

## **SUMMARY OF CONTRACTS**

**This note summarises how the following contracts work. Interested parties should have full regard to the documents.**

**A successful bidder has the ability to acquire a 250-year lease of the site after obtaining planning permission and securing development finance.**

**The note is broken down into two sections; the contract (which is a ‘conditional agreement for lease’), the lease itself and the works agreement.**

### **Contract (Agreement for Lease)**

The site is available for residential development on a conditional sale basis. When selected as preferred bidder, the developer and landowner will enter into contract. The contract is personal to the developer.

For the purchase of the site to proceed to completion and grant of the 250-year lease, the developer must obtain a planning consent which is satisfactory to them and which reflects the landowner’s requirements for affordable and/or community-led housing, set out at the bidding stage. It must also reflect the scheme they originally outlined as part of their successful bid proposal. In addition, they will also have to obtain an offer of development finance which is satisfactory to both the developer and the landowner.

These conditions need to be satisfied for the lease to be granted.

The following important provisions in the contract should also be noted:

- The contract will require payment of a deposit and commit the developer to making the planning application and having it validated by the relevant Local Planning Authority.
- The developer will need the landowner’s approval of their planning application; the application is expected to reflect the scheme they originally outlined as part of their successful bid proposal. TfL will advise of any restrictions where the proposed development could impact on transport infrastructure, for example due to foundation depths or types.
- The contract will include a target date by which a satisfactory planning permission is to be obtained. The target date can extend to a long stop date where there is an outstanding application or pending appeal at the original target date.

- If the planning and finance conditions have not been satisfied by the target date then the landowner can terminate the contract. If the planning application has not been made by an agreed date then either party can terminate the contract.
- If the contract is terminated the landowner will return to the developer any deposit paid and the developer will need to use reasonable endeavours to procure letters of reliance for the landowner in relation to any surveys, ground investigations or planning related reports they have obtained.
- The bid submission proforma requires developers to submit a price for the site which will be adjusted upwards on a square footage basis, where the floorspace consented is greater than that envisaged in the original bid. The contract documents this overage requirement and sets out how much the developer will pay to the landowner for every extra sqft (NIA) achieved.

## **Lease**

Following satisfaction of the planning and finance conditions, a lease will be granted by the landowner to the developer subject to the developer paying the balance of the purchase price of the site (less any deposit already paid). That lease will be for a term of 250 years at a peppercorn rent. The permitted use of the site will be restricted to that permitted under the satisfactory planning consent which has been obtained.

The contracts incentivise, but do not require, the build out of the consented scheme. For this reason, there are provisions which allow the landowner to terminate the lease if development does not lawfully commence within an agreed period, meaning that all pre-commencement conditions and technical consents need to have been discharged/obtained, a new build warranty (e.g. NHBC) registration obtained for the homes and the build started by an agreed date. This period can extend where under certain circumstances outside of the developer's control development cannot lawfully commence in that period.

The landowner may choose not to terminate the lease in these circumstances but if they do, then on termination the landowner will have to repay the purchase price to the developer. The lease contains lender step in provisions to allow lenders to take the development forward if they wish to do so.

The right to assign the lease to others or underlet the whole site is subject to landowner approval. This should discourage those with no intention to build.

The lease also contains a land sale overage. Where the landowner consents to an assignment (sale) prior to full occupancy, 50% of any increase beyond the original purchase price is owed to the landowner. The lease also contains a further planning overage to revalue further permissions.

## Works Agreement

The site lies around an active station. Any scheme will be subject to designs being approved by London Underground (LU) and the construction method statements being agreed with LU together with appropriate indemnities for LU. Due to LU's operational assets being located in the vicinity of the works, any works will be governed by a works agreement that will contain the infrastructure protection regime applicable to the relevant part of the site.

Following satisfaction of the planning and finance conditions and the grant of the lease the parties will enter into a separate works agreements for the site.

The works agreement does not oblige the tenant/developer to undertake the works but regulates works undertaken and sets out the approval framework within which those works must be undertaken.

Pursuant to the terms of the works agreement, the tenant/developer will in particular be required to:

- Obtain LU's prior approval of all works (including surveys).
- Undertake any approved works in accordance with all relevant requirements and adhere to the relevant infrastructure protection regime applicable to the relevant part of the site.
- Procure specified insurance policies.
- Provide an appropriate guarantee in respect of the tenant/developer's liability to LU under the works agreement.

The landlord may terminate the works agreement if:

- The developer/tenant or any guarantor becomes insolvent.
- There is a breach by the developer/tenant is notified and is not remedied within a reasonable period of time.
- In the event of an irremediable breach by the developer/tenant.

The works agreement contains lender step in provisions to allow lenders to take the development forward if they wish to do so.

GMG/VG/097420.00041/63774526.03

Agreement for lease relating to property at

**Land at North Ealing Station, Station Road, London W5  
3AF**

**Dated**

**London Underground Limited**  
(the Landlord)

[                      ]  
(the Tenant)

[                      ]  
[(the Tenant's Surety)]

Annexures :      Lease and Plan

# Contents

<b>1</b>	<b>Definitions and interpretation</b>	<b>1</b>
<b>2</b>	<b>Conditionality</b>	<b>13</b>
<b>3</b>	<b>Grant of the Lease</b>	<b>15</b>
<b>4</b>	<b>Title</b>	<b>16</b>
<b>5</b>	<b>Possession</b>	<b>17</b>
<b>6</b>	<b>Completion</b>	<b>17</b>
<b>7</b>	<b>Standard Commercial Conditions and ancillary matters</b>	<b>19</b>
<b>8</b>	<b>Representations</b>	<b>20</b>
<b>9</b>	<b>Notices</b>	<b>21</b>
<b>10</b>	<b>Assignment</b>	<b>21</b>
<b>11</b>	<b>Appointment of Independent Person</b>	<b>21</b>
<b>12</b>	<b>[Tenant's Surety</b>	<b>22</b>
<b>13</b>	<b>Terminating Events</b>	<b>23</b>
<b>14</b>	<b>Freedom of Information</b>	<b>24</b>
<b>15</b>	<b>Confidentiality and Transparency</b>	<b>25</b>
<b>16</b>	<b>General</b>	<b>27</b>
<b>17</b>	<b>[Exclusion of security of tenure</b>	<b>29</b>
	<b>Schedule 1 – Planning Permission</b>	<b>30</b>
	<b>Schedule 2 – Funding</b>	<b>34</b>
	<b>Schedule 3 – Worked Example</b>	<b>35</b>
	<b>Appendix A - Plan of the Property</b>	<b>38</b>
	<b>Appendix B - Form of Lease</b>	<b>39</b>
	<b>Appendix C - Form of Works Agreement</b>	<b>40</b>

# Agreement for lease

## Dated

## Between

- (1) London Underground Limited (the **Landlord**) company registration number 0190090 whose registered office is at 55 Broadway, London SW1H 0BD; [and]
- (2) *[Details of relevant party to be inserted]* (the **Tenant**) [company registration number *[Details to be inserted]*] whose registered office is at *[Details to be inserted]*; [and]
- (3) *[Details of relevant party to be inserted]* (the **Tenant's Surety**) [company registration number *[Details to be inserted]*] whose registered office is at *[Details to be inserted]*

## It is agreed

### 1 Definitions and interpretation

#### 1.1 Definitions

In this Agreement the following definitions apply:

**Act** means the Town and Country Planning Act 1990

**Actual Area** means the Net Internal Area for each Unit Type consented by the Satisfactory Planning Permission obtained in accordance with Schedule 1.

***[Note : Any adjustments to the definitions of Affordable Dwelling, Affordable Rented Unit (including the definition of London Affordable Rent), Commercial Units, Intermediate Units (including the definitions of London Living Rent and London Shared Ownership) and Private Sale Units will be decided on a scheme specific basis, any amendments will follow from the Proposed Development being the Tenant's accepted bid.***

**[Affordable Dwelling]** means any [Affordable Rented Units or Intermediate Units] to be constructed as part of the Proposed Development and which are to be disposed of to persons or households in housing need (including those on moderate incomes)];

**[Affordable Rented Units]** means any units designated as London Affordable Rent.]

**[Commercial Unit(s)]** means any building or part of a building on the Property which is designated or intended for use or occupation exclusively for trade or business or other non-residential uses.]

**Community Infrastructure Levy** means the charge known by that name, as provided for in the Planning Act 2008 and any charge, levy, tax or imposition substituted for it and including related interest, penalties, liabilities, surcharges and costs of compliance.

**Completion Date** means the date [20] Working Days after the Unconditional Date or (if later) the date [20] Working Days after any adjustment of the Initial Purchase Price pursuant to clause 6.3 has been agreed or determined.

**Conditional Period** means the period commencing on the date of this Agreement and expiring on the Unconditional Date.

**Conditions** means the Funding Condition [and] the Planning Condition [and the Supplementary Condition].

**Contract Rate** means 4% above [*National Westminster Bank Plc*] base rate from time to time in force as well after as before judgment which rate shall also be the contract rate referred to in the Standard Commercial Conditions.

**Deposit** means [*Insert 10% of Purchase Price in words (£ [insert 10% of Purchase Price in figures])*].

**Dwelling** means any house, bungalow, flat, maisonette or other single unit of residential accommodation constructed on the Property together with any land forming its curtilage and any other appurtenant structures;

**EIR Legislation** means the Environmental Information Regulations 2004 and any subordinate legislation made under it, any amendment or re-enactment of any of them; and any guidance and/or codes of practice issued by the Information Commissioner, any relevant Government Department, or decisions made by other appropriate legislative bodies (including in each case its successors or assigns) in relation to such legislation from time to time.

**Engineer** the appropriately qualified engineer appointed or employed by the Landlord or a TfL Subsidiary at any time for the purposes of providing professional engineering services to the Landlord and/or any TfL Subsidiary

**Enquiry Replies** means any written replies made by the Landlord's Solicitors in reply to written questions or enquiries made by the Tenant's Solicitors in relation to the Property.

**Estimated Area** means the estimated Net Internal Area of the Proposed Development being in total for all Unit Types together [*insert the total figure from the Tenant's bid*] square feet made up of:

- (a) [*insert details from the Tenant's bid*] square feet Private Sale Units; ]
- (b) [*insert details from the Tenant's bid*] square feet Intermediate Units;
- (c) [*insert details from the Tenant's bid*] square feet Affordable Rented Units; and
- (d) [*insert details from the Tenant's Bid*] square feet Commercial Units].

**[Note : The relevant details will follow from the Tenant's accepted bid relating to the estimated size of the Proposed Development (including the estimated size of each Unit Type). This definition is intended to form the starting point for the calculation of any adjustment of the Initial Purchase Price in accordance with clause 6.3 of this Agreement and as shown in the example in Schedule 3]**

**Exempted Information** means any Information that is designated as falling or potentially falling within any applicable exemption to the FOIA Legislation or the EIR Legislation.

**Finally Determined** means (in relation to a Satisfactory Planning Permission) six weeks have elapsed since the date of issue of the Satisfactory Planning Permission and either:

- (a) no Proceedings have been instituted in respect of that Satisfactory Planning Permission; or
- (b) any Proceedings which may have been instituted in respect of that Satisfactory Planning Permission have been exhausted (which shall occur on the withdrawal of such Proceedings or when the time for appealing against the decision of any court has expired and no appeal has been lodged) with that Satisfactory Planning Permission being finally upheld.

**Financial Resource** means Internal Resource and/or Third Party Finance Resource.

**FOIA Legislation** means the Freedom of Information Act 2000, all regulations made under it and any subordinate legislation made under them, any amendment or re-enactment of any of them; and any guidance and/or codes of practice issued by the Information Commissioner, any relevant Government Department, including the DCLG Code of Practice, or decisions made by other appropriate legislative bodies (including in each case its successors or assigns) in relation to such legislation from time to time.

**Funding Condition** means the Landlord providing written notice to the Tenant that it is satisfied that the Tenant has the Financial Resource to meet and pay the Relevant Costs and that sufficient funds have been allocated to the Proposed Development.

**Group** means in relation to an undertaking, that undertaking, any subsidiary undertaking or parent undertaking of that undertaking, any other subsidiary undertaking of any parent undertaking of that undertaking (as each such term is defined in section 1161 or section 1162 (as applicable) of the Companies Act 2006).

**Independent Person** means a person who shall be a specialist in and professionally qualified for a period of not less than 10 years in respect of the subject matter of any dispute or difference agreed or otherwise appointed pursuant to the provisions of clause 11 for the purpose of determining a dispute between the Parties

**Information** means:

- (a) in relation to FOIA Legislation has the meaning given under section 84 of the FOIA Legislation; and
- (b) in relation to EIR Legislation has the meaning given under the definition of "environmental information" in section 2 of EIR Legislation;

**Information Request** means a valid request for any Information under the FOIA Legislation and/or EIR Legislation

**Initial Purchase Price** means in total *[Insert total Price from the Tenant's bid in words] (£ [Insert total Price from the Tenant's bid in figures])*.



**Initial Bid Tenure Price** means:

- (a) [in respect of Affordable Rented Units : *[Insert figure in words from the Tenant's bid]* Pounds (£ *[insert same figure in numbers]*) per square foot]; and
- (b) [in respect of Intermediate Units : *[Insert figure in words from the Tenant's bid]* Pounds (£ *[insert same figure in numbers]*) per square foot]; and
- (c) [in respect of Commercial Units : *[Insert figure in words from the Tenant's bid]* Pounds (£ *[insert same figure in numbers]*) per square foot,] [and
- (d) [in respect of Private Sale Units : *[Insert figure in words from the Tenant's bid]* Pounds (£ *[insert same figure in numbers]*) per square foot,]

**[Note : The relevant amounts to be included will be the figures (£) as contained in the Tenant's accepted bid. This definition is intended to form the measure of any adjustment of the Initial Purchase Price in accordance with clause 6.3 of this Agreement and as shown in the example in Schedule 3. Not all Unit Types will need to be included in this definition in all cases as this will depend on the nature of the scheme in each case, any amendments will follow from the Proposed Development being the Tenant's accepted bid.]**

**[Intermediate Units** means any units designated as London Shared Ownership and London Living Rent.]

**Internal Resource** means equity or other financial resource (including additional guarantors) available to the Tenant (other than Third Party Finance Resource).

**Landlord's Onerous Condition**

a pre-condition to, or condition or obligation of, a Planning Permission or Planning Agreement which:

- (a) [is in the reasonable opinion of the Landlord likely to have a material adverse effect on the use or development of any adjoining land owned by the Landlord; or ]
- (b) in the absolute discretion of the Landlord has or would be likely to have an adverse effect on:
  - (i) the operation of the Transport Undertaking or the Transport Assets and Premises ;
  - (ii) the exercise by any body within the definition of 'TfL' of its public functions duties and obligations, which includes both any transport operations and undertakings; and a role as a statutory consultee under

the planning process and any other statutory processes;

**Landlord's Solicitors** means Dentons UK & Middle East LLP of One Fleet Place, London EC4M 7WS (ref. gmg/043574.00001) or such other firm as the Landlord may nominate by notice in writing to the Tenant or the Tenant's Solicitors for the purposes of this Agreement.

**Lease** means the lease of the Property in the form (subject to any amendments required to reflect the terms of a Satisfactory Planning Permission to be approved in writing by the Landlord) of the draft annexed to this Agreement at Annex 2 to be granted by the Landlord to the Tenant pursuant to this Agreement.

**Local Planning Authority** means *[Insert the details of the relevant authority]* or such other authority as shall have during the currency of this Agreement jurisdiction to deal with planning applications in respect of the Property.

**[London Affordable Rent** means low cost rented homes complying with the requirements designated for this type of tenure (including rent levels falling within the prescribed benchmarks) in the Mayor of London's Homes for Londoners Affordable Homes Programme 2016-21 Funding Guidance dated November 2016.]

**[London Living Rent** means an intermediate affordable housing rent to buy product with sub-market locally specified rents on time-limited tenancies complying with the requirements designated for this type of tenure in the in the Mayor of London's Homes for Londoners Affordable Homes Programme 2016-21 Funding Guidance dated November 2016.]

**[London Shared Ownership** means a housing product allowing a home buyer to purchase a share in a new home and pay a regulated rent on the remaining share complying with the requirements designated for this type of tenure in the in the Mayor of London's Homes for Londoners Affordable Homes Programme 2016-21 Funding Guidance dated November 2016.]

**Longstop Date** means *[Insert date]*.

***[Note : The appropriate period will be scheme specific and will be decided by the Landlord on a case by case basis. This will be decided once the Tenant's bid is accepted.]***

**Mayor's "First Dibs" Initiative**

Means the initiative announced by the Mayor of London in February 2018 which sets out the following principles:

- (a) that the sales and marketing of all new build market residential properties in London which are valued at £350,000 or less will be restricted to UK residents in the first three months of their availability and before any overseas marketing can take place;
- (b) that there shall be an additional "headstart" of no less than one month within the above

mentioned three month time period during which only those living or working in London will be able to purchase new build market residential properties valued at £350,000 or less

together with any guidance and further principles developed by the Mayor of London or Greater London Authority (and any statutory successors) as part of this initiative.

**LUL**

London Underground Limited (Company No 1900907) of 55 Broadway, London SW1H 0BD and successors to it functions;

**LUL Standards**

any documents as produced or varied from time to time and accessible to users authorised by LUL via the LUL Standards e-library website (which authorisation the Landlord will ensure is available to the Tenant) or otherwise communicated to the Tenant and which apply to the operation of the Transport Undertaking or the Transport Assets and Premises generally and contain requirements or guidance on:

- (a) matters of safety and security in respect of the operation of the Transport Undertaking or the Transport Assets and Premises;
- (b) the design or construction of the Transport Assets and Premises;
- (c) the operation of the Transport Undertaking or the Transport Assets and Premises; and/or
- (d) works carried on over or in the vicinity of the Transport Assets and Premises

and in the event of any inconsistency between different rules, regulations, codes of practice or standards the Landlord's decision as to the application of each shall be final and conclusive;

**Measurement Code** means the edition of the RICS Property Measurement published on behalf of RICS which is current at the date of this Agreement.

**Net Internal Area** means the net internal area of a Unit Type as calculated in accordance with the Measurement Code.

**[Ordnance Datum**

the mean level of the sea at Newlyn in Cornwall as calculated from hourly reading of the sea level recorded on an automatic tide gauge from 1st May 1915 to 30th April 1921 as published by Ordnance Survey;]

***[Note : Insert definition if any.]***

**Onerous Conditions** means the Tenant's Onerous Condition and the Landlord's Onerous Conditions.

**Party** means a party to this Agreement and "Parties" means more than one Party.

**Planning Acts** means the statutes and statutory instruments from time to time in force relating to town and country planning.

**Planning Agreement** means any planning obligation under the Planning Acts or any other agreement required by the Local Planning Authority to be entered into as a condition of the grant of a Planning Permission.

**Planning Application** means any valid application for planning permission for the Proposed Development made pursuant to this Agreement [in a form acceptable to the Landlord (acting reasonably)] and any amendment of it, fresh application made in substitution for it or any additional application (in each case made pursuant to the provisions of Schedule 1) and (where requisite) any application for any necessary listed building or conservation area consent.

**Planning Condition** means the grant of Satisfactory Planning Permission which has been Finally Determined.

**Planning Permission** means [outline or full] planning permission granted pursuant to a Planning Application, whether granted by the Local Planning Authority or by the Secretary of State and includes (where requisite) any necessary listed building or conservation area consent.

**Planning Refusal** means a refusal of Planning Permission (including a deemed refusal arising under section 78(2) of the Act) or the grant of Planning Permission which is not a Satisfactory Planning Permission.

**[Private Sale Unit** means any Dwelling which is not an Affordable Dwelling.]

**Proceedings** means all or any of the following as the case may be:

- (a) an application by a third party for judicial review under Part 54 of the Civil Procedure Rules arising from the grant of Satisfactory Planning Permission, including any appeals to a higher court following a judgement of a lower court;
- (b) an application by a third party under section 288 of the Act arising from the grant of Satisfactory Planning Permission by the Secretary of State, including any appeals to a higher court following a judgement of a lower court;
- (c) any reconsideration by the Local Planning Authority of a Planning Application or by the Secretary of State of an appeal (as the case may be) following a previous Satisfactory Planning Permission being quashed pursuant to an application within the meaning of paragraphs (a) or (b) above and the matter being remitted to the Local Planning Authority or the Secretary of State (as the case may be).

**Prohibited Person** means an individual or entity:

- (a) which is a company incorporated in or an individual resident in a country outside the United Kingdom unless it agrees to be bound by the jurisdiction of the English Courts and in respect of which a legal opinion from a reputable independent law firm

in the relevant jurisdiction is provided in a form reasonably satisfactory to the Landlord (acting reasonably) relating to:

- (i) the authority and capacity of the company or individual to act as the assignee, guarantor or funder (as applicable); and
  - (ii) the enforceability of the obligations of the company or individual as assignee, guarantor or funder (as applicable);
- (b) which enjoys sovereign or state immunity, unless it is a department, body or agency of the United Kingdom Government;
- (c) which uses funds that are derived from illegal or illegitimate activities;
- (d) which has been convicted of criminal activities, or is or has been involved in organised crime;
- (e) which is named on the Consolidated List of Terrorists maintained by the Bank of England pursuant to any authorising statute, regulations or guideline;
- (f) which is, or professes to be, resident in a nation state which at the relevant time is not recognised by the Government of the United Kingdom;
- (g) which is otherwise prohibited from entering into the proposed transaction pursuant to any applicable law or requirements of any country or governmental authority (including any exchange control regulations applicable thereto);
- (h) with whom the Landlord or any member of its Group may not lawfully contract, or with whom the established policy of the UK Government is that they should not contract;
- (i) whose activities would prevent the discharge by the Landlord or any member of its Group of its or their statutory duties or other legal functions;
- (j) which has a substantial direct interest(s) in gambling, gaming, pornography, the production or sale of alcoholic drinks, the production or sale of products containing or derived from tobacco or the manufacture or sale of arms and weapons (provided that any organisation that is engaged in legitimate investment and lending to any such business shall not constitute a Prohibited Person); or
- (k) whose activities could pose a threat to national security.

**Property** means all that property known as Land at North Ealing Station, Station Road, London W5 3AF as the same is registered at the HM Land Registry with freehold title absolute under the Registered Title (as shown edged red on the plan annexed to this Agreement at Annex 1) as more particularly defined in the Lease.

**Proposed Development** means the construction on the Property of buildings for use as Dwellings (of which at least [50%] (measured by habitable room) must comprise Affordable Dwellings [and Commercial Units] comprising not less than [ ] square feet of Dwellings (comprising not less than:

- (a) *[[insert details from the Tenant's bid]* square feet Private Sale Units;]

- (b) *[[insert details from the Tenant's bid]* square feet Intermediate Units;]
- (c) *[[insert details from the Tenant's bid]* square feet Affordable Rented Units; and]
- (d) *[[insert details from the Tenant's Bid]* square feet Commercial Units]],

[as may be amended by a Planning Application approved by the Landlord.]

***[Note : This definition sets out the minimum size of the Proposed Development, the figures to be inserted in this definition must mirror those included in the definition of Estimated Area (being those same figures reflected in the Tenant's accepted bid). Not all Unit Types will need to be included in this definition in all cases as this will depend on the nature of the scheme in each case, any amendments will follow from the Tenant's accepted bid.]***

**Purchase Price** means the Initial Purchase Price (subject to any required adjustment in accordance with clause 6.3).

**Registered Title** means the freehold interest registered at HM Land Registry under title number AGL262825.

**Relevant Costs** means the aggregate of:

- (a) the Purchase Price; and
- (b) the reasonable estimate by the Tenant of all costs to be incurred in connection with the construction of and subsequent disposal of Dwellings and Commercial Units (if any) within the Proposed Development (including professional fees).

**Representation** means any written oral or implied representation warranty confirmation or statement in relation to the Property or to any matter contained or referred to in this Agreement made (innocently or negligently) by or on behalf of the Landlord to the Tenant or to any agent adviser or other person acting for the Tenant [and/or Tenant's Surety (if any)].

**Satisfactory Planning Permission** means a Planning Permission which is free from Onerous Conditions.

**Standard Commercial Conditions** means the Standard Commercial Property Conditions (Second Edition) and any reference to a Standard Commercial Condition shall be construed accordingly and have the same meaning as the expression **condition** in the Standard Commercial Conditions.

