when taken individually or together with other extensions in relation to the Borough or other grant recipients under the Housing Zones Programme) materially and adversely affect the GLA's projected expenditure profile in relation to any year of the Housing Zones Programme and in particular (but without limitation) such expenditure profile in relation to the last quarter of the relevant Financial Year.

7.4 The GLA shall not under any circumstance be required or obliged to extend a Milestone Date or Scheme Completion Date beyond the Scheme Longstop Date.

7.5 The parties must promptly endorse a note of the memorandum and its date on the front of this Agreement.

8 Grant Claim Procedures

8.1 Subject to Phase 1 of the Scheme having reached the Start on Site Date, the Borough may apply to the GLA for the First Tranche Grant to be paid to it. The Borough must unless otherwise specified by the GLA (in which case the Borough must follow the GLA's instructions) make its application through OPS and in accordance with the requirements of

OPS from time to time and in compliance with the applicable procedures relating to grant claims and payments set out in the Capital Funding Guide.

- 8.2 In submitting an application pursuant to Condition 8.1 the Borough is deemed to:
- 8.2.1 repeat the representations and warranties set out in Condition 5.2;
 - 8.2.2 represent and warrant to the GLA that the Start on Site Date for Phase 1 has been reached and that such date is no later than that submitted therefor in OPS (or in such other medium specified by the GLA under Condition 8.1);
 - 8.2.3 represent and warrant to the GLA that all confirmations and certifications made or to be made by the Borough in OPS (or in such other medium specified by the GLA under Condition 8.1) in relation to the Scheme have been, are or will be correct in all material respects;
 - 8.2.4 represent and warrant to the GLA that the Borough is a Registered Provider and retains its status as an Investment Partner;
 - 8.2.5 represent and warrant to the GLA that no Withholding Event or Default Event has occurred or arisen; and
 - 8.2.6 represent and warrant to the GLA that no declaration finding or judgement of a court with relevant jurisdiction has been made which renders any Equity Loan void, invalid or unenforceable.
- 8.3 Subject to Phase 1 of the Scheme having reached Practical Completion, the Borough may apply to the GLA for the Second Tranche Grant to be paid to it. The Borough must unless otherwise specified by the GLA (in which case the Borough must follow the GLA's instructions) make its application through OPS and in accordance with the requirements of OPS from time to time and in compliance with the applicable procedures relating to grant claims and payments set out in the Capital Funding Guide.
- 8.4 In submitting an application pursuant to Condition 8.3 the Borough is deemed to: represent and warrant to the GLA that:
- 8.4.1 the Scheme has or will be procured, designed, constructed and delivered in accordance with the requirements of this Agreement upon Practical Completion of the Scheme;
 - 8.4.2 Phase 1 has reached Practical Completion;
 - 8.4.3 all confirmations and certifications made or to be made by the Borough in OPS (or in such other medium specified by the GLA under Condition 8.3) in relation to Phase 1 have been or will be correct in all material respects;
 - 8.4.4 the Borough is a Registered Provider and retains its status as an Investment Partner;
 - 8.4.5 it has obtained all Consents necessary for the lawful development of the Scheme in accordance with the Scheme Details and to the Submitted Standards as are then required or to the extent that they are not obtained that the Borough has taken all necessary steps to obtain them, is waiting only for the

Relevant Authority to issue them and is not aware (having made all reasonable enquiries) of any reason why such Consents will not be given or issued;

- 8.4.6 where it did not possess a Secure Legal Interest in the Site as at the date of this Agreement, it possesses a Secure Legal Interest in the Site and for the purpose of this Condition 8.4.6 the parties acknowledge and agree that limb (d) of the definition of Secure Legal Interest shall be disregarded and of no effect;
 - 8.4.7 no Withholding Event or Default Event has occurred or arisen;
 - 8.4.8 the Flexible Tenure Mix (as applicable) in relation to the Scheme is consistent with the Scheme Details;
 - 8.4.9 subject to Condition 8.5, all Flexible Dwellings within Phase 1 have been acquired, reserved by or let to Eligible Purchasers; and
 - 8.4.10 no declaration finding or judgement of a court with relevant jurisdiction has been made which renders any Equity Loan void, invalid or unenforceable.
- 8.5 The Borough shall be entitled to disclose against the warranty given in Condition 8.4.9 and must provide details of the then current acquisition, reservation and letting position in relation to the Scheme.
- 8.6 Upon Phase 2 reaching the Start on Site Date, the Borough is deemed to repeat the representations and warranties made under Condition 8.2 in relation to Phase 2).
- 8.7 Subject to Phase 2 of the Scheme having reached Practical Completion, the Borough may apply to the GLA for the Third Tranche Grant to be paid to it. The Borough must unless otherwise specified by the GLA (in which case the Borough must follow the GLA's instructions) make its application through OPS and in accordance with the requirements of OPS from time to time and in compliance with the applicable procedures relating to grant claims and payments set out in the Capital Funding Guide.
- 8.8 In submitting an application pursuant to Condition 8.7 the Borough is deemed to represent and warrant to the GLA that:
- 8.8.1 the Scheme has or will be procured, designed, constructed and delivered in accordance with the requirements of this Agreement upon Practical Completion of the Scheme;
 - 8.8.2 Phase 2 has reached Practical Completion;
 - 8.8.3 all confirmations and certifications made or to be made by the Borough in OPS (or in such other medium specified by the GLA under Condition 8.3) in relation to Phase 2 have been or will be correct in all material respects;
 - 8.8.4 the Borough is a Registered Provider and retains its status as an Investment Partner;
 - 8.8.5 it has obtained all Consents necessary for the lawful development of the Scheme in accordance with the Scheme Details and to the Submitted Standards as are then required or to the extent that they are not obtained that the Borough has taken all necessary steps to obtain them, is waiting only for the

Relevant Authority to issue them and is not aware (having made all reasonable enquiries) of any reason why such Consents will not be given or issued;

8.8.6 where it did not possess a Secure Legal Interest in the Site as at the date of this Agreement, it possesses a Secure Legal Interest in the Site and for the purpose of this Condition 8.8.6 the parties acknowledge and agree that limb (d) of the definition of Secure Legal Interest shall be disregarded and of no effect;

8.8.7 no Withholding Event or Default Event has occurred or arisen;

8.8.8 the Flexible Tenure Mix (as applicable) in relation to the Scheme is consistent with the Scheme Details;

8.8.9 subject to Condition 8.5, all Flexible Dwellings within Phases 1 and 2 have been acquired, reserved by or let to Eligible Purchasers; and

8.8.10 no declaration finding or judgement of a court with relevant jurisdiction has been made which renders any Equity Loan void, invalid or unenforceable.

9 Payment of Grant

9.1 Subject to:

9.1.1 the GLA (acting reasonably) being satisfied with the Borough's application for payment;

9.1.2 the GLA receiving the Borough's application within the Availability Period;

9.1.3 Conditions 9.3, 9.4 and 10; and

9.1.4 the Condition Precedent having been satisfied

the GLA shall pay the First Tranche Grant, Second Tranche Grant or Third Tranche Grant (as applicable) to the Borough within ten (10) Business Days of receipt of the satisfactory application.

9.2 If the GLA is not satisfied with the Borough's application for payment, it must notify the Borough in writing as soon as reasonably practicable and in any event within ten (10) Business Days of receipt of the application for payment identifying the reason for its dissatisfaction. The GLA must allow the Borough a period of up to ten (10) Business Days to address the issues identified in the notification and to resubmit or amend its application accordingly in which case the provisions of Conditions 8 to 9 (as applicable) will be reapplied to the Borough's resubmitted or amended application for payment.

9.3 The GLA shall not be obliged in relation to the Scheme to pay to the Borough:

9.3.1 the First Tranche Grant before:

(a) the date identified in the Scheme Details as the forecast Phase 1 Start on Site;

(b) full or outline planning permission has been obtained by the Borough for the development of the Scheme;

- (c) a Development Partner has been appointed by the Borough; and
- (d) a Development Agreement has been entered into between the Borough and its Development Partner

9.3.2 the Second Tranche Grant before the Phase 1 Completion Date (as confirmed by the GLA though OPS) has occurred;

9.3.3 the Third Tranche Grant before the Phase 2 Completion Date (as confirmed by the GLA through OPS) has occurred.

9.4 The GLA shall not be obliged to make any payment by way of Second Tranche Grant or Third Tranche Grant or otherwise if Phase 1 or Phase 2 of the Scheme (as applicable) have not reached Practical Completion by the Scheme Longstop Date.

9.5 The Availability Period will come to an end in relation to all Undrawn Amounts on the termination of the Overarching Borough Agreement or of this Agreement.

9.6 Any Undrawn Amounts will be cancelled after the Availability Period.

10 Withholding of Scheme Grant

10.1 Notwithstanding any other term of this Agreement the GLA shall not be obliged in relation to the Scheme to make any payment to the Borough whether by way of First Tranche Grant, Second Tranche Grant or Third Tranche Grant or otherwise where:

10.1.1 the Scheme has not been delivered in accordance with the Scheme Details (including but not limited to the Flexible Tenure Mix (as applicable) in relation to the Scheme) or to the Submitted Standards or in accordance with the Scheme Delivery Timetable (in circumstances where the GLA was unable to agree revised Milestone Dates);

10.1.2 the Borough is unable to give the confirmations or certifications required by OPS (or required by the GLA under Condition 8.2.3 or Condition 8.4.3) or to make the representations and give the warranties referred to in Condition 8.2 and Condition 8.4 (in any case in whole or in part);

10.1.3 a Prohibited Act has been committed by or on behalf of the Borough and the Borough has not satisfied the Waiver Condition in respect of such Prohibited Act;

10.1.4 the Borough is or it is reasonably foreseeable that it will become the subject of a Report or a Direction;

10.1.5 any declaration, judgement or funding is made by a Court with relevant jurisdiction which renders an Equity Loan void, invalid or unenforceable or which in the GLA's opinion calls into question the validity or enforceability of any such agreement;

10.1.6 the Borough's status as a Registered Provider or Investment Partner is removed or withdrawn;

- 10.1.7 the Regulator directs the GLA not to give grant to the Borough or formally recommends to it that it should not do so;
- 10.1.8 where the Borough is in material breach of the Scheme Obligation or Ongoing Obligation and has not taken steps to remedy it to the GLA's satisfaction (acting reasonably);
- 10.1.9 the Borough (either by its own actions or omissions or those of its contractors or agents) harms the GLA's, the Housing Zone Programme's or the Mayor of London's reputation or brings the GLA, the Housing Zone Programme or the Mayor of London into disrepute; or
- 10.1.10 the Borough has failed to comply with any of its obligations under Conditions 3, 11, or 14.

