

**Interim Section 151 officer and  
Head of Finance - Strategy & Accounting  
Jeremy Randall**



THE ROYAL BOROUGH OF  
**KINGSTON**  
UPON THAMES

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**Enquiries to: Jeremy Randall**  
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31 August 2017

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The Queen's Walk  
More  
London  
SE1 2AA

Guildhall 2  
Kingston upon Thames  
Surrey, KT1 1EU

Direct Line: 020 8547 [REDACTED]

Dear Sirs

**BOROUGH INTERVENTION AGREEMENT - CAMBRIDGE ROAD ESTATE**

I refer to the Borough Intervention Agreement to be entered into on or about the date of this letter between (1) Greater London Authority (GLA) and (2) Royal Borough of Kingston upon Thames (the Council) (the "Agreement") relating to the recoverable loan funding of £26,625,000 to be made available to the Council by the GLA (the "Agreed Intervention Funding") to facilitate the delivery of the Cambridge Road Estate regeneration scheme.

In accordance with clause 4.1.1(e) of the Agreement, as Section 151 Officer for the Council, I hereby confirm that all expenditure to which the Agreed Intervention Funding will be applied is classified as capital expenditure.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Randall'.

**Jeremy Randall**  
**Interim Section 151 Officer and**  
**Head Finance – Strategy and Accounting**  
**Royal borough of Kingston upon Thames**



dated 9 October 2017

**Greater London Authority**

and

**The Royal Borough of Kingston upon Thames**

**Borough Intervention Agreement**

in relation to Cambridge Road – leaseholder buybacks and decanting

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# Borough Intervention Agreement

dated 9 October 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** of 5-8 Tadlow Washington Road Kingston-upon-Thames KT1 3LJ (the **Borough**).

## Introduction

- (A) The GLA is empowered under the Act to make available the Zone Funding.
- (B) The Borough has submitted proposals to the GLA pursuant to the Housing Zones Programme in respect of the proposed construction and/or delivery of the Zone Outputs within the Housing 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 pursuant to the terms of the Overarching Borough Agreement to enable the delivery of certain Zone Outputs.
- (D) It is a condition precedent to the GLA providing any Zone Funding to the Borough that the Borough enters into agreements which secure, amongst other things, the delivery of specific outputs or interventions which facilitate or contribute to the delivery of the Zone Outputs.
- (E) This Agreement sets out the terms and conditions upon which specific amounts of Agreed Intervention Funding will be advanced to the Borough by the GLA in relation to the outputs and interventions set out in this Borough Intervention Agreement.

## Agreed terms

### 1 Definitions

- 1.1 In this Agreement (including in the Introduction and Schedules) the following words and expressions have the following meanings:

**Acquisition Plan** means the plan set out in Annexure 2;

**Act** means the Greater London Authority Act 1999;

**Affordable Dwellings** means the Affordable Rent Dwellings and the Shared Ownership Dwellings comprised within the Borough Direct Zone Outputs;

**Affordable Rent Dwelling** means a dwelling made permanently available by a Registered Provider for letting to persons at rents not exceeding the Social Rent Level as applicable and let on secure tenancy terms or assured tenancy terms (as applicable);

**Agreed Intervention** means the outputs described in Agreed Intervention Details in respect of which GLA has agreed to provide the Agreed Intervention Funding in accordance with this Agreement (as such Agreed Intervention may be varied from time to time with the prior written consent of GLA);

**Agreed Intervention Budget** means the budget for the Agreed Intervention comprised within the Agreed Intervention Expenditure Plan including a cashflow for the Agreed Intervention showing proposed drawdowns of Agreed Intervention Funding during each financial year of the Availability Period;

**Agreed Intervention Details** means information provided by the Borough in relation to the Agreed Intervention, which shall include:

- (a) the descriptive and other details in respect of the Agreed Intervention as set out in Schedule 1;
- (b) the Borough Zone Outputs to be facilitated by the delivery of the Agreed Intervention and the projected dates for their achievement;
- (c) the actions or steps required to complete or secure the Agreed Intervention (as more fully described in the Acquisition Plan);
- (d) the Agreed Intervention Budget; and
- (e) the Agreed Intervention Milestone Dates,

all in accordance with the Bid and each as varied from time to time in accordance with the terms of this Agreement;

**Agreed Intervention Embedded Amount** means the sum of Zero (as such amount may be amended from time to time in accordance with this Agreement);

**Agreed Intervention Expenditure** means the costs of delivering the Agreed Intervention as listed and described set out in the Agreed Intervention Expenditure Plan which the GLA is satisfied either have been or will be reasonably and properly incurred by the Borough in delivering the Agreed Intervention and Borough Zone Outputs but for the avoidance of doubt which does not include:

- (a) staff costs and other internal costs of the applicant;
- (b) statutory fees;
- (c) finance charges;
- (d) marketing costs;
- (e) VAT;
- (f) any costs of activities of a political or exclusively religious nature;
- (g) any costs of goods or services that the Borough has a statutory duty to provide;

- (h) payments reimbursed or to be reimbursed by other Public Sector Financial Assistance or private sector grants;
- (i) contributions in kind;
- (j) depreciation, amortisation or impairment of fixed assets owned by the Borough;
- (k) interest payments (including service charge payments for finance leases);
- (l) gifts, other than promotional items with a value of no more than £10 a year to any one person;
- (m) any costs of entertaining which would be a taxable benefit to the person being entertained according to current UK tax regulations;
- (n) statutory fines, criminal fines or penalties; or
- (o) liabilities incurred before the date of this Agreement unless agreed in writing by the GLA;

**Agreed Intervention Expenditure Plan** means the plan set out in Annexure 2;

**Agreed Intervention Funding** means the funding made available or to be made available by the GLA to the Borough under this Agreement for the purposes of forward funding Agreed Intervention Expenditure incurred by the Borough in delivering or procuring the delivery of the Agreed Intervention and the Borough Zone Outputs;

**Agreed Intervention Milestone** means each stage in the delivery of the Agreed Intervention set out in Schedule 1 as from time to time extended pursuant to clause 8.4 or clause 8.5;

**Agreed Intervention Milestone Date** means each date set out in Schedule 1 by which the relevant Agreed Intervention Milestone must have been achieved otherwise an Event of Default will occur;

**Agreed Intervention Milestone Failure** means a failure by the Borough or a Contractor to achieve any Agreed Intervention Milestone by the relevant Agreed Intervention Milestone Date;

**Agreed Intervention Recoverable Amount** means the sum of £26,625,000 (or such amount as may be amended from time to time in accordance with this Agreement);

**Agreed Intervention Sum** means the amount of grant funding specified in Schedule 1 comprising the Agreed Intervention Recoverable Amount as the same may be amended from time to time in accordance with this Agreement;

**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;

**Associated Person** means in relation to the Borough, a person who performs or has performed services for or on the Borough's behalf;

**Availability Period** means the period from the date of this Agreement until 31 March 2019 unless otherwise brought to an end pursuant to clause 2;

**Balancing Payment** means such sum as represents the difference between the quantum of the aggregate sum of the Agreed Intervention Sum paid to the Borough and that of the aggregate sum of the Agreed Intervention Sum as adjusted in accordance with clause 12.2.7;

**Base Interest Rate** means the base rate of The Royal Bank of Scotland plc or such other rate as the GLA determines (acting reasonably);

**Bid** means the submission by the Borough of its proposal for the development of the Cambridge Road Estate Regeneration Housing Zone including any supporting information relating to the Agreed Intervention and the Borough Zone Outputs;

**Borough Contribution** has the meaning attributed to it in Part 1 of Schedule 2 and which may only be varied with the prior written consent of GLA from time to time;

**Borough Direct Zone Output** means the outputs described in Part 2 of Schedule 2 (as varied from time to time in accordance with the terms of this Agreement);

**Borough Direct Zone Outputs Practical Completion** means completion of the Borough Direct Zone Outputs in accordance with the definition of "Practical Completion" (or equivalent) in the Outturn Dwellings Development Agreement;

**Borough Direct Zone Output Site** means each of leasehold properties the Borough is to acquire from their current leaseholders and all other properties it will obtain vacant possession of by way of decanting existing tenants as set out in Annexure 2;

**Borough Indirect Zone Output** means the outputs described in Part 3 of Schedule 2;

**Borough Senior Officer** means Roy Thompson, Director of Place, Royal Borough of Kingston, Guildhall 2, High Street, Kingston Upon Thames, KT1 1EU or such other person notified as such by GLA to the Borough;

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

**Borough Zone Outputs** means the Borough Direct Zone Outputs and the Borough Indirect Zone Outputs (as the same may be amended from time to time in accordance with the terms of this Agreement);

**Business Day** means any day other than a Saturday, Sunday or statutory bank holiday in England;



**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;

**CEDR** means the Centre for Effective Dispute Resolution;

**Certificate of Title** means a certificate of title in relation to each Borough Direct Zone Output Site in the form approved by GLA;

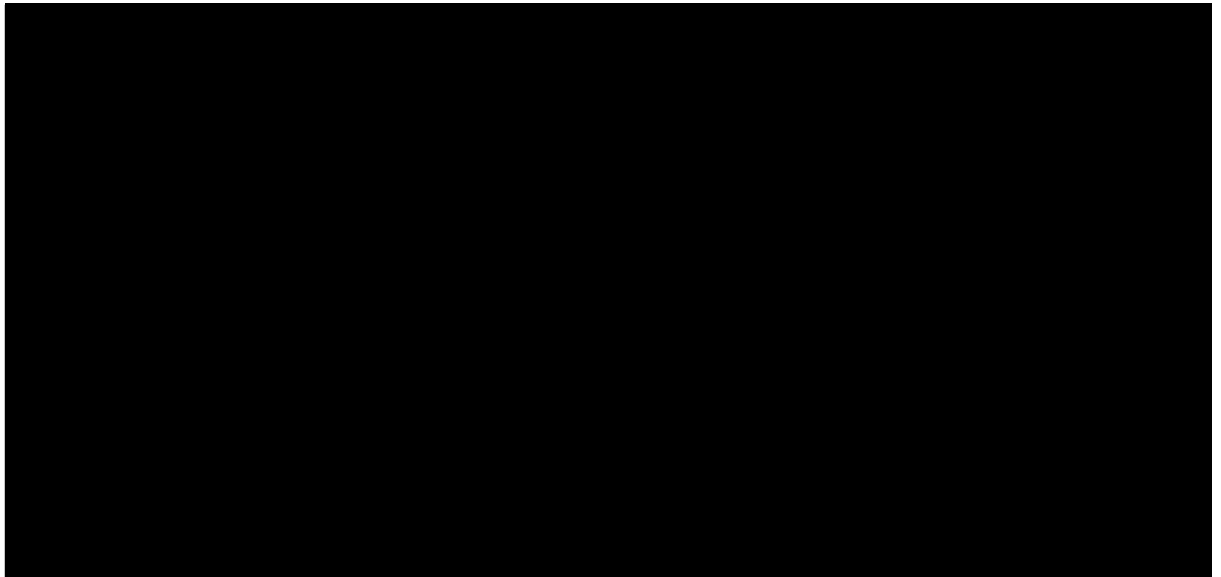
**Change of Use** means in relation to any asset funded directly or indirectly pursuant to the Zone Documents a change in its use from that agreed in the applicable Zone Document or a reduction in the time for which it is to be used for any designated purpose as specified in the applicable Zone Document;

**Claim** means the application for drawdown of an instalment of Agreed Intervention Funding;

**Claim Form** means a claim form substantially in the form of Schedule 3 Part 1 or such other form as GLA will notify the Borough from time to time;

**Compulsory Purchase Order** means any compulsory purchase order which may be made by the Borough pursuant to its powers as a local planning authority to acquire any or all of the Borough Direct Zone Output Sites;

**Condition Subsequent** means any of the following:



*TH*

**Confidential Information** means in respect of GLA all information relating to GLA or the existence or terms of this Agreement or any Zone Document in respect of which the Borough becomes aware in its capacity as a party to the Zone Documents or which is received by the Borough in relation to this Agreement or any Zone Document from either GLA or any of its advisers or from any third party if the information was obtained by that third party directly or indirectly from GLA or any of its advisers 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 GLA prior to the date hereof as confidential information for the purposes of this Agreement;

**Consents** means and includes any necessary approval, authorisation, consent, exemption, licence, permit, permission or registration by, of or from any governmental or other authority, the local planning authority, landlord, funder, adjoining land owner or any other person required to undertake Agreed Intervention or other Borough Zone Outputs;

**Contract Monitoring Schedule** means the Schedule set out in Annexure 1 (as varied from time to time in accordance with this Agreement);

**Contractor** means each contractor or other party (however described) engaged by the Borough (or on behalf of the Borough) or collaborating with the Borough in or for the delivery of the Agreed Intervention;

**Corporation** means The Housing Corporation, a body corporate established under the Housing Associations Act 1985, whose investment functions were transferred to the Homes and Communities Agency on 1 December 2008 pursuant to the HRA 2008;

**Cost Overrun** means at any time the amount by which the aggregate costs and expenses incurred by the Borough in relation to the Agreed Intervention or the Borough Zone Outputs exceed the Total Intervention Costs;

**Dangerous Substance** means any natural or artificial substance (whether in the form of a solid, liquid, gas or vapour) the generation, transportation, storage, treatment, use or disposal of which (whether alone or in combination with any other substance) gives rise to a risk of causing harm to man or any other living organism or causing damage to the Environment or public health and includes, but is not limited to, any controlled, special, hazardous, toxic, radioactive or dangerous waste or substance;

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

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

**Dependent Intervention Agreement** means an Intervention Agreement the performance of which relies upon the performance by the Borough of this Agreement;

**Design and Quality Standards** means the standards set out in the Corporation's publication entitled "Design and Quality Standards April 2007" in respect of any housing scheme benefitting from grant funding which has submitted for detailed planning consent before 31 July 2011 and for all other such schemes the standards set out in the London Housing Design Guide as published by the GLA;

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

**Disposal** means a disposal of the whole or any part of any Borough Direct Zone Output Site, an asset funded by Agreed Intervention Funding pursuant to this Agreement or of an Outturn Dwelling;

**DPA** means the Data Protection Act 1998 as amended or updated from time to time;

**EIR** means the Environmental Information Regulations 2004, and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation;

**EIR Exception** means any applicable exemption to EIR;

**Eligible Purchaser** means a person:

- (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 a Low Cost Home Ownership property is taking out a prior fixed first charge with an Approved Lender;
- (c) who is not connected with the seller (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 seller that they (and any co-purchaser or co-tenant) do not currently own a property;

**Encumbrance** means any mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, standard security, assignment in security, bond and floating charge or other security interest of any kind, and any right of set-off, assignment, trust, flawed asset or other agreement or arrangement whatsoever for the purpose of providing security or having a similar effect to the provision of security;

**Environment** means the environment as defined in section 1(2) of the Environmental Protection Act 1990;

**Environmental Consents** means all licences, authorisations, consents or permits of any kind under or relating to Environmental Laws;

**Environmental Claim** means any claim by any person:

- (a) in respect of losses or liabilities suffered or incurred by that person as a result of or in connection with any violation of Environmental Laws; or
- (b) that arises as a result of or in connection with Environmental Contamination and that could give rise to any remedy or penalty (whether interim or final) that may be enforced or assessed by private or public legal action or administrative order or proceedings;

**Environmental Contamination** means the following and the consequences thereof:

- (a) any release, emission, leakage or spillage at or from the Borough Direct Zone Output Site by any person into any part of the Environment of any Dangerous Substance; or
- (b) any accident, fire, explosion or sudden event which adversely affects the Environment and which is attributable to the operations, management or control of any Borough Direct Zone Output Site by any person including (without limitation) the storage, handling, labelling or disposal of Dangerous Substances;

**Environmental Law** means any common or statutory law, regulation, publicly available code of practice, circular or guidance note (if not having the force of law being of a kind that is customary for the relevant person (or persons of its status or type carrying on a similar business) to comply with) issued by any official body, concerning the protection of human health, the workplace or the Environment;

**Equity Loan** means a loan which is equal in amount to a percentage to be acquired agreed between the seller 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 seller when it makes the loan;

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

**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 seller 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;

**EU Procurement Requirements** means all applicable United Kingdom and European procurement legislation and any implementing measures and any other legislation in connection with the procurement of works, supplies or services including European Union directives 2014/24/EC and 2007/66/EC, United Kingdom Statutory Instruments 2015/102 (the **Public Contracts Regulations**);

**Event of Default** means any of the events set out at clause 12;

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

**FA** means the Finance Act 2004;

**Final Certificate** means in relation to the Agreed Intervention a certificate provided by the Borough's Solicitor certifying that each of the Borough Direct Zone Output Sites are in the legal and beneficial ownership of the Borough with vacant possession;

**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 or earlier termination of this Agreement;

**First Steps Dwelling** means a dwelling made available on Low Cost Home Ownership terms;

**FOIA** means the Freedom of Information Act 2000, and any subordinate legislation made under this 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/Authorities** means a public authority as defined by FOIA and/or EIR;

**FOIA Exemption** means any applicable exemption to the FOIA;

**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 Senior Officer** means the person notified as such by GLA to the Borough;

**Good Industry Practice** means that degree of skill, care, prudence and foresight and operating practice which would reasonably and ordinarily be expected from time to time of a skilled and experienced Contractor or professional (engaged in securing the delivery of outputs of the same type as the Agreed Intervention or Borough Zone Outputs (as applicable) under the same or similar circumstances);

**Housing Obligation Default** means either:

- (a) a breach by the Borough of the obligations set out in Schedule 7; or
- (b) a failure by the purchaser to comply with the obligations set out in paragraphs 2.4.1 to 2.4.5 (inclusive of Schedule 7);

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

**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;

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

**Information** means:

- (a) in relation to the FOIA has the meaning given under section 84 of the FOIA and which is held by GLA at the time of receipt of an RFI; and
- (b) in relation to the EIR has the meaning given under the definition of "environmental information" in section 2 of the EIR and which is held by GLA at the time of receipt of an RFI;

**Information Commissioner** has the meaning set out in section 6 of the DPA;

**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;

**Interest** means interest accruing on the relevant amount at the Base Interest Rate from the date of receipt by the Borough of that amount up to and excluding the date of payment by the Borough to the GLA;

**Intervention Agreement** means an agreement (other than this Agreement and the Overarching Borough Agreement) entered into between the GLA and the Borough pursuant to which the Borough agrees to deliver or procure the delivery of capital works or other outputs (as specified in the relevant agreement) which contribute to the delivery (amongst other things) of the Zone Outputs;

**Intervention Related Documents** means, each contract and all relevant land acquisition documents to be entered into by the Borough in relation to the Agreed Intervention and Borough Zone Outputs including but not limited to land acquisition contracts, planning agreements, and the Outturn Dwellings Development Agreement;

**Law** means any applicable law, Legislation, 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 4 given by the Borough's solicitor;

**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 community right within the meaning of section 2 of the European Communities Act 1972;

in each case in the United Kingdom;

**Letter of Reliance** means the letter set out in Annexure 3;

**Linked Agreement** means a Dependent Intervention Agreement and/or a Supporting Intervention Agreement;

**London Housing Design Guide** means the document of that name published by GLA in its form at the date of this Agreement;

**London Living Wage** means the basic hourly wage of £9.75 (nine pounds and seventy-five pence) (before tax, other deductions and any increase for overtime) as may be updated from time to time by GLA and notified to the Borough;

**Low Cost Home Ownership** means low cost home ownership on Shared Ownership Lease terms, Equity Loan Terms or such other type of low cost home ownership arrangements that the GLA may (at its discretion) approve from time to time under this Agreement;

**Market Rent Dwelling** means a dwelling which will be rented on the open market;

**Market Sale Dwelling** means a dwelling which will be sold on the open market;

**Market Value** means the valuation of a property's market value, determined by a Chartered Surveyor who is a Registered Valuer;

**Material Adverse Effect** means any present or future event or circumstances which could, in the opinion of GLA:

- (a) materially impair the ability of the Borough to perform and comply with its obligations under any Zone Document or Intervention Related Document;
- (b) adversely affect the business, assets or financial condition of the Borough; or
- (c) materially impair the validity or enforceability of, or the effectiveness or ranking of any Zone Document or any other security granted or purporting to be granted pursuant to any Zone Document or the rights or remedies of GLA under any Zone Document;

**Maximum Agreed Intervention Amount** means the sum identified in Schedule 1 being the maximum amount of funding, either by way of grant or Loan, to be provided by the GLA to the Borough under this Agreement;

**Mayor** means the Mayor of London as defined in section 424 of the Act;

**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;

**Milestones** means the Agreed Intervention Milestones and the Output Milestones;

**Milestone Date** means each Agreed Intervention Milestone Date and/or each Output Milestone Date (as the context requires);

**Notifiable Event** means an event of the type described in clause 10.1;

**Open Book** means the transparent and full disclosure of information to be undertaken in utmost good faith and to include the declaration of all information which the Borough is required to maintain keep or disclose under this Agreement and any other financial components such as price, profit margins, central office overheads, site overheads, preliminaries, contingencies and the cost of all materials, goods, equipment, work and service, apportionments of these items with all and any books of accounts, correspondence, agreements, orders, invoices, receipts and other documents available for inspection;

**Output Milestone** means each stage in the delivery of the Borough Zone Outputs set out in Part 4 of Schedule 2 (as applicable);

**Output Milestone Date** means each date set out in Schedule 2 by which the relevant Output Milestone must have been achieved;

**Output Milestone Failure** means a failure by the Borough, or the Outturn Dwellings Developer (as relevant) to achieve any Output Milestone by the relevant Output Milestone Date;

**Output Milestone Longstop Date** means each date set out in Part 4 of Schedule 2 (as applicable);

**Outturn Dwellings** means the Affordable Rent Dwellings; the First Steps Dwellings, the Market Sale Dwellings, the Market Rent Dwellings and other such Low Cost Home Ownership dwellings that may be approved by the GLA and comprised within the Borough Direct Zone Outputs;


