



Dated 30<sup>th</sup> June 2021

OLD OAK AND PARK ROYAL  
DEVELOPMENT CORPORATION (1)

AND

NORTH KENSINGTON GATE LIMITED (2)

AND

SOLUTUS ADVISORS LIMITED (3)

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**SECTION 106 AGREEMENT**

under Section 106 of the Town and Country  
Planning Act 1990 and all other powers  
enabling relating to land known as North  
Kensington Gate South, 115-129A Scrubs Lane  
(odd numbers only), London NW10 6QU

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THIS DEED is made on 30<sup>th</sup> June 2021

**BETWEEN:**

- (1) **OLD OAK AND PARK ROYAL DEVELOPMENT CORPORATION** of City Hall, The Queen's Walk, More London Riverside, London SE1 2AA (the "OPDC"); and
- (2) **NORTH KENSINGTON GATE LIMITED** a company registered in England and Wales (company number 11974748) whose registered office is at Regina House, 124 Finchley Road, NW3 5JS (the "Owners");
- (3) **SOLUTUS ADVISORS LIMITED** a company registered in England and Wales (company number 07350379) of 48 Warwick Street, London W1B 5AW (the "Mortgagee"),

together the "Parties".

**RECITALS**

- (A) By virtue of The Old Oak and Park Royal Development Corporation (Planning Functions) Order 2015, the OPDC is the local planning authority for the area in which the Site is located for the purposes of Part 3 of the 1990 Act and is the local planning authority by whom the obligations contained in this Deed are enforceable.
- (B) The Owners are the registered owner of the freehold interest in the Site with title absolute under title number LN192535.
- (C) The Mortgagee has a registered charge dated 23 February 2021 over title number LN192535
- (D) The Owners have submitted the Planning Application to the OPDC.
- (E) At a meeting of its Planning Committee on 14 January 2021 the OPDC resolved to grant the Planning Permission subject to the Owners entering into this Deed without which the Planning Permission would not be granted.
- (F) Accordingly, the Parties have agreed to enter into this Deed in order to secure the planning obligations contained in it pursuant to the provisions of Section 106 of the 1990 Act and all other enabling powers.

**THE PARTIES AGREE AS FOLLOWS:**

**1 DEFINITIONS AND INTERPRETATION**

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

**1980 Act** the Highways Act 1980 (as amended);

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

<b>2011 Act</b>	the Localism Act 2011 (as amended);
<b>Additional Affordable Housing Scheme</b>	<p>a scheme to be prepared by the Owners and submitted to the OPDC in accordance with schedule 4 of this Deed detailing the Additional Affordable Housing Units to be provided and which:</p> <ul style="list-style-type: none"> <li>(a) confirms which Open Market Housing Units are to be converted into Additional Affordable Housing Units and to which tenure(s);</li> <li>(b) contains 1:50 plans showing the location, size and internal layout of each Additional Affordable Housing Unit;</li> <li>(c) provides a timetable for construction and delivery of the Additional Affordable Housing Units; and</li> <li>(d) sets out the amount (if any) of any financial contribution also payable towards offsite Affordable Housing if paragraph 3.6 of schedule 4 applies;</li> </ul>
<b>Additional Affordable Housing Units</b>	the Open Market Housing Units to be converted to Affordable Housing pursuant to the Additional Affordable Housing Scheme to be approved under paragraph 3 of schedule 4 of this Deed;
<b>Affordable Housing</b>	<p>housing including London Shared Ownership Housing London Living Rent Housing and London Affordable Rented Housing provided to eligible households whose needs are not met by the market and which housing should:</p> <ul style="list-style-type: none"> <li>(a) meet the needs of eligible purchasers or renters including availability at a cost low enough for them to afford, determined with regard to local incomes and local housing prices, and</li> <li>(b) include provision for the home to remain at an affordable price for future eligible purchasers or renters, or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision within Greater London (as defined in Section 2 of the London Government Act 1963);</li> </ul>
<b>Affordable Housing Provider</b>	<ul style="list-style-type: none"> <li>(a) a provider of Affordable Housing registered under Section 111 of the Housing and Regeneration Act 2008 (or such other relevant previous or amended or replacement statutory provision);</li> <li>(b) an approved development partner of Homes England (or any successor agency) which is eligible to obtain grant funding; or</li> <li>(c) any other body specialising in the provision of Affordable Housing,</li> </ul>

in each case either nominated or approved by the OPDC (such approval not to be unreasonably withheld or delayed);

**Affordable  
Housing Target  
Tenure Split**

- (a) a minimum of 30 per cent (by Habitable Room) of the Affordable Housing Units to be provided as London Affordable Rented Housing; and
- (b) a minimum of 70 per cent (by Habitable Room) of the Affordable Housing Units to be provided as London Living Rent Housing or London Shared Ownership Housing;

**Affordable  
Housing Units**

58 Residential Units (as shown on Plan 2) forming part of the Development comprising the London Affordable Rent Units the London Living Rent Units and the London Shared Ownership Housing Units (and for the avoidance of doubt excluding the Private Residential Units) comprising 168 Habitable Rooms and comprising not less than 30 per cent (by Habitable Room) of the Residential Units and "**Affordable Housing Unit**" shall be construed accordingly;

**Application**

shall have the same meaning as "**Planning Application**";

**Application  
Stage Build  
Costs<sup>1</sup>**

£60,550,000 being the estimated cost of demolition, construction, external works and assumed contingency allowance in respect of the Development as determined by the Application Stage Viability Appraisal;

**Application  
Stage GDV<sup>2</sup>**

£96,465,414 being the estimated gross development value of the Development established by the Application Stage Viability Appraisal and which takes into account any Public Subsidy;

**Application  
Stage Viability  
Appraisal**

the financial viability appraisal dated January 2021, incorporating the final affordable housing offer and prepared by Quod that was submitted in relation to the Application and independently assessed on behalf of the OPDC;

**Apprentice**

an appointment comprising paid employment as an intermediate or advanced apprentice to gain job specific skills or off the job training, usually on a day-release basis, and an opportunity to secure a work-based learning qualification, such appointments to:

- (i) be at a minimum of Level 2 or above for a minimum of 12 months;
- (ii) operate within the Apprenticeship Service and Apprentice Standards;

<sup>1</sup> This is "D" in Formula 1b and, if the late stage review is the first review triggered, "F" in Formula 3.

<sup>2</sup> This is "B" in Formula 1b and, if the late stage review is the first review triggered, "C" in Formula 3.

(iii) be made available in priority to unemployed Local Residents and young people in the Borough who are not in employment, education or training and any other Local Residents referred to the WorkZone; and

(iv) be available for both construction and non-construction roles,

and "Apprenticeship" shall be construed accordingly;

<b>Apprentice Standards</b>	the standards developed by the Institute for Apprenticeships that describe the occupational profile (including the relevant responsibilities) and the knowledge, skills and behaviours requirements associated with apprenticeships in various occupations;
<b>Apprenticeship Service</b>	the government agency that coordinates apprenticeships in England, enabling people to enter the skilled trades (or such successor government agency or service for the same purpose).
<b>Approved Drawings</b>	the drawings prepared by the Architect to be approved by the Planning Permission or a S73 Permission as each may be varied by a S96A Amendment;
<b>Architect</b>	Allies and Morrison;
<b>Average Intermediate Housing Value<sup>3</sup></b>	the combined average value of London Living Rent Housing and London Shared Ownership Housing floorspace per square metre (as applicable) <sup>4</sup> at the Relevant Review Date based on the relevant information provided to establish the Early Stage Review GDV or Late Stage Review Estimated GDV (as applicable) to be assessed by the OPDC and the Owners;
<b>Average London Affordable Rented Housing Value<sup>5</sup></b>	the average value of London Affordable Rented Housing floorspace per square metre (as applicable) at the Relevant Review Date based on the relevant information provided to establish the Early Stage Review GDV or Late Stage Review Estimated GDV (as applicable) to be assessed by the OPDC and the Owners;
<b>Average Open Market Housing Value<sup>6</sup></b>	the average value of Open Market Housing Unit floorspace per square metre on the Site at the Relevant Review Date based on the relevant information provided to establish the Early Stage Review GDV or the Late

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<sup>3</sup> This is "C" in Formula 2 and Formula 4.

<sup>4</sup> Or include other forms of intermediate housing if provided within the Development and accepted by the OPDC PROVIDED THAT such intermediate housing full meets the London Plan definition of intermediate housing and are affordable to those eligible for intermediate ownership or intermediate rent housing in London (as applicable). Intermediate housing should provide for households with a range of incomes below the London Plan Annual Monitoring Report upper limit.

<sup>5</sup> This is "B" in Formula 2 and Formula 4.

<sup>6</sup> This is "A" in Formula 2 and Formula 4.

