

DATED 31<sup>st</sup> January 2018

**OLD OAK AND PARK ROYAL DEVELOPMENT  
CORPORATION**

**AND**

**SINGLELAND LIMITED**

**AND**

**UNITED KINGDOM TYRE EXPORTERS LIMITED**

**AND**

**CITY AND DOCKLANDS MANAGEMENT LIMITED**

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**SECTION 106 AGREEMENT**

**under section 106 of the Town and Country Planning Act 1990  
and all other powers enabling relating to land known as Mitre  
Yard, 104-108 Scrubs Lane, London NW10 6SF**

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THIS DEED is made on

31<sup>st</sup> January

2018

**BETWEEN:**

1. **OLD OAK AND PARK ROYAL DEVELOPMENT CORPORATION** of City Hall, The Queen's Walk, More London Riverside, London SE1 2AA (the "**OPDC**"); and
2. **SINGLELAND LIMITED** a company registered in England and Wales (company number 1900639) whose registered office is at 2 Lake End Court, Taplow Road, Taplow, Maidenhead, Berks SL6 0JQ (the "**First Owner**"); and
3. **UNITED KINGDOM TYRE EXPORTERS LIMITED** a company registered in England and Wales (company number 977770) whose registered office is at 2 Lake End Court, Taplow Road, Taplow, Maidenhead, Berks SL6 0JQ (the "**the Second Owner**"); and
4. **CITY AND DOCKLANDS MANAGEMENT LIMITED** a company registered in England and Wales (company number 04270026) whose registered office is at Regina House, 124 Finchley Road, London, NW3 5JS (the "**Developer**")

together "**the Parties**"

**RECITALS**

- (A) By virtue of The Old Oak and Park Royal Development Corporation (Planning Functions) Order 2015, the OPDC is the local planning authority for the area in which the Site is located for the purposes of Part 3 of the 1990 Act and is the local planning authority by whom the obligations contained in this Deed are enforceable.
- (B) The First Owner is the registered owner of the freehold interest(s) in part of the Site with title absolute under title number NGL481480.
- (C) The Second Owner is the registered owner of the freehold interest(s) in part of the Site with title absolute under title number NGL485524.
- (D) The Planning Application has been submitted to the OPDC.
- (E) The First Owner and the Second Owner have an agreement with the Developer that the Developer will carry out the Development pursuant to the Planning Permission.
- (F) At a meeting of its Planning Committee on 12 July 2017 the OPDC resolved to grant the Planning Permission subject to the Owners entering into this Deed without which the Planning Permission would not be granted.
- (G) Accordingly, the Parties have agreed to enter into this Deed in order to secure the planning obligations contained in it pursuant to the provisions of section 106 of the 1990 Act and all other enabling powers.

**THE PARTIES AGREE AS FOLLOWS:**

**1 DEFINITIONS AND INTERPRETATION**

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

**"1980 Act"**

means the Highways Act 1980 (as amended);

**“1990 Act”**

means the Town and Country Planning Act 1990 (as amended);

**“2011 Act”**

means the Localism Act 2011 (as amended);

**“Accessibility Contribution”**

means the sum of £200,000 (Index Linked) to be used towards improving the accessibility of the Site including walking, cycling and public realm improvements on or adjacent to Scrubs Lane between the junction with Hythe Road and the southern end of Mitre Bridge which area is illustrated on Plan 4

**“Additional Affordable Housing Scheme”**

means a scheme prepared in accordance with the provisions of Schedule 5 when a Revised Viability Assessment Review concludes that a Surplus has arisen which details how the Surplus is to be used to provide Additional Affordable Housing Units or an Affordable Housing Contribution and which:

- (a) confirms which Private Residential Units are to be converted into Additional Affordable Housing Units (if any);
- (b) contains 1:50 plans showing the location, size and internal layout of each Additional Affordable Housing Unit;
- (c) ensures that at least 10 per cent of any Additional Affordable Housing Units are accessible or easily adaptable for wheelchair users across all tenures and unit sizes;
- (d) provides details (including 1:50 floor plans) of the proposed wheelchair accessible Additional Affordable Housing Units;
- (e) provides an indicative timetable for the construction and delivery of the Additional Affordable Housing Units; and
- (f) sets out the amount of the Affordable Housing Contribution (if any).

**“Additional Affordable Housing Units”**

means any unit or units of Discounted Market Rent Housing to be provided on the Site as part of the Development in addition to the Affordable Housing Units in accordance with Schedule 5;

**“Affordable Housing”**

means housing including Discounted Market Rent Housing provided to eligible households whose needs are not met by the market and housing that should (a) meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local housing prices, and (b) include provision for the home to remain at an affordable price for future eligible households, or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision;

**“Affordable Housing Contribution”**

means a financial contribution for the provision of Affordable Housing in OPDC’s area or Relevant Infrastructure payable in accordance with the provisions of Schedule 5;

**“Affordable Housing Units”**

means 67 Residential Units forming part of the Development to be provided as Discounted Market Rent Housing (and for the avoidance of doubt excluding the Private Residential Units) shown for indicative purposes shaded yellow on Plan 2;

**“Approved Drawings”**

means the drawings to be prepared by the Architect to be approved by the Planning Permission or a S73 Permission as each may be varied by a S96A Amendment;

**“Architect”**

means Make Architects;

**“Blue Badge Holder”**

means the holder of a disabled person's badge pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 or such other successor or alternative legislation as may be in force from time to time;

**“Boroughs”**

means LBB, LBE and LBHF and **“Borough”** shall be construed accordingly;

**“Build Costs”**

means the total of the costs incurred or estimated (as the case may be) in connection with the construction of the Development

**“Buildings”**

means the buildings to be constructed pursuant to the Planning Permission and **“Building”** shall be construed accordingly;

**“Cap”**

means the value of the provision in respect of the Development of 50% Affordable Housing (by habitable room);

**“Car Club”**

means a company accredited by Carplus that Residents may join and which makes cars available to hire to members;

**“Car Club Space”**

means an on-street parking space reserved for cars provided by a Car Club;

**“Carbon Offset Contribution”**

a contribution equivalent to £1,800 per tonne of carbon shortfall in carbon emission savings (if any) as identified by the CO<sup>2</sup> Audit;

**“Carplus”**

means Carplus (registered charity no.1093980) or its successor or equivalent organisation as may be agreed in writing with the OPDC being the umbrella organisation for the promotion of sustainable car use and which gives accreditation to car club operators that meet set standards promoting responsible car use;

**“Clawback payment”**

means a payment to be used for the provision of Affordable Housing in OPDC's area payable in accordance with the provisions of paragraph 2 of Schedule 3 in the event that the Private Residential Units are not retained as private rented accommodation under single management;

**“CO<sup>2</sup> Audit”**

means an audit of the regulated CO<sup>2</sup> emissions of the completed Buildings to establish whether there is a shortfall in regulated carbon emissions savings compared to a Zero Carbon Development in respect of the Residential Units only

**“Commencement”**

means the carrying out of a material operation (as defined in section 56(4) of the 1990 Act) or the service of a notice upon the OPDC that a material operation is about to be carried out whichever is earlier but for the purposes of this Deed shall not include the Exempted Works and **“Commence”** and **“Commenced”** shall be construed accordingly;

**“Commencement Date”**

means the date upon which the Development is Commenced;

**“Commercial Floorspace”**

means any floorspace comprised within the Development which is an artist studio or falls within Use Classes A1, A2, A3, A4, B1, D1, and or D2;

**“Construction Period”**

means the period from the Implementation Date to the date of Practical Completion of the Development;

**“Consumer Prices Index”**

means the Consumer Prices Index as published by the Office for National Statistics or in the event that the index ceases to be published or if the basis on which it is calculated is altered to a material extent such other index which most closely resembles it to be agreed between the parties hereto;

**“CPZ”**

means any controlled parking zone enforced by LBHF (or any successor local highway authority) from time to time in the streets in the vicinity of the Site

**“Design Monitoring Costs”**

means any monies paid in accordance with paragraph 2 of Schedule 14 to meet the OPDC's reasonable costs incurred in monitoring the design quality of the Development as detailed drawings are prepared and to ensure that all such drawings are completed to a satisfactory quality and are consistent with the Approved Drawings;

**“Development”**

means the development permitted by the Planning Permission or a Varied Planning Permission;

**“Discounted Market Rent Housing”**

means rented housing that is required to be offered to eligible households at the rent levels specified in Schedule 3;

**“District Heating Network”**

means an existing or future decentralised energy network providing low carbon energy, heating, electricity and hot water in the locality of the Site;

**“Education Contribution”**

means the sum of £353,952 (Index Linked) to be used towards improvement works to any primary or secondary school within a 1.5km radius of the site, to address the demand arising from the Development for education services;

**“Energy Strategy”**

means the revised energy strategy to be submitted pursuant to the relevant condition of the Planning Permission and including details of how the Development will be designed in accordance with the London Heat Network Manual to connect to the District Heating Network including the size and location of pipework within the fabric of the Building and buried externally to the point of connection at the boundary of the Site.

**“Exempted Works”**

means an operation or item of work of or connected with or ancillary to archaeological investigation or remediation works associated with decontamination, exploratory boreholes, site or soil investigations, demolition, site clearance, site level re-modelling and excavation and/or site preparation, site reclamation and site remediation works, installation of trunk services to serve the entire Site, the erection of fences and hoardings and construction of temporary access and service roads;

**“Expert”**

has the meaning given in clause 19.3;

**“Framework Travel Plan”**

means a plan to promote sustainable modes of transport by Occupiers of the Residential Units and their visitors;

**“GDV”**

means gross development value of the Development derived from the sales values of any part of the Development to be sold, the rental value of any Residential Units and Commercial Floorspace be rented out which are capitalised using yield, ground rents, or any other use to give an overall capital value;

**“GLA”**

means the Greater London Authority which acts as a strategic city-wide government for London and includes any successor body;

**“Healthcare Contribution”**

means the sum of £309,560 (Index Linked) to be used towards expanding the primary care facility at the Hammersmith Centre for Health, Hammersmith Hospital to address the demand arising from the Development for healthcare services;

**“Highways Agreement”**

means an agreement entered into with the local highway authority pursuant to inter alia section 38 and 278 of the 1980 Act and **“Highways Agreements”** shall be interpreted accordingly;

**“Highway Reinstatement Area”**

means the highways and footways in the vicinity of the Site shown hatched green on Plan 3;

**“Highway Works”**

means, unless otherwise agreed in writing with the OPDC:

- (a) the repair and reinstatement of the highway and footways within the Highway Reinstatement Area so as to repair and/or reinstate them to the same condition and standards as shown in the Schedule of Highway Condition approved by the OPDC pursuant to paragraph 3.1 of Schedule 6
- (b) improved pedestrian crossing facilities at the junction of Scrubs Lane and Hythe Road
- (c) the levelling of existing vehicle cross overs
- (d) works to ensure compatibility with LBHF’s Streetsmart streetscape guidance and with the landscaping scheme approved under condition 12 of the Planning Permission as per the draft annexed hereto at Schedule 2, such works to be carried out within the area edged blue on Plan 5;

**“Implementation”**

means the carrying out of the first material operation (as defined in section 56(4) of the 1990 Act) pursuant to the Planning Permission or the service of a notice upon the OPDC that the first material operation is about to be carried out pursuant to the Planning Permission, whichever is earlier and **“Implemented”** and **“Implementation Date”** shall be construed accordingly;

**“Index Linked”**

means subject to indexation in accordance with clause 17;

**“Interest”**

means interest at a rate of four per cent per annum greater than the Bank of England base rate in force from time to time from the date that the payment becomes due until the date of payment;

**“Labour, Skills and Employment Strategy and Management Plan”**

means a written strategy which:

- (a) sets out the partnership arrangements for how the Owners and its contractors and sub-contractors will work with the OPDC (and the LBB, LBE and LBHF as appropriate) and any local employment or training agencies as part of an employment and training consortium, such arrangements to include appropriate reporting and review mechanisms; and
- (b) sets out agreed protocols and processes for joint working between the Owners and the OPDC (and the LBB, LBE and LBHF as appropriate) specifically around vacancy sharing for the purposes of recruiting Local Residents to vacancies and apprenticeships to include an agreed approach to the forecasting of future job opportunities and skills requirements to ensure an adequate pipeline of candidates;

**“LBB”**

means the London Borough of Brent;

**“LBE”**

means the London Borough of Ealing;

**“LBHF”**

means the London Borough of Hammersmith and Fulham;

**“Local Business”**

means any business, trade, service, profession or industry whose established place of business is within the LBB, LBE and/or LBHF;

**“Local Resident”**

means a person who is resident in the LBB, LBE or LBHF, such residency to be proven by the production of two valid proofs of address which are no more than three months old, for example:

- (a) council tax statement;
- (b) utility bills;
- (c) bank statements; or
- (d) other correspondence from government or state bodies;

**“London Design Standards”**

means the applicable housing design standards set out in the London Plan, the Mayor of London's Housing Supplementary Planning Guidance (2016) and the Mayor of London's and Homes and Communities Agency's Funding Standards Framework – New Funding Design and Sustainability Standards for London (December 2011) and any replacement or supplementary guidance in force from time to time;

**“London Heat Network Manual”**

means the London Heat Network Manual Issue 1 Revision 0 published by the Greater London Authority in April 2014 or any successor or replacement document;

**“London Living Wage”**

means the hourly rate of pay calculated and published from time to time by the GLA as being a wage that is sufficient to give a worker in London and their family enough to afford the essentials and to save, the current rate at the date of this Deed being £10.20 per hour;

**“London Plan”**

means the spatial development strategy for London published by the Mayor of London and as may be amended or replaced from time to time;

**“Market Rent”**

means the rent that an Affordable Housing Unit within the Development could expect to achieve if let on the open market without being subject to the affordable housing restrictions contained in Schedule 3 of this Deed determined by reference to actual rents achieved by Private Residential Units within the Development for the purposes of setting the rent and service charge levels of the Affordable Housing Units;

**“Occupation”**

means the occupation of any part of the Development for its designated planning use but does not include occupation by the Owners or any contractor or other occupier for the purposes of security, construction, fitting out, decoration, marketing or display and **“Occupy”**, **“Occupying”**, **“Occupier”** and **“Occupied”** shall be construed accordingly;

**“Occupation Assessment”**

means an upwards only revised viability assessment prepared by or on behalf of the Owners in connection with the whole of the Development following the Occupation Assessment Trigger Date which assessment will take into account changes in GDV and Build Costs since the date of submission of the Viability Assessment to determine whether a Surplus has arisen;

**“Occupation Assessment Trigger Date”**

means the date of the first Occupation of the 100<sup>th</sup> Private Residential Unit

**“Open Space Contribution”**

means the sum of £40,000 (Index Linked) to be used towards the refurbishment of Mary Seacole Memorial Gardens;

**“Owners”** means together the First Owner and the Second Owner and the Developer;

**“Plan 1”**

means the plan attached to this Deed at Schedule 1 and labelled “Plan 1”;

**“Plan 2”**

means the plan attached to this Deed at Schedule 1 and labelled “Plan 2”;

**“Plan 3”**

means the plan attached to this Deed at Schedule 1 and labelled “Plan 3”;

**“Plan 4”**

means the plan attached to this Deed at Schedule 1 and labelled “Plan 4”

**“Plan 5”**

means the plan attached to this Deed at Schedule 1 and labelled “Plan 5”

**“Planning Application”**

means the application for full planning permission for the Development submitted to the OPDC and allocated reference number 17/0055/FUMOPDC details of which are demolition of existing buildings and structures and redevelopment of the site to provide two new buildings ranging from 6 storeys (24 metres above ground level) to 19 storeys (71.8 metres above ground level) in height, comprising 609 sqm (GIA) of ground floor flexible non-residential floorspace (Use Classes A1/A2/A3/A4/B1/D1/D2), 514 sqm (GIA) ground floor workspace (Use Class B1/Artist Studios) and 200 residential units (Use Class C3) with disabled car parking, plant space, amenity space, landscaping and associated works;

**“Planning Permission”**

means the planning permission to be granted pursuant to the Planning Application in the form of the draft annexed hereto at Schedule 2;

**“Practical Completion”**

means the issue of a certificate of practical completion by the Owners' architect, engineer or other certifying officer as the case may be under the relevant building contract entered into in respect of the Development or part or parts thereof and **“Practically Complete”** and **“Practically Completed”** shall be construed accordingly;

**“Private Residential Units”**

means 133 Residential Units for private rent forming part of the Development and which excludes the Affordable Housing Units;

**“PRS Period”**

means in respect of each Building 15 years starting on the first Occupation of the first Private Residential Unit in that Building;

**“Relevant Infrastructure”**

means any infrastructure to be funded through the Education Contribution, Healthcare Contribution, Transport Contribution or Accessibility Contribution;

**“Rent and Nominations Agreement”**

means an agreement to be entered between the Owners and the Boroughs in a form set by OPDC (acting reasonably) providing that:

- (a) eligible applicants on the LBHF intermediate housing waiting list or equivalent have priority in respect of the Affordable Housing Units;
- (b) if LBHF is unable to nominate to an Affordable Housing Unit it will be offered to eligible applicants on the equivalent intermediate housing lists in LBB and LBE; and
- (c) if all three Boroughs are unable to nominate to an Affordable Housing Unit the nomination right returns to the Owners to be allocated on the basis of criteria to be agreed with the OPDC.