**Outturn Dwellings Developer** means the partner appointed by the Borough to construct the Outturn Dwellings in accordance with the terms of this Agreement;

**Outturn Dwellings Development Agreement** means the agreement entered into or to be entered into between the Outturn Dwellings Developer and the Borough in relation to construction and/or acquisition of the Outturn Dwellings by 31 March 2025;

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



**Permitted Disposal means:**

- 
- (a) a Disposal of any of the Borough Direct Zone Output Sites to the Outturn Dwellings Developer or any vehicle set up for the purpose of delivering the Borough Direct Zone Outputs subject to satisfaction by the Borough of the requirements of limbs (b) ~~to (e) (inclusive)~~ of the Condition Subsequent; (c), (f) and (g)
- (b) a Disposal by the Borough of an Outturn Dwelling to an individual;
- (c) a Disposal which is or includes an Affordable Rent Dwelling or the Borough's reversionary interest in a First Steps Dwelling which is subject to a Shared Ownership Lease;
- (d) the Disposal of part of parts of the Site (other than any Outturn Dwellings) to a Registered Provider;
- (e) the Disposal of part or parts of a Borough Direct Zone Output Site upon which an electricity sub-station, gas generation or pumping station or other statutory services or infrastructure have been or are to be constructed or installed and the immediate curtilage of the same together with ancillary easements; and/or
- (f) Disposals made pursuant to a planning obligation pursuant to section 106 of the Town & Country Planning Act 1990 or the Local Government (Miscellaneous Provisions) Act 1982 or section 33 and/or the Local Government Act 1972 section 111 and the Highways Act 1980 section (s) 38 and/or 278,

and any other Disposal which GLA agrees from time to time will become a Permitted Disposal;

**Permitted Disposal Valuation Report** means in relation to each of the Borough Direct Zone Output Sites, a valuation of that site addressed to the GLA provided by a Valuer confirming such information as is relevant to the site and showing the value of the site to be no less than the Market Value, such report to be no more than three months old on the date upon which it is provided to the GLA;

**Permitted Encumbrance** means:

- (a) any lien arising solely by operation of law in the ordinary course of the Borough's business in respect of any obligation which is not more than 30 days overdue for settlement;
- (b) the Disposal of part or parts of a Borough Direct Zone Output Site upon which an electricity sub-station, gas generation or pumping station or other statutory services or infrastructure have been or are to be constructed or installed and the immediate curtilage of the same together with ancillary easements;

- (c) any Encumbrance arising out of title retention provisions in a supplier's standard conditions of supply in respect of goods supplied to the Borough in the ordinary course of its business;
- (d) any Encumbrance created pursuant to this Agreement; and
- (e) any Encumbrance granted with the prior written consent of GLA;

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

**Planning Performance Agreement** means an agreement entered into between the Borough (in its capacity as the local planning authority), the Outturn Dwellings Developer and associated stakeholders in relation to the project management of a planning application;

**Practically Complete** means the point at which a Borough Direct Zone Output Site 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 relevant building contract as being essential for practical completion to take place have been satisfied; and/or
- (d) all information required by the relevant building contract to be delivered at practical completion has been delivered to the Borough;

**Process** has the meaning ascribed to it in the DPA;

**Professional** means the Valuer and any other consultant or advisor appointed or engaged by the Borough in connection with the acquisition of the Borough Direct Zone Output Sites;

**Prohibited Act** means:

- (a) offering, giving or agreeing to give to any servant of 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 a Zone Document; or
  - ii for showing or not showing favour or disfavour to any person in relation to a Zone Document;
- (b) entering into a Zone Document 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 to 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 GLA;

**Public Sector Financial Assistance** means any funding (excluding the Borough Contribution) received or receivable by the Borough, the Outturn Dwellings Developer or a Contractor to finance any part of the Agreed Intervention or Borough Zone Outputs from public sector bodies including but not limited to funding by the GLA (other than the Agreed Intervention Sum), 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 Act 1993 and 1998;

**Quarter Date** means 31 March, 30 June, 30 September and 31 December;

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

**RCGF** has the meaning given to it in The Recovery of Capital Grants and Recycled Capital Grant Fund (Greater London) General Determination 2015;

**Registered Provider** means a body entered on the register (maintained by the Regulator pursuant to Section 111 of the HRA 2008) as a non-profit organisation (as such term is defined in Section 115 of the HRA 2008) or as local authority registered pursuant to Section 114 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;

**Remediation Plan** means the plan described in clause 12.3.1;

**Rent Standard** means any standard set by the Regulator (including any associated explanatory notes or guidance from time to time) under Section 194 of the HRA 2008;

**Repayment Date** means 1 December 2025 and 1 December 2028 or such other dates as agreed by GLA in its absolute discretion;

**Repayment Default** means a failure by the Borough to comply with clauses 5.1;

**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;

**Return on Revenue** means The gross development value of the Agreed Intervention minus the total development costs divided by the gross development value of the Agreed Intervention expressed as a percentage. (i.e.  $GDV - \text{total development costs} / GDV$ );

**Request for Information/RFI** shall have the meaning set out in the FOIA or any request for information under EIR which may relate to the Agreed Intervention or the Borough Zone Outputs, any Zone Document or any activities or business of GLA;

**Required Standards** means the requirements of this Agreement, Good Industry Practice, all Consents and Legislation;

**Review Meeting** means a meeting of the type described in clause 10.3;

**Section 151 Officer** means an officer of the Borough appointed under section 151 of the Local Government Act 1972;

**Security** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect (such as sale or lease and leaseback effected for such purpose, a blocked account, set-off or similar "flawed asset" arrangement);

**Shared Ownership Dwelling** means a dwelling let or to be let under a Shared Ownership Lease;

**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 from time to time;

**Social Housing Assistance** has the meaning given to it in section 32(13) of the Housing and Regeneration Act 2008 as interpreted in relation to the GLA in accordance with section 333ZE(2)(b) of the Act;

**Social Rent Level** means in relation to each of the Affordable Rent Dwellings described in Schedule 2, the weekly rent figure allocated to the relevant accommodation in that Schedule (as such figure may be decreased or increased from time to time in accordance with Legislation or the Rent Standard);

**Solicitor** means a firm of solicitors approved by GLA (acting reasonably and having regard, inter alia, to the number of partners, relevant experience and professional indemnity cover of any proposed firm) from time to time;

**Special Conditions** means the conditions set out in Schedule 7;

**SPV** means a vehicle of the type described in clause 6.6.11(a) if any;

**Staircasing** means the acquisition by the occupier of an increased share of the equity in a Shared Ownership Dwelling;

**Start Date** means 31 March 2019;

**State Aid** means any aid granted by a Member State of the European Union or through the resources of such Member State which distorts or threatens to distort competition by favouring a particular undertaking insofar as such aid affects trade between European Union Member States;

**Supporting Intervention Agreement** means an Intervention Agreement the performance of which is necessary to the performance by the Borough of this Agreement;

**Tax** means any tax, levy, impost, duty or other charge or withholdings and any charges of a similar nature, together with interest thereon and penalties with respect thereto, if any, and any payments made on or in respect thereof and Taxation or taxation and Taxes or taxes shall be construed accordingly;

**Total Intervention Costs** means, if all costs in relation to the Agreed Intervention:

- (a) have been incurred, the aggregate of such costs; or
- (b) have not yet been incurred, the actual and forecasted value (as relevant) of the aggregate of such costs,

each as such costs are identified in the Agreed Intervention Budget;

**Trigger Event** means an event of the type described in any of clauses 12.1.1, 12.1.3 12.1.15, 12.1.18, 12.1.23 or 12.1.24;

**Undrawn Amount** means such part of the Agreed Intervention Sum as has not been paid to the Borough under this Agreement;

**Unlawful State Aid** means State Aid which has been granted in contravention of Article 107(1) of the Treaty of the Functioning of the European Union and which does not qualify for an exemption pursuant to any of the provisions of that Treaty or those of any of its subsidiary instruments or a decision of the Commission of the European Union;

**Valuer** means such reputable firm of surveyors which is a member of the Royal Institute of Chartered Surveyors as may be appointed by the Borough and approved by the GLA;

**Valuation Report** means, in relation to each of the Borough Direct Zone Output Sites:

- (a) a valuation of that specific Borough Direct Zone Output Site addressed to the GLA;
- (b) where the Valuation Report is not addressed to the GLA the Borough shall obtain a Letter of Reliance from the Valuer (in the form at Annexure 3 of this Agreement) confirming that the GLA can rely upon the existing Valuation Report;
- (c) the Valuation Report is to be provided by a Valuer;

- (d) it shall confirm that the valuation applies to all the individual properties comprised in that Borough Direct Zone Output Site;
- (e) provides a range of what the Valuer considers to be Market Values for the individual properties comprised in that Borough Direct Zone Output Site; and
- (f) it shall be no more than three months old on the date it is to be relied upon by the GLA;

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

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

- (a) an employee acting independently of the Borough and such employee's employment is terminated within twenty (20) Business Days of GLA serving notice on the Borough of such Prohibited Act; or
- (b) the Borough, the Contractor or a subcontractor (or any employee of a subcontractor not acting independently of the subcontractor) or the Outturn Dwellings Developer and the relevant subcontract is terminated within twenty (20) Business Days of GLA serving notice on the Borough of such Prohibited Act; or
- (c) an employee of a subcontractor acting independently of such subcontractor and such employee's employment is terminated within twenty (20) Business Days of GLA serving notice on the Borough of such Prohibited Act; or
- (d) any person not specified in paragraphs (a), (b) or (c) and the Borough (or the Borough, the Contractor or any subcontractor or the Outturn Dwellings Developer) has severed links with such person (whether his employment, appointment or any other link) within twenty (20) Business Days of GLA serving notice on the Borough of such Prohibited Act,

where acting independently means not acting with the authority or knowledge of any one or more of the directors of the Borough or relevant subcontractor; and

**Zone Document** means:

- (a) this Agreement;
- (b) the Overarching Borough Agreement;
- (c) any other document designated as such by the Borough and GLA; and
- (d) any document entered into, pursuant to, or which amends or varies any document referred to in paragraphs (a) to (c) (inclusive) above;

**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 The masculine includes the feminine and vice versa.
- 1.2.2 The singular includes the plural and vice versa.
- 1.2.3 Any reference in this Agreement to any clause, sub-clause, paragraph, Schedule, appendix or section heading is, except where it is expressly stated to the contrary, a reference to such clause, sub-clause, paragraph, Schedule, appendix 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, regulation, determination or similar instrument shall (except where expressly stated otherwise) be construed as a reference to the enactment, order, regulation, determination 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 corporations and their successors and permitted assignees or transferees.
- 1.2.7 Headings are for convenience of reference only.
- 1.2.8 A time of day shall be a reference to London time.
- 1.2.9 A party means a party to this Agreement.
- 1.2.10 The words includes or including are to be construed without limitation.
- 1.2.11 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.
- 1.2.12 A paragraph in a Schedule shall be construed as references to a paragraph in that particular Schedule.
- 1.2.13 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.
- 1.2.14 In any case where the consent or approval of GLA (or any officer of GLA) is required or a notice is to be given by or to 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 to

the other parties from time to time. Any consent, approval or refusal to consent or approve should be issued within a reasonable time frame.

- 1.2.15 An obligation to do anything includes an obligation to procure its being done.
- 1.2.16 Any restriction includes an obligation not to permit infringement of the restriction.
- 1.2.17 The term Borough Direct Zone Output Site includes each and every part of it and any estate or interest in it.
- 1.2.18 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.
- 1.2.19 If there is any ambiguity or conflict between the implied terms and the express terms of this Agreement then the express terms shall prevail.
- 1.2.20 No review comment or approval by GLA under the provisions of this Agreement shall operate to exclude or limit the Borough's obligations or liabilities under this Agreement save where GLA have confirmed the said review comment or approval in writing.
- 1.2.21 The Borough shall be responsible as against GLA for the acts or omissions of any Contractor or the Outturn Dwellings Developer as if they were the acts or omissions of the Borough.
- 1.2.22 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 GLA shall, unless otherwise expressly stated in this Agreement or agreed in writing by GLA, relieve the Borough of any of its obligations under any Zone Document or any of the Intervention Related Documents 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 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.
- 1.2.23 Save where a contrary intention is shown or where an express discretion is given by this Agreement, GLA will act in a commercially reasonable manner in deciding whether in relation to this Agreement to give any consent, agreement, determination or approval or express its satisfaction and whether to give any such consent, agreement, determination or approval or express its satisfaction subject to restrictions, terms or conditions unless in each case to do so would fetter its statutory powers, rights or obligations.

## **2 Provision of Agreed Intervention Funding**

- 2.1 GLA (in exercise of its powers under the Act) agrees to make available to the Borough during the Availability Period funding in an aggregate principal amount equal to the Maximum Agreed Intervention Amount on the terms set out in this Agreement.



2.2 The Borough acknowledges and agrees that the Agreed Intervention Sum may be adjusted by the GLA:

2.2.1 in the exercise of its rights under this Agreement; or

2.2.2 to accommodate factors such as (but without limitation):

- (a) changes to the Acquisition Plan;
- (b) variations arising out of the operation of clause 8.3;
- (c) changes to the Agreed Intervention or the Borough Zone Outputs agreed between the parties;
- (d) increases in income or other sources of financial assistance becoming available to the Borough, the Outturn Dwellings Developer or any Contractor in relation to the delivery of the Agreed Intervention or the Borough Zone Outputs; or
- (e) available GLA resources.

2.3 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.


### 3 **Representations and warranties**

As at the date of this Agreement, on the date of each of the Claims and the date of each Review Meeting (by reference to the facts and circumstances then existing) the Borough makes the representations and warranties set out in Schedule 5 to the GLA.

### 4 **Payment of Agreed Intervention Funding**

#### 4.1 **Initial Conditions Precedent**

4.1.1 GLA's obligations under this Agreement are subject to the condition precedent that it has conducted due diligence (including financial and legal due diligence) satisfactory to it in relation to the Agreed Intervention and has confirmed to the Borough that it has received from the Borough all of the following in form and substance satisfactory to GLA:

- (a) a Legal Opinion dated prior to the date of this Agreement;
- (b) 
- (c) evidence satisfactory to the GLA of formal approval by the Borough of the regeneration schemes to which this Agreed Intervention contributes;
- (d) evidence satisfactory to GLA that the Overarching Borough Agreement has been entered into;
- (e) a certificate from the Borough's Section 151 Officer that all expenditure to which Agreed Intervention Funding will be applied is classified (according to proper accounting practices) as capital expenditure;

- (f) an opinion (satisfactory to the GLA) from the Borough's Solicitors addressed to the GLA as to the State Aid treatment of the Agreed Intervention;
- (g) [REDACTED]
- (h) evidence satisfactory to the GLA regarding commitments in relation to the delivery of the Borough Zone Outputs arising out of the delivery of the Agreed Intervention;
- (i) evidence satisfactory to the GLA in relation to matters including health and safety, environmental protection, procurement, data protection, equality and diversity, project deliverability and design quality;
- (j) evidence satisfactory to the GLA demonstrating that the arrangements relating to all Agreed Intervention Funding for the Agreed Intervention and/or (if applicable) the Borough Zone Outputs in addition to the Agreed Intervention Funding accord with the Agreed Intervention Budget; and
- (k) evidence satisfactory to the GLA as to the availability, extent and enforceability of the Valuer's duty of care to the GLA (including the covenant strength of the Valuer) and the means by which such duty of care will be created.

**4.2 Conditions Precedent to Borough's Claim for Agreed Intervention Funding**

4.2.1 The obligation of GLA to make available any Agreed Intervention Funding is subject to the further conditions precedent that, at or (in the case of the matters set out in sub-paragraphs (b), , (g) and (h) before the time of the Borough's Claim and at or (in the case of the matters set out in such sub-paragraphs) before the time GLA pays Agreed Intervention Funding that it has confirmed to the Borough that it has received all of the following in form and substance satisfactory to GLA:

- (a) evidence that the Borough has (and continues to have) sufficient funds (in addition to the Agreed Intervention Funding) whether from its own resources or otherwise to complete the Agreed Intervention and to deliver or procure delivery of the Borough Zone Outputs;
- (b) counterparts of each Zone Document (other than this Agreement) and each Intervention Related Document (other than the Outturn Dwellings Development Agreement ) executed by the Borough;
- ~~(c) the Borough must (at its cost) provide the GLA with a Valuation Report by the Valuer and a Letter of Reliance (where required by the GLA);~~  
NOT USED
- ~~(d) a certificate from the Borough's Solicitor confirming that the purchase price for a Borough Direct Zone Output Site is either within the range provided for in the Valuation Report or in line with the written waiver provided for in clause 4.3.1(a)ii;~~  
NOT USED

- (e) a valid Claim made in accordance with clause 4.3;
- (f) the amount of the Claim is in accordance with the Agreed Intervention Budget, as determined by GLA in its absolute discretion;
- (g) such evidence as it may require (acting reasonably) to be satisfied as to the level and availability of the Borough Contribution; and
- (h) evidence that all necessary Consents have been obtained and all other matters are in place to enable the Acquisition Plan in respect of the Agreed Intervention to be implemented;

4.2.2 The obligation of GLA to make available any Agreed Intervention Funding is also subject to the further conditions precedent that at the time of the Claim and at the time of GLA paying the Agreed Intervention Funding to the Borough:

- (a) no Event of Default has occurred and is continuing or would result from the proposed Agreed Intervention Funding;
- (b) any amount of Agreed Intervention Funding identified in the Agreed Intervention Budget as due to be paid by the Borough in relation to the Agreed Intervention prior to the date of the Claim has in fact been paid in full by the Borough;
- (c) GLA has received such evidence as GLA may (reasonably) require that all matters represented and warranted by the Borough under clause 3 are true and correct as if made at the date of each Claim and would be true and correct immediately after the making of any such Agreed Intervention Funding;
- (d) prior receipt by the GLA of any approvals the GLA may require whether internally or as required by Legislation or by central Government;
- (e) resources being available to the GLA to support the Agreed Intervention Funding contemplated in this Agreement; and
- (f) such documentation (as may have been approved by the GLA) creating an actionable contractual duty of care on behalf of the Valuer in favour of the GLA which is (unless the GLA at its absolute discretion agrees otherwise) is reflective of the evidence provided pursuant to clause 4.1.1(k).

### 4.3 **Mechanics and payment of Agreed Intervention Funding**

4.3.1 A Claim will not be regarded as having been validly made by the Borough unless:

- (a) it is submitted on a Claim Form which must be signed by the Borough Senior Officer and:
  - i is submitted to GLA within the Availability Period; and

- ii it will be for an amount which does not exceed the Market Value of the relevant Borough Direct Zone Output Site to which the Claim relates subject to a written waiver of this requirement at the absolute discretion of the GLA.
- (b) it relates to Agreed Intervention Expenditure for which the Borough has not submitted any other Claim or received any other Agreed Intervention Funding and it is accompanied by written evidence satisfactory to GLA that such Agreed Intervention Expenditure has been incurred together with confirmation from the Section 151 Officer that he or she has verified and approved the Claim and that the Claim is correctly made and in compliance with the requirements of this Agreement;
- (c) it accords with the Agreed Intervention Expenditure Plan or (subject to clause 4.3.4) is accompanied by evidence satisfactory to GLA (in its absolute discretion) to justify any deviation;
- (d) it is for an amount which (if paid) would not cause the Maximum Agreed Intervention Amount to be exceeded; and
- (e) the conditions at clauses 4.1 and 4.2 have been satisfied.

4.3.2 Subject to the terms of this Agreement, GLA will pay each undisputed Claim for an instalment of the Agreed Intervention Sum to Borough within ten (10) Business Days of receipt of a valid (and undisputed) Claim.

4.3.3 Any amount of Agreed Intervention Funding not claimed by the Borough during the Availability Period will be automatically cancelled.

4.3.4 The Borough acknowledges that it shall not be entitled to make a Claim for Agreed Intervention Expenditure outside of the Financial Year in relation to which the relevant expenditure was projected in the Agreed Intervention Expenditure Plan to arise without the prior written consent of the GLA (such consent to be given or withheld at the GLA's absolute discretion).

#### 4.4 **Use of Agreed Intervention Funding**

4.4.1 The Agreed Intervention Funding will be the sole property of the Borough and must be used solely by the Borough on the Agreed Intervention only.

4.4.2 Without affecting the obligations of the Borough in any way, GLA is not bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

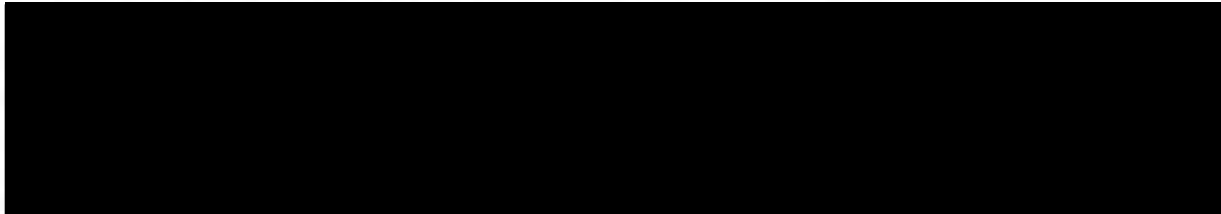
### 5 **Repayment and overpayments**

5.1 Without prejudice to any other terms of this Agreement, the Borough must repay the Agreed Intervention Recoverable Amount (or such amount thereof or has the been received by the Borough):

5.1.1 on the relevant Repayment Date;

- 5.1.2 if at any time prior to the relevant Repayment Date it becomes unlawful for the GLA to continue to perform its obligations or enjoy its rights under this Agreement; or
- 5.1.3 together with Interest, on the exercise prior to the relevant Repayment Date of the GLA's rights under clause 12.2.5,  
  
(whichever is the earlier).