Stage Review Estimated GDV (as applicable) to be assessed by the OPDC and the Owners;

**Blue Badge Holders**

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

**Boroughs**

LBB, LBE and LBHF and "**Borough**" shall be construed accordingly;

**Build Costs**

the build costs comprising construction of the Development supported by evidence of these costs to the OPDC's reasonable satisfaction including but not limited to:

- (a) details of payments made or agreed to be paid in the relevant building contract;
- (b) receipted invoices;
- (c) costs certified by the Owners' quantity surveyor, costs consultant or agent,

but for the avoidance of doubt build costs exclude:

- (i) professional, finance, legal and marketing costs;
- (ii) all internal costs of the Owners including but not limited to project management costs, overheads and administration expenses; and
- (iii) any costs arising from Fraudulent Transactions;

**Build to Rent**

a build to rent scheme in relation to the Residential Units or any number where the following criteria are met:

- 1) the units are self-contained and let separately; and
- 2) there is unified ownership and unified management of the Residential Units of the build to rent scheme; and
- 3) there is on-site management, which does not necessarily mean full-time dedicated on-site staff, but that there are systems for prompt resolution of issues and some on-site presence;

**Building**

the building to be constructed pursuant to the Planning Permission;

**Cap**

the value within the Development of 50 per cent affordable housing (by habitable room) assuming the Affordable Housing Target Tenure Split;



<b>Car Club</b>	a company accredited by Carplus that Residents may join and which makes cars available to hire to members;
<b>Carbon Offset Contribution</b>	a contribution equivalent to £2,850 per tonne of carbon (being £95 per tonne of carbon over 30 years) shortfall in carbon emission savings as identified by the CO <sup>2</sup> Audit;
<b>Carplus</b>	Carplus (registered charity no. 1093980) or its successor or equivalent organisation as may be agreed in writing with the OPDC being the umbrella organisation for the promotion of sustainable car use and which gives accreditation to car club operators that meet set standards promoting responsible car use;
<b>Car-Free Housing Scheme</b>	a development in which occupiers of the development affected are not entitled to parking permits allowing them or their visitors to park their vehicles within a CPZ in the vicinity of the development;
<b>Charge</b>	a mortgage, charge or other security or loan documentation granting a security interest in the Affordable Housing Units and/or the Additional Affordable Housing Units (or any number of them) in favour of the Chargee;
<b>Chargee</b>	any mortgagee or chargee of the Affordable Housing Provider of the Affordable Housing Units or the Additional Affordable Housing Units (or any number of them) and any receiver (including an administrative receiver) and manager appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator;
<b>Commencement</b>	the carrying out of a material operation (as defined in Section 56(4) of the 1990 Act) or the service of a notice upon the OPDC that a material operation is about to be carried out whichever is earlier but for the purposes of this Deed shall not include the Exempted Works and " <b>Commence</b> " and " <b>Commenced</b> " shall be construed accordingly;
<b>Commencement Date</b>	the date upon which the Development is Commenced;
<b>Commercial Floorspace</b>	any floorspace comprised within the Development which falls within Use Classes A1, A2, A3, A5, B1(a) and or B1(c);
<b>Component</b>	a part of the Development including but not limited to: <ul style="list-style-type: none"> <li>(a) Open Market Housing Units;</li> <li>(b) Affordable Housing Units;</li> </ul>

- (c) Additional Affordable Housing Units;
- (d) commercial units;
- (e) any other floorspace;
- (f) property; and
- (g) land;

**Construction Period** the period from the Implementation Date to the date of Practical Completion of the Development;

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

**Contributions** together the Education Contribution the Healthcare Contribution and the Transport Contribution;

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

**Date of Deemed Service** in each instance where a Chargee has served a Default Notice under paragraph 2.2(a) of schedule 3:

- (a) in the case of service by delivery by hand of the Default Notice to the OPDC's offices at City Hall, The Queen's Walk, More London Riverside, London SE1 2AA during the OPDC's office hours, the date on which the Default Notice is so delivered; or
- (b) in the case of service by using first class registered post to the OPDC's offices at City Hall, The Queen's Walk, More London Riverside, London SE1 2AA, the second Working Day after the date on which the Default Notice is posted (by being placed in a post box or being collected by or delivered to Royal Mail) PROVIDED THAT the Chargee is able to evidence that the Default Notice was actually delivered to the OPDC (by Royal Mail proof of delivery or otherwise);

**Default Notice** a notice in writing served on the OPDC by the Chargee under paragraph 2.2(a) of schedule 3 of the Chargee's intention to enforce its security over the relevant Affordable Housing Units and/or Additional Affordable Housing Units;

**Design Monitoring Costs** any monies paid in accordance with paragraph 2 of schedule 12 to meet the OPDC's reasonable costs incurred in monitoring the design quality of the Development as detailed drawings are prepared and to ensure that all such drawings are completed to a satisfactory quality and are consistent with the Approved Drawings;

**Development** the development permitted by the Planning Permission or a Varied Planning Permission;

**Development Viability Information**

- (a) in respect of Formula 1b:
  - (i) Early Stage Review GDV; and
  - (ii) Early Stage Review Build Costs;
- (b) in respect of Formula 2:
  - (i) Average Open Market Housing Value;
  - (ii) Average London Affordable Rented Housing Value; and
  - (iii) Average Intermediate Housing Value;
- (c) in respect of Formula 3:
  - (i) Late Stage Review Actual GDV;
  - (ii) Late Stage Review Actual Build Costs;
  - (iii) Late Stage Review Estimated GDV; and
  - (iv) Late Stage Review Estimated Build Costs; and
- (d) in respect of Formula 4:
  - (i) Average Open Market Housing Value;
  - (ii) Average London Affordable Rented Housing Value; and
  - (iii) Average Intermediate Housing Value,

and including in each case supporting evidence to the OPDC's reasonable satisfaction;

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

**Disposal** (a) the Sale of a Component(s) of the Development;

- (b) the grant of a lease of a term of less than 125 years of a Component of the Development; or
- (c) the grant of an assured shorthold tenancy agreement or a short term let in respect of a Component of the Development

ALWAYS excluding Fraudulent Transactions and "**Dispose**", "**Disposals**" and "**Disposed**" shall be construed accordingly;

**Early Stage  
Review Build  
Costs**

the sum of:

- (a) the estimated Build Costs remaining to be incurred; and
- (b) the Build Costs actually incurred,

at the Early Stage Review Date;

**Early Stage  
Review Date**

the date of the submission of the Development Viability Information pursuant to paragraph 2 of schedule 4;

**Early Stage  
Review GDV**

the sum of:

- (a) the estimated Market Value at the Early Stage Review Date of all Components of the Development based on detailed comparable evidence; and
- (b) all Public Subsidy and any Development related income from any other sources to be assessed by the OPDC excluding any Public Subsidy repaid by the Owners to the OPDC and/or the GLA (as applicable);

**Education  
Contribution**

the sum of £195,000 (Index Linked) to be used (subject to clause 20.3) towards improvement works to the refurbishment and expansion of secondary schools in the vicinity of the Site to address the demand arising from the Development for education services;

**Eligible  
Purchaser**

a purchaser or purchasers whose Household Income at the date of purchasing the relevant London Shared Ownership Housing Unit does not exceed the relevant upper limit specified in the latest London Plan Annual Monitoring Report at the time such amount at the date of this Deed being £90,000

**Eligible Renter**

an existing private or social tenant or tenants without sufficient combined current savings to purchase a home in the local area and whose Household Income at the date of renting the relevant London Living Rent Housing Unit does not exceed the relevant upper limit specified in the latest London Plan Annual Monitoring Report such amount at the date of this Deed being £60,000;

<b>Employment and Skills Contribution</b>	the sum of £184,300 to be paid to the OPDC in accordance with paragraph 1 of Schedule 10 towards the OPDC's employment and skills hub;
<b>Energy Strategy</b>	the revised energy strategy to be submitted pursuant to the relevant condition of the Planning Permission and including details of how the Development will be designed in accordance with the London Heat Network Manual to connect to the District Heating Network, including the size and location of pipework within the fabric of the Building and buried externally to the point of connection at the boundary of the Site;
<b>Exempted Works</b>	an operation or item of work of or connected with or ancillary to archaeological investigation or remediation works associated with decontamination, exploratory boreholes, site or soil investigations, demolition, site clearance, site level re-modelling and excavation and/or site preparation, site reclamation and site remediation works, installation of trunk services to serve the entire Site, the erection of fences and hoardings and construction of temporary access and service roads;
<b>Existing Third Party Interests</b>	any leasehold interests or any other interests or rights of third parties of whatever nature in, on or over the Site or any part of the Site existing at the date of this Deed;
<b>Expert</b>	has the meaning given in clause 19.3;
<b>External Consultant</b>	the external consultant(s) appointed by the OPDC to assess the Development Viability Information;
<b>Finally Determined</b>	means Proceedings have been finally disposed of such that all statutory periods have expired without any further applications being made to the relevant determining authority/court or tribunal of competent jurisdiction;
<b>Formula 1b</b>	the formula identified as " <b>Formula 1b</b> " within the annex to schedule 4;
<b>Formula 2</b>	the formula identified as " <b>Formula 2</b> " within the annex to schedule 4;
<b>Formula 3</b>	the formula identified as " <b>Formula 3</b> " within the annex to schedule 4;
<b>Formula 4</b>	the formula identified as " <b>Formula 4</b> " within the annex to schedule 4;
<b>Framework Travel Plan</b>	a plan to promote sustainable modes of transport by Occupiers of the Residential Units and their visitors;
<b>Fraudulent Transaction</b>	(a) a transaction the purpose or effect of which is to artificially reduce the Late Stage Review Actual GDV and/or artificially increase the Late Stage Review Actual Build Costs; or