**“Resident”**

means an Occupier of a Residential Unit;

**“Residential Management Plan”**

means a plan setting out management principles for the Residential Units and which shall incorporate the following requirements unless otherwise agreed in writing with the OPDC:

- (a) each Residential Unit shall be self-contained and let separately for residential use;
- (b) the length of each lease of each Residential Unit shall be offered at a minimum term of three years unless a shorter term is requested by the tenant;
- (c) each lease of each Residential Unit shall contain a break clause allowing the tenant to end the lease with a month's notice any time after the first six months of the lease;
- (d) the Residential Units shall be managed as a whole by a single professional property manager which:
  - (i) provides a consistent and quality level of housing management;
  - (ii) has some daily on-site presence;
  - (iii) is part of an accredited ombudsman scheme;
  - (iv) is a member of the British Property Federation and / or regulated by the Royal Institute of Chartered Surveyors;
  - (v) complies with the Royal Institute of Chartered Surveyors Private Rented Sector Code (as revised from time to time);
  - (vi) has a complaints procedure; and

- (vii) must not charge up-front fees of any kind to tenants or prospective tenants other than deposits and rent paid in advance.
- (e) all rent increases within the term of a lease shall be calculated by reference to an index which shall be made clear to the tenant before the start of each tenancy; and
- (f) rents may be reset at the start of each new tenancy;

**“Residential Units”**

means 200 units of Use Class C3 residential accommodation to be provided as part of the Development comprising the Private Residential Units and the Affordable Housing Units;

**“Retail Prices Index”**

means the Retail Prices Index as published by the Office for National Statistics or in the event that the index ceases to be published or if the basis on which it is calculated is altered to a material extent such other index which most closely resembles it to be agreed between the parties hereto;

**“Revised Viability Assessment”**

means a Substantial Implementation Assessment or the Occupation Assessment as the context requires prepared by or on behalf of the Owners in connection with the whole of the Development;

**“Revised Viability Assessment Review”**

means the upwards only review of a Revised Viability Assessment by the Viability Consultant with the purpose of determining the viability of the Development at the Substantial Implementation Assessment Trigger Date and/or the Occupation Assessment Trigger Date as applicable in order to determine whether a Surplus has arisen to be carried out in accordance with the provisions of Schedule 5;

**“S96A Amendment”**

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

**“S73 Permission”**

means a permission granted pursuant to an application for a minor material amendment pursuant to section 73 of the 1990 Act;

**“Schedule of Highway Condition”**

means a schedule of condition relating to the highways and footways within the Highway Reinstatement Area which shall include but not be limited to:

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

**“Site”**

means the land known as Mitre Yard, 104-108 Scrubs Lane, London NW10 6SF as shown edged red on Plan 1 which is owned in part by the First Owner and registered at HM Land Registry under title number NGL481480 and in part by the Second Owner and registered at HM Land Registry under title number NGL485524

**“Street Tree Contribution”**

means the sum confirmed by LBHF as being required to implement the Street Tree Plan;

**“Street Tree Plan”**

means a plan indicating the species, size and location of trees to be planted on the adopted highway and details of site investigations undertaken to ensure that the Street Tree Plan can

be implemented to ensure that the total number of trees planted as part of the Development is the same as that indicated in section 1.11 of the landscaping strategy;

**“Substantial Implementation”**

means the Development has been Implemented and the following has occurred:

- (a) the letting of one or more building contracts for the demolition and site clearance and construction of the substructure and concrete frame in connection with the Development
- (b) the completion of demolition of all existing buildings on the Site; and
- (c) completion of substructure works and construction to first floor slab level for one of the Buildings

and **“Substantially Implemented”** shall be construed accordingly

**“Substantial Implementation Assessment”**

means an upwards only revised viability assessment prepared by or on behalf of the Owners in connection with the whole of the Development in accordance with the provisions of Schedule 5 which assessment will take into account changes in GDV and Build Costs since the date of submission of the Viability Assessment to determine whether a Surplus has arisen;

**“Substantial Implementation Assessment Trigger Date”**

means the date 24 months from but excluding the date of grant of the Planning Permission;

**“Surplus”**

means the sum resulting from a Revised Viability Assessment the value of which shall be calculated in accordance with the provisions of Schedule 5;

**“Transport Contribution”**

means the sum of £251,750 (Index Linked) to be used towards increasing the capacity of the local bus network;

**“Use Classes”**

shall be defined by reference to the Town and Country Planning (Use Classes) Order 1987 (as amended); and

**“Varied Planning Permission”**

means any planning permission issued pursuant to an application to vary or further vary any of the conditions in the Planning Permission;

**“Viability Consultant”**

means such suitably qualified and experienced viability consultant appointed by the OPDC who is a professional member of the Royal Institution of Chartered Surveyors of not less than 5 years’ experience of carrying out viability assessments in respect of developments of a magnitude which are similar to the Development;

**“Viability Assessment”**

means the viability assessment dated March 2017 prepared by Quod in connection with the Planning Application and the review of that viability assessment carried out by BNP Paribas on behalf of the OPDC;

**“Working Day”**

means any day of the week other than Saturday Sunday or any bank holiday; and

**“Zero Carbon Development”**

means a development whose net carbon dioxide emissions, taking account of regulated emissions associated with all energy use, is equal to zero or negative across the year.

- 1.2 Where in this Deed reference is made to a clause paragraph schedule recital plan annex or appendix such reference (unless the context otherwise requires) is a reference to a clause paragraph schedule or recital in this Deed or to a plan annex or appendix attached to this Deed.
- 1.3 Where in any schedule or part of a schedule reference is made to a paragraph such reference shall (unless the context otherwise requires) be to a paragraph of that schedule or (if relevant) part of a schedule.
- 1.4 References in this Deed to the Owners shall include reference to their successors in title and assigns and to persons claiming through or under them in relation to all or any part of the Site save where the context otherwise requires.
- 1.5 References to the OPDC shall include reference to any successor body exercising any of the powers currently vested in the OPDC in relation to this Deed.
- 1.6 Words including the singular meaning where the context so admits include the plural meaning and vice versa.
- 1.7 Words of the masculine gender include the feminine and neuter genders and words denoting natural persons include companies and other corporate bodies and also firms and all such words shall be construed interchangeably in that manner.
- 1.8 Words denoting an obligation on a party to do an act matter or thing include an obligation to procure that it be done and words placing a party under a restriction (including for the avoidance of doubt any obligation preventing or restricting Commencement or Occupation) include an obligation not to cause, permit, suffer or allow infringement of the restriction.
- 1.9 Any reference to a statute or a provision thereof or a statutory instrument or a provision thereof shall include any modification, extension or re-enactment thereof for the time being in force (including for the avoidance of doubt any modification, extension or re-enactment made prior to the date of this Deed) and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given thereunder or deriving validity therefrom.
- 1.10 The word "including" means including without limitation or prejudice to the generality of any description defining term or phrase preceding that word and the word "include" and its derivatives shall be construed accordingly.
- 1.11 The clause and paragraph headings in the body of this Deed and in the schedules hereto do not form part of this Deed and shall not be taken into account in its construction or interpretation.
- 1.12 References to the Site include any part of it.
- 1.13 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.
- 1.14 Any obligation that is allocated to the Owners in this Deed that is performed by either the First Owner, Second Owner or the Developer shall be taken to be performance and discharge of that obligation by the Owners.

## **2 LEGAL BASIS**

- 2.1 This Deed is made pursuant to:
  - (a) section 106 of the 1990 Act;
  - (b) sections 1 and 201 of the 2011 Act; and
  - (c) all other powers so enabling.

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

### **3 NATURE OF OBLIGATIONS**

- 3.1 Subject to clause 3.2 below, the obligations, covenants and undertakings on the part of the Owners in this Deed are planning obligations insofar as they are capable of being lawfully made pursuant to and for the purpose of section 106 of the 1990 Act and are given so as to bind the Owners' interests in the Site and with the intent that they shall be enforceable by the OPDC not only against the Owners but also against any successors in title to or assigns of or transferees of the Owners and/or any person claiming through or under the Owners an interest or estate in the Site as if that person had been an original covenanting party and insofar as any such obligations, covenants or undertakings are not capable of falling within section 106 of the 1990 Act the same are entered into as obligations, covenants or undertakings in pursuance of any other such enabling power.
- 3.2 The Owners and the OPDC acknowledge and agree that:
- (a) the Planning Permission will be granted on the basis that Occupiers of the Residential Units should not be entitled to any parking permit that would entitle them to park within any CPZ enforced by LBHF as at the date of this Deed;
  - (b) paragraph 3.1 of Schedule 7 prevents Commencement of the Development until the Owners have given a unilateral undertaking to LBHF pursuant to section 16 of the Greater London Council (General Powers) Act 1974 to secure restrictions on the ability of Occupiers to obtain such parking permits, with the intent that such restrictions on parking permits shall be enforceable by LBHF not only against the Owners but also against any successors in title to or assigns of or transferees of the Owners and/or any person claiming through or under the Owners an interest or estate in the Site, as if that person had been an original covenanting party;
  - (c) the obligations in paragraph 2 of Schedule 7 are planning obligations insofar as they are capable of being lawfully made pursuant to and for the purpose of section 106 of the 1990 Act and in any event are covenants also given pursuant to section 201 of the 2011 Act.
- 3.3 Nothing in this Deed restricts or is intended to restrict the proper exercise at any time by the OPDC of any of its statutory powers, functions or discretions.

### **4 CONDITIONAL AGREEMENT**

- 4.1 This Deed is conditional upon:
- (a) the grant of the Planning Permission; and
  - (b) the Implementation of the Development
- save in respect of clauses 1–4, 6.2 and 7–22 (inclusive) and paragraph 3.3 of Schedule 7 which shall come into effect immediately upon completion of this Deed and paragraphs 2.3 to 2.7 of Schedule 7 which shall come into effect upon the grant of the Planning Permission

### **5 OBLIGATIONS OF THE OWNERS**

The Owners covenant with the OPDC to observe and perform and cause to be observed and performed the obligations and covenants on the part of the Owners contained in the schedules to this Deed.

## **6 OBLIGATIONS OF THE OPDC**

- 6.1 The OPDC covenants with the Owners to observe and perform and cause to be observed and performed the obligations and covenants on the part of the OPDC contained in this Deed.
- 6.2 The OPDC shall issue the Planning Permission as soon as reasonably practicable after the date of this Deed.

## **7 LEGAL COSTS**

The Owners covenant with the OPDC to pay upon completion of this Deed the OPDC's reasonable and proper legal costs incurred in respect of the Planning Application and the preparation, negotiation and completion of this Deed (inclusive of any reasonable legal costs incurred by external lawyers appointed by the OPDC).

## **8 OWNERSHIP**

- 8.1 The First Owner warrants and undertakes to the OPDC that it is the freehold owner of that part of the Site registered under title number NGL48148 and has full power to enter into this Deed.
- 8.2 The Second Owner warrants and undertakes to the OPDC that it is the freehold owner of that part of the Site registered under title number NGL485524 and has full power to enter into this Deed.
- 8.3 The Owners covenant with the OPDC to give the OPDC written notice of any change in ownership of any of its interests in the Site or part thereof (save in respect of individual Residential Units or units of Commercial Floorspace) occurring before all the obligations under this Deed have been discharged, such notice to be served within 20 Working Days following the change and to give details of the transferee's full name and registered office (if a company) or usual address (if not a company), together with a plan showing the area of the Site to which the disposal relates.

## **9 NO ENCUMBRANCES**

- 9.1 The Owners warrant and undertake to the OPDC that the Site is free from any encumbrances which would prevent the Development from being carried out and brought into beneficial use.
- 9.2 The Owners shall not encumber or otherwise deal with their respective interests in the Site or any part or parts thereof in any manner whatsoever whereby the obligations, covenants and undertakings imposed by this Deed are rendered impossible to carry out save where planning permission is granted after the date of this Deed for an alternative development of the Site Provided That this clause shall not restrict the Owners from encumbering or otherwise dealing with their respective interests in the Site or any part or parts thereof on a basis that is subject to the obligations, covenants and undertakings imposed by this Deed.

## **10 REGISTRATION**

- 10.1 As soon as reasonably practicable after the completion of this Deed (and in any event within 10 Working Days of this Deed), the Owners shall make applications to the Land Registry for entries relating to this Deed to be made in the charges register of the title number[s] referred to in Recital (B) above so as to bind the Site as provided for in the above mentioned statutory provisions and shall provide the OPDC with written notification as soon as reasonably practicable that such applications have been made.
- 10.2 If the Owners fail to notify the OPDC that it has made the applications in accordance with clause 10.1, the OPDC shall (without prejudice to any other right) be entitled to register this Deed and recover the expenses incurred in doing so from the Owners and the Owners hereby

covenant with the OPDC to do or concur in doing all things necessary or advantageous to enable the said entries to be made.

- 10.3 The Owners covenant that they shall not make any application to the Land Registry for the removal of any notice registered pursuant to clauses 10.1 or 10.2 other than in respect of any obligations contained within this Deed that have been discharged by or on behalf of the Owners
- 10.4 The OPDC shall request registration of this Deed as a Local Land Charge by LBHF or its successor in statutory function.

## **11 RIGHT OF ACCESS**

Without prejudice to the OPDC's statutory rights of entry and subject to reasonable prior notice, the Owners shall permit the OPDC and its authorised employees, agents, surveyors and other representatives to enter the Site and any buildings erected thereon pursuant to the Development at all reasonable times for the purpose of verifying whether or not any obligation arising under this Deed has been performed or observed and the Owners shall comply with any reasonable request made by the OPDC for documentation held by the Owners for such purposes.

## **12 OWNERS TO NOTIFY THE OPDC**

- 12.1 The Owners covenant with the OPDC to notify the OPDC in writing of:
  - (a) the intended Implementation Date, at least a month prior to such intended date;
  - (b) the actual Implementation Date, within five Working Days of such actual date;
  - (c) the intended Commencement Date, at least a month prior to such intended date;
  - (d) the actual Commencement Date, within five Working Days of such actual date;
  - (e) the intended date of Substantial Implementation, at least one month prior to such intended date;
  - (f) the actual date of Substantial Implementation, within five Working Days of such actual date;
  - (g) the intended date for first Occupation of the Development, at least a month prior to such intended date;
  - (h) the actual date of first Occupation of the Development, within five Working Days of such actual date;
  - (i) the intended Occupation Assessment Trigger Date, at least one month prior to the intended date;
  - (j) the actual Occupation Assessment Trigger Date, within 5 Working Days of such actual date;
  - (k) the intended date of the first Occupation of the 120<sup>th</sup> Private Residential Unit, at least one month prior to such intended date;
  - (l) the actual date of the first Occupation of the 120<sup>th</sup> Private Residential Unit, within 5 Working Days of such actual date.
- 12.2 In the event that the Owners fail to provide notification in accordance with clause 12.1, the relevant notifiable event shall be deemed by OPDC (acting reasonably) for the purpose of this Deed to have taken place on the earliest date that such event could have taken place.

### **13 NOTICES**

13.1 Any notice or other written communication to be served upon a party or given by one party to any other under the terms of this Deed shall be given in writing (which for this purpose shall not include email) and shall be deemed to have been validly served or given if delivered by hand or sent by first class post or sent by recorded delivery post to the party upon whom it is to be served or to whom it is to be given and shall conclusively be deemed to have been received on:

- (a) if delivered by hand, the next Working Day after the day of delivery; and
- (b) if sent by first class post or recorded delivery post, the day two Working Days after the date of posting.

13.2 The address for any notice or other written communication shall be within the United Kingdom only and shall be as specified below, or such other address as shall be specified by the party upon whom the notice is to be served to the other parties by not less than five Working Days' notice:

- (a) OPDC:  
 Director of Planning  
 Old Oak and Park Royal Development Corporation  
 PP5A  
 City Hall  
 The Queen's Walk  
 More London Riverside  
 London  
 SE1 2AA

- (b) The Owners:  
 Mr Gary Sacks  
  
 City & Docklands Management Limited  
 Medburn Lodge  
 Butterfly Lane  
 Elstree  
 WD6 3AD

13.3 Any notice or other written communication to be given by the OPDC shall be deemed valid and effectual if on its face it is signed on behalf of the OPDC by an officer or duly authorised signatory.

### **14 PAYMENTS**

14.1 All payments to be made by the Owners pursuant to the terms of this Deed shall be sent to OPDC by way of electronic transfer marked for the attention of the Head of Development Management and using reference 17/0055/FUMOPDC.

14.2 All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly payable in respect thereof.

14.3 The Owners hereby acknowledge and agree that if at any time VAT is required to be paid in respect of any of the financial contribution due under this Deed then to the extent that VAT had not been previously charged in respect of that contribution the OPDC shall have the right to issue a VAT invoice to the Owners and the VAT shall be paid accordingly.

## **15 NO WAIVER**

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

## **16 INTEREST ON LATE PAYMENT**

If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the date payment is made.

## **17 INDEXATION**

17.1 Where in this Deed any sum or value is to be paid or is otherwise referred to then unless stated to the contrary such sum or value shall be Index Linked so that such sum or value shall be increased (as the case may be) by the percentage change in the Retail Prices Index from 12 July 2017 until the date of each payment (or the date that it becomes necessary to calculate such sum or value) to be calculated by reference to the most recently published figures for the Retail Prices Index prior to the date of this Deed and prior to each payment date.

## **18 LIABILITY UNDER THE DEED**

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

- (a) to the extent that such breach relates to any part of the Site in which that person has no interest and/or
- (b) which occurs after he has parted with his entire interest in the Site (or his interest in that part of the Site on which the breach occurs) save for any prior breach for which he shall continue to be liable

18.2 No obligations, undertakings or liabilities under this Deed shall be enforceable against individual purchasers or lessees or Occupiers of the individual Residential Units or their mortgagees or successors in title to either the purchaser or lessee or Occupier or mortgagee, save in respect of the obligations in:

- (a) Paragraph 1.1 of Schedule 3 (Affordable Housing); and
- (b) paragraph 2.3 of Schedule 7 (Car Parking)

18.3 No obligations, undertakings or liabilities under this Deed shall be enforceable against individual purchasers or lessees or Occupiers of individual units of Commercial Floorspace or their mortgagees or successors in title to either the purchase or lessee or Occupier or mortgagee, save in respect of the obligations in paragraph 2.3 of Schedule 7 (Car Parking).