5.2



5.3 Where the Borough is required to repay any amount of Agreed Intervention Funding to the GLA, all such repayments must be paid in immediately available cleared funds to GLA into such bank account as GLA shall notify to the Borough from time to time.

5.4 If the Borough does not pay any amount it is obliged to pay under this Agreement when it is due, the Borough shall pay default interest on such outstanding amount from the due date until the date of actual payment (both before and after judgment) at a rate per annum equal to 4% above the Base Interest Rate.

5.5 All payments by the Borough under or in connection with this Agreement shall be made without set-off or counterclaim, free and clear of and without any deduction or withholding, including, without limitation, for or on account of all Taxes except for Taxes which must be deducted by law.

5.6 If the Borough is required by law to make any deduction or withholding the Borough shall:

5.6.1 ensure that the deduction or withholding does not exceed the minimum amount legally required;

5.6.2 pay to GLA such additional amount as may be determined by GLA to be necessary to ensure that after making any required deduction or withholding GLA receives and retains a net amount equal to the full amount which would have been received had no deduction or withholding been required;

5.6.3 pay to the applicable taxation or other authorities within the period for payment permitted by law the full amount of the deduction or withholding; and

5.6.4 supply to GLA, within the period for the payment permitted by law, an official receipt of the applicable taxation or other authorities for all amounts deducted or withheld.

5.7 Without prejudice to any other provisions of this Agreement, if:

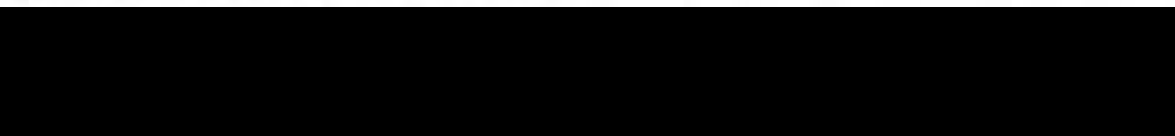
5.7.1 GLA is required by law to make any payment on account of Taxes (other than Taxes on its overall net income) on or in relation to any sum received or receivable by GLA from the Borough under or pursuant to this Agreement; or

5.7.2 any liability in respect of any such payment is imposed, levied or assessed against GLA,

the Borough shall within 21 working days of written demand by GLA indemnify GLA against such payment or liability together with any interest, penalties and expenses payable or incurred in connection with it.

5.8 If the GLA (acting reasonably) considers at any time that any part of the Agreed Intervention Sum was not expended by the Borough on Agreed Intervention Expenditure or if at any time the GLA has made any overpayment to the Borough or has paid the Borough any sum in excess of the Maximum Agreed Intervention Amount the Borough must within 21 working days of written demand repay to the GLA such amount as may be stipulated by the GLA together with Interest.

5.9



## 6 Delivery obligations

### 6.1 Acquisition commencement and completion

6.1.1 The Borough will procure that the Acquisition Plan is implemented by the Start Date and is carried out and completed in accordance with stages set out in the Acquisition Plan and by the Agreed Intervention Milestone Dates such that all of the Borough Direct Zone Output Sites have been in the Borough's legal and beneficial ownership with vacant possession by 31 January 2021.

6.1.2 The Borough shall provide to GLA a copy of each Final Certificate promptly upon receiving it.

6.2 **Not used**

6.3 **Not used**

### 6.4 Insurances

6.4.1 The Valuer shall take out and maintain professional indemnity insurance in an amount not less than £10,000,000 (ten million pounds) for any one claim or series of claims arising out of one event. Evidence of such insurance shall be provided to the GLA in advance of each and every Claim.

6.4.2 The Solicitor appointed by the Borough to provide the Certificate of Title and any or all other certifications under this agreement shall take out and maintain professional indemnity insurance in an amount not less than £10,000,000 (ten million pounds) for any one claim or series of claims arising out of one event. Evidence of such insurance shall be provided to the GLA in advance of each and every Claim.

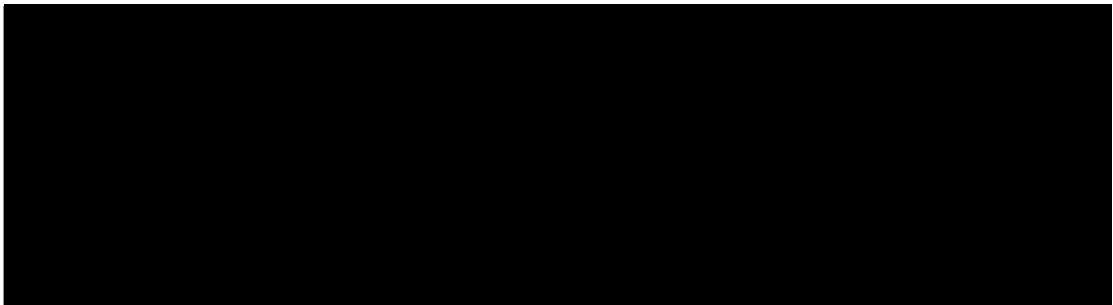
**6.5 Planning**

The Borough must ensure that:

- 6.5.1 a Planning Performance Agreement is in place in relation to each of the Borough Direct Zone Output Sites and, as and when requested by GLA, that GLA is a party to such agreement in relation to any such site which is referable to it; or
- 6.5.2 an alternative arrangement (acceptable to GLA acting reasonably) is in place to ensure efficient and prompt decision-making in relation to planning matters; and
- 6.5.3 no change is made to the arrangements contemplated in this clause 6.5 without the GLA's prior written consent (acting reasonably).

**6.6 Other**

6.6.1



- 6.6.2 The Borough will act at all times with the utmost good faith.
- 6.6.3 The Borough will procure that each contractor consultant or advisor and the Outturn Dwellings Developer complies with each and all of its contracts which relate to the Agreed Intervention and the Borough Zone Outputs and the Borough will enforce and procure the enforcement of the terms of the Intervention Related Documents at all times.
- 6.6.4 The Borough will take all necessary steps to satisfy GLA that its procurement policies and procedures in relation to employees, suppliers, contractors, consultants, advisors and the Outturn Dwellings Developer (as applicable) are suitable and competent in all respects to allow the proper performance of all work or tasks in relation to the Agreed Intervention or the Borough Zone Outputs.
- 6.6.5 The Borough will ensure that all contracts entered into in connection with the Agreed Intervention or the Borough Zone Outputs are competitively procured (utilising a documented decision making process) and that the Agreed Intervention Expenditure represents fair market costs.
- 6.6.6 The Borough will allow (or procure that GLA shall be allowed) GLA to visit each Borough Direct Zone Output Site at reasonable times and on reasonable notice for the purposes of monitoring the Borough's progress as against each Milestone and its relevant Milestone Date.
- 6.6.7 Until such time as the Agreed Intervention and the Borough Zone Outputs have been fully delivered in accordance with the terms of this Agreement, the Borough will ensure that GLA has the right to be represented at each project

meeting relating to the same and that such representative (the details of which are to be advised by GLA to the Borough) is provided with reasonable notice of all such meetings and all relevant meeting materials.

6.6.8 The Borough shall meet all Cost Overruns from its own resources.

6.6.9 The parties agree that for the purposes of this Agreement "delivered" when used in the context of the Borough Zone Outputs shall be construed to mean that the Borough Direct Zone Outputs have reached Borough Direct Zone Outputs Practical Completion and have been handed over to the purchaser, where relevant.

6.6.10 Not used

6.6.11 The Borough must:

(a) notify the GLA of any vehicles either:

i set up by itself or others for the purpose of delivering the Borough Direct Zone Outputs or the Borough Indirect Zone Outputs or the Agreed Intervention; or

ii controlled by the Borough which will be used to deliver the Borough Direct Zone Outputs, the Borough Indirect Zone Outputs or the Agreed Intervention;

(b) notify the GLA of the time and place of the SPV's directors' meetings (or equivalent);

(c) procure the permission of the SPV to the GLA's attendance at such meetings; and

(d) procure the distribution by the SPV to the GLA of the meetings' minutes and resolutions within ten (10) Business Days of the date of each meeting.

6.6.12 The Borough must satisfy each Condition Subsequent.

## **7 Regulatory and operational obligations**

7.1 **Not used**

7.2 **Public procurement**

The Borough must comply with all applicable EU Procurement Requirements in connection with the procurement of the Agreed Intervention and Borough Zone Outputs or any services relating to them and must further ensure that the procurement of works, equipment, goods and services by the Borough relating to such Agreed Intervention and Borough Zone Outputs are based on value for money.



### 7.3 Legislation (including Health & Safety and Equality & Diversity)

- 7.3.1 The Borough shall comply in all material respects with all relevant Legislation, including (to the extent applicable to the Agreed Intervention) but not limited to legislation relating to health and safety, welfare at work and equality and diversity, and will use reasonable endeavours to enforce the terms of the Intervention Related Documents to ensure compliance with this clause 7.3.
- 7.3.2 The Borough has, and is in full compliance with, a policy covering equal opportunities designed to ensure that unfair discrimination on the grounds of colour, race, creed, nationality or any other unjustifiable basis directly or indirectly in relation to the acquisition of the Borough Direct Zone Output Sites by the Borough 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 GLA.
- 7.3.3 GLA agrees that the Outturn Dwellings Developer will act as the only client in respect of the delivery of the Outturn Dwellings and GLA agrees to the election of the Outturn Dwellings Developer as the only client for the delivery of the Outturn Dwellings for the purposes of CDM Regulations.
- 7.3.4 The Borough shall use reasonable endeavours to procure that the Outturn Dwellings Developer:
- (a) complies with all the obligations of the client under the CDM Regulations in so far as they relate to the delivery of the Outturn Dwellings including, without limitation, the obligations to appoint an appropriate principal contractor and principal designer;
  - (b) procures that any and all parties engaged in respect of the procurement and/or undertaking of the delivery of the Outturn Dwellings are aware of the terms of the Outturn Dwellings Developer's election as the only client for the purposes of the CDM Regulations;
  - (c) at all times complies with all obligations, requirements and duties arising under the HS Act in connection with the delivery of the Outturn Dwellings;
  - (d) at all times procures the compliance with all obligations, requirements and duties arising under the HS Act by any and all parties appointed in connection with the delivery of the Outturn Dwellings;
  - (e) procures that in respect of the delivery of the Outturn Dwellings all Contractors and Professionals comply at all times with the HS Act and the CDM Regulations and procures that:
    - i no Contractor or Professional will by any act or omission do anything that would cause the Outturn Dwellings Developer to breach or be prosecuted under the HS Act and/or the CDM Regulations;
    - ii each Contractor and Professional at all times have due regard to the protection and safety of members of the public and their property on the site of the Outturn Dwellings, adjoining land owners and their

property, visitors to the site of the Outturn Dwellings and their property and will at all times comply with the requirements of the Health and Safety Executive, the HS Act and all rules codes and regulations (including the CDM Regulations) and legislation relating to the health and safety of workers, and to the undertaking of construction works.

#### 7.4 **London Living Wage and Mayoral Concordat**

7.4.1 Without prejudice to any other provision of this Agreement, the Borough shall:

- (a) use all reasonable endeavours to ensure that none of its employees engaged in the provision or delivery of the Agreed Intervention and/or the Borough Zone Outputs is paid an hourly wage (or equivalent of an hourly wage) less than the London Living Wage;
- (b) use all reasonable endeavours to ensure that none of its employees engaged in the provision or delivery of the Agreed Intervention and/or the Borough Zone Outputs is paid less than the amount to which they are entitled in their respective contracts of employment;
- (c) provide to GLA such information concerning the London Living Wage as GLA or its nominees may reasonably require from time to time;
- (d) disseminate on behalf of GLA to its employees engaged in the provision or delivery of Agreed Intervention and/or the Borough Zone Outputs such perception questionnaires as GLA may reasonably require from time to time and promptly collate and return to GLA responses to such questionnaires; and
- (e) use all reasonable endeavours to co-operate and provide all reasonable assistance in monitoring the effect of the London Living Wage.

7.4.2 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.

#### 7.5 **Disposals**

7.5.1 The Borough must not, without the prior written consent of GLA, dispose of the whole or any part of any of the Borough Direct Zone Output Sites, unless such disposal is a Permitted Disposal in which case the consent of GLA is not required.

7.5.2 The Borough must procure that a restriction in the following form is registered at the Land Registry against the registered title(s) to each of the Borough Direct Zone Output Sites and that the application for the registration of such restriction is made contemporaneously with the Borough's application for the registration at the Land Registry of its interest in each of those sites.

*"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the Greater London*

*Authority of City Hall, The Queen's Walk, More London SE1 2AA or its conveyancer or the Borough's Solicitor that the terms of clause 7.5.1 of Borough Intervention Agreement dated [ ] 2017 between (1) Greater London Authority and (2) Royal Borough of Kingston have been complied with"*

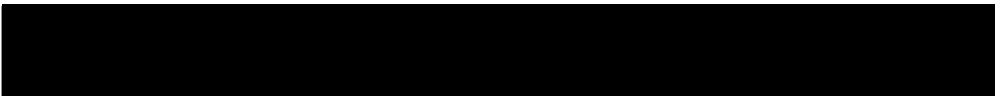
7.5.3 If the GLA agrees to an alteration to the location or extent of any of the Borough Direct Zone Output Sites:

- (a) If there is any land which, as a result of such alteration, will no longer fall within the scope of such site, the GLA will, subject to receipt of the solicitor's written undertaking referred to in clause 7.5.3(b), execute such documentation as the Borough will supply and the GLA will approve (acting reasonably) as is required to release the land which is no longer within the relevant site from the restriction referred to in clause 7.5.2;
- (b) If there is any land which, as a result of such alteration, will fall within the scope of the Borough Direct Zone Output Site, the Borough will supply a solicitor's written undertaking in a form approved by the GLA (acting reasonably) not to register or permit registration of any release referred to in clause 7.5.3(a) above, unless first or simultaneously there will be registered a restriction in the same form as that referred to in clause 7.5.2 against the land which is to fall within the scope of the relevant Site.

7.5.4 In granting any consent under clause 7.5.1 the GLA may impose such conditions as it deems to be appropriate to such consent including a requirement that any disponee registers a title restriction in favour of the GLA and/or agrees to be bound by clauses similar in effect to those set out in clauses 7.5.1 to 7.5.3 (inclusive) and the Borough must prove that such requirements are complied with.

## 7.6 Other

7.6.1 The Borough must:

- (a) 
- (b) provide the GLA or any Regulatory Body with such information as may be requested to demonstrate compliance with the Borough's obligations under this clauses 6 and 7; and
- (c) ensure the availability and application of the Borough Contribution in the form, quantum and timescale required pursuant to this Agreement and under each Intervention Agreement.

## 8 Variations and Milestone Date Amendments

8.1 The Borough may not make any amendment to the Agreed Intervention, the Agreed Intervention Details or the Borough Zone Outputs without the prior written consent of GLA

other than minor amendments which have no impact upon the delivery of the Agreed Intervention, the Agreed Intervention Sum, the achievement of Milestones or the Borough Zone Outputs.

8.2 If and to the extent that any variation is agreed in relation to this Agreement which de facto has the effect or ought to have the effect of varying:

8.2.1 the Zone Outputs (other than the Borough Zone Outputs) to be delivered pursuant to the Overarching Borough Agreement or any Linked Agreement; or

8.2.2 the Borough Zone Allocation,

the parties must vary the terms of those agreements to give effect to the variation of this Agreement.

8.3 If and to the extent that any variation is agreed in relation to the Overarching Borough Agreement or any Linked Agreement which de facto has the effect or ought to have the effect of varying:

8.3.1 the Borough Zone Outputs;

8.3.2 the Agreed Intervention Sum; or

8.3.3 the Agreed Intervention Details,

the parties must vary the terms of this Agreement to give effect to the variation of those agreements.

8.4 If an Agreed Intervention Milestone Failure occurs or is in the reasonable opinion of GLA likely to occur (having regard to the information supplied pursuant to this Agreement) the GLA shall be entitled (but not obliged) and in its absolute discretion to:

8.4.1 exercise the rights described under clause 12; or

8.4.2 agree a revised Agreed Intervention Milestone Date with the Borough in which case any relevant condition of this Agreement shall apply (changing that which needs to be changed) to the revised Agreed Intervention Milestone Date.

8.5 If an Output Milestone Failure occurs the Borough must ensure that the relevant Output Milestone is achieved by the relevant Output Milestone Longstop Date.

8.6 Failure by the Borough to comply with clause 8.5 shall constitute an Event of Default.

8.7 In consenting to any variation to the terms of this Agreement the GLA may impose such conditions as it deems to be appropriate to the giving of such consent.

## 9 **Special Conditions**

9.1 The parties agree that the Special Conditions have effect.

10 **Notifications, reporting and audit**

10.1 The Borough shall notify GLA:

- 10.1.1 immediately upon any change (whether actual or estimated) required to the Agreed Intervention Details other than any change permitted under this Agreement;
- 10.1.2 immediately upon becoming aware of any event which:
- (a) has or might have a Material Adverse Effect on the Borough; or
  - (b) has a detrimental effect on any aspect of the Agreed Intervention and/or the Borough Zone Outputs or their delivery including, but not limited to, any Agreed Intervention Milestone Failure or any Output Milestone Failure;
  - (c) prejudices or might prejudice the Borough's ability to deliver the Borough's Zone Outputs in accordance with this Agreement;
  - (d) prejudices or might prejudice the Borough's ability to provide the Borough Contribution; or
  - (e) has resulted in or might give rise to the making of a Report or Direction;
- 10.1.3 as soon as reasonably practicable on becoming aware of any claim brought against the Borough arising out of or relating to the activities of the Borough in relation to the Kingston Housing Zone and/or the Agreed Intervention Funding or pursuant to the Outturn Dwellings Development Agreement;
- 10.1.4 immediately upon there being a proposed change to:
- (a) any Intervention Related Documents or to the Outturn Dwellings Development Agreement which is in either case material;
  - (b) the use of any asset funded directly or indirectly by means of Agreed Intervention Funding made available under this Agreement (including the purposes for which it is to be used and/or any time periods for which the asset is to be used);
  - (c) the ownership of any asset funded by means of Agreed Intervention Funding made available under this Agreement; or
  - (d) the use or ownership of any of the Outturn Dwellings;
- 10.1.5 immediately upon the occurrence of an Event of Default;
- 10.1.6 immediately upon becoming aware of any investigations into or findings of any breach of:
- (a) any equality or anti-discrimination legislation or regulations directly or indirectly related to the Agreed Intervention or the Borough Zone Outputs whether or not the Borough and/or any Contractor and/or any

other third party is responsible for the breach or is the subject of the investigation (as appropriate) (such notice to be addressed to GLA Senior Officer); and/or

- (b) the DPA whether or not the Borough and/or any Contractor and/or any other third party is responsible for the breach or is the subject of the investigation (as appropriate) (such notice to be addressed to GLA Senior Officer); and/or
- (c) any challenge under, investigations into or findings of any breach of the EU Procurement Requirements whether or not the Borough and/or any Contractor and/or any other third party is responsible for the breach or is the subject of the investigation (as appropriate) (such notice to be addressed to GLA Senior Officer);

10.1.7 immediately upon becoming aware of:

- (a) any audit or statutory or regulatory investigation in relation to any aspect of the Agreed Intervention or the Borough Zone Outputs; or
- (b) the occurrence of any act/omission of the Borough or of any of its Contractors, the Outturn Dwellings Developer or subcontractors that harms or has the potential to harm the reputation of the GLA Group, the Mayor or the Housing Zone Programme or to bring them into disrepute;

10.1.8 immediately upon becoming aware that the Agreed Intervention Sum is greater than is necessary to deliver the Agreed Intervention to which it relates;

10.1.9 immediately, in the event of the receipt by it of any other income or funds or other Public Sector Financial Assistance or guarantees of them, or the offer of same, in respect of the Agreed Intervention, the Borough Zone Outputs or the Zone Outputs beyond any amounts of the same notified by the Borough to the GLA as part of or in connection with its Bid;

10.1.10 The Borough shall provide the GLA with monthly reports on the progress of the acquisition of the Borough Direct Zone Output Sites and such form of report shall be prescribed by the GLA.

## 10.2 **Resolution**

In the event of notification by the Borough under this clause 10, if applicable and if requested by GLA, the Borough will provide, together with such notification, a proposal for resolution or mitigation of the event and will take into account all representations of GLA on such proposals.