- (b) a Disposal that is not an arm's length third party bona fide transaction;

**GLA** the Greater London Authority or any successor in statutory function;

**Green Infrastructure and Open Space Strategy and Management Plan** a plan for the provision of the Open Space and its ongoing maintenance and management to be approved by the OPDC pursuant to Schedule 15;

**Habitable Room** any room within a Residential Unit the primary use of which is for living, sleeping or dining and which expressly includes kitchens of 13 square metres or more, living rooms, dining rooms and bedrooms but expressly excludes kitchens with a floor area of less than 13 square metres, bathrooms, toilets, corridors and halls;

**HCA** the Homes and Communities Agency or any successor in function as regulator of Affordable Housing in England and/or London;

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Jasbir Sandhu

**Healthcare Contribution**

VF

the sum of £250,019 (Index Linked) to be used towards expanding the primary care facility at the Hammersmith Centre for Health, Hammersmith Hospital to address the demand arising from the Development for healthcare services infrastructure;

DocuSigned by:

  
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David Lunts

OPDC CFO

**Highway Agreement**

an agreement entered into with the local highway authority pursuant to inter alia Section 38 and 278 of the 1980 Act and "Highway Agreements" shall be interpreted accordingly;

**Highway Reinstatement Area**

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

**Highway Works**

- (a) the repair and reinstatement of the highway and footways within the Highway Reinstatement Area so as to repair and/or reinstate them to the same condition and standards as shown in the Schedule of Highway Condition approved by the OPDC pursuant to paragraph 2.1 of schedule 5;
- (b) the provision of the loading bay that forms part of the Development;
- (c) the removal of street furniture;
- (d) the provision of a car club parking space; and
- (e) works to ensure compatibility with LBHF's Streetsmart streetscape guidance and with the landscaping scheme approved under

OPDC CEO

condition 14 of the Planning Permission as per the draft annexed hereto at schedule 2;

<b>Household</b>	in relation to a person "A", A and all other persons who would, after purchasing a London Shared Ownership Housing Unit or renting a London Living Rent Housing Unit (as appropriate) share that London Shared Ownership Housing Unit or London Living Rent Housing Unit with A and one another as the only or main residence of both A and such other persons;
<b>Household Income</b>	<p>(a) in relation to a single Eligible Purchaser or a single Eligible Renter, the gross annual income of that Eligible Purchaser's or Eligible Renter's Household; and</p> <p>(b) in relation to joint Eligible Purchasers or joint Eligible Renters, the combined gross annual incomes of those Eligible Purchasers' or Eligible Renters' Households;</p>
<b>Implementation</b>	the carrying out of the first material operation (as defined in Section 56(4) of the 1990 Act) pursuant to the Planning Permission or the service of a notice upon the OPDC that the first material operation is about to be carried out pursuant to the Planning Permission, whichever is earlier and " <b>Implemented</b> " and " <b>Implementation Date</b> " shall be construed accordingly;
<b>Index Linked</b>	subject to indexation in accordance with clause 17;
<b>Intention Notice</b>	a notice in writing served on the Chargee by the OPDC under paragraph 2.3 of schedule 3 that the OPDC is minded to purchase the relevant Affordable Housing Units and/or Additional Affordable Housing Units;
<b>Interest</b>	interest at a rate of four per cent per annum greater than the Bank of England base rate in force from time to time from the date that the payment becomes due until the date of payment;
<b>Intermediate Housing</b>	London Living Rent Housing, London Shared Ownership Housing or all or any of them (as the context requires);
<b>Jobs and Employment Strategy</b>	<p>a written strategy which:</p> <p>(a) sets out the partnership arrangements for how the Owners and its contractors and sub-contractors will work with the OPDC (and the LBB, LBE and LBHF as appropriate) and any local employment or training agencies as part of an employment and training consortium, such arrangements to include appropriate reporting and review mechanisms;</p> <p>(b) sets out agreed protocols and processes for joint working between the Owners and the OPDC (and the LBB, LBE and LBHF as</p>

appropriate) specifically around vacancy sharing for the purposes of recruiting Local Residents to vacancies and apprenticeships to include an agreed approach to the forecasting of future job opportunities and skills requirements to ensure an adequate pipeline of candidates;

**Late Stage Review Actual Build Costs<sup>7</sup>** the Build Costs incurred at the Late Stage Review Date which for the avoidance of doubt shall exclude any contingency allowance;

**Late Stage Review Actual GDV<sup>8</sup>** the sum of:

- (a) the value of all gross receipts from any Sale of a Component of the Development prior to the Late Stage Review Date;
- (b) the Market Value of any Component of the Development that has been otherwise Disposed prior to the Late Stage Review Date but not Sold; and
- (c) all Public Subsidy and any Development related income from any other sources to be assessed by the OPDC excluding any Public Subsidy repaid or repayable by the Owners to the OPDC and/or the GLA (as applicable),

in respect of which the supporting evidence to be submitted as part of the Development Viability Information shall include documentary evidence of all gross receipts under (a) and evidence of rental values achieved for different Components of the Development under (b);

**Late Stage Review Cap** the cap on the Late Stage Review contribution as calculated in accordance with Formula 4;

**Late Stage Review Contribution** a financial contribution for the provision of off-site Affordable Housing in the OPDC's administrative area the precise value of which shall be calculated in accordance with Formula 3 and which shall be subject to the Late Stage Review Cap;

**Late Stage Review Date** the date on which 75 per cent of the Residential Units have been Disposed as determined by the OPDC pursuant to paragraph 8.4 of schedule 4;

**Late Stage Review Estimated Build Costs<sup>9</sup>** means the estimated Build Costs remaining to be incurred at the Late Stage Review Date;

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<sup>7</sup> This is "D" in Formula 3.

<sup>8</sup> This is "A" in Formula 3.

<sup>9</sup> This is "E" in Formula 3.



<b>Late Stage Review Estimated GDV<sup>10</sup></b>	the estimated Market Value at the Late Stage Review Date of all remaining Components of the Development that are yet to be Disposed based on detailed comparable evidence;
<b>LBB</b>	the London Borough of Brent;
<b>LBE</b>	the London Borough of Ealing;
<b>LBHF</b>	the London Borough of Hammersmith and Fulham;
<b>Local Business</b>	any business, trade, service, profession or industry whose established place of business is within the LBB, LBE and/or LBHF;
<b>Local Housing Allowance Rates</b>	the Local Housing Allowance rates determined and published by the Valuation Office Agency based on private market rents being paid by tenants in the broad rental market area in relation to the Site and used by the Department for Works and Pensions to calculate housing benefit for tenants renting from private landlords or such replacement rates that are published from time to time;
<b>Local Resident</b>	<p>a person who is resident in the LBB, LBE or LBHF, such residency to be proven by the production of two valid proofs of address which are no more than three months old, for example:</p> <ul style="list-style-type: none"> <li>(a) council tax statement;</li> <li>(b) utility bills;</li> <li>(c) bank statements; or</li> <li>(d) other correspondence from government or state bodies;</li> </ul>
<b>London Affordable Rented Housing</b>	<p>rented housing provided by an Affordable Housing Provider that has the same characteristics as Social Rented Housing except that it is not required to be let at Target Rents but is subject to other rent controls that require it to be offered to eligible households in accordance with Part VI of the Housing Act 1996 at a rent that is:</p> <ul style="list-style-type: none"> <li>(a) including Service Charges, up to 80% of local market rents or Local Housing Allowance Rates whichever is lower; and</li> <li>(b) excluding Service Charges, no higher than the benchmark rents published by the GLA annually in accordance with the Mayor's Funding Guidance</li> </ul>

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<sup>10</sup> This is "B" in Formula 3.

and "London Affordable Rented Housing Unit" will be interpreted accordingly

<b>London Affordable Rented Housing Units</b>	the 17 Affordable Housing Units shown on Plan 2 comprising 50 Habitable Rooms to be made available for London Affordable Rented Housing in accordance with Schedule 3 of this Deed together with any Additional Affordable Housing Units which are to be delivered as London Affordable Rented Housing;
<b>London Design Standards</b>	the applicable housing design standards set out in the London Plan, the Mayor of London's Housing Supplementary Planning Guidance (2016) and the Mayor of London's and Homes and Communities Agency's Funding Standards Framework – New Funding Design and Sustainability Standards for London (December 2011) and any replacement or supplementary guidance in force from time to time;
<b>London Heat Network Manual</b>	the London Heat Network Manual Issue 1 Revision 0 published by the Greater London Authority in April 2014 or any successor or replacement document;
<b>London Living Rent Housing</b>	<p>rented housing provided by an Affordable Housing Provider that is required to be offered to Eligible Renters on a time-limited tenancy:</p> <ul style="list-style-type: none"> <li>(a) with a minimum term of three years unless a shorter term is requested by the prospective tenant;</li> <li>(b) with a break clause allowing the tenant to end the tenancy any time after the first six months of the tenancy with one month's notice;</li> <li>(c) at initial rents not exceeding the relevant maximum rents published by the GLA annually PROVIDED THAT rent increases (in percentage terms) within the term of the tenancy in question will not be more than the percentage increase in the CPI for the relevant period;</li> </ul>
<b>London Living Rent Housing Units</b>	the 23 Affordable Housing Units as shown on Plan 2 comprising 70 Habitable Rooms to be made available for London Living Rent Housing in accordance with Schedule 3 of this Deed together with any Additional Affordable Housing Units which are to be delivered as London Living Rent Housing;
<b>London Living Wage</b>	the hourly rate of pay calculated and published from time to time by the GLA as being a wage that is sufficient to give a worker in London and their family enough to afford the essentials and to save, the current rate at the date of this Deed being £9.75 per hour;
<b>London Plan</b>	the spatial development strategy for London published by the Mayor of London and as may be amended or replaced from time to time;