18.4 No obligations, undertakings or liabilities under this Deed shall be enforceable against any mortgagee or chargee from time to time which shall have the benefit of a mortgage or charge

of or on the whole or any part of the Owners' interest in the Site unless and until such mortgagee or chargee has entered into possession of the Site or any part thereof to which such obligation, covenant or undertaking relates, whereupon it will be bound by the obligations, covenants and undertakings as a person deriving title from the Owners.

- 18.5 No obligations, undertakings or liabilities under this Deed shall be enforceable against any statutory undertaker or other person who acquires any part of the Site or interest therein for the purposes of the supply of heat, cooling, electricity, gas, water, drainage, telecommunication services or public transport services.

## 19 DISPUTES

- 19.1 Where the parties are in dispute or disagreement or have any differences relating to any matter the subject of or connected with this Deed or its meaning or construction (a "**Dispute**") then (without prejudice to any provision in this Deed which specifies a particular timescale for the resolution or determination of any matter) the parties shall use their reasonable endeavours to resolve the same within 20 Working Days of the Dispute arising
- 19.2 Failing the resolution of any such Dispute within the said 20 Working Days or within such other period as may be specified in this Deed in relation to the resolution or determination of the matter in question, the Dispute shall be referred for determination in accordance with the provisions of this clause 19 on the reference of any of the parties to the Dispute
- 19.3 The Dispute shall be referred to the decision of an independent expert (the "**Expert**") who shall be an independent person of at least ten years' standing in the area of expertise relevant to the Dispute and in the event that the parties are unable to agree whom should be appointed within a period of ten Working Days following a failure of the parties to resolve the Dispute within the period set out in clause 19.1, then any party may request:
- (a) if such Dispute shall relate to matters concerning the construction, interpretation and/or application of this Deed, the Chairman of the Bar Council to nominate the Expert;
  - (b) if such Dispute shall relate to matters requiring a specialist chartered surveyor, the President of the Royal Institution of Chartered Surveyors to nominate the Expert;
  - (c) if such Dispute shall relate to matters requiring a specialist chartered civil engineer, the President of the Institution of Civil Engineers to nominate the Expert;
  - (d) if such Dispute shall relate to matters requiring a specialist chartered account, the President of the Institute of Chartered Accountants in England and Wales to nominate the Expert; and
  - (e) if such Dispute shall relate to matters requiring a viability consultant the President of the Royal Institution of Chartered Surveyors to nominate the Expert
  - (f) in all other cases, the President of the Law Society to nominate the Expert.
- 19.4 If the Dispute shall relate to matters falling within two or more of clauses 19.3(a) to 19.3(f) (inclusive), the Parties may agree to appoint joint Experts and in the event that the Parties are unable to agree whom should be appointed as joint Experts, the Parties may request the President of the Law Society to nominate such persons falling within the descriptions of clauses 19.3(a) to 19.3(f) (inclusive) to act as joint Experts.
- 19.5 The Expert shall act as an expert and not as an arbitrator and the determination of the Expert (including any determination as to the responsibility for payment of his own costs and those of the parties) shall be final and binding upon the Parties subject to manifest error.
- 19.6 The Expert shall be appointed (through an agreed request statement setting out exactly the questions that he is to determine, submitted jointly by the Parties to the Dispute) subject to an

express requirement that he reaches his decision and communicates it to the parties to the Dispute within the minimum practical timescale allowing for the nature and complexity of the Dispute and in any event no later than thirty Working Days from the date of his appointment to act and that he is to have particular regard to the 1990 Act in reaching his decision.

19.7 The terms of reference of any Expert appointed to determine a Dispute shall include the following:

- (a) he shall call for representations from all Parties with ten Working Days of a reference to him under this Deed and shall require the parties to exchange representations within this period;
- (b) he shall allow the Parties ten Working Days from the expiry of the ten Working Days period referred to in clause 19.7(a) to make counter-representations;
- (c) any representations or counter-representations received out of time shall be disregarded by the Expert;
- (d) he shall provide the Parties with a written decision (including his reasons) within ten Working Days of the last date for receipt of counter-representations;
- (e) he shall be entitled to call for such independent expert advice as he shall think fit; and
- (f) his costs and the costs of any independent expert advice called for by the Expert shall be included in his award.

19.8 Unless the Expert shall decide otherwise the costs of any reference to the Expert shall be borne equally by the Parties to the Dispute.

## **20 MISCELLANEOUS PROVISIONS**

20.1 Without prejudice to the terms of this Deed and the obligations imposed on the Owners herein, nothing in this Deed shall be construed as prohibiting or limiting any right to develop any part of the Site in accordance with any planning permission (other than the Planning Permission) granted after the date of this Deed.

20.2 This Deed and the obligations, covenants and undertakings which it contains shall lapse and be extinguished automatically if and from the date that the Planning Permission:

- (a) expires without the Development having been Implemented; or
- (b) is quashed, revoked or (without the consent of the Owners) modified.

20.3 If any provision of this Deed is declared by any court to be void, voidable, illegal or otherwise unenforceable the remaining provisions of this Deed shall continue in full force and effect and the Parties shall amend that provision in accordance with the decision of the court provided that any party may seek the consent of the others to the termination of this Deed on such terms (including the entering into of another Deed) as may in all the circumstances be reasonable if the effect of the foregoing provisions would be to defeat the original intention of the parties

20.4 Where this Deed requires any matter to be agreed, approved, certified, consented to or determined by any party or any person on behalf of any party hereto under this Deed such agreement, approval, certification, consent or determination shall not be unreasonably withheld or delayed and shall be given in writing.

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

20.6 All interest earned on sums paid to the OPDC under this Deed shall be taken to form part of the principal sum and may be expended by the OPDC accordingly

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

**21 GOVERNING LAW**

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

**22 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

Any person who is not a party to this Deed shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

**IN WITNESS** whereof this Deed has been executed as a deed and delivered on the date first above written.

**SCHEDULE 1**

**Plans**

1. Plan 1 – Site Plan
2. Plan 2 – Affordable Housing Plan
3. Plan 3 – Highway Reinstatement Area Plan
4. Plan 4 – Accessibility Contribution Area Plan
5. Plan 5 – Highway Works Plan







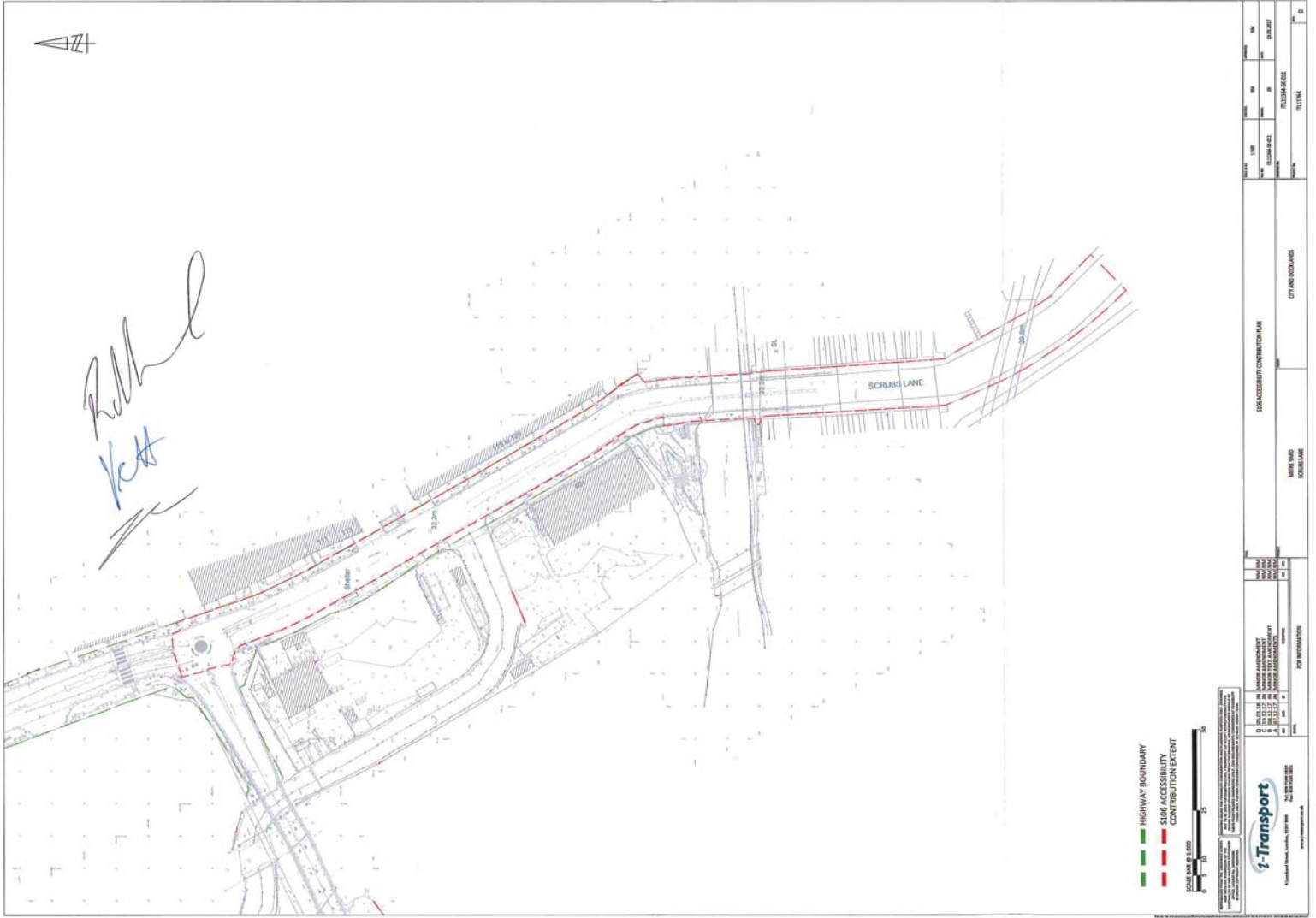
**1-Transport**  
4 Lombard Street, London, EC3V 8HQ  
Tel: 020 7196 8820 Fax: 020 7196 8821  
www.1transport.co.uk

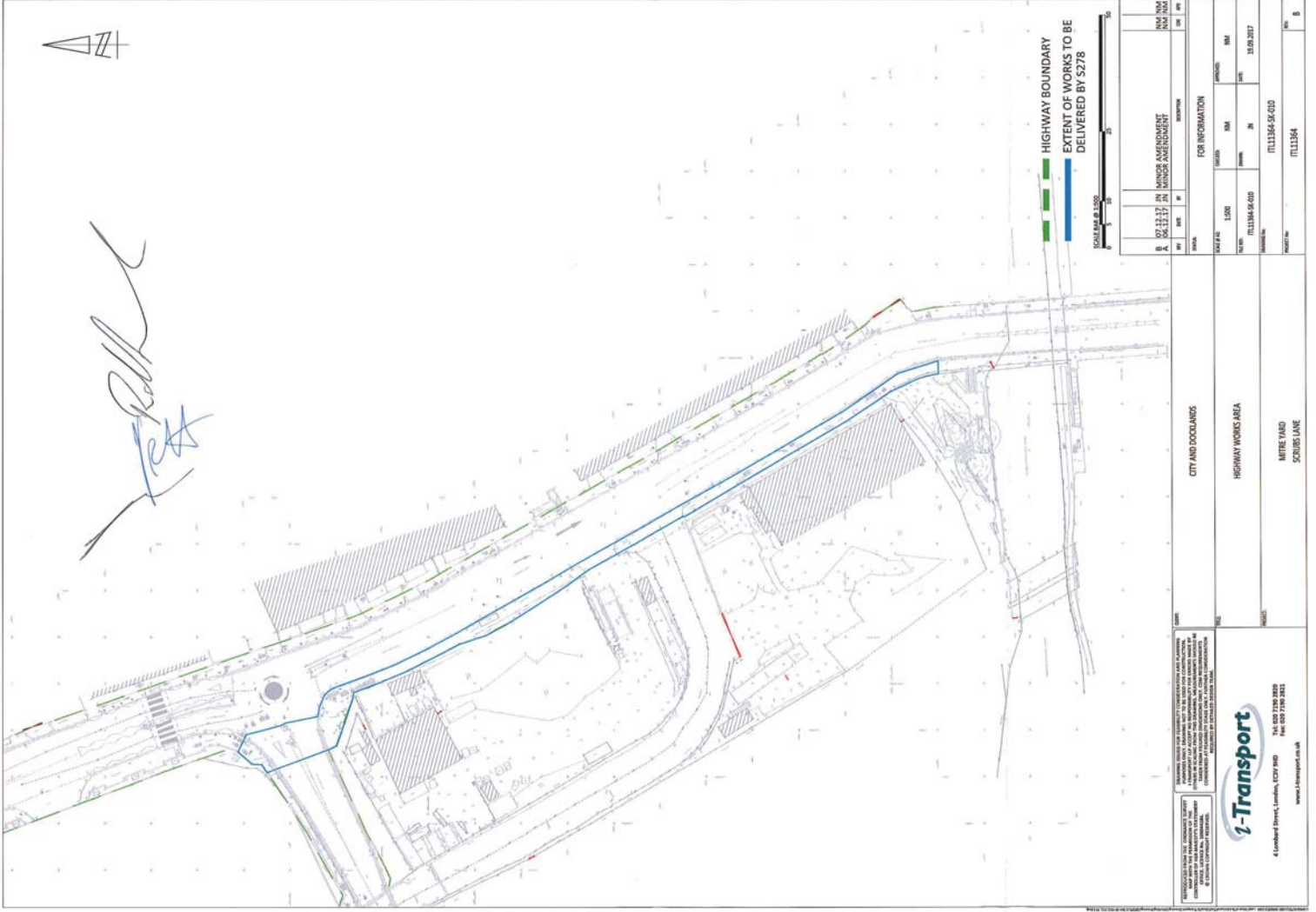
1-Transport is a registered company in England and Wales, registered number 08403444. The company is authorised by the Department for Transport to provide transport planning and design services. The company is also a member of the Institution of Civil Engineers (ICE) and the Institution of Highway Engineers (IHE).

CITY AND DOCKLANDS	
HIGHWAY REINSTATEMENT AREA	
MITE VMD SOLUBS LANE	

FOR INFORMATION	
SCALE	1:500
DATE	11.11.2017
BY	JM
CHECKED	JM
DATE	08.12.2017
PROJECT	1111364-SK-012
REVISION	1111364-SK-012
NO	A

MINOR AMENDMENT	
NO	A
DATE	07.12.17
BY	JM
CHECKED	JM
DATE	08.12.2017
PROJECT	1111364-SK-012
REVISION	1111364-SK-012
NO	A





1-Transport  
4 Lombard Street, London, EC3V 9HD  
Tel: 020 7196 2820 Fax: 020 7196 2821  
www.1-transport.co.uk

1-Transport  
4 Lombard Street, London, EC3V 9HD  
Tel: 020 7196 2820 Fax: 020 7196 2821  
www.1-transport.co.uk

CITY AND DOCKLANDS

HIGHWAY WORKS AREA

MITRE YARD  
SCRUBS LANE

FOR INFORMATION

DATE: 15/02/2017  
DRAWN: JN  
CHECKED: JN  
DATE: 15/02/2017

PROJECT No: TLL1364 SK 020  
DRAWING No: TLL1364

MINOR AMENDMENT  
TO TLL1364 SK 020

DATE: 15/02/2017

SCALE: 1:1000

EXTENT OF WORKS TO BE  
DELIVERED BY S278

HIGHWAY BOUNDARY

**SCHEDULE 2**  
**Draft Planning Permission**

**OPDC**  
**OLD OAK AND**  
**PARK ROYAL**  
DEVELOPMENT  
CORPORATION

**DRAFT FULL PLANNING PERMISSION APPROVAL**

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

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Please see notes at the end of this notice

**Applicant**

City and Docklands Management Ltd

**Agent**

Mrs Sue Wilcox  
Quod  
Ingeni Building  
17 Broadwick Street  
London W1F 0AX

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**Part I                      -                      Particulars of Application**

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Date of Application: 10-April-2017

Application No: 17/0055/FUMOPDC

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**Proposal:** Demolition of existing buildings and structures and redevelopment of the site to provide two new buildings ranging from 6 storeys (24 metres above ground level) to 19 storeys (71.8 metres above ground level) in height, comprising 609 sqm (GIA) of ground floor flexible non-residential floorspace (Use Classes A1/A2/A3/A4/B1/D1/D2), 514 sqm (GIA) ground floor workspace (Use Class B1/Artist Studios) and 200 residential units (Use Class C3) with disabled car parking, plant space, amenity space, landscaping and associated works.