**Secretary of State** means the minister or other authority for the time being having or entitled to exercise, the powers conferred by sections 77, 78 and 79 of the Act, or an inspector appointed to act on behalf of the minister or other authority.

**Target Date** means *[Insert the date]* subject to extension pursuant to clause 2.6.

***[Note : The appropriate period will be scheme specific and will be decided by the Landlord on a case by case basis. This will be decided once the Tenant's bid is accepted.]***

**Tenant's Solicitors** means *Insert name of firm representing the Tenant of Insert the address of the firm representing the Tenant* (ref: *[Insert the firm's reference number for this matter]*) or

such other firm as the Tenant may nominate by notice in writing to the Landlord or the Landlord's Solicitors for the purposes of this Agreement.

**Tenant's Onerous Conditions**

an obligation or restriction of any one or more of the following kinds:

- (i) requiring the expenditure of money or other consideration on the provision of any infrastructure, affordable housing or other works or amenity inside the Property or elsewhere which are not contained in the Planning Application which infringe the tests of reasonableness of such obligations from time to time laid down by the Secretary of State whether by circular or otherwise;
- (ii) other than in respect of Affordable Dwellings limiting the occupation and/or use of the whole or any material part of the Property to any designated occupier or class of occupier (whether by imposing a geographical qualification upon proposed occupiers or otherwise);
- (iii) permits any use of the Property not materially in accordance with the Planning Application;
- (iv) preventing development without:
  - (a) a further planning permission; or
  - (b) the agreement or co-operation of an independent third party

which cannot be obtained on terms, at a cost or within a time that are reasonable in the circumstances;

- (v) requiring any matter, being something which is

properly a reserved matter, to be submitted to the Local Planning Authority for approval within some period of less than three years after the grant of the Planning Permission.

***[Note: If a Planning Permission or Planning Agreement contains one or more Tenant's Onerous Conditions then the Tenant will not be obliged to complete the Lease.]***

**Third Party Finance Resource** means an offer of debt finance from a reputable committed financier or fund manager [who is not a Prohibited Person] (which may be subject to conditions which a prudent developer would reasonably expect to satisfy prior to or during construction of the Proposed Development).

**Title Documentation** means official copies of the [HM] Land Registry entries of the Registered Title and other copy documents (as appropriate) in respect of the Property.

**Transparency Commitment** means compliance with the requirements of the Local Government Transparency Code 2015 published by the Department for Communities and Local Government;

**TfL**

Transport for London of 55 Broadway London SW1H 0BD a statutory body created by the Greater London Authority Act 1999;

**TfL Subsidiary**

a subsidiary of TfL whether wholly owned or otherwise and whether directly or indirectly owned;

**Transport Assets and Premises** means the whole or any part or parts of the transport infrastructure, roads, pavements, track, buildings, works, conducting media, lifts, escalators, bridges, tunnels, structures, plant, apparatus and equipment and all other things serving or used, controlled or enjoyed in connection with the Transport Undertaking from time to time including all those over, under, adjoining or near to the Property at any time.

**Transport Undertaking** means the transport undertakings or networks operated by the Landlord, relevant member(s) of the Landlord's Group or any successor to its functions (including London Underground system, the Docklands Light Railway and the Elizabeth Line or any London railway system running on, under, over or through the Property).

**Unconditional Date** means the first date upon which all the Conditions are satisfied.

**Unit Types** means [Affordable Rented Units], [Intermediate Units] [Private Sale Units] [and [Commercial Units].



**Value Added Tax** means value added tax charged under the Value Added Tax Act 1994 and shall include any interest fine penalty or surcharge in respect of value added tax charged.

**Working Day** means a day other than a Saturday or Sunday or a bank or public holiday in England.

**Works Agreement**

the works agreement in the format of the draft attached at Appendix C to be granted pursuant to this Agreement (subject to such amendments required to reflect the Planning Permission to be approved in writing by the Landlord);

**Works Documents**

plans, detailed drawings and other documentation in respect of the design, works specification(s), material specification(s), method statement(s), programme(s); risk assessment(s), checked calculations, health and safety plan, test or other information (including soil and material testing information, temporary works drawings, supporting calculations, programme dates and hours of working), a fire and emergency strategy which contains provisions allowing the same to be amended by the Landlord from time to time (acting reasonably) in order to reflect changing circumstances and a plan of any security arrangements which may be required (including all updates, amendments, additions and revisions) and such other matters as the Landlord may reasonably require.

**1.2 Statutes**

References to laws statutes bye-laws regulations orders and delegated legislation shall include any law statute bye-law regulation order or delegated legislation modifying amending re-enacting consolidating or made pursuant to the same.

**1.3 Headings**

Headings are for ease of reference only and shall not affect the construction of this Agreement.

**1.4 Construction**

In this Agreement:

- (a) The headings in this Agreement are for reference only. They are not to be used to interpret the text beneath.

- (b) References to clauses, schedules and annexures shall be references respectively to the clauses of and schedules and annexures to this Agreement.
- (c) References to this Agreement include any schedules and annexures.
- (d) The expression "**this Agreement**" used in this Agreement shall include any document or the terms of any document which are incorporated by reference into this Agreement and shall have the same meaning as the expression the "**contract**" referred to in the Standard Commercial Conditions.
- (e) The expressions "**including**" and "**in particular**" shall be construed as being by way of illustration or emphasis only and shall not limit the generality of the preceding words.
- (f) The word "**assignment**" includes a legally binding contract for assignment.
- (g) Where a Party includes two or more persons, the covenants made by that party are made by those persons jointly and severally.
- (h) Where the consent or approval of the Landlord is required such consent or approval must be in writing and obtained before the act requiring it.
- (i) All agreements and obligations by a Party in this Agreement (whether or not expressed as covenants) are to be read as covenants by that Party.
- (j) Any obligation on a Party not to do something includes an obligation not to allow that thing to be done.
- (k) References to the Property include any part of it.

1.5 The words "**operation of**" shall:

- (a) where used in relation to the Transport Undertaking, be deemed to be preceded by the words "safe, efficient and economic"; and
- (b) where used in relation to the Transport Assets and Premises, be deemed to mean the "safe, efficient and economic operation and maintenance of".

## **2 Conditionality**

### **2.1 Conditions**

The grant of the Lease is conditional upon the Conditions being satisfied and Clauses 3.1, 5 and 6 shall not come into effect until each of the Conditions has been satisfied.

### **2.2 Satisfaction of the Conditions**

The rights and obligations of the parties with regard to the satisfaction of the Conditions are set out in Schedule 1 and Schedule 2.

### **2.3 Planning Application Submission End Date**

Where no Planning Application has been validated by the Local Planning Authority through its planning portal by [*appropriate early termination date to be inserted*] (or such later date as the

parties may agree) the Landlord may terminate this Agreement by giving written notice to the Tenant but without prejudice to the rights and remedies of either Party in relation to any breach or non-performance of this Agreement by the other.

***[Note : This is an early termination date allowing the Landlord to bring this Agreement to an end speedily where no Planning Application has been validated by the Tenant within a suitable time frame (for example 6 months). The appropriate period will be scheme specific and will be decided by the Landlord on a case by case basis. This will be decided once the Tenant's bid is accepted.]***

## **2.4 Termination on the Target Date**

- 2.4.1 Subject to the provisions of clause 2.6 if the Target Date occurs before any one or more of the Conditions have been satisfied then either the Landlord or the Tenant may, at any time before all Conditions are satisfied give written notice to the other terminating this Agreement.
- 2.4.2 Subject to the following provisions of this clause 2.4, on the giving of the notice referred to in clause 2.4.1 this Agreement shall terminate with immediate effect.
- 2.4.3 Termination of this Agreement in accordance with the provisions of this clause 2.4. shall be without prejudice to any rights which the parties may have against one another in respect of prior breaches of this Agreement.
- 2.4.4 The Party seeking to terminate this Agreement under this clause 2.4 may only do so if it has performed its obligations set out in the Schedules in all material respects.
- 2.4.5 On termination of this Agreement in accordance with the provisions of clauses 2.3 or 2.4 the Tenant shall at its own expense remove any Land Registry or Land Charges Registry entry made against the Registered Title in respect of this Agreement.

## **2.5 Consequences of Termination**

- 2.5.1 Following termination of this Agreement in accordance with the provisions of clause 2.3, 2.4 or clause 13.2 the Landlord may:
  - (a) continue to seek Planning Permission in such manner as the Landlord sees fit (and any appeal);
  - (b) notify the Tenant that it requires the Tenant to and the Tenant shall (at their cost) as soon as reasonably practicable after receipt of such notice:
    - (i) supply to the Landlord the originals of all material documents and correspondence under the Tenant's control relating to the progress of the Planning Application and any Planning Agreement (and any appeal);
    - (ii) complete and sign any documents and correspondence reasonably necessary to enable the Landlord to progress the Planning Application and any Planning Agreement (and any appeal);
    - (iii) take such steps as are reasonably necessary to ensure that the Landlord has the right to use any drawings or other documents prepared for the Proposed Development without payment to anyone;

- (c) require the Tenant to use reasonable endeavours to procure letters of reliance in relation to any surveys, ground investigations or planning related reports which the Tenant has obtained and that the Landlord may request on the basis that the Landlord will be responsible for the reasonable cost of obtaining these.

## **2.6 Extension of the Target Date**

2.6.1 The Target Date is to be extended in the following circumstances and by the following periods:

- (a) if the Planning Application has been validated by the Local Planning Authority prior to *[insert original Target Date]* the Target Date will be extended to the Working Day after the Satisfactory Planning Permission has been Finally Determined;
- (b) if prior to *[insert original Target Date]* a Satisfactory Planning Permission has been granted but has not been Finally Determined, the Target Date will be extended to the Working Day after the Satisfactory Planning Permission has been Finally Determined;
- (c) following a Planning Refusal which occurs within six weeks prior to the Target Date, the Target Date will be extended to the date which is six weeks after the date of the Planning Refusal, subject to further extensions under paragraph (d);
- (d) if, before the Target Date, the Tenant makes an appeal or begins or procures the beginning of Proceedings following a Planning Refusal then:
  - (i) if the appeal or Proceedings results in the grant of a Satisfactory Planning Permission, the Target Date will be extended to the Working Day after that Satisfactory Planning Permission is Finally Determined assuming no further Proceedings have commenced during that period;
  - (ii) if the Appeal or Proceedings results in a Planning Refusal, the Target Date will be extended to the date six weeks after the date of that Planning Refusal, subject to further extensions under this paragraph (d);
  - (iii) if Proceedings are begun by a third party before the Target Date, the Target Date will be extended to the date 10 Working Days after all Proceedings have been exhausted or discontinued;
  - (iv) if, before the Target Date, a resolution is passed by the Local Planning Authority to grant Planning Permission subject to the completion of one or more Planning Agreements, the Target Date will be extended to the Working Day after the Satisfactory Planning Permission has been Finally Determined,

provided that the Target Date may not be extended beyond the Longstop Date .

2.6.2 If the Target Date is extended under this clause 2.6, any references to the Target Date elsewhere in this Agreement are to be read as references to the Target Date as so extended.

## **3 Grant of the Lease**

### **3.1 Completion**

3.1.1 The Landlord shall grant and the Tenant shall take the Lease on the Completion Date.

- 3.1.2 On the Completion Date, the Landlord and the Tenant will enter into the Works Agreement.

### **3.2 Value Added Tax**

The Purchase Price and any other amount payable by the Tenant for any supply made by the Landlord under this Agreement is stated exclusive of any Value Added Tax or similar tax duty or imposition which is or becomes chargeable on it and if any such sum is or becomes so chargeable the Tenant shall upon demand pay the same to the Landlord.

### **3.3 Deposit**

- 3.3.1 The Tenant will pay the Deposit to the Landlord's Solicitor by a method that gives immediate available funds on the date of this Agreement.
- 3.3.2 The Landlord's Solicitors shall hold the Deposit as stakeholders.
- 3.3.3 On termination of this Agreement under Clause 2.3, or Clause 2.4 the Landlord shall return the Deposit together with accrued interest to the Tenant within 10 Working Days of such termination.

## **4 Title**

### **4.1 Deduction of title**

- 4.1.1 Title to the Property has been deduced by the Landlord to the Tenant [and to the Tenant's Surety]
- 4.1.2 The Tenant [and to the Tenant's Surety] shall take the Lease with full knowledge of the title to the Property:
- (a) as set out in the Title Documentation; and
  - (b) as set out in clause 4.2 below
- (including all matters arising in connection with the Planning Acts) and shall raise no requisition nor objection (save for matters not disclosed to the Tenant before the date of this Agreement which are revealed by pre-completion searches in respect of the Property at the Land Registry).

### **4.2 Matters subject to which the Property is let**

Without prejudice to Standard Commercial Condition 3.1.2, the Property shall be taken to be correctly described and is let subject to (and where applicable with the benefit of) the following:

- (a) the documents referred to in the property, proprietorship and charges registers of the Registered Title including all matters mentioned, contained or referred to in them;
- (b) all Local Land Charges, whether or not registered before, on or after the Completion Date, and all matters capable of registration as Local Land Charges;

- (c) all notices served and orders, demands, proposals or requirements made by any local or public authority or any body acting on statutory authority, whether before, on or after the Completion Date;
- (d) all actual or proposed charges, notices, orders, restrictions, agreements, conditions or other matters arising under the Planning Acts or highways legislation;
- (e) any unregistered interests which fall within any of the paragraphs of Schedule 3 of the Land Registration Act 2002 (except under paragraph 1 of that Schedule or under section 90 of that Act);
- (f) any matters disclosed or which would have been disclosed by the searches and enquiries which a prudent buyer would have made before entering into this Agreement; and
- (g) any easements, wayleaves, licences, rights or privileges to local authority or any organisation providing utilities to the Property entered into before or after the date of this Agreement.

### **4.3 Title guarantee**

4.3.1 The Lease shall be granted with full title guarantee but the Landlord's covenants for title shall be modified as set out below.

4.3.2

- (i) the covenants set out in sections 2 and 3 of the Law of Property (Miscellaneous Provisions) Act 1994 shall not extend to matters which are referred to in this Agreement or which would be revealed by searches and enquiries of public records or matters which would be revealed by an inspection or survey of the Property (the sale being expressly made subject to all of them); and
- (ii) the covenant set out in section 2(1)(b) of that Act shall not extend to any action required of the Landlord unless the Tenant pays the Landlord's costs.

## **5 Possession**

The Property is let with vacant possession on completion but the Tenant shall not object if any rubbish or other loose items are in or around the Property which do not materially adversely affect the Tenant's reasonable beneficial enjoyment of the Property.

## **6 Completion**

### **6.1 Time**

6.1.1 Completion of the Lease shall take place on the Completion Date.

6.1.2 On the Completion Date, and in consideration of the grant of the Lease in accordance with the terms of this Agreement, the Tenant shall pay the balance of the Purchase Price to the Landlord's Solicitors' client account or as the Landlord's Solicitors shall reasonably direct by a method that gives immediate available funds on completion.

- 6.1.3 If, on the day completion actually takes place, completion occurs after 2.00 pm, then completion shall be deemed to have occurred on the next following Working Day.
- 6.1.4 The term of the Lease is to start on the date of completion of the Lease.
- 6.1.5 In the Lease the premium in LR 7 will be the Purchase Price (reflecting any adjustment pursuant to clause 6.3).

## **6.2 Late completion**

If as a result of any breach by the Tenant the Lease is not completed on the Completion Date then, without prejudice to any other rights of the Landlord:

- (a) if the Deposit has been held as stakeholders it may at the option of the Landlord then be held as agent for the Landlord and the Landlord's Solicitors may immediately pay the same to the Landlord;
- (b) the Tenant shall on demand pay interest on any sums due under this Agreement at the Contract Rate from the Completion Date until the later of completion and actual payment (after as well as before any judgment) calculated on a daily basis, both before and after any judgement; and
- (c) the Tenant shall on demand pay the Landlord's Solicitors proper and reasonable costs, including Value Added Tax, for preparing and serving any notice to complete on the Tenant [and the Tenant's Surety].

## **6.3 Determination of Purchase Price following Changes in Net Internal Area**

- 6.3.1 ***[Note: Use this where there are different Unit Types]*** In the event that the Actual Area is different from the Estimated Area in respect of any Unit Type, the Purchase Price shall be the higher of either:

- (a) the Initial Purchase Price; or
- (b) the sum arrived at by:
  - (i) firstly, the application of the formula  $A \times B$  to each Unit Type which is consented by the Satisfactory Planning Permission

where

A = the relevant Initial Bid Tenure Price in respect of that Unit Type; and

B = the Actual Area in respect of that Unit Type;

- (ii) then, secondly, the addition of the sums arising from the calculation made in respect of each Unit Type which is consented by the Satisfactory Planning Permission under clause 6.3.1(b)(i)]

- 6.3.1 ***[Note: Use this where there is only 1 Unit Type]*** [In the event that the Actual Area is greater than the Estimated Area the Purchase Price shall be the sum of:

- (a) the Initial Purchase Price; and

- (c) the sum arrived at by the application of the formula  $(A - B) \times C$

where

A = the Actual Area;

B = the Estimated Area; and

C = the Initial Bid Tenure Price]

- 6.3.2 The worked example at Schedule 3 shows, by way of example only, the method of calculating the Purchase Price.

## 6.4 Registration

On completion of the Lease, the Tenant shall register the Lease, and all rights granted or reserved by the Lease, at the Land Registry and, immediately after registration, shall provide the Landlord with official copies of the register showing the Tenant as proprietor of the Lease and showing that all rights granted or reserved by the Lease are properly noted against the affected titles.

## 7 Standard Commercial Conditions and ancillary matters

### 7.1 Standard Commercial Conditions

- 7.1.1 The Standard Commercial Conditions applicable to the grant of a lease and as varied in clause 7.2 shall be incorporated in this Agreement insofar as they are not inconsistent with the express terms and conditions of this Agreement and in the event of any conflict between the express terms and conditions of this Agreement and the Standard Commercial Conditions the former shall prevail.
- 7.1.2 All references in the Standard Commercial Conditions to the **seller** and the **buyer** shall be deemed to be references to the **Landlord** and the **Tenant** respectively and shall be construed accordingly.
- 7.1.3 All references to the **property** in the Standard Commercial Conditions shall be deemed to be references to the Property and shall be construed accordingly.

### 7.2 Variation of Standard Commercial Conditions

The Standard Commercial Conditions shall be varied as follows:

- (a) Standard Commercial Conditions 1.4, 3.1.1, 3.1.3, 6.1, 6.2, 6.3, 6.4.2, 6.6.2, 6.6.5, 7.1.2, 7.1.4(b), 8.4, 9.1, 9.3, 10.1.3, 10.2.4 and 10.3 shall be deleted;
- (b) in Standard Commercial Condition 1.1.1(g) the words "from the buyer's conveyancer's client account" shall be added after the words "cleared funds";
- (c) In Standard Commercial Condition 1.1.1(l) the definition of **public requirement** shall be deleted and replaced by the following:

**public requirement** means any notice order demand request requirement or proposal having specific reference to the property which is given or made (whether before on or after the date



of the contract and whether or not subject to any confirmation) by a body acting on statutory authority or any competent authority and includes:

- (i) all matters registered or registrable as local land charges (whether or not registered); and
  - (ii) all actual or proposed charges orders directions conditions proposals demands restrictions agreements notices or other matters whatsoever (whether registered or not before today's date) affecting or relating to the property or any part thereof or any building or other structure thereon or any part thereof arising under the Planning Acts;
- (d) Standard Commercial Condition 1.3 shall be amended as set out in clause 9;
- (e) In Standard Commercial Condition 3.1.2(c) the words "and could not reasonably" shall be deleted;
- (f) the following shall be added to the end of Standard Commercial Condition 3.1.2:
- (i) "all outgoing, consents, restrictions, easements and liabilities affecting the property;
  - (ii) any interests which override under the Land Registration Act 2002."; and
- (g) at the end of Standard Commercial Condition 8.8.2 add the words "on completion the party on whom a notice to complete was served shall pay to the other party its reasonable legal costs incurred in connection with the service of the notice and recalculating the completion statement together with disbursements properly incurred and VAT".

## **8 Representations**

### **8.1 Authority to make Representations**

Save for the Landlord's Solicitors in respect of any Enquiry Replies no agent adviser or other person acting for the Landlord has at any time had the authority of the Landlord to make any Representations whatsoever.

### **8.2 Inaccurate Representations**

If any Representation is made:

- (a) and the fact that it was inaccurate either was known to the Tenant before today or might reasonably be expected to have been discoverable as a result of enquiries a prudent tenant would have raised before agreeing to take a lease of the Property then the Tenant shall be deemed not to have been in any way influenced, induced or persuaded to enter into this Agreement by such Representation; and
- (b) the Landlord shall have no liability to the Tenant in respect of the same unless the Tenant notifies the Landlord of any inaccuracy breach or claim within six months of the date of completion of the Lease.

### **8.3 Reliance on Representations**

[The] [Each of the] Tenant [and the Tenant's Surety] confirms that it has not entered into this Agreement in reliance (wholly or in part) upon any Representation (whether written, oral or implied) not expressly set out in this Agreement (other than the Enquiry Replies).

## **9 Notices**

For the avoidance of doubt the provisions of Standard Commercial Condition 1.3 as amended by this Agreement shall apply:

- (a) No notice or document served on the Landlord's Solicitors shall be valid unless it quotes the reference for the recipient solicitor as set out in clause 1 or such other reference as may be expressly notified in writing for the purposes of this clause.
- (b) "5.30pm" shall be substituted for "4.00pm" in Standard Commercial Conditions 1.3.5 and 1.3.7.
- (c) No notice or document may be validly served by email.

## **10 Assignment**

The Tenant shall not assign or otherwise part with the benefit of this Agreement and the Landlord shall not be required to grant the Lease to any person or body other than the Tenant.

## **11 Appointment of Independent Person**

- 11.1 Where this Agreement expressly provides for a particular dispute or difference to be referred for determination by an independent person it shall (subject as otherwise provided in this clause) be referred for determination by an Independent Person appointed under the provisions of this clause.
- 11.2 The Landlord and the Tenant may agree that any other dispute or difference between them be referred to an Independent Person.
- 11.3 The Independent Person shall be agreed between Landlord and the Tenant [and the Tenant's Surety], (if applicable) or, failing agreement, be nominated within 10 Working Days after the relevant Party has given to the other a written request requiring the appointment by the President or duly authorised officer of the professional body or institution governing the discipline the subject matter of the dispute or difference.
- 11.4 Any dispute or difference as to the discipline of which the specialist is to be appointed and, if applicable, as to the appropriate professional body or institution to appoint him or her shall be referred to or determined by an independent barrister or solicitor of not less than 10 years' standing to be agreed between the Landlord and the Tenant [or the Tenant's Surety, (if applicable)] or failing agreement, to be nominated by the President or duly authorised officer of the Royal Institute of Chartered Surveyors on the application of any Party.
- 11.5 The reference to an Independent Person is to be made to him as an expert and:
  - (a) the Landlord and the Tenant may make written representations within 10 Working Days of his or her appointment and will copy the written representations to the other Party;

- (b) the Landlord and the Tenant are to have a further 10 Working Days to make written comments on each other's representations and will copy the written comments to the other Party;
  - (c) the Independent Person is to be at liberty to call for such written evidence from the Parties and to seek such legal or other expert assistance as he or she may reasonably require;
  - (d) the Independent Person is not to take oral representations from the Landlord and the Tenant without giving both Parties the opportunity to be present and to give evidence and to cross examine each other;
  - (e) the Independent Person is to have regard to all representations and evidence before him or her when making his or her decision which is to be in writing and is to give reasons for his or her decision;
  - (f) the Independent Person is to use all reasonable endeavours to publish his or her decision within 25 Working Days of his appointment or such earlier date as the Parties shall agree as a term of the Independent Person's appointment; and
  - (g) the Independent Person's decision shall be final and binding on the parties (save in the case of manifest error).
- 11.6 Responsibility for the costs of referring a dispute to an Independent Person under this clause 11, including costs connected with his or her appointment and the Independent Person's own costs but not the legal and other professional costs of any Party in relation to a dispute, will be decided by the Independent Person.
- 11.7 The previous provisions of this clause 11 do not apply to any dispute or difference that arises in relation to the exercise by the Landlord and the Tenant of any rights of termination under this Agreement.