## 10.3 **Review Meetings**

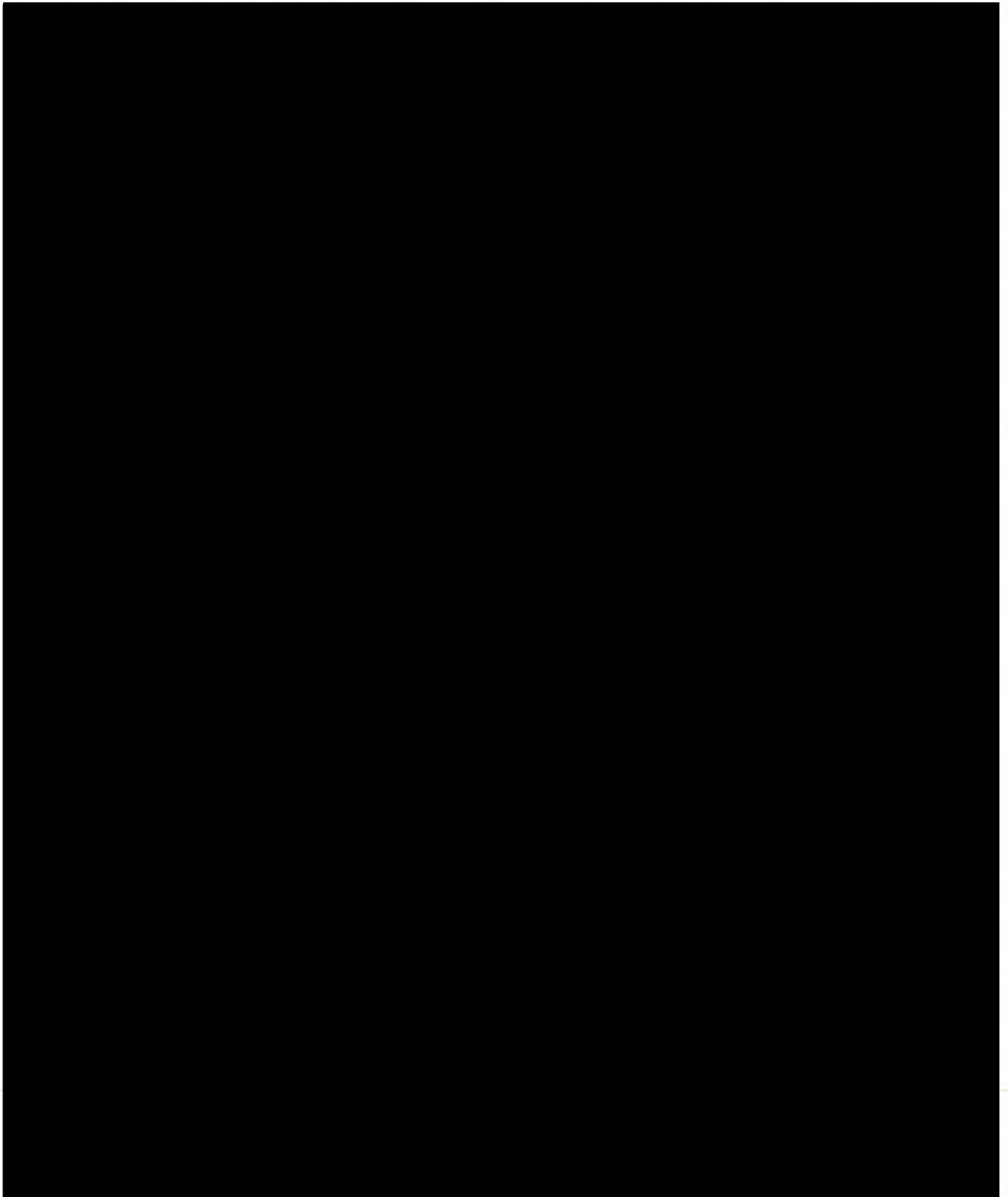
10.3.1 The GLA the Borough and the Outturn Dwellings Developer shall attend a Review Meeting within ten (10) Business Days of each Quarter Date (or within such longer period as the GLA may at its absolute discretion agree) to discuss (but without limitation):

- (a) progress in achieving the Borough Zone Outputs;
  - (b) the Borough's projections in relation to its future performance in achieving the Borough Direct Zone Outputs and the Borough Indirect Zone Outputs;
  - (c) the occurrence of any Agreed Intervention Milestone Failure or of any Output Milestone Failure;
  - (d) the implications of any Notifiable Events;
  - (e) 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.
- 10.3.2 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:
- (a) gives reasonable prior written notice to the other of such meeting; and
  - (b) includes with the notice an agenda for such meeting.
- 10.3.3 The Borough shall provide the GLA as soon as is reasonably practicable with such information or reports as the GLA shall reasonably require to support or facilitate the meetings referred to in this Agreement and to monitor the performance of the Borough's obligations under this Agreement.
- 10.3.4 The GLA and the Borough shall each use all reasonable endeavours to ensure that any representatives at any meeting held pursuant to this clause 10.3 have the necessary authority and knowledge to deal with the items on the agenda for such meeting.
- 10.3.5 Subject to the prior approval of the other party (such approval not be unreasonably withheld or delayed) either party may request that additional persons attend a meeting to provide detailed or particular advice or information.
- 10.3.6 Save as otherwise agreed between the parties, any meeting under this clause 10.3 shall be minuted by the Borough and such minutes shall be distributed within ten (10) Business Days following the meeting to GLA and any other attendee.
- 10.3.7 Nothing in this clause 10.3 shall prevent GLA acting reasonably from requesting (whether on behalf of itself or any Government office) at any other time information from the Borough in respect of any of the items listed in this clause 10 and the Borough shall promptly respond to any such request. Save as otherwise agreed between the parties, any meeting under this clause 10 shall be minuted by the Borough and such minutes shall be distributed within ten (10) Business Days following the meeting to GLA and any other attendee.
- 10.3.8 Nothing in this clause 10.3 shall prevent GLA from requesting (whether on behalf of itself or any Government office) at any other time information from the

Borough in respect of any of the items listed in this clause 10.3 and the Borough shall promptly respond to any such request.

- 10.3.9 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 relevant Borough Direct Zone Output Site against the timescales set out in the Contract Monitoring Schedule.

10.4 **Inspection and audit facilities**







**11 Change in financial circumstances**

- 11.1.1 The Borough shall notify GLA immediately where there is or has been any change in its financial circumstances which has or might have a Material Adverse Effect, including for the avoidance of doubt any withdrawal or reduction of any funding or income available to the Borough relative to the delivery of the Agreed Intervention, the Borough Zone Outputs or any reduction or withdrawal in relation to the Borough Contribution.
- 11.1.2 In the event that GLA (acting reasonably) believes that any change notified to it pursuant to clause 11.1.1 or which it otherwise becomes aware of has or might have a Material Adverse Effect, GLA shall be entitled to exercise any of the rights and remedies set out in clause 12.

**12 Events of Default**

**12.1 An Event of Default occurs where:**

- 12.1.1 an Agreed Intervention Milestone Failure occurs or is in the opinion of GLA likely to occur (having regard to the information supplied pursuant to clauses 10 and 11 or otherwise);
- 12.1.2 the Borough fails to comply with clause 7.5.2 or with clause 8.5;
- 12.1.3 the Borough or the SPV fails to perform and/or observe any obligation or restriction on it under any Zone Document or Intervention Related Document (to which it is a party) such that delivery or completion of the Agreed Intervention or the Borough Zone Outputs will not be achieved or in the reasonable opinion of GLA is unlikely to be achieved in accordance with the requirements of this Agreement;
- 12.1.4 any representation or warranty made by the Borough pursuant to clause 3 is incorrect in any material respect when made or repeated;
- 12.1.5 an event or circumstance occurs in relation to the Borough that might in the opinion of GLA have a Material Adverse Effect;
- 12.1.6 a Zone Document or the Outturn Dwellings Development Agreement is not or ceases to be effective or to have the priority expressed in it or is alleged by any person (other than GLA) to be ineffective or not to have such priority for any reason;

- 12.1.7 an Intervention Related Document (other than the Outturn Dwellings Development Agreement ) is not or ceases to be effective or to have the priority expressed in it (or is alleged by any person (other than GLA) to be ineffective or not to have such priority for any reason) and the GLA is of the opinion that such circumstance has a Material Adverse Effect;
- 12.1.8 any Consent is withdrawn or revoked, where such withdrawal or revocation is likely to have a Material Adverse Effect;
- 12.1.9 the Borough or where applicable any Contractor, subcontractor, employee, officer or agent or the Outturn Dwellings Developer commits any Prohibited Act (in respect of which the Waiver Condition has not been satisfied);
- 12.1.10 any of the following agreements are terminated or otherwise determined:
- (a) the Overarching Borough Agreement;
  - (b) the Outturn Dwellings Development Agreement ;
  - (c) a Supporting Intervention Agreement;
- 12.1.11 the Borough fails to pay any sum due under a Zone Document on the due date for payment thereof provided that if GLA is satisfied that such failure to pay any amount due hereunder is due solely to technical delays in the transmission of funds and such amount is paid within two (2) Business Days, this paragraph 12.1.11 shall not apply;
- 12.1.12 GLA in its absolute discretion considers that the Borough or any Contractor does not have sufficient funds or resources available to them to complete the Agreed Intervention in accordance with the Agreed Intervention Details;
- 12.1.13 the Availability Period expires;
- 12.1.14 a Report or Direction is made;
- 12.1.15 a Change of Use or Disposal other than a Permitted Disposal has occurred without the prior consent of GLA;
- 12.1.16 any Intervention Related Document is terminated without the prior consent of GLA and such termination is likely in the opinion of the GLA to have a Material Adverse Effect;
- 12.1.17 there has been an act/omission on the part of the Borough or of any of its Contractors or the Outturn Dwellings Developer that in the GLA's opinion harms or has the potential to harm the reputation of the GLA Group, the Mayor or the Housing Zone Programme or to bring them into disrepute;
- 12.1.18 any change is made to the Outturn Dwellings Development Agreement which affects or in the opinion of the GLA is likely to affect the Borough Zone Outputs or the timetable for their delivery;
- 12.1.19 clause 27.3 applies;

- 12.1.20 a Housing Obligation Default has occurred;
  - 12.1.21 any other material breach by the Borough of any of its obligations under this Agreement has occurred; or
  - 12.1.22 the Final Certificate issued by the Borough is inaccurate or misleading in any respect;
  - 12.1.23 the Borough fails to comply with a Condition Subsequent; or
  - 12.1.24 The Borough fails to secure legal and beneficial ownership and vacant possession of all of the Borough Direct Zone Output Sites by 31 March 2021.
- 12.2 Where an Event of Default has occurred the GLA may (subject to clause 12.3) by notice to the Borough:
- 12.2.1 require the Borough to prepare a plan to remedy and/or mitigate the effects of the Event of Default and submit the plan to GLA within ten (10) Business Days of such request for approval; and/or
  - 12.2.2 suspend or alter the timing of the payment of any Agreed Intervention Funding for such period as GLA will determine in its sole discretion; and/or
  - 12.2.3 reduce the Maximum Agreed Intervention Amount and/or the Agreed Intervention Sum (or any constituent part thereof); and/or
  - 12.2.4 enforce any of the Zone Documents in its sole discretion; and/or
  - 12.2.5 where the Event of Default either occurs prior to or on the relevant Repayment Date or constitutes a Repayment Default, require the Borough immediately to repay a sum equivalent to the amount of the Agreed Intervention Funding received by the Borough and all other amounts due under this Agreement together with Interest; and/or
  - 12.2.6 terminate this Agreement and cancel any Undrawn Amount; and/or
  - 12.2.7 in the case of a failure by the Borough to deliver a Borough Indirect Zone Output in accordance with the requirements of this Agreement, adjust the Maximum Agreed Intervention Amount by such amount as the GLA in its discretion considers appropriate to reflect such failure and in that case the Borough must immediately repay the Balancing Payment to the GLA together with Interest.
- 12.3 Where an Event of Default which is a Trigger Event has occurred prior to the relevant Repayment Date, the rights of the GLA under clause 12.2 shall be suspended pending the completion and outcome of the following steps:
- 12.3.1 the Borough must submit a proposed remediation plan to the GLA within five (5) Business Days of the occurrence of the Trigger Event setting out the Borough's proposals for the steps to be taken to remedy or mitigate the effects of the Trigger Event and a basis for testing whether this has been achieved within an appropriate timeframe;

- 12.3.2 the GLA will notify the Borough as to whether the Remediation Plan is approved as submitted within ten (10) Business Days of its receipt;
- 12.3.3 if the Remediation Plan is not approved, senior representatives of the parties (acting in good faith with a view to securing delivery of the Agreed Intervention and the Borough Zone Outputs or otherwise the repayment of the Agreed Intervention Funding) must meet as soon as practicable (and in any event within ten (10) Business Days of the GLA's notification under clause 12.3.2 or such later date as the GLA may agree) to try to agree a revised Remediation Plan. In default of agreement, an Event of Default shall be deemed to occur and the GLA shall be entitled freely to exercise its rights under clause 12.2 without any further suspension;
- 12.3.4 if the Remediation Plan is approved, the Borough must comply with the obligations set out in the Remediation Plan and any failure to do so will be treated as an Event of Default entitling the GLA to exercise its rights under clause 12.2 free of any rights of suspension which would otherwise benefit the Borough; and
- 12.3.5 within ten (10) Business Days of the end of the timeframe specified in the Remediation Plan, senior representatives of the parties must meet to review the efficacy of the Remediation Plan in remedying or mitigating the effects of the Trigger Event. If in the opinion of the GLA (acting reasonably) the Remediation Plan has not been effective, the GLA shall be entitled in its absolute discretion either to extend the timeframe for the Remediation Plan's operation or to declare that the Remediation Plan has failed in which case an Event of Default shall be deemed to have occurred entitling the GLA to exercise its rights under clause 12.2 free of any rights of suspension which would otherwise benefit the Borough.
- 12.4 Nothing in clause 12.3 shall require the GLA to agree any measure or extension which would delay the delivery of:
- 12.4.1 the Agreed Intervention beyond 31 January 2021; and
- 12.4.2 all the Borough Zone Outputs beyond 31 March 2026,
- provided that these dates can be varied by both parties in writing and both acting reasonably.
- 12.5 In relation to the exercise by GLA of its rights under clause 12.2 the exercise by GLA of its rights under clause 12.2 will be without prejudice to any other right of action or remedy of GLA (including any claim for damages) in respect of the Event of Default.
- 13 **Public relations and publicity**
- 13.1 Save as expressly agreed by the GLA in writing or as otherwise set out in this clause 13, the Borough shall not and shall procure that no Contractor, officer, employee or agent nor the Outturn Dwellings Developer shall communicate with any representative of any press, television, radio or other communications media on any matter concerning this Agreement without GLA's prior written consent (not to be unreasonably delayed).

- 13.2 GLA will have the right to approve any announcement in relation to this Agreement, the Agreed Intervention, the Borough Zone Outputs and the Housing Zones Programme before it is made.
- 13.3 The Borough shall:
- 13.3.1 notify GLA's Press Office and Communications Team (from time to time) in advance of any publicity plan, event or communication which it proposes to implement, hold or issue;
  - 13.3.2 ensure that pro-active positive press releases issued in respect of the Agreed Intervention and the Borough Zone Outputs acknowledge in the body of their text the fact and amount of GLA's contribution to the same;
  - 13.3.3 ensure that such wording as GLA may reasonably require from time to time is included within all press releases in respect of the Agreed Intervention and the Borough Zone Outputs;
  - 13.3.4 not produce any publication touching or concerning the Agreed Intervention or the Borough Zone Outputs or the Zone Documents (or the performance of any party in relation to the same) without the prior written approval of GLA save where such publication is in the overwhelming public interest (and in any event without first consulting GLA and allowing GLA to make representations on such proposed disclosure);
  - 13.3.5 comply with such requirements as to site signage as GLA may notify to it from time to time; and
  - 13.3.6 ensure that any publicity material prepared in relation to the Agreed Intervention and the Borough Zone Outputs includes the logo of GLA and/or the logo of any other organisation advised from time to time by GLA.
- 13.4 The Borough grants to GLA a non-exclusive, royalty free licence (to the extent it can grant such a licence) to use any photographs, records, images, articles or illustrations relating to the Agreed Intervention or the Borough Zone Outputs undertaken by or for the Borough for use in any publicity or advertising, whether published alone or in conjunction with any other person.
- 13.5 During the term of this Agreement, GLA grants the Borough a non-exclusive licence to use GLA's logo only for the purposes of the Agreed Intervention. The Borough will not grant sub licences of this licence or any part of it or use such logo for any other purposes save where approved in advance by GLA.
- 13.6 The Borough acknowledges that GLA's logo is owned by and will remain the property of GLA.
- 14 **Reputation of the parties**
- 14.1 The Borough will not, and will use all reasonable endeavours to procure that neither its Contractors or consultants nor the Outturn Dwellings Developer will knowingly do or omit to do anything in relation to the Zone Documents, the Agreed Intervention and Borough

Zone Outputs or in the course of their other activities that may bring the standing of GLA into disrepute or attract adverse publicity for GLA.

- 14.2 No party will publish any statement, orally or in writing, relating to the other party which might damage that other party's reputation or that of any of its officers or employees.
- 14.3 The Borough has not at any time, engaged in any activity, practice or conduct that would constitute an offence under the Bribery Act 2010.
- 14.4 No Associated Person of the Borough has bribed another person (within the meaning given in section 7(3) of the Bribery Act 2010) intending to obtain or retain business or an advantage in the conduct of the business for the Borough, and the Borough has in place adequate procedures in line with guidance published by the Secretary of State under section 9 of the Bribery Act 2010 designed to prevent its Associated Persons from undertaking any such conduct.
- 14.5 Neither the Borough nor any of its Associated Persons is, or has, been the subject of any investigation, enquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence under the Bribery Act 2010, and no such investigation, enquiry or proceedings are pending or to the best of the Borough's knowledge and belief having made all due enquiry have been threatened which, if adversely determined, might be expected to have a Material Adverse Effect and there are no circumstances likely to give rise to any such investigation, enquiry or proceedings.
- 14.6 The Borough is not ineligible to be awarded any contract or business under the Public Contracts Regulations or section 26 of the Utilities Contracts Regulations 2006 (SI 2006/6) (each as amended).
- 14.7 The Borough will not engage (directly or indirectly) in any activity, practice or conduct that would constitute an offence under the Bribery Act 2010.
- 14.8 The Borough will maintain in place adequate procedures in line with guidance published by the Secretary of State under section 9 of the Bribery Act 2010 designed to prevent any Associated Person of a person from bribing another person (within the meaning given in section 7(3) of the Bribery Act 2010) intending to obtain or retain business or an advantage in the conduct of the business of a person. The Borough shall supply to GLA, promptly on request of GLA, copies of such documentation or other evidence as is reasonably requested by GLA to enable GLA to satisfy itself that such procedures are in place.
- 14.9 The Borough shall supply to GLA, promptly on becoming aware of them, details of any investigation, enquiry or enforcement proceedings by any governmental, administrative or Regulatory Body relating to any offence or alleged offence under the Bribery Act 2010 against it.

## 15 **Confidentiality and freedom of information**

### 15.1 **Confidentiality**

- 15.1.1 Each party recognises that under the Zone Documents it may receive Confidential Information belonging to the other.

- 15.1.2 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 GLA 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 the relevant Zone Document.
- 15.1.3 The obligations of confidence referred to in clause 15.1 will not apply to any Confidential Information which:
- (a) is in, or which comes into, the public domain otherwise than by reason of a breach of a Zone Document or of any other duty of confidentiality relating to that information; or
  - (b) is obtained from a third party without that third party being under an obligation (express or implied) to keep the information confidential; or
  - (c) 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
  - (d) is independently developed without access to the Confidential Information of the other party.
- 15.1.4 Each party will be permitted to disclose Confidential Information to the extent that it is required to do so:
- (a) to enable the disclosing party to perform its obligations under any Zone Document or Intervention Related Document; or
  - (b) 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 the FOIA and the EIR and the Borough acknowledges that any lists or Schedules provided by it outlining Confidential Information are of indicative value only and GLA may nevertheless be obliged to disclose such Confidential Information; or
  - (c) 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
  - (d) 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.
- 15.1.5 The Borough will ensure that all Confidential Information obtained from GLA under or in connection with any Zone Document:
- (a) is given only to such of its and the Borough's employees, professional advisors, Contractors, the Outturn Dwellings Developer or consultants engaged to advise it in connection with this Agreement as is strictly

necessary for the performance of the Zone Document and only to the extent necessary for the performance of that Zone Document;

- (b) is treated as confidential and not disclosed (without GLA's prior written approval) or used by any such staff or professional advisors, Contractors or consultants or by the Outturn Dwellings Developer otherwise than for the purposes of that Zone Document;
- (c) Where it is considered necessary in the opinion of GLA the Borough will procure that such staff, professional advisors, Contractors, the Outturn Dwellings Developer or consultants sign a confidentiality undertaking before commencing work in connection with this Agreement.

15.1.6 Nothing in this clause 15.1 shall prevent GLA:

- (a) disclosing any Confidential Information for the purpose of:
  - i the examination and certification of GLA's accounts; or
  - ii any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which GLA has used its resources; or
- (b) disclosing any Confidential Information obtained from the Borough:
  - i to any other department, office or agency of the Crown; or
  - ii to any person engaged in providing any services to GLA for any purpose relating to or ancillary to a Zone Document or any person conducting an Office of Government Commerce gateway review;
- (c) provided that in disclosing information under clauses 15.1.6(b)i or 15.1.6(b)ii GLA 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.

15.1.7 Nothing in this clause 15.1 shall prevent a party from using any techniques, ideas or know-how gained during the performance of the Zone Documents 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.

15.1.8 Nothing in the clause 15.1 shall prevent GLA from publishing information relating to Total Intervention Costs, the Agreed Intervention Expenditure, the Agreed Intervention Sum, the Agreed Intervention or the Borough Zone Outputs.

## 15.2 Freedom of information

15.2.1 The parties to this Agreement are FOIA Authorities and:



- (a) are subject to legal duties which may require the release of information; and
- (b) FOIA Authorities may be under an obligation to provide Information subject to a Request for Information.

15.2.2 The FOIA Authority in receipt of or to receive the RFI (**Relevant FOIA Authority**) will be responsible for determining in its absolute discretion whether:

- (a) any Information is Exempted Information or remains Exempted Information; and/or
- (b) 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 the RFI has been passed to the Relevant FOIA Authority unless otherwise expressly authorised to do so by the Relevant FOIA Authority.

15.2.3 Subject to clause 15.2.4 below, each party acknowledges that the Relevant FOIA Authority may disclose Information:

- (a) without consulting the other; or
- (b) following consultation with the other party and having taken (or not taken, as the case may be) its views into account.

15.2.4 Without in any way limiting clauses 15.2.2 and 15.2.3, 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.

15.2.5 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 will procure that its agents and sub-contractors will), at their own cost:

- (a) 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;
- (b) 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;
- (c) 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

(d) permit the Relevant FOIA Authority to inspect any records as requested from time to time.

15.2.6 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.

15.2.7 The Borough acknowledges and agrees that GLA may in its absolute discretion redact all or part of the Information prior to its publication. In so doing and in its absolute discretion GLA may take account of any EIR Exemptions and FOIA Exemptions. GLA may in its absolute discretion consult with the Borough regarding any redactions to the Information to be published pursuant to this clause 15. GLA will make the final decision regarding publication and/or redaction of the Information.