<b>London Plan Annual Monitoring Report</b>	the monitoring report published annually by the Mayor of London reviewing the progress being made in implementing the policies and addressing the objectives of the London Plan or any replacement GLA guidance or policy;
<b>London Shared Ownership Housing</b>	<p>housing offered to Eligible Purchasers to be occupied partly for rent and partly by way of owner occupation on shared ownership arrangements as defined in section 70(4) of the Housing and Regeneration Act 2008 (or any amended or replacement provision) where the shared ownership lessee for the time being has the right to carry out Staircasing and dispose of the unit on the open market and on the basis that annual housing costs, including Service Charges and mortgage payments (assuming reasonable interest rates and deposit requirements):</p> <ul style="list-style-type: none"> <li>(a) must not exceed 28 per cent of the relevant annual gross income upper limit (such 28 per cent being equivalent to 40 per cent of net income, with net income being assumed to be 70 per cent of gross income) specified in the London Plan Annual Monitoring Report;</li> <li>(b) in respect of the following sizes of units, must not exceed 28 per cent of the corresponding annual gross income upper limit below (such 28 per cent being equivalent to 40 per cent of net income, with net income being assumed to be 70 per cent of gross income): <ul style="list-style-type: none"> <li>(i) one-bedroom: £67,000;</li> <li>(ii) two-bedroom: £78,000;</li> <li>(iii) three-bedroom: £90,000; and</li> </ul> </li> </ul> <p>and "<b>London Shared Ownership Lease</b>" and "<b>London Shared Ownership Lessee</b>" shall be construed accordingly;</p>
<b>London Shared Ownership Housing Units</b>	the 18 Affordable Housing Units as shown on Plan 2 comprising 48 Habitable Rooms to be made available for London Shared Ownership Housing in accordance with Schedule 3 of this Deed together with any Additional Affordable Housing Units which are to be delivered as London Shared Ownership Housing;
<b>Major Development</b>	<p>development involving any one or more of the following:</p> <ul style="list-style-type: none"> <li>(a) the winning and working of minerals or the use of land for mineral-working deposits;</li> <li>(b) waste development;</li> <li>(c) the provision of dwellinghouses where:</li> </ul>

- (i) the number of dwellinghouses to be provided is 10 or more; or
- (ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);
- (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- (e) development carried out on a site having an area of 1 hectare or more;

**Market Value**

the price at which the sale of the relevant property interest would have been completed unconditionally for cash consideration on the Relevant Review Date based on detailed comparable market evidence, including evidence of rental values achieved for any Component of the Development which has been Disposed but not Sold, to be assessed by the OPDC and assuming:

- (a) a willing seller and a willing buyer;
- (b) that, prior to the date of valuation, there has been a reasonable period of not less than six months for the proper marketing of the interest (having regard to the nature of the property and the state of the market) for the agreement of the price and terms and for the completion of the sale;
- (c) that no account is taken of any additional bid by a prospective purchaser with a special interest; and
- (d) that both parties to the transaction have acted knowledgeably, prudently and without compulsion;

**Material Wind Impacts**

those wind conditions that are found to be one or more categories above the stated comfort conditions in the Wind Assessment Area compared to the wind assessment which was submitted as part of the Planning Application, as based on the Lawson Public Comfort Criteria having regard to any Major Planning Applications at land within 150m of the Site which have been validated by the OPDC or granted planning permission prior to the Implementation Date;

**Mayor's Funding Guidance**

**"Homes for Londoners: Affordable Homes Programme 2016-21 Funding Guidance"** published by the Mayor of London in November 2016 or any update or replacement guidance;

**Moratorium Period**

in each instance where a Chargee has served a Default Notice under paragraph 2.2 of schedule 3, the period from (and including) the Date of Deemed Service on the OPDC of the Default Notice to (and including) the

date falling three months after such Date of Deemed Service (or such longer period as may be agreed between the Chargee and the OPDC);

<b>Occupation</b>	the occupation of any part of the Development for its designated planning use but does not include occupation by the Owners or any contractor or other occupier for the purposes of security, construction, fitting out, decoration, marketing or display and " <b>Occupy</b> ", " <b>Occupying</b> ", " <b>Occupier</b> " and " <b>Occupied</b> " shall be construed accordingly;
<b>Occupation Date</b>	the date on which any part of the Development (or any part or phase) is first occupied for the purposes set out in the Planning Permission excluding occupation for the purposes of fitting out or marketing the Development (or any part or phase) and the terms " <b>Occupy</b> ", " <b>Occupied</b> ", " <b>Occupier</b> " and " <b>Occupation</b> " shall be construed accordingly;
<b>Open Market Housing Units</b>	shall have the same meaning as Private Residential Units;
<b>Open Space</b>	the open space and play space to be provided as part of the Development in accordance with details approved pursuant to the Planning Permission;
<b>Option</b>	the option to be granted to the OPDC (and/or its nominated substitute Affordable Housing Provider) in accordance with paragraph 2.4 of schedule 3 for the purchase of the Affordable Housing Units and/or the Additional Affordable Housing Units;
<b>Safeguarded Land</b>	the area of land located on the south side of the Development as shown on Plan 5;
<b>Plan 1</b>	the plan attached to this Deed at schedule 1 and labelled " <b>Plan 1</b> ";
<b>Plan 2</b>	the plan attached to this Deed at schedule 1 and labelled " <b>Plan 2</b> ";
<b>Plan 3</b>	the plan attached to this Deed at schedule 1 and labelled " <b>Plan 3</b> ";
<b>Plan 4</b>	the plan attached to this Deed at schedule 1 and labelled " <b>Plan 4</b> ";
<b>Plan 5</b>	the plan attached to this Deed at schedule 1 and labelled " <b>Plan 5</b> ";
<b>Planning Application</b>	the application for full planning permission for the Development submitted to the OPDC and allocated reference number 20/0088/FUMOPDC for demolition of existing buildings and redevelopment of the site to provide residential units (Use Class C3) within a new residential-led building ranging in height from 7 to 24 storeys (above ground), over ground floor commercial floorspace (Use Class A1/A2/A3/A5/B1A/B1C), with basement car parking, cycle parking and plant space, landscaping and associated works;

<b>Planning Permission</b>	the planning permission to be granted pursuant to the Planning Application in the form of the draft annexed hereto at schedule 2;
<b>Practical Completion</b>	the issue of a certificate of practical completion by the Owners' architect, engineer or other certifying officer as the case may be under the relevant building contract entered into in respect of the Development or part or parts thereof and " <b>Practically Complete</b> " and " <b>Practically Completed</b> " shall be construed accordingly;
<b>Private Residential Units</b>	150 Residential Units (subject to viability assessment undertaken pursuant to schedule 4) for private sale forming part of the Development and which excludes the Affordable Housing Units and any Additional Affordable Housing Units;
<b>Proceedings</b>	any challenge to the validity or lawfulness of the Planning Application or to the Planning Permission in the courts by means of proceedings for judicial review, statutory challenge, declaration proceedings or otherwise calling into question the validity of the Planning Permission; and includes proceedings by way of appeal to the Court of Appeal, the Supreme Court or to any appellant body
<b>Public Subsidy</b>	funding from the OPDC and/or the GLA together with any additional public subsidy secured by the Owners or Affordable Housing Provider to support the delivery of the Development;
<b>Purchased LLR Unit</b>	any London Living Rent Housing Unit which is acquired by its tenant (or tenants) or by another Eligible Purchaser and subsequently owned by that tenant (or tenants) or Eligible Purchaser as London Shared Ownership Housing in accordance with paragraph 3 of schedule 3;
<b>Relevant Infrastructure</b>	any infrastructure to be funded through the Education Contribution, Healthcare Contribution or Transport Contribution;
<b>Relevant Review Date</b>	the Early Stage Review Date or the Late Stage Review Date (as the context requires);
<b>Rent and Nominations Agreement</b>	<p>an agreement to be entered into between the Affordable Housing Provider and the Boroughs (where the Affordable Housing Provider is not any of the Boroughs) in a form to be agreed between the Boroughs and the Affordable Housing Provider (acting reasonably) and providing the Boroughs with nomination rights in respect of the Affordable Housing Units as follows:</p> <p>(a) London Affordable Rent Housing Units: 70% to LBHF, 10% to LBE, 10% to LBB and 10% to GLA (using the OPDC's rounding calculator and OPDC nominations policy principles to adjust to whole numbers of units);</p>

- (b) London Living Rent Housing Units and London Shared Ownership Housing Units: 100% to LBHF;