## **12 [Tenant's Surety]**

In consideration of this Agreement having been entered into by the Landlord with the Tenant at the request of the Tenant's Surety (as the Tenant's Surety acknowledges) the Tenant's Surety agrees guarantees and undertakes with the Landlord (as a primary obligation) as follows:

- (a) the Tenant or the Tenant's Surety shall duly perform and observe all of the terms of this Agreement;
- (b) the Tenant's Surety indemnifies the Landlord from and against all claims, demands, losses, damages, liability, costs, fees and expenses sustained by the Landlord by reason of, or arising in any way directly or indirectly out of, any default by the Tenant in the performance and observance of any of the agreements and obligations of the Tenant under the terms of this Agreement;
- (c) the Tenant's Surety is jointly and severally liable with the Tenant for the fulfilment of all the obligations of the Tenant under the terms of this Agreement;

- (d) the Landlord in the enforcement of its rights under this Agreement may proceed against the Tenant's Surety as if the Tenant's Surety was named as the Tenant in this Agreement;
- (e) the Tenant's Surety waives any right to require the Landlord to proceed against the Tenant or to pursue any other remedy whatsoever which may be available to the Landlord before proceeding against the Tenant's Surety;
- (f) that it shall duly execute the Lease at the same time or before the Lease is executed by the Tenant; and
- (g) if the Tenant (being a corporate body) enters into liquidation receivership administrative receivership or (being an individual) becomes bankrupt and the liquidator or trustee in bankruptcy disclaims this Agreement the Tenant's Surety will if so requested by the Landlord itself complete the taking of the Lease on the terms of this Agreement as if it were the Tenant.]

## **13 Terminating Events**

### **13.1 Definitions**

In this clause 13, **Terminating Event** means any of the following where the Tenant [or the Tenant's Surety]:

- (a) is the subject of an interim order under the Insolvency Act 1986;
- (b) has made any arrangement or composition for the benefit of its creditors which has not been discharged;
- (c) goes into liquidation whether voluntary or compulsory (save for the purpose of reconstruction or amalgamation without insolvency);
- (d) is, or is deemed for the purposes of section 123 of the Insolvency Act 1986 to be, unable to pay its debts as they fall due or admits inability to pay its debts as they fall due;
- (e) suffers the enforcement of any security over any of its material assets;
- (f) is otherwise dissolved, wound up, or ceases to exist;
- (g) has an administrator or a receiver or an administrative receiver appointed in respect of the whole or any part of its undertaking or assets; or
- (h) is the subject of an analogous procedure or step in any other jurisdiction

provided that a Terminating Event shall not have occurred solely by reason of the delivery of a petition for winding up a company where such petition is withdrawn within 10 Working Days.

### **13.2 Service of notice of Terminating Event**

If there occurs in relation to the Tenant [or the Tenant's Surety] (or where the Tenant [or any Tenant's Surety] comprises two or more persons there occurs in relation to any of such persons) a Terminating Event then the Landlord may at any time thereafter serve written notice on the Tenant determining this Agreement but without prejudice to any rights or

remedies of any Party in respect of any antecedent breach of any of the obligations contained in this Agreement.

### 13.3 Return of Title Documentation

Upon any rescission pursuant to this clause 13 the Tenant shall return all Title Documentation forwarded to it in respect of the Property and cancel any registration of this Agreement on the Registered Title and the provisions of clause 2.4.5 shall apply.

## 14 Freedom of Information

***[NOTE: Clauses 14 and 15 reflect the specific Transport for London requirements, it is subject to FOIA and EIR Legislation.]***

- 14.1 The Tenant acknowledges that the Landlord is subject to legal duties which may require the release of information under the FOIA Legislation and the EIR Legislation and may be under an obligation to provide information subject to an Information Request without obtaining consent from the Tenant. The Parties acknowledge that such information may include matters relating to, arising out of or under this Agreement and any information provided by the Tenant [and/or the Tenant's Surety] prior thereto.
- 14.2 The Tenant [and/or the Tenant's Surety] agree[s] to assist and co-operate with the Landlord so as to enable the Landlord to comply with its obligations under the FOIA Legislation and/or the EIR Legislation (as applicable).
- 14.3 Without prejudice to the generality of clauses 14.2 to 14.3 (inclusive) the Tenant [and/or the Tenant's Surety] will (at its own expense) and will procure that its employees, officers, suppliers, sub-contractors and agents ("**personnel**") (at their own expense) will transfer to the Landlord (or such other person and/or nominated individual notified by the Landlord to the Tenant) each Information Request that it receives as soon as practicable and in any event within two Working Days of receiving such Information Request.
- 14.4 In this clause 14.4 references to "**Information**" shall be references (as the context shall require) to Information held by the Tenant [and/or the Tenant's Surety] on behalf of the Landlord and any obligations set out in this clause 14.4 imposed on the Tenant shall be construed accordingly so as to only refer to the Information they respectively hold. The Tenant [and/or the Tenant's Surety] will (at its own expense):
- (a) provide the Landlord with details about and/or copies of all such Information that the Landlord requests and such details and/or copies will be provided within five Working Days of a request from the Landlord (or such other period as the Landlord may reasonably specify), and in such form as the Landlord may reasonably specify;
  - (b) use reasonable endeavours to assist and co-operate with the Landlord to enable the Landlord to comply with its obligations under the FOIA Legislation and/or the EIR Legislation (as applicable), including responding to the Information Request and dealing with its disclosure obligations; and
  - (c) provide the Landlord with all necessary assistance as set out in clause 14.4(b) as reasonably requested by the Landlord to enable the Landlord to respond to the Information Request within the time for compliance under the FOIA Legislation and/or the EIR Legislation (as applicable).

- 14.5 The Landlord will be solely responsible for determining whether Information is Exempted Information, whether any Information is to be disclosed in response to an Information Request, for determining what Information will be disclosed in response to an Information Request and whether the Information is to be published in accordance with the FOIA Legislation and/or the EIR Legislation (as applicable).
- 14.6 The Tenant [and/or the Tenant's Surety] will not (and will not allow any of its personnel to) respond to any person making an Information Request, save to acknowledge receipt, unless expressly authorised to do so by the Landlord.
- 14.7 The Tenant [and/or the Tenant's Surety] acknowledge[s] that, if the Landlord requests the Tenant's [and/or the Tenant's Surety] representations, failure to provide appropriate representations for non-disclosure of Information under the FOIA Legislation and/or the EIR Legislation to the Landlord may prevent the Information from being withheld.
- 14.8 Nothing in this Agreement will prevent the Landlord from complying with any valid order, decision, enforcement or practice recommendation notice issued to it by the Information Commissioner under FOIA and/or EIR in relation to any Exempted Information.
- 14.9 This clause 14 shall survive the termination of this Agreement.

## 15 Confidentiality and Transparency

- 15.1 For the purposes of this clause 15 and clause 14, "**Confidential Information**" means all information (whether written or oral and whether received before or after the date of this Agreement) that by its nature may reasonably be regarded as confidential to a Party (or relevant member of its Group), whether commercial, financial, technical or otherwise, including information which relates to the business affairs, customers, suppliers, products, software, telecommunications, networks, trade secrets, know-how or personnel of the relevant party and for the purposes of this clause 15:
- (a) "**Disclosing Party**" shall be the party directly or indirectly providing the Confidential Information and to whom the obligation of confidence set out in this clause 15 is owed; and
  - (b) "**Receiving Party**" shall be the party to whom a Disclosing Party's Confidential Information is directly or indirectly disclosed.
- 15.2 Subject to clauses 15.4, 15.5 and 15.6 the Receiving Party will:
- (a) keep any and all Confidential Information secret and will not, directly or indirectly, disclose or publish any Confidential Information that it may acquire in relation to a Disclosing Party without the Disclosing Party's prior written consent;
  - (b) not use Confidential Information for any purpose other than the performance of its obligations under this Agreement;
  - (c) immediately notify the Disclosing Party in writing as soon as it/they become aware of any breach (or suspected breach) of confidence in relation to the Confidential Information by the Receiving Party, any member of their Group or any person to whom the Receiving Party (or relevant Group members or personnel) have directly or indirectly disclosed or published Confidential Information;

- (d) keep the Confidential Information safe and secure and will comply with any reasonable and practicable security guidelines as may be notified in writing by the Disclosing Party from time to time and will also exercise not less than reasonable care in relation to the same; and
  - (e) not make any copies of the Confidential Information without the prior written consent of the Disclosing Party save as is strictly necessary in order to perform its obligations under this Agreement and any such copies will be deemed to be Confidential Information and will be kept separate from the Receiving Party's and/or relevant member(s) of the Receiving Party's Group's own information.
- 15.3 The Receiving Party shall, so far as practicable, procure that each recipient which is not a party to this Agreement but which receives any Confidential Information from a Receiving Party pursuant to clause 15.5, or with the consent of the Disclosing Party is made aware of and complies with all the Receiving Party's obligations of confidentiality under this Agreement as if such Recipient were a party to this Agreement.
- 15.4 The obligations set out in this clause 15 will not apply to any Confidential Information which:
- (a) can be demonstrated by the Receiving Party to have been, at the time of disclosure, in the public domain, other than through a breach of this Agreement by the Receiving Party or any Recipient; and
  - (b) can be shown by the Receiving Party to the reasonable satisfaction of the Disclosing Party, to have been received by the Receiving Party or relevant member of the Receiving Party's Group at any time from a third party who did not acquire it in confidence and who is free to make it available to the Receiving Party without limitation.
- 15.5 A Receiving Party and/or relevant member(s) of the Receiving Party's Group may disclose Confidential Information to the extent such disclosure ("**Permitted Disclosure**") is required:
- (a) by law, an order of a court of competent jurisdiction or any governmental or regulatory body (including, for the avoidance of doubt, in relation to stock exchange announcements) to which the Receiving Party and/or relevant member(s) of the Receiving Party's Group may be subject but then only to the extent of such legally required disclosure; or
  - (b) [to be shown to the Secretary for Transport (or the government department responsible for public transport in London for the time being) the Office of Rail Regulation, the Mayor of London, the office of the Mayor of London, or any person or body who has statutory responsibilities in relation to transport in London and their employees, agent and sub-contractors; or]
  - (c) to be disclosed to any Government Department for normal reporting, commercial, financial or budgetary, operational and/or approval reasons.
- 15.6 The Tenant acknowledges that the Landlord and/or relevant members of it's Group is/are subject to the Transparency Commitment under which the Landlord may be required to publish certain information in relation to this Agreement (together "the **Main Terms**"). Accordingly, notwithstanding any other provision of this Agreement, the Tenant hereby gives its consent (and shall procure that relevant members of it's Group give their respective

consents) for the Landlord (and/or relevant member(s) of its Group) to publish the Main Terms to the general public provided that, to the extent permitted by law, the Landlord:

- (a) shall consult with the Tenant regarding any such proposed publication and may agree suitable redactions to the information to be published pursuant to this clause 15.6;
- (b) shall consider the Tenant's objections to disclosure;
- (c) may as a result apply appropriate FOI Legislation and/or EIR Legislation exemptions/exceptions to relevant information; and
- (d) may accordingly redact all or part of the Main Terms prior to their publication.

## **16 General**

### **16.1 Schedules**

The Parties shall comply with their respective obligations in the Schedules to this Agreement.

### **16.2 Acknowledgements by the Tenant**

[The] [Each of the] Tenant [and the Tenant's Surety] confirms that it has been provided with all information necessary to assess the state and condition of the Property and that it has had full opportunity to enter the Property to conduct such surveys as it wished and has entered into this Agreement upon the basis of the express provisions of this Agreement.

### **16.3 Continuing effect**

16.3.1 This Agreement shall remain in full force and effect after completion in respect of any matters agreements or conditions which have not been done observed or performed before completion or which are of a continuing nature.

16.3.2 All representations or warranties indemnities undertakings and obligations of the parties shall (except for any obligations fully performed on completion) continue in full force and effect notwithstanding completion.

### **16.4 Severance**

If any provision of this Agreement is held to be invalid or unenforceable, it shall be deemed to be deleted (so far as invalid or unenforceable) and the remaining provisions of this Agreement shall continue in force.

### **16.5 No implied waivers, remedies cumulative**

16.5.1 The rights of each Party under this Agreement:

- (a) may be exercised as often as necessary;
- (b) are cumulative and not exclusive of its rights under the general law; and
- (c) may be waived only in writing and specifically.

16.5.2 Delay in exercising or non-exercise of any such right is not a waiver of that right.



## **16.6 Set-off**

All payments (including interest) to be made by the Tenant under this Agreement shall be made without any withholding deduction legal or equitable set-off or counterclaim.

## **16.7 Entire agreement**

This Agreement constitutes the entire agreement relating to the subject matter of this Agreement and supersedes all prior negotiations documents agreements statements and understandings relating to its subject matter.

## **16.8 Variations**

This Agreement may only be varied or modified by a supplemental agreement which is made in writing by the parties or their solicitors and in such a form that complies with the requirements of the Law of Property (Miscellaneous Provisions) Act 1989.

## **16.9 Performance of this Agreement**

Any failure by one Party to require the performance by the other Party of its obligations under this Agreement shall not affect the rights of that Party to require performance of those obligations.

## **16.10 Contracts (Rights of Third Parties) Act 1999**

The Parties do not intend that any term of this Agreement shall be enforceable solely by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to this Agreement.

## **16.11 Governing law and jurisdiction**

### **16.11.1 English law governs**

- (a) this Agreement;
- (b) its interpretation; and
- (c) any non-contractual obligations arising from or connected with it.

16.11.2 The English courts have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement.

## **16.12 Good Faith**

The Parties shall at all times act in good faith towards each other.

## **16.13 Protecting this Agreement against the Landlord's title**

The Tenant shall not be entitled to note this Agreement or the Lease, or any rights granted in the Lease, against the Landlord's title other than by virtue of a unilateral notice and shall not without the consent of the Landlord (which may be withheld in the Landlord's absolute discretion) send this Agreement or the Lease or a copy of them to the Land Registry.

#### **16.14 No Partnership**

Nothing in this Agreement is intended to or shall operate to create a partnership or joint venture of any kind between the Parties or any of them, or to authorise any party to act as agent for any other, and no party shall have authority to act in the name or on behalf of or otherwise to bind any other in any way (including but not limited to the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

#### **17 [Exclusion of security of tenure**

17.1 The Tenant confirms that before the Tenant became contractually bound to enter into this Agreement:

- (a) the Landlord served on the Tenant a notice in relation to the tenancy to be created by the Lease in a form complying with the requirements of Schedule 1 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003; and
- (b) the Tenant, or a person duly authorised by the Tenant, made a statutory declaration in a form complying with the requirements of Schedule 2 of that order.

17.2 [The Guarantor confirms that before the Guarantor became contractually bound to enter into this Agreement:

- (a) the Landlord served on the Guarantor a notice in relation to the tenancy to be created by the Lease in a form complying with the requirements of Schedule 1 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003; and
- (b) the Guarantor, or a person duly authorised by the Guarantor, made a statutory declaration in a form complying with the requirements of Schedule 2 of that order.]]

***[Note : The requirement for exclusion from security of tenure will not be required if the Proposed Development being the Tenant's accepted bid does not include Commercial Units.]***

#### **18 Marketing Requirement**

- (a) The Tenant shall comply with the Mayor's "First Dibs" Initiative.

**EXECUTED** by the Parties as a Deed and delivered on the date first above written.

## Schedule 1– Planning Permission

### 1 Application and negotiations for Planning Permission

1.1 Whenever the Tenant proposes to submit a Planning Application the Tenant shall submit a copy of the draft Planning Application (together with such supporting documents as the Landlord shall reasonably require) to the Landlord [as soon as reasonably practical after the date of this Agreement] for the Landlord's approval, with such approval not to be unreasonably withheld or delayed, but provided that:

- (a) where the subject of such Planning Application may affect the operation of the Transport Undertaking and/or the Transport Assets and Premises; or
- (b) where the submission of such Planning Application does not comply with the appropriate Works Documents (as approved by the Landlord),

then the approval of the Landlord shall be at their absolute discretion and which may be given, where and to the extent required, upon imposition of conditions including a requirement to enter into an agreement requiring protective measures in such format as the Landlord shall specify.

1.2 The Landlord shall use reasonable endeavours to approve or reject any draft Planning Application submitted pursuant to the provision of paragraph 1.1 above within 20 Working Days from the date of receipt of the draft Planning Application.

1.3 The Tenant shall not submit or procure the submission on its behalf of a Planning Application or any other planning application in respect of the Property during the subsistence of this Agreement unless the form and key constituent parts of the Planning Application shall have been approved by the Landlord in accordance with the provisions of this Agreement.

1.4 If the Landlord shall serve notice upon the Tenant stating that the form of the Planning Application is not approved it shall give full reasons why such approval is refused. The Tenant may amend the draft Planning Application having regard to those reasons and resubmit the draft application for approval again. Provided that on each occasion after the Landlord has first refused the draft Planning Application the Landlord shall use reasonable endeavours to approve or reject within 20 Working Days of any re-submission.

1.5 If there shall be a dispute as to whether or not the Landlord is unreasonably withholding its approval to the form of the draft Planning Application, then the Tenant shall be entitled within 20 Working Days of receipt of any response from the Landlord stating that the draft Planning Application is not approved to serve written notice of such dispute upon the Landlord referring the matter for determination by an Independent Person in accordance with the provisions of clause 11 of this Agreement.

1.6 If requisite or desirable to increase the likelihood of the grant of a Satisfactory Planning Permission, the Tenant shall enter into discussions or negotiations with the Local Planning Authority and the Tenant may, in consequence of such discussions or negotiations with the Local Planning Authority, if it appears requisite or desirable in order to obtain a Satisfactory Planning Permission, amend or withdraw and submit a fresh application or an additional application for Planning Permission provided that any such fresh or additional application must be in a form previously approved by the Landlord (such approval not to be unreasonably withheld or delayed) and further provided that where the subject of such Planning Application may affect the operation of the Transport Undertaking and/or the Transport Assets and

Premises, then the approval of the Landlord shall be at their absolute discretion and which may be given, where and to the extent required, upon imposition of conditions including a requirement to enter into an agreement requiring protective measures in such format as the Landlord shall specify.

1.7 The Landlord shall:

- (a) not knowingly do anything which may prejudice or obstruct the progress of any Planning Application made in accordance with this Agreement; and
- (b) co-operate with the Tenant and use reasonable endeavours to assist the Tenant in obtaining a Satisfactory Planning Permission.

## **2 Onerous Conditions**

2.1 The Tenant shall notify the Landlord in writing within 10 Working Days of the receipt of Planning Permission of whether or not the Tenant regards the Planning Permission as a Satisfactory Planning Permission and include its reasons if it considers that it is not a Satisfactory Planning Permission.

2.2 A Planning Permission shall be treated as a Satisfactory Planning Permission unless:

- (a) the Tenant notifies the Landlord within 20 Working Days of the receipt of the Planning Permission that the Tenant regards the Planning Permission as a Planning Refusal because of the presence of a Tenant's Onerous Condition; or
- (b) the Landlord notifies the Tenant within 20 Working Days of the receipt of the Planning Permission that the Landlord regards the Planning Permission as a Planning Refusal because of the presence of a Landlord's Onerous Condition.

2.3 Any dispute between the Landlord and the Tenant as to whether a Planning Permission is a Satisfactory Planning Permission may be referred by either the Landlord or the Tenant to an Independent Person in accordance with clause 11 of this Agreement.

## **3 The Tenant to keep the Landlord informed**

In complying with its obligations in this Schedule the Tenant shall:

- (a) keep the Landlord fully informed of the progress of the Planning Application;
- (b) give reasonable prior notice to the Landlord of any meetings with the Local Planning Authority so as to allow the Landlord and its advisers to attend and or be represented at, such meetings and to participate at them;
- (c) notify the Landlord within [two] Working Days of the receipt of any planning decision in relation to the Planning Application or the making of an appeal whether issued by the Local Planning Authority the Secretary of State or a court; and
- (d) promptly notify the Landlord of any decision it may take as to the making, amending or resubmission of any application for Planning Permission or the making of an appeal against a Planning Refusal.

## **4 Appeal against Planning Refusal**

- 4.1 The Tenant may, but will not be obliged to, appeal against a Planning Refusal, but if the Tenant does appeal it shall do so at its own expense.
- 4.2 The Tenant shall prosecute the appeal with all due diligence and shall conduct its part in the appeal proceedings in a good and efficient manner.
- 4.3 In prosecuting the appeal the Tenant shall keep the Landlord fully and promptly informed of the progress of the appeal;
- 4.4 If a Satisfactory Planning Permission is granted but becomes the subject of Proceedings the Tenant shall be entitled at its own cost to assist the Local Planning Authority in the defence of such Proceedings and in such an event the Tenant shall keep the Landlord fully informed of the progress of the Proceedings all material correspondence and documents, meetings, advice from counsel and any other material steps in the Proceedings.
- 4.5 The Tenant is to indemnify the Landlord on a full indemnity basis against all proper and reasonable legal fees and other costs, expenses and liabilities incurred by the Landlord in relation to any appeal against a Planning Refusal or Proceedings, including any costs, expenses, damages, losses and liabilities awarded against the Landlord.

## **5 Community Infrastructure Levy**

- 5.1 The Tenant:
  - (a) on the grant of Satisfactory Planning Permission, shall formally assume liability to pay the Community Infrastructure Levy by serving a written notice assuming liability to pay the same ; and
  - (b) as soon as it becomes payable, shall pay the Community Infrastructure Levy arising from that Planning Permission and take all steps required by law to give effect to its assumption of liability and not withdraw or transfer that assumption of liability.
- 5.2 The Tenant shall keep the Landlord indemnified against all proceedings costs claims demands and expenses arising out of or in connection with any Community Infrastructure Levy chargeable in respect of the Development, and in respect of any contributions required under any Planning Agreement.

## **6 Planning Agreements**

- 6.1 The Landlord shall, if necessary to procure the grant of a Satisfactory Planning Permission, at the request and cost (including the proper costs of the Landlord's legal advisers) of the Tenant enter into any Planning Agreement which is reasonably required in order to secure the grant of Satisfactory Planning Permission.
- 6.2 The Landlord shall not be obliged to enter into any such Planning Agreement to secure the grant of a Satisfactory Planning Permission unless:
  - (a) such Planning Agreement shall not be binding (other than any obligation to pay the costs of its preparation) until the implementation of the Planning Permission;

- (b) such Planning Agreement shall not bind the Landlord after the Landlord has disposed of all of its estate or interest in the Property; and
  - (c) the Tenant indemnifies the Landlord against all liability arising from the Planning Agreement and provides such security for performance of the Tenant's obligations under the Planning Agreement as the Landlord may reasonably require.
- 6.3 The Tenant shall provide the Landlord with a certified copy of any completed Planning Agreement within 20 Working Days of completion of the same.

## **Schedule 2 – Funding**

### **1 Tenant's Obligations**

The Tenant shall give the Landlord full details of the Financial Resource available to the Tenant including evidence of (in the case of Third Party Finance Resource) the relevant offer or facility agreement, who shall act reasonably in considering whether the Finance Resource satisfies the Funding Condition.

### **2 Satisfaction of Funding Condition**

- 2.1 The Funding Condition shall be satisfied on the date on which the Landlord shall serve written notice upon the Tenant that the Funding Condition is satisfied.
- 2.2 The Landlord shall within 20 Working Days of receipt of the details of the Financial Resource available to the Tenant (as provided by the Tenant to the Landlord pursuant to paragraph 1 above) notify the Tenant whether or not the Funding Condition has been satisfied.
- 2.3 If the Landlord serves notice on the Tenant stating that the details of the Financial Resource is not approved it shall give reasons why such approval is refused and shall be entitled to ask for further information relating to the Financial Resource. The Tenant may amend the information previously supplied having regard to the reasons given and the further information requested and resubmit details of the Financial Resource for approval on one or more occasions.
- 2.4 If the Landlord shall serve written notice upon the Tenant confirming that the Funding Condition has not been satisfied the Tenant shall have the right at any time within 15 Working Days of receipt of such notice to request the matter of whether the Funding Condition has been satisfied to be determined by an Independent Person in accordance with clause 11 of this Agreement.

### **3 Notification of Landlord**

If the Tenant shall receive an offer of Third Party Finance Resource on terms which are not reasonably satisfactory to the Tenant it shall notify the Landlord and shall state why such terms are unsatisfactory.