11 **Repayment of Grant**

11.1 The parties acknowledge and agree that:

- 11.1.1 the Recovery Determination has effect (*mutatis mutandis*) in respect of grant paid under this Agreement and that each party has the respective rights and obligations described in such determination;
- 11.1.2 for the purposes of the Recovery Determination the terms of this Agreement represent the conditions attached to the making of Capital Grant; and
- 11.1.3 on the occurrence of a Relevant Event the Grant Recipient must recycle or repay (as applicable) the Capital Grant Recoverable in each case in accordance with the terms of the Recovery Determination.

11.2 Without prejudice to any other term of this Agreement, the GLA reserves the right whether following termination of this Agreement or otherwise (which right the Borough expressly acknowledges and agrees) at its discretion to recover from the Borough in relation to the Scheme the Scheme Grant or such part or aggregation thereof as is determined in accordance with Condition 11.3 (the **Recoverable Amount**) in circumstances where:

- 11.2.1 a Prohibited Act has occurred and the Borough has not satisfied the Waiver Condition in respect of such Prohibited Act;
- 11.2.2 the relevant Tranche has been paid to the Borough on the basis of a misrepresentation made by or on behalf of the Borough other than in the circumstances specified in Condition 11.2.5;
- 11.2.3 the GLA has made an overpayment in relation to the Scheme or has made a payment in error to the Borough;
- 11.2.4 a Balancing Sum has arisen;
- 11.2.5 the relevant Tranche has been paid to the Borough but the GLA becomes aware (whether following the completion of a Compliance Audit or otherwise) that the Borough has failed to deliver the Scheme in accordance with the agreed Scheme Details;

- 11.2.6 the Borough has breached its obligations under Conditions 6.1, 6.2, 6.5 or 6.8;
 - 11.2.7 a Termination Event has occurred; or
 - 11.2.8 any declaration, judgement or funding is made by a Court with relevant jurisdiction which renders an Equity Loan void, invalid or unenforceable or which in the GLA's opinion calls into question the validity or enforceability of any such agreement.
- 11.3 In the circumstances set out in:
- 11.3.1 Conditions 11.2.1, 11.2.2, 11.2.6, 11.2.7, and 11.2.8 the Recoverable Amount shall be a sum equivalent to the Scheme Grant;
 - 11.3.2 Conditions 11.2.3 and 11.2.4, the Recoverable Amount shall be a sum equal to the amount of the overpayment, the sum paid in error or the Balancing Sum as applicable;
 - 11.3.3 Condition 11.2.5, subject always to Condition 11.4, the Recoverable Amount shall be determined in accordance with the following procedure:
 - (a) the parties (acting in good faith) shall seek to agree within fifteen (15) Business Days of the Non Compliance Notification Date a revised figure for the Scheme Grant figure reflecting the changed nature of the delivered Scheme as against that described in the Scheme Details;
 - (b) where a revised figure for Scheme Grant is agreed, the Recoverable Amount shall be the product of the following calculation:

$RA = SG - RSG$

where

RA is the Recoverable Amount;

SG is the Scheme Grant paid pursuant to Condition 9.1.1 in respect of the Scheme; and

RSG is the revised Scheme Grant figure agreed pursuant to Condition 11.3.3(a);
 - (c) Subject to Condition 22, the Borough shall amend the relevant information on OPS (or in such other way as the GLA may specify) to reflect the agreement made pursuant to Condition 11.3.3(a);
 - (d) where the parties are unable to agree a revised Scheme Grant figure in accordance with Condition 11.3.3(a) the GLA shall be entitled to terminate this Agreement in accordance with Condition 4.4.1 and the Recoverable Amount shall be an amount equal to the Scheme Grant paid pursuant to Condition 9.1 in respect of the Scheme.

Under no circumstances will the GLA be required to make any payment to the Borough if the application of the calculation in Condition 11.3.3(b) results in RA being a negative figure.

- 11.4 Where the GLA (acting reasonably) considers that the Borough acted fraudulently or dishonestly in claiming the Scheme Grant for the Scheme, such claim shall be deemed to be a Prohibited Act for the purposes of Condition 4.1 and Condition 11.2.1 and the GLA will not be bound by the terms of Condition 11.3.3.
- 11.5 The Borough shall pay the Recoverable Amount to the GLA within ten (10) Business Days of demand together with interest at four per centum (4%) above the base rate from time to time of the Royal Bank of Scotland plc such interest to run from the date upon which the Scheme Grant (or relevant part thereof) overpayment or payment in error was paid to the Borough until the date upon which the GLA receives the repayment required from the Borough under this Condition 11.
- 11.6 The Borough acknowledges and agrees that the disposal or letting of a Flexible Dwelling to any person on any basis other than Flexible Product Terms or the letting of an AHGA Rent Dwelling other than in accordance with the Tenancy Standard constitutes a failure to comply with a condition attached to the making of capital grant for the purposes of paragraph 8(e) of the Recovery Determination.
- 11.7 The parties acknowledge that the Late Payment of Commercial Debts (Interest) Act 1998 does not apply to this Agreement.
- 11.8 Notwithstanding any other term of this Condition 11, where a payment has been made following an administrative error by the GLA, the Borough shall not be liable for interest on the amount repayable under Condition 11.5.

12 **VAT**

- 12.1 Except where expressly stated to the contrary in this Agreement:
- 12.1.1 the amount of any payment or the value of any supply is expressed exclusive of VAT properly chargeable on it;
- 12.1.2 where any payment or taxable supply falls to be made pursuant to this Agreement VAT properly chargeable on it will be paid in addition by the recipient of the supply for which payment (if any) is consideration on the provision of a valid VAT invoice for it.
- 12.2 The payment of Scheme Grant or any part thereof hereunder by the GLA to the Borough shall be regarded as inclusive of any VAT chargeable thereon.

13 **Flexible Product Grant Reconciliation**

- 13.1 The parties agree that a reconciliation exercise shall be carried out in relation to the Scheme in the following circumstances to ascertain whether more Scheme Grant is being given by the GLA than is necessary for its delivery:
- 13.1.1 if the Flexible Tenure Mix changes between the date of this Agreement and the Start on Site Date of Phase 1 (a **Pre-Start Change**);

- 13.1.2 if the Flexible Tenure Mix changes between the Start on Site Date of Phase 1 and Practical Completion of Phase 2 (a **Mid-Scheme Change**);
- 13.1.3 if the Flexible Tenure Mix changes between the Practical Completion of Phase 2 and the Final Disposal Date (a **Post-Completion Change**)

and for the purposes of carrying out such exercise the parties shall use:

- (a) actual figures for Total Scheme Costs, Total Grant, Initial Sales Receipts, Rental Stream Capacity, Rent to Save Units, Shared Ownership Units and Equity Loan Units to the extent that actual figures for those items are known and in all other circumstances shall use reasonable estimates and projections for such items; and
- (b) the same assumptions and heads of expenditure and income as were used to arrive at the Scheme Grant figure set out in the Scheme Details as at the date hereof.

13.2 If the results of the conduct of a Grant Reconciliation Exercise in relation to the Scheme demonstrate that:

13.2.1 A is equal to or greater than zero, then no further action shall be taken.

13.2.2 A is less than zero (an **Over Commitment**) then the terms of Condition 13.3 shall apply;

Where in each case

$$A = TSC - TG - ISR - RSC - OC$$

And

TSC = Total Scheme Costs;

TG = Total Grant;

ISR = Initial Sales Receipts;

RSC = Rental Stream Capacity; and

OC = Other Contribution

13.3 Where Condition 13.2.2 applies and there is:

13.3.1 a Pre-Start Change, the parties shall use their reasonable endeavours to agree a revised figure for the Scheme Grant and a revised Flexible Tenure Mix. Where such revisions are agreed, the Borough must amend the Scheme Details on OPS to reflect such agreement and following acceptance by the GLA of such change through OPS the revised Scheme Details shall have effect and if for any reason it is not possible to make and/or confirm the amendments to the Scheme Details in the manner contemplated by this Condition 13.3 the parties shall:

- (a) evidence such changes in a written memorandum signed and dated by each of the GLA's Representative and the Borough's Representative; and
- (b) make and confirm the change in OPS at the earliest opportunity

where the parties are unable to agree such matters, the GLA shall be entitled to exercise its termination rights under Condition 4.4.1;

13.3.2 a Mid-Scheme Change, the GLA shall be entitled to reduce the amount of Second Tranche Grant by an amount equivalent to the amount of that Over Commitment. If such reduction cannot absorb the full amount of the Over Commitment, the balance shall be applied as if it were an Over Commitment subject to Condition 13.3.3;

13.3.3 a Post-Completion Change, the Borough may in writing request the GLA's consent to apply the amount of the Over Commitment to the delivery of further Affordable Housing on the Site.

13.4 Following receipt of a Further Application Request the GLA (acting reasonably) must notify the Borough in writing as soon as reasonably practicable as to whether:

13.4.1 it requires repayment of the Over Commitment in which case a sum equivalent to the amount of the Over Commitment (the **Over Commitment Sum**) must be repaid by the Borough within twenty (20) Business Days of the date of the GLA's notice; or

13.4.2 subject to Condition 13.5 it consents in principle to the Further Application Request and where it does so, the parties shall use their reasonable endeavours to agree the details of a new scheme for the delivery of Affordable Housing on the Site to which the Over Commitment will be applied; and

(a) if such schemes are agreed, the Borough must submit details of the proposed scheme onto OPS and any such scheme shall (subject to such reasonable changes to dates and time periods as the GLA reasonably requires) with effect from the upon date the GLA notifies its acceptance in OPS become a Scheme and subject to the whole terms and conditions of this Agreement;

(b) if the parties fail to agree a further scheme to which the Over Commitment will be applied within three (3) months of the date of the GLA's notice, the Borough must repay the Over Commitment Sum within ten (10) Business Days of receipt of the GLA's demand for the same.

13.5 Notwithstanding any other provision of this Agreement the GLA shall be under no obligation to accept any further scheme into this Agreement pursuant to Condition 13.4.2(a) nor to make any payment in relation to any such scheme if that scheme cannot reasonably be expected to or does not achieve Practical Completion by the Scheme Longstop Date.