**Location:** 104-108 Scrubs Lane, London, NW10 6SF

## **Part II – Particulars of Decision**

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

### **1. COMPLIANCE – Approved plans**

The development shall be carried out in accordance with the following drawings:

PA:0201 Rev01, 0202 Rev02, 0590 Rev02, 1990 Rev02

PB:2000 Rev02, 2001 Rev02, 2002 Rev01, 2007 Rev01, 2008 Rev01, 2009 Rev01, 2018 Rev01, 2019 Rev01

PC:2000 Rev02, 2001 Rev02, 2002 Rev01, 2006 Rev01, 2007 Rev01, 2008 Rev01, 2009 Rev01

PD:2200 Rev02, 2201 Rev02, 2202 Rev01, 2203 Rev02, 2250 Rev02, 2251 Rev01, 2790 Rev01, 2791 Rev01, 2792 Rev01, 2793 Rev01, 2794 Rev01, 6498 Rev02, 6499 Rev02, 6500 Rev01, 6501 Rev02, 6502 Rev02, 6503 Rev01, 6504 Rev01, 6505 Rev01

Planning Statement by Quod dated April 2017

Design and Access Statement by Make Architects dated 4 April 2017

Landscape Strategy by Townshend Landscape Architects March 2017

Energy Assessment and Sustainability Strategy by Meinhardt dated 31 March 2017

Framework Construction Environmental Management Plan by Quod (ref Q070270)

Health Impact Assessment by Quod dated March 2017

Light Pollution report by Point 2 Surveyors dated March 2017

Below Ground Drainage Strategy (Issue P03) by Meinhardt dated 13<sup>th</sup> June 2017

Flood Risk Assessment by Waterman dated June 2017

Statement of Community Involvement by Four Communications dated March 2017

Air Quality Assessment by Waterman dated March 2017

Noise and Vibration Impact Assessment by Waterman dated March 2017

Transport Assessment by i-Transport dated 29 March 2017

Travel Plan by i-Transport dated 29 March 2017

Framework Delivery and Servicing Plan by i-Transport dated 28 March 2017

Preliminary Ecological Appraisal by Waterman dated March 2017

Arboricultural Survey and Impact Assessment by Waterman dated April 2017

Daylight and Sunlight Report by Point 2 Surveyors dated March 2017

Pedestrian Level Wind Microclimate Assessment by RWDI dated 31 March 2017

Preliminary Environmental Risk Assessment by Waterman dated March 2017

Construction Logistics Plan (Issue 2) by Meinhardt dated 28 March 2017

Heritage, Townscape and Visual Impact Appraisal by Turley dated March 2017

Historic Environment Desk Based Assessment by Waterman dated March 2017

Affordable Housing Delivery by Quod dated March 2017

Mitre Yard response to Consultation by Make Architects 12 June 2017

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

## **2. COMPLIANCE – Time limit**

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

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

## **3. COMPLIANCE – Amenity Room**

The communal amenity room on level 01 of the southern plot, indicated on drawing PC2001 Rev02, shall only be used for purposes incidental to the enjoyment of the dwellings within the development and shall not be used for any other purpose.

Reason: To ensure that the amenity room contributes positively to the amenity of residents and does not result in any harmful impacts to residential amenity in accordance with London Plan (2016) policy 3.5 'Quality and Design of Housing Developments' and OPDC Regulation 19 Local Plan (2016) policies D4: 'Well-Designed Buildings' and D6 'Amenity.

## **4. PRIOR TO ABOVE GROUND WORKS – Detailed drawings**

Notwithstanding the submitted details, prior to the commencement of work on the corresponding part of the development, detailed drawings comprising elevations and sections of the following parts of the development at 1:20 or 1:50 as appropriate with references to the heritage context shall be submitted to and approved in writing by the local planning authority:

- a. A bay study of the materials, cladding and glazing;
- b. Residential entrances (with canopies where relevant);
- c. Principle features on all facades;
- d. Balconies (including soffits and balustrades);
- e. Shopfronts and windows/glazing to the commercial uses;
- f. Typical window openings including surrounds;
- g. The parapets/roof edges and screens at the top of the building;
- h. Any roof level structures including flues and lift overruns;
- i. Service bay accesses.

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

Reason: To ensure that the appearance of the building is suitable and it contributes to the character and appearance of the area in accordance with London Plan (2016) policies 7.4 'Local Character' and 7.6 'Architecture', LBHF Regulation 18 Local Plan (2015) policy DC2 'Design of new build' and OPDC Regulation 19 Local Plan (2016) policy D4 'Well-Designed Buildings'.

#### **5. PRIOR TO ABOVE GROUND WORKS – Material samples and sample panels**

Prior to the commencement of above ground works:

- a. Samples of all facing materials, including glazing, and elevations annotated to show where the materials are to be located shall be submitted to and approved in writing by the local planning authority;
- b. Sample panels shall be constructed on site to show the typical facades including glazing, cladding and frames where relevant, made available for inspection by the local planning authority and approved in writing.

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

Reason: To ensure that the appearance of the building is suitable and it contributes to the character and appearance of the area in accordance with London Plan (2016) policy 7.4 'Local Character', LBHF Regulation 18 Local Plan (2015) policy DC2 'Design of new build' and OPDC Regulation 19 Local Plan (2017) policy D4 'Well Designed Buildings'.

#### **6. PRIOR TO OCCUPATION – Antennae/satellite dishes**

Prior to the first occupation of any of the units hereby approved details to show appropriate locations for communal antennae and satellite dishes that can be used by occupants of the development shall be submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details.

Reason: In the interests of the character and appearance of the area in accordance with London Plan (2016) policy 7.4 'Local Character', LBHF Regulation 18 Local Plan (2015) policy DC1 'Built environment' and OPDC Regulation 19 Local Plan (2017) policies D4 'Well-Designed Buildings'.

#### **7. PRIOR TO ABOVE GROUND WORKS – External equipment**

Prior to the commencement of above ground works details of any external equipment to be installed on the building including window cleaning equipment and mechanical plant shall be submitted to and approved in writing by the local planning authority. Above ground works shall not be commenced until the details have been approved in writing by the local planning authority. The equipment shall only be installed in accordance with the approved details.

Reason: In the interests of the character and appearance of the area in accordance with London Plan (2016) policy 7.6 'Architecture', LBHF Regulation 18 Local Plan (2015) policy DC1 'Built environment' LBHF Regulation 18 Local Plan (2015) policy DC2 'Design of new build' and OPDC Regulation 19 Local Plan (2017) policy D4 'Well-Designed Buildings'.

#### **8. PRIOR TO OCCUPATION– Lighting strategy**

Prior to the building being brought into use a lighting strategy to address all external lighting across the development shall be submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details.

Reason: In the interests of the character and appearance of the area in accordance with London Plan (2015) policy 7.4 'Local Character', LBHF Regulation 18 Local Plan (2015) policy DC2 'Design of new build' and OPDC Regulation 18 Local Plan (2017) policies D4 'Well-Designed Buildings' and D6 'Amenity'.

#### **9. PRIOR TO OCCUPATION – Disabled Parking Bays**

Prior to first occupation of the development seven disabled parking bays shall be marked out in accordance with the approved drawings. The disabled parking bays shall be made available at all time to motorist displaying a 'Blue Badge' parking permit.

Reason: To provide suitable parking for disabled persons in accordance with London Plan (2016) policy 3.8 'Housing Choice', LBHF Regulation 18 Local Plan (2015) policy DC2 'Design of new build' and OPDC Regulation 19 Local Plan (2017) policies D3 'Accessible and Inclusive design' and T4 'Parking'.

#### **10. COMPLIANCE – Accessibility**

All units indicated on the approved drawings as being suitable for wheelchair users (WCH) shall be compliant with part M4 category 3 of the Building Regulations. All other units shall be compliant with part M4 category 2 of the Building Regulations.

Reason: To provide suitable access for disabled persons in accordance with London Plan (2016) policy 3.8 'Housing Choice', LBHF Regulation 18 Local Plan (2015) policy DC2 'Design of new build' and OPDC Regulation 19 Local Plan (2017) policy D3 'Accessible and Inclusive design'.

#### **11. PRIOR TO OCCUPATION – Public Art**

Prior to the occupation the development details of public art to be delivered as part of the development shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to first occupation of the development.

Reason: In order to support place-making in accordance with OPDC regulation 19 Local Plan policy TCC5 'Culture and Art'

#### **12. PRIOR TO ABOVE GROUND WORKS – Hard and soft landscaping**

Prior to the commencement of above ground works a scheme of hard and soft landscaping for all private, public and communal amenity spaces on the site, including details of materials, street furniture, species and a planting schedule showing the number, size, species and location of trees and shrubs shall be submitted to and approved in writing by the local planning authority. The approved hard landscaping shall be carried out in full accordance with the approved plans prior to the occupation of the development and it shall thereafter be permanently retained. The approved soft landscaping shall be carried out in the first planting and seeding seasons following the occupation of the development or completion of the development, whichever is the sooner. Any plants which within a period

of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the character and appearance of the area, to ensure appropriate accessibility and to support biodiversity in accordance with London Plan (2016) policies 7.19 'Biodiversity and Access to Nature' and 7.4 'Local Character', LBHF Regulation 18 Local Plan (2015) policy OS5 'Greening the borough' and OPDC Regulation 19 Local Plan (2017) policy D2 'Public realm'.

### **13. PRIOR TO OCCUPATION – Play equipment**

Prior to any of the uses hereby approved being first brought into use, details of the play equipment proposed for the child play spaces shall be submitted to and approved in writing by the local planning authority. The development shall not be brought into use until the details have been approved in writing and the equipment installed in full accordance with the approved details.

Reason: To ensure that appropriate equipment is positioned in the areas identified for play space according to the intended age group in accordance with London Plan (2016) policy 7.5 'Public Realm' and OPDC Regulation 19 Local Plan (2017) policy D9 'Play Space'.

### **14. PRIOR TO ABOVE GROUND WORKS – Noise assessment**

Prior to the commencement of above ground works, a noise assessment shall be submitted to and approved in writing by the local planning authority. The assessment shall identify current and future sources of noise and vibration disturbance for the proposed residential units and shall provide details of attenuation measures to be installed as mitigation, where necessary. The design and installation of new items of fixed plant shall be such that when operating the cumulative noise level LAeq Tr arising from the proposed plant, measured or predicted at 1m from the facade of the nearest noise sensitive premises, shall be a rating level of at least 5dB(A) below the background noise level LAF90 Tbg. The measurement and/or prediction of the noise should be carried out in accordance with the methodology contained within BS 4142:2014. The development shall not be commenced until the noise assessment has been approved in writing by the local planning authority. The attenuation measures shall be provided in full accordance with the proposed details before any of the residential units are first brought into use.

Reason: To minimise the risk of noise or vibration disturbance for future residents in accordance with London Plan (2016) policy 7.15 'Reducing and Managing Noise, Improving and Enhancing the Acoustic Environment and Promoting Appropriate Soundscapes', LBHF Regulation 18 Local Plan (2015) policy CC10 'Noise' and OPDC Regulation 19 Local Plan (2017) policy EU5 'Noise and Vibration'.

### **15. PRIOR TO ABOVE GROUND WORKS – Internal noise transmission**

Prior to the commencement of above ground works a scheme of sound insulation and noise control measures shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented to the satisfaction of the local planning authority prior to the first occupation of any of the residential units and permanently retained thereafter to achieve the following internal noise targets:

- Bedrooms (23:00-07:00 hrs) 30 dB LAeq;
- Living Rooms (07:00-23:00 hrs) 35 dB LAeq; and
- Kitchens, bathrooms, WCs and utility rooms (07:00-23:00 hrs) 45 dB LAeq.

Reason: To minimise the risk of noise or vibration disturbance for future residents in accordance with London Plan (2015) policy 7.15 'Reducing and Managing Noise, Improving and Enhancing the Acoustic Environment and Promoting Appropriate Soundscapes', LBHF Regulation 18 Local Plan (2016) policy CC10 'Noise' and OPDC Regulation 19 Local Plan (2017) policy EU5 'Noise and Vibration'.

#### **16. COMPLIANCE – Noisy working hours**

You must carry out any building work which can be heard at the boundary of the site only between the following hours:

- 08.00 – 18.00 Monday to Friday;
- 08.00 – 13.00 on Saturdays
- Not at all on Sundays, bank holidays and public holidays.

Reason: In the interests of the amenity of local residents in accordance with London Plan (2016) policy 7.15 'Reducing and Managing Noise, Improving and Enhancing the Acoustic Environment and Promoting Appropriate Soundscapes'.

#### **17. PRIOR TO COMMENCEMENT OF ANY A3 USE – Ventilation/extraction system**

Prior to the commencement of any restaurant or café (Class A3) use on site details of a ventilation/extraction system to serve the restaurant or café (Class A3) use shall be submitted to and approved in writing by the local planning authority. The approved system shall be installed in full accordance with the approved details before any of the units are brought into use and maintained thereafter.

Reason: To prevent nuisance from cooking smells for people using neighbouring properties in accordance with London Plan (2016) policy 7.14 'Improving Air Quality', LBHF Regulation 18 Local Plan (2015) policy CC9 'Air Quality' and OPDC Regulation 19 Local Plan (2017) policy EU4 'Air Quality'.

#### **18. PRIOR TO OCCUPATION – Microclimate**

Prior to the development being brought into use details of the proposed wind microclimate mitigation measures shall be submitted to and approved in writing by the local planning authority. The mitigation measures shall be installed in full before the building is brought into use.

Reason: To ensure that the microclimate around the buildings is appropriate in accordance with London Plan (2015) policy 7.7 'Location and Design of Tall and Large Buildings', LBHF Regulation 18 Local Plan (2016) policy DC3 'Tall buildings' and OPDC Regulation 19 Local Plan (2017) policy D6 'Amenity'.

#### **19. PRIOR TO OCCUPATION – Electric Vehicle Charging Points**

Electric vehicle charging points shall be provided for 20% of the car parking spaces and passive provision shall be made available for the remaining 80% of the spaces so that the spaces are capable of being readily converted to electric vehicle charging points. The

location of the EVCP spaces and charging points shall be submitted to and approved in writing by the local planning authority before any of the residential units are first brought into use. The EVCP shall thereafter be constructed and marked out and the charging points installed prior to any of the residential units being brought into use and thereafter retained permanently to serve the vehicles of occupiers.

Reason: To encourage the use of electric vehicles in the interests of sustainability in accordance with London Plan (2016) policy 6.13 'Parking' and OPDC Regulation 19 Local Plan (2017) policy T4 'Parking'.

## **20. PRIOR TO OCCUPATION– Delivery and Servicing Plan**

Prior to the building being first brought into use, a Delivery and Servicing Plan to demonstrate how deliveries to the site will be accommodated and managed shall be submitted to and approved in writing by the local planning authority. The Plan shall include suitable capacity for the anticipated size of delivery/servicing vehicles, appropriate storage areas and the intended routing of vehicles. The development shall not be brought into use until the Plan has been approved in writing and the Plan shall be adhered to thereafter.

Reason: To avoid blocking the highway network and to protect the amenity of people in neighbouring properties in accordance with London Plan (2015) policies 6.11 'Smoothing Traffic Flow and Tackling Congestion' and 6.12 'Road Network Capacity', LBHF Regulation 18 Local Plan (2016) policy T2 'Transport assessments and travel plans' and OPDC Regulation 19 Local Plan (2017) policies T7 'Freight, servicing and deliveries'.

## **21. PRE-COMMENCEMENT – Construction and Environmental Management Plan (CEMP)**

No development shall take place, including any works of demolition, until a Construction and Environmental Management Plan (CEMP) for the proposed development to address how the impacts of demolition and construction on the local highway network and the local environment has been submitted to and approved in writing by the local planning authority. The CEMP must include the following details (where appropriate):

- a construction programme including a 24 hour emergency contact number;
- parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- arrangements to demonstrate how any concurrent construction with HS2 works shall not impede the construction of the HS2 works;
- arrangements to minimise the potential for noise and vibration disturbance;
- locations for loading/unloading and storage of plant and materials used in constructing the development;
- erection and maintenance of security hoardings;
- wheel washing facilities and measures to control the emission of dust and dirt during construction; and
- a scheme for recycling/disposing of waste resulting from demolition and construction works in accordance with the waste hierarchy and circular economy principles.

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

Reason: To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties in accordance with London Plan (2016) policies 6.12 'Road Network Capacity' and 7.15 'Reducing and Managing Noise, Improving and Enhancing the Acoustic Environment and Promoting Appropriate Soundscapes' and OPDC Regulation 19 Local Plan (2017) policies T7 'Freight, servicing and deliveries' and T8 'Construction'.

## **22. PRE-COMMENCEMENT – Construction Logistics Plan (CLP)**

No development shall take place, including any works of demolition, until a Construction Logistics Plan (CLP) for the proposed development has been submitted to and approved in writing by the local planning authority. The CLP shall include information on:

- i) booking systems;
- ii) consolidated or re-timed trips;
- iii) secure off-street loading and drop off facilities;
- iv) compliance with the Construction Logistics Strategy for the wider OPDC area, if available.

The development (including any works of demolition) shall only be carried out in accordance with the approved details.

Reason: To protect the amenity of local residents and to limit any impact on the local highway network in accordance with London Plan (2015) policy 6.12 'Road Network Capacity', LBHF Regulation 18 Local Plan (2016) policy T2 'Transport assessments and travel plans' and OPDC Regulation 19 Local Plan (2017) T9 'Construction'.

## **23. PRIOR TO ABOVE GROUND WORKS – Energy strategy**

Notwithstanding the submitted details and prior to the commencement of above ground works a revised energy strategy shall be submitted to and approved in writing by the local planning authority. The strategy shall explore all reasonable options for improving the energy efficiency of the building and reducing carbon dioxide emissions in accordance with the energy hierarchy set out in London Plan policy 5.2 'Minimising carbon dioxide emissions'. The strategy shall clarify where glazing is required to reduce solar gain and how this has been balanced against the need to ensure good levels of daylight. The development shall only be carried out in accordance with the approved strategy.

Reason: To ensure the development maximises energy efficiency measures in accordance with London Plan (2016) policies 5.2 'Minimising Carbon Dioxide Emissions' and 5.7 'Renewable energy' and OPDC Regulation 19 Local Plan (2017) policy EU9 'Minimising Carbon Emissions and Overheating'.