### **4 Disputes**

Any disputes about whether the Funding Condition is satisfied or the amount of the Financial Resource may be referred by either the Landlord or the Tenant to an Independent Person in accordance with clause 11 of this Agreement.

## Schedule 3 – Worked Example

Example where the Actual Area in respect of which Satisfactory Planning Permission is granted is greater than the Estimated Area :

If the Initial Price was [£65,000 made up of] or [£75,000] and the :

(i) Estimated Area of [Intermediate Units of 200 sq feet x Initial Bid Tenure Price for Intermediate Units of £100 = £20,000] or [the Proposed Development was 500 sq feet with an Initial Bid Tenure Price of £150.]

+

(ii) Estimated Area of Affordable Rented Units of 300 sq feet x Initial Bid Tenure Price for Affordable Rented Units of £150 = £45,000

And under the Planning Permission the [Estimated Areas increased to 250 sq feet for Intermediate Units and 350 sq feet for Affordable Rented Units] or [Actual Area of the Proposed Development increases to 550 sq feet] the Purchase Price would adjust to :

[Intermediate Units :  $250 \times 100 = £25,000$

+

Affordable Rented Units :  $350 \times 150 = £52,500$ ]

or  $[£75,000 + (550 \div 500) \times 150]$

Purchase Price : [£77,500] or [£82,500]



**Executed** as a deed by )

London Underground Limited )

Acting by a Director in the presence of: )

Signature of Witness : .....

Name of Witness : .....

Address : .....

.....

.....

Occupation: .....

**Executed** as a deed by )

[Insert name of the Tenant company] )

Acting by a Director in the presence of: )

Signature of Witness : .....

Name of Witness : .....

Address : .....

.....

.....

Occupation: .....

[Executed as a deed by )

[Insert name of the Tenant's Surety company] )

Acting by a Director in the presence of: )

Signature of Witness : .....

Name of Witness : .....

Address : .....

.....

.....

Occupation: .....]

## **Appendix A - Plan of the Property**

## **Appendix B - Form of Lease**

## **Appendix C - Form of Works Agreement**

19 March 2019

GMG/VG/097420.00041/63828606.03

Lease of land for the construction and sale of residential [and commercial] units on land at North Ealing Station, Station Road, London W5 3AF

## Dated

**London Underground Limited**  
(Landlord)

**{\*\*Party name 2\*\*}**  
(Tenant)

**{\*\*Party name 3\*\*}**  
(Surety)

**{\*\*Party name 4\*\*}**  
(**{\*\*Party role\*\*}**)

# Contents

<b>1</b>	<b>Definitions</b>	<b>4</b>
<b>2</b>	<b>Interpretation</b>	<b>15</b>
<b>3</b>	<b>Demise and price</b>	<b>16</b>
<b>4</b>	<b>Transfer of Common Areas</b>	<b>16</b>
<b>5</b>	<b>Transfer etc of Common Services and Highways</b>	<b>16</b>
<b>6</b>	<b>General Provisions Relating To Transfers</b>	<b>16</b>
<b>7</b>	<b>Tenant's covenants</b>	<b>16</b>
<b>8</b>	<b>Landlord's Covenants</b>	<b>32</b>
<b>9</b>	<b>Commencement Date Extension</b>	<b>33</b>
<b>10</b>	<b>Commencement Period Termination</b>	<b>33</b>
<b>11</b>	<b>Forfeiture</b>	<b>33</b>
<b>12</b>	<b>Landlord's Rights of Re-Entry</b>	<b>35</b>
<b>13</b>	<b>Landlord's Put Option</b>	<b>37</b>
<b>14</b>	<b>Disputes</b>	<b>37</b>
<b>15</b>	<b>Notices etc</b>	<b>38</b>
<b>16</b>	<b>The Landlord's Powers and Liability</b>	<b>38</b>
<b>17</b>	<b>VAT</b>	<b>39</b>
<b>18</b>	<b>Acknowledgment</b>	<b>39</b>
<b>19</b>	<b>Surety Covenants</b>	<b>39</b>
<b>20</b>	<b>Overage</b>	<b>40</b>
<b>21</b>	<b>Miscellaneous</b>	<b>40</b>
	<b>Schedule 1 – Grants and Reservations</b>	<b>44</b>
	<b>Schedule 2 - Covenants by Surety</b>	<b>47</b>
	<b>Schedule 3 - Put Option</b>	<b>49</b>
	<b>Schedule 4 - Overage Provisions</b>	<b>52</b>
	<b>Annex 1 - Land - Plan A</b>	<b>58</b>
	<b>Annex 2 - Planning Permission</b>	<b>59</b>
	<b>Annex 3 – Adjoining Land - Plan B</b>	<b>60</b>

## **Lease**

### **LR1. Date of lease**

### **LR2. Title number(s)**

#### **LR2.1 Landlord's title number(s)**

AGL262825

#### **LR2.2 Other title numbers**

None.

### **LR3. Parties to the Lease**

#### **Landlord**

London Underground Limited (the **Landlord**) company registration number 0190090 whose registered office is at 55 Broadway, London SW1H 0BD;

#### **Tenant**

*[Details of relevant party to be inserted]* (**Tenant**) [of/Company Registration Number *[Details to be inserted]*] whose registered office is *[Details to be inserted]*

#### **Other parties**

*[Details of relevant party to be inserted]* (**Surety**) [of/Company Registration Number *[Details to be inserted]*] whose registered office is at *[Details to be inserted]*

### **LR4. Property**

In the case of a conflict between this clause and the remainder of the Lease then, for the purposes of registration, this clause shall prevail.

The land demised by the Lease is known as Land at North Ealing Station, Station Road, London W5 3AF, defined as the **Land** in Clause 1 and more fully described in that definition.

### **LR5. Prescribed statements etc.**

[None.]

**LR5.1 Statements prescribed under rules 179 (dispositions in favour of a charity), 180 (dispositions by a charity) or 196 (leases under the Leasehold Reform, Housing and Urban Development Act 1993) of the Land Registration Rules 2003.**

[None.]

#### **LR5.2 The Lease is made under, or by reference to, provisions of:**

[Leasehold Reform Act 1967]

[Housing Act 1985]



[Housing Act 1988]

[Housing Act 1996]

**LR6. Term for which the Property is leased**

The term as specified in the Lease at Clause 1.1.

**LR7. Premium**

*[Insert amount in words] (£[Insert amount in numbers] [plus VAT of [Insert amount in words] (£[Insert amount in numbers] [Subject to adjustment under Clause 6.3 of Agreement for Lease].]*

**LR8. Prohibitions or restrictions on disposing of the Lease**

The Lease contains a provision that prohibits or restricts dispositions.

**LR9. Rights of acquisition etc.**

**LR9.1 Tenant's contractual rights to renew the Lease, to acquire the reversion or another lease of the Property, or to acquire an interest in other land**

None.

**LR9.2 Tenant's covenant to (or offer to) surrender the Lease**

None.

**LR9.3 Landlord's contractual rights to acquire the Lease**

None.

**LR10. Restrictive covenants given in the Lease by the Landlord in respect of land other than the Property**

None.

**LR11. Easements**

**LR11.1 Easements granted by the Lease for the benefit of the Property**

See Schedule 1 Part1.

**LR11.2 Easements granted or reserved by the Lease over the Property for the benefit of other property**

See Schedule 1 Part 2.

**LR12. Estate rent charge burdening the Property**

None.

**LR13. Application for standard form of restriction**

*If more than one standard form of restriction is required, then use this clause to apply for each of them, repeating the introductory words below for each restriction.*

The Parties to the Lease apply to enter the following standard form restriction against the title of the Property:

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered without a certificate signed by London Underground Limited company registration number 0190090 whose registered office is at 55 Broadway, London SW1H 0BD or its conveyancers that the provisions of Clause 7.7 of the Lease dated *[insert date of Lease]* made between (1) by London Underground Limited [and] (2) *[insert Tenant name]* ) [and (3) *[insert Surety name]*] in respect of Land known as Land at North Ealing Station, Station Road, London W5 3AF have been complied with or that they do not apply to the disposition (Form N)".

The Parties to the Lease apply to enter the following standard form of restriction against the title of the Property:

"No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by London Underground Limited company registration number 0190090 whose registered office is at 55 Broadway, London SW1H 0BD or its conveyancers that the provisions of Schedule [4 ] paragraph [7.1] of the Lease dated *[insert date of Lease]* made between (1) by London Underground Limited and (2) *[insert Tenant name]* ) [and (3) *[insert Surety name]*] in respect of Land known as Land at North Ealing Station, Station Road, London W5 3AF have been complied with or that they do not apply to the disposition."

**LR14. Declaration of trust where there is more than one person comprising the Tenant**

*Clause LR14 may be deleted in its entirety if it is not relevant.*

[The Tenant is more than one person. They are to hold the Property on trust for themselves as joint tenants.]

OR

[The Tenant is more than one person. They are to hold the Property on trust for themselves as tenants in common in equal shares.]

OR

[The Tenant is more than one person. They are to hold the Property on trust *(insert here details of the trust)*.]

OR

[Not applicable.]

## Lease

### Dated

### Between

- (1) London Underground Limited (the **Landlord**) company registration number 0190090 whose registered office is at 55 Broadway, London SW1H 0BD; [and]
- (2) *[Details of relevant party to be inserted]* (the **Tenant**) (referred to in Clause LR3 as the Tenant) (Company Registration Number *[Details to be inserted]*) whose registered office is at *[Details to be inserted]*;;and]
- (3) *[Details of relevant party to be inserted]* (the **Surety**) (referred to in Clause LR3 as the Surety) (Company Registration Number *[Details to be inserted]*) whose registered office is at *[Details to be inserted].]*

### It is agreed:

#### 1 Definitions

- 1.1 In the Lease the following definitions apply:

**1954 Act** means the Landlord and Tenant Act 1954.

**1995 Act** means the Landlord and Tenant (Covenants) Act 1995.

**Access Route** the area shown cross hatched red on **Plan A**;

**Adjoining Land** means the land belonging to the Landlord which, together with the Development, is known as land at North Ealing Station, Station Road, London W5 3AF and is shown edged red on the plan annexed hereto at Annex 3 marked **Plan B** excluding the Land.

**Adverse Action** anything which in the proper opinion of the Landlord may or has the potential to adversely affect compliance by the Landlord with its statutory duties, the operation of the Transport Undertaking or the operation of the Transport Assets and Premises;

**[Affordable Dwelling]** means [means any [Affordable Rented Units or Intermediate Units] as permitted by and described in the Planning Permission].

**Affordable Rented Units** means any units designated as London Affordable Rent.

**Agreement for Lease** means the agreement dated *[Details to be inserted]* made between the Landlord (1) [and] the Tenant (2) [and the Surety (3)] under which the Lease has been granted and any document supplemental to it or entered into pursuant to its terms.

**Breach Termination Notice** means a written notice served by the Landlord on the Tenant (copied to the Permitted Chargee) in the circumstances set out in Clause 11.1(b) referring to that Clause and the initial notice of breach and stating that failure to respond within 20 Working Days could lead to the Termination of the Lease, (such notice to follow failure by the Tenant to remedy a material breach within the period stated in the initial notice of a breach, non-performance or non-observance given to it by the Landlord in accordance with Clause 11.1(b)).

**[CLT** means Community Land Trust being (as provided in Section 79 Housing Act 2008) a corporate body which:

- (a) Is established for the express purpose of furthering the social, economic and environmental interests of a local community by acquiring and managing land and other assets in order:
  - (i) to provide a benefit to the local community;
  - (ii) to ensure that the assets are not sold or developed except in a manner which the member's think benefits the local community; and
- (b) Is established under arrangements which are expressly designed to ensure that:
  - (i) any profits from its activities will be used to benefit the local community (otherwise than by being paid directly to members);
  - (ii) individuals who live or work in the specified area have the opportunity to become members of the trust (whether or not others can also become members);
  - (iii) the members of a trust control it

[and (where the corporate body is being established) where the articles of association or rules of the corporate body have been approved by the Landlord (such approval not to be unreasonably withheld or delayed)]]

**Commencement Date** means the date which is [Insert relevant date ] months from the date of the Lease subject to the provisions of Clause 9.

**[Commercial Units** means any building constructed or to be constructed by the Tenant in pursuance of the Agreement for Lease which is designed or intended for use exclusively for non-residential purposes together with any land forming its curtilage].

**Common Areas** means:

- (a) those parts of the Land not included in any Dwelling [or Commercial Unit (if any)];
- (b) [those highways and Common Services not intended to be adopted as maintainable at public expense;
- (c) Open Space Land not intended to be transferred to the Council].

**Common Services** means sewers, drains, channels, pipes, watercourses, gutters, wires, cables, pillars, turrets, amplifiers, poles, soakaways and any other apparatus for the supply, transmission or distribution of water, gas, electricity or telephone, radio or television signals or

for the disposal of soil, foul water, rainwater or surface water, which are not to be adopted as maintainable at public expense.

**Community Infrastructure Levy** means the charge known by that name, as provided for in the Planning Act 2008 and any charge, levy, tax or imposition substituted for it and including related interest, penalties, liabilities, surcharges and costs of compliance.

**Compensation Sum** means the amount calculated as the Price reduced by any costs properly payable to the Landlord pursuant to Clause 7.11.

**Council** means London Borough of Ealing.

**Development** means the erection and completion on the Land of all buildings, erections, structures, highways, drainage, infrastructure and other works in accordance with the Planning Permission.

**Development      Operational**  
**Interface Plan**

***[Note: this will be a written document containing details of the management and operational interfaces between the Transport Assets and Premises and the Transport Undertaking and the Development]***

**Dispute** means and includes any difference or dispute between the Landlord and the Tenant arising out of or in connection with the Lease or between the Landlord and the Permitted Chargee in relation to Clause 12.2 which the Landlord and the Tenant (or the Permitted Chargee as the case may be) have been unable to resolve between them prior to referring the matter for resolution in accordance with the provisions of this Clause 14 and shall include any question as to the validity or interpretation of the Lease and any dispute arising before or after Termination of the Lease.

**Dwelling** means any house, bungalow, flat, maisonette or other single unit of residential accommodation constructed on the Land together with any land forming its curtilage.

**Electromagnetic Disturbance** any electromagnetic phenomenon which may degrade the performance of equipment used in connection with the Transport Assets and Premises including (without limitation):

- (a) electromagnetic noise;
- (b) any unwanted signals; or
- (c) any change in the propagation of the electromagnetic phenomenon itself;

**Enactment** means statute, statutory instrument, statutory guidance, treaty, regulation, directive, byelaw, code of practice, guidance note, circular, common law and any notice,

order, direction or requirement given or made pursuant to any of them for the time being in force.

**Engineer**

the appropriately qualified engineer appointed or employed by the Landlord or a TfL Subsidiary at any time for the purpose of providing professional engineering services to the Landlord;

**Environment** means all or any of the following media, alone or in combination: the air (including the air within buildings and the air within any other natural or man-made structures above or below ground), water (including water under or within land or in pipes or sewerage systems), soil, land and any ecological systems and living organisms supported by those media and buildings.

**Environmental Law** means all European Community, national and local statutes, and the common law, from time to time in force concerning:

- (a) pollution of, damage to or protection of the Environment or health and safety and/or the provision of remedies in respect of or compensation for damage or harm to the Environment or to health and safety and/or
- (b) emissions, discharges, releases or escapes into the Environment or the presence in the Environment of Hazardous Substances or the production, processing, management, treatment, storage, transport, handling or disposal of Hazardous Substances
- (c) and any bylaws, regulations or subordinate legislation, judgments, decisions, notices, orders, circulars, codes of practice and permits from time to time issued or made thereunder having force of law.

**Force Majeure** means any event or series of events of a similar nature to those set out below which is beyond the reasonable control of the Tenant or any person for which the Tenant is responsible including war or other hostilities, government restrictions, terrorism, sabotage, vandalism, riot or other civil commotion, political crisis, labour disputes, strikes, lockout, work stoppages or slowdowns, accidents, death of any person, flood, storm, earthquakes or other acts of God but excluding any such disputes, strikes, lockouts, stoppages or slowdowns affecting only the workforce of Tenant and its principal contractor (if any) or any person for which it is responsible and shall include delays in the commissioning of services and delays in obtaining discharge of planning conditions or obtaining any Requisite Consents (where these do not result from delays or failures to progress on the part of the Tenant and the Tenant can demonstrate that it has used all reasonable endeavours to obtain them).

**Full Occupancy Date** means the first date upon which all Dwellings upon the Land are occupied for residential purposes [and all Commercial Units (if any)] are occupied for commercial purposes or non-residential purposes.

**Group** means in relation to an undertaking, that undertaking, any subsidiary undertaking or parent undertaking of that undertaking, any other subsidiary undertaking of any parent undertaking of that undertaking (as each such term is defined in section 1161 or section 1162 (as applicable) of the Companies Act 2006).

**Hazardous Substances** means any wastes, pollutants, contaminants and any other natural or artificial substance, including, for the avoidance of doubt, radioactive material (in each case

whether in the form of a solid, liquid, gas or vapour, and whether alone or in combination) which is capable of causing harm or damage to the Environment or to the health and safety of persons.

**Implementation** means the carrying out of a material operation (as defined in section 56 of the Town and Country Planning Act 1990) to implement the Planning Permission but disregarding any of the following operations which may be carried out on the Land:

- (a) demolition works;
- (b) site clearance;
- (c) ground investigations;
- (d) site survey works;
- (e) temporary access construction works;
- (f) archaeological investigation; and
- (g) erection of any fences and hoardings.

**Insolvency Event** means that the Tenant [or Surety]:

- (a) is the subject of an interim order under the Insolvency Act 1986;
- (b) has made any arrangement or composition for the benefit of its creditors which has not been discharged;
- (c) goes into liquidation whether voluntary or compulsory (save for the purpose of reconstruction or amalgamation without insolvency);
- (d) is, or is deemed for the purposes of section 123 of the Insolvency Act 1986 to be, unable to pay its debts as they fall due or admits inability to pay its debts as they fall due;
- (e) suffers the enforcement of any security over any of its material assets;
- (f) is otherwise dissolved, wound up, or ceases to exist;
- (g) has an administrator or a receiver or an administrative receiver appointed in respect of the whole or any part of its undertaking or assets; or
- (h) is the subject of an analogous procedure or step in any other jurisdiction,

provided that an Insolvency Event shall not have occurred solely by reason of the delivery of a petition for winding up a company where such petition is withdrawn within 10 Working Days.

**Insolvency Termination Notice** means a written notice served by the Landlord on the Tenant (copied to the Permitted Chargee) referring to the provisions of Clause [11.1] and the relevant Insolvency Event and stating that Termination of the Lease has been triggered.

**Insured Risks**

the risks covered by a commercial "all risks" property insurance policy including:

- (a) the risks of fire, subterranean fire, explosion, lightning, storm, tempest, flood, aircraft and other aerial devices or articles dropped from them, earthquake, riot, civil commotion, labour and political disturbances, malicious damage, bursting or overflowing of any tank, apparatus or pipes or the escape of any substances from them, impact (including by any road or rail vehicles), subsidence, ground heave or landslip and accidental damage and terrorism; and
- (b) such other risks that the Landlord reasonably requires from time to time;

**Interest** means interest at the rate of four per cent per annum above the base lending rate from time to time of [National Westminster Bank PLC] (or of such other UK clearing bank as the Landlord may designate from time to time by giving notice to the Tenant) both before and after any judgment, calculated on a daily basis from the date on which the payment is due under the Lease to the date on which such payment is made.

**[Intermediate Units]** means any units designated as London Shared Ownership and London Living Rent.]

**[Intermediate Unit Adjustment Sum]** means [Insert figure in words from the Tenant's bid] Pounds (£ [insert same figure in numbers]) per square foot.]

**Land** means the premises situate at North Ealing Station, Station Road, London W5 3AF comprising the land, buildings, structures shown edged red on the plan annexed hereto at Annex 1 marked **Plan A** and comprised within part of title number AGL262825 including:

- (a) all enclosures, panels, fences and walls (save for any forming part of the Transport Assets and Premises);
- (b) all alterations and improvements to those premises during the Term

but excluding the Transport Assets and Premises

and references to Land shall include any part or parts of it. **[Note : Definition to be amended to reflect the demise once scheme is known]**

**Landlord** includes the person who is from time to time entitled to the reversion immediately expectant on the determination of the Lease.



**Landlord's Percentage** means 50%.

**Lease** means the Lease and any document supplemental to it or entered into pursuant to its terms.

**Local Planning Authority** means the Council or such other authority, as shall from time to time have authority to deal with town and country planning matters.

**[London Affordable Rent** means low cost rented homes complying with the requirements designated for this type of tenure (including rent levels falling within the prescribed benchmarks) in the Mayor of London's Homes for Londoners Affordable Homes Programme 2016-21 Funding Guidance dated November 2016.

**London Living Rent** means an intermediate affordable housing rent to buy product with sub-market locally specified rents on time-limited tenancies complying with the requirements designated for this type of tenure in the in the Mayor of London's Homes for Londoners Affordable Homes Programme 2016-21 Funding Guidance dated November 2016.

**London Shared Ownership** means a housing product allowing a home buyer to purchase a share in a new home and pay a regulated rent on the remaining share complying with the requirements designated for this type of tenure in the in the Mayor of London's Homes for Londoners Affordable Homes Programme 2016-21 Funding Guidance dated November 2016.]

**LUL** means London Underground Limited (Company No 1900907) of 55 Broadway, London SW1H 0BD and the successors in title to its functions.

**LUL Standards** means any documents as produced or varied from time to time and accessible to users authorised by LUL via the LUL Standards e-library website (which authorisation the Landlord will ensure is available to the Tenant) or otherwise communicated to the Tenant and which apply to the operation of the Transport Undertaking or the Transport Assets and Premises generally and contain requirements or guidance on:

- (a) matters of safety and security in respect of the operation of the Transport Undertaking or the Transport Assets and Premises;
- (b) the design or construction of the Transport Assets and Premises;
- (c) the operation of the Transport Undertaking or the Transport Assets and Premises; and/or
- (d) works carried on over or in the vicinity of the Transport Assets and Premises,

and in the event of any inconsistency between different rules, regulations, codes of practice or standards the Landlord's decision as to the application of each shall be final and conclusive;

**Management Company** means any organisation from time to time nominated by the Tenant to manage the Land.

**Open Space Land** means that part of the Land being any open space, play areas, amenity areas and landscaping areas for general public use.

**[Operational Signage and Equipment]** the safety and directional signs, information posters, London Underground logos and signs, lighting (including emergency lighting), fire systems, security controls, communications equipment, information systems, telecommunication, public address system and CCTV system relating to the operation of the Transport Assets and Premises to the extent that they are within or annexed to the Land, as varied from time to time as is necessary for the operation of the Transport Assets and Premises;]

**[Note : Insert definition if any.]**

**Operator** means the operator of the whole or any part of the Transport Assets and Premises and/or any railway services operated from or running through the Transport Assets and Premises from time to time;

**Overage Provisions** means the provisions related to overage payments set out in Schedule 4

**Party** means a party to the Lease and Parties means more than one Party.

**Permitted Chargee** means any mortgagee of the Lease and/or holder of a floating charge over all or substantially all of the Tenant's business and assets and of whom the Landlord has written notice before the date on which the events giving rise to the right of re-entry occurred.

**Permitted Disposal** means the disposal by way of transfer, lease, easement, wayleave or otherwise of:

- (a) any parts of the Land for services including (without prejudice to the generality) gas governor sites, electricity substation sites, energy centres and energy sub-stations and associated infrastructure, sewerage pumping stations and balancing pond sites ancillary to the development of the Land or any part thereof;
- (b) areas of open space and areas on which any community facility is to be provided in accordance with the requirements of the Local Planning Authority;
- (c) Highways in accordance with the requirements of the Local Planning Authority;
- (d) any parts of the Land pursuant to the requirements of any Planning Agreement or any requirements of the Local Planning Authority or other statutory body pursuant to any planning obligation.

**Permitted Part** means an individual Dwelling [or Commercial Unit (if any)].

**Permitted Use** means the construction of the Development and thereafter the use and occupation of the Land for residential purposes **[(of which at least 50% (by habitable rooms))]** [and commercial/ non-residential purposes (if any)] in accordance with the Planning Permission and comprising [insert full details of the permitted development from the Planning Permission including where relevant numbers and types of Affordable Dwellings referring specifically to the numbers of each Unit Type (as defined in Schedule 4 – namely Affordable Rented Units (Including London Affordable Rent) and Intermediate Units (including the definitions of London Living Rent and London Shared Ownership) ] [ where the Tenant is a

CLT include in addition the wording "and the Land shall not be used except as part of the assets of a CLT"].