14 **Open Book Obligations**

14.1 The Borough shall on an Open Book basis:

14.1.1 at all times maintain a full record of particulars of all the income (including Public Sector Subsidy) received and Development Costs incurred by the Borough in respect of the Scheme;

14.1.2 at all times when reasonably required to do so by the GLA, provide a summary of any of the income and Development Costs referred to in Condition 14.1.1 as the GLA may reasonably require to enable it to monitor the performance by the Borough of its obligations under this Agreement; and

14.1.3 at all times provide such access or facilities as the GLA may reasonably require for its representatives to visit any place where the records are held and examine the records maintained under this Condition 14.

14.2 Compliance with the above shall require the Borough to keep (and where appropriate to procure that any Subcontractor shall keep) separate books of account (from those relating to any business, activity or operation carried on by the Borough or Subcontractor and which do not directly relate to the Scheme) in accordance with good accountancy practice with respect to the Scheme showing in detail:

14.2.1 income (including Public Sector Subsidy and receipts);

14.2.2 administrative overheads where directly attributed or where apportioned on a pro rata basis;

14.2.3 payments made to Subcontractors;

14.2.4 capital and revenue expenditure;

14.2.5 VAT incurred on all items of expenditure where the Borough has received grant under this Agreement in respect of such VAT, including the rate of such VAT and full details of the recovery (or not) by the Borough of such VAT as input tax from HM Revenue & Customs or other competent authority; and

14.2.6 such other item as the GLA may reasonably require to conduct (itself or through a third party) cost audits for verification of income, cost expenditure or estimated expenditure, for the purpose of any of the provisions of this Agreement;

and the Borough shall have (and procure that to the extent expressly agreed the Subcontractors shall have) the books of account evidencing the items listed in this Condition available for inspection by the GLA (and any person appointed pursuant to the dispute resolution provisions at Condition 22 to determine a dispute or otherwise authorised by the GLA) upon reasonable notice, and shall submit a report of these to the GLA as and when requested.

15 **State Aid**

15.1 This Agreement is drafted with the intention that it is lawful and complies with the requirements of the SGEI Decision.

- 15.2 If the Total Grant gives rise to an SGEI Decision Overpayment or otherwise constitutes Unlawful State Aid than the GLA shall be entitled to recover from the Borough the amount of such SGEI Decision Overpayment and/or Unlawful State Aid together with such interest as it is required by Legislation to recover and the Borough must pay such amount(s) within ten (10) Business Days of the GLA requesting repayment.
- 15.3 The Borough shall promptly give written notice to the GLA of any Public Sector Subsidy it receives from a third party in relation to any Affordable Dwelling
- 15.4 If the SGEI Decision ceases to apply in England than the GLA may, by providing written notice to the Borough, vary this Agreement to the extent necessary to remove those obligations which required compliance with it.

16 **Representations and Warranties**

16.1 Without prejudice to any other term of this Agreement, the Borough:

16.1.1 represents and warrants to the GLA on the date hereof and on each day until and including the date upon which the Borough receives the last payment of Scheme Grant payable under this Agreement in the terms set out in Schedule 1 inclusive; and

16.1.2 acknowledges and agrees that the GLA is relying on such representations and warranties and that each of such warranties and representations shall be separate and independent and, save as expressly provided to the contrary, shall not be limited by reference to any of them or by any other provisions of this Agreement.

17 **Information and confidentiality**

17.1 Each party recognises that under this Agreement it may receive Confidential Information belonging to the other.

17.2 Each party agrees to treat all Confidential Information belonging to the other as confidential and not to disclose such Confidential Information or any other confidential information relating to the GLA or Borough (as the case may be) arising or coming to its attention during the currency of this Agreement to any third party without the prior written consent of the other party and agrees not to use such Confidential Information for any purpose other than that for which it is supplied under this Agreement.

17.3 The obligations of confidence referred to in Condition 17.2 shall not apply to any Confidential Information which:

17.3.1 is in, or which comes into, the public domain otherwise than by reason of a breach of this Agreement or of any other duty of confidentiality relating to that information; or

17.3.2 is obtained from a third party without that third party being under an obligation (express or implied) to keep the information confidential; or

- 17.3.3 is lawfully in the possession of the other party before the date of this Agreement and in respect of which that party is not under an existing obligation of confidentiality; or
 - 17.3.4 is independently developed without access to the Confidential Information of the other party.
- 17.4 Each party will be permitted to disclose Confidential Information to the extent that it is required to do so:
- 17.4.1 to enable the disclosing party to perform its obligations under this Agreement; or
 - 17.4.2 by any applicable law or by a court, arbitral or administrative tribunal in the course of proceedings before it including without limitation any requirement for disclosure under FOIA or EIR; or
 - 17.4.3 by any regulatory body (including any investment exchange) acting in the course of proceedings before it or acting in the course of its duties; or
 - 17.4.4 in order to give proper instructions to any professional adviser of that party who also has an obligation to keep any such Confidential Information confidential.
- 17.5 Each party shall ensure that all Confidential Information obtained by it under or in connection with this Agreement:
- 17.5.1 is given only to such of its employees, professional advisors or consultants engaged to advise it in connection with this Agreement as is strictly necessary for the performance of this Agreement and only to the extent necessary for the performance of this Agreement;
 - 17.5.2 is treated as confidential and not disclosed (without the other party's prior written approval) or used by any such staff or professional advisors or consultants otherwise than for the purposes of this Agreement;
 - 17.5.3 where it is considered necessary in the opinion of the other party, the relevant party shall ensure that such staff, professional advisors or consultants sign a confidentiality undertaking before commencing work in connection with this Agreement.
- 17.6 Nothing in this Condition 17 shall prevent either party:
- 17.6.1 disclosing any Confidential Information for the purpose of:
 - (a) the examination and certification of its accounts; or
 - (b) any examination of the economy, efficiency and effectiveness with which the GLA has used its resources; or
 - 17.6.2 disclosing any Confidential Information obtained from the other party:
 - (a) to any other department, office or agency of the Crown or any member of the GLA Group; or

- (b) to any person engaged in providing any services to such party for any purpose relating to or ancillary to this Agreement or any person conducting an Office of Government Commerce gateway review;

provided that in disclosing information under Condition 17.6.2(a) or 17.6.2(b) the disclosing party discloses only the information which is necessary for the purpose concerned and requires that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.

- 17.7 Nothing in this Condition 17 shall prevent either party from using any techniques, ideas or know-how gained during the performance of the Agreement in the course of its normal business, to the extent that this does not result in a disclosure of Confidential Information or an infringement of Intellectual Property Rights.
- 17.8 The Borough acknowledges that the GLA is subject to legal duties which may require the release of information under FOIA and/or EIR and that the GLA may be under an obligation to provide Information subject to a Request for Information.
- 17.9 The parties to this Agreement are FOIA Authorities and:
 - 17.9.1 are subject to legal duties which may require the release of Information under FOIA and/or EIR; and
 - 17.9.2 FOIA Authorities may be under an obligation to provide Information subject to a Request for Information.
- 17.10 The FOIA Authority in receipt of or to receive the RFI (**Relevant FOIA Authority**) shall be responsible for determining in its absolute discretion whether:-
 - 17.10.1 any Information is Exempted Information or remains Exempted Information; and/or
 - 17.10.2 any Information is to be disclosed in response to a Request for Information;and in no event shall any party, other than the Relevant FOIA Authority, respond directly to a RFI except to confirm receipt of the RFI and that RFI has been passed to the Relevant FOIA Authority unless otherwise expressly authorised to do so by the Relevant FOIA Authority.
- 17.11 Subject to Condition 17.12 below, each party acknowledges that the Relevant FOIA Authority may be obliged under FOIA or EIR to disclose Information:
 - 17.11.1 without consulting the other; or
 - 17.11.2 following consultation with the other party and having taken (or not taken, as the case may be) its views into account.
- 17.12 Without in any way limiting Conditions 17.10 and 17.11, in the event that the Relevant FOIA Authority receives a RFI, the Relevant FOIA Authority will, where appropriate, as soon as reasonably practicable notify the other party.
- 17.13 Each party will assist and co-operate as requested by the Relevant FOIA Authority to enable the Relevant FOIA Authority to comply with its disclosure requirements under FOIA

and EIR within the prescribed periods for compliance and in particular without limitation will (and shall procure that its agents contractors and sub-contractors will), at their own cost:

- 17.13.1 transfer any RFI received to the Relevant FOIA Authority as soon as practicable after receipt and in any event within two (2) Business Days of receiving a RFI;
 - 17.13.2 provide all such assistance as may be required from time to time by the Relevant FOIA Authority and supply such data or information as may be requested by the Relevant FOIA Authority;
 - 17.13.3 provide the Relevant FOIA Authority with any data or information in its possession or power in the form that the Relevant FOIA Authority requires within five (5) Business Days (or such other period as the Relevant FOIA Authority may specify) of the Relevant FOIA Authority requesting that Information; and/or
 - 17.13.4 permit the Relevant FOIA Authority to inspect any records as requested from time to time.
- 17.14 Nothing in this Agreement will prevent the Relevant FOIA Authority from complying with any valid order, decision, enforcement or practice recommendation notice issued to it by the Information Commissioner under FOIA and / or EIR in relation to any Exempted Information.
- 17.15 The obligations in this Condition 17 will survive the expiry or termination of this Agreement for a period of two (2) years or, in respect of any particular item of Confidential Information, until such earlier time as that item of Confidential Information reaches the public domain otherwise than by reason of a breach of this Agreement or of any other duty of confidentiality relating to that information.
- 17.16 The Borough acknowledges and agrees that the GLA may in its absolute discretion redact all or part of the Agreement Information prior to its publication. In so doing and in its absolute discretion the GLA may take account of any EIR Exemptions and FOIA Exemptions. The GLA may in its absolute discretion consult with the Borough regarding any redactions to the Agreement Information to be published pursuant to this Condition 17. The GLA shall make the final decision regarding publication and/or redaction of the Agreement Information.
- 18 **Intellectual Property**
- 18.1 Subject to Condition 18.5 the Borough shall, to the extent that it is able to do so without incurring material cost, grant to the GLA a perpetual, transferable, non-exclusive, royalty-free licence (carrying the right to grant sub-licences) to copy and use (from computer disk or otherwise) all and any Intellectual Property Rights in any, drawings, reports, specifications, calculations and other documents provided by the Borough or which are or become owned by the Borough and which relate to the Scheme, for any purpose relating to this Agreement.
- 18.2 To the extent that any of the data, materials and documents referred to in Condition 18.1 are generated by or maintained on a computer or in any other machine readable format, the Borough shall if requested by the GLA use its reasonable endeavours (without having

to incur material cost) procure for the benefit of the GLA for the duration of this Agreement at the cost of the Borough the grant of a licence or sub-licence and supply any relevant software and/or database to enable the GLA making such request to access and otherwise use such data for the purposes referred to in Condition 18.1.