## **24. PRIOR TO OCCUPATION – Air Quality (Energy plant emissions standards, ventilation and gas boilers)**

Prior to the building being brought into use, detailed information on the following issues shall be submitted to and approved in writing by the local planning authority and thereafter carried out in accordance with the approved details:

- a ventilation strategy;
- the Combined Heat and Power units, abatement technologies and boilers installed to demonstrate compliance with the emissions standards set out within the agreed Low Emission Strategy. Where any combustion plant does not meet the relevant standard it should not be operated without the fitting of suitable NOx abatement equipment or technology (evidence of installation shall be provided);
- gas fired boilers to be provided for space heating and domestic hot water which shall have dry NOx emissions not exceeding 40 mg/kWh (at 0% O<sub>2</sub>). Where any installations do not meet this emissions standard it should not be operated without the fitting of suitable NOx abatement equipment or technology as determined by a specialist to ensure comparable emissions. Following installation, emissions certificates will need to be provided to the local planning authority to verify boiler emissions.

The maintenance and cleaning of the ventilation systems shall be undertaken regularly in accordance with manufacturer specifications and shall be the responsibility of the primary owner of the building. All approved details shall be fully implemented prior to the occupation/use of the development and thereafter permanently retained and maintained in good working order.

Reason: To ensure the development contributes to improvements in air quality in accordance with London Plan (2016) policy 7.14 'Improving Air Quality', LBHF Regulation 18 Local Plan (2015) policy CC9 'Air Quality' and OPDC Regulation 19 Local Plan (2017) policy EU4 'Air Quality'.

## **25. PRE-COMMENCEMENT – Air Quality (Low Emissions Strategy)**

Prior to the commencement of the development a Low Emission Strategy shall be submitted to and approved in writing by the local planning authority. The Low Emission Strategy must address the results of the Air Quality Assessment and detail the remedial action and mitigation measures that will be implemented to protect residential receptors (e.g. abatement technology for energy plant, design solutions). This Strategy must make a commitment to implement the mitigation measures (including NOx emissions standards for the chosen energy plant) that are required to reduce the exposure of on-site and off-site local receptors to poor air quality and to help mitigate the development's air pollution impacts, in particular the emissions of NOx and particulates from on-site and off-site transport and energy generation sources. Evidence must also be submitted to and approved in writing by the local planning authority to show that the CHP and boiler units installed will comply with the relevant emissions standards in the Mayor's SPG 'Sustainable Design and Construction' (2014).

Reason: To ensure the development contributes to improvements in air quality in accordance with London Plan (2016) policy 7.14 'Improving Air Quality', LBHF Regulation 18 Local Plan (2015) policy CC9 'Air Quality' and OPDC Regulation 19 Local Plan (2017) policy EU4 'Air Quality'.

## **26. PRIOR TO ABOVE GROUND WORKS – Drainage strategy**

Prior to the commencement of above ground works, a revised drainage strategy shall be submitted to and approved in writing by the local planning authority. The strategy shall investigate measures for attenuating surface water to greenfield run-off rates including permeable paving and green/brown/blue roofs. The approved measures shall be implemented in full before the development is first brought into use and the development shall only be carried out in accordance with the approved details.

Reason: To minimise the risk of surface water flooding in the vicinity of the site in accordance with London Plan (2016) policy 5.13 'Sustainable Drainage', LBHF Regulation 18 Local Plan policy CC3 'Reducing Water Use and the Risk of Flooding' and OPDC Regulation 19 Local Plan (2017) policy EU3 'Water'.

## **27. PRE-COMMENCEMENT – Piling method statement (Thames Water)**

No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement. The development shall not be brought into use until any necessary mitigation measures identified by the method statement have been approved in writing by the local planning authority and carried out in full in accordance with the approved details.

Reason: To protect water infrastructure in the vicinity of the site because the proposed works will be in close proximity to underground water utility infrastructure in accordance with London Plan (2016) policies 5.14 'Water Quality and Wastewater Infrastructure' and 5.15 'Water Use and Supplies', LBHF Regulation 18 Local Plan (2015) policy CC3 'Reducing Water Use and the Risk of Flooding' and OPDC Regulation 19 Local Plan (2017) policy EU3 'Water'.

## **28. PRE-COMMENCEMENT – Contaminated Land**

(i) The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the local planning authority:

- a. a desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in 'Model Procedures for the Management of Land Contamination' Contaminated Land Report 11, 'Guidance for the Safe Development of Housing on Land Affected by Contamination R&D66: 2008' and BS10175:2011 (+A1:2013) – 'Investigation of Potentially Contaminated Sites - Code of Practice'; and, unless otherwise agreed in writing by the local planning authority;
- b. a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175:2011 (+A1:2013); and, unless otherwise agreed in writing by the local planning authority;
- c. a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases and vapours when the site is developed and

proposals for future maintenance and monitoring. Such scheme shall include the nomination of a competent person to oversee the implementation of the works.

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

- a) as built drawings of the implemented scheme;
- b) photographs of the remediation works in progress; and
- c) certificates demonstrating that imported and/or material left in situ is free from contamination.

(iii) Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under (i) (c).

Reason: Potentially contaminative land uses (past or present) are understood to occur at, or near to, this site. The condition is required to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works in accordance with London Plan (2016) policy 5.21 'Contaminated Land', LBHF Regulation 18 Local Plan (2015) policy CC8 'Contaminated Land' and OPDC Regulation 19 Local Plan (2017) policy EU13 'Land contamination'.

## **29. PRE-COMMENCEMENT – Ecology review**

No demolition of existing buildings or removal of existing trees shall occur on or after 1 August 2018, unless prior to the commencement of these works and after 1 August 2018 a survey is undertaken by a suitably qualified ecologist to investigate the potential presence of ecology on the site and an ecological assessment is submitted to and approved in writing by the Local Planning Authority. Any demolition or tree removal shall be carried out in accordance with the approved assessment.

Reason: To ensure that the development would not cause any unacceptable harm to ecology not present on the site at the time the submitted ecological assessment was undertaken in accordance with policy 7.19 of the London Plan (2016) and OPDC Regulation 19 Local Plan (2017) policy EU2 'Urban greening and Biodiversity'.

## **30. PRE-COMMENCEMENT – Written Scheme of Investigation (Archaeology)**

No demolition or development shall take place until a stage 1 Written Scheme of Investigation (WSI) dealing with archaeology has been submitted to and approved in writing by the local planning authority. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works.

If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and

approved in writing by the local planning authority. For land that is included within the stage 2 WSI, no demolition/development shall take place other than in accordance with the agreed stage 2 WSI which shall include:

- a. The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works;
- b. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.

Reason: To protect archaeological interests by providing an opportunity to investigate and excavate archaeological remains on the site in accordance with London Plan (2016) policy 7.8 'Heritage Assets and Archaeology' and OPDC Regulation 19 Local Plan (2017) policy D8 'Heritage'.

### **31. PRIOR TO OCCUPATION – Waste and Recycling Storage**

Prior to first occupation of the development the waste and recycling storage and collection facilities shown on the approved plans shall be fully constructed. The waste and recycling storage and collection facilities shall be made available at all times and shall not be used for any other purpose.

Reason: To ensure that adequate arrangements have been made for the storage and collection of waste and recycling in accordance with London Plan (2016) policies 5.17 'Waste Capacity' and 6.12 'Road Network Capacity', LBHF Regulation 18 Local Plan (2015) policy CC6 'On-site Waste Management' and OPDC Regulation 19 Local Plan (2017) policy EU6 'Waste'.

### **32. PRIOR TO OCCUPATION – Cycle Storage**

Prior to the first occupation of the development the cycle storage indicated on the approved plans shall be constructed and fully fitted out for use as secured cycle storage. The cycle storage shall be made available at all times to everyone using the development and not used for any other purpose.

Reason: To encourage cycling as a means of sustainable transport in accordance with London Plan (2015) policy 6.9 'Cycling', LBHF Regulation 18 Local Plan (2015) policy T4 'Increasing opportunities for cycling and walking' and OPDC Regulation 19 Local Plan (2017) policy T3 'Cycling'

### **Informatives**

1. The written scheme of investigation required by Condition 30 will need to be prepared and implemented by a suitably professionally accredited archaeological practice in accordance with Historic England's Guidelines for Archaeological Projects in Greater London. This condition is exempt from deemed discharge under schedule 6 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

2. A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. Thames Water would expect the developer to demonstrate what measures will be undertaken to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 3577 9483 or by emailing. Application forms should be completed online via [www.thameswater.co.uk/wastewaterquality](http://www.thameswater.co.uk/wastewaterquality).
3. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
4. There are large water mains adjacent to the proposed development. Thames Water will not allow any building within 5 metres of them and will require 24 hours access for maintenance purposes. Please contact Thames Water Developer Services, Contact Centre on Telephone No: 0800 009 3921 for further information.
5. Under the terms of the Planning Act 2008 (as amended) and Community Infrastructure Levy Regulations 2010 (as amended), this development is liable to pay the Mayor of London's Community Infrastructure Levy (CIL). This will be calculated in accordance with the Mayor of London's CIL Charging Schedule 2012. Liability to pay CIL must now be assumed by submitting an Assumption of Liability Notice to the OPDC at [planningapplications@opdc.london.gov.uk](mailto:planningapplications@opdc.london.gov.uk).
6. The applicant and/or contractor are encouraged to sign up to the Fleet Recognition Scheme (FORS) which promotes better safety standards during construction. The FORS guidance can be found at <http://www.tfl.gov.uk/info-for/freight/safety-and-the-environment/managing-risks-wrrr>.
7. The applicant is advised that the application site falls within land that may be required to construct and/or operate Phase One of a high speed rail line between London and the West Midlands, known as High Speed Two. Powers to construct and operate High Speed Two were secured on 23<sup>rd</sup> February 2017 when Royal Assent was granted for Phase One of HS2. As a result the application site, or part of it, may be compulsorily purchased. More information can be found at: <https://www.gov.uk/government/collections/high-speed-rail-london-west-midlands-bill>.
8. The applicant is advised that prior to making a submission in relation to condition 5, requiring further details of external materials, that they should discuss the materials to be submitted with an Approved Building Control Surveyor in order to ensure that they meet with current fire safety regulations.
9. The applicant is strongly encouraged to consider the use of a sprinkler system within the development. Sprinkler systems installed in buildings can significantly reduce the damage caused by fire and the consequential cost to businesses and housing providers, and can reduce the risk to life.

10. The applicant is advised that the proposal works to facilitate the layout and design of the development will need to be agreed with Network Rail due to the proximity of the works to the existing operational railway and the potential for those works to impact upon the safe operation and integrity of the railway infrastructure:

- All excavation, earthworks and piling works
- All drainage works
- All scaffolding works
- All crane / tower crane working and loading
- Noise and vibration assessments for the proposed buildings should consider the existing operational railway and also any future increase in usage in the area of the railway
- All works will need to consider overhead 25kv power lines and induced voltages
- Any demolition or remediation works
- Boundary treatments, including trespass proof fencing, vegetation, road vehicle incursion protection measures
- Risk assessments and method statements for works on site
- All works on site and as a permanent arrangement must be undertaken wholly within the applicant's land ownership footprint (including foundations) which must not over-sail or encroach the railway boundary

In order to facilitate the above, an APA (Asset Protection Agreement) will need to be agreed between the developer and Network Rail. The developer will be liable for all costs incurred by Network Rail in facilitating this proposal, including any railway site safety costs, possession costs, asset protection costs / presence, site visits, review and agreement of proposal documents and any buried services searches. The APA will be in addition to any planning consent. The applicant / developer should liaise directly with Asset Protection to set up the APA [AssetProtectionLNWSouth@networkrail.co.uk](mailto:AssetProtectionLNWSouth@networkrail.co.uk)

### **Proactive and Positive Statement**

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

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

Dated this: XXX XXX 2018

**Michael Mulhern**

Director of Planning

Old Oak and Park Royal Development Corporation

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**Old Oak and Park Royal Development Corporation**  
**TOWN AND COUNTRY PLANNING ACT 1990**  
**Statement of Applicant's Rights**

**Appeals to the Secretary of State**

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State for Communities and Local Government under section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice or within 12 weeks in the case of a householder<sup>1</sup> appeal.
- Appeals must be made using the correct form, which is available from the Planning Inspectorate (a copy of which must be sent to Old Oak and Park Royal Development Corporation), or can be completed online.

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

To make an appeal online, please use [www.planningportal.gov.uk/pcs](http://www.planningportal.gov.uk/pcs). The Inspectorate will publish details of your appeal on the internet. This may include copies of documentation from the original planning application and relevant supporting documents supplied to the local authority, and or information, including personal information belonging to you that you are happy will be made available in this way. If you supply personal information belonging to a third party please ensure you have their permission to do so. More detailed information about data protection and privacy matters is available on the Planning Portal.

- The Secretary of State can allow a longer period for giving notice of an appeal, but the Secretary of State will not normally be prepared to use this power unless there are special circumstances, which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of any Development Order and to any directions given under a Development Order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based its decision on a direction given by the Secretary of State.

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<sup>1</sup> For the purposes of an appeal, a householder development is development in the boundary of, or to an existing dwellinghouse for purposes incidental to the enjoyment of the dwellinghouse, that does not involve change of use or a change to the number of dwellings.

Please note, this does not include development in the boundary of, or to an existing flat or maisonette.

## **Purchase Notices**

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

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**SCHEDULE 3**  
**Affordable Housing**

**1 ON-SITE AFFORDABLE HOUSING PROVISION**

- 1.1 Prior to Commencement of the Development the Owners shall agree with the OPDC in writing the location within the Development of the Affordable Housing Units and shall provide the Development in accordance with that agreement.
- 1.2 The Owners shall not Commence the Development until the Owners have agreed with the OPDC the location within the Development of the Affordable Housing Units in accordance with paragraph 1.1 above.
- 1.3 The Owners shall not Occupy the Affordable Housing Units for any purpose other than for Discounted Market Rent Housing for the lifetime of the Development.
- 1.4 The Owners shall:
- (a) ensure that 10 per cent of the Affordable Housing Units are accessible or easily adaptable for wheelchair users across all tenures and unit sizes;
  - (b) provide details (including 1:50 floor plans) of the proposed wheelchair accessible Affordable Housing Units to the OPDC for approval prior to Commencement of the Development; and
  - (c) not Commence the Development until the details of the proposed wheelchair accessible Affordable Housing Units have been approved in writing by the OPDC.
- 1.5 The Owners shall ensure that the Affordable Housing Units are designed and constructed in accordance with the London Design Standards.
- 1.6 Owners shall:
- (a) prior to first Occupation of more than 100 of the Private Residential Units:
    - (i) Practically Complete the Affordable Housing Units and make them available for Occupation; and
    - (ii) enter into a Rent and Nominations Agreement in respect of the Affordable Housing Units; and
  - (b) not first Occupy more than 100 of the Private Residential Units until the requirements of paragraph 1.6(a) have been satisfied in full.
- 1.7 The Affordable Housing Units shall be provided in accordance with the following unit size mix and rent and service charge levels (subject to changes made pursuant to an Affordable Housing Scheme agreed or determined in accordance with Schedule 5 below):

Unit Size	Number of Units	Monthly rent on first letting (inclusive of service charge)
1 bedroom, 2 person	28	No more than 80% of Market Rent
2 bedroom, 4 person	25	No more than 75% of Market Rent
3 bedroom, 6 person	12	No more than 65% of Market Rent

4 bedroom, person	5	2	No more than 55% of Market Rent
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- 1.8 The rent (inclusive of service charge) for the first and any subsequent lettings of the Affordable Housing Units shall not exceed the relevant amounts set out in the table at paragraph 1.7.
- 1.9 The rent (inclusive of service charge) charged for the Affordable Housing Units may be subject to an annual increase within tenancies provided that the percentage increase in rent to be charged for the Affordable Housing Units shall not exceed the percentage change in the Consumer Prices Index over the 12 month period preceding the increase in rent.
- 1.10 To enable monitoring of the obligations set out under paragraphs 1.7 to 1.9 of this Schedule the Owners will within 28 days of request by OPDC provide to OPDC a schedule indicating:
- (a) the rent received over the preceding 12 months for each Affordable Housing Unit, adjusted to allow for any void periods;
  - (b) the rent received over the preceding 12 months for each Private Residential Unit adjusted to allow for any void periods;
  - (c) a table indicating which Private Residential Units the Affordable Housing Units are most comparable to;
  - (d) the rent received for each Affordable Housing Unit as a proportion of the most comparable Private Residential Units; and
  - (e) the market rent as established by an RICS registered valuer of any Affordable Housing Unit(s) in respect of which a comparable Private Residential Unit cannot be identified for the relevant period

## 2 RENTAL COVENANT

- 2.1 The Owners covenant that the Private Residential Units shall be retained as private rented accommodation under single management during the applicable PRS Period, subject only to any requirement in accordance with the provisions of this Deed to convert any Private Residential Unit into an Additional Affordable Housing Unit.
- 2.2 On each and every occasion that the Owners breach the covenant given at paragraph 2.1 above, the Owners shall submit to the OPDC for approval within 10 Working Days a written statement of:
- (a) the quantum in square feet of the Private Residential Unit(s) disposed of;
  - (b) the price per square foot achieved in the disposal,
  - (c) the Clawback Payment payable on the basis of the following formula:

$$A = B * (C - D)$$

where:

A = the Clawback Payment

B = the quantum sold in ft<sup>2</sup>

C = the sale price per ft<sup>2</sup>

D = £577 (the assumed value per ft<sup>2</sup> of the Private Residential Units as set out in the Viability Appraisal) index linked based on the change in rental

values as indicated by Valuation Office Agency Administrative Area Level  
Private Rental Market Statistics for LBHF

- 2.3 The OPDC will approve the written statement submitted pursuant to paragraph 2.2 above or refer the matter to dispute resolution in accordance with the provisions of clause 19 of this Deed within 20 Working Days.
- 2.4 The Owners shall pay any Clawback Payment within 20 days of approval or determination of the written statement in accordance with paragraph 2.3 above.
- 2.5 For the avoidance of doubt the Clawback Payment shall not be payable in the event that the Private Residential Units are sold or leased by the Owners but continue to be retained by the purchaser or the lessee (as the case may be) as private rented accommodation under the management of a single professional property manager and managed in accordance with the Approved Residential Management Plan.