**Planning Acts** means all Enactments relating to town and country planning.

**Planning Agreement** means any agreement and/or undertaking required by the Local Planning Authority to be entered into as a condition of the grant or implementation of any planning consent, including any agreement pursuant to any one or more of Section 38 or Section 278 of the Highways Act 1980, Section 33 of the Local Government (Miscellaneous Provisions) Act 1982, Section 111 of the Local Government Act 1972, Section 106 of the Act (as amended by the Planning and Compensation Act 1991) or Section 104 of the Water Industry Act 1991 or any agreement with a water or sewerage undertaker or other appropriate authority as to water supply or to drainage or surface water and/or effluent from the Land or any provision of similar intent and any variation, amendment or modification thereof.

**Planning Permission** means the planning permission dated [Insert relevant date] issued by [Insert relevant details] under reference [ ] annexed hereto at Annex 2.

**Price** means [Insert details of amount in words] (£[Insert details of amount in numbers]) [subject to adjustment under Clause 6.3 of the Agreement for Lease].

**Prohibited Person** means an individual or entity:

- (a) which is a company incorporated in or an individual resident in a country outside the United Kingdom unless it agrees to be bound by the jurisdiction of the English Courts and in respect of which a legal opinion from a reputable independent law firm in the relevant jurisdiction is provided in a form reasonably satisfactory to the Landlord (acting reasonably) relating to:
  - (i) the authority and capacity of the company or individual to act as the assignee, guarantor or funder (as applicable); and
  - (ii) the enforceability of the obligations of the company or individual as assignee, guarantor or funder (as applicable);
- (b) which enjoys sovereign or state immunity, unless it is a department, body or agency of the United Kingdom Government;
- (c) which uses funds that are derived from illegal or illegitimate activities;
- (d) which has been convicted of criminal activities, or is or has been involved in organised crime;
- (e) which is named on the consolidated list of terrorists maintained by the Bank of England pursuant to any authorising statute, regulations or guideline;
- (f) which is, or professes to be, resident in a nation state which at the relevant time is not recognised by the Government of the United Kingdom;
- (g) which is otherwise prohibited from entering into the proposed transaction pursuant to any applicable law or requirements of any country or governmental authority (including any exchange control regulations applicable thereto);

- (h) with whom the Landlord or any member of its Group may not lawfully contract, or with whom the established policy of the UK Government is that they should not contract;
- (i) whose activities would prevent the discharge by the Landlord or any member of its Group of its or their statutory duties or other legal functions;
- (j) which has a substantial direct interest(s) in gambling, gaming, pornography, the production or sale of alcoholic drinks, the production or sale of products containing or derived from tobacco or the manufacture or sale of arms and weapons (provided that any organisation that is engaged in legitimate investment and lending to any such business shall not constitute a Prohibited Person); or
- (k) whose activities could pose a threat to national security.

**Redevelopment** any demolition, redevelopment, reconstruction or rebuilding of substantially the whole of any structures on the Land provided that the construction of the initial buildings to be erected by the Tenant on the Land shall not constitute a Redevelopment for the purposes of this Lease;

**Reinstatement Cost** the full reinstatement cost of the Land as reasonably determined by the Tenant from time to time taking into account inflation of building costs and including any costs of demolition, site clearance, site protection, shoring up, professional fees and expenses and the costs of any other work to the Land that may be required by all laws and regulations and any VAT on any such costs, fees and expenses and third party and public liability risks;

**Repairing Notice** any notice served on the Tenant whether by the Landlord or by any Authority requiring repairs or other works to the Land

**Requisite Consents** means all or any consents orders approvals licences and permissions on terms, and subject to conditions and limitations, acceptable to the Tenant (acting reasonably) required pursuant to the following (as applicable):

- (a) any Acts of Parliament and any statutory instruments, rules, orders, regulations, notices, directions, bye-laws and permissions for the time being made under or deriving validity from any Act of Parliament;
- (b) any European directive or regulations and rules having the force of the law in the United Kingdom; and
- (c) any Planning Acts, regulations (Including planning regulations, works, bye-laws or codes of practice of any local or statutory authority having jurisdiction over the Land and/or the Development,

which are required for the commencement, carrying out and use of the Development.

**Regulations** means the Construction (Design and Management) Regulations 2015.

**Senior Representative** means any director or senior executive officer of the Landlord or the Tenant (or the Permitted Chargee as the case may be).

**Substantially Commence** means:

- (a) that all Requisite Consents have been obtained;
- (b) all pre-commencement planning conditions of the Planning Permission have been satisfied;
- (c) initial registration certificates from NHBC or Zurich or such other insurance or building warranty provider as is acceptable to a reasonable number of lenders that are members of the Council of Mortgage Lenders in respect of the Dwellings comprised within the Development have been obtained;
- (d) construction of the Development has commenced and Implementation has taken place.

**Substantially Commenced Notice** means a notice served by the Tenant pursuant to and in accordance with Clause 10.4, which is accompanied by copies evidencing that all Requisite Consents have been obtained, all pre-commencement planning conditions of the Planning Permission have been satisfied and that an initial registration certificate from NHBC or Zurich or such other insurance or building warranty provider as is acceptable to a reasonable number of lenders that are members of the Council of Mortgage Lenders has been obtained.

**Suitable Substitute** means a person, firm or company, approved by the Landlord (such approval not to be unreasonably withheld or delayed) with the technical ability, commercial expertise and adequate financial facilities to complete the Development on the terms contemplated by the Lease.

**[Surety** means any person who, for the time being, guarantees performance of the Tenant's Covenants that person currently being the person specified as the Surety in Land Registry Prescribed Clause LR 3].

**Tenant** includes every person who is a successor in title under the Lease.

**Tenant's Covenants** means the covenants, terms, conditions, agreements, restrictions, stipulations and obligations falling to be complied with by the Tenant under the Lease.

**Term** means 250 years from the date of this Lease.

**Terminate the Lease** means the exercise by the Landlord of the right identified in Clauses 10.1 and 11.1, and **Termination of the Lease** shall be construed accordingly.

**Title Matters** means the matters contained or referred to in (or in the documents contained or referred to in) the entries on the register of the title(s) under which the Landlord holds the Land.

**TfL** Transport for London of 55 Broadway London SW1H 0BD a statutory body created by the Greater London Authority Act 1999;

**TfL Subsidiary** a subsidiary of TfL whether wholly owned or otherwise and whether directly or indirectly owned;

**Transport Assets and Premises** means the whole or any part or parts of the transport infrastructure, roads, pavements, track, buildings, works, conducting media, lifts, escalators, bridges, tunnels, structures, plant, apparatus and equipment and all other things serving or used, controlled or enjoyed in connection with the Transport Undertaking from time to time including all those over, under, adjoining or near to the Property at any time.

**Transport Undertaking** means the transport undertakings or networks operated by the Landlord, relevant member(s) of the Landlord's Group or any successor to its functions (including London Underground system, the Docklands Light Railway and the Elizabeth Line or any London railway system running on, under, over or through the Land).

**VAT** means value added tax charged under the Value Added Tax Act 1994 and shall include any interest, fine, penalty or surcharge in respect of value added tax charged.

**Working Day** means any day except Saturday, Sunday or any public holiday in England.

## **2 Interpretation**

- 2.1 Where a Party includes two or more persons, the covenants made by that Party are made by those persons jointly and severally.
- 2.2 Words implying one gender include all other genders; words implying the singular include the plural and vice versa and words implying persons include any person or entity capable of being a legal person.
- 2.3 A covenant by the Tenant not to do any act or thing includes a covenant not to permit or suffer such act or thing to be done.
- 2.4 A reference to any Enactment includes all modifications, extensions, amendments and re-enactments of such statute in force for the time being and all instruments, orders, notices, regulations, directions, bye-laws, permissions and plans for the time being made, issued or given under them or deriving validity from them.
- 2.5 Provisions are to be construed independently and, if any provision is void or wholly or partly unenforceable, then that provision, to the extent that it is unenforceable, shall be deemed not to form part of the Lease, but the validity and enforceability of the remainder of that provision or of the Lease shall not be affected.
- 2.6 A reference to a numbered clause, schedule or paragraph is a reference to the relevant clause, schedule or paragraph in the Lease.
- 2.7 Headings to clauses, schedules and paragraphs are for convenience only and do not affect the meaning of the Lease.
- 2.8 The words **including** and **in particular** shall be construed as being by way of illustration or emphasis only and shall not limit the generality of the preceding words.
- 2.9 References to the completion of a transfer or other disposal mean the execution and delivery of the necessary documents, not their subsequent registration.
- 2.10 Any right or exception granted or excepted in favour of the Landlord shall be deemed to be granted or excepted in addition in favour of any other person authorised by the Landlord.

- 2.11 Where the consent or approval of the Landlord is required such consent or approval must be in writing and be signed by the appropriate officer who has been notified in writing by the Landlord to the Tenant as being the appropriate officer for such purposes).

### **3 Demise and price**

- 3.1 In consideration of the Price payable by the Tenant to the Landlord and any other sums payable under the Lease and the Tenant's Covenants the Landlord Hereby Demises to the Tenant with full title guarantee the Land.

Together with the benefit of the rights set out in Part I of Schedule 1 (so far as the Landlord can grant the same) and in common with the Landlord and all others now or hereafter enjoying or entitled to the like rights but

Except and Reserving to the Landlord (and those authorised by the Landlord) and its successors in title for the benefit of the Adjoining Land and the owners and occupiers thereof the rights, easements and privileges set out in Part 2 of Schedule 1.

To Hold the same unto the Tenant for the Term.

Subject to all Title Matters and to all rights, easements, quasi easements and privileges affecting the Land or any part thereof Paying Therefor the yearly rent of One Pound (if demanded) on the anniversary of the date of the Lease.

### **4 Transfer of Common Areas**

- 4.1 The Tenant and Landlord agree to join in, at any time (after the Full Occupancy Date) at the Tenant's request, a transfer of the whole or any part of the Common Areas to the Management Company and to surrender the Tenant's interest in the land transferred.
- 4.2 The transfer shall be in such form as the Landlord shall reasonably require.

### **5 Transfer etc of Common Services and Highways**

The Tenant and Landlord agree to enter into, at any time at the Tenant's request and cost, any leases, transfers, easements, licences, agreements or other document with any public or statutory authority in connection with any Common Services or highways or matters ancillary thereto in such form as the Landlord shall approve (acting reasonably) (including any surrender of the Tenant's interest in any land the subject of those documents).

### **6 General Provisions Relating To Transfers**

Notwithstanding the completion of any transfer of this Lease, the provisions of this Lease shall remain in force in respect of anything remaining to be done by the Tenant or the Landlord. In particular, such completion is not to be treated as an acknowledgment by the Landlord that all money due from the Tenant to the Landlord in respect of the transfer has been paid or that the Tenant has complied with any other obligations on its part.

### **7 Tenant's covenants**

The Tenant further covenants with the Landlord as follows:

#### **7.1 Rent**

To pay (if demanded) the reserved rent on the days and in the manner as set out in Clause 3.1.

## **7.2 Interest**

To pay Interest on the rent which is not paid when payment is due and in respect of any other sum of money payable to the Landlord by the Tenant under the Lease to pay Interest which is not paid within 7 days of payment becoming due.

## **7.3 Outgoings**

To pay all rates, taxes, levies, costs, charges, impositions, claims, assessments and outgoings whatsoever assessed on, or attributable to the Land its use and occupation (except in relation to any Dwelling [or Commercial Unit (if any)] which has lawfully been disposed of to a buyer/tenant and any land which is the subject of a transfer in accordance with Clauses 5 and 6) now or hereafter imposed or charged upon the owner or occupier and to pay all charges for utilities consumed on the Land.

## **7.4 Indemnity**

To indemnify and keep indemnified the Landlord from and against all consequences of claims, demands and liabilities howsoever arising from the use or occupation of the Land or its state of repair and condition or any breach by the Tenant of the Tenant's Covenants or the Title Matters or in respect of the design of the Development or any part thereof and the materials and workmanship used by the Tenant in the Development or any part thereof and any inaccuracies in the plan or other description of any Dwelling [or Commercial Unit (if any)] used in any disposal document.

## **7.5 Use**

- 7.5.1 Not to use the Land or exercise any right granted by this Lease other than for the Permitted Use.

***[Note: the Following wording may need amending to reflect any equivalent provisions included in any s106 agreement for the Development]***

[but Provided Further that any Permitted Chargee shall prior to seeking to dispose of any part of the Land pursuant to any default under the terms of its mortgage or charge shall give not less than [six] months' prior notice to the Landlord of its intention to dispose and:

- (a) if the Landlord responds within [three] months from receipt of the notice indicating that arrangements for the disposal of the Land can be made in such a way as to safeguard as the Affordable Dwellings [and as part of the assets of a CLT] then the Permitted Chargee shall co-operate with such arrangements and use reasonable endeavours to complete the disposal of the Affordable Dwellings within [three] months of the date of the Permitted Chargee gives notice to the Landlord of its intention to dispose;
- (b) if the Landlord does not serve its response to the notice served under Clause 7.5(a) within the [three] months then the Permitted Chargee shall be entitled to dispose of the Land pursuant to its or their power of sale or other remedies under the mortgage or charge in question on the open market and from the date of actual completion of



any such sale the designation of the Land or any part of it for use as Affordable Dwellings [and as part of the assets of a CLT] shall no longer apply and the whole of the Land may be used as private residential Dwellings;

- (c) if the Landlord or any other person cannot within [six] months of the date of service of the Permitted Chargee's notice complete such a disposal then provided that the Permitted Chargee shall have complied with its obligations under Clause 7.5(a) the Permitted Chargee shall be entitled to dispose of the Land pursuant to its or their power of sale or other remedies under the mortgage or charge in question on the open market and from the date of actual completion of any such sale the designation of the Land or any part of it for use as Affordable Dwellings [and as part of the assets of a CLT] shall no longer apply and the whole of the Land may be used as private residential Dwellings and the definition of Permitted Use will thereafter be deemed to have been modified to allow for such use.

Provided That at all times the rights and obligations in this Clause 7.5 shall not require the Permitted Chargee to act contrary to its duties under the charge or mortgage and that the Landlord must give full consideration to protecting the interest of the Permitted Chargee in respect of moneys outstanding under the charge or mortgage.]

- 7.5.2 Not to use the Land in a manner which creates a nuisance, damage or annoyance to the Landlord or any tenants or occupiers of any Adjoining Land or the Transport Assets and Premises or to the public or passengers of the Transport Assets and Premises or which will or may cause any obstruction, interference, nuisance, disturbance, inconvenience, damage, delay to the operation of the Transport Undertaking or Transport Assets and Premises.

## **7.6 Alienation**

Not to assign, transfer charge, share or part with possession of or grant any licence or interest in respect of the whole or any part of the Land to a Prohibited Person.

- 7.7 Not to assign, underlet, transfer, charge, mortgage, hold on trust, share or part with possession of or grant any licence or interest in respect of the whole or any part of the Land or agree to do so provided that the Tenant may:
  - (a) prior to the Full Occupancy Date charge the Lease to a person, firm or company providing the finance for the acquisition of the Land and the construction of the Development;
  - (b) prior to the Full Occupancy Date assign the Lease or underlet the whole (other than a Permitted Part) of the Land with the consent of the Landlord which shall not be unreasonably withheld or delayed provided that the Tenant complies with the following obligations and save as provided in clause 7.12:
    - (i) [paying to the Landlord upon the date of completion of any such assignment or under-letting any part of the Price which remains unpaid that have fallen due under the Overage Provisions in Schedule 4
    - (ii) paying to the Landlord upon the date of completion of any such assignment or under-letting a sum calculated as follows:

A – B multiplied by the Landlord's Percentage

Where:

A = the amount of any payment or valuable consideration received or receivable by the Tenant in relation to such assignment or under-letting; and

B = the amount of the Price in respect of the whole of the Land;

- (iii) delivering to the Landlord unconditionally a deed of covenant from the under-tenant or assignee to comply with the provisions of this Clause 7.7(b); and
  - (iv) pays the proper and reasonable costs and expenses of the Landlord (including without limitation the reasonable costs and expenses of the Landlord's solicitors) in respect of the preparation and approval of the deed of covenant together with any VAT on those costs and expenses which the Landlord is unable to recover; and
  - (v) makes an application to the Land Registry on form RX1 together with the requisite fee for a restriction to be entered onto the proprietorship register of the title number of the Land (or part of it, as applicable) allocated to it by the Land Registry in the form of the restriction set out in LR13 of the Lease;
- (c) underlet any part of the Land in Permitted Parts upon leases of not more than 250 years less three days (with the term ending on the same date) in a form appropriate to residential Dwellings [or upon leases of appropriate commercial terms acceptable to a willing lessor and a willing lessee in the open market for Commercial Units (if any) which may be underlet on a shorter term than the residential Dwellings];
- (d) make a Permitted Disposal; and
- (e) after the Full Occupancy Date assign underlet, transfers, charge, mortgage or hold on trust the whole of the Land without Landlord's consent being required save as provided in 7.12.
- 7.8 In the case of a disposal in accordance with Clause 7.7 of a Permitted Part or a Permitted Disposal the Landlord shall within [20] Working Days of receipt of a written request from the Tenant, provide to the Tenant the necessary release documentation in respect of the restriction entered against the title to the Land in respect of Clause 7.7 provided that the Tenant shall be responsible for paying the Landlord's costs in so doing.
- 7.9 Once all payments due to the Landlord have been paid including under the Overage Provisions in Schedule 4, the Landlord shall within [20] Working Days of a written request from the Tenant, provide to the Tenant the necessary release documentation for the withdrawal of the relevant restriction entered against the title to the Land in respect of Clause 7.7 provided that the Tenant shall be responsible for paying the Landlord's costs in so doing.
- 7.10 Within 10 Working Days after the date of every dealing charge or other devolution of the Lease to give notice thereof in writing to the Landlord and produce to it a certified copy of the instrument effecting the devolution and pay the Landlord's reasonable registration fee (being not less than £30 plus VAT) (and in the case of a Permitted Chargee, such notice shall contain an address for service within England and Wales for the chargee).
- 7.11 To pay all proper costs and expenses (including solicitors' costs and surveyor's fees) incurred by the Landlord of and incidental to and in connection with:

- (a) the preparation and service of any notice under Section 146 of the Law of Property Act 1925 and any proceedings under Sections 146 or 147 of that Act even if forfeiture is avoided otherwise than by relief granted by the Court;
- (b) taking action to forfeit the Lease, or terminate the Lease pursuant to Clause 10 whether or not it is forfeited or terminated including cancellation of the Lease at the Land Registry; and
- (c) any notices or consents required or given under the Lease even if the application is withdrawn or properly refused or if the proposal requiring consent does not proceed.

7.12 If the Tenant has given notice of its intention to carry out a Redevelopment not to assign the whole of this Lease before substantial completion of the Redevelopment (or the Tenant has withdrawn the notice without commencing the Redevelopment) subject to clause 7.6 unless:

- (a) the condition set out in clause 7.13(a) is satisfied;
- (b) the condition set out in clause 7.13(b) is satisfied, if the Landlord reasonably requests the proposed assignee to do so;
- (c) none of the circumstances set out in clause 7.14 apply;
- (d) it obtains the prior written consent of the Landlord (which will not be unreasonably withheld or delayed where the preceding provisions of this clause have been complied with);
- (e) the assignment is completed either within three months after the Landlord has given consent under clause 7.14(d) or, if outside that three month period, before the Landlord has revoked that consent;
- (f) it complies with any other conditions to the assignment of this lease reasonably required by the Landlord, provided that the Landlord may under no circumstances make it a condition to the assignment of this lease that the Tenant enters into an authorised guarantee agreement within the meaning of Section 16 of the 1995 Act; and
- (g) the Redevelopment has not commenced.

7.13 The conditions referred to in clause 7.12(a) and 7.12(b) are specified for the purposes of Section 19(1A) of the 1927 Act and are:

- (a) the proposed assignee enters into a direct covenant with the Landlord to comply with the Tenant's Covenants from the date of completion of the assignment to the date on which the assignee is released from the Tenant's Covenants pursuant to the 1995 Act; and
- (b) the proposed assignee provides to the Landlord a guarantee of the proposed assignee's obligations relating to the operation of the Transport Undertaking and the Transport Assets and Premises and the carrying out of any Redevelopment in a form to be agreed by the Tenant and the Landlord (acting reasonably) by a person of sufficient financial standing and capacity acceptable to the Landlord (acting reasonably).

- 7.14 The circumstances mentioned in clause 7.12(c) are specified for the purposes of Section 19(1A) of the 1927 Act and are:
- (a) there is a material breach of the Tenant's Covenants either at the date of the application for consent to assign or at the date of the proposed assignment;
  - (b) the proposed assignee or any proposed guarantor of the proposed assignee is incorporated or registered only in a country outside the United Kingdom in respect of which no treaty exists for the mutual enforcement of judgments between the United Kingdom and that country unless:
    - (i) it has (itself or together with any guarantor), in the reasonable opinion of the Landlord, sufficient assets within the United Kingdom (or within a country outside the United Kingdom in respect of which a treaty exists for the mutual enforcement of judgments between the United Kingdom and that country) to enable it to meet its liabilities under this lease;
    - (ii) where clause 7.14(b) applies, evidence of such assets is provided to the Landlord; and
    - (iii) the proposed assignee (and, where applicable, the proposed guarantor) agrees to be bound by the jurisdiction of the English courts;
  - (c) the proposed assignee or any guarantor of the proposed assignee is a person who enjoys sovereign or state immunity, unless a department, body or agency of the United Kingdom Government;
  - (d) a Redevelopment has been commenced but not completed; or
  - (e) the proposed assignee or any proposed guarantor of the proposed assignee is a Prohibited Person.
- 7.15 Not to assign this Lease without procuring that the proposed assignee enters into a direct covenant with the Landlord to comply with the Tenant's covenants from the date of completion of the assignment to the date on which the assignee is released from the Tenant's covenants pursuant to the 1995 Act.
- 7.16 Not to grant any underlease without procuring that such underlease contains covenants from the undertenant on the same terms as those set out at clause[s] [●] of this Lease and the Tenant shall not vary or waive such covenants.

#### **7.17 Communications**

On the receipt of any notice, order, direction or thing from any competent authority affecting or likely to affect the Land whether the same shall be served directly on the Tenant or the original or a copy thereof be received from any other person whatsoever the Tenant will:

- (a) so far as such notice, order, direction or other thing or the Enactment regulations or other instrument under or by virtue of which it is issued or the provisions of the Lease require it so to do comply therewith at its own expense; and
- (b) promptly deliver to the Landlord a copy of such notice, order, direction or other thing.

#### **7.18 Repair**

Subject to Clause 7.19, throughout the Term to keep the Land and all the buildings or Dwellings [and Commercial Units (if any)] from time to time erected upon the Land (or relevant parts) well and substantially repaired and maintained in a structurally sound and safe condition and to ensure that the Transport and Asset Premises and all persons using the Transport and Asset Premises are fully and properly safeguarded and in so doing (if applicable) to comply with the LUL Standards and to procure that any person deriving title under it observes and performs the provisions contained in this clause.

- 7.19 Until the date upon which it has been certified that the Development has achieved practical completion pursuant to the Tenant's building contract for the works comprising the Development, to keep the part or parts of the Land subject to the Development in a safe and secure condition and all boundaries of the Land secure and to ensure that the Transport and Asset Premises and all persons using the Transport and Asset Premises are fully and properly safeguarded and in so doing (if applicable) to comply with the LUL Standards and to procure that any person deriving title under it observes and performs the provisions contained in this clause.
- 7.20 To permit the Landlord and its employees or agents at all reasonable and proper times to enter into, inspect and view the Land and any buildings and examine their condition Provided That (save in the case of an emergency), the Landlord shall not be entitled to so enter, inspect, view or examine any Dwelling [or Commercial Unit (if any)] on the Land following the grant of any under-lease of a Permitted Part in accordance with Clause 7.7(c).
- 7.21 To remedy any breach of the Tenant's Covenants, immediately after notice of the breach is given to the Tenant and to pay as a debt, recoverable as if it were rent in arrears, all costs and expenses properly incurred by or on behalf of the Landlord in remedying any breach of the Tenant's Covenants.
- 7.22 To ensure all repairs and redecoration to the Land are to be carried out in a good and workmanlike manner using good and proper materials in accordance with good building practice and in accordance with the requirements of all laws and regulations affecting the repairs or the means by which they are carried out, including the Regulations and LUL Standards (where applicable).