18.3 Neither party shall infringe any third party's Intellectual Property Rights in connection with this Agreement.

18.4 The Borough shall fully indemnify the GLA within five (5) Business Days of demand under this Condition 18.4 against any action, claim, demand, proceeding, cost, charge or expense arising from or incurred by it by reason of any infringement or alleged infringement of any Intellectual Property Rights of any third party by the activities described in this Condition 18 any breach by the Borough of this Condition 18 and against all costs and damages of any kind which the GLA may incur in connection with any actual or threatened proceedings before any court or adjudication body.

18.5 The Borough shall only be entitled to revoke the licence granted to the GLA under Condition 18.1 in the following circumstances and upon the following terms:

18.5.1 on the termination of the whole of this Agreement in circumstances where no Scheme Grant has been paid to the Borough; or

18.5.2 on the termination of this Agreement (in whole or in part) in circumstances where some Scheme Grant has been paid to the Borough **provided that** nothing in this Condition 18.5.2 shall entitle the Borough to revoke such licence insofar as it relates to Schemes in respect of which Scheme Grant has been paid or in respect of which a valid entitlement to claim Scheme Grant has arisen.

19 **Borough's records and accounting**

19.1 The Borough shall, as and when requested by the GLA whether before or after the date of payment of any Scheme Grant, make available in a timely manner to the GLA where required in connection with this Agreement or the Scheme a copy of each of:

19.1.1 all data, materials, documents and accounts of any nature created, acquired or brought into existence in any manner whatsoever by or on behalf of the Borough for the purposes of this Agreement; and

19.1.2 all such data, materials, documents and accounts created, acquired or brought into existence by the Borough's officers, employees, agents or consultants relating to the Scheme and which have been supplied to the Borough for the purposes of this Agreement.

19.2 On the expiry of this Agreement or (if earlier) upon termination thereof, the Borough shall if requested to do so deliver up to the GLA all the data, materials, documents and accounts referred to in this Condition 19 which it has in its possession, custody or control and shall procure the handing over to the GLA such data, materials, documents and accounts referred to in Condition 19.1.2 or as otherwise directed by the GLA.

19.3 The Borough must for a period of ten (10) years from the date upon which it receives the Scheme Grant retain all of the data, documents, materials and accounts referred to in this

Condition 19 and the Borough may retain such data, documents, materials and accounts in electronic form only.

19.4 The Borough acknowledges that the Comptroller and Auditor General shall have rights of access to the information referred to in Condition 19.1 pursuant to the National Audit Act 1983 and the Government Resources and Accounts Act 2000.

20 **Health and Safety and Equality and Diversity**

20.1 The Borough will comply in all material respects with all relevant Legislation relating to health and safety, equality and relevant employment matters and will use reasonable endeavours to procure that all Borough Parties do likewise.

20.2 The Borough confirms that it has, and is in full compliance with, a policy covering equal opportunities designed to ensure that discrimination prohibited by the Equality Act 2010 is avoided at all times and will provide a copy of that policy and evidence of the actual implementation of that policy upon request by the GLA.

20.3 The Borough shall have due regard to the public sector equality duty under Part 11 of the Equality Act 2010 insofar as its activities under this Agreement could reasonably be deemed to be functions of a public nature for the purposes of that Part.

20.4 To the extent that the GLA is a 'client' for the purposes of the CDM Regulations:

20.4.1 where the Borough is engaging consultants and a contractor or contractors as Subcontractors to deliver the Scheme the Borough elects to be the only client in relation to that Scheme; or

20.4.2 where the Borough is contracting with a developer as a Subcontractor to deliver the Scheme the Borough shall procure that such developer shall elect to be the only client in relation to the Scheme prior to the date of this Agreement

and the GLA hereby agrees to such election.

20.5 The Borough shall not seek to withdraw, terminate or in any manner derogate from such election pursuant to Condition 20.4.1 or (if appropriate) shall procure that any developer/employer shall not withdraw, terminate or in any manner derogate from any election pursuant to Condition 20.4.2 without the GLA's prior written consent, which the GLA may in its absolute discretion withhold.

20.6 The Borough shall at all times comply with all obligations, requirements and duties arising under the HS Act and the CDM Regulations in connection with the Works.

21 **Co-operation**

21.1 Each party undertakes to co-operate in good faith with the other to facilitate the proper performance of this Agreement and the delivery of the Scheme. Without prejudice to the generality of the foregoing the Borough shall co-operate fully and in a timely manner with any reasonable request from time to time:

21.1.1 of any auditor (whether internal or external) of the GLA; and/or

21.1.2 of the GLA where the GLA is required under any legislation to provide any document relating to the Scheme to any person.

22 **Dispute Resolution**

22.1 All disputes and differences arising out of or in connection with this Agreement (a **Dispute**) shall be resolved pursuant to the terms of this Condition 22.

22.1.1 In the event that the Borough or the GLA consider that a Dispute exists, such party shall serve a notice upon the other party (a **Notice of Dispute**) giving brief details of the Dispute and in the first instance the parties shall use their reasonable endeavours to resolve such Dispute amicably and in good faith and in accordance with this Condition 22.

22.1.2 Representatives of the parties shall meet within five (5) Business Days (or such other longer period not exceeding twenty (20) Business Days as the parties may agree) of receipt of a Notice of Dispute.

22.1.3 Where either no representatives of both parties are available to meet within the period set out in Condition 22.1.2 or the representatives fail to agree a unanimous resolution of the Dispute at such meeting, the Dispute shall be referred to the chief executive (or nominated deputy) of the Borough and the GLA's Head of Paid Service (the **Senior Executives**).

22.1.4 The Senior Executives shall meet within ten (10) Business Days (or such other longer period not exceeding twenty (20) Business Days as the parties may agree) of such referral to attempt to resolve the Dispute. Any unanimous resolution of the Senior Executives shall be recorded in writing and signed by them and shall be final and binding unless the parties agree otherwise.

22.1.5 If the Dispute remains unresolved after ten (10) Business Days following referral to the Senior Executives, such Dispute must be dealt with in accordance with Condition 22.2.

22.2 In the circumstances contemplated in Condition 22.1.5, the parties will attempt to settle the Dispute by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed by the parties, the mediator will be nominated by CEDR. The parties agree that:

22.2.1 to initiate the mediation a party must give notice in writing (**ADR notice**) to the other party to the Dispute requesting a mediation. A copy of the request should be sent to CEDR.

22.2.2 the mediation shall start not later than twenty eight (28) days after the date of the ADR notice; and

22.2.3 except where the right to issue proceedings would be prejudiced by a delay, no party may commence any court proceedings in relation to any dispute arising out of this agreement until it has attempted to settle the dispute by mediation and either the mediation has terminated or the other party has failed to participate in the mediation.

23 **Notices**

23.1 Any notice to be given hereunder shall be in writing and shall be sufficiently served if delivered by hand and receipted for by the recipient, (but not by facsimile or electronic mail) or sent by a recorded delivery service addressed in the case of either party to the other party's registered office as set out at the beginning of this Agreement or to such other addresses as either party may from time to time notify to the other in writing **provided that** such other address is within England and Wales.

23.2 Any notice shall be deemed to be given by the sender and received by the recipient:

23.2.1 if delivered by hand, when delivered to the recipient;

23.2.2 if delivered by a recorded delivery service, three (3) Business Days after delivery including the date of postage;

provided that if the delivery or receipt is on a day which is not a Business Day or is after 4.00pm it is to be regarded as received at 9.00am on the following Business Day.

24 **No fetter on statutory functions**

Notwithstanding anything apparently or impliedly to the contrary in this Agreement or any of the deeds and documents referred to herein, in carrying out its statutory duties or functions the discretion of the GLA shall not be fettered, constrained or otherwise unlawfully affected by the terms of this Agreement or any such other deed or document.

25 **No agency**

25.1 Nothing in this Agreement or otherwise shall be held, implied or deemed to constitute a partnership, joint venture or other association or, save as expressly provided, the relationship of principal and agent between the parties.

25.2 The Borough shall at all times be independent and nothing in this Agreement shall be construed as creating the relationship of employer and employee between the GLA and the Borough. Neither the Borough nor any of its employees shall at any time hold itself or themselves out to be an employee of the GLA.

26 **Exclusion of third party rights**

Except as otherwise expressly provided no person who is not a party to this Agreement shall be entitled to enforce any terms of this Agreement solely by virtue of the Contracts (Rights of Third Parties) Act 1999.

27 **Assignment and sub-contracting**

27.1 The GLA will be entitled to transfer or assign all or part of this Agreement.

27.2 The Borough will not be entitled to transfer or assign all or part of this Agreement.

28 **Construction Industry Scheme**

28.1 For such time as:

- 28.1.1 the Borough continues to be a local authority; and
- 28.1.2 the provisions of paragraph 13040 of Chapter 1 of HM Revenue & Customs' CIS Reform Manual remain in effect as published at July 2009,

the Borough warrants to the GLA that since it is a local authority, it is deemed by concession to be certificated as a sub-contractor entitled to receive relevant payments gross under the Construction Industry Scheme set out in Chapter 3 of Part 3 of the Finance Act 2004 and associated regulations (the **CIS**) provided always that if either Condition 28.1.1 or Condition 28.1.2 ceases to hold at a time when monies remain outstanding from the GLA to the Borough pursuant to this Agreement then the Borough shall promptly notify the GLA of such fact and the parties shall take such steps as may reasonably be required to ensure that the CIS is if necessary applied to all such outstanding payments.

29 **Data Protection**

29.1 The Borough warrants and represents that it has obtained all necessary registrations, notifications and consents required by the DPA to Process Personal Data for the purposes of performing its obligations under this Agreement.