**SCHEDULE 4**  
**Residential Management Plan**

1     **RESIDENTIAL MANAGEMENT PLAN**

1.1   The Owners covenant as follows:

- (f)     To provide the Residential Units.
- (g)     To submit to the OPDC the Residential Management Plan for approval (as approved, the "**Approved Residential Management Plan**").
- (h)     Not to Occupy or cause or permit the Occupation of any Residential Unit until the Residential Management Plan has been submitted to and approved by the OPDC.
- (i)     To provide the Residential Units in accordance with the Approved Residential Management Plan (subject to any minor amendments agreed in writing with the OPDC).
- (j)     Not to Occupy or cause or permit the Occupation of the Residential Units, unless let and Occupied in accordance with the Approved Residential Management Plan (subject to any minor amendments agreed in writing with the OPDC).
- (k)     Upon reasonable notice from the OPDC and no more frequently than every six months, to provide to the OPDC such evidence as the OPDC reasonably requires to demonstrate the Owners' compliance with the Approved Residential Management Plan.

**SCHEDULE 5**  
**Viability Review**

**1 SUBSTANTIAL IMPLEMENTATION ASSESSMENT TRIGGER**

- 1.1 Where Substantial Implementation has not occurred before the Substantial Implementation Assessment Trigger Date the Owners will carry out and submit a Revised Viability Assessment in accordance with the provisions of this Schedule.
- 1.2 The Owners shall notify OPDC in writing of Substantial Implementation and such notice shall be accompanied by full documentary evidence on an open book basis to enable OPDC to independently assess whether Substantial Implementation has occurred and, if so, when Substantial Implementation occurred.
- 1.3 Following notification of Substantial Implementation pursuant to paragraph 1.2, the Owners shall afford OPDC (and its agents) access to the Site to inspect and assess whether or not the work which has been undertaken amounts to Substantial Implementation provided always that:
- (a) the OPDC shall provide the Owners with reasonable written notice of its intention to carry out such inspection;
  - (b) OPDC and its agents shall comply fully with the Owners' site rules and regulations applicable as at the time of access throughout the duration of such inspection and with health and safety legislation, policy and best practice;
  - (c) OPDC and its agents shall at all times be accompanied by the Owners or their agent.
- 1.4 OPDC shall inspect the Site within 20 Working Days of receiving notice pursuant to paragraph 1.2 and thereafter provide written confirmation to the Owners within 10 Working Days of the inspection date (or such other date agreed with the Owners) as to whether or not OPDC considers that the works undertaken amount to Substantial Implementation.
- 1.5 In the event that the OPDC:
- (a) fails to comply with its obligations under paragraph; 1.4 or
  - (b) confirms in writing in accordance with paragraph 1.4 that Substantial Implementation has not occurred
- then the Owners may:
- (c) submit additional information to OPDC to seek to demonstrate to OPDC that Substantial Implementation has occurred; and/or
  - (d) refer the matter to dispute resolution in accordance with the provisions of clause 19 of this Deed.
- 1.6 In the event that the Owners have notified the OPDC of Substantial Implementation pursuant to paragraph 1.2 and following receipt of that notice the OPDC fails to comply with its obligations in paragraph 1.4 or if in accordance with its obligations in paragraph 1.4 the OPDC notifies the Owners that it considers that the works undertaken do not amount to Substantial Implementation and either:
- (i) the Owners do not refer the matter to dispute resolution in accordance with paragraph 1.5(b); or
  - (ii) the Owners do refer the matter to dispute resolution in accordance with paragraph 1.5(b) and the Expert determines that the works undertaken do not amount to Substantial Implementation

the Owners may carry out further works and, acting reasonably and having regard to any relevant statements made by the OPDC and/or the Expert may submit a new notification in accordance with paragraph 1.2 above when the Owners consider that Substantial Implementation has occurred and paragraphs 1.3 to 1.6 of this Schedule 4 shall apply mutatis mutandi following the service of any such notice.

## 2 **OCCUPATION ASSESSMENT TRIGGER**

- 2.1 The Owners will carry out the Occupation Assessment from the Occupation Assessment Trigger Date in accordance with the provisions of this schedule.
- 2.2 The Owners shall not first Occupy more than 120 Private Residential Units unless and until the Occupation Assessment has been completed and agreed (or determined) following the Occupation Assessment Trigger Date in accordance with the following provisions of this schedule, unless the OPDC agrees otherwise.

## 3 **CALCULATION OF SURPLUS**

- 3.1 In the case of a Substantial Implementation Assessment, the Surplus will be calculated in accordance with the following formula:

$$X = (A - B) - (C - D) - P$$

where:

X = the amount of the Surplus

A = estimated GDV of the Development as determined at the time the Substantial Implementation Assessment is undertaken in accordance with paragraph 4.1 below

B = GDV of the Development as determined at the grant of the Planning Permission to be sufficient to break even (£126,726,139)

C = estimated Build Costs as determined at the time the Substantial Implementation Assessment is undertaken in accordance with paragraph 4.1 below

D = estimated Build Costs as determined at grant of the Planning Permission (£108,081,993)

P (Owners' profit on change in GDV) = (A - B) \* Y

Y = 15% (Owners' profit as a percentage of GDV as determined at the application stage)

- 3.2 In the case of the Occupation Assessment, the Surplus will be calculated in accordance with the following formula:

$$X = ((A - B) - (C - D) - P) * 0.6$$

where:

X = the amount of the Surplus

A = estimated GDV of development based on existing lets as determined at the Occupation Assessment Trigger Date

B = GDV of the Development as determined at the grant of the Planning Permission to be sufficient to break even (£126,726,139)

C = Build Costs as determined at the Occupation Assessment Trigger Date based on actual Build Costs + estimated Build Costs for completion of the Development

D = estimated Build Costs as determined at the grant of the Planning Permission (£108,081,993)

P (Owners profit on change in GDV) = (A - B) \* Y

Y = 15% (Owners' profit as a percentage of GDV as determined at the application stage)

#### **4 SUBMISSION OF A REVISED VIABILITY ASSESSMENT**

- 4.1 In the event that the Owners are required to submit a Substantial Implementation Assessment pursuant to paragraph 1.1 above, such Revised Viability Assessment shall be submitted within 20 Working Days after the OPDC confirms or the Expert determines (as the case may be) in writing that Substantial Implementation has occurred
- 4.2 The Owners will submit the Occupation Assessment within 20 Working Days after the Occupation Assessment Trigger Date.

#### **5 PROPOSALS FOR APPLICATION OF ANY SURPLUS**

- 5.1 The Owners will submit to OPDC together with any Revised Viability Assessment:
- (a) a written statement confirming whether a Surplus has arisen and where that statement confirms that a Surplus has arisen:
  - (b) a written statement of the value of that Surplus; and
  - (c) an Additional Affordable Housing Scheme
- 5.2 The Owners will provide to OPDC together with any Revised Viability Assessment such further information and evidence as is reasonably required by OPDC to enable OPDC's Viability Consultant to carry out the Revised Viability Assessment Review.
- 5.3 The Additional Affordable Housing Scheme submitted pursuant to either a Substantial Implementation Assessment or Occupation Assessment will specify which Private Residential Units are to be converted into Additional Affordable Housing Units having applied the following formula:

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

where:

X = the number of habitable rooms to be delivered by the Additional Affordable Housing Units

A = the Surplus

B = Average value of the Private Residential Units per ft<sup>2</sup>

C = Average value of the Affordable Housing Units per ft<sup>2</sup> at the rent levels specified in Schedule 3

D = Average habitable room size for the Development (ft<sup>2</sup>)

- 5.4 If agreed in writing by OPDC, the Additional Affordable Housing Scheme submitted pursuant to the Occupation Assessment may instead provide that the Owners will pay to the OPDC an Affordable Housing Contribution of equivalent monetary value to the Surplus.

#### **6 REVISED VIABILITY ASSESSMENT REVIEW**

- 6.1 OPDC will commission an independent review of any Revised Viability Assessment it receives provided always that the OPDC will appoint its Viability Consultant on terms that the Viability Consultant must report to the OPDC within 30 Working Days after the date of submission of any Revised Viability Assessment by the Owners in accordance with paragraph 4 of this schedule with reasonable terms to incentivise the meeting of this deadline, but for the avoidance of doubt failure on the part of the Viability Consultant to meet this deadline will not affect the Revised Viability Assessment Review and the steps set out at 6.2 and 6.3 below will always be followed when the Viability Consultant submits the relevant report.
- 6.2 OPDC will notify the Owners in writing when OPDC's Viability Consultant has completed a Revised Viability Assessment Review and provide a copy of the relevant report of OPDC's Viability Consultant to the Owners within 5 Working Days of receipt of the report.
- 6.3 The Owners will pay to OPDC the costs of OPDC's Viability Consultant which are reasonably and properly incurred on the Revised Viability Assessment Review within 20 Working Days of receipt of the report.

## **7 AGREEMENT OF ANY ADDITIONAL AFFORDABLE HOUSING SCHEME**

- 7.1 The OPDC and the Owners will use reasonable endeavours to agree any Additional Affordable Housing Scheme as soon as reasonably practicable following submission to the Owners of the report of the OPDC's Viability Consultant in accordance with paragraph 6.2 above and OPDC or the Owners may refer the matter to dispute resolution pursuant to clause 19 of this Deed to determine the level of the Surplus and / or the Additional Affordable Housing Scheme if no agreement has been reached within 20 Working Days following receipt of the Viability Consultant's final report pursuant to paragraph 6.2.

## **8 IMPLEMENTATION OF ANY ADDITIONAL AFFORDABLE HOUSING SCHEME**

- 8.1 Where pursuant to a Substantial Implementation Assessment an Additional Affordable Housing Scheme has been agreed or determined in accordance with the provisions of this Schedule, the Owners shall prior to the Occupation of more than 120 of the Private Residential Units:
  - (a) make any amendments to the Development required to accommodate any Additional Affordable Housing Units and seek any necessary variation to the Planning Permission and / or any details approved pursuant to conditions imposed thereon;
  - (b) Practically Complete any Additional Affordable Housing Units in accordance with the Additional Affordable Housing Scheme and make them available for Occupation; and
  - (c) enter into a Rent and Nominations Agreement in respect of the Additional Affordable Housing Units
- 8.2 The Owners shall not first Occupy more than 120 of the Private Residential Units unless and until it has complied with paragraph 8.1 above.
- 8.3 Where pursuant to the Occupation Assessment an Affordable Housing Scheme has been agreed or determined in accordance with the provisions of this Schedule, the Owners shall prior to the Occupation of more than 120 of the Private Residential Units:
  - (a) make any amendments to the Development required to accommodate any Additional Affordable Housing Units and seek any necessary variation to the Planning Permission and / or any details approved pursuant to conditions imposed thereon;
  - (b) Practically Complete any Additional Affordable Housing Units in accordance with the Additional Affordable Housing Scheme and make them available for Occupation;

- (c) enter into a Rent and Nominations Agreement in respect of the Additional Affordable Housing Units; or
- (d) pay to the OPDC any Affordable Housing Contribution

8.4 The Owners shall not first Occupy more than 120 of the Private Residential Units unless and until it has complied with paragraph 8.3 above.

**9 CAP**

9.1 The provisions of this Schedule are subject to the proviso that the value of the Affordable Housing Units and any Surplus applied to provide Additional Affordable Housing Units or in the payment of an Affordable Housing Contribution shall never exceed the Cap, for any individual application or in aggregate.

## SCHEDULE 6

### Highways and Transport

#### 1 **TRANSPORT CONTRIBUTION**

##### 1.1 The Owners shall:

- (a) pay the Transport Contribution to the OPDC prior to Commencement of the Development; and
- (b) not Commence the Development until the Transport Contribution have been paid in full to the OPDC.

#### 2 **ACCESSIBILITY CONTRIBUTION**

##### 2.1 The Owners shall:

- (a) pay the Accessibility Contribution to the OPDC prior to Commencement of the Development; and
- (b) not Commence the Development until the Accessibility Contribution have been paid in full to the OPDC.

#### 3 **HIGHWAY WORKS**

##### 3.1 The Owners shall:

- (a) prior to Commencement of the Development submit an initial Schedule of Highway Condition to the OPDC for approval; and
- (b) not Commence the Development until the OPDC has approved the initial Schedule of Highway Condition in writing.

##### 3.2 Prior to Practical Completion of the Development the Owners shall give the OPDC the following information for approval:

- (a) a proposed specification for the Highway Works (other than in respect of the repair and reinstatement works to the Highway Reinstatement Area); and
- (b) a proposed programme for the Highway Works referred to in paragraph 3.2(a).

##### 3.3 Within 20 Working Days of Practical Completion of the Development (or the date at which works in respect of the Development have reached a stage where further works will not adversely affect the Highway Reinstatement Area), the Owners shall give written notification of such fact to the OPDC together with the following information for approval:

- (a) a further Schedule of Highway Condition;
- (b) a proposed specification for the Highway Works in respect of the repair and reinstatement works to the Highway Reinstatement Area; and
- (c) a proposed programme for the Highway Works referred to in 3.3(b).

##### 3.4 Following approval of the details in paragraph 3.2 and paragraph 3.3 by the OPDC, the Owners shall:

- (a) unless otherwise agreed with the OPDC, enter into a Highways Agreement or Highways Agreements with LBHF (as local highways authority) in respect of the Highway Works; and
- (b) thereafter carry out the Highway Works in accordance with the Highways Agreement or Highways Agreements.

- 3.5 Unless otherwise agreed with the OPDC the Owners shall not permit any Occupation of Residential Units or Commercial Floorspace after Practical Completion of the Development until:
- (a) the details required to be submitted pursuant to paragraph 3.2 and paragraph 3.3 have been approved in writing by the OPDC;
  - (b) the Owners have entered into a Highways Agreement or Highways Agreements in respect of the approved Highway Works; and
  - (c) the Owners have Practically Completed the Highway Works in accordance with the Highways Agreement or Highways Agreements (as the case may be).
- 3.6 The Owners shall consult with the LBHF (as local highway authority) in respect of the approval of the details required to be submitted pursuant to paragraphs 3.1, 3.2 and 3.3 and shall provide details of LBHF's responses to the OPDC when submitting those details for approval.

**SCHEDULE 7****Car Parking****1 CAR CLUB MEMBERSHIP**

1.1 If on first Occupation of the first Residential Unit there is a Car Club Space within a 400 metre walking distance of the Development:

- (a) Prior to first Occupation of each Residential Unit, the Owners shall write to the relevant first Resident to notify them of the existence of the Car Club and to offer to pay for three year's membership of the Car Club.
- (b) In the event that following receipt of written notice pursuant to paragraph 1.1 above a Resident notifies the Owners that he wishes to become a member of the Car Club, the Owners shall pay the full cost of that Resident's membership to the Car Club for a period of not less than three years.
- (c) As soon as reasonably practicable following a written request from the OPDC, the Owners shall provide the OPDC with evidence of the acceptance or non-acceptance of the Car Club membership by a Resident of each Residential Unit.

1.2 It is hereby agreed that the Owners shall only be required to offer to pay for three years' membership of the Car Club for up to 2( two) first Residents per Residential Unit

- (a) The Owners undertake that any advert or marketing in relation to the sale or letting of any of the Residential Units shall include reference to the provision of membership of the Car Club pursuant to the terms of this Deed and the Owners shall provide evidence of the same to the OPDC as soon as reasonably practicable following a written request.

1.3 If on first Occupation of the first Residential Unit there is no Car Club Space within a 400 metre walking distance of the Development but such a Car Club Space becomes available within 5 years from the date of first Occupation of the first Residential Unit, the provisions of paragraph 1.1 above shall apply in respect of the first letting or re-letting of each Residential Unit from the time at which such a Car Club Space becomes available.

1.4 If no Car Club Space within 400 metres from the Development has become available after 5 years from the date of first Occupation of the first Residential Unit, the Owners shall:

- (a) notify the OPDC within 10 days of that anniversary;
- (b) agree with the OPDC within 10 days of the above notification the value of a contribution equivalent to the cost as at the date of that anniversary of three year's membership of a typical London Car Club for 200 residents, and if that value is not agreed within 10 days either party may refer the matter for determination in accordance with Clause 19; and
- (c) pay such contribution within 10 days of it being agreed or determined to be by OPDC towards improving the accessibility of the Site.

**2 CONTROLLED PARKING ZONES – RESTRICTION ON TITLE**

2.1 The Owners shall not Occupy the Development or any part thereof unless and until the Owners have informed all intended Occupiers of the Development by formal notice in writing:

- (a) that the Development is a Car-Free Housing Scheme; and
- (b) that (save for any Blue Badge Holders) intended Occupiers of the Development (or any person having any connection whatsoever or relationship with any such Occupier whether contractual, personal or otherwise and who is resident at the Development)

shall not be entitled to any form of permit from the LBHF or LBE or LBB which would allow them to park any motor vehicle within a CPZ.