15.2.8 The obligations in this clause 15 will survive the expiry or termination of the Zone Documents 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 a Zone Document or of any other duty of confidentiality relating to that information.

### 15.3 **Publication of information before Parliament**

The Borough acknowledges that the National Audit Office has the right to publish details of the Zone Documents in its relevant reports to Parliament.

## 16 **Data protection**

16.1 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.

16.2 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 GLA (**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:

16.2.1 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 GLA's Personal Data and any person it authorises to have access to any GLA's Personal Data will respect and maintain the confidentiality and security of GLA's Personal Data. This includes the obligation to comply with any records management, operational and/or information security policies operated by GLA, when performing its obligations under this Agreement on 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 GLA's Personal Data which is to be protected;

16.2.2 the Borough shall only process GLA's Personal Data for and on behalf of 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 GLA to ensure compliance with the DPA;

16.2.3 the Borough shall allow GLA to audit the Borough's compliance with the requirements of this clause 16 on reasonable notice and/or, at GLA's request, provide GLA with evidence of the Borough's compliance with the obligations within this clause 16.

16.3 The Borough undertakes not to disclose or transfer any of GLA's Personal Data to any third party without the prior written consent of GLA save that without prejudice to clause 16.2 the Borough shall be entitled to disclose 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.

16.4 The Borough shall:

16.4.1 take reasonable steps to ensure the reliability of the Outturn Dwellings Developer or any Contractor who has access to the GLA's Personal Data;

16.4.2 ensure that the Outturn Dwellings Developer or any Contractor required to access the GLA's Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this clause 16;

16.4.3 ensure that neither the Outturn Dwellings Developer nor any Contractor shall publish, disclose or divulge any of the GLA's Personal Data to any third party unless directed in writing to do so by GLA;

16.4.4 provide a written description of the technical and organisational methods employed by the Borough for processing the GLA's Personal Data (within the timescales required by GLA); and

16.4.5 not Process Personal Data outside the European Economic Area without the prior written consent of GLA and, where 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 of GLA's Personal Data that is transferred; and

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

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

- 16.5.1 provide to GLA such access as may be reasonably required from time to time to all GLA's Personal Data stored or processed in performing its obligations under this Agreement in order to enable GLA to meet its obligations to respond to access requests from Data Subjects under the DPA;
- 16.5.2 provide GLA with reasonable assistance in complying with any Request for Information served on GLA under Section 7 of the DPA;
- 16.5.3 notify 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 GLA's obligations under the DPA and not disclose or release any information (including GLA's Personal Data) in response to such a request or complaint without first consulting with GLA where the information sought relates to GLA, its employees, agents and/or its business operations;
- 16.5.4 provide GLA with full co-operation and assistance in relation to any complaint of request made, including by:
- (a) providing GLA with full details of the complaint on request;
  - (b) complying with a data access request within the relevant timescales set out in the DPA and in accordance with GLA's instructions;
  - (c) providing GLA with any Personal Data it holds in relation to a Data Subject (within the timescales required by GLA); and
  - (d) providing GLA with any information requested by GLA.
- 16.6 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 GLA to breach any of its applicable obligations under the DPA.
- 16.7 The Borough shall indemnify GLA against all claims and proceedings and all liability, losses, costs and expenses incurred in connection therewith by GLA as a result of the Borough's destruction of and/or damage to any of 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 clause 16 by the Borough, its employees, agents or sub-contractors.
- 16.8 The Borough shall appoint and identify an individual within its organisation authorised to respond to enquiries from GLA concerning the Borough's Processing of GLA's Personal Data and will deal with all enquiries from GLA relating to the GLA's 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 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.

16.9 The Borough undertakes to include obligations no less onerous than those set out in this clause 16, in all contractual arrangements with agents engaged by the Borough in performing its obligations under this Agreement to GLA.

## 17 **Intellectual property**

17.1 Subject to the provisions of this clause 17 the Borough hereby grants, to the extent it can grant, to GLA a perpetual, transferable, non-exclusive, royalty-free licence (carrying the right to grant sub-licences) to copy, use (from computer disk or otherwise) and to make publicly available all and any Intellectual Property Rights, drawings, reports, specifications, calculations and other documents and information provided by the Borough or which are or become owned by the Borough and which relate to the Agreed Intervention or the Borough Zone Outputs, for any purpose either relating to this Agreement or to the dissemination by GLA of Best Practice.

17.2 To the extent that any of the data, materials and documents referred to in clause 17.1 are generated by or maintained on a computer or in any other machine readable format, the Borough shall if requested by GLA procure for the benefit of GLA at the cost of the Borough the grant of a licence or sub-licence for the term of this Agreement and supply any relevant software and/or database to enable GLA making such request to access and otherwise use such data for the purposes referred to in clause 17.1.

17.3 No party shall infringe any third party's Intellectual Property Rights in connection with this Agreement.

17.4 The Borough shall fully indemnify GLA within five (5) Business Days of demand under this clause 17.4 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 clause 17, any breach by the Borough of this clause 17 and against all costs and damages of any kind which GLA may incur in connection with any actual or threatened proceedings before any court or adjudication body.

17.5 The Borough shall only be entitled to revoke the licence granted to GLA under clause 17.1 on the termination of the whole of this Agreement.

17.6 GLA shall be entitled to amend any of the Intellectual Property Rights or information provided under this clause 17 or to combine them with any other information or know how as it thinks fit when compiling and publishing Best Practice in exercise of the right conferred under clause 17.1.

## 18 **Further assurance**

At any time upon the written request of GLA the Borough will 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 GLA the full benefit of this Agreement or any other Zone Document and of the rights and powers therein granted.

## 19 **Indemnity**

The Borough shall:

19.1 be liable for and will indemnify GLA in full against any expense, liability, loss, claim or proceedings arising under statute or at common law in respect of personal injury to or death of any person whomsoever or loss of or damage to property whether belonging to GLA or otherwise or any claim by any third party arising out of or in the course of or caused or contributed to by the Borough and/or the performance or non-performance or delay in performance by the Borough of its obligations under any of the Zone Documents except to the extent that the same is due to any wilful neglect of GLA; and

19.2 be liable for and shall indemnify GLA against any expense, liability, loss, claim or proceedings arising directly or indirectly from or in connect with any breach of the terms of this Agreement by or otherwise through the default or negligence of the Borough.

## 20 **Senior Officers**

### 20.1 **Authority of the Borough Senior Officer**

The Borough represents to GLA that the Borough Senior Officer has full authority to act on its behalf for all purposes under the Zone Documents. GLA and GLA Senior Officer are entitled to treat any act of the Borough Senior Officer in connection with the Zone Documents as being expressly authorised by the Borough (save where the Borough has notified GLA that such authority has been revoked) and GLA will not be required to determine whether any express authority has in fact been given.

### 20.2 **Borough Senior Officer's power to delegate**

The Borough Senior Officer may authorise any of its subordinates to exercise its powers under the Zone Documents by notice to GLA.

### 20.3 **Authority of GLA Senior Officer**

GLA represents to the Borough that GLA Senior Officer has full authority to act on its behalf for all purposes under the Zone Documents. The Borough is entitled to treat any act of GLA Senior Officer in connection with the Zone Documents as being expressly authorised by GLA (save where GLA has notified the Borough that such authority has been revoked) and the Borough will not be required to determine whether any express authority has in fact been given.

### 20.4 **GLA Senior Officer's power to delegate**

GLA Senior Officer may authorise any of its subordinates to exercise any of its powers under any Zone Document by notice to the Borough.

### 20.5 **Notices**

Subject to clause 29, any notice, information, instructions or public communication given in writing to GLA Senior Officer or the Borough Senior Officer will be deemed to have been given to their respective appointing party.

## 21 **No agency, partnership or employment**

21.1 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 for any purpose whatsoever.

21.2 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 GLA and the Borough. Neither the Borough nor any of its respective employees shall at any time hold itself or themselves out to be an employee of GLA.

21.3 The Borough will not say or do anything which may pledge the credit of or otherwise bind GLA or that may lead any other person to believe that the Borough is acting as GLA.

## 22 **Assignment and sub contracting**

22.1 The GLA will be entitled to assign, transfer or novate its rights and obligations under this Agreement.

22.2 The Borough will not be entitled to assign, transfer or novate its rights and obligations under this Agreement.

## 23 **Value Added Tax**

23.1 The parties understand and agree that the Agreed Intervention Funding by GLA under this Agreement is not consideration for any supply for Value Added Tax (VAT) purposes whether by the Borough or otherwise.

23.2 If, notwithstanding the agreement and understanding of the parties as set out in clause 23.1 above, it is determined that the Agreed Intervention Funding is consideration for a supply for VAT purposes, the Agreed Intervention Funding shall be treated as inclusive of any VAT.

23.3 All sums or other consideration payable to or provided by the Borough to GLA at any time will be deemed to be exclusive of all VAT payable and where any such sums become payable or due or other consideration is provided, the Borough will pay to GLA all the VAT payable upon the receipt of a valid VAT invoice.

## 24 **NOT USED**

## 25 **No fettering of discretion/statutory powers**

Nothing contained in or carried out pursuant to any Zone Document and no consents given by GLA or the Borough will unlawfully prejudice GLA's or the Borough's (as appropriate) rights, powers or duties and/or obligations in the exercise of its functions or under any statutes, byelaws, instruments, orders or regulations.

## 26 **Fees and Expenses**

### 26.1 **Costs**

Each party shall pay its own costs in connection with the negotiation, preparation, and execution of this Agreement, and all documents ancillary to it.

### 26.2 **Variations and Enforcement Costs**

The Borough shall, forthwith on demand, pay to GLA the amount of all costs and expenses (including legal fees and irrecoverable VAT relating thereto) incurred by it:

- 26.2.1 in connection with the variation or amendment (where such variation or amendment is proposed by the Borough) of, or the enforcement or preservation of any rights under, any Zone Document;
- 26.2.2 in investigating any Event of Default which has or is believed to have occurred; or
- 26.2.3 in complying with its obligations under clause 7.5.3 or clause 7.5.4 **Error! Reference source not found..**

## 27 **State Aid**

- 27.1 The parties acknowledge that Agreed Intervention Funding will only be provided where such payment is compliant with State Aid requirements.
- 27.2 If the Agreed Intervention Funding is found to constitute Unlawful State Aid (or is under investigation or subject to judicial proceedings in relation to State Aid compliance) then:
  - 27.2.1 the parties acting in good faith will seek to restructure the arrangements surrounding the Agreed Intervention and the terms of this Agreement to the extent necessary to ensure State Aid compliance; and/or
  - 27.2.2 the parties shall promptly cooperate in good faith to provide evidence that the Agreed Intervention (or the restructured Agreed Intervention) is or will be State Aid compliant.
- 27.3 If the Agreed Intervention is found to constitute Unlawful State Aid and/or is not capable of being restructured so as to be compliant then the Borough must repay any sum of Unlawful State Aid plus such interest as is prescribed by State Aid law within 15 Business Days of the GLA issuing it with a written demand for payment.
- 27.4 The Borough, in its procurement of an economic undertaking to develop and/or regenerate the Cambridge Road area, shall explain the Agreed Intervention to the extent that interested economic operators understand that public funding is being applied to assist with the purchase of leasehold interests, decanting of the relevant occupiers and to assist with the design and masterplanning.

## 28 **Co-operation**

- 28.1 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 Agreed Intervention and the Borough Zone Outputs and in particular will (subject to clause 28.2 ):
  - 28.1.1 use all reasonable endeavours to avoid unnecessary disputes and claims against the other party;
  - 28.1.2 not interfere with the rights of any other party (nor its employees, agents, representatives, Contractors or subcontractors) in performing its obligations under this Agreement nor in any other way hinder or prevent any other party (nor its employees, members, agents, representatives, contractors or subcontractors) from performing those obligations provided that this provision



shall not prevent any party from exercising its express rights under this Agreement.

28.2 Nothing in clause 28.1 shall:

28.2.1 interfere with the right of each of the parties to arrange its affairs in whatever manner it considers fit in order to perform its obligations under this Agreement and in connection with the Agreed Intervention or the Borough Zone Outputs in the manner in which it considers to be the most effective and efficient; or

28.2.2 relieve a party from any obligation contained in this Agreement.

28.3 The Borough shall co-operate fully and in a timely manner with any reasonable request from time to time:

28.3.1 of any auditor (whether internal or external) of GLA to provide documents, or to procure the provision of documents, relating to the Agreed Intervention or the Borough Zone Outputs, and to provide, or to procure the provision of, any oral or written explanation relating to the same; and/or

28.3.2 of GLA where GLA is required under any Legislation to provide any document relating to the Agreed Intervention or the Borough Zone Outputs to any person.

## 29 Notices

29.1 Any notice to be given hereunder shall be in writing addressed to GLA Senior Officer and shall be sufficiently served if delivered by hand and receipted for by the recipient or sent by the Recorded Delivery Service addressed in the case of any party to the other party's registered office as set out at the beginning of this Agreement or to such other addresses a party may from time to time notify to the other in writing provided that such other address is within England and Wales.

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

29.2.1 if delivered by hand, when delivered to the recipient; or

29.2.2 if delivered by the 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 pm it is to be regarded as received at 9 am on the following Business Day.

## 30 Rights of third parties

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

## 31 Entire agreement

31.1 This Agreement and the conditions herein contained together with the Schedules constitute the entire agreement between the parties in relation to its subject matter and may only be varied or modified by written agreement of the Borough and GLA.

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 GLA of whatsoever nature on the faith of which the Borough is entering into this Agreement.

## 32 **Counterparts**

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.

## 33 **Severance**

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.

## 34 **Cumulative rights and enforcement**

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

34.2 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 a breach or potential 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.

## 35 **Waiver**

35.1 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.

35.2 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.

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

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

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

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

36      **Disclaimer**

GLA will not be liable to the other party for any advice given by a representative of GLA. In addition, GLA gives no assurance as to the suitability or viability of the Agreed Intervention or the Borough Zone Outputs and no endorsement of the same.

37      **Dispute Resolution**

37.1      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 37:

37.1.1      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 37;

37.1.2      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;

37.1.3      where either no representatives of both parties are available to meet within the period set out in Condition 37.1.2 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**);

37.1.4      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;

37.1.5      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 37.2.

37.2      In the circumstances contemplated in Condition 37.1.5, 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:

37.2.1      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;

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

37.2.3      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.

37.3 The GLA reserves the right to invite the Borough to attend any meeting held pursuant to Condition 37.1. The parties agree that the Borough shall be entitled to express an opinion at such meeting, but any opinion so expressed shall not be binding upon either of the GLA or the Borough.

#### 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 clause 37 the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

#### 39 **Amendment**

39.1 For the purposes of clause 31.1, the Schedules and Annexures to this Agreement may be amended by means of appending the agreed revised Schedule or Annexure to a memorandum (**Memorandum**) signed by both parties and dated. The parties agree that from the date of the Memorandum, the document appended to it shall be deemed to be the new Schedule or Annexure (as applicable) for the purposes of this Agreement.

39.2 A variation pursuant to clauses 31.1 must be endorsed through a notation on each party's respective parts of this Agreement.

#### 40 **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.

#### 41 **Survival of this agreement**

41.1 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.

41.2 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.

#### 42 **Miscellaneous**

42.1 Any approval by GLA or any person on behalf of GLA pursuant to this Agreement of any matter submitted by the Borough for approval will not be deemed to be an acceptance by GLA of the correctness or suitability of the contents of the subject of the approval or consent.

- 42.2 The parties will and will ensure that their respective officers and employees will act at all times in a way which is compatible with the Convention Rights within the meaning of the Human Rights Act 1998.
- 42.3 A certificate by GLA as to any sum payable hereunder by the Borough will be conclusive save in the case of manifest error.

In witness of which this Agreement has been duly executed as a deed and is delivered and takes effect on the date written at the beginning of this Agreement.

## Schedule 1

### Agreed Intervention Details

**Agreed Intervention Name:** Cambridge Road Estate Regeneration – leaseholder buybacks and decanting

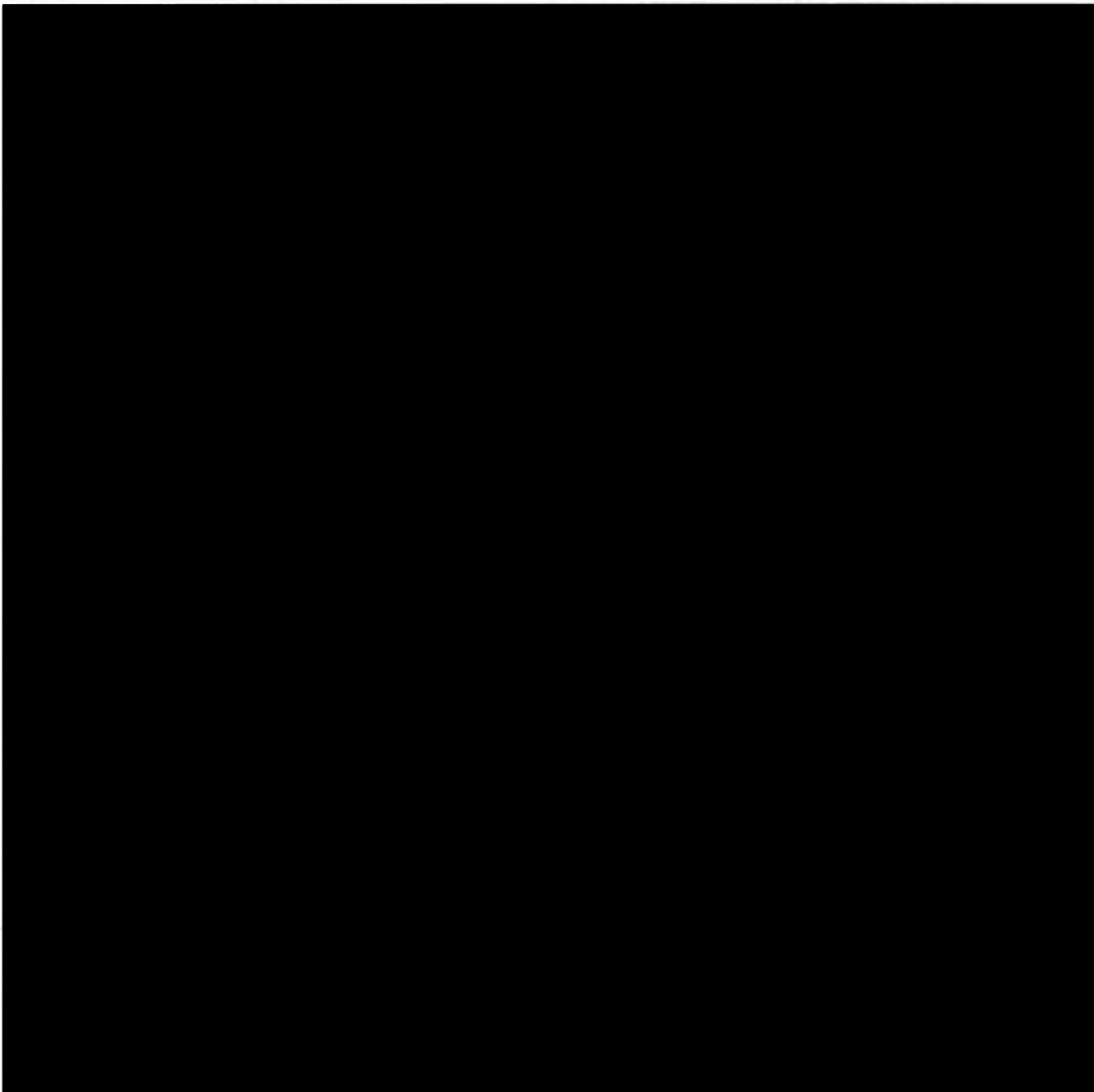
**Agreed Intervention Information:**

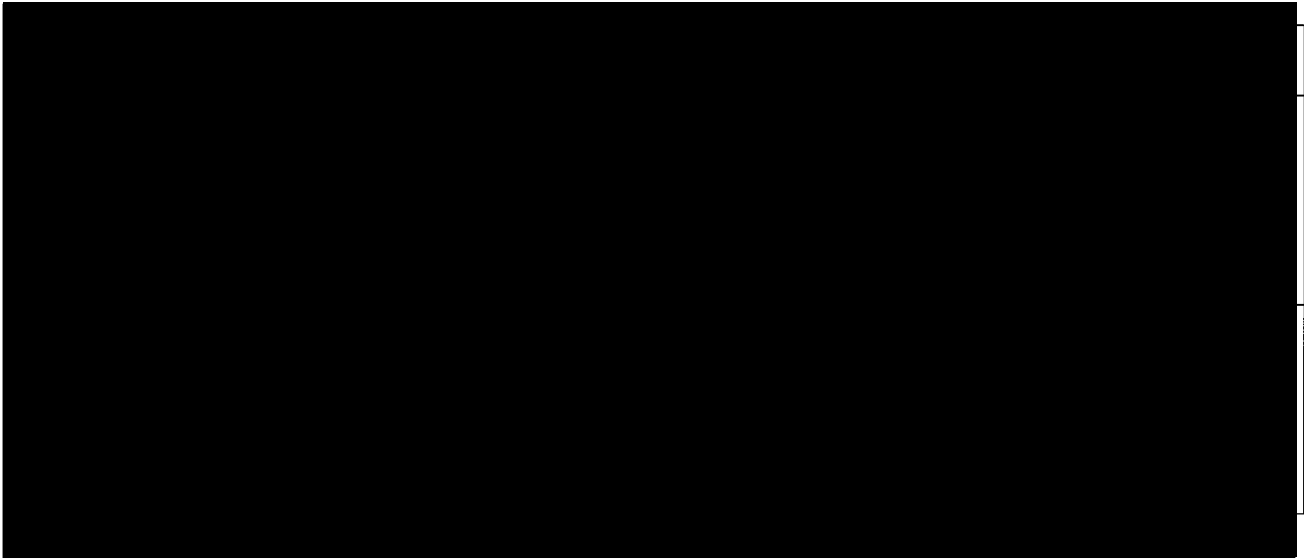
The acquisition by the Borough and obtaining vacant possession (by means of private treaty, by means of Compulsory Purchase Order or decanting of existing residents) of the Borough Direct Zone Output Sites.