29.2 The Borough undertakes that to the extent that the Borough and/or any of its employees receives, has access to and/or is required to Process Personal Data on behalf of the GLA (the **GLA's Personal Data**) for the purpose of performing its obligations under this Agreement it will at all times comply with the provisions of the DPA for the time being in force, including without limitation the Data Protection Principles set out in Schedule 1 of the DPA. In particular, the Borough agrees to comply with the requirements and obligations imposed on the Data Controller in the Seventh Data Protection Principle set out in the DPA namely:

- 29.2.1 the Borough shall at all material times have in place and maintain appropriate technical and organisational security measures designed to safeguard against accidental or unlawful destruction, accidental loss, alteration, unauthorised or unlawful disclosure of or access to the GLA's Personal Data and any person it authorises to have access to any the GLA's Personal Data will respect and maintain the confidentiality and security of the GLA's Personal Data. This includes the obligation to comply with any records management, operational and/or information security policies operated by the GLA, when performing its obligations under this Agreement on the GLA's premises and/or accessing their manual and/or automated information systems. These measures shall be appropriate to the harm which might result from any unauthorised Processing, accidental loss, destruction or damage to the Personal Data which is to be protected;
- 29.2.2 the Borough shall only Process Personal Data for and on behalf of the GLA for the purpose of performing its obligations under this Agreement in accordance with this Agreement, or as is required by Law or any Regulatory Body, and where necessary only on written instructions from the GLA to ensure compliance with the DPA;
- 29.2.3 the Borough shall allow the GLA to audit the Borough's compliance with the requirements of this Condition 29 on reasonable notice and/or, at the GLA's

request, provide the GLA with evidence of the Borough's compliance with the obligations within this Condition 29.

29.3 The Borough undertakes not to disclose or transfer any of the GLA's Personal Data to any third party without the prior written consent of the GLA save that without prejudice to Condition 29.2 the Borough shall be entitled to disclose the GLA's Personal Data to employees to whom such disclosure is reasonably necessary in order for the Borough to perform its obligations under this Agreement, or to the extent required under a court order.

29.4 The Borough shall:

29.4.1 take reasonable steps to ensure the reliability of any Borough Party who has access to the Personal Data;

29.4.2 ensure that any Borough Party required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Condition 29;

29.4.3 ensure that none of any Borough Party publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the GLA;

29.4.4 provide a written description of the technical and organisational methods employed by the Borough for Processing Personal Data (within the timescales required by the GLA); and

29.4.5 not Process Personal Data outside the European Economic Area without the prior written consent of the GLA and, where the GLA consents to a transfer, to comply with:

(a) the obligations of a Data Controller under the Eighth Data Protection Principle set out in Schedule 1 of the DPA by providing an adequate level of protection to any Personal Data that is transferred; and

(b) any reasonable instructions notified to it by the GLA.

29.5 The Borough agrees to use all reasonable efforts to assist the GLA to comply with such obligations as are imposed on the GLA by the DPA. For the avoidance of doubt, this includes the obligation to:

29.5.1 provide to the GLA such access as may be reasonably required from time to time to all Personal Data stored or processed in performing its obligations under this Agreement in order to enable the GLA to meet its obligations to respond to access requests from Data Subjects under the DPA;

29.5.2 provide the GLA with reasonable assistance in complying with any request for information served on the GLA under Section 7 of the DPA;

29.5.3 notify the GLA (within five (5) Business Days) about the receipt of any such request received by the Borough under Section 7 of the DPA or complaint or request relating to the GLA's obligations under the DPA and not disclose or release any information (including the GLA's Personal Data) in response to such a request or complaint without first consulting with the GLA, where the

information sought relates to the GLA, its employees, agents and/or its business operations;

29.5.4 provide the GLA with full co-operation and assistance in relation to any complaint of request made, including by:

- (a) providing the GLA with full details of the complaint or request;
- (b) complying with a data access request within the relevant timescales set out in the DPA and in accordance with the GLA's instructions;
- (c) providing the GLA with any Personal Data it holds in relation to a Data Subject (within the timescales required by the GLA); and
- (d) providing the GLA with any information requested by the GLA;

29.6 The Borough shall comply at all times with the DPA and shall not perform its obligations under this Agreement in such a way as to cause the GLA to breach any of its applicable obligations under the DPA.

29.7 The Borough shall indemnify the GLA against all claims and proceedings and all liability, losses, costs and expenses incurred in connection therewith by the GLA as a result of the Borough's destruction of and/or damage to any of the GLA's Personal Data processed by the Borough, its employees, agents, or any breach of or other failure to comply with the obligations in the DPA and/or this Condition 29 by the Borough, its employees, agents or sub-contractors.

29.8 The Borough shall appoint and identify an individual within its organisation authorised to respond to enquiries from the GLA concerning the Borough's Processing of the GLA's Personal Data and will deal with all enquiries from the GLA relating to such Personal Data promptly, including those from the Information Commissioner and will to the extent reasonably necessary co-operate with and assist in ensuring compliance with any Data Subject rights of data access, correction, blocking, suppression or deletion relating to the GLA's Personal Data and in the defence or management of any enforcement action or assessment by the Information Commissioner or any other competent authority in relation thereto.

29.9 The Borough undertakes to include obligations no less onerous than those set out in this Condition 29, in all contractual arrangements with agents engaged by the Borough in performing its obligations under this Agreement to the GLA.

30 **Further Assurance**

30.1 At any time upon the written request of the GLA the Borough:

30.1.1 shall promptly execute and deliver or procure the execution and delivery of any and all such further instruments and documents as may be necessary for the purpose of obtaining for the GLA the full benefit of this Agreement and of the rights and powers herein granted;

30.1.2 shall perform and use its reasonable endeavours to procure that any third party performs such acts as may be reasonably required for the purposes of giving full effect to this Agreement.

31 **Entire agreement**

31.1 This Agreement and the conditions herein contained together with the Schedules and Annexes constitute the entire agreement between the parties in relation to its subject matter and, subject always to Condition 7, may only be varied or modified in writing by deed.

31.2 The Borough hereby acknowledges that save as set out or referred to in the Agreement there are and have been no representations made by or on behalf of the GLA of whatsoever nature on the faith of which the Borough is entering into this Agreement.

32 **Severability**

If any term, condition or provision contained in this Agreement shall be held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall to that extent be omitted from this Agreement and shall not affect the validity, legality or enforceability of the remaining parts of this Agreement.

33 **Cumulative rights and enforcement**

33.1 Any rights and remedies provided for in this Agreement whether in favour of the GLA or the Borough are cumulative and in addition to any further rights or remedies which may otherwise be available to those parties.

33.2 The parties acknowledge that money damages alone may not properly compensate the GLA for any breach of the Borough's obligations hereunder and the parties hereby expressly agree that in the event of the breach or threatened breach of any such obligation in addition to any other rights or remedies the GLA may have in law, in equity or otherwise the GLA shall be entitled to seek injunctive or other equitable relief compelling specific performance of and other compliance with the terms of such obligations.

34 **Waiver**

34.1 The failure of any party at any one time to enforce any provision of this Agreement in no way affects its right thereafter to require complete performance by the other party, nor may the waiver of any breach or any provision be taken or held to be a waiver of any subsequent breach of any provision or be a waiver of the provision itself.

34.2 Where in this Agreement any obligation of a party is to be performed within a specified time that obligation shall be deemed to continue after that time if the party fails to comply with that obligation within the time.

34.3 Any waiver or release of any right or remedy of either party must be specifically granted in writing signed by that party and shall:

34.3.1 be confined to the specific circumstances in which it is given;

34.3.2 not affect any other enforcement of the same or any other right; and

34.3.3 (unless it is expressed to be irrevocable) be revocable at any time in writing.

35 **Survival of this Agreement**

35.1 Insofar as any of the rights and powers of the GLA provided for in this Agreement shall or may be exercised or exercisable after the termination or expiry of this Agreement the provisions of this Agreement conferring such rights and powers shall survive and remain in full force and effect notwithstanding such termination or expiry.

35.2 Insofar as any of the obligations of the Borough provided for in this Agreement remain to be discharged after the termination or expiry of this Agreement the provisions of this Agreement shall survive and remain in full force and effect notwithstanding such termination or expiry.

35.3 Without limitation the provisions of Conditions 2.3, 2.4, 4, 6, 8, 10, 11, 12 to 15 and 17 to 19, 29, 30, 33 and this Condition 35 and such other provisions of this Agreement as are necessary to give effect to such Conditions are expressly agreed by the parties to survive the termination or expiry of this Agreement.

36 **London Living Wage and Mayoral Concordat**

36.1 Without prejudice to any other provision of this Agreement, the Borough shall (and will ensure that its consultants, contractors and sub-contractors shall):

36.1.1 use all reasonable endeavours to ensure that no employees engaged in the provision of the Works are paid an hourly wage (or equivalent of an hourly wage) less than the London Living Wage;

36.1.2 use all reasonable endeavours to ensure that none of its employees engaged in the provision of the Works is paid less than the amount to which they are entitled in their respective contracts of employment;

36.1.3 provide to the GLA such information concerning the London Living Wage as the GLA or its nominees may reasonably require from time to time;

36.1.4 disseminate on behalf of the GLA to its employees engaged in the provision of the Works such perception questionnaires as the GLA may reasonably require from time to time and promptly collate and return to the GLA responses to such questionnaires; and

36.1.5 use all reasonable endeavours to co-operate and provide all reasonable assistance in monitoring the effect of the London Living Wage.

36.2 The Borough must subscribe to the Mayoral Concordat which stipulates that new homes for sale will be available for sale to Londoners before or at the same time as they are available to buyers from other countries.

37 **Execution**

This Agreement may be executed in any number of counterparts and each counterpart will when executed be an original of this Agreement and all counterparts together will constitute one instrument.

38 **Governing law**

This Agreement shall be governed by and construed in accordance with the laws of England and Wales and subject to the provisions of Condition 22 the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

Schedule 1

Representation and Warranties

1 Powers, vires and consents

- 1.1 It has the power to enter into and to exercise its rights and perform its obligations under this Agreement and has taken all necessary action to authorise the execution by it of and the performance by it of its obligations under this Agreement;
- 1.2 It is not subject and will not become subject to any other obligation, compliance with which will or is likely to, have a Material Adverse Effect.
- 1.3 Its obligations under this Agreement constitute its legal, valid and binding obligations, enforceable in accordance with its terms.
- 1.4 All consents, required by it in connection with the execution, delivery, issue, validity or performance or enforceability of this Agreement have been obtained and have not been withdrawn.
- 1.5 So far as it is aware, it is not in breach of or in default under any agreement to which it is a party or which is binding on it or any of its assets which has or could have a Material Adverse Effect.
- 1.6 To the best of its knowledge, no claim is presently being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge, pending or threatened against it or any of its assets which will or might have a Material Adverse Effect.
- 1.7 It has not committed any Prohibited Act.