**Rent Standard** the standard relating to rent set by the Regulator of Social Housing from time to time having regard to the Welfare Reform and Work Act 2016, the Rent Guidance and the Direction on the Rent Standard 2014 issued by the Department for Communities and Local Government in May 2014 together with the Rent Standard Guidance published by the Department for Communities and Local Government in April 2015 or such other replacement guidance or direction or legislation;

**Resident** an Occupier of a Residential Unit;

**Residential Units** 208 units of Use Class C3 residential accommodation to be provided as part of the Development comprising the Private Residential Units and the Affordable Housing Units;

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

**RTA Purchaser** a former tenant of an Affordable Housing Unit who purchases that Affordable Housing Unit under the provisions of the right to acquire created by Section 180 of the Housing and Regeneration Act 2008 or the preserved right to buy created by Part V of the Housing Act 1985 or any other statutory right in force from time to time entitling tenants of an Affordable Housing Provider to purchase their homes;

**S96A Amendment** a non-material amendment to the Planning Permission granted pursuant to Section 96A of the 1990 Act;

**S73 Permission** a permission granted pursuant to an application for a minor material amendment pursuant to Section 73 of the 1990 Act;

**Sale** (a) the sale of the freehold of a Component; or  
(b) the grant of a lease of a Component with a term of 125 years or more and subject to nominal rent,

and "**Sold**" shall be construed accordingly;

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

- (a) the line and level of footways and carriageways; and

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

**Service Charges** all amounts payable by a tenant or owner (as appropriate) of the relevant London Affordable Rented Housing Unit, London Living Rent Housing Unit or London Shared Ownership Housing Unit as part of or in addition to the rent and directly or indirectly for services, repairs, maintenance, improvements, insurance and/or the landlord's costs of management in relation to that London Affordable Rented Housing Unit, London Living Rent Housing Unit or London Shared Ownership Housing Unit;

**Site** the land known as North Kensington Gate South, 115-129A Scrubs Lane (odd numbers only), London NW10 6QU as shown edged red on Plan 1, the freehold interest in which is owned by the Owners and registered at HM Land Registry under title number LN192535;

**Social Rented Housing** rented housing owned and managed by Affordable Housing Providers and let at Target Rents;

**Staircasing** the acquisition by a London Shared Ownership Lessee of additional equity in a London Shared Ownership Housing Unit up to a maximum of 100 per cent equity and "**Staircased**" shall be construed accordingly;

**Substantial Implementation** the Development has been Implemented and the following has occurred:

- (a) the letting of building contracts for the demolition and site clearance and construction of basement, substructure and concrete frame in connection with the Development;
- (b) the completion of demolition of all existing buildings on the Site; and
- (c) completion of basement structure and construction to ground floor slab level for the Building in accordance with Approved Drawings,

and "**Substantially Implemented**" shall be construed accordingly;

**Substantial Implementation Delay Request** a request to extend the Substantial Implementation Target Date in accordance with paragraph 1.6 of schedule 4;

**Substantial Implementation Target Date**

- (a) the date 24 months from but excluding the date of grant of the Planning Permission; or
- (b) where a valid Substantial Implementation Delay Request is made by the Owners pursuant to paragraph 1.6 of schedule 4 any new date agreed pursuant to paragraph 1.8 of schedule 4 by the OPDC



or (in the event of a dispute) any new date determined pursuant to dispute resolution in accordance with clause 19;

<b>Sums Due</b>	all sums due to a Chargee of the Affordable Housing Units and/or the Additional Affordable Housing Units pursuant to the terms of its Charge including (without limitation) all interest and reasonable legal and administrative fees costs and expenses;
<b>Target Rents</b>	rents for Social Rented Housing conforming with the pattern produced by the rents formula set out in the Rent Guidance and subject to the limit on rent changes and rent caps set out therein and subject to indexation as permitted by the Rent Standard from time to time;
<b>Target Return</b>	profit on value of 17.83 per cent of Gross Development Value as determined within the Application Stage Viability Appraisal being the blended profit of the Open Market Housing Units, the Affordable Housing Units and any other Component of the Development as a percentage of gross development value;
<b>Transport Contribution</b>	<p>a contribution to be used towards increasing the accessibility of the Site which in consultation with Transport for London as follows:</p> <ul style="list-style-type: none"> <li>(a) £114,000 towards increasing the capacity of the local bus network</li> <li>(b) £312,142 towards improvement measures for walking, cycling and public realm improvements in the vicinity of the Site;</li> </ul>
<b>Updated Wind Assessment</b>	<p>an assessment (if required) to be provided by the Owners to the OPDC prior to the Commencement Date to be approved in writing by the OPDC. Such an assessment to include:</p> <ul style="list-style-type: none"> <li>(a) wind modelling and details of any potential impact that the Development may have on wind movement in the Wind Assessment Area;</li> <li>(b) consideration of any Major Planning Applications at land within 150m of the Site which have been validated by the OPDC or granted planning permission prior to the Implementation Date and identification of any Material Wind impacts within the Wind Assessment Area;</li> </ul>
<b>Use Classes</b>	shall be defined by reference to the Town and Country Planning (Use Classes) Order 1987 (as amended);
<b>Varied Planning Permission</b>	any planning permission issued pursuant to an application to vary or further vary any of the conditions in the Planning Permission;

**Wind Assessment Area** the areas of public realm within the Development;

**Wind Assessment Works** minor or non-material measures/works/modifications to the Development to be carried out by the Owners to mitigate any Material Wind Impacts in the Wind Assessment Area as may be identified in the Updated Wind Assessment and such works to be approved in writing by the OPDC;

**Working Day** any day except Saturday, Sunday and any bank or public holiday.

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

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

## **2 LEGAL BASIS**

- 2.1 This Deed is made pursuant to:
- (a) Section 106 of the 1990 Act;
  - (b) Sections 1 and 201 of the 2011 Act; and
  - (c) all other powers so enabling.
- 2.2 The OPDC is the local planning authority having the power to enforce the planning obligations contained in this Deed.

## **3 NATURE OF OBLIGATIONS**

- 3.1 Subject to clause 3.2 below, the obligations, covenants and undertakings on the part of the Owners in this Deed are planning obligations insofar as they are capable of being lawfully made pursuant to and for the purpose of Section 106 of the 1990 Act and are given so as to bind the Owners' interest in the Site and with the intent that they shall be enforceable by the OPDC not only against the Owners but also against any successors in title to or assigns of or transferees of the Owners and/or any person claiming through or under the Owners an interest or estate in the Site as if that person had been an original covenanting party and insofar as any such obligations, covenants or undertakings are not capable of falling within Section 106 of the 1990 Act the same are entered into as obligations, covenants or undertakings in pursuance of any other such enabling power.
- 3.2 The Owners and the OPDC acknowledge and agree that:
- (a) the Planning Permission will be granted on the basis that Occupiers of the Residential Units should not be entitled to any parking permit that would entitle them to park within any CPZ enforced by LBHF as at the date of this Deed or any CPZ made in the future;
  - (b) paragraph 3 of schedule 6 prevents Commencement of the Development until the Owners has given a unilateral undertaking to LBHF pursuant to Section 16 of the Greater London Council (General Powers) Act 1974 to secure restrictions on the ability of Occupiers to obtain such parking permits, with the intent that such restrictions on parking permits shall be enforceable by LBHF not only against the Owners but also against any successors in title to or assigns of or transferees of the Owners and/or any person claiming through or under the Owners an interest or estate in the Site, as if that person had been an original covenanting party;
  - (c) the obligations in paragraph 3 of schedule 6 are planning obligations insofar as they are capable of being lawfully made pursuant to and for the purpose of Section 106 of the

1990 Act and in any event are covenants also given pursuant to Section 201 of the 2011 Act.

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

#### **4 CONDITIONAL AGREEMENT**

- 4.1 This Deed is conditional upon:

- (a) the grant of the Planning Permission; and
- (b) the Implementation of the Development,

save in respect of clauses 1–4 (inclusive), 6.2, 7–24 (inclusive) and paragraph 3.3 of schedule 6 which shall come into effect immediately upon completion of this Deed and paragraphs 2.3 to 2.8 (inclusive) of schedule 6 which shall come into effect upon the grant of the Planning Permission.

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

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

#### **6 OBLIGATIONS OF THE OPDC**

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

#### **7 LEGAL COSTS**

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

#### **8 OWNERSHIP**

- 8.1 The Owners warrants and undertakes to the OPDC that it is the freehold owner of the whole of the Site and has full power to enter into this Deed.
- 8.2 The Owners covenant with the OPDC to give the OPDC written notice of any change in ownership of any of its interests in the Site or part thereof (save in respect of individual Residential Units or units of Commercial Floorspace) occurring before all the obligations under this Deed have been discharged, such notice to be served within 20 Working Days following the

change and to give details of the transferee's full name and registered office (if a company) or usual address (if not a company), together with a plan showing the area of the Site to which the disposal relates.

## **9 NO ENCUMBRANCES**

9.1 The Owners covenant with the OPDC that it will not Implement the Development until either:

- (a) all Existing Third Party Interests have been extinguished; or
- (b) all Existing Third Party Interests are bound by the terms of this Deed.

9.2 The Owners covenant with the OPDC that if a third party with an Existing Third Party Interest Implements the Development or procures the Implementation of the Development the Owners shall observe and perform the covenants obligations and duties contained in this Deed.