- 2.2 The Owners will forthwith confirm in writing to the OPDC that it has made formal notification in accordance with paragraphs 2.1(a) and 2.1(b) above.
- 2.3 The Owners for themselves and their successors in title (other than Blue Badge Holders) hereby waives all rights and entitlement (if any) on the part of the Owners to a parking permit in the CPZ.
- 2.4 The First Owner and the Second Owner covenant not to lease or transfer the whole or any part of the Site unless they have included a restrictive covenant in any such lease or transfer which provides that the tenant or owner of the whole or any part of the Site covenants not to apply to the LBHF, LBE or LBB for a resident's parking permit for a CPZ.
- 2.5 The First Owner and the Second Owner hereby covenant for themselves and their successors in title not to transfer their freehold interests in the Site or grant a leasehold interest in the Site or any part thereof (other than a leasehold interest in an individual Residential Unit or unit of Commercial Floorspace) unless the transferee or lessee as the case may be enters into a deed of covenant (the "Deed of Covenant") with the OPDC in which the transferee or lessee as the case may be gives covenants to the OPDC identical to the covenants within this paragraph 2.
- 2.6 The Deed of Covenant shall be in substantially the same form as the draft deed of covenant appearing at Annex 1 of this Schedule, subject to amendments as may be agreed by the Parties acting reasonably.
- 2.7 The Owners shall not Implement the Development or any part thereof until the First Owner and the Second Owner have entered a restriction on its relevant interest(s) in the Site prohibiting registration of any disposition of said registered estate(s) without a certificate signed by OPDC that the provisions of paragraph 2.4 above have been complied with (the "Restriction").
- 2.8 The Restriction shall be in the same form as the restriction appearing at Annex 2 of this Schedule.

### **3 CONTROLLED PARKING ZONES – UNDERTAKINGS TO LBHF**

- 3.1 The Owners shall not Commence the Development or any part thereof until it has given unilateral undertakings pursuant to section 16 of the Greater London Council (General Powers) Act 1974 to LBHF (the "Undertaking") and the OPDC has approved such Undertaking in writing.
- 3.2 The Undertaking shall be in substantially the same form as the draft undertaking appearing at Annex 3 of this Schedule, subject to such reasonable amendments as may be required by LBHF.
- 3.3 The Owners and the OPDC shall use reasonable endeavours to agree the form of the Undertaking with LBHF within one month of the date of this Deed and in any event as soon as reasonably practicable after the date of this Deed.
- 3.4 The Owners covenant that all material utilised for advertising or marketing each and every individual Residential Unit within the Development for letting or sale will make it clear to prospective tenants and Occupiers that no Parking Permit (other than for a Blue Badge Holder) will be issued by LBHF for any Residential Unit.
- 3.5 Upon receiving written request from the OPDC, the Owners shall provide the OPDC with such evidence as the OPDC may reasonably require to demonstrate that the Owners are complying with the requirements of the Undertakings and this paragraph 3.

**ANNEX 1**  
**Deed of Covenant**

**DATED**

**2017**

**OLD OAK AND PARK ROYAL DEVELOPMENT  
CORPORATION**

**AND**

**[COVENANTOR]**

---

**DEED OF COVENANT**

---

Lewis Silkin LLP  
5 Chancery Lane  
Clifford's Inn  
London EC4A 1BL  
Tel: +44 (0)20 7074 8000

**THIS DEED** is made on

2017

**BETWEEN:**

1. **OLD OAK AND PARK ROYAL DEVELOPMENT CORPORATION** of City Hall, The Queen's Walk, More London Riverside, London SE1 2AA (the "**OPDC**"); and
2. **[Covenantor]** [a company registered in England and Wales (company number [0000]) whose registered office is at [Address] (the "**COVENANTOR**")

**RECITALS**

- (A) The Covenantor has on the date of this deed acquired the Property from the Seller.
- (B) The Covenantor has agreed to comply with the Seller's Obligations in the Original Agreement as if were the Owners named in that Original Agreement.
- (C) The Covenantor has agreed to enter into this Deed of Covenant to record that Agreement.

**OPERATIVE PROVISIONS**

**1 INTERPRETATION**

- 1.1 In this Deed the following words and expressions shall have the following meanings:

**"Owners"**

the party to the Original Agreement so named;

**"Original Agreement"**

the deed dated [] made between (1) the OPDC (2) Singleland Limited and (3) United Kingdom Tyre Exporters Limited and (4) City and Docklands Management Limited;

**"Property"**

[insert title details] which comprises [part of] the Site as defined in the Original Agreement;

**"Seller"**

[Singleland Limited or United Kingdom Tyre Exporters Limited or relevant successor];

**"Seller's Obligations"**

all obligations and restrictions on the Owners and all covenants provided by the Owners in [paragraph 2 of Schedule 7] of the Original Agreement.

- 1.2 Words and expressions defined in the Original Agreement have the same meanings in this Deed unless an alternative meaning is given in this Deed when the alternative meaning will apply.
- 1.3 The parties to this Deed do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

**2 OBLIGATIONS**

- 2.1 The Covenantor covenants with the OPDC to comply with the Seller's Obligations as if the Seller's Obligations were set out in full in this Deed of Covenant and references to the Owners in the Seller's Obligations were references to the Covenantor.

**3 EXECUTION**

- 3.1 The Covenantor has executed this Deed of Covenant as a deed and it is delivered on the date set out above.

The common seal of )  
**OLD OAK AND PARK ROYAL** )  
**DEVELOPMENT CORPORATION** )  
was affixed in the presence of:

Authorised Signatory

Executed as a deed by )  
**[Covenantor]** )  
acting by a director and a secretary/two )  
directors:

Director

Director/Secretary

**ANNEX 2****Restriction on Title**

"No disposition of the registered estate (other than a charge, or the grant of a leasehold interest in an individual Residential Unit or unit of Commercial Floorspace as defined in the Deed dated [●] between the Old Oak and Park Royal Development Corporation and Singleland Limited and United Kingdom Tyre Exporters Limited and City and Docklands Management Limited) by the proprietor of the registered estate is to be registered without a certificate signed by the Old Oak and Park Royal Development Corporation of City Hall, The Queen's Walk, More London Riverside, London SE1 2AA that the provisions of paragraph [2.4 of Schedule 7] of the Deed dated [ ● ] between the Old Oak and Park Royal Development Corporation and Singleland Limited and United Kingdom Tyre Exporters Limited and City and Docklands Management Limited have been complied with or that they do not apply to the disposition"

**ANNEX 3**  
**Draft Undertaking**

DATED

20[ ]

SINGLELAND LIMITED

AND

UNITED KINGDOM TYRE EXPORTERS LIMITED

AND

CITY AND DOCKLANDS MANAGEMENT LIMITED

AND

THE MAYOR AND BURGESSES OF THE  
LONDON BOROUGH OF HAMMERSMITH AND FULHAM

---

UNILATERAL UNDERTAKING  
pursuant to section 16 of the Greater London Council  
(General Powers) Act 1974 and all other powers enabling  
relating to land known as North Kensington Gate South, 115-  
129A London NW10 6QU

---

Lewis Silkin LLP  
5 Chancery Lane  
Clifford's Inn  
London EC4A 1BL  
T: 020 7074 8000

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**THIS UNDERTAKING** is given on

20[ ]

**FROM:**

1. **SINGLELAND LIMITED** a company registered in England and Wales (company number 1900639) whose registered office is at 2 Lake End Court, Taplow Road, Taplow, Maidenhead, Berks SL6 0JQ (the "**First Owner**"); and
2. **UNITED KINGDOM TYRE EXPORTERS LIMITED** a company registered in England and Wales (company number 977770) whose registered office is at 2 Lake End Court, Taplow Road, Taplow, Maidenhead, Berks SL6 0JQ (the "**Second Owner**")
3. **CITY AND DOCKLANDS MANAGEMENT LIMITED** a company registered in England and Wales (company number 04270026) whose registered office is at Regina House, 124 Finchley Road, London, NW3 5JS (the "**Developer**")

together "**the Owners**"

**TO:**

4. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF HAMMERSMITH AND FULHAM** of Town Hall, King Street, London, W6 9JU (the "**Council**")

**RECITALS**

- (A) The Council is the local authority for the area in the vicinity of the Site for the purposes of section 16 of the 1974 Act and is the local authority by whom the obligations contained in this Undertaking are enforceable.
- (B) By virtue of The Old Oak and Park Royal Development Corporation (Planning Functions) Order 2015, the Old Oak and Park Royal Development Corporation ("**OPDC**") is the local planning authority for the area in which the Site is located for the purposes of Part 3 of the 1990 Act.
- (C) The First Owner is the registered owner of the freehold interest in the part of Site with title absolute under title number NGL481480.
- (D) The Second Owner is the registered owner of the freehold interest in the part of Site with title absolute under title number NGL485524.
- (E) The Developer has agreed with the First Owner and the Second Owner to undertake the Development pursuant to the Planning Permission.
- (F) The Developer submitted the Planning Application to the OPDC.
- (G) At a meeting of its Planning Committee on 12 July 2017, the OPDC resolved to grant the Planning Permission subject to the Owners entering into the S106 Agreement and securing obligations to restrict Occupiers of the Site from holding Parking Permits, without which the Planning Permission would not be granted.
- (H) The S106 Agreement has been entered into and the Planning Permission has been granted.
- (I) This Undertaking is being given to satisfy the requirements of paragraph 2 of Schedule 7 of the S106 Agreement.

**THE PARTIES AGREE** as follows:

**1 INTERPRETATION**

- 1.1 In this Undertaking the following words and expressions and abbreviations have the following meanings, unless the context otherwise requires:

**“1974 Act”**

means the Greater London Council (General Powers) Act 1974;

**“1990 Act”**

means the Town and Country Planning Act 1990;

**“Blue Badge”**

means a disabled parking badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970;

**“Commencement”**

means the carrying out of a material operation (as defined in section 56(4) of the 1990 Act but disregarding for the purposes of this Undertaking the following operations: ground investigations for assessing site conditions; archaeological investigations; demolition and site clearance; site survey works; diversion and laying of services; erection of any temporary means of enclosure; temporary display of site notices and advertisements; and any works requires to be undertaken to discharge pre-commencement conditions on the Planning Permission) and **“Commenced”** shall be construed accordingly;

**“Commencement Date”**

means the date upon which the Development is Commenced;

**“CPZ”**

means any controlled parking zone enforced by the Council as at the date of the S106 Agreement;

**“Development”**

means demolition of existing structures and redevelopment of the Site to provide a new building ranging from 6 storeys (25.1 metres above ground level) to 22 storeys (80.4 metres above ground level) in height over a new excavated basement, comprising 750sqm (GIA) of ground floor commercial floorspace (use class A1/A2/A3/B1) and 164 residential units (use class C3) with basement car parking and plant space, landscaping and associated works;

**“Occupation”**

means the occupation of any part of the Development for its designated planning use but does not include occupation by the Owners or any contractor or other occupier for the purposes of construction, fitting out, decoration, marketing or display and **“Occupier”** shall be construed accordingly;

**“Parking Permit”**

means a permit issued or to be issued in the future by the Council to an Occupier of a Residential Unit to permit the parking of a motor vehicle on the highway within a CPZ;

**“Planning Application”**

means the application for full planning permission submitted to the OPDC for the Development and allocated reference number 16/0119/FULOPDC;

**“Planning Permission”**

means the planning permission for the Development granted by the OPDC on [insert date] and bearing reference number 16/0119/FULOPDC and shall include any amended, varied or replacement permission granted pursuant to section 96A or section 73 of the 1990 Act from time to time;

**“Residential Unit”**

means a unit of residential accommodation comprised within the Development and falling within Use Class C3;

**“S106 Agreement”**

means the agreement dated [*insert date*] and made pursuant to section 106 of the 1990 Act in respect of the Planning Permission between (1) the OPDC and (2) the First Owner and (3) the Second Owner;

**“Site”**

means the land known as Mitre Yard, 104-108 Scrubs Lane, London NW10 6SF as shown edged [red] on Plan 1, the freehold interest in which is owned by the Owners and registered at HM Land Registry under title numbers NLG481480 and NGL485524;

**“Use Classes”**

shall be defined by reference to the Town and Country Planning (Use Classes) Order 1987; and

**“Working Day”**

means any day of the week other than Saturday, Sunday or any bank holiday.

- 1.2 Where in this Undertaking reference is made to a clause, paragraph, schedule, recital, plan, annex or appendix such reference (unless the context otherwise requires) is a reference to a clause, paragraph, schedule, or recital in this Undertaking or to a plan, annex or appendix attached to this Undertaking.
- 1.3 Where in any schedule or part of a schedule reference is made to a paragraph such reference shall (unless the context otherwise requires) be to a paragraph of that schedule or (if relevant) part of a schedule.
- 1.4 References in this Undertaking to the Owners shall include reference to their successors in title and assigns and to persons claiming through or under them in relation to all or any part of the Site save where the context otherwise requires.
- 1.5 References to the Council shall include reference to any successor body exercising any of the powers currently vested in the Council in relation to this Undertaking.
- 1.6 Words including the singular meaning where the context so admits include the plural meaning and vice versa.
- 1.7 Words of the masculine gender include the feminine and neuter genders and words denoting natural persons include companies and other corporate bodies and also firms and all such words shall be construed interchangeably in that manner.
- 1.8 Words denoting an obligation on a party to do an act matter or thing include an obligation to procure that it be done and words placing a party under a restriction (including for the avoidance of doubt any obligation preventing or restricting Commencement or Occupation) include an obligation not to cause, permit, suffer or allow infringement of the restriction.
- 1.9 Any reference to a statute or a provision thereof or a statutory instrument or a provision thereof shall include any modification, extension or re-enactment thereof for the time being in force (including for the avoidance of doubt any modification, extension or re-enactment made prior to the date of this Undertaking) and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given thereunder or deriving validity therefrom.
- 1.10 The word **“including”** means including without limitation or prejudice to the generality of any description defining term or phrase preceding that word and the word **“include”** and its derivatives shall be construed accordingly.

- 1.11 The clause and paragraph headings in the body of this Undertaking and in the schedules hereto do not form part of this Undertaking and shall not be taken into account in its construction or interpretation.
- 1.12 References to the Site include any part of it.

## **2 LEGAL EFFECT**

- 2.1 This Undertaking is made pursuant to section 16 of the 1974 Act and will come into effect on the date hereof, save for clause 3 which shall come into force upon the Commencement Date.
- 2.2 The covenants undertakings restrictions and requirements imposed upon the Owners under this Undertaking create obligations pursuant to section 16 of the 1974 Act which are enforceable by the Council as local authority against the Owners and the Owners' successors in title and assigns and which bind each and every part of the Site.
- 2.3 Insofar as any provisions in this Undertaking are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity, illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Undertaking.
- 2.4 No waiver (whether express or implied) by the Council of any breach or default in performing or observing any of the covenants, undertakings, terms or conditions of this Undertaking shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said covenants, undertakings, terms or conditions or from acting upon any subsequent breach or default.
- 2.5 The covenants, undertakings, restrictions and obligations herein shall be enforceable without any limit of time against the Owners and their successors in title and assigns or any person claiming title through or under the Owners to the Site or any part thereof as if that person had also been an original covenanting party in respect of the interest or estate for the time being held by that person.

## **3 THE OWNERS' COVENANTS**

The Owners hereby covenant with the Council to observe and perform and cause to be observed and performed the obligations, undertakings, covenants and restrictions contained in Schedule 2.

## **4 OWNERS' CAPACITY TO ENTER INTO THIS UNDERTAKING**

The Owners hereby warrant that they have full power to enter into this Undertaking and that they have obtained all necessary consents from any mortgagee, chargee or any other person having a title or right in the Site.

## **5 FURTHER TERMS**

- 5.1 The covenants and undertakings in this Undertaking shall be registered by the Council as local land charges for the purposes of the Local Land Charges Act 1975.
- 5.2 Nothing in this Undertaking shall prohibit or limit the right to develop any part of the Site in accordance with any planning permission (other than the Planning Permission) granted after the date of the Planning Permission.

## **6 NOTICE PROVISIONS**

- 6.1 The Owners shall give the Council written notice of Commencement no later than 10 Working Days after the Commencement Date.

- 6.2 The Owners shall give the Council written notice of any change in ownership of any freehold or leasehold interest in the Site no later than ten Working Days after such change in ownership and such notice shall give details of the transferee's or lessee's full name and registered office (if a company or usual address if not).
- 6.3 Any notice or other written communication to be served upon a party or given by one party to any other under the terms of this Undertaking shall be given in writing (which for this purpose shall not include email) and shall be deemed to have been validly served or given if delivered by hand or sent by first class post or sent by recorded delivery post to the party upon whom it is to be served or to whom it is to be given and shall conclusively be deemed to have been received on:
- (a) if delivered by hand, the next Working Day after the day of delivery; and
  - (b) if sent by first class post or recorded delivery post, the day two Working Days after the date of posting.
- 6.4 The address for any notice or other written communication shall be within the United Kingdom only and shall be as specified below or such other address as shall be specified by the party upon whom the notice is to be served to the other parties by not less than five Working Days' notice:
- (a) in the case of the Council, to the Head of Development Management, Hammersmith and Fulham Council, Town Hall, King Street, London, W6 9JU, bearing the reference "North Kensington Gate South – OPDC – 16/0119/FULOPDC";
  - (b) in the case of the First Owner, to [\*]
  - (c) in the case of the Second Owner, to [\*].

## 7 REVOCATION

This Undertaking shall cease to have effect (insofar as it has not already been complied with and save for any obligations which are already outstanding) if the Planning Permission shall be quashed, modified (without the consent of the Owners) or revoked or if the Planning Permission shall expire prior to Commencement of the Development.