2 Scheme Deliverability

- 2.1 It has obtained or will by Practical Completion of each Phase of the Scheme have obtained all Consents and to the extent that such Consents have been obtained they have not been withdrawn.
- 2.2 It is not aware, after due enquiry, of anything which materially threatens the success or successful completion of the intention or purpose of this Agreement.
- 2.3 No Default Event has occurred and is continuing.
- 2.4 All information supplied by or on behalf of it to the GLA or its agents or employees in connection with the Borough's initial application for grant funding or in the course of the subsequent discussions was at the time of submission and as far as it was aware (or ought to have been aware) having made all reasonable and proper enquiries true, complete and accurate in all respects.
- 2.5 All data or other information submitted in OPS (or otherwise) in respect of the Scheme is accurate.
- 2.6 It has informed the GLA of any material change that has occurred since the date of submission of its Bid of which it is aware (or ought to be aware) having made all

reasonable and proper enquiries which would render such information untrue, incomplete or inaccurate in any material respect including without limitation the provision or offer of any additional Public Sector Subsidy.

- 2.7 It is not aware of any material fact or circumstance that has not been disclosed to the GLA and which might, if disclosed materially, adversely affect the decision of anyone considering whether or not to contract with it.
- 2.8 Save where expressly agreed by the GLA, no Scheme which is a Section 106 Scheme is being subsidised by Scheme Grant or RCGF.
- 2.9 Save where expressly agreed by the GLA, all Affordable Dwellings have been let or disposed of (as applicable) in accordance with the terms of the Scheme Details.
- 2.10 So far as the Borough is aware (having made all reasonable enquiries) the Scheme (including, inter alia, all projected Start on Site and Practical Completion dates) is capable of being delivered without the need for a change to the Scheme Details.

3 Authority of Borough's Representative

- 3.1 The Borough's Representative is empowered to act on behalf of the Borough for all purposes connected with this Agreement.

4 Reports and Directions

- 4.1 The Borough is not the subject of a Report or a Direction nor do any circumstances exist that would give rise to the making of such a Report or Direction.

Schedule 2

Part 1

Development Costs

Heads of expenditure

1 Acquisition

- 1.1 Purchase price of land/site.
- 1.2 Stamp Duty Land Tax on the purchase price of land/site.

2 Works

- 2.1 Main works contract costs (excluding any costs defined as on costs).
- 2.2 Major site development works (where applicable). These include piling, soil stabilisation, road/sewer construction, major demolition.
- 2.3 Statutory agreements, associated bonds and party wall agreements (including all fees and charges directly attributable to such works) where applicable.
- 2.4 Additional costs associated with complying with archaeological works and party wall agreement awards (including all fees, charges and claims attributable to such works) where applicable.
- 2.5 Irrecoverable VAT on the above (where applicable).

3 On costs

- 3.1 Legal fees and disbursements.
- 3.2 Net gains/losses via interest charges on development period loans.
- 3.3 Building society or other valuation and administration fees.
- 3.4 Fees for building control and planning permission.
- 3.5 Fees and charges associated with compliance with European Community directives, and the GLA's requirements relating to energy rating of dwellings, Eco-Homes certification and Housing Quality Indicators.
- 3.6 In-house or external consultants' fees, disbursements and expenses (where the development contract is a design and build contract) (see note below).
- 3.7 Insurance premiums including building warranty and defects/liability insurance (except contract insurance included in works costs).
- 3.8 Contract performance bond premiums.
- 3.9 Borrowing administration charges (including associated legal and valuation fees).

- 3.10 An appropriate proportion of the Borough's development and administration costs.
- 3.11 Marketing costs – for sale schemes only.
- 3.12 Post-completion interest - for sale schemes only.
- 3.13 Irrecoverable VAT on the above.

Note 1

Where the development contract is a design and build contract, the on-costs are deemed to include the builder's design fee element of the contract sum. The amount included by the builder for design fees should be deducted from the works cost element referred to above, as should other non-works costs that may be submitted by the builder such as fees for building and planning permission, building warranty, defects liability insurance, contract performance bond and energy rating of dwellings.

Note 2

Some items will not qualify as Development Costs unless the Borough can clearly demonstrate that such costs are properly chargeable to the housing development, i.e. for the sole use of the residents or to comply with any statutory obligations that may have been imposed.

Examples of these are as follows:

- works to any roads which do not exclusively serve the housing development;
- landscaping to areas of land which lie outside the boundaries of the Site;
- district heating systems;
- trunk sewers and sewage disposal works;
- special refuse treatment buildings;
- public conveniences;
- community halls, club rooms, recreation rooms.

Note 3

Subject to the above, where any cost incurred or to be incurred by the Borough is common both to the development of the Affordable Dwellings within the Scheme and to any other activity, asset or property of the Borough, only such part of that cost as is attributable to the development of the Affordable Dwellings may be treated as a cost in respect of which grant under this Agreement may be paid.

Part 2

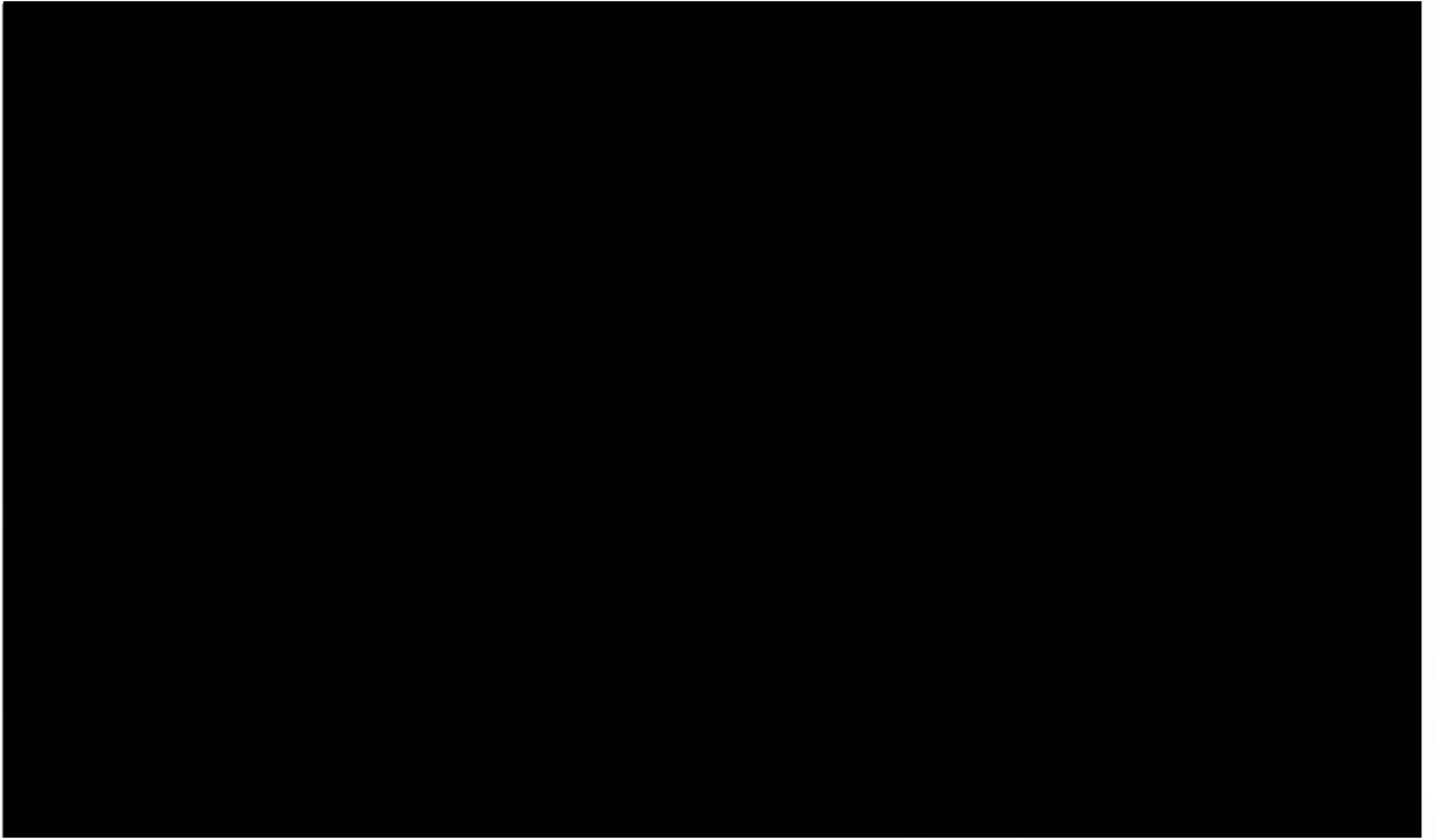
Costs which are not Development Costs

Capital costs incurred:

- 1 which are not eligible for Social Housing Assistance as defined in Section 32(13) of the HRA 2008;
- 2 on land (forming part of the total site acquired) which will not be used exclusively for housing provision purposes directly related to the Scheme;
- 3 on estate offices, factories, letting offices;
- 4 on stores (other than external storage provision required by Design and Quality Standards);
- 5 on medical or dental surgeries, clinics;
- 6 on police stations, public libraries, bus shelters;
- 7 on shops, restaurants, public houses, offices;
- 8 on transformer and other related buildings;
- 9 on maintenance depots, tools, plant and vehicles;
- 10 on garages (other than integral garages on market purchase scheme types) and greenhouses;
- 11 on separate commercial laundry blocks and related equipment.