9.3 If a third party with an Existing Third Party Interest Implements the Development or procures the Implementation of the Development the Owners shall use all reasonable endeavours to prevent any further works pursuant to the Development being carried out and shall use all reasonable endeavours to ensure that the party responsible for carrying out or procuring the Implementation shall promptly and permanently be removed from the Site.

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

## **10 REGISTRATION**

10.1 As soon as reasonably practicable after the completion of this Deed (and in any event within ten Working Days of this Deed), the Owners shall make applications to the Land Registry for entries relating to this Deed to be made in the charges registers of the Title Number LN192535 above so as to bind the Site as provided for in the above mentioned statutory provisions and shall provide the OPDC with written notification as soon as reasonably practicable that such applications have been made.

10.2 If the Owners fails to notify the OPDC that it has made the applications in accordance with clause 10.1, the OPDC shall (without prejudice to any other right) be entitled to register this Deed and recover the expenses incurred in doing so from the Owners and the Owners hereby covenants with the OPDC to do or concur in doing all things necessary or advantageous to enable the said entries to be made.

10.3 The Owners covenant that they shall not make any application to the Land Registry for the removal of any notice registered pursuant to clauses 10.1 or 10.2.

- 10.4 The OPDC shall request registration of this Deed as a Local Land Charge by the LBHF or its respective successor in statutory function.

## **11 RIGHT OF ACCESS**

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

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

- 12.1 The Owners covenant with the OPDC to notify the OPDC in writing of:
- (a) the intended Implementation Date, at least a month prior to such intended date;
  - (b) the actual Implementation Date, within five Working Days of such actual date;
  - (c) the intended Commencement Date, at least a month prior to such intended date;
  - (d) the actual Commencement Date, within five Working Days of such actual date;
  - (e) the intended date of Substantial Implementation at least a month prior to such intended date;
  - (f) the actual date of Substantial Implementation within five Working Days of such actual date;
  - (g) the intended date for first Occupation of the Development, at least a month prior to such intended date;
  - (h) the actual date of first Occupation of the Development, within five Working Days of such actual date;
  - (i) the intended date for first Occupation of the Residential Units, at least a month prior to such intended date;
  - (j) the actual date of first Occupation of the Residential Units, within five Working Days of such actual date;
  - (k) the intended date for Occupation of 50% (fifty per cent) of the Private Residential Units, at least a month prior to such intended date;
  - (l) the actual date of Occupation of 50% (fifty per cent) of the Private Residential Units, within five Working Days of such actual date;

- 12.2 In the event that the Owners fails to provide notification in accordance with clause 12.1, the relevant notifiable event shall be deemed by OPDC (acting reasonably) for the purpose of this Deed to have taken place on the earliest date that such event could have taken place.

### **13 NOTICES**

- 13.1 Any notice or other written communication to be served upon a party or given by one party to any other under the terms of this Deed shall be given in writing and shall be deemed to have been validly served or given if delivered by hand or sent by first class post or sent by recorded delivery post to the party upon whom it is to be served or to whom it is to be given and shall conclusively be deemed to have been received on:

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

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

- (a) OPDC:

Director of Planning

Old Oak and Park Royal Development Corporation

PP5A

City Hall

The Queen's Walk

More London Riverside

London

SE1 2AA

(b) The Owners:

Mr Gary Sacks

5<sup>th</sup> Floor

FC200 Building

2 Lakeside Drive

Park Royal

London

NW10 7FQ

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

#### **14 PAYMENTS**

- 14.1 All payments to be made by the Owners pursuant to the terms of this Deed shall be sent to OPDC by way of electronic transfer marked for the attention of the Head of Development Management and using reference 20/0088/FUMOPDC.
- 14.2 All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly payable in respect thereof.
- 14.3 The Owners hereby acknowledges and agrees that if at any time VAT is required to be paid in respect of any of the financial contribution due under this Deed then to the extent that VAT had not been previously charged in respect of that contribution the OPDC shall have the right to issue a VAT invoice to the Owners and the VAT shall be paid accordingly.

#### **15 NO WAIVER**

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

#### **16 INTEREST ON LATE PAYMENT**

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



## 17 INDEXATION

Where in this Deed any sum or value is to be paid or is otherwise referred to then unless stated to the contrary such sum or value shall be Index Linked so that such sum or value shall be increased (as the case may be) by the percentage change in the Retail Price Index from 14 January 2021 until the date of each payment (or the date that it becomes necessary to calculate such sum or value) to be calculated by reference to the most recently published figures for the Retail Price Index prior to 14 January 2021 and prior to each payment date.

## 18 LIABILITY UNDER THE DEED

- 18.1 No person shall be liable for any breach of the covenants restrictions or obligations contained in this Deed:
- (a) to the extent that such breach relates to any part of the Site in which that person has no interest; and/or
  - (b) which occurs after that person has parted with their entire interest in the Site (or his interest in that part of the Site on which the breach occurs) save for any prior breach for which he shall continue to be liable.
- 18.2 No obligations, undertakings or liabilities under this Deed shall be enforceable against individual purchasers or lessees or Occupiers of the individual Residential Units or their mortgagees or successors in title to either the purchaser or lessee or Occupier or mortgagee, save in respect of the obligations in:
- (a) paragraphs 1.1 and 1.9 of schedule 3 (*Affordable Housing*); and
  - (b) paragraph 2.3 of schedule 6 (*Car Parking*).
- 18.3 No obligations, undertakings or liabilities under this Deed shall be enforceable against individual purchasers or lessees or Occupiers of individual units of Commercial Floorspace or their mortgagees or successors in title to either the purchase or lessee or Occupier or mortgagee, save in respect of the obligations in paragraph 2.3 of schedule 6 (*Car Parking*).
- 18.4 Subject to paragraph 2 of schedule 3, no obligations, undertakings or liabilities under this Deed shall be enforceable against any mortgagee or chargee from time to time which shall have the benefit of a mortgage or charge of or on the whole or any part of the Owners' interest in the Site unless and until such mortgagee or chargee has entered into possession of the Site or any part thereof to which such obligation, covenant or undertaking relates, whereupon it will be bound by the obligations, covenants and undertakings as a person deriving title from the Owners.
- 18.5 No obligations, undertakings or liabilities under this Deed shall be enforceable against any statutory undertaker or other person who acquires any part of the Site or interest therein for the purposes of the supply of heat, cooling, electricity, gas, water, drainage, telecommunication services or public transport services.

## 19 DISPUTES

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

express requirement that he reaches his decision and communicates in writing it to the Parties to the Dispute within the minimum practical timescale allowing for the nature and complexity of the Dispute and in any event no later than 30 Working Days from the date of his appointment to act and that he is to have particular regard to the 1990 Act in reaching his decision.

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

## **20 CONTRIBUTIONS**

- 20.1 The OPDC covenants that as soon as is reasonably practicable upon receipt of any Contribution under this Deed, to pay such Contribution or payment into a separately identified interest bearing section of the OPDC's accounts (unless the Parties agree otherwise) such accounts bearing the Bank of England base rate of interest from time to time on deposits.
- 20.2 The OPDC covenants that in the event that any part or all of any of the Contributions (save for the Education Contribution) have not been allocated or used for the purpose specified within this Deed within ten years from the date of payment to, on written request from the Owners, repay such sums or amounts (or such part thereof) to the Owners with all Interest accrued.
- 20.3 The OPDC covenants and the Owners agree that in the event that any part or all of any of the Education Contribution has not been allocated or used for the purpose specified within this Deed within fifteen years from the date of payment to use the same for public realm improvements.

## **21 MORTGAGEE CONSENT**

The Mortgagee acknowledges and declares that this Deed has been entered into by the Owner with its consent and that the Site shall be bound by the obligations contained in this Deed and

that the security of the mortgage over the Site shall take effect subject to this Deed PROVIDED THAT the Mortgagee shall otherwise have no liability under this Deed unless it takes possession of the Site in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

## **22 MISCELLANEOUS PROVISIONS**

- 22.1 Without prejudice to the terms of this Deed and the obligations imposed on the Owners herein, nothing in this Deed shall be construed as prohibiting or limiting any right to develop any part of the Site in accordance with any planning permission (other than the Planning Permission) granted after the date of this Deed.
- 22.2 This Deed and the obligations, covenants and undertakings which it contains shall lapse and be extinguished automatically if and from the date that the Planning Permission:
- (a) expires without the Development having been Implemented; or
  - (b) is quashed, revoked or (without the consent of the Owners) modified.
- 22.3 If any provision of this Deed is declared by any court to be void, voidable, illegal or otherwise unenforceable the remaining provisions of this Deed shall continue in full force and effect and the parties shall amend that provision in accordance with the decision of the court PROVIDED THAT any party may seek the consent of the others to the termination of this Deed on such terms (including the entering into of another Deed) as may in all the circumstances be reasonable if the effect of the foregoing provisions would be to defeat the original intention of the parties.
- 22.4 Where this Deed requires any matter to be agreed, approved, certified, consented to or determined by any party or any person on behalf of any party hereto under this Deed such agreement, approval, certification, consent or determination shall not be unreasonably withheld or delayed and shall be given in writing.
- 22.5 No variation to this Deed shall be effective unless made by deed.
- 22.6 All interest earned on sums paid to the OPDC under this Deed shall be taken to form part of the principal sum and may be expended by the OPDC accordingly.
- 22.7 Nothing in this Deed shall imply any obligations on the part of the OPDC to any person to ensure that the Development is properly constructed.