#### **7.23 Repairing Notice**

Following the service of a Repairing Notice:

- (a) the Tenant is to carry out any repair or other works required by the Repairing Notice immediately in the case of an emergency or threat to safety and otherwise within the period specified in the notice or, if no period is specified, within a reasonable period after the receipt of the Repairing Notice; and
- (b) where the Repairing Notice is served on the Tenant by any person other than the Landlord or the Landlord's Surveyor, the Tenant is to provide a copy of the Repairing Notice to the Landlord as soon as reasonably practicable after its receipt by the Tenant.

#### **7.24 Compliance with Repairing Notice**

If the Tenant does not comply with the Repairing Notice within the period referred to in clause 7.23:

- (a) the Tenant is to permit the Landlord to enter and remain upon the Land with or without workmen, plant and materials to carry out the repairs or other works required; and
- (b) the costs incurred by the Landlord in carrying out the repairs or other works are to be paid by the Tenant to the Landlord on demand as a debt and not as rent together with Interest on those costs calculated from and including the date on which the Landlord incurred such costs to and including the date on which they are paid.

#### **7.25 Action by Landlord in Emergency**

If the Landlord considers that the operation of any Transport Undertaking or Transport Assets and Premises is under immediate threat by the state or condition of the Land or because access to or egress from the Transports Assets and Premises is impeded, the Landlord may enter the Land to carry out immediate actions required to make safe or protect the parts of the Land affected or ensure that such access is unimpeded without the need to serve any Repairing Notice or give the Tenant any prior notice and if the Tenant is in breach of the Tenant's Covenants the costs incurred by the Landlord in doing so shall be recoverable by the Landlord.

#### **7.26 Yield-up**

At the end or sooner determination of the Term quietly to yield up the Land to the Landlord in accordance with the Tenant's Covenants.

- 7.27 On Termination of the Lease if and to the extent required by the Landlord in writing following Termination of the Lease, the Tenant shall as quickly as reasonably practicable at the Landlord's request and in a good and workmanlike manner reinstate the works comprising the Development which has been carried out and clear the Land to the Landlord's reasonable satisfaction.

#### **7.28 Other Tenant Covenants**

- 7.29 Not to use the Land for any illegal or immoral purposes and not to do anything on the Land which may be or become a nuisance or annoyance or cause damage or inconvenience to the Landlord or to the owners or occupiers of any adjoining or neighbouring land or cause or give rise to the significant possibility of significant harm to the health of living organisms and other interference with the ecological systems of which they form part or cause pollution of ground or surface water.
- 7.30 Not to bring on to, place or keep on such parts of the Land as shall be adjacent to or abutting the Transport Assets and Premises or the means of access to or egress from it anything of a dangerous, combustible, flammable, radioactive or explosive nature or which would be likely to increase the risk of fire or explosion.
- 7.31 Not to commence any works forming part of the Development until the Tenant has obtained all permissions and consents required by all Planning Acts and any other Enactments in relation to the Development and to observe perform and comply with all obligations imposed on it by the Planning Permission, Requisite Consents and any Planning Acts or any Enactments.

7.32

7.32.1 Not to do or omit to do or permit nor use the Land in a manner which may injure the Adjoining Land or the Transport Assets Premises or interfere with, impede, disrupt or delay the operation of Transport Undertaking and the Transport Assets and Premises;

7.32.2 Not to construct or place any new buildings or other temporary or permanent structures on the part of the Land shown coloured purple on the Plan A.

7.33 Not to:

- (a) block any means of ventilation or airflow to and from the Transport Assets and Premises; or
- (b) pollute the air or air spaces serving any means of ventilation to the Transport Assets and Premises.
- (c) build any structures (whether temporary or permanent) which would obstruct any access to or egress from the Transport Assets and Premises or jeopardise or obstruct the operation of the Transport Undertaking and Transport Assets and Premises;
- (d) fix or fasten any lights or signs which may interfere with or be confused with any safety systems including traffic lights upon or associated with the Transport Assets and Premises, and to remove any so erected on demand by the Landlord; and
- (e) install or use any electrical or electronic apparatus or equipment which would cause or would be likely to cause Electromagnetic Disturbance with electrical or electronic apparatus or equipment used by the Landlord in connection with any Transport Undertaking or the Transport Assets and Premises and to remove any so installed on demand by the Landlord.

7.34 Not to block or obstruct or otherwise impede access to and egress from the electricity substation shown coloured pink on Plan A over the land shown cross hatched blue on Plan A.

7.35 To remove immediately upon demand by the Landlord any advertisement, bill, placard, sign, fascia, light, flag, canopy, awning or other fixture or fitting which interferes with the operation of the Transport Undertaking and Transport Assets and Premises.

7.36 The Tenant must do all acts and things required by, and comply and conform in all respects with, the provisions of any Enactments applicable to the use and occupation of the Land (which for the avoidance of doubt shall include the provisions of Section 57 of and Schedule 22 to the Environment Act 1995 and the Regulations) and in particular:

- (a) to be treated as the only client for the purposes of the Regulations;

- (b) to comply with the lawful requirements of any statutory undertakers in respect of electricity, gas, water, telephone or other public services;
- (c) to comply with the conditions imposed by any agreements, licences, permissions and approvals for development or use granted in relation to the Land and the Development; and
- (d) arising from any Planning Permission, Requisite Consents, Planning Acts or Enactments (including but not limited to payment of any Community Infrastructure Levy).

7.37 The Tenant must not do or omit to be done anything which may result in the Landlord incurring or becoming liable to pay any penalty, damage, compensation, costs, charges or expenses.

#### 7.38 Competent Authorities

- (a) In this 7.25(a) **Competent Authority** means any government body, the Environment Agency, court, tribunal or other body deriving power under Environmental Law.
- (b) The parties agree that the apportionment by a Competent Authority of any liabilities that may arise under Part IIA of the Environmental Protection Act 1990 (as amended) (**Part IIA**) in respect of pollution or contamination present in on or under or originating from the Land shall be undertaken on the basis that the Tenant shall have full responsibility for any and all such liabilities and the commercial terms of this Lease (including without limitation the Price) have been settled on that basis.
- (c) It is hereby acknowledged and intended by the parties that Clause 7.38(b) is an agreement on liabilities for the purposes of Part IIA.
- (d) The parties agree that in the event of a notification being served on any of them which indicates that the Land is or is likely to be determined 'contaminated land' under Part IIA to notify the other as soon as is reasonably practicable.
- (e) The parties undertake to furnish the Competent Authority with a copy of the Lease as soon as is reasonably practicable after receiving a note from the Competent Authority or a notification under Clause 7.38(d) and individually to agree to the application of Clause 7.38(b) and to confirm such individual agreement in writing to the Competent Authority following receipt of such notice or notification.
- (f) The parties hereby undertake to use all reasonable endeavours to ensure that the Competent Authority applies the agreement on liabilities set out in Clause 7.38(b).
- (g) For the avoidance of doubt the Landlord shall retain the right to appeal against a decision of a Competent Authority in accordance with Part IIA's appeal procedure.

7.39 The Tenant hereby undertakes to indemnify the Landlord and keep the Landlord indemnified in respect of all and any fines, penalties, charges, actions, losses, costs, claims, expenses, demands, duties, obligations, damages and other liabilities that the Landlord may suffer:

- (a) as a result of any failure of the Tenant to adhere to the provisions of Clause 7.38; or
- (b) arising from any pollution or contamination present in or under or originating from the Land; or



- (c) arising from any Planning Permission, Requisite Consents, Planning Acts or Enactments (including but not limited to Community Infrastructure Levy).

7.40 To comply with all obligations affecting the Land and not to interfere with any rights which benefit them, including all Title Matters.

**7.41 Alterations**

7.42 Not to commit any waste on or at the Land.

7.43 Subject to clause 7.44, not to make any alteration or addition or carry out any works whatsoever to the Land (whether temporary or permanent) without obtaining the Landlord's consent, such consent not to be unreasonably withheld or delayed where the Tenant:

- (a) can demonstrate to the satisfaction of the Landlord (in its absolute discretion) that the Transport Undertaking, the Transport Assets and Premises or the Adjoining Land (as the case may be) will be adequately protected; and
- (b) has entered into an agreement with the Landlord to adhere to such protective measures and take such other action as the Landlord may require in connection with such works and agreed to indemnify the Landlord against all losses it may suffer as a result of such works.

7.44 The Tenant may, without the Landlord's consent under this clause:

- (a) carry out the following works to any buildings on the Land:
  - (i) internal fit out, decoration or redecoration;
  - (ii) non-structural refurbishment;
  - (iii) non-structural demolition;
  - (iv) internal maintenance;
  - (v) internal alterations, additions or reconfiguration that does not adversely impact on the structure of the buildings on the Land; and
  - (vi) cleaning and maintenance to any façade using pre-installed cradles or other permanent access arrangement in accordance with a safe system of work to be approved by the Landlord (such approval not to be unreasonably withheld);
- (b) carry out the following works to the Land:
  - (i) landscaping; and
  - (ii) utility works,

provided that in respect of each type of works specified in clause 7.43(a) and clause 7.43(b) above, such works do not:

- (c) cause Electromagnetic Disturbance;

- (d) involve oversailing of cranes or require access to or across the Transport Assets and Premises;
  - (e) involve works to the subsoil below the Land;
  - (f) impede, disturb, interfere with or adversely affect the operation of the Transport Assets and Premises; or
  - (g) form part of the Land of a greater depth than two metres below ground level.
- 7.45 Not to alter the structure around and above the Access Route without the Landlord's consent (acting in its absolute discretion where such proposed alteration affects the operation of the Transport Undertaking or the Transport Assets and Premises and otherwise acting reasonably).
- 7.46 Not to alter the access points from the exterior of the Land nor the walkways within that area.
- 7.47 In carrying out any alterations, to promptly make good all damage caused to the Adjoining Land to the reasonable satisfaction of the Landlord.
- 7.48 To give to the Landlord at least 12 months' prior written notice of the Tenant's intention to carry out any Redevelopment and not to commence any such works before the expiry of the period of notice.
- 7.49 The Tenant shall not be permitted to carry out any Redevelopment without the previous written consent of the Landlord (such consent not to be unreasonably withheld or delayed) provided that:
- (a) consent may be withheld in the Landlord's absolute discretion if and to the extent that such works would affect the structural integrity or the load bearing capacity of the Transport Assets and Premises or the operation of the Transport Undertaking;
  - (b) it shall be reasonable for the Landlord to withhold its consent if in the Landlord's reasonable opinion the Tenant (and any Surety of the Tenant) does not have sufficient expertise and financial standing properly to carry out and complete the Redevelopment having regard to the proposed Redevelopment and the potential risks to the Transport Assets and Premises or the operation of the Transport Undertaking, provided always that in assessing the expertise of the Tenant (and any Surety of the Tenant) the Landlord shall take into account both the expertise of the Tenant (and any Surety of the Tenant) and the expertise to which they have access through arrangements with third parties (including its professional advisers and/or construction team); and
  - (c) the Landlord may make it a condition of its consent to the carrying out of the Redevelopment that the Landlord shall have completed such works which in the Engineer's opinion are necessary or in the Engineer's discretion desirable in all circumstances and that the recommendations of the Engineer have been implemented before the Redevelopment is commenced.
- 7.50 If in connection with any Redevelopment the Tenant has commenced works and thereafter ceases such works for a period of one month or such less time as may be appropriate considering the nature of the safety risk, and if as a result thereof:

- (a) any of the operation of the Transport Assets and Premises or the Transport Undertaking, or the structural integrity of the Land may be adversely affected; and
- (b) the Tenant has been given reasonable prior notice having regard to the circumstances then prevailing requesting it to carry out works,

to address such adverse effect and if the Tenant fails to commence and diligently proceed to complete such works within the reasonable time set out in such notice, the Landlord may at its option carry out such works itself (or step in to the Tenant's contracts or appointments to ensure the completion of the works) as are necessary to address such adverse effect, at the Tenant's cost (and for which the Tenant indemnifies the Landlord and shall permit full access for such works).

7.51 Not to:

- (a) build any structures (whether temporary or permanent) which would obstruct any access to or egress from the Transport Assets and Premises or result in an Adverse Action;
- (b) fix or fasten any lights or signs which may interfere with or be confused with any safety systems (including traffic lights) upon or associated with the Transport Undertaking, and to remove any so erected on demand by the Landlord; or
- (c) interfere with the Operational Signage and Equipment.

7.52 To comply at all time (once it applies) with the Development Operational Interface Plan.

### **7.53 Planning**

7.54 To give the Landlord full particulars in writing of the grant of any planning permission, consent or approval given under the Planning Acts and any discussions or negotiations of any Planning Agreement.

7.55 The Tenant must comply with all Planning Permissions relating to or affecting the Land or anything done or to be done on it.

7.56 Not without the consent of the Landlord (not to be unreasonably withheld or delayed, save in respect of any matter which results in an Adverse Action, where the Landlord shall have absolute discretion) to implement any permission granted under the Planning Acts to redevelop, including change of use of, the Land (such approval to be deemed given where consent for the relevant works or change of use has been given under this Lease or is not required under this Lease).

7.57 Not to enter into any Planning Agreement with any Authority regulating the use or development of the Land without the consent of the Landlord (such consent not to be unreasonably withheld or delayed where the terms of any such agreement will not result in an Adverse Action).

7.58 To comply with all Planning Agreements affecting the Land (and where relevant any Adjoining Land in so far as they relate to the Development) including the payment of all sums payable thereunder and the discharge of all obligations thereunder.

7.59 To notify the Landlord as soon as reasonably possible when the Landlord may be required to enter into a Planning Agreement and the Landlord shall at the request and cost of the Tenant enter in to such Planning Agreement in a form to be approved by the Landlord (such approval not to be unreasonably withheld or delayed) provided that:

- (a) the Tenant covenants to indemnify the Landlord against any liability that the Landlord may incur as a result of entering into such Planning Agreement; and
- (b) the terms of any such Planning Agreement shall not adversely affect the Adjoining Land or the Transport Assets and Premises nor impose any financial obligations on the Landlord nor obligations on the Landlord to carry out any works.

7.60 To indemnify the Landlord against any proper development charges, other charges and proper internal fees, any solicitors', surveyors or other professional fees, costs and expenses (and any VAT on them to the extent not recoverable by the Landlord) payable in respect of planning applications, any planning permission, consent or approvals given under the Planning Acts in respect of the Land and/or Planning Agreements and to reimburse to the Landlord the proper costs it may properly incur in connection with the grant of any consent under clauses 7.54 to 7.60.

#### **7.61 Fire Safety**

7.62 Not to obstruct the access of any fire equipment or the means of escape from the Land or the Transport Assets and Premises or lock any fire door whilst the Land or the Transport Assets and Premises are occupied.

7.63 To observe and comply with any proper regulations made by the Landlord and the fire authorities in relation to fire prevention and safety at the Land or the Transport Undertaking or the Transport Assets and Premises.

7.64 To provide, properly test and keep in proper working order all fire prevention and fire fighting equipment within the Land.

#### **7.65 Security equipment, fire alarms and sprinklers**

7.66 Not to install or maintain any equipment or apparatus at the Land which may adversely affect the performance of any security systems or fire alarms sprinkler systems, CCTV systems or associated lighting in the Transport Assets and Premises.

7.67 To notify the Landlord promptly on becoming aware that any such security systems, fire alarms, sprinkler systems, CCTV systems or associated lighting are or may be defective.

7.68 Not to interfere with or make any unauthorised connection to any security system, fire alarm, sprinkler system, CCTV system or ancillary equipment at the Land or Transport Assets and Premises.

7.69 Not to do anything which may reduce the effectiveness of any such security systems, fire alarms, sprinkler systems, CCTV systems or associated lighting in the Transport Assets and Premises.

#### **7.70 Non-Interference**

***[Note: Provisions will be reviewed again once a bidder has been selected and scheme is known]***

7.71 The Tenant shall:

- (a) remove, promptly upon request from the Landlord, any structure or other fixture or fitting, (whether temporary or permanent), which interferes with the operation of the Transport Undertaking or obstructs any access to or egress from the Transport Assets and Premises; and
- (b) not do and not to permit anything which results in an Adverse Action.

#### **7.72 Overloading**

***[Note: Provisions will be reviewed again once a bidder has been selected and scheme is known]***

7.73 Not to:

- (a) suspend any loads from the ceilings or other fabric of any buildings or structures on the Land; nor
- (b) load or use the floors or structure of the Land or any buildings or structures on them,

in either case in a manner which will in any way have an Adverse Action..

7.74 If the Tenant is in breach of its obligations stipulated in this clause 7.73, the Tenant shall rectify such breach immediately (or as soon as reasonably practicable if the breach is not capable of immediate remedy) and (if any part of any Transport Undertaking or Transport Assets and Premises shall be endangered or impaired as a result) in accordance with the proper directions of the Engineer.

#### **7.75 Insurance**

***[Note: Insurance provisions will be reviewed again once a bidder has been selected]***

7.76 At all times throughout the Term to insure and keep insured with a substantial and reputable insurer (having a business office in the United Kingdom or through underwriters at Lloyds):

- (a) The Land against the Insured Risks in its Reinstatement Cost; and.
- (b) the Tenant against all public liability risks in respect of legal liabilities to third parties for death, personal injury or damage to property arising out of or in connection with any matter relating to the Land in an amount of not less than £10,000,000.00 (Ten Million pounds) (subject to review in accordance with clause 7.77(f) for each and every occurrence and with no annual aggregate limit.

7.77 The Tenant covenants:

- (a) to pay the premiums for insurance promptly as they become due;
- (b) to procure in respect of any insurance policy effected pursuant to clause 7.76 a waiver of subrogation rights against the Landlord;

- (c) to procure in respect of any insurance policy effected pursuant to clause 7.76 an indemnity to the principal clause in favour of the Landlord, subject to such insurance being available in the London insurance market;
- (d) to produce to the Landlord a copy of the insurance policy and the receipt of the latest premium whenever reasonably requested (but not more than once in any 12 month period);
- (e) not less than once in every five years during the Term to obtain at no cost to the Landlord an independent professional valuation of the Reinstatement Cost of the Land and to provide a copy of such valuation to the Landlord within ten Working Days of its receipt by the Tenant;
- (f) not less than once in every ten years during the Term (or more often if the Landlord reasonably believes that a subsisting breach of the Tenant's obligations under this Lease means that a higher indemnity sum is reasonably required ) the parties shall carry out a review of the sum required to be insured under clause 7.76(b) and agree such revisions as they consider (both parties acting reasonably) appropriate to ensure that revised sum provides protection commensurate with the level of cover achieved as at the date of this Lease by the amount set out in clause 7.76(b) having regard to inflation and any other relevant factors but the sum stated shall not be decreased at any such review;
- (g) to comply with the requirements and recommendations of the insurers (including as to the carrying out of any works);
- (h) not to do anything upon the Land which may render any of the Landlord's policies of insurance in relation to the Transport Assets and Premises or the operation of the Transport Undertaking, void or voidable, subject to the Landlord notifying the Tenant in writing of the terms of such insurance;
- (i) to notify the Landlord immediately in writing of any substantial damage to or destruction of the Land;
- (j) to notify the Landlord immediately in writing of any fatality at the Land or any claim under any of the insurances referred to in clause 7.76 for a sum of £100,000.00 (One Hundred Thousand pounds) or more; and
- (k) to notify the Landlord as soon as reasonably practicable on the Tenant becoming aware of any material changes in a policy of an insurance procured by the Tenant in respect of the Land.

7.78 If the Tenant does not insure or procure all or any of the insurances required by clause 7.76, the Landlord may itself effect such insurance cover as it may consider prudent on the terms referred to in this clause until the date on which the Tenant shall again have effected such insurance and demonstrated the same to the reasonable satisfaction of the Landlord, and the Landlord's proper costs of effecting such insurance (including any proper management and administrative costs) will be payable by the Tenant to the Landlord on written demand.

7.79 Whenever the Land may be destroyed or damaged as the result of an Insured Risk so as to render the Land unfit for occupation or use to any extent, diligently to apply the proceeds of the policy of insurance received for that purposes in rebuilding and reinstating the Land as soon as reasonably practicable having regard to the provisions of this Lease.

- 7.80 In the event of any damage to or destruction of the whole or any part of the Land the Tenant will following such damage or destruction, carry out as expeditiously as possible such works as may be required in order to remove any rubble or other loose building material and make the Land permanently safe and maintain the integrity of the Land having regard to the use of the Transport Assets and Premises and the operation of the Transport Assets and Premises and the Transports Undertaking.

[Infrastructure Protection Provisions]

[Define **Critical Works** on a site by site basis]

- 7.81 [Not to carry out any Critical Works whatsoever to the Land which may adversely affect the Transport Undertaking, the Transport Assets and the Land or the Adjoining Land without obtaining the Landlord's consent, such approval not to be unreasonably withheld or delayed where the Tenant can demonstrate to the satisfaction of the Landlord in its absolute discretion that the Transport Undertaking the Transport Assets and the Adjoining Land (as the case may be) will be adequately protected, and in carrying out any alterations the Tenant shall promptly make good all damage caused to the Transport Undertaking, the Transport Assets and the Land and the Adjoining Land to the satisfaction of the Landlord (acting reasonably).]
- 7.82 [Imposition of conditions to be inserted if relevant]
- 7.83 [Insurance provisions to be inserted if relevant]]

## **8 Landlord's Covenants**

- 8.1 The Landlord covenants with the Tenant as follows:

- (a) That the Tenant observing and performing the several covenants and stipulations on the part of the Tenant in the Lease shall peacefully hold and enjoy the Land during the Term without any interruption by the Landlord or any person rightfully claiming under or in trust for it.
- (b) If requested by the Tenant and at the Tenant's expense (and provided that the Tenant has provided any bond or guarantee required by the relevant authority), the Landlord will enter into any Planning Agreements or any agreements (excluding any guarantee or bond) as landowner in so far as it is necessary to dedicate the land, sewer or other matter the subject of the agreement on terms approved by the Landlord (acting reasonably) and subject to the Tenant entering into an indemnity (in a form required by the Landlord) indemnifying the Landlord against all liability for all costs, obligations and liabilities in connection or arising therefrom.
- (c) If requested by the Tenant the Landlord as landowner (and in accordance with Clause 5) will enter into any transfers, leases, easements, licences or other agreements with any public authority in connection with any adoptable common services or any service media and any ancillary apparatus pursuant to Clause 5 on terms approved by the Landlord acting reasonably subject to the Tenant entering into an indemnity (in a form required by the Landlord acting reasonably) indemnifying the Landlord against all liability for all costs, obligations and liabilities in connection or arising therefrom.

## **9 Commencement Date Extension**

- 9.1 If the Tenant is materially delayed in commencing or proceeding with the Development solely by reason of Force Majeure then the Landlord shall allow such further time for the completion of the Development as is reasonable in all the circumstances (being not more than 12 months) as may be agreed by the parties (both acting reasonably) and the Commencement Date shall be extended accordingly.
- 9.2 Any extension of time for completion of the Development in accordance with Clause 9.1 shall not have effect unless confirmed by the entry by the parties into a deed of variation to amend the Lease to reflect the extended Commencement Date at the expense of the Tenant.

## **10 Commencement Period Termination**

- 10.1 If the Tenant shall fail to Substantially Commence the Development by the Commencement Date then the Landlord may serve a written notice on the Tenant (copied to the Permitted Chargee (if any)) referring to this clause and stating that Termination of the Lease has been triggered (**Commencement Date Termination Notice**). Following the service of any Commencement Date Termination Notice under this clause, the provisions of Clause 12 shall govern the respective rights of the Landlord, the Tenant and the Permitted Chargee.
- 10.2 Where the Lease is terminated following service of a Commencement Date Termination Notice the provisions of Clause 11.4 shall apply.
- 10.3 Where the Lease is determined pursuant to Clause 10.1, the Landlord shall pay the Tenant the Compensation Sum 10 Working Days after the date upon which the amount of the Compensation Sum has been agreed or determined or (if later) the date upon which the provisions of Clause 12 have been complied with.
- 10.4 On or after the Development having Substantially Commenced (but prior to termination of this Lease), the Tenant shall be entitled to serve a Substantial Commencement Notice on the Landlord confirming that Implementation has taken place and on service of such notice, the provisions of Clauses 9 and 10 shall be deemed to be of no further effect.