**Agreed Intervention Sum:** £26,625,000

**Maximum Agreed Intervention Amount:** £26,625,000

**Agreed Intervention Milestones and associated Milestone Dates**





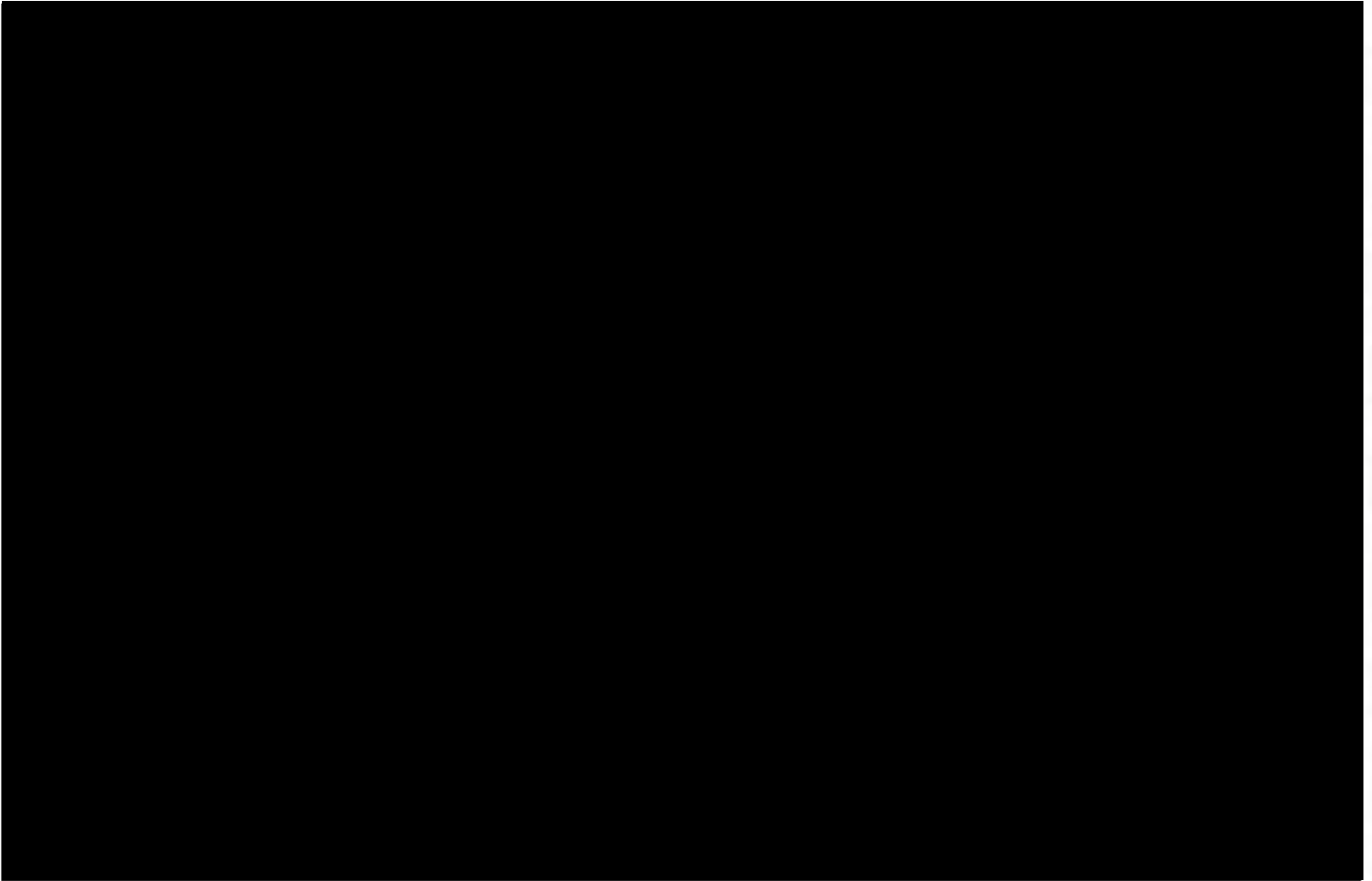
**Additional conditions (if any)**

None

**Schedule 2**

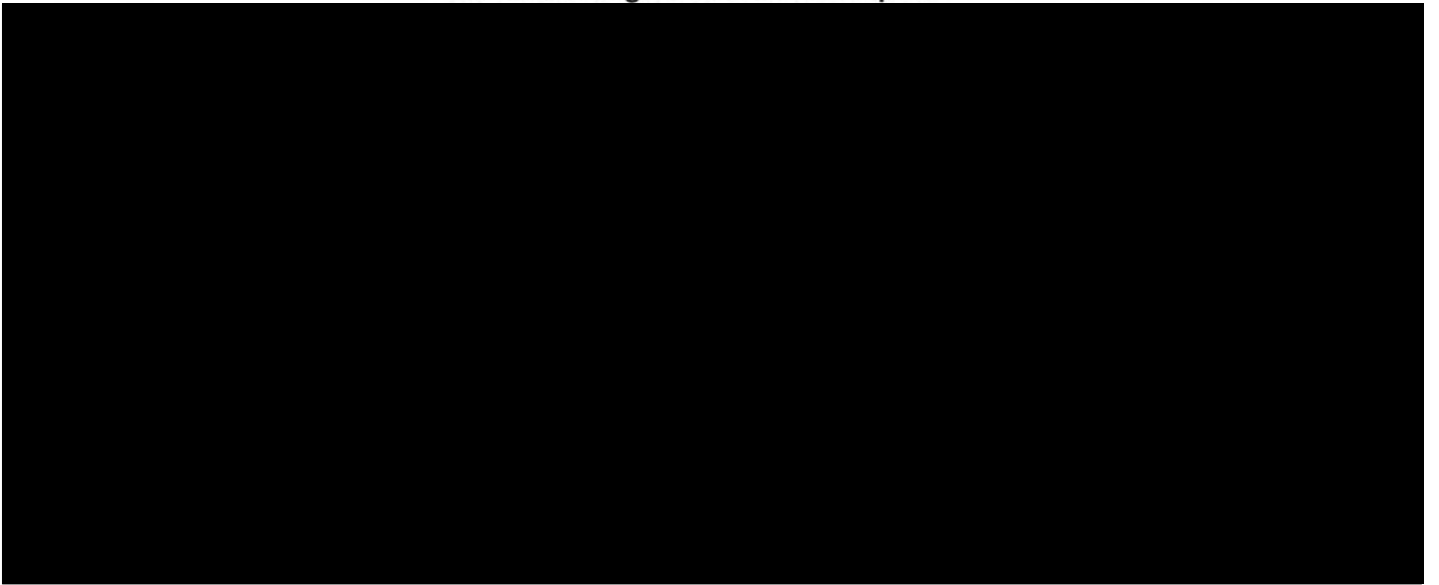
**Borough Information**

**Part 1: Borough Contribution**

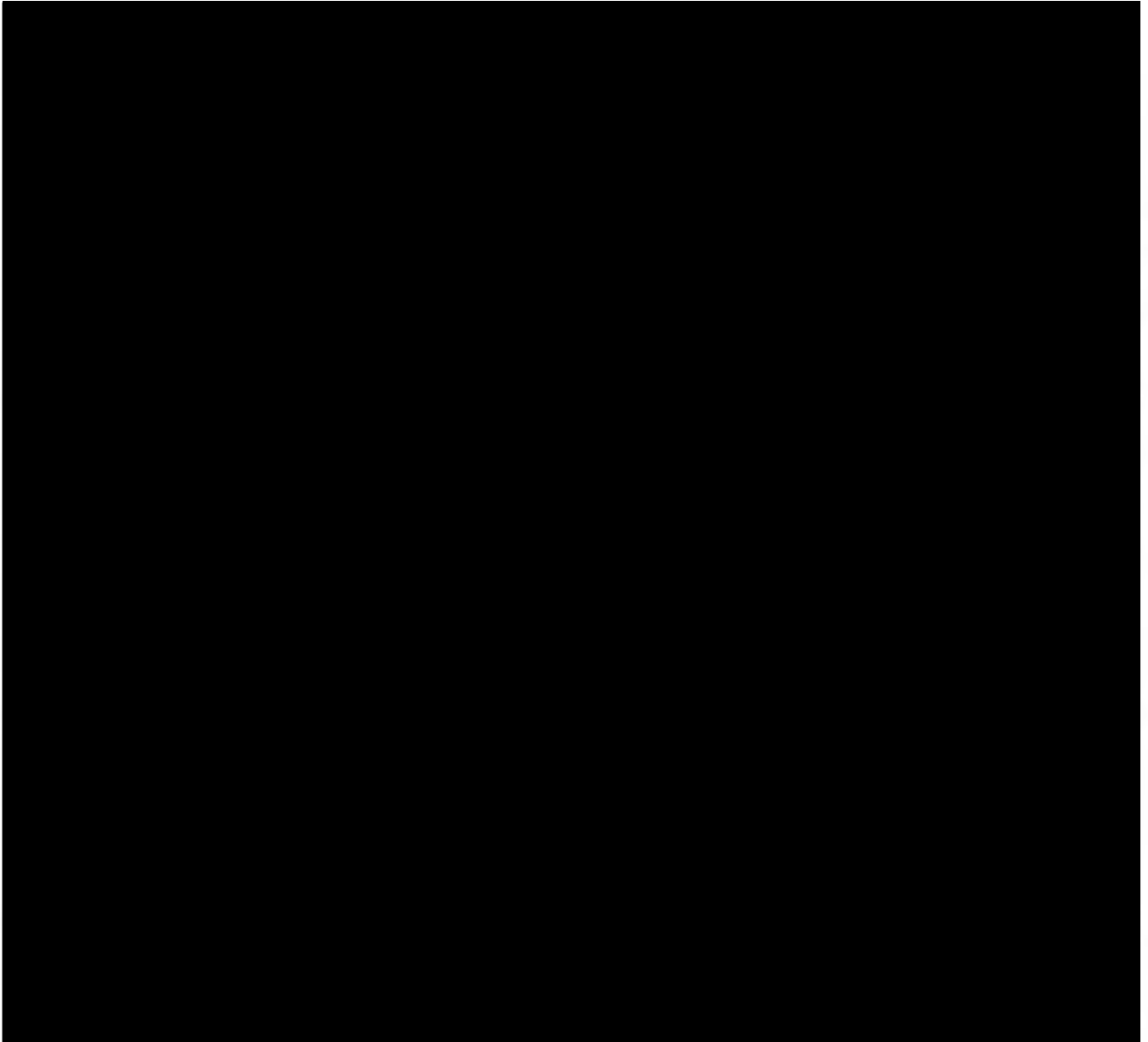




**Part 2: Borough Direct Zone Outputs**



**Part 3: Borough Indirect Zone Outputs**



**Schedule 3**

**Claim Form**

To: GLA

From: Royal Borough of Kingston

Date: [ ]

Borough Intervention Agreement dated [ ] 2017 (the **Agreement**)

1 We refer to the Agreement. This is a Claim Form. Terms defined in the Agreement have the same meaning in this Claim Form.

2 We wish to drawdown an instalment of Agreed Intervention Funding as follows:

2.1 Amount: [ ];

2.2 Date of drawdown: [ ].

3 Payment Instructions

3.1.1 Bank name: [ ];

3.1.2 Bank branch/address: [ ];

3.1.3 Bank sort code: [ ];

3.1.4 Bank account number: [ ]; and

3.1.5 Bank account name: [ ].

4 We confirm that each condition specified in clause 4 of the Agreement required to be satisfied on the date of this Claim Form is so satisfied and we know of no reason why any condition specified in clause 4 to be satisfied on or before the date of drawdown will not be so satisfied.

5 We confirm compliance with each representation and warranty specified in the Agreement.

6 We confirm that the Agreed Intervention Funding to be provided pursuant to this Claim Form will be used to meet Agreed Intervention Expenditure and such costs have been certified by the Section 151 Officer (evidence attached).

By: .....

Borough Senior Officer  
for and on behalf of [ ]

**Schedule 4**

**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 [ ] Housing Zone – Borough Intervention Agreement and related matters**

I refer to the proposed Borough Intervention Agreement to be entered into between [ ] (the **Borough**) and the GLA (the **Agreement**) for the purposes of, inter alia, providing or facilitating the delivery of affordable housing and related outcomes which is dated on or about the date hereof. In connection with the giving of this opinion, I have examined:

- 1 the Agreement in its final form prior to execution and delivery thereof by the Borough;
- 2 the Borough's [Standing Orders] for approving entry into and the execution and delivery of deeds by the Borough and for the delegation of its authority and the powers of the Borough's Executive; and
- 3 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 Borough 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 (including but without limitation the provision of the

Borough Contribution as that term is defined in 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 Borough of its obligations under the Agreement will violate any provisions of any existing application law, rule, regulation or agreement binding on the Borough, and the Agreement will constitute when executed and delivered a valid and legally binding obligation on the Borough 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 Borough.

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 Borough 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

Borough Solicitor

## Schedule 5

### Representations and Warranties

#### 1 Powers, vires and consents

1.1 It:

1.1.1 has the power to enter into and to exercise its rights and perform its obligations under the Zone Documents and the Intervention Related Documents (to which it is a party); and

1.1.2 has taken all necessary action to authorise the execution by it of and the performance by it of its obligations under the Zone Documents and Intervention Related Documents (to which it is a party) (or, in the case of any other Zone Document or Intervention Related Document to be executed by it after the date hereof, such action will be taken before such execution).

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 the Zone Documents and Intervention Related Documents (to which it is a party) constitute its legal, valid and binding obligations, enforceable in accordance with their terms.

1.4 The execution, delivery and performance by it of the Zone Documents and the Intervention Related Documents (to which it is a party) do not:

1.4.1 insofar as it is aware contravene any applicable law or directive or any judgment, order or decree of any court having jurisdiction over it;

1.4.2 conflict with, or result in any breach of any of the terms of, or constitute a default under, any agreement or other instrument to which it is a party or any licence or other authorisation to which it is subject or by which it or any of its property is bound; or

1.4.3 contravene or conflict with its constitutional documents or arrangements.

1.5 All consents or steps, required by it in connection with the execution, delivery, issue, validity or enforceability of the Zone Documents and Intervention Related Documents (to which it is a party) have been obtained or taken and have not been withdrawn or omitted.

1.6 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.

1.7 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.

1.8 It has not committed any Prohibited Act.

1.9 It has not, and its Associated Persons have not, engaged in and will not engage (directly or indirectly) at any time, in any activity, practice or conduct that would constitute an offence under the Bribery Act 2010.

## 2 Deliverability

2.1.1 Following this acquisition by the Borough no third party will have any Security over or interest in any of the Borough Direct Zone Output Sites or any part of them or any other assets of the Borough which would prejudice the delivery of the Borough Direct Zone Outputs.

2.1.2 All Consents have been obtained and have not been withdrawn.

2.1.3 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.

2.1.4 The Borough has or will have sufficient funding and other resources available to it to ensure the implementation and performance of the Acquisition Plan and to secure the completion of the Agreed Intervention in accordance with the terms of this Agreement.

2.1.5 It will procure that all steps have been and will be undertaken:

(a) in a way to ensure that the Agreed Intervention meets the Required Standards and permits the delivery of the Borough Zone Outputs; and

(b) in accordance with the terms of the Bid and the wider Housing Zone.

2.1.6 Following this acquisition by the Borough each of the Borough Direct Zone Output Sites will be free from any conditions, restrictions or covenants which do or might affect the delivery of the Borough Direct Zone Outputs.

2.1.7 It shall take all reasonable steps to satisfy GLA that its employees and any Contractors, Professionals or consultants employed in connection with the Agreed Intervention are suitable and competent in all respects to allow the proper performance of all necessary work or tasks to secure the delivery of the Agreed Intervention in accordance with the terms of this Agreement.

2.1.8 Not used.

2.1.9 Save as disclosed in the Certificate of Title, the Borough has or will following this acquisition by the Borough have:

(a) good title to each of the Borough Direct Zone Output Sites and all other assets (including, but not limited to, Intellectual Property Rights), free from Encumbrances other than a Permitted Encumbrance or freedom to use those assets for that purpose under all applicable laws; and

(b) access to and freedom to use under all applicable laws:

i the Borough Direct Zone Output Sites;

ii any buildings or fixtures on such sites;

- iii any easement, wayleaves or other rights necessary for access to and use of such sites.

2.1.10 The Borough is in compliance with all applicable Environmental Laws.

- (a) The Borough is or will be (following its acquisition of the Borough Direct Zone Output Sites) in compliance with the terms of all Environmental Consents necessary for the ownership and operation of such sites, facilities and businesses as presently owned and operated and as presently proposed to be owned and operated.
- (b) Save as disclosed in the Certificate of Title, there is no Environmental Claim which is current, pending or threatened against it and there are no past or present acts, omissions, events or circumstances that could form the basis of any Environmental Claim against it.
- (c) Save as disclosed in the Certificate of Title, there are no circumstances that may prevent or interfere with it obtaining or being in compliance with any Environmental Consent in the future and no action is pending or threatened by any authority against it which would result in any Environmental Consent being revoked, suspended or varied.
- (d) To the best of its knowledge and belief (having made all reasonable and proper enquiries) and save as disclosed in the Certificate of Title, no Dangerous Substance has been used, disposed of, generated, stored, transported, dumped, released, deposited, buried or emitted at, on, from or under any premises owned, leased, occupied, controlled or used by the Borough in circumstances where this results or could be expected to result in a liability on the Borough

### 3 **Operational issues**

- 3.1.1 No Event of Default has occurred and is continuing or would result from the making of any payment of Agreed Intervention Funding.
- 3.1.2 No other event or circumstance is continuing which constitutes (or with the giving of notice, the lapse of time, the determination of materiality or the fulfilment of any other applicable condition or any combination of the foregoing), would or could be expected to constitute a default by it under any other document or arrangement which is binding on it or on any of its assets in any case to an extent or in a manner which has or could be expected to have a Material Adverse Effect.
- 3.1.3 Other than the registration of the Zone Documents at the Financial Conduct Authority, the Land Registry along with any payment of Stamp Duty Land Tax payable on any Zone Document (as appropriate), it is not necessary that any Zone Document to which it is a party, or to which the Borough is a party, be filed, recorded or enrolled with any court or other authority in England.
- 3.1.4 Save in respect of the period being from the date of this Agreement to the date of submission of a second Claim for Agreed Intervention Funding, the Borough has appointed a CDM Co-ordinator (as described in the CDM Regulations) and



has provided GLA with a copy of the CDM Co-ordinator's notification to the Health and Safety Executive of the Particulars specified in Schedule 1 of the CDM Regulations.

#### **4 Information**

- 4.1.1 All information supplied by or on behalf of it to GLA or its agents or employees in connection with the Borough's initial application for Zone Funding or in the course of the subsequent negotiations 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.
- 4.1.2 It has informed GLA of any material change that has occurred since the date of submission 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.
- 4.1.3 It is not aware of any material fact or circumstance that has not been disclosed to GLA and which might, if disclosed materially, adversely affect the decision of anyone considering whether or not to contract with it.
- 4.1.4 The Bid and the Agreed Intervention Budget supplied under this Agreement were arrived at after careful consideration and have been prepared in good faith on the basis of recent historical information and on the basis of assumptions which were reasonable as at the date they were prepared and supplied.
- 4.1.5 All data or other information submitted to the GLA to date under this Agreement is accurate.
- 4.1.6 So far as the Borough is aware (having made all reasonable enquiries) the Agreed Intervention and the Borough Zone Outputs (including, inter alia, all Milestone Dates) remain capable of being delivered in accordance with the Agreed Intervention Details without the need for change.
- 4.1.7 It is not aware of any material fact or circumstance that would adversely affect the availability and deliverability of the Borough Contribution (in whole or in part).

#### **5 Reports and Directions**

- 5.1 No Report or Direction has been made nor is the Borough aware of any circumstances that would give rise to the making of a Report or a Direction in relation to the Borough's obligations under the Zone Documents and Intervention Related Documents (to which it is a party) constitute its legal, valid and binding obligations, enforceable in accordance with its terms.

#### **6 Social Housing Assistance**

No Social Housing Assistance, RCGF monies nor any other forms of GLA funding are, have been or will be applied towards the development costs of the Outturn Dwellings save in respect of the Affordable Housing Grant Agreement to be entered into between GLA and the Borough in respect of the Borough Direct Zone Output Site.