## **23 GOVERNING LAW**

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

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

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


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

## **SCHEDULE 1**

### **Plans**

- 1 Plan 1 – Site Plan
- 2 Plan 2 – Affordable Housing Plan
- 3 Plan 3 – Highway Reinstatement Area Plan
- 4 Plan 4 – Blue Badge Holder Parking Space plan
- 5 Plan 5 – The Safeguarded Land Plan



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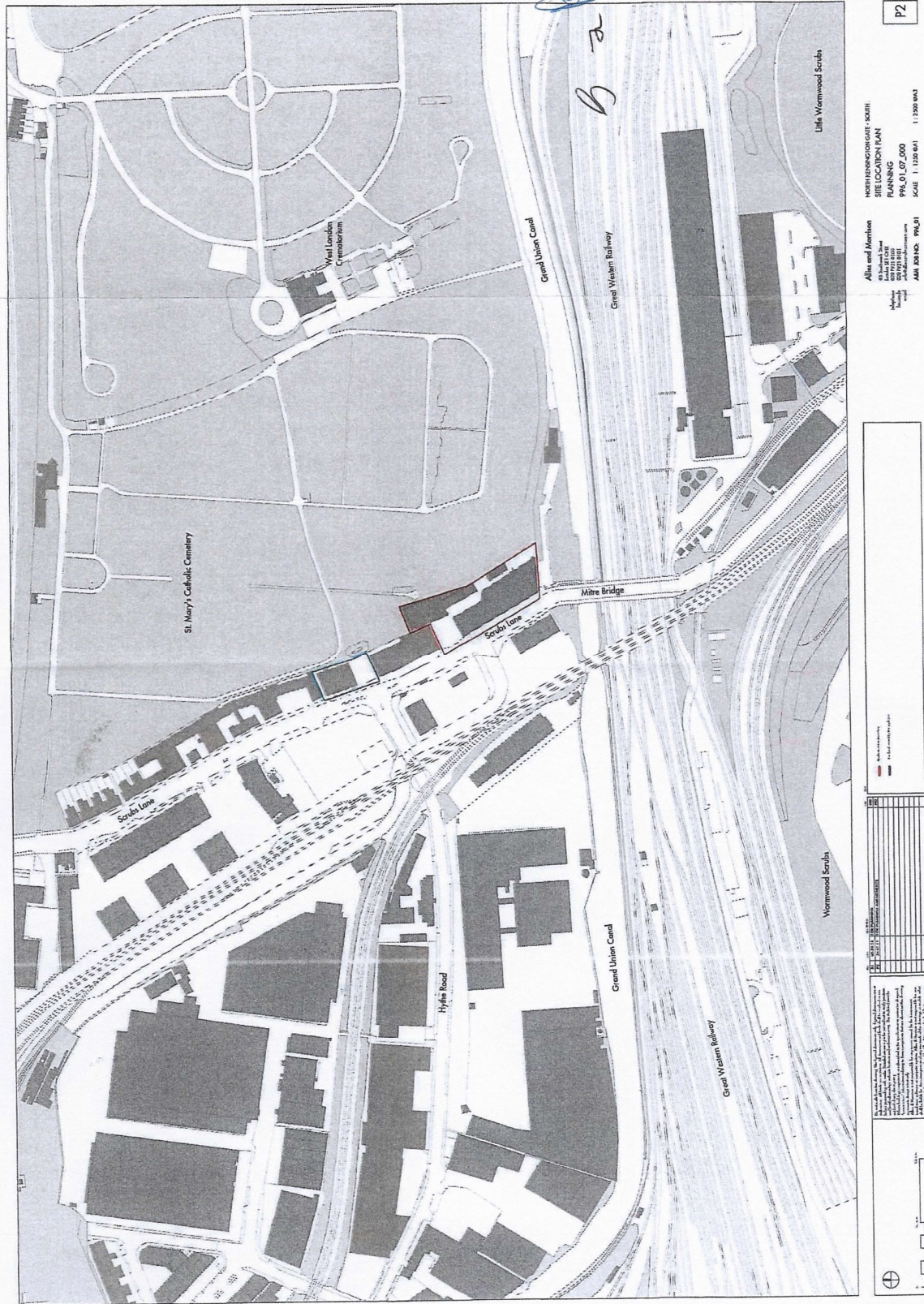
David Lunts

OPDC CEO

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Jasbir Sandhu

OPDC CFO















## **SCHEDULE 2**

### **Draft Planning Permission**



## DECISION NOTICE

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

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

**Applicant**

City & Docklands Limited  
c/o Agent

**Agent**

James Guthrie  
Quod  
Ingeni Building  
17 Broadwick Street  
London  
W1F 0DE

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**Part I - Particulars of Application**

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Date of Application: 29 July 2020

Application No: 20/0088/FUMOPDC

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**Proposal:** Demolition of existing buildings and redevelopment of the site to provide residential units (Use Class C3) within a new residential-led building ranging in height from 7 to 24 storeys (above ground), over ground floor commercial floorspace (Use Class A1/A2/A3/A5/B1A/B1C), with basement car parking, cycle parking and plant space, landscaping and associated works.

**Location:** North Kensington Gate (South Site), 115-129A Scrubs Lane, London, NW10 6QU



## **Part II - Particulars of Decision**

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

### **1. Time Limit for Commencement - compliance**

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

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

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

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

996\_03\_07\_001\_P1 – Location Plan  
 996\_03\_07\_002\_P1 – Existing Block Plan  
 996\_03\_07\_003\_P2 – Proposed Site Plan  
 996\_03\_07\_099\_P1 – Proposed Basement Plan  
 996\_03\_07\_100\_P1 – Proposed Ground Floor Plan  
 996\_03\_07\_101\_P1 – Proposed First to Seventh Floor Plan  
 996\_03\_07\_108\_P1 – Proposed Eight Floor Plan  
 996\_03\_07\_109\_P2 – Proposed Ninth Floor Plan  
 996\_03\_07\_125\_P2 – Proposed Roof Plan  
 996\_03\_07\_129\_P1 – Proposed Tower Floor Plans  
 996\_03\_07\_200\_P2 – Proposed Site Elevations East & West  
 996\_03\_07\_201\_P2 – Proposed Masterplan Site Elevations East & West  
 996\_03\_07\_210\_P2 – Proposed Elevations West  
 996\_03\_07\_211\_P2 – Proposed Elevations East  
 996\_03\_07\_212\_P2 – Proposed Elevations North & South  
 996\_03\_07\_300\_P2 – Proposed Section A-A (North to South)  
 996\_03\_07\_301\_P2 – Proposed Section B-B & C-C (East to West)  
 996\_03\_07\_302\_P2 – Proposed Sections D-D & E-E  
 996\_03\_07\_500\_P1 – Tower Top Bay Studies  
 996\_03\_07\_501\_P1 – Tower Base Bay Study  
 996\_03\_07\_502\_P2 – Buildings 1 & 2 (West) Bay Studies  
 996\_03\_09\_001\_P2 – NIA Residential Plans  
 996\_03\_09\_002\_P2 – GIA Plans  
 996\_03\_09\_003\_P2 – GEA Plans  
 996\_03\_07\_550\_P1 – Detailed bay study, Tower  
 996\_03\_07\_551\_P1 – Detailed bay study. BO1/02  
 TOWN732(08)3100 – Ground Floor Surface Finishes Plan  
 TOWN732(08)3140 – Roof Terraces Surface Finishes Plan

TOWN732(08)3150 – Ground Floor & Roof Terraces Surface Finishes Plan  
Planning Statement by Quod dated July 2020  
Design and Access Statement by Allies and Morrison dated July 2020  
Environmental Statement by Quod dated July 2020  
Energy and Sustainability Statement by Buro Happold dated July 2020  
Response to GLA Stage I Energy Comments by Buro Happold dated November 2020  
GLA Carbon Emissions Reporting Spreadsheet v1.2 Rev 1 by Buro Happold dated July 2020  
WLC Assessment v 1.1 by Buro Happold dated July 2020  
GHA Early Stage Overheating Risk Tool  
NKG Part L South Lean Retail dated January 2021  
Circular Economy Statement P04 by Buro Happold dated February 2021  
Transport Assessment by i-Transport dated July 2020  
Travel Plan by i-Transport dated July 2020  
Statement of Community Involvement by Four dated July 2020  
Health Impact Assessment by Quod dated July 2020  
Daylight and Sunlight Report by Schroeders Begg dated June 2020  
Flood Risk Assessment by Waterman Infrastructure & Environmental Limited dated July 2020 and updated Appendix E (Preliminary Drainage Strategy P01) and Appendix F (Surface Water Management Calculations dated October 2020).  
Archaeology Desk Based Assessment by RPS Consulting Ltd dated July 2020  
Urban Green Factor Report by Townshend Landscape Architects dated October 2020  
Biodiversity Net Gain Technical Note by Tyler Grange dated July 2020  
Ecology Assessment by Tyler Grange dated July 2020  
Phase 1 Environmental Site Assessment by TRC Companies Limited dated July 2020  
Fire Statement by MLM Consulting Engineers Ltd dated April 2021  
Building Services Engineering RIBA Stage 2 Report by Buro Happold dated July 2020  
Site Suitability Noise Assessment by Waterman dated June 2020

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

### **3. Land Use - compliance**

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no more than a combined total of 450sqm of the commercial floorspace shall be used for the purposes of Class A1 (retail use), Class A2 (financial and professional services), Class A3 (café/restaurant use), Class A5 (hot food takeaways).