## 8 LIABILITY UNDER THIS UNDERTAKING

- 8.1 No person shall be liable for any breach of the covenants restrictions or obligations contained in this Undertaking:
- (a) to the extent that such breach relates to any part of the Site in which that person has no interest and/or
  - (b) which occurs after he has parted with his entire interest in the Site (or his interest in that part of the Site on which the breach occurs) save for any prior breach for which he shall continue to be liable.

## 9 DISPUTE RESOLUTION

- 9.1 Where the Owners and the Council (referred to hereafter in this clause as the "**parties**") are in dispute or disagreement or have any differences relating to any matter the subject of or connected with this Undertaking or its meaning or construction (a "**Dispute**") then (without prejudice to any provision in this Undertaking which specifies a particular timescale for the resolution or determination of any matter) the parties shall use their reasonable endeavours to resolve the same within 20 Working Days of the Dispute arising.
- 9.2 Failing the resolution of any such Dispute within the said 20 Working Days or within such other period as may be specified in this Undertaking in relation to the resolution or

determination of the matter in question, the Dispute shall be referred for determination in accordance with the provisions of this clause 9 on the reference of any of the parties to the Dispute.

- 9.3 The Dispute shall be referred to the decision of an independent expert (the “**Expert**”) who shall be an independent person of at least ten years’ standing in the area of expertise relevant to the Dispute and in the event that the parties are unable to agree whom should be appointed within a period of ten Working Days following a failure of the parties to resolve the Dispute within the period set out in clause 9.1, then any party may request:
- (a) if such Dispute shall relate to matters concerning the construction, interpretation and/or application of this Undertaking, the Chairman of the Bar Council to nominate the Expert;
  - (b) if such Dispute shall relate to matters requiring a specialist chartered surveyor, the President of the Royal Institution of Chartered Surveyors to nominate the Expert; and
  - (c) in all other cases, the President of the Law Society to nominate the Expert.
- 9.4 If the Dispute shall relate to matters falling within two or more of clauses 9.3(a) to 9.3(c) (inclusive), the parties may agree to appoint joint Experts and in the event that the parties are unable to agree whom should be appointed as joint Experts, the parties may request the President of the Law Society to nominate such persons falling within the descriptions of clauses 9.3(a) to 9.3(c) (inclusive) to act as joint Experts.
- 9.5 The Expert shall act as an expert and not as an arbitrator and the determination of the Expert (including any determination as to the responsibility for payment of his own costs and those of the parties) shall be final and binding upon the parties.
- 9.6 The Expert shall be appointed (through an agreed request statement setting out exactly the questions that he is to determine, submitted jointly by the parties to the Dispute) subject to an express requirement that he reaches his decision and communicates it to the parties to the Dispute within the minimum practical timescale allowing for the nature and complexity of the Dispute and in any event no later than thirty Working Days from the date of his appointment to act and that he is to have particular regard to the 1990 Act in reaching his decision.
- 9.7 The terms of reference of any Expert appointed to determine a Dispute shall include the following:
- (a) he shall call for representations from all parties with ten Working Days of a reference to him under this Undertaking and shall require the parties to exchange representations within this period;
  - (b) he shall allow the parties ten Working Days from the expiry of the ten Working Days period referred to in clause 9.7(a) to make counter-representations;
  - (c) any representations or counter-representations received out of time shall be disregarded by the Expert;
  - (d) he shall provide the parties with a written decision (including his reasons) within ten Working Days of the last date for receipt of counter-representations;
  - (e) he shall be entitled to call for such independent expert advice as he shall think fit; and
  - (f) his costs and the costs of any independent expert advice called for by the Expert shall be included in his award.
- 9.8 Unless the Expert shall decide otherwise the costs of any reference to the Expert shall be borne equally by the parties to the Dispute.

**10 GOVERNING LAW**

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

**11 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

It is hereby declared that none of the terms of this Undertaking shall be construed as being enforceable by any third party (other than the Council) pursuant to the Contracts (Rights of Third Parties) Act 1999.

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

**SCHEDULE 1**  
**Site Plan**

## SCHEDULE 2

### Owners' Covenants - Permit Free

The Owners covenant with the Council:

1. Not to apply for a Parking Permit or knowingly suffer or permit any Occupier of a Residential Unit (other than a Blue Badge holder) to apply for a Parking Permit for any CPZ in the Council's area and if such a Parking Permit is issued the Owner covenants on becoming aware of such issue to notify the Council in writing immediately thereafter.
2. That all material utilised for advertising or marketing each and every individual Residential Unit with the Development for letting or sale will make it clear to prospective tenants and Occupiers that no Parking Permit (other than for a Blue Badge holder) will be issued by the Council for any Residential Unit.
3. That in respect of every freehold transfer or lease granted, assigned, transferred or otherwise provided in respect of the Residential Units, the following covenants will be imposed (or a covenant of substantially the same nature) in respect of any transfer, tenancy agreement, licence or other instrument entitling Occupation of the Residential Unit:

*"the [transferee/lessee] for himself and his successors in title being the owner or owners for the time being [of the terms of years hereby granted] hereby covenant with the [transferor/lessor] and separately with the Mayor and Burgesses of the London Borough of Hammersmith and Fulham ("the Council") that they shall not apply for nor knowingly permit an application to be made by any person residing in the premises to the Council for any resident's parking permit (save for a disabled person's "blue badge" issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970) in respect of such premises (such parking permit entitling the resident to park within any controlled parking zone that was in force on or before [insert date of S106 Agreement] (being the date of an agreement made pursuant to section 106 of the Town and Country Planning Act 1990 between (1) the Old Oak and Park Royal Development Corporation (the "OPDC") (2) Singleland Limited (3) United Kingdom Tyre Exporters Limited and (4) City and Docklands Management Limited, in respect of a planning permission granted by the OPDC under reference 16/0119/FULOPDC) and if such a permit is issued then it shall be surrendered within seven days of written request to do so from the Council and this covenant shall also be enforceable by the Council under section 1 of the Contracts (Rights of Third Parties) Act 1999".*

4. Upon receiving written request from the Council, to provide the Council with such evidence as the Council may reasonably require to demonstrate compliance with this schedule.

**EXECUTED as a DEED by**  
**SINGLELAND**  
**LIMITED**  
 acting by

a director and

a director/its secretary

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 ) director  
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 ) .....  
 ) director/secretary

**EXECUTED as a DEED by**  
**UNITED KINGDOM TYRE EXPORTERS**  
**LIMITED**  
 acting by

a director and

a director/its secretary

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 ) director  
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 ) .....  
 ) director/secretary

**EXECUTED as a DEED by**  
**CITY AND DOCKLANDS MANAGEMENT**  
**LIMITED**  
 acting by

a director and

a director/its secretary

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 ) director/secretary

**SCHEDULE 8**  
**Framework Travel Plan**

**1 SUBMISSION OF FRAMEWORK TRAVEL PLAN**

**1.1** The Owners shall:

- (a) submit a Framework Travel Plan to the OPDC for approval prior to first Occupation of the Residential Units;
- (b) not first Occupy the Residential Units until the Framework Travel Plan has been approved by the OPDC in writing (which approval shall not be unreasonably withheld or delayed); and
- (c) thereafter implement, comply with and procure compliance with the Framework Travel Plan for the duration of the beneficial use of the Residential Units within the Development, subject to any variations that may be agreed from time to time in writing between the Owners and the OPDC.

**2 CONTENTS OF FRAMEWORK TRAVEL PLAN**

**2.1** The Owners covenant with and undertakes to the OPDC that the Framework Travel Plan shall include (but not be limited to) the following information and measures:

- (a) a specimen welcome pack for all Occupiers of the Residential Units;
- (b) explore initiatives to promote cycling and walking;
- (c) include proposals for providing and promoting public transport information (for example, maps, routes and timetables); and
- (d) provide objectives and targets over the life of the Framework Travel Plan aimed at reducing car use and increasing the modal share towards more sustainable modes of transport; and
- (e) proposals for monitoring compliance with the Framework Travel Plan and achievement of the objectives and targets.

**3 REVIEW OF FRAMEWORK TRAVEL PLAN**

**3.1** The Owners shall review the operation of the Framework Travel Plan on the first, third and fifth anniversaries of the first Occupation of the Residential Units within the Development and shall submit a written report to the OPDC within 10 Working Days of completion of the review setting out the findings of the review including the extent to which the objectives and targets set out within the Framework Travel Plan are being achieved and any proposals for improving the operation of the Framework Travel Plan.

**3.2** Following submission of a review of the Framework Travel Plan, the Owners and the OPDC shall use reasonable endeavours to agree any necessary changes to the Framework Travel Plan to ensure that the objectives and targets set out therein are achieved and the Owners shall thereafter implement any such agreed changes.

**4 TRAVEL PLAN MONITORING CONTRIBUTIONS**

**4.1** The Owners shall pay £1000 on the first, third and fifth anniversaries of first Occupation of the Residential Units within the Development as contributions towards the OPDC's costs involved in monitoring compliance with the Framework Travel Plan.

**SCHEDULE 9****Education****1 EDUCATION CONTRIBUTION**

- 1.1** The Owners shall pay the Education Contribution to the OPDC prior to Commencement of the Development and shall not Commence the Development until the Education Contribution has been paid to the OPDC.

**SCHEDULE 10****Healthcare****1 HEALTHCARE CONTRIBUTION**

- 1.1 The Owners shall pay the Healthcare Contribution to the OPDC prior to Commencement of the Development and shall not Commence the Development until the Healthcare Contribution has been paid to the OPDC.

## SCHEDULE 11

### Training and Skills

#### 1 LABOUR, SKILLS AND EMPLOYMENT STRATEGY AND MANAGEMENT PLAN

##### 1.1 The Owners shall:

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

#### 2 LOCAL LABOUR

- 2.1 The Owners shall use reasonable endeavours to ensure that not less than 15% of the jobs required during the Construction Period are filled by Local Residents.

#### 3 LOCAL PROCUREMENT

- 3.1 The Owners shall no later than three months prior to Implementation provide the OPDC with a schedule of the construction contracts and suppliers required during the Construction Period, such schedule to:

- (a) include the estimated value/budget of packages, expected start and completion timeframes and any additional health and safety requirements for specific packages; and
- (b) show all opportunities for contracted and sub-contracted supplies and services.

- 3.2 The Owners shall use reasonable endeavours to ensure that the total value of contracts procured from Local Businesses throughout the Construction Period shall be no less than 20% of the total value of the goods and services procured.

- 3.3 The Owners shall report the value of all orders placed with Local Businesses to the OPDC on the completion of the tendering stage for the construction of the Development.

- 3.4 The Owners shall upon written request provide the OPDC with written evidence of its compliance with the provisions of this paragraph 3.

#### 4 APPRENTICESHIPS

- 4.1 The Owners shall use reasonable endeavours to employ not less than 12 construction trade apprentices during the Construction Period with a view to each apprenticeship leading to a minimum qualification of NVQ Level 2.

- 4.2 Each apprentice employed pursuant to paragraph 4.1 shall be:

- (a) a Local Resident;
- (b) employed for a period of not less than 52 weeks and paid at a rate of not less than the London Living Wage and if the period of employment of an apprentice overruns the expiration date of the relevant contract or sub-contract the Owners shall ensure the continuation of the relevant apprenticeship elsewhere on the Development;
- (c) supported through paid day release to undertake relevant training; and

- (d) provided with on the job training and supervised on-site by an experienced operative in a trade related to his or her training needs.

4.3 The Owners shall upon written request provide the OPDC with written evidence of its compliance with the provisions of this paragraph 4.

**SCHEDULE 12**  
**Open Space and Street Trees**

**1 OPEN SPACE CONTRIBUTION**

- 1.1 The Owners shall pay the Open Space Contribution to the OPDC prior to Commencement of the Development and shall not Commence the Development until the Open Space Contribution has been paid to the OPDC.

**2 STREET TREE CONTRIBUTION**

- 2.1 The Owners hereby covenant to provide the number of trees on the Site as indicated in section 1.11 of the landscaping strategy submitted with the Planning Application prior to first Occupation of the Development.
- 2.2 In the event that prior to first Occupation of the Development the Owners fail to provide the number of on-site trees as required by paragraph 2.1 above, the Owners shall submit a Street Tree Plan to OPDC for approval in respect of the shortfall in the number of trees provided on the Site.
- 2.3 On approval of the Street Tree Plan OPDC shall in consultation with LBHF confirm the Street Tree Contribution.
- 2.4 The Owners shall pay the Street Tree Contribution within 30 days of the written approval of OPDC pursuant to paragraph 2.3.

## SCHEDULE 13

### Energy

#### 1 DECENTRALISED ENERGY

- 1.1 The Owners covenant with the OPDC that the Development
- (a) will be designed and constructed to connect to or allow the future connection to a District Heating Network; and
  - (b) will be provided with a single connection point in each building at which the Development may be connected to a District Heating Network in a location to be approved as part of the Energy Strategy.
- 1.2 The Owners shall ensure that the Buildings are designed and constructed so that they are capable of being connected to a District Heating Network and such provision shall (unless otherwise agreed with the OPDC) include:
- (a) the installation of sufficiently sized external buried pipework at the time of available connection in positions agreed with the OPDC to enable connection to a District Heating Network;
  - (b) the installation of pipework in the fabric of buildings in accordance with the approved Energy Strategy;
  - (c) the provision of 'tees' and isolation valves in the low temperature in hot water headers to facilitate the connection of an interfacing heat exchanger at a later date if connection to the District Heating Network is not immediately technically feasible or economically viable when first provided prior to first Occupation of the Development;
  - (d) provision of secondary side pipework designed and installed to avoid, as far as possible, those heat losses that give rise to building overheating.

#### 2 CARBON OFFSET CONTRIBUTION

- 2.1 Prior to Practical Completion of each Building, the Owners will submit to the OPDC for approval details of the consultants who will undertake the CO<sup>2</sup> Audit for the Building and details of the terms on which the appointment will be made including the deadline for the completion of the CO<sup>2</sup> Audit.
- 2.2 Within 20 Working Days of first Occupation of each Building, the Owners shall commission the CO<sup>2</sup> Audit and give written notification of such fact to the OPDC.
- 2.3 On completion the CO<sup>2</sup> Audit shall be submitted to the OPDC for approval, such approval not to be unreasonably withheld or delayed.
- 2.4 The OPDC will notify the Owners of their approval of the CO<sup>2</sup> Audit and the Owners and the OPDC will agree the Carbon Offset Contribution for the Building on the basis of the CO<sup>2</sup> Audit within 10 Working Days of such notification.
- 2.5 The Owners will pay the Carbon Offset Contribution within 10 Working Days of its approval or determination.

**SCHEDULE 14**  
**Design Monitoring**

**1 DESIGN TEAM STATEMENT**

1.1 The Owners shall not submit any of the following applications unless accompanied by a statement prepared by the Owners specifying the design team involved in the preparation of those details ("the **Design Team Statement**");

- (a) an application pursuant to conditions 4, 5, 6, 7 and 8 of the Planning Permission;
- (b) an application for S96A Amendment;
- (c) an application for a S73 Permission.

**2 DESIGN MONITORING COSTS**

2.1 If at any point the Architect is no longer retained to either prepare or agree the details required in relation to the applications set out at paragraph 1.1 above in order to ensure the design quality of the Development the Owners shall forthwith:

- (a) notify the OPDC of such non-retention; and
- (b) subject to receipt from the OPDC of an invoice setting out a full breakdown of the relevant monitoring work, pay to the OPDC within 10 Working Days of demand the Design Monitoring Costs and it is agreed that:
  - (i) such costs (or part thereof) may relate either to staff employed directly by the OPDC or third party consultants retained by the OPDC; and
  - (ii) the OPDC may make more than one demand for payment of Design Monitoring Costs;


PROVIDED THAT the total amount payable to the OPDC in Design Monitoring Costs shall not exceed £50,000 (Index Linked)

2.2 The Owners shall not Occupy the Development or any part thereof if the OPDC's Design Monitoring Costs have not been paid in accordance with paragraph 2.1 of this Schedule.

Executed as a deed by

**OLD OAK AND PARK ROYAL  
DEVELOPMENT CORPORATION**

Acting by:

)   
)

IN THE PRESENCE OF:

MICHAEL DRAKE

ADDRESS:

169 UNION STREET  
LONDON  
SE1 0LL

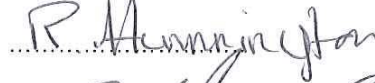
Authorised Signatory




Executed as a deed by

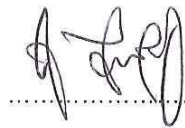
**SINGLELAND LIMITED** acting by a  
director in the presence of:

Name of Director



Signature of Director





Name of witness

Jeffrey M Turois

Solicitor of the Supreme Court

Empowered to Administer Oath

Address

Landau & Cohen

Occupation Medburn Lodge

Butterfly Lane

Elstree

Hertfordshire WD6 3AD

Executed as a deed by

**UNITED KINGDOM TYRE EXPORTERS  
LIMITED** acting by a director in the presence of:

Name of Director

*R. Henningan*

Signature of Director

*R. Henningan*

*[Signature]*

Name of witness

.....

**Jeffrey M Turofsky**  
Solicitor of the Supreme Court  
Empowered to Administer Oaths

Address

.....

Occupation

.....

**Landau & Cohen**  
Medburn Lodge  
Butterfly Lane  
Elstree  
Hertfordshire WD6 3AD

Executed as a deed by

**CITY AND DOCKLANDS MANAGEMENT  
LIMITED** acting by a director in the presence of:

Name of Director

*Gary Sax*

Signature of Director

*[Signature]*

*[Signature]*

Name of witness

*LORRAINE WAITSMAN*

Address

*38C STERLING AVENUE*  
*EDGWARE HA8 8BP*

Occupation

*Legal Assistant*