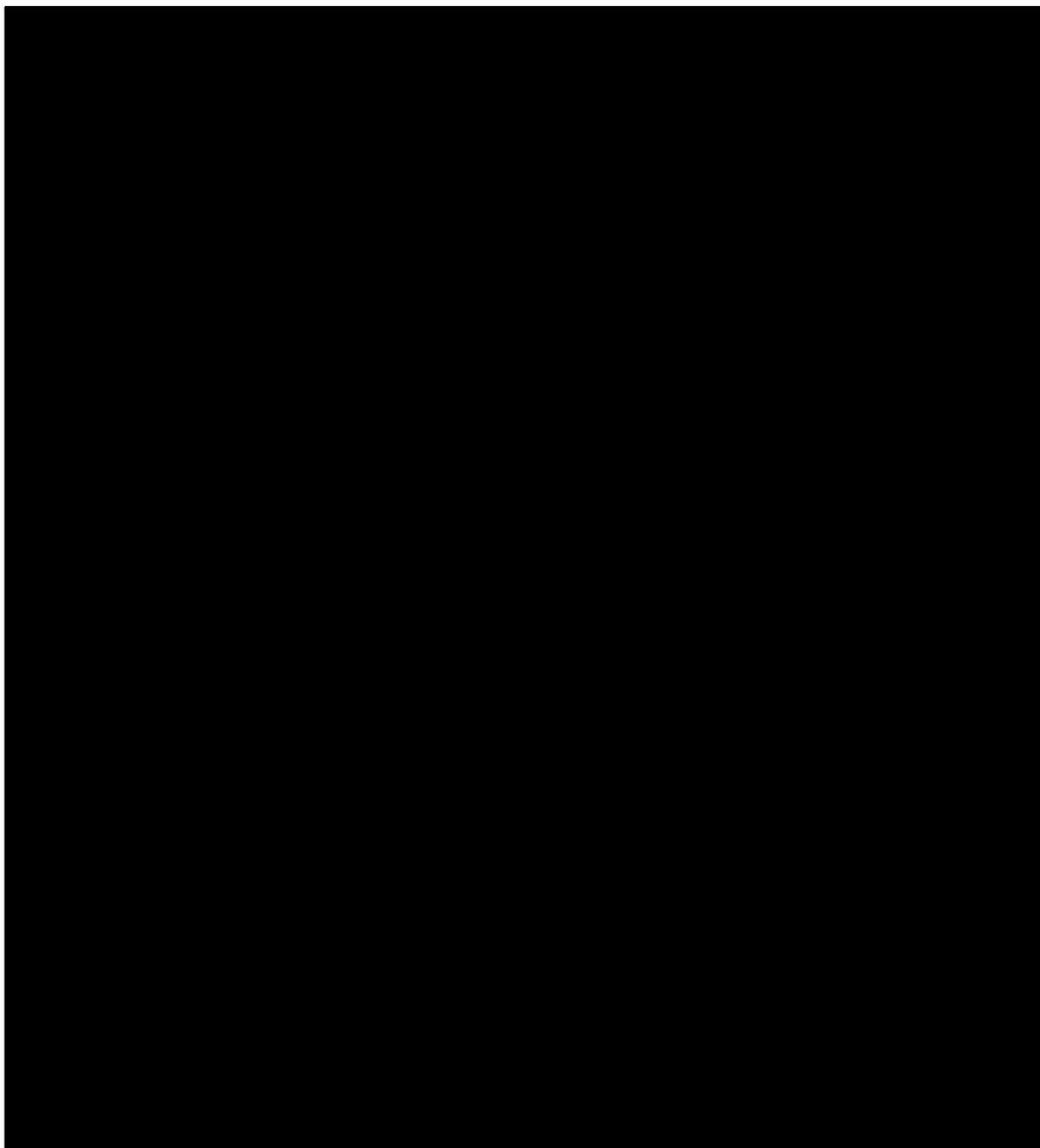
Schedule 3

Grant Reconciliation Mechanism Illustration



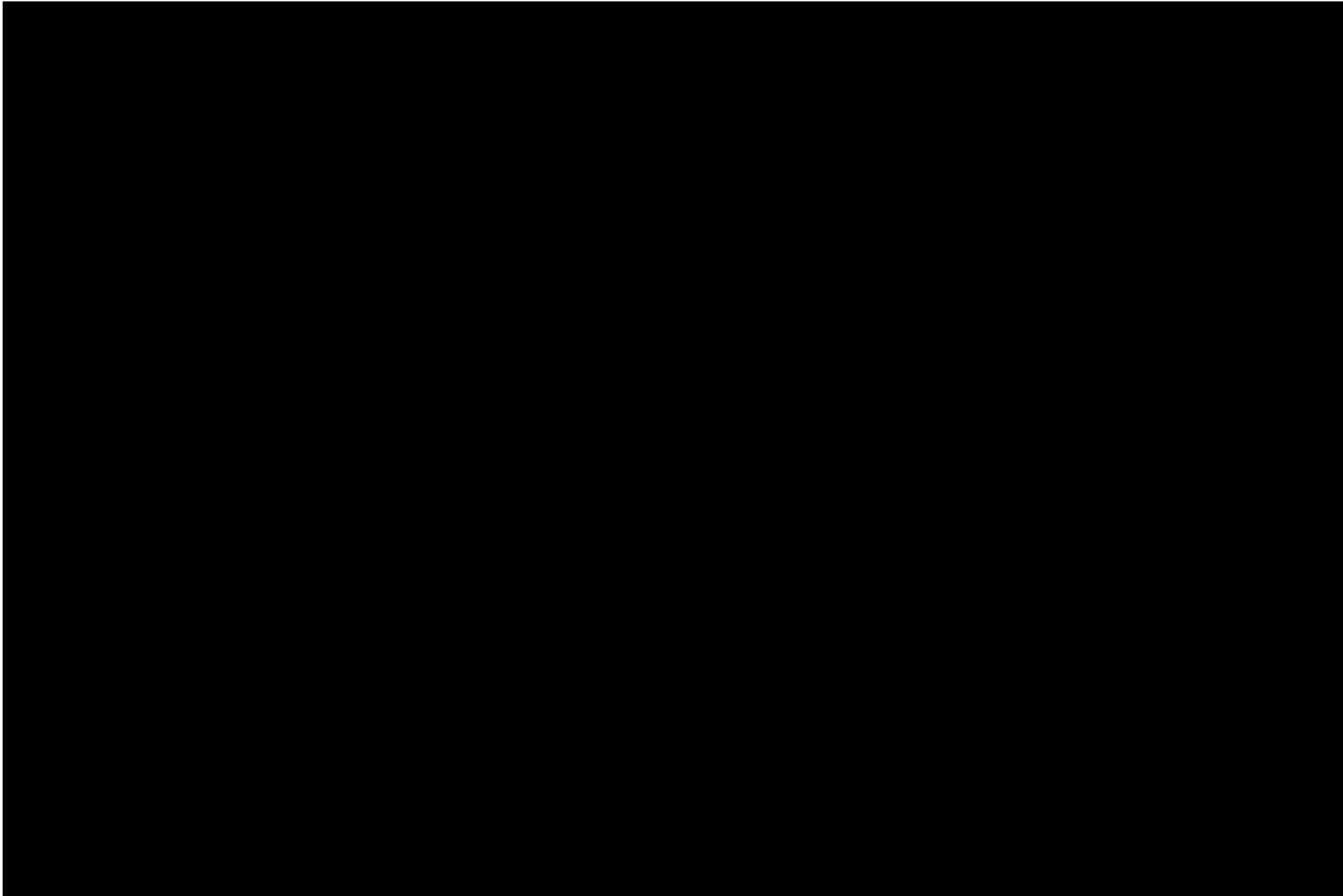
Schedule 4

Scheme Details



Scheme Grant Details

Scheme Grant	£19,575,000
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Schedule 5

Legal Opinion

[TO BE TYPED ON COUNCIL NOTEPAPER]

Our ref

Your ref

Date

Email address

Greater London Authority
City Hall
The Queen's Walk
More London
London
SE1 2AA

To: Greater London Authority (the **GLA**)

Dear Sirs,

Legal Opinion re Affordable Housing Grant Agreement and related matters in relation to the Housing Zones Programme

I refer to the proposed Affordable Housing Grant Agreement to be entered into between The Royal Borough of Kingston Upon Thames (the **Council**) and the GLA (the **Agreement**) for the purposes of, inter alia, providing affordable housing in the Kingston Housing Zone which is dated on or about the date hereof. In connection with the giving of this opinion, I have examined:

- (a) the Agreement in its final form prior to execution and delivery thereof by the Council;
- (b) the Council's Standing Orders for approving entry into and the execution and delivery of deeds by the Council and for the delegation of its authority and the powers of the Council's Executive;
- (c) such other documents I consider appropriate for the purposes of giving this opinion.

I do not express any opinion as to, nor have I investigated the law of any jurisdiction other than England.

I am of the opinion that, as at the date hereof, as a matter of English law, the Council has the power and authority to enter into, observe and perform the terms and obligations on its part to be observed and performed by it under the Agreement and has taken all necessary action and has obtained all

relevant consents and approvals (statutory or otherwise) to authorise the execution and delivery of the Agreement and the performance and validity of the obligations under it.

Neither the execution and the delivery of, nor the performance by the Council of its obligations under the Agreement will violate any provisions of any existing application law, rule, regulation or agreement binding on the Council, and the Agreement constitutes a valid and legally binding obligation on the Council enforceable in accordance with its terms. I have given this opinion, taking into account the common law and statutory duties applicable to the exercise of power by the Council.

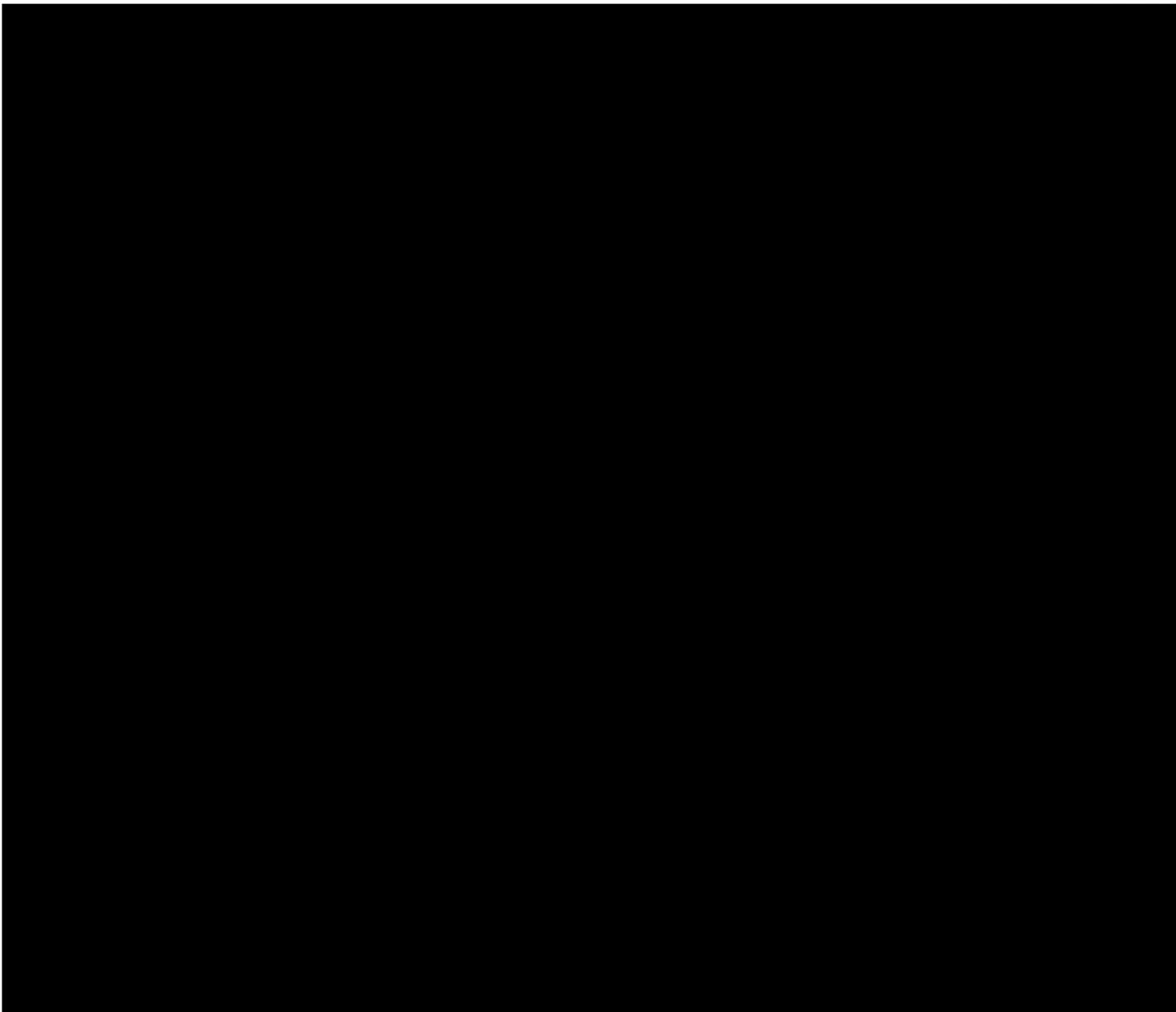
The above opinions are subject to the reservation that under English law, the power of the court to order or pursue performance of an obligation and any other equitable remedies is discretionary and, accordingly, an English court might make an award of damages where specific performance of an obligation at work or remedy is sought.