**Schedule 6**

**Not used**

## Schedule 7

### Special Conditions

- 1 The Borough shall provide a Certificate of Title in a form acceptable to GLA in respect of the title of each of the Borough Direct Zone Output Sites and the Borough's proposed interest in each of them (being either the freehold estate or a lease for a term of 99 years or more on terms acceptable to GLA) issued to GLA by the Borough's Solicitors certifying among other things that each of the Borough Direct Zone Output Sites is free from any conditions, restrictions, covenants or third party interests which do or might affect the right of the Borough or any successor in title to deliver the Borough Direct Zone Outputs and the Borough and any successor in title has sufficient rights appurtenant to its estate or interest in each such site to enable the Borough Direct Zone Outputs (as applicable) to be fully delivered and fully serviced without the need to acquire further land or obtain any rights from any other party. The relevant Certificate shall be provided within five Business Days of completion of the Boroughs acquisition of the relevant Borough Direct Zone Output Site.
- 2 The Borough must impose such conditions are necessary in the transfers and/or leases to the Outturn Dwellings Developer to ensure that:
  - 2.1 the Borough Direct Zone Output Sites are used for the delivery of the Outturn Dwellings;
  - 2.2 the Landlord of any Outturn Dwelling which is an Affordable Rent Dwelling is a Registered Provider; and
- 3 The Borough must procure that the Outturn Dwellings Developer:
  - 3.1 ensures that the Outturn Dwellings are constructed in accordance with the Design and Quality Standards;
  - 3.2 delivers the Borough Direct Zone Outputs in accordance with the timescales agreed under this Agreement;
  - 3.3 transfers the Outturn Dwellings that are Affordable Rent Dwellings only to a purchaser that is a Registered Provider;
  - 3.4 imposes such conditions as are necessary in the transfers and/or leases to the purchaser to ensure that:
    - 3.4.1 the Outturn Dwellings are used and continue to be used as Affordable Rent Dwellings and Shared Ownership Dwellings as applicable subject to, in the case of the Shared Ownership Dwellings, Staircasing which results in the occupier acquiring one hundred per cent (100%) of the equity in their Shared Ownership Dwelling;
    - 3.4.2 the Outturn Dwellings which are Affordable Rent Dwellings are not disposed of without the prior written consent of the GLA;
    - 3.4.3 the Shared Ownership Dwellings are not to be disposed of by the purchaser otherwise than by means of a Shared Ownership Lease or Staircasing from time to time permitted in relation to Shared Ownership Dwellings;

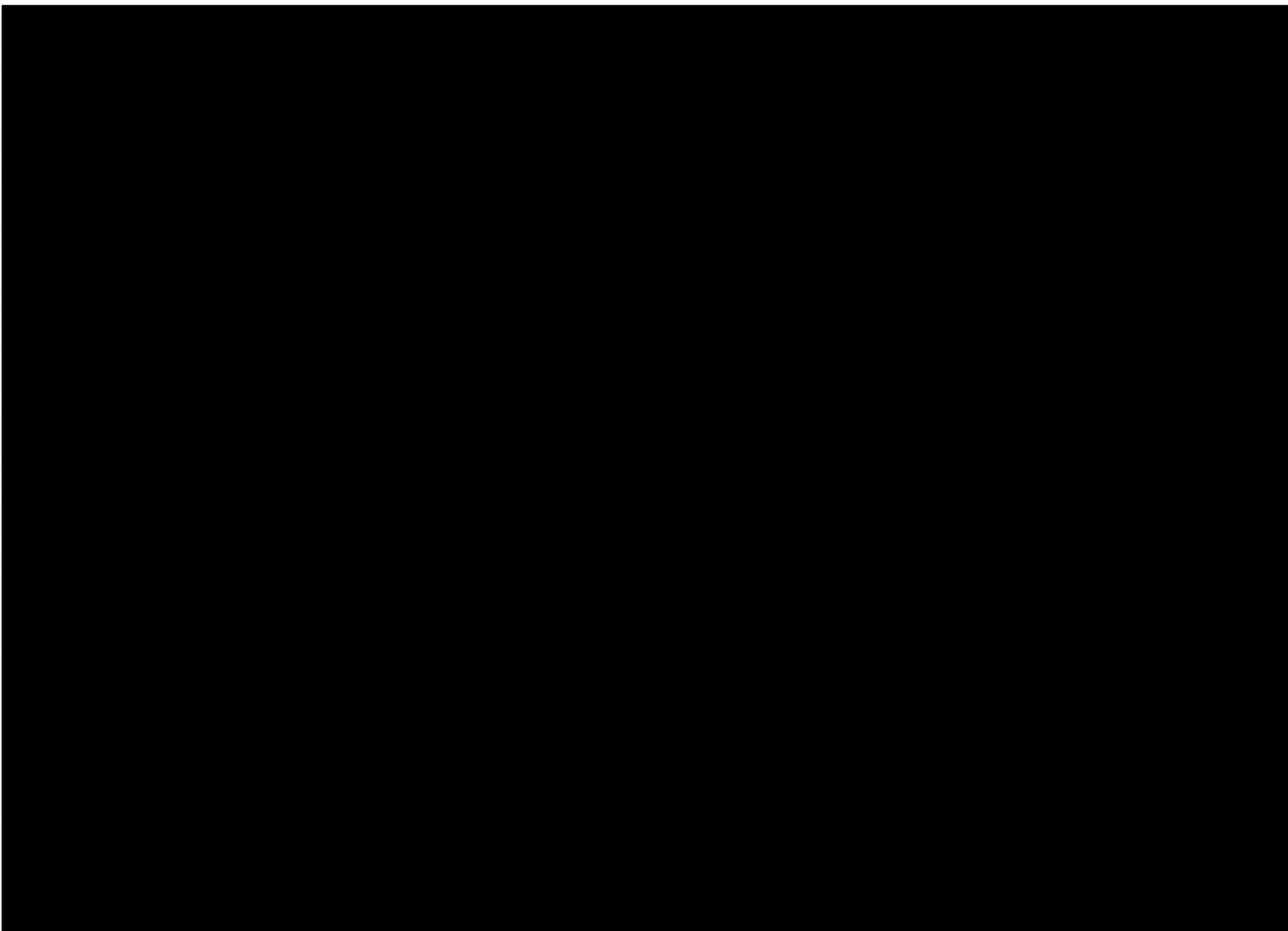
3.4.4 the purchaser's reversionary interest in a First Steps Dwelling which is subject to a Shared Ownership Lease is not disposed of without the prior written consent for the GLA;

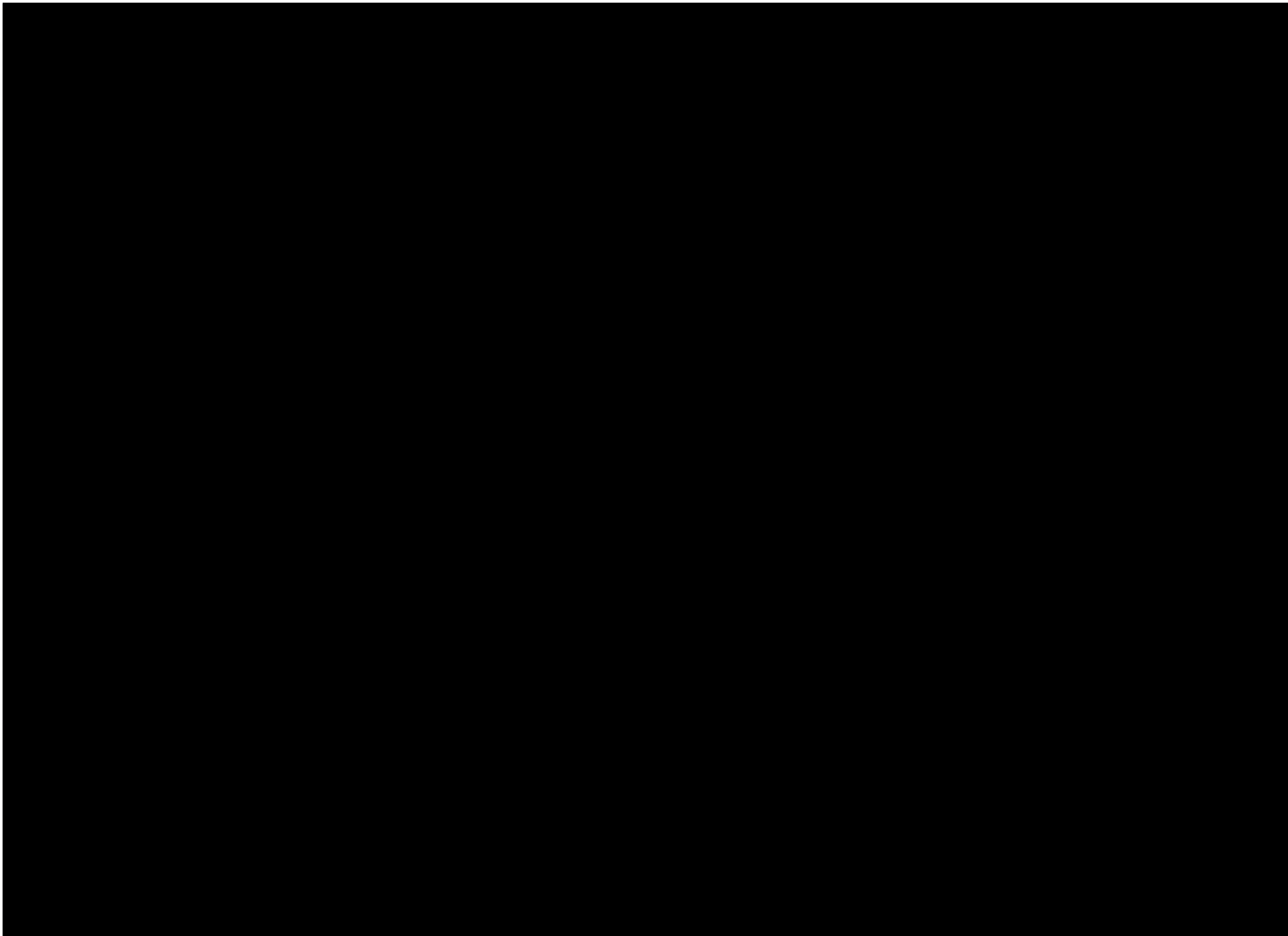
3.4.5 the Affordable Rent Dwellings are let at rents which do not exceed those set out in Schedule 2 subject to such increases as may be permitted by the Regulator from time to time.

4 Not used

## **Annexure 1**

### **Contract Monitoring Schedule and Buybacks Drawdown and Repayment Profile**











## Annexure 2 Interpretation of the Contract Monitoring Schedule

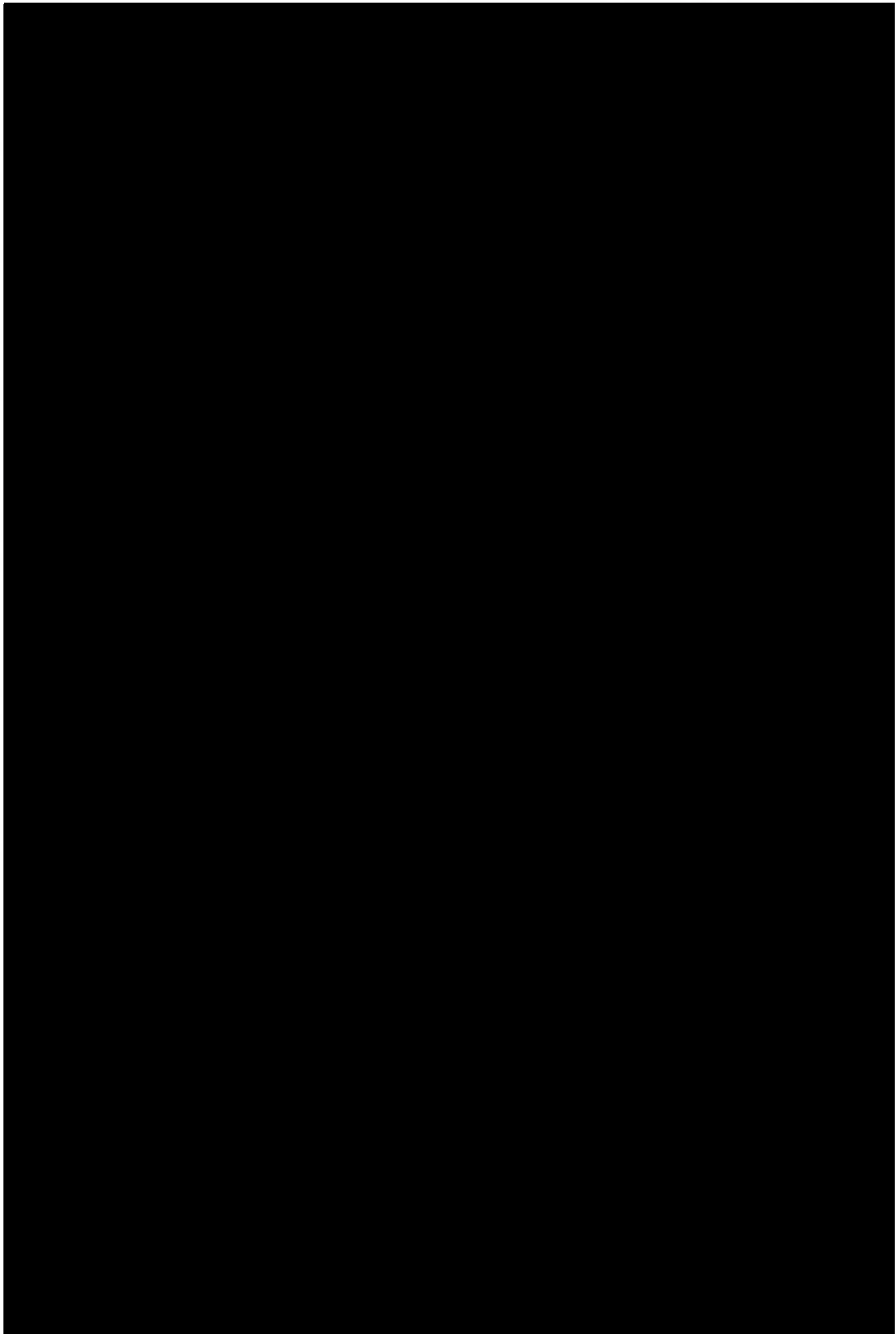
For the purposes of applying the obligations in the Contract Monitoring Schedule, the Parties will have regard to the following guidance:

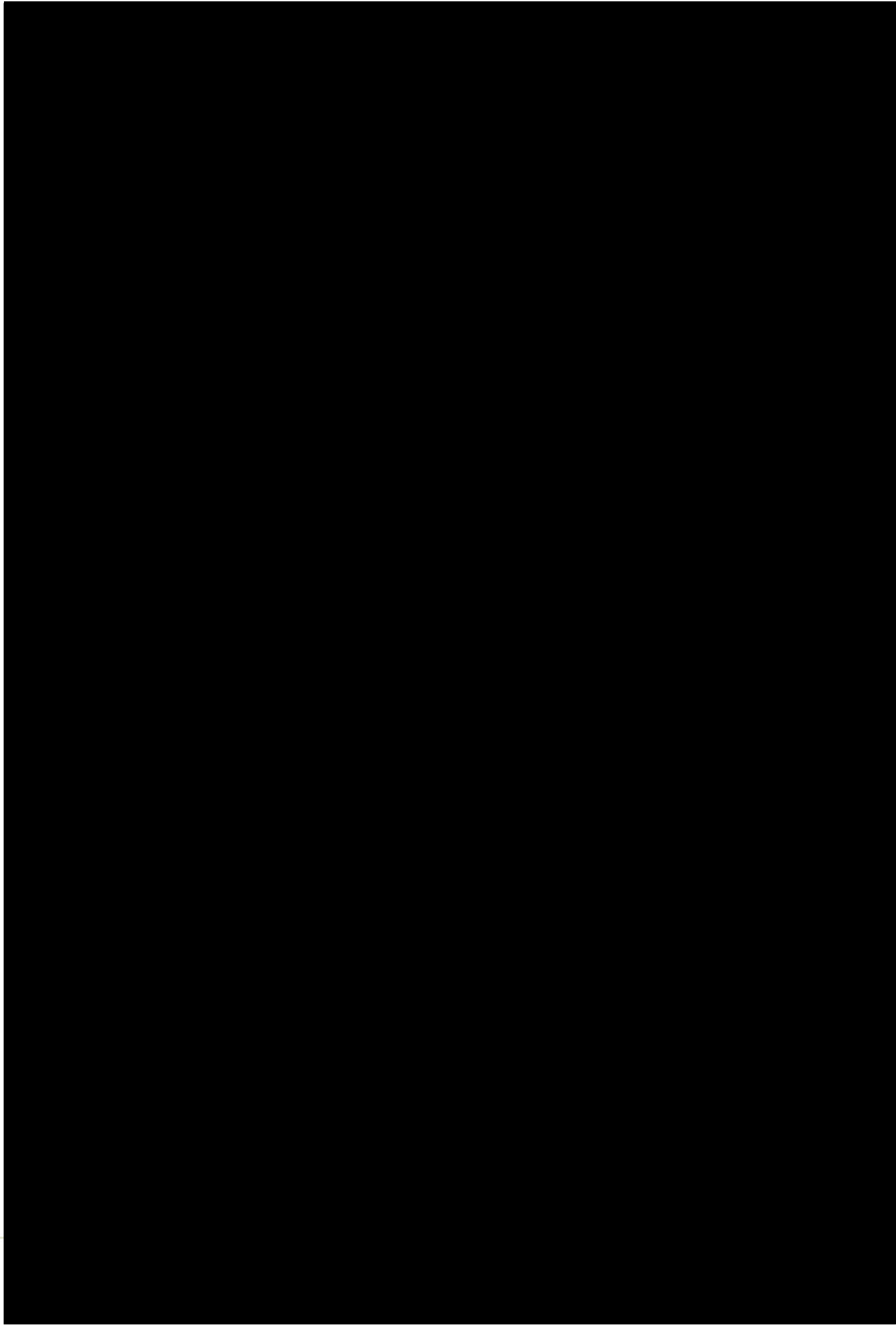
- **Section 1** of the Monitoring Schedule sets out the Financial Years in which the relevant Borough Direct Zone Output Sites will achieve Practical Completion.
- **Section 2** of the Monitoring Schedule sets out the Financial Years in which the relevant Borough Direct Zone Output Sites will reach Start on Site Date.
- **Section 4** of the Monitoring Schedule, together with the buybacks drawdown and repayment profile, sets out the Financial Years in which Agreed Intervention Funding is expected to be claimed by the Borough.
- **Section 5** of the Monitoring Schedule, together with the buybacks drawdown and repayment profile, sets out the Financial Years in which the Agreed Intervention Recoverable Amount is to be repaid by the Borough (and at the latest, such Agreed Intervention Recoverable Amount to be paid by the relevant Repayment Date or as otherwise agreed in accordance with clause 5.1)

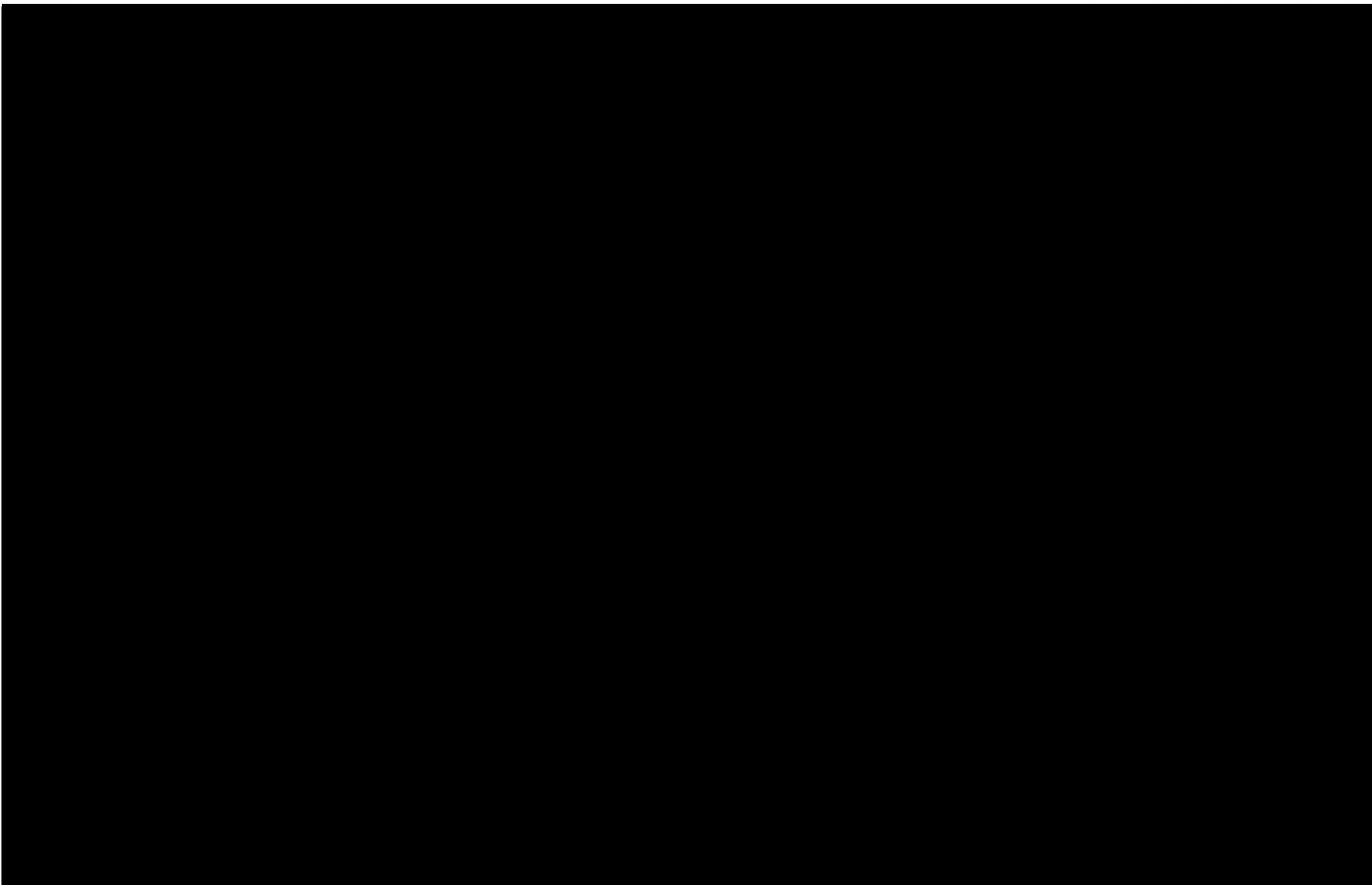
In this Schedule 7, the following terms have the following meaning:

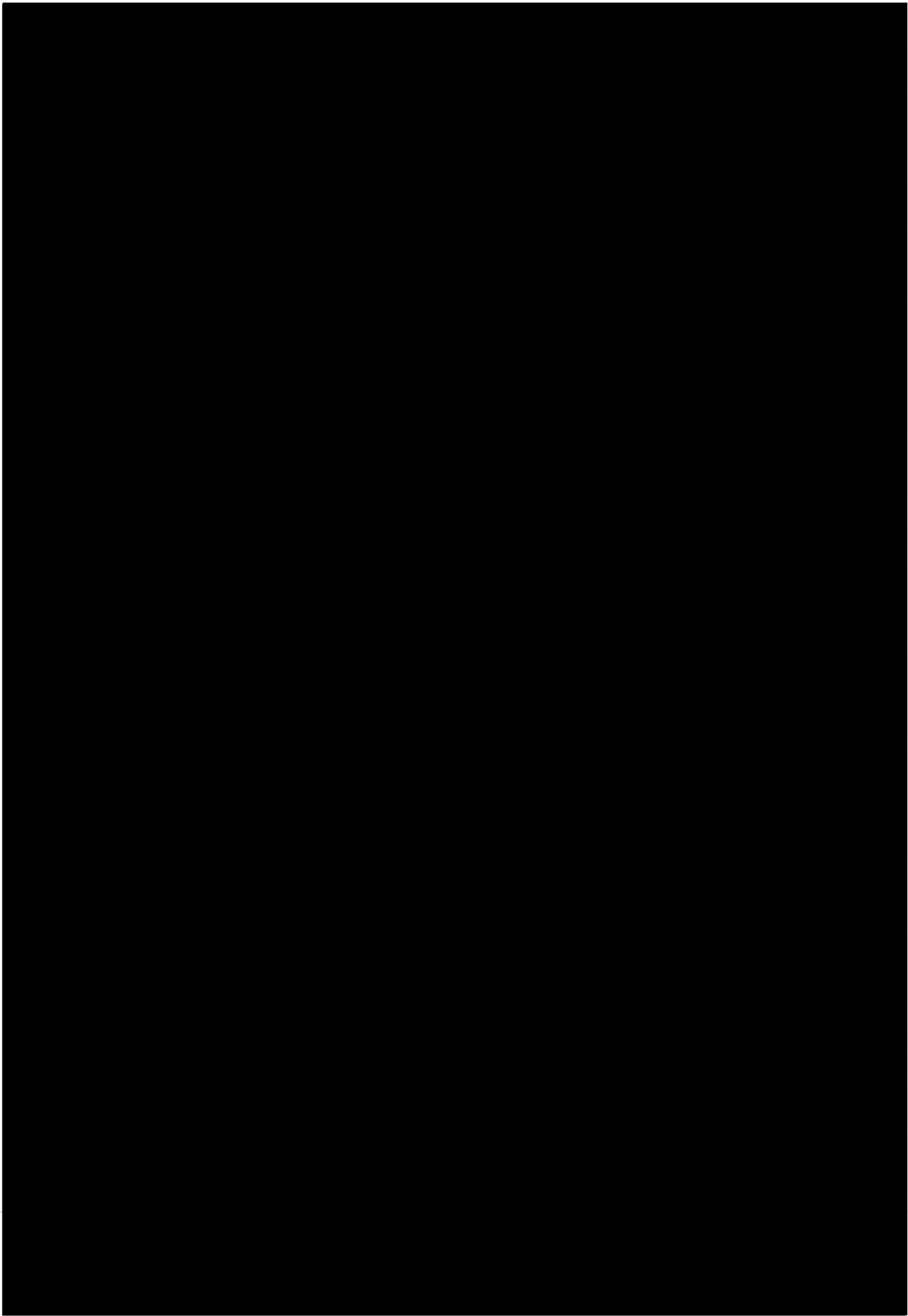
- **Direct output** or **direct housing** means the relevant Borough Zone Output Sites.
- **Starts on Site** or **SoS** means the date that the relevant Borough Zone Output Sites reaches the Start Date.
- **Market Rent** means rent set at a Market Value which has not been subsidised.
- **Affordable Rent** has the meaning set out in this Agreement.
- **Market Sale** means sale at a Market Value which has not been subsidised.
- **First Steps** means Affordable Home Ownership or Rent to Save products.

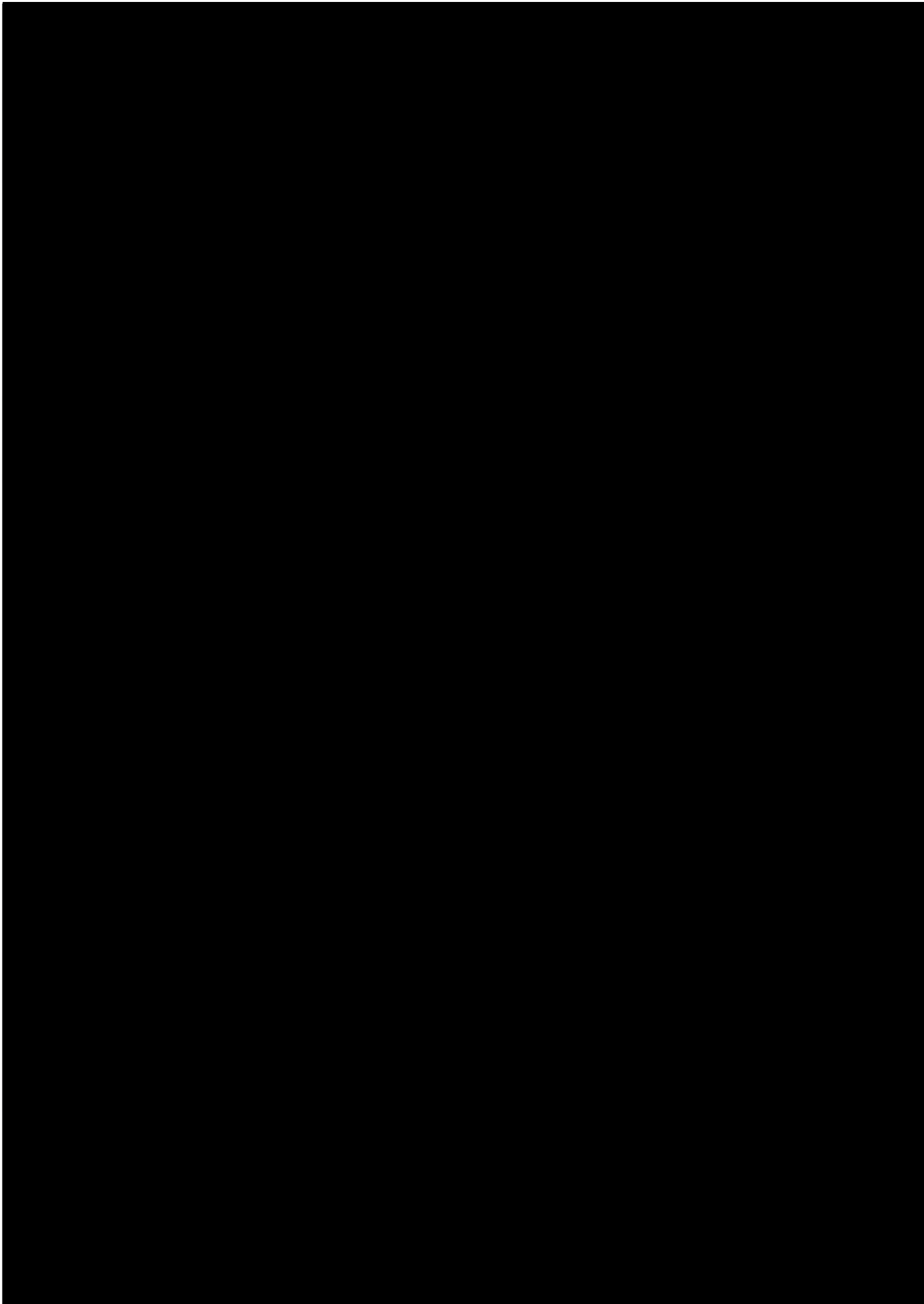
**Annexure 3**  
**Agreed Intervention Expenditure Plan, Acquisitions Plan and Leaseholder Buybacks**



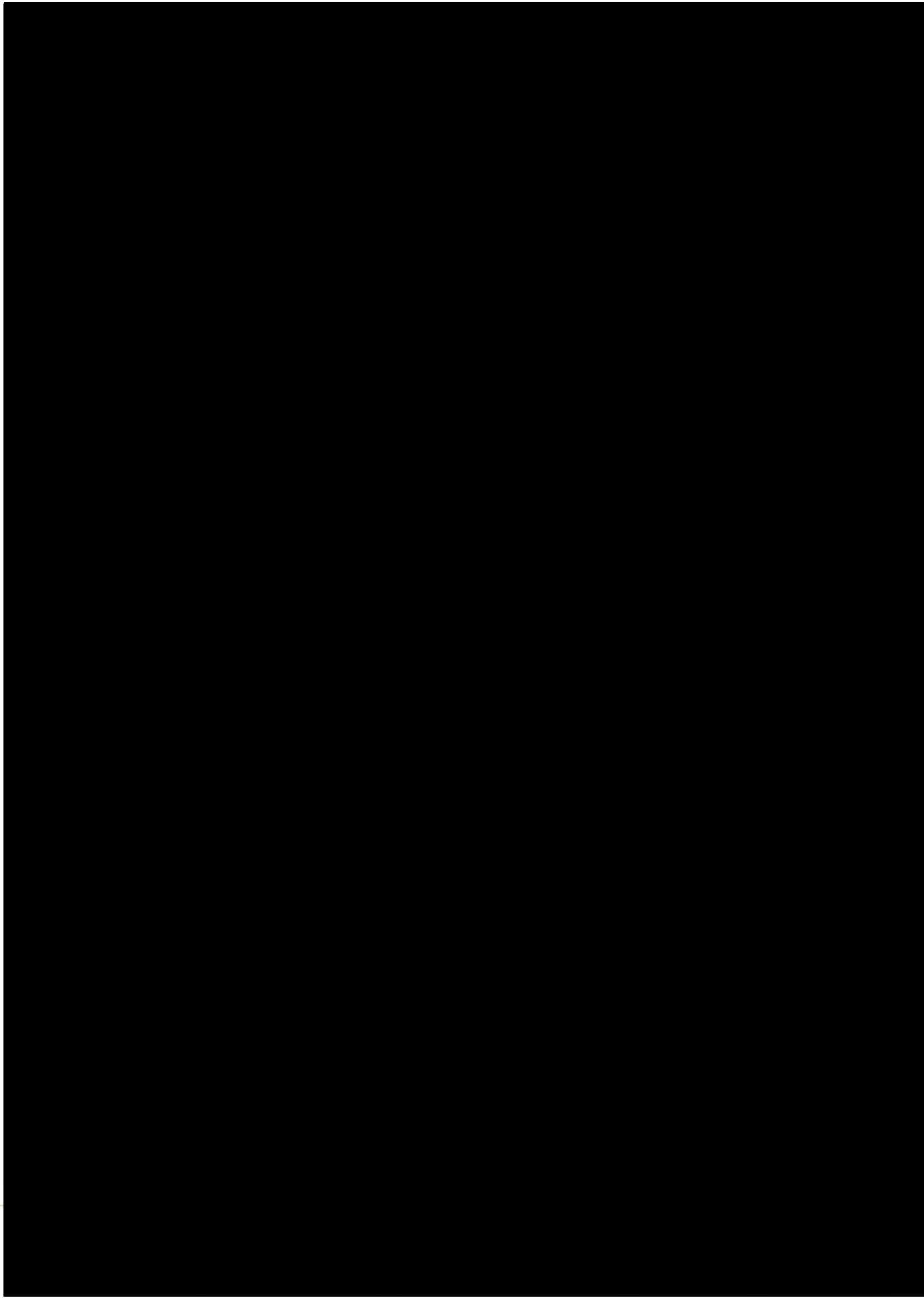


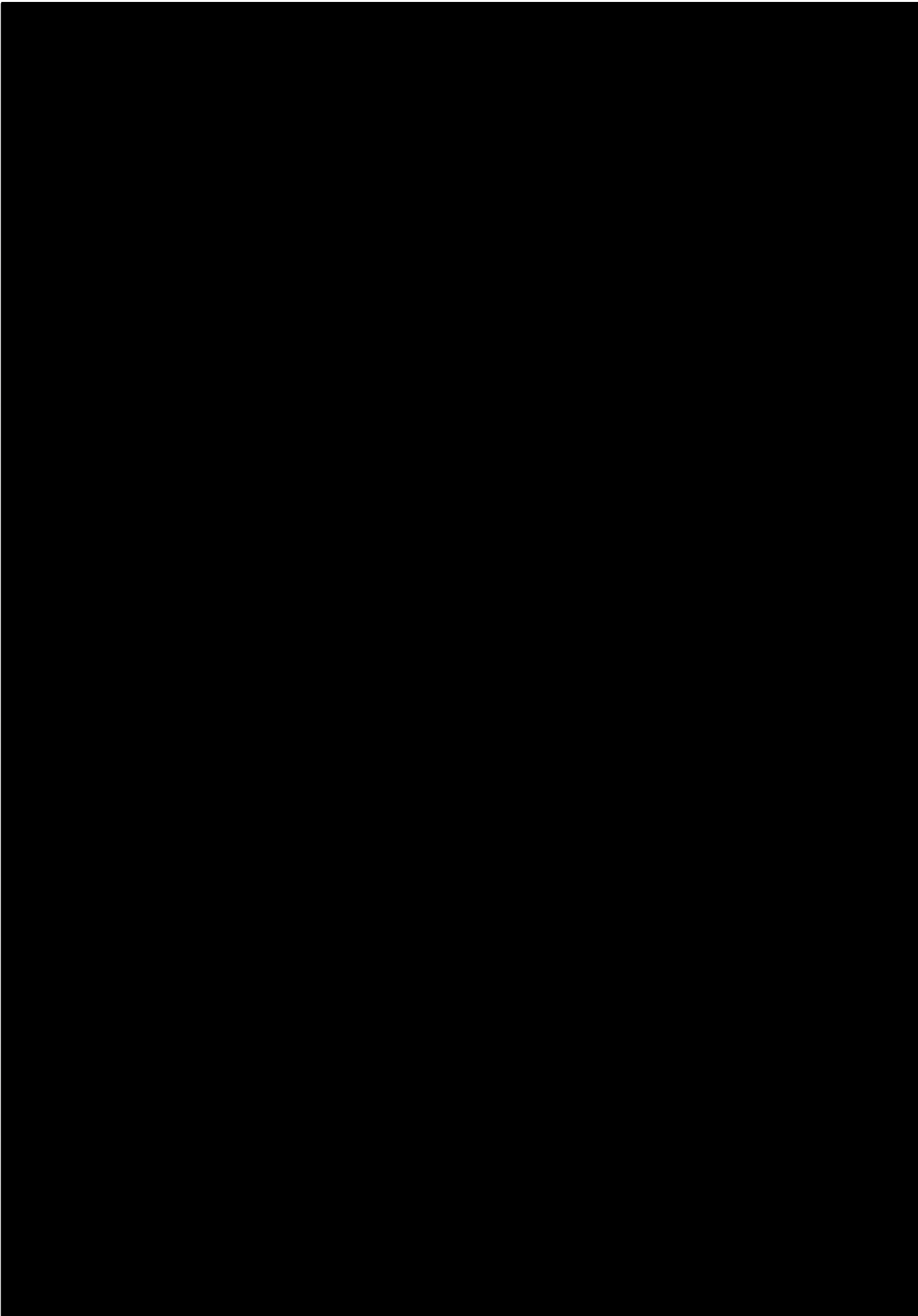


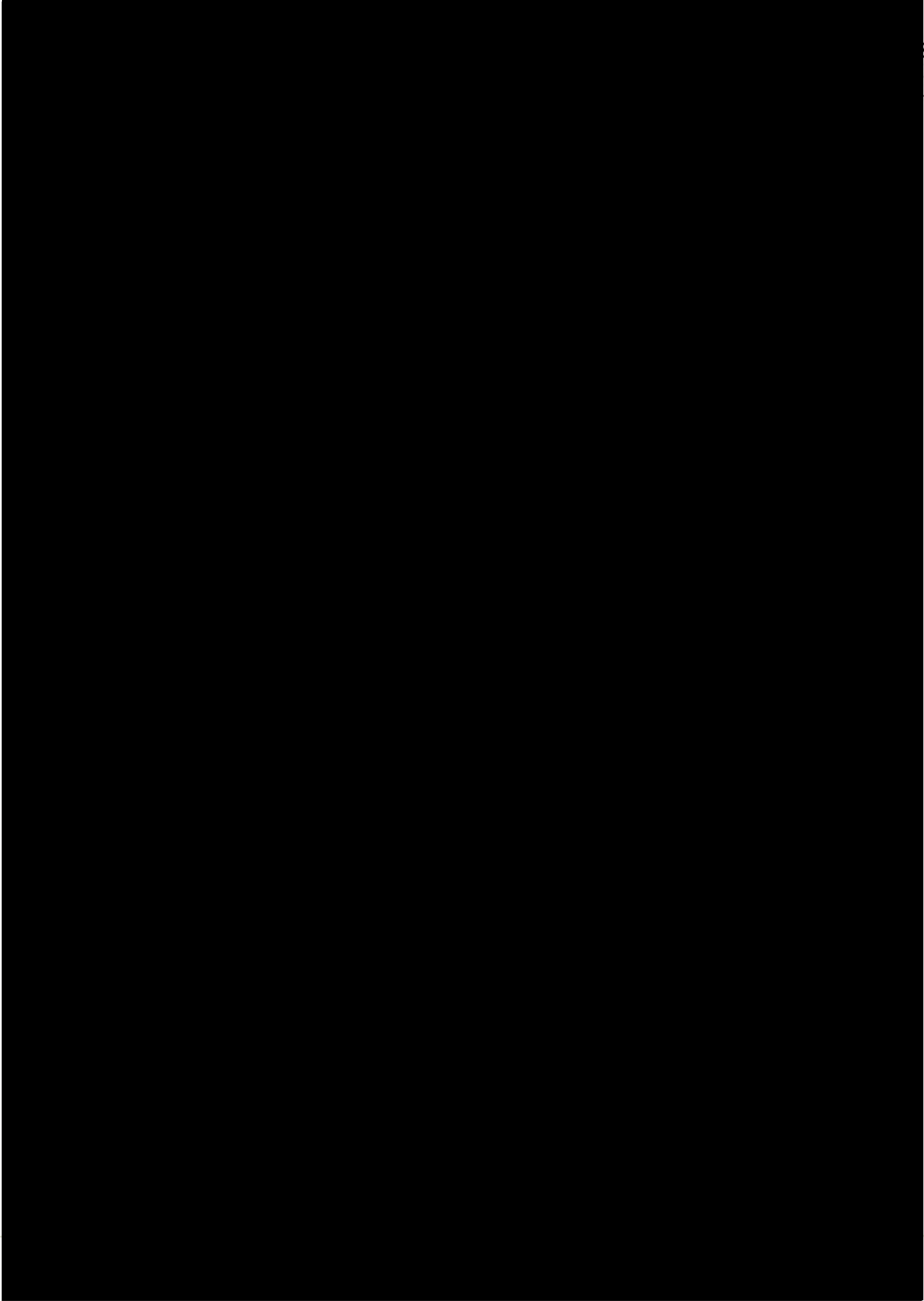












**Annexure 4 - Letter of Reliance**

**The Greater London Authority**

City Hall, The Queen's Walk  
More London  
London SE1 2AA  
(the **Addressee**)

[Date]

Dear Sirs

**Letter of reliance in relation to Cambridge Road Estate Regeneration– leaseholder buybacks  
(the Property)**

We refer to the following report/s in respect of the Property:

- a) dated [                    ], Reference [                    ], prepared by [                    ], in respect of [                    ]; and
- b) dated [                    ], Reference [                    ], prepared by [                    ], in respect of [                    ]. [DELETE AS NECESSARY]

which have reviewed and approved by the Royal Borough of Kingston (the **Report/s**). In consideration of the sum of £10.00 (receipt of which we hereby acknowledge):

- 1 We confirm that in reviewing and approving the Report/s, we exercised all the reasonable skill, care and attention to be expected of a competent and appropriately qualified consultant experienced in reviewing report/s of a similar nature, value and complexity to the Report/s.
- 2 We acknowledge that we will be required to obtain the written consent of the Addressee prior to any disposal of the Property and that the Addressee wishes to rely upon the content of the Report/s. We agree that the Addressee may so rely upon the Report/s and our review of them for the statutory limitation period of six (6) years, subject always to the Addressee's acknowledgment that all valuations stated in the Report/s were only accurate for the period up to 6 months from the date of each Report respectively
- 3 We confirm that we maintain professional indemnity insurance with a limit of not less than one million pounds (£1,000,000) on each and every claim basis in connection with the Report/s and that we will continue to maintain such insurance for the duration of our liability in relation to this letter provided that such insurance continues to be generally available in the market in respect of reports or valuations covering similar type of properties in terms of size, type, value, use and having regard to market conditions.
- 4 The Report/s are confidential for use by the Royal Borough of Kingston, its professional advisers and the Addressee but only for the purposes mentioned in the Report/s and the Borough Intervention Agreement dated [                    ] 2017. The Addressee may not include the Report/s or any part of the Report/s or any reference thereto in any published document, circular or statement, nor publish the Report/s (or any part thereof) in any way whatsoever without our written approval of the form and context in which it may appear, except for its own internal purposes in connection with the above mentioned Borough Intervention Agreement.

5 No other terms and conditions or limitations on liability other than as set out in this letter will apply to the Addressee's reliance on the Report/s.


Signed by [ ] / Section 151 Officer  
On behalf of the Royal Borough of Kingston

Signatory page

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:

 JULIE WINTERTON  
Authorised Signatory





**EXECUTED** as a **DEED** by affixing )  
**THE COMMON SEAL** of )  
**Royal Borough of Kingston** )  
in the presence of: )

Authorised Officer