## **11 Forfeiture**

- 11.1 Without prejudice to any other remedies and powers contained in the Lease or otherwise available to the Landlord if:
- (a) an Insolvency Event shall occur at any time prior to the first occupation of the first Dwelling [or Commercial Units (if any)] constructed on the Land to be occupied then and in any such case the Landlord may notwithstanding the waiver of any previous right of re-entry serve an Insolvency Termination Notice; or
  - (b) there shall be a material breach, non performance or non-observance by the Tenant of any of the Tenant's Covenants contained in Clauses 7.1, 7.2, 7.3, 7.5, 7.7, 7.12, 7.18, 7.26, 7.27, 7.28, 7.31, 7.36 and 7.37,

and the Tenant has failed to remedy the breach within a reasonable period commensurate with the breach which shall be specified in a written notice given by the Landlord to the Tenant (which shall also specify the breach, non performance or non-observance) then and in any such case the Landlord may serve a Breach Termination Notice.



- 11.2 Following the service of any Insolvency Termination Notice or Breach Termination Notice in accordance with Clause 11.1, the provisions of Clause 12 shall govern the respective rights of the Landlord, the Tenant and the Permitted Chargee.

### 11.3 Termination of the Lease

The Landlord may not:

- (a) re-enter and take possession of the Land; or
- (b) forfeit the Lease;

unless it has first served on the Tenant (copied to the Permitted Chargee) a Commencement Period Termination Notice in accordance with Clause 10.1, a Insolvency Termination Notice in accordance with Clause 11.1(a), or a Breach Termination Notice in accordance with Clause 11.1(b) or and complied with the provisions of Clause 12.

- 11.4 In the event of Termination of the Lease:

- (a) to the extent that the beneficial ownership of copyright, design right and any other intellectual property right in any documents, reports, investigations and designs submitted and approved as part of the Planning Permission is vested in it, the Tenant grants to the Landlord, and the Permitted Chargee a royalty free, non exclusive and irrevocable licence to use and reproduce any and all of such documents and the designs and any intellectual property contained in them in connection only with its ownership of the Development, any works carried out by the Tenant and the Land and this licence shall be freely assignable to third parties and carry the right to grant sub-licences;
- (b) to the extent that the beneficial ownership of copyright, design right or any other intellectual property right in any documents referred to in Clause 11.4(a) above is vested in any person other than the Tenant the Tenant shall use its reasonable endeavours to procure that the beneficial owner grants to the Landlord non-exclusive and irrevocable licence to use and reproduce all and any of the documents and the designs contained in them, for any of the purposes and on the same terms as set out in Clause 11.4(a) above;
- (c) the Tenant shall execute such document as the Landlord shall reasonably require to cancel any entry or title at the Land Registry;
- (d) the Tenant shall deliver to the Landlord reliance letters in a form acceptable to the Landlord acting reasonably from [insert details of specific consultants.]

- 11.5 Neither the Tenant nor the Landlord may vary or supplement (or attempt to vary or supplement) the Lease without the prior written consent of the Permitted Chargee, whose consent shall not be unreasonably withheld or delayed.

- 11.6 If an Insolvency Events occurs during the carrying out of a Redevelopment:

- (a) the Landlord may enforce any terms of any warranties and/or appointments with contractors and/or subcontractors in relation to the Redevelopment ("**Contractors**") to carry out any parts of the Redevelopment required, in the Landlord's opinion, to ensure the operation of the Transport Undertaking and Transport Assets and

Premises and/or Adjoining Land and may recover the cost of the same as a debt from the Tenant; and

- (b) the Tenant is to permit the Landlord, the Contractors and their respective agents and employees to enter and remain on the Land with or without plant, equipment, machinery, workmen and materials in order to enable the Landlord to exercise its rights under Clause 11.7.

11.7 If the Lease is forfeited during the carrying out of a Redevelopment, the Landlord may enforce any terms of any warranties and/or appointments with Contractors to carry out and complete the Redevelopment.

11.8 If, in connection with any Redevelopment, the Tenant has commenced the works and thereafter ceases such works, for a period exceeding three months and if as a result thereof the operation of the Transport Undertaking and the Transport Assets and Premises is adversely affected, and the Tenant has been given reasonable prior notice having regard to the circumstances then prevailing, requesting that it recommence the works so as to address such effect and it has failed to do so, within a reasonable period thereafter (bearing in mind the nature of the works and the circumstances prevailing) the Landlord may at its option carry out such works itself or instruct one or more contractors to carry out such works, and may recover the cost of the same as a debt from the Tenant.

## **12 Landlord's Rights of Re-Entry**

12.1 Within three months after the service of a Breach Termination Notice, Commencement Date Termination Notice or Insolvency Termination Notice the Permitted Chargee shall confirm in writing to the Landlord whether it:

- (a) proposes to complete the Development in accordance with the terms of the Lease; or
- (b) proposes to seek a Suitable Substitute to complete the Development; or
- (c) proposes not to complete the Development; or
- (d) proposes to remedy the breach of the Tenant's Covenants in Clause 11.1(b).

12.2 Where the Permitted Chargee informs the Landlord pursuant to Clause 12.1 they propose to either seek a Suitable Substitute or to complete the Development, then, within six calendar months of service of the Breach Termination Notice, Commencement Date Termination Notice or Insolvency Termination Notice the Permitted Chargee must either:

- (a) where they have indicated an intention to seek a Suitable Substitute:
  - (i) identify that Suitable Substitute;
  - (ii) obtain the Landlord's approval to that Suitable Substitute (such approval not to be unreasonably withheld or delayed); and
  - (iii) procure that the Suitable Substitute enters into an assignment of the Lease with such extension of the Commencement Date (where the Tenant has not Substantially Commenced the Development) as is reasonable in order to permit the completion of the Development and subject to any arrangements for curing any antecedent breaches by the Tenant as the Suitable Substitute

and Landlord shall agree acting reasonably (or in the absence of agreement as determined in accordance with Clause 14); or

- (b) where they have indicated an intention to complete the Development enter into an assignment of the Lease [with such extension of the Commencement Date as is reasonable in order to permit the completion of the Development and subject to any arrangements for curing any antecedent breaches by the Tenant as the Suitable Substitute and Landlord shall agree acting reasonably (or in the absence of agreement as determined in accordance with Clause 14)]; or
- (c) where they have indicated an intention to remedy the breach(es) of the Tenant's Covenants, to remedy such a breach.

- 12.3 Where the Permitted Chargee has responded within the period referred to in Clause 12.2 confirming it will seek either a Suitable Substitute or will complete the Development, the Landlord will not take any steps to Terminate the Lease for the reasons set out or remedy the breach in Clauses 10.1, 11.1(a) or 11.1(b) until after the expiry of the time periods set out in Clause 12.2.
- 12.4 Where the Permitted Chargee does not respond within the requisite period referred to in Clause 12.2 or has replied indicating it will not be taking any action the Landlord shall be entitled forthwith to Terminate the Lease.
- 12.5 If the Permitted Chargee fails to complete the assignment of the Lease directly or to a Suitable Substitute in accordance with Clause 12.2 then the Landlord may, without prejudice to any right of action or remedy which may have accrued in respect of any antecedent breach by either party of the Lease, Terminate the Lease.
- 12.6 Pending completion of any assignment and or actual Termination of the Lease pursuant to this Clause 12 the Tenant shall remain liable for and shall continue to perform the provisions of the Lease unless the Landlord otherwise directs.
- 12.7 If this Lease is forfeited and within two months of the forfeiture any undertenant (or its mortgagee) of an underlease that has been granted in compliance with Clause 7.7 prior to the date of forfeiture serves on the Landlord a written request under this Clause 12.7:
- (a) the Landlord shall within 25 Working Days of receiving that request grant to that undertenant a new lease of the premises the subject of the underlease on the same terms as the underlease but:
    - (i) for a term beginning on the date of the forfeiture and continuing for the residue of the term of the underlease;
    - (ii) without payment of a premium;
    - (iii) at an initial rent equal to the rent (if any) reserved by the underlease immediately before this Lease was forfeited; and
    - (iv) subject to any sub-underlease or other derivative interest affecting the premises demised by the underlease immediately before the forfeiture and to the right of the Tenant or any other person to have this Lease vested in it by the court on whatever terms the court may order;

- (b) the undertenant shall execute and deliver to the Landlord a counterpart of the new lease and pay to the Landlord on demand all reasonable and proper legal and other costs, disbursements and any value added tax on them reasonably and properly incurred by the Landlord in connection with the preparation and execution of the new lease.

### **13 Landlord's Put Option**

The Tenant grants the Landlord a put option conferring on the Landlord the right to require the Tenant to buy the Landlord's interest in the Land from the Landlord in accordance with the provisions of Schedule 3.

### **14 Disputes**

- 14.1 Any Dispute between the Landlord or the Tenant or the Permitted Chargee arising out of or connected with any matter referred to in the Lease for which a dispute resolution procedure is expressly provided in other clauses of the Lease shall be resolved in accordance with the dispute resolution procedure so provided. Any other Disputes which may arise between the Landlord or the Tenant shall be resolved in accordance with the procedures of this Clause 14.
- 14.2 Any Dispute which may arise shall first be referred to the Senior Representative of the Landlord and the Tenant or the Permitted Chargee for resolution through negotiation. Either the Landlord or the Tenant or the Permitted Chargee may at any time give 10 Working Days' notice to the other requiring that a Dispute be referred to the Senior Representatives of the Landlord and the Tenant or the Permitted Chargee. Any such notice shall contain brief particulars of the Dispute which is to be so referred. The Senior Representatives will meet within 10 Working Days of the expiry of the notice, or within such shorter or longer period as may be agreed between the Landlord and the Tenant or the Permitted Chargee and shall at their meeting negotiate in good faith in an attempt to resolve the Dispute. The Landlord and the Tenant or the Permitted Chargee shall bear their own costs of referring a Dispute to Senior Representatives for resolution through negotiation.
- 14.3 If a Dispute is not resolved by Senior Representative, or if a Dispute has not been resolved within 20 Working Days after service of notice requiring that a Dispute be referred to Senior Representatives for resolution, either the Landlord or the Tenant or where relevant the Permitted Chargee shall be entitled to implement the dispute resolution procedure as set out in the following sub-clauses:
  - (a) Any Dispute arising between the Landlord and the Tenant over any calculation or valuation to be made under the Lease (or any other issue which is not covered by Clauses 14.3(b) or 14.3(c) shall be referred to an expert to be agreed upon by the parties, or failing agreement, to an expert nominated by the President for the time being of the Royal Institution of Chartered Surveyors and the expert's determination of the calculation or valuation shall be conclusive and binding save in the case of manifest error or fraud.
  - (b) In so far as the provisions of this Lease require the form and contents of any document to be entered into between any of the parties hereto to be settled and the settling or conditions of such form shall not be agreed or where the Dispute concerns the construction of this Lease then the same shall be settled by counsel of at least seven years call and experienced in property matters willing to act and in default of agreement as to his appointment to be appointed by the President for the time being

of the Law Society and the Counsel's determination shall be conclusive and binding save in the case of manifest error or fraud.

- (c) Any Dispute over any accounting issue shall be referred to an expert to be agreed upon by the parties or failing agreement to an expert nominated by the President for the time being of the Royal Institution of Chartered Accountants and the expert's determination shall be conclusive and binding save in the case of manifest error or fraud.
- (d) Any costs payable by reason of the provisions of this Clause 14 shall be borne initially in equal proportions by the Landlord and the Tenant (or where relevant the Permitted Chargee) and thereafter as may be adjusted by the award or awards pursuant to the provisions thereof.

## **15 Notices etc**

- 15.1 Any notice, decision, direction, approval, authority, permission or consent to be given by the Landlord under the Lease must be in writing and shall be valid and effectual (unless express provisions be made to the contrary) if signed by the director or such other officer or agent as the Landlord may from time to time by resolution designate for the purpose.
- 15.2 Any notice, decision, direction, approval, authority, permission or consent to be given by a Party must be in writing, addressed to the relevant party at a correct address and be sufficiently served, in the case of anything to be served on the Tenant, by being left or sent by post to the Tenant at its registered office for the time being and, in the case of anything to be served on the Landlord, by being left or sent by prepaid registered post or by recorded delivery to the Landlord at [insert relevant address details] and marked for the attention of the [insert relevant person's details ] (or such other address or reference as may be notified in writing by the Landlord to the Tenant for such purpose) [and in the case of anything to be served on the Surety, by being left or sent by post to the Surety at the address specified at the beginning of the Lease as being the address for service of the Surety (or such other address in England or Wales as the Surety may notify to the serving Party as its address for service for the purposes of the Lease)].

## **16 The Landlord's Powers and Liability**

- 16.1 Nothing contained or implied in this Lease or any consent or approval granted pursuant to it shall prejudice or affect the rights, powers, duties and obligations of the Landlord or any member of its Group in the exercise or discharge of its/their statutory or public functions (whether directly or under authorisation/delegation) as a statutory body or authority [which, in the case of Transport for London or any member of its Group, involve the functions of the strategic transport authority for Greater London which includes, but is not limited to, its role as a statutory consultee under the planning process].
- 16.2 The Parties acknowledge that:
  - (a) nothing in the Lease shall amount to a waiver by Transport for London or any member of its Group of their rights as a statutory consultee under the planning process and the Tenant shall not make any representations to the local planning authority to the effect that such consultation is not required;
  - (b) in giving any consent approval or acknowledgement under the Lease the Landlord shall have regard to the requirements of Transport for London or any member of its

Group if, in its absolute discretion, it believe that the proposed development of the Land will have an effect on the transport operations and undertakings of Transport for London or any member of its Group;

- (c) matters or concerns relating to the operations or undertakings of Transport for London or any member of its Group are paramount and that such matters or concerns take precedence.
- (d) the Landlord shall not be under any liability whatsoever in respect of any defect in the design of the Development permitted by the Planning Permission or otherwise and shall not be deemed to have made any representation or warranty as to the fitness or suitability of the Land for the purposes of the Development or any other representation or warranty and the Tenant declares that:
  - (i) no oral representation has been made to the Tenant prior to the date hereof by the Landlord or its agents concerning the subject matter of the Lease which has influenced, induced or persuaded the Tenant to enter into the Lease; and
  - (ii) it has been provided with all information necessary to assess the state and condition of the Land and has been afforded full opportunity to enter the Land to conduct such surveys as it wished.
- (e) nothing in this Lease is to limit or affect the rights of the Landlord:
  - (i) to deal with any Adjoining Land and/or Transport Assets and Premises as it thinks fit; or
  - (ii) to permit the owner or occupier of any Adjoining Land and/or Transport Assets and Premises to deal with them as they think fit.

## **17 VAT**

- 17.1 All monies payable under the terms of the Lease are paid exclusive of VAT.
- 17.2 In the event of VAT being chargeable on such monies the Tenant will on demand pay the same to the Landlord at the appropriate rate in exchange for a VAT invoice addressed to the Tenant.

## **18 Acknowledgment**

- 18.1 The Parties to the Lease do not intend that any term of the Lease shall be enforceable solely by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a Party.
- 18.2 No variation of the Lease shall be made other than by deed.

## **19 Surety Covenants**

The Surety covenants with the Landlord as a direct and primary obligation in the terms set out in Schedule 2.

## **20 Overage**

The Tenant covenants to pay overage in accordance with the Overage Provisions of Schedule 4 and the parties agree to comply with their obligations thereunder.

## **21 Miscellaneous**

### **21.1 Law**

The Lease is governed by and shall be construed in accordance with English law and subject to the exclusive jurisdiction of the English courts.

### **21.2 Commencement**

For the avoidance of doubt the provisions of this document (other than those contained in this clause) shall not have any effect until this document has been dated.

- 21.3 If, before the expiry of this Lease or the Put Option in Schedule 3 the Landlord grants a tenancy of the reversion immediately expectant on the determination of this Lease, whether under section 19 of the 1995 Act, or otherwise, any obligation of the Tenant to obtain the consent of the Landlord under this Lease to any dealing with it includes an obligation to obtain the consent of the lessor under such tenancy to that dealing.

### **21.4 Exclusion of warranty as to use**

Nothing contained in the Lease or in any consent or approval given by the Landlord pursuant to the terms of the Lease shall imply or warrant that the Land may be used under the Planning Acts for the Permitted Use or for any other purpose authorised by the Landlord and the Tenant acknowledges that the Landlord has not given or made at any time any representation or warranty that any such use is or will be or will remain a lawful use under the Planning Acts.

### **21.5 New tenancy**

The Lease [granted pursuant to the Agreement for Lease] creates a **new tenancy** as defined by section 28(1) of the 1995 Act.

### **21.6 Landlord's release on transfer of reversion**

On every transfer (whether legal or equitable) of its interest in the whole of the Land, the Landlord is released from all liability for any breach of any landlord covenant of the Lease occurring after the transfer.

### **21.7 Third party rights**

The Land is let subject to all rights of light and air and all other legal or equitable easements and rights belonging to or enjoyed by any other property.

### **21.8 Exclusion of implied rights**

This Lease does not confer upon the Tenant any rights or privileges over any other property except as expressly set out in this Lease and any rights implied by Section 62 of the 1925 Act or the rule in *Wheeldon v Burrows* are expressly excluded.

## **21.9 Protection of rights and of the Property**

### **21.9.1 The Tenant is not:**

- (a) without the consent of the Landlord (not to be unreasonably withheld or delayed) entitled to enforce the benefit of any covenant, right or condition contained in the Title Matters;
- (b) to do or omit to do anything which might result in the loss of any right or easement enjoyed by the Land;
- (c) to give any third party any acknowledgement that the third party enjoys the access of light to any window or opening in any adjoining or neighbouring building; or
- (d) to do or omit to do anything which results or might result in the creation of any new rights wayleaves or easements over the Land and, if it becomes aware of any which are being created, the Tenant:
  - (i) is to notify the Landlord in writing; and
  - (ii) is, at its own cost, to take any action which the Landlord reasonably requires to prevent the creation of new rights wayleaves and easements over the Land.

21.9.2 The Tenant is to notify the Landlord in writing if it becomes aware of any third party challenge to the Land or the Landlord's entitlement to the benefit of any covenant, right or condition contained or referred to in the Title Matters and shall not knowingly do anything which might support such challenge.

### **[Exclusion of 1954 Act**

21.10 The Landlord and the Tenant agree that sections 24 to 28 (inclusive) of the 1954 Act to not apply to the Lease.

- (a) Before the Tenant entered into the Lease or (if earlier) became contractually bound to do so, a notice in the form or substantially in the form set out in Schedule 1 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 was duly served on the Tenant.
- (b) Before the Tenant entered into the Lease or (if earlier) became contractually bound to do so, either the Tenant or a person duly authorised by the Tenant to do so made a [statutory] declaration in accordance with paragraph [3] [4] of Schedule 2 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003.]

21.11 [The Landlord and the Surety agree that sections 24 to 28 (inclusive) of the 1954 Act to not apply to the Lease.

- (a) Before the Surety entered into the Lease or (if earlier) became contractually bound to do so, a notice in the form or substantially in the form set out in Schedule 1 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 was duly served on the Surety.
- (b) Before the Surety entered into the Lease or (if earlier) became contractually bound to do so, either the Surety or a person duly authorised by the Tenant to do so made a



[statutory] declaration in accordance with paragraph [3] [4] of Schedule 2 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003.]

## **21.12 Compensation**

Any statutory right of the Tenant to claim compensation from the Landlord on vacating the Land is excluded to the extent lawful.

## **21.13 Land Registration**

The Tenant will register the grant and any transfer of the Lease or any right relating to it under the Land Registration Act 2002, and will comply with the relevant registration requirements. In doing so, the Tenant will ensure that any requisitions raised by the Land Registry are dealt with promptly and properly and the Landlord will provide such assistance as is reasonably required by the Tenant. The Tenant is to apply to the Land Registry on form RX1 together with the requisite fee for the restrictions in the form of the restriction set out in LR13 of the Lease to be entered onto the proprietorship registers of each of the title number(s) to be allocated to the Lease. The Tenant will provide the Landlord's solicitors with an official copy of the relevant register showing compliance with these requirements as soon as practicable.

## **21.14 Use of Transport Assets and Premises**

21.14.1 Notwithstanding any other provision of this Lease:

- (a) the Tenant is not entitled to raise any objection in respect of the operation of the Transport Undertaking or the carrying out of any Works by the Landlord on the Transport Assets and Premises and/or Adjoining Land;
- (b) the Landlord is not responsible to the Tenant or to anyone enjoying the benefit of the Land for:
  - (i) any nuisance, disturbance, annoyance or inconvenience (howsoever caused) arising in consequence of or in relation to the operation of the Transport Undertaking or anything arising from it; or
  - (ii) any loss by reason of:
    - (A) any act, neglect, default or misfeasance of any employee or agent of the Landlord or of any other person entering upon or using the Transport Assets and Premises or works in breach, neglect or non-performance of his or her duties;
    - (B) the construction, maintenance, repair, alteration, working or use of the Transport Assets and Premises and/or Adjoining Land; or
    - (C) by reason of any terrorist event explosion or other emergency; and
- (c) the Tenant shall not be entitled to make any objection or complaint in respect of any noise vibration or discharge or any Electromagnetic Disturbance from the Transport Assets and Premises arising from the operation of the Transport Undertaking.

The Lease is executed as a deed by the parties and is delivered and takes effect on the date at the beginning of the Lease.

## Schedule 1 – Grants and Reservations

***NOTE: the rights and reservations will need to be reviewed and if necessary revised to reflect the requirements of the agreed development scheme.***

### Part 1 – Rights Easements and privileges granted to the Tenant

- 1 A right of way (until the same are adopted by the highway authority as highways maintainable at the public expense) for the Tenant at all times for all reasonable use and enjoyment of the Land for the Permitted Use over and along the carriageways(with vehicles) and the footpaths (on foot only) on the Adjoining Land shown cross hatched red on Plan A which give access to the Land from the nearest public highway (the “**Roadway**”) or such other route that the Landlord shall designate from time to time and (until adoption) over such carriageways and footpaths as are constructed on the Adjoining Land.
- 2 The right to enter upon and carry out works to maintain repair and resurface the Roadway if the same falls into disrepair.
- 3 Insofar as is necessary for the reasonable use and enjoyment of the Land for the Permitted Use, the right (until adoption) to the free passage of water and soil, gas and electricity, telephone radio or television signals or other services through the Common Services (subject to temporary interruption for repair, alteration or replacement) which are now or during the Term laid and running through, in, under or over, or attached to, the Adjoining Land together with the right to enter the Adjoining Land to inspect, make, lay, clean, reconstruct, divert, alter, maintain or connect into such Common Services until they have been adopted.
- 4 Subject always to obtaining the Landlord's prior approval [in accordance with the provisions of this Lease) as to the location of any apparatus or other conduits to be installed not to be unreasonably withheld or delayed, the right (together with any necessary plant and machinery) to enter the Adjoining Land and lay through, in, under or over the Adjoining Land, any sewers, drains, channels, pipes, watercourses, gutters, wires, cables, pillars, turrets, amplifiers , poles, soakaways and any other apparatus for the supply, transmission or distribution of water, gas, electricity or telephone, radio, television signals or other services or for the disposal of soil, foul water, rainwater or surface water insofar as is necessary for the reasonable use and enjoyment of the Land for the Permitted Use and the right thereafter to inspect, clean, reconstruct, divert, alter, maintain or connect into them.
- 5 Any right of entry pursuant to paragraphs 2, 3 and 4 of Part 1 of this Schedule shall be subject to:
  - (a) the person so entering causing as little disturbance, inconvenience and damage as reasonably possible and making good to the Adjoining Land and its owners and occupiers any damage so caused as soon as reasonably possible and to the reasonable satisfaction of the Landlord and pay all compensation to the Landlord in respect of any damage caused that is not made good and any loss caused to the Landlord due to such damage;
  - (b) (except in the case of an emergency, when as much notice as possible shall be given to the Landlord), taking place only following not less than fourteen (14) days notice to the Landlord;

- (c) such conditions as the Landlord may reasonably require (subject to the provisions of paragraph 6 of Part 1 of this Schedule;
  - (d) no entry being over any part of the Adjoining Land that has been built upon; and
  - (e) no obstruction being caused or permitted to the entrance into the neighbouring North Ealing Station building.
- 6 No works (whether by way of installations, repair, maintenance or otherwise) shall be carried out through, in, under or over the upon the Adjoining Land which may adversely affect the Transport Undertaking or the Transport Assets and Premises or the Adjoining Land without obtaining the Landlord's approval [in accordance with the provisions of this Lease) where the Tenant can demonstrate to the satisfaction of the Landlord (in its absolute discretion) that the Transport Undertaking, the Transport Assets and Premises and the Adjoining Land (as the case may be) will be adequately protected; and
- (a) in carrying out any such works the Tenant shall promptly make good all damage caused to the Transport Undertaking, the Transport Assets and Premises and the Adjoining Land to the satisfaction of the Landlord (acting reasonably); and
  - (b) the Tenant shall put in place and maintain (both during the carrying out of any such relevant works and thereafter following their completion) such insurances that a reasonable and prudent person would effect and which are commensurate with any such works.
- 7 (Except in the proper exercise of the rights granted in Part 1 of this Schedule and on the basis that vehicular access to the North Ealing Station Building will be maintained at all times and express consent from the Landlord will be required in respect of parking) no parking or other obstruction (temporary or otherwise) shall be caused or permitted at any time upon the Roadway.