This opinion is given by virtue of my position as Solicitor to the Council and is only given as the holder of that office. I am not giving this opinion in a personal capacity, nor do I accept any private or personal liability for any error or omission in it or which may arise therefrom and the recipient, in seeking to place reliance on the contents of this letter, must duly acknowledge the same if any error or omission is later to be found. This opinion is addressed to the GLA and is solely for its benefit. It may not be disclosed to or relied upon by any other person or made public in any way without my prior consent. This opinion is limited to matters addressed herein and is not to be read as an opinion with respect to any other matter.

Yours faithfully

Council Solicitor

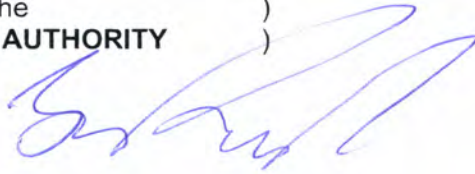
Schedule 6
Contract Monitoring Schedule



This Agreement has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

EXECUTED as a **DEED** by affixing)
The common seal of the)
GREATER LONDON AUTHORITY)
In the presence of:

Andrew Weir
AMWA
Authorised Signatory



EXECUTED as a **DEED** by affixing)
THE COMMON SEAL of)
The ROYAL BOROUGH OF KINGSTON)
UPON THAMES)

in the presence of:

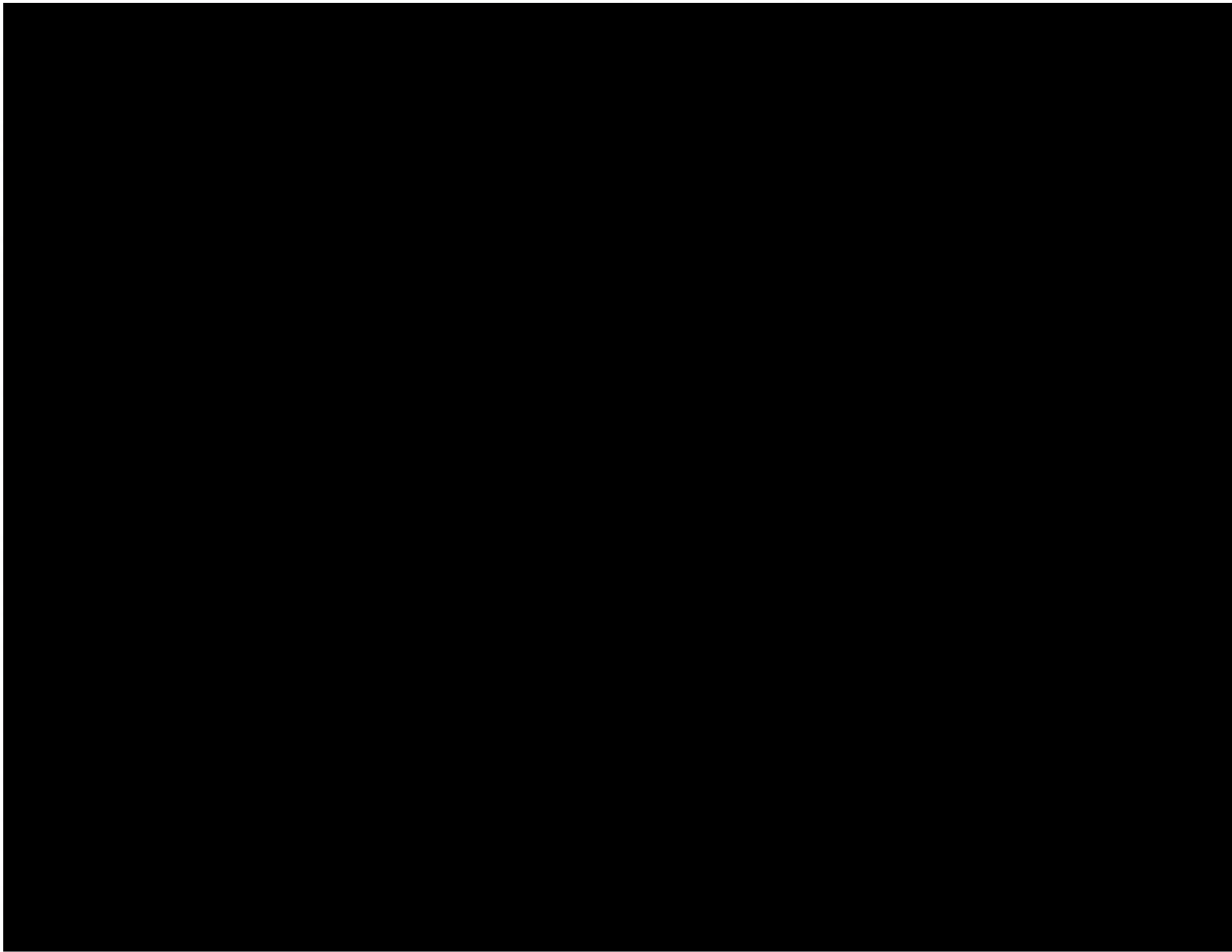
DEPUTY MAJOR

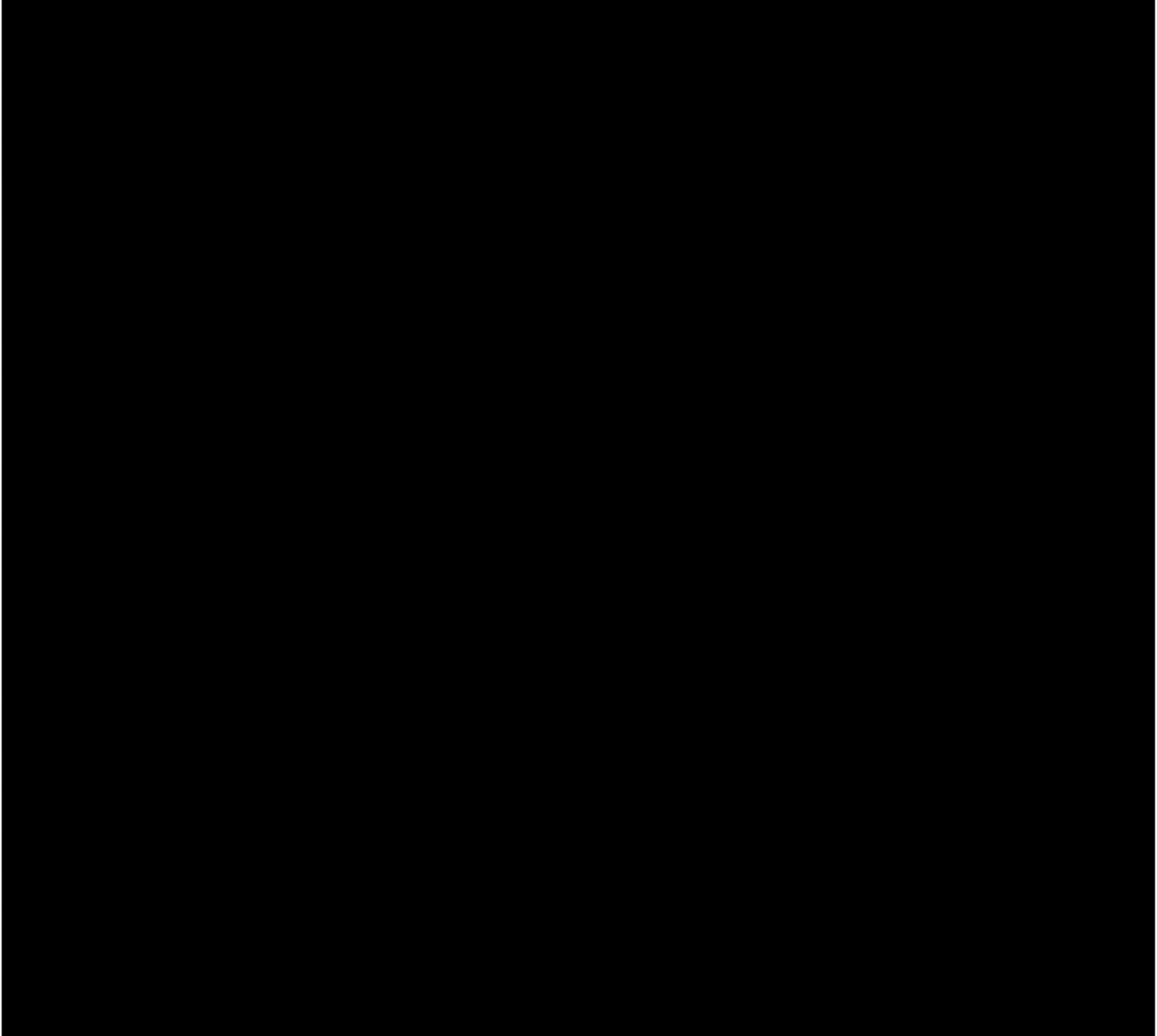


Authorised Officer:

MONITORING OFFICER









au

ROYAL BOROUGH OF
KINGSTON UPON THAMES
NO. IN SEALING REGISTER 24-50727
ORDER TO BE SEALED) Min. No.