## **Part 2 – Exceptions and reservations**

The following rights and easements are excepted and reserved out of the Land to the Landlord and all those that it reasonably authorises and the owners and occupiers of the Adjoining Land and all those that they reasonably authorise and all other persons having similar rights and easements but are reserved subject to the conditions set out in paragraph 7 of Part 2 of this Schedule.

- 1 The right to free passage of water, soil, gas and electricity, telephone, radio or television signals through the Common Services which are now or during the Term laid through, in, under or over or attached, to the Land.
- 2 The right to install, lay, clean, enlarge, extend, repair, reconstruct, divert, remove, alter and replace Common Services now or at any time during the Term in, under, over or attached to the Land and to enter upon such part of the Land as may be necessary (but excluding any parts which have permanent structures upon them or are within building lines) for any of the foregoing, the person so entering causing as little damage as possible and as soon as reasonably possible making good any damage done.

- 3 The right of entry on to any unbuilt upon parts of the Land (together with any necessary plant and machinery) in order to carry out any works to the Transport Undertaking, the Transport Assets and Premises and the Adjoining Land subject to the persons exercising such rights using all reasonable endeavours to minimise any noise, disturbance and inconvenience.
- 4 All other rights of entry given to the Landlord referred to elsewhere in this Lease.
- 5 All rights of light, air, support, protection and shelter and all other easements and rights which now or in the future belong to or are enjoyed by the Adjoining Land over the Land.
- 6 The right to carry out works, maintenance, repair, renewal, construction, alteration, improvement, demolition and redevelopment and any ancillary work to the Adjoining Land for any purposes, (including without limitation, raising or otherwise altering the height of any building or other structures) and otherwise to use in any way the Adjoining Land notwithstanding any interference with or obstruction of the access of light and air to the Land and any other right or amenity from time to time granted with or otherwise enjoyed by the Land.
- 7 Any right of entry to carry out works to the Land pursuant to Part 2 of this Schedule shall be subject to:
- (a) the person so entering causing as little disturbance, inconvenience and damage as reasonably possible and making good to the Land and its owners and occupiers any damage so caused as soon as reasonably possible and to the reasonable satisfaction of the Tenant;
  - (b) (except in the case of an emergency, when as much notice as possible shall be given to the Landlord), taking place only following not less than fourteen (14) days notice to the Tenant;
  - (c) such conditions as the Tenant may reasonably require;
- PROVIDED THAT nothing may adversely affect the exercise of the right pursuant paragraph 3 of Part 2 of this Schedule .
- 8 a right of way at all times over and along that part of the Land shown coloured blue on Plan A ("the Blue Land ") on foot (together with any necessary plant and machinery) and with vehicles for the purpose of cleaning, maintaining, repairing, altering or carrying out any other works to the Adjoining Land (including adding installations) and for purposes of cleaning, repairing, maintaining altering or carrying out any works to the Adjoining Land immediately abutting the boundary of the Blue Land subject to the persons so entering causing as little damage as possible and as soon as reasonably possible making good any damage done.
- 9 All rights, easements, quasi-easements and privileges granted to, or enjoyed by, any third party in respect of the construction of any infrastructure or related matters.

## **Schedule 2- Covenants by Surety**

### **1 Indemnity by Surety**

The Tenant or the Surety shall while the Tenant remains bound by the Tenant's Covenants comply with the Tenant's Covenants and the Surety shall indemnify the Landlord against all claims, demands, losses, damages, liabilities, costs, fees and expenses sustained by the Landlord by reason of or arising out of any default by the Tenant in complying with the Tenant's Covenants.

### **2 Surety jointly and severally liable with Tenant**

The Surety shall be jointly and severally liable with the Tenant (whether before or after any disclaimer by a liquidator or trustee in bankruptcy or any forfeiture of the Lease) for the fulfilment of all the obligations of the Tenant under the Lease and agrees that the Landlord in the enforcement of its rights under the Lease may proceed against the Surety as if the Surety were named as the Tenant in the Lease.

### **3 Waiver by Surety**

The Surety waives any right to require the Landlord to proceed against the Tenant or to pursue any other remedy whatsoever which may be available to the Landlord before proceeding against the Surety.

### **4 No release of Surety**

None of the following or any combination of them shall release, discharge or lessen or affect the liability of the Surety under the Lease:

- (a) any neglect, delay or forbearance of the Landlord in endeavouring to obtain payment of any sums due under the Lease or in enforcing compliance with the Tenant's Covenants;
- (b) any refusal by the Landlord to accept any payment tendered by or on behalf of the Tenant at a time when the Landlord is entitled (or would after the service of a notice under section 146 of the Law of Property Act 1925 be entitled) to re enter the Land;
- (c) any extension of time given by the Landlord to the Tenant;
- (d) save as provided for in the 1995 Act any variation of the terms of the Lease or the transfer of the Landlord's reversion or the assignment of the Lease;
- (e) any surrender by the Tenant of any part of the Land (in which event the liability of the Surety shall continue in respect of the part of the Land not so surrendered after making any necessary apportionments);
- (f) any other act, omission, matter or thing whereby but for this provision the Surety would be exonerated wholly or in part (other than a release under seal given by the Landlord).

## **5 Disclaimer or forfeiture of Lease**

- 5.1 If the Tenant (being an individual) becomes bankrupt or (being a company) enters into liquidation and the trustee in bankruptcy or liquidator disclaims or surrenders the Lease or the Lease is forfeited then the Surety shall (if it gives written notice to the Landlord within 30 Working Days after such disclaimer or other event) accept from and execute and deliver to the Landlord a counterpart of a new lease of the Land (the proper and reasonable costs of which shall be borne by the Surety) and the Landlord shall grant such new lease to the Surety:

to take effect from the date of the disclaimer or other event;

- (a) for a term beginning on the date of the disclaimer and equal in length to the residue of the term granted by the Lease which would have remained had there been no disclaimer;
- (b) reserving by way of yearly rent an amount equal to the yearly rent payable immediately before the date of the disclaimer or other event such yearly rent to be payable from that date;
- (c) imposing on the Surety the same obligations as the Tenant was subject to immediately before the disclaimer or other event; and
- (d) otherwise containing the same terms and provisions as the Lease, including the provisions relating to payment of money, except that the Surety shall not be required to procure that any other person is made a party to the new lease as surety.

- 5.2 If the Surety does not require to take a new lease, the Surety shall nevertheless on demand pay to the Landlord a sum equal to the rents and other sums that would have been payable under the Lease but for the disclaimer or other event, from and including the date of such disclaimer or other event for a period of two years or (if sooner) until the date on which a lease or underlease of the Land to a third party is completed.

## **6 Supplemental documents**

The Surety shall at the request of the Landlord join in any document made supplemental or collateral to the Lease.

## **7 Address for service**

The Surety shall promptly notify in writing the Landlord of any change in the Surety's address for service and until such notice has been given the Surety's address for service shall be the Surety's address for service most recently notified in writing to the Landlord.

## Schedule 3 - Put Option

### 1 Definitions and interpretation

#### 1.1 Definitions

In this Schedule the following definitions apply:

**Completion Date** means the date which is 15 Working Days after the date of service of the Option Notice.

**Option** means the put option granted by paragraph 2.1

**Option Notice** means written notice exercising the Option

**Option Period** means the period of [five] years commencing on the Practical Completion Date

**Part 1 Conditions** means Part 1 of the Standard Commercial Property Conditions (Second Edition) and Condition means any one of them.

**Part 2 Conditions** means Part 2 of the Standard Commercial Property Conditions (Second Edition).

**Practical Completion Date** means the date of the certificate of practical completion of the Development issued under the terms of any building contract.

**Purchase Price** means One Pound (£1.00)

### 2 Put Option

2.1 The Tenant grants the Landlord a put option to require the Tenant to buy the reversionary interest in the Land (subject to the Lease) at the Purchase Price within the Option Period.

2.2 On exercise of the Option, the Landlord shall sell and the Tenant shall buy the reversionary interest in the Land (subject to the Lease) for the Purchase Price on the terms set out in this Schedule.

### 3 Option Notice

The Landlord may exercise the Option at any time during the Option Period by serving an Option Notice on the Tenant.

### 4 Title guarantee

The Landlord shall sell the Land with full title guarantee but the covenants for title shall be modified as set out in paragraph 7.



## **5 Conditions**

- 5.1 On exercise of the Option, the Part 1 Conditions shall be incorporated into this agreement in relation to the sale by the Landlord of the Land to the Tenant and in so far as they:
- (a) apply to a sale by private treaty;
  - (b) relate to freehold property;
  - (c) are not inconsistent with the other clauses in this Schedule and the Lease; and
  - (d) have not been modified or excluded by any of the other clauses in this Schedule and the Lease.
- 5.2 On exercise of the Option, the Part 2 Conditions shall not be incorporated into this agreement.
- 5.3 The following Conditions shall not apply:
- (a) Conditions 1.1.4(a), 1.3, 1.4.3 and 1.5;
  - (b) Condition 2.2;
  - (c) Conditions 3.1.4 and 3.3;
  - (d) Conditions 6.2, 6.4.1 and 6.6.2; and
  - (e) Condition 7.1.3.

## **6 Vacant possession**

The Land shall be sold subject to any buildings or structures upon the Land and to any subsisting leasehold interests.

## **7 Transfer**

- 7.1 The transfer to the Tenant shall contain the following covenants and declarations:
- (a) a declaration:
    - (i) that the Land is sold with [full][limited] title guarantee but the Transfer shall state that the covenants set out in sections 2 and 3 of the Law of Property (Miscellaneous Provisions) Act 1994 shall not extend to matters which are referred to in this Schedule; and
    - (ii) that the covenant set out in section 4(1)(b) of the 1994 Act shall not extend to imply that any covenant in the Lease which constitutes an obligation to put the Land in a better state of repair, decoration or condition than it is now in has been complied with;
    - (iii) a covenant by the Tenant with the Landlord that the Tenant and its successors in title will observe and perform the covenants, stipulations, obligations, restrictions and other matters which fall to be observed and performed by the Landlord (whether as original covenantor or by way of

indemnity) contained or referred to in or in documents contained or referred to in:

- (iv) the entries appearing in the property and charges registers of title number [insert the relevant title number] so far as they relate to the Land
- (v) and will indemnify and keep indemnified the Landlord against all demands, claims, liabilities, losses, damages, costs and expenses suffered or sustained by the Landlord as a result of any future breach, non performance or non observance of the same;
- (vi) [a covenant by the Tenant as transferee not to use the Land except for the Permitted Use;]
- (vii) the overage provisions set out in Schedule 4 of the Lease.

## **8 Completion**

- 8.1 Completion of the transfer shall take place on the Completion Date.
- 8.2 On completion, the Tenant shall pay the Purchase Price to the Landlord.

## **9 Indemnity**

- 9.1 With effect from the Completion Date, the Tenant shall indemnify and keep indemnified the Landlord and the Landlord's Group from and against any and all demands, claims, liabilities, losses, damages, costs, expenses, fines and penalties suffered or incurred by the Landlord and any member of the Landlord's Group as a result of, or arising out of, or in connection with:
  - (a) any failure by the Tenant to adhere to the provisions of paragraph 9; or
  - (b) the presence of any Hazardous Substance in, on, under, or originating from the Land,
  - (c) regardless of the cause or reason.

## **10 Disputes**

Any disputes between the Landlord and the Tenant (including any failure by them to agree a matter which they are at first instance required to do) may be referred by either of them to a Senior Representative and resolved in accordance with Clause [12] [*Appointment of Independent Person*] of the Lease.

## Schedule 4 - Overage Provisions

**NOTE:** The purpose of the overage provisions below is to recalculate the purchase price by capturing both increases and decreases in square footage across the site, where further planning permissions are obtained within the overage period.

### 1 Definitions

In this Schedule the following definitions apply:

**[Affordable Rented Units]** means any units designated as London Affordable Rent.]

**[Affordable Rented Unit Adjustment Sum]** means [Insert figure in words from the Tenant's bid] Pounds (£ [insert same figure in numbers]) per square foot.]

**Calculation Date** means, for each Further Planning Permission, the earlier of:

- (a) the date on which the Further Planning Permission becomes Finally Determined; and
- (b) the date on which the Further Planning Permission is implemented.

**[Commercial Units]** means any part of the Land intended exclusively for use or occupation for trade or business or other non-residential uses.]

**[Commercial Unit Adjustment Sum]** means [Insert figure in words from the Tenant's bid] Pounds (£ [insert same figure in numbers]) per square foot].]

**Disposal** means the transfer, assent or grant of a lease of the whole or any substantial part of the Land by the Tenant or any chargee or mortgagee of the Land whether or not for valuable consideration and any comparable arrangement to the same or similar effect but excluding any Permitted Disposal or the under-lease or grant of a tenancy agreement of a Permitted Part.

**End Date** means the date being 5 years from the Practical Completion Date.

**Finally Determined** means six weeks have elapsed since the date of issue of the Further Planning Permission and either:

- (a) no Proceedings have been instituted in respect of that Further Planning Permission; or
- (b) any Proceedings which may have been instituted in respect of that Further Planning Permission have been exhausted (which shall occur on the withdrawal of such Proceedings or when the time for appealing against the decision of any court has expired and no appeal has been lodged) with that Further Planning Permission being finally upheld.

**Further Planning Permission** means a planning permission relating to the Land (including outline planning permission and any planning permission pursuant to section 73 of the Town and Country Planning Act 1990) obtained by or for the Tenant or any of the Tenant's successors in title to the Land.

**Initial Planning Permission** means the planning permission for the development of the Land dated [insert relevant date of the Planning Permission attached at Annex 2 of the Lease] (reference: [            ]).

**[Intermediate Units** means any units designated as London Shared Ownership and London Living Rent.

**[Intermediate Unit Adjustment Sum** means [Insert figure in words from the Tenant's bid] Pounds (£ [insert same figure in numbers]) per square foot].

**[London Affordable Rent** means low cost rented homes complying with the requirements designated for this type of tenure (including rent levels falling within the prescribed benchmarks) in the Mayor of London's Homes for Londoners Affordable Homes Programme 2016-21 Funding Guidance dated November 2016.

**London Living Rent** means an intermediate affordable housing rent to buy product with sub-market locally specified rents on time-limited tenancies complying with the requirements designated for this type of tenure in the in the Mayor of London's Homes for Londoners Affordable Homes Programme 2016-21 Funding Guidance dated November 2016.

**London Shared Ownership** means a housing product allowing a home buyer to purchase a share in a new home and pay a regulated rent on the remaining share complying with the requirements designated for this type of tenure in the in the Mayor of London's Homes for Londoners Affordable Homes Programme 2016-21 Funding Guidance dated November 2016; ].

**Measurement Code** means the edition of the RICS Property Measurement published on behalf of RICS which is current at the date of this Lease.

**Net Internal Area** means the net internal area as calculated in accordance with the Measurement Code.

**Overage** has the meaning given to it in paragraph 2.2 and 2.3 of this Schedule.

**Overage Calculation Sum** has the meaning given to it in paragraph 2.2 of this Schedule.

**Overage Percentage** means 50%.

**Payment Date** means the [20th] Working Day after the Calculation Date or (if later) after the amount of the payment has been agreed or determined.

**Permitted Chargee** means any mortgagee of the Lease and/or holder of a floating charge over all or substantially all of the Tenant's business and assets and of whom the Landlord has written notice before the date on which the events giving rise to the right of re-entry occurred.

**Practical Completion Date** means the date of the certificate of practical completion of the Development issued under the terms of any building contract.

**[Private Sale Unit** means any Dwelling which is not an Affordable Dwelling.]

**Private Sale Unit Adjustment Sum** means [Insert figure in words from the Tenant's bid] Pounds (£ [insert same figure in numbers]) per square foot].

**Proceedings** means all or any of the following as the case may be:

- (a) an application for judicial review under Part 54 of the Civil Procedure Rules arising from the grant, or any procedural step towards the grant, of Planning Permission, including any appeals to a higher court following a judgement of a lower court;
- (b) an application pursuant to Section 288 of the Town and Country Planning Act 1990 arising from the grant of Planning Permission by the secretary of state, including any appeals to a higher court following a judgement of a lower court;
- (c) any reconsideration by the planning authority of a planning application or by the secretary of state of an appeal (as the case may be) following a previous Planning Permission being quashed pursuant to an application within the meaning of paragraphs (a) or (b) above and the matter being remitted to the planning authority or the secretary of state (as the case may be).

***[NOTE: Overage applies to any Further Planning Permission and is not limited to a Unit Type until and including the End Date.]***

## **2 Overage**

- 2.1 The Tenant agrees that, for any part of parts of the Land or the whole of the Land, as the case may be, in respect of which Further Planning Permission has been obtained prior to the End Date the Overage Calculation Sum shall be calculated in accordance with the provisions of paragraph 2.2:
- 2.2 The Overage Calculation Sum shall be the product of the following formula  $A = ((B \times \text{Affordable Rented Unit Adjustment Sum}) + (C \times \text{Commercial Unit Adjustment Sum}) + (D \times \text{Intermediate Unit Adjustment Sum}) + (E \times \text{Private Sale Unit Adjustment Sum}))$

Where:

A = Overage Calculation Sum;

B = the Net Internal Area of the Affordable Rented Units;

C = the Net Internal Area of the Commercial Units;

D = the Net Internal Area of the Intermediate Units;

E = the Net Internal Area of the Private Sale Units;

and B and/or C and/or D and/or E can be a positive or a negative figure.

Where the Net Internal Area of the Affordable Rented Units, Commercial Units, Intermediate Units and Private Sale Units shall be calculated as follows:

- (a) If the relevant Further Planning Permission is for the whole of the Land, then the Net Internal Area which shall be included in the calculation at paragraph 2.2 shall be the Net Internal Area the construction of which is consented by the Further Planning Permission;
- (b) If the relevant Further Planning Permission is not for the whole of the Land then the Net Internal Area which shall be included in the calculation at paragraph 2.2 shall be the sum of the Net Internal Area the construction of which is consented by the Further Planning Permission which gave rise to the Calculation Date, together with the Net Internal Area which was consented by the Initial Planning Permission and/or Further Planning Permission (as the

context permits) on such part of the Land as is not subject to the relevant Further Planning Permission.

- 2.3 Where the Overage Calculation Sum as calculated in accordance with paragraph 2.2 above is a positive figure, Overage shall be calculated as follows:

$$O = (X - Y) \times Z$$

Where

O = the Overage

X = the Overage Calculation Sum

Y = the Price; and

Z = the Overage Percentage

Where the Tenant has already obtained a Further Planning Permission and has paid Overage in respect of that permission, then Overage shall be payable in accordance with the following calculation:

$$O = ((X - Y) \times Z) - W$$

Where

O = the Overage

X = the Overage Calculation Sum

Y = the Price; and

Z = the Overage Percentage

W = the total amount of Overage previously paid

- 2.4 The minimum value for the Overage shall be £0, so that where the Overage is a negative value, no Overage shall be payable.

### **3 Payment of Overage**

The Tenant agrees that, for any Further Planning Permission in respect of which the Calculation Date occurs before the End Date, the Tenant shall (subject to the terms of paragraph 2) pay Overage to the Landlord on or before the relevant Payment Date.

### **4 Interest on late payment**

If a party fails to pay any amount payable by it to another party under this Schedule on its due date, Interest shall accrue on the overdue amount on a daily basis from the due date up to the date of actual payment (both before and after judgment). Any Interest accruing under this paragraph 4 shall be compounded with the overdue amount on the last day of each month and shall be immediately payable on demand.

## **5 Keep Landlord informed**

The Tenant shall supply promptly to the Landlord all documents and information relating to Overage as the Landlord shall reasonably require, and in particular shall supply a copy of each Further Planning Permission together with their calculation of any Overage which is payable within 10 Working Days of this permission being issued.

## **6 Anti-avoidance**

6.1 The Tenant shall act in good faith.

6.2 In particular, the Tenant shall:

- (a) not do anything which is likely to adversely affect the amount of Overage or its prospects of being triggered;
- (b) use reasonable endeavours to maximise the amount of Overage.

## **7 Dispositions**

7.1 The Tenant may not make a Disposal (other than a Permitted Disposal or an under-lease of a Permitted Part) unless the disponent:

- (a) executes a deed of covenant with the Landlord to comply with the Tenant's obligation in this Schedule on or before the date of the deed or document effecting the Disposal and delivers it unconditionally to the Landlord; and
- (b) pays the proper and reasonable costs and expenses of the Landlord (including without limitation the reasonable costs and expenses of the Landlord's solicitors) in respect of the preparation and approval of the deed of covenant together with any VAT on those costs and expenses which the Landlord is unable to recover; and
- (c) makes an application to the Land Registry on form RX1 together with the requisite fee for a restriction to be entered onto the proprietorship register of the title number of the Land (or part of it, as applicable) allocated to it by the Land Registry in the form of the restriction set out in LR13 of the Lease

Provided that the provisions of paragraph 7.1 (a) to (c) shall not apply to the grant of an under-lease in respect of a Dwelling [or Commercial Unit (if any)] or to any Permitted Disposal.

7.2 The Tenant is to apply to the Land Registry on form RX1 together with the requisite fee for a restriction in the form of the restriction set out in LR13 of the Lease relating to the provisions of para 7.1 to be entered onto the proprietorship registers of each of the title number(s) to be allocated to the Lease.

7.3 The parties acknowledge that a restriction in these terms is not intended to be registered against any subsidiary titles created pursuant to a Permitted Disposal or under-lease of a Permitted Part and the Landlord will co-operate with the Tenant and any disponents to assist in dealing with any Land Registry requisitions in respect thereof provided that the Tenant shall be responsible for paying the Landlord's costs in so doing.

- 7.4 After the End Date and subject to all Overage due to the Landlord having been paid, the Landlord shall within 20 Working Days of the written request, provide to the Tenant the necessary release documentation for the withdrawal of the restriction entered against the title to the Land provided that the Tenant shall be responsible for paying the Landlord's costs in so doing.

## **8 Disputes**

Any disputes between the Landlord and the Tenant (including any failure by them to agree a matter which they are at first instance required to do) may be referred by either of them to a Senior Representative and resolved in accordance with Clause 14 of the Lease.



## **Annex 1 - Land - Plan A**

## **Annex 2 - Planning Permission**

## **Annex 3 – Adjoining Land - Plan B**

***[This will be the Title plan for title number AGL262825]***

## Execution page

**Signed** as a deed by London Underground )  
Limited acting by a director in the presence )  
of: ) Director

Signature of witness: .....

Name of witness: .....

Address: .....

.....

.....

**Signed** as a deed by [*insert name of the* )  
*Tenant company*] acting by a )  
director in the presence of: Director ) Director

Signature of witness: .....

Name of witness: .....

Address: .....

.....

.....

**Signed** as a deed by [*insert name of the* )  
*Surety company*] acting by a )  
director in the presence of: Director ) Director

Signature of witness: .....

Name of witness: .....

Address: .....

.....

.....