Reason: To ensure the development provides an appropriate mix of land uses in accordance with London Plan (2021) policy E9 'Retail, markets and hot food takeaways', and OPDC Post Submission Modified Draft Local Plan (2021) policies TCC2 'Vibrancy'.

#### **4. Opening Hours - compliance**

Customers shall not be permitted within any restaurant or café (Class A3 use) or fast food takeaway (Class A5 use) premises before 06.00 or after 00.00 on Monday to Saturday (not including bank holidays and public holidays) and before 07.00 or after 00.00 on Sundays, bank holidays and public holidays.

Reason: To protect the amenity of local residents in accordance with London Plan (2021) policy D14 'Noise, and OPDC Post Submission Modified Draft Local Plan (2021) policy TC11 'Night Time Economy Uses'.

#### **5. Fire Strategy - Compliance**

All lifts provided shall be suitable for fire evacuation. The development shall be carried out in full accordance with the measures set out in the Fire Strategy by MLM Consulting Engineers Ltd dated April 2021.

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

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

No development shall commence, including any works of demolition, until a detailed Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include, but not be limited to, the following details (where appropriate):

- i) a construction programme including a 24 hour emergency contact number;
- ii) complaints procedures, including complaint response procedures;
- iii) air quality mitigation measures, including dust suppression;
- iv) parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- v) arrangements to demonstrate how any concurrent construction with HS2 works shall not impede the construction of the HS2 works;
- vi) arrangements to minimise the potential for noise and vibration disturbance;
- vii) locations for loading/unloading and storage of plant and materials used in constructing the development;
- viii) details showing the siting, design and maintenance of security hoardings;
- ix) wheel washing facilities and measures to control the emission of dust and dirt during construction;
- x) site lighting details;
- xi) site drainage control measures;
- xii) tree protection measures in accordance with BS 5837:2012;
- xiii) details of ecological mitigation measures including an operational lighting scheme for bats;
- xiv) details of specific mitigation in relation to breeding or foraging black redstart;
- xv) details of biodiversity and arboricultural mitigation measures including a pre-commencement check by an ecological clerk of works (ECoW) to determine whether nesting birds are present;
- xvi) a scheme for recycling/disposing of waste resulting from demolition and



construction works in accordance with the waste hierarchy and circular economy principles;

- xvii) An Unexploded Ordnance assessment to be undertaken;
- xviii) Consideration of the unique circumstances and sensitivity of the chapel;
- xix) Membership of the Considerate Constructors Scheme.

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

Reason: To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties, and to support ecology/retention of trees in accordance with London Plan (2021) policies T3 'Transport capacity, connectivity and safeguarding', D14 'Noise', G6 'Biodiversity and access to nature', and G7 'Trees and woodlands' and OPDC Post Submission Modified Draft Local Plan (2021) policies T7 'Freight, Servicing and Deliveries' and T8 'Construction', EU5 'Noise and Vibration' and EU2 'Urban Greening and Biodiversity'.

## **7. Construction Liason Group – prior to commencement**

For the duration of the construction phase of development the Applicant will establish and maintain a Liaison Group having the purpose of:

- a) Informing local residents and businesses of the design and development proposals;
- b) informing local residents and businesses of progress of preconstruction and construction activities;
- c) considering methods of working such as hours and site traffic;
- d) providing local residents and businesses with an initial contact for information relating to the construction of the development and for comments or complaints regarding the construction with the view of considering any concerns that might arise;
- e) producing a leaflet prior to commencement of demolition for distribution to local residents and businesses identifying progress of the Development and which shall include an invitation to register an interest in the Liaison Group;
- f) providing advanced notice of exceptional works or deliveries;
- g) providing telephone contacts for resident's advice and concerns.

The terms of reference for the Liaison Group should be submitted to the Local Planning Authority for approval prior to commencement of the development. The Liaison Group will meet at least once every month with the first meeting taking place one month prior to the commencement of development and the meetings shall become bimonthly after the expiry of a period of four (4) months thereafter or at such

longer period as the Liaison Group shall agree.

Reason: In order to ensure satisfactory communication with residents, businesses and local stakeholders throughout the construction of the development and to ensure that impacts from construction on nearby businesses and residents are kept to a minimum in accordance with London Plan (2021) policy D14 'Noise' and SI 1 'Improving air quality', and OPDC Post Submission Modified Draft Local Plan (2021) policies EU4 'Air Quality', EU5 'Noise and Vibration' and T8 'Construction'.

## **8. Constuction Logistics Plan – prior to commencement**

No development shall commence, including any works of demolition, until a detailed Construction Logistics Plan (CLP) has been submitted to and approved in writing by the Local Planning Authority. The CLP shall include information on:

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

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

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

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

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

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

Reason: In the interests of the amenity of local residents in accordance with London

Plan (2021) policy D14 'Noise' and OPDC Post Submission Modified Draft Local Plan (2021) policy EU5 'Noise and Vibration'.

#### **10. Piling Method Statement – prior to commencement of any piling**

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

Reason: To protect water infrastructure in the vicinity of the site because the proposed works will be in close proximity to underground water utility infrastructure in accordance with London Plan (2021) policies SI 5 'Water infrastructure' and OPDC Post Submission Modified Draft Local Plan (2021) policy EU3 'Water'.

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

Prior to the commencement of above ground works:

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

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

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

#### **12. Detailed Drawings – prior to relevant works**

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

- a) A bay study of the materials, cladding and glazing;
- b) Residential entrances (with canopies where relevant);

- c) Principle features on all facades;
- d) Balconies (including soffits and balustrades);
- e) Shopfronts and windows/glazing to the commercial uses;
- f) Typical window openings including surrounds;
- g) The parapets/roof edges and screens at the top of the building;
- h) Any roof level structures including flues and lift overruns;
- i) The frame at the top of the 24-storey tower;
- j) Any fences and gates facing Scrubs Lane;
- k) The landscaping and boundary treatment for the infill area at ground floor level between the 24-storey and 7-storey elements;

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

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

### **13. External Equipment – prior to casting of 4<sup>th</sup> floor slab**

Prior to the casting of 4th floor slab details of any external equipment to be installed on the building including window cleaning equipment and mechanical plant shall be submitted to and approved in writing by the local planning authority. The equipment shall only be installed in accordance with the approved details.

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

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

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

Reason: In the interests of the character and appearance of the area in accordance with London Plan (2021) policy D4 'Delivering good design' and OPDC Post Submission Modified Draft Local Plan (2021) policy D3 'Well-designed Buildings'.

### **15. Roof-top Residents' Amenity Enclosure – prior to casting of 4<sup>th</sup> floor slab**

Prior to the casting of 4th floor slab, details including plans, elevations and sections of the roof-top residents' amenity enclosure on top of the 8 and 7 storey elements shall be submitted to and approved in writing by the local planning authority. The amenity space shall be installed prior to the development being bought into

occupation. Once installed it shall thereafter be maintained and retained for the life of the development.

Reason: In the interests of the character and appearance of the area in accordance with London Plan (2021) policies D3 'Optimising site capacity through the design-led approach' and D4 'Delivering good design', and OPDC Post Submission Modified Draft Local Plan (2021) policy D3 'Well-designed Buildings'.

#### **16. Access to Outdoor Amenity Spaces – compliance**

Access to the outdoor amenity spaces provided as part of the development shall be provided and maintained for all the residents of the development for the lifetime of the development.

Reason: In the interests of providing private amenity space and child play space for all residents in accordance with London Plan (2021) policies D5 'Inclusive design' and S4 'Play and informal recreation', and OPDC Post Submission Modified Draft Local Plan (2021) policy D8 'Play Space. EU1 'Open Space', and H4 'Design of Family Housing'.

#### **17. Access to Ground Floor Outdoor Amenity Area – prior to occupation**

Prior to occupation of the development, the applicant shall submit details of the access and maintenance arrangements of the ground floor outdoor amenity area to the rear of the development for both residential and commercial users.

Reason: In the interests of the character and appearance of the area in accordance with London Plan (2021) policies D3 'Optimising site capacity through the design-led approach' and D4 'Delivering good design', and OPDC Post Submission Modified Draft Local Plan (2021) policy D3 'Well-designed Buildings'.

#### **18. Hard and Soft Landscaping – prior to casting of 4<sup>th</sup> floor slab**

Prior to casting of 4th floor slab, a scheme of hard and soft landscaping for all areas of the site (public open space, public realm, communal amenity areas) shall be submitted to and approved in writing by the Local Planning Authority. The details submitted shall include: -

- i) details of all materials and hard landscaping across the site;
- ii) details of all boundary treatments to the development including the boundary with the Canadian War Memorial;
- iii) details of any fences, walls or other means of enclosure;
- iv) details of shrub and tree planting across the site;
- v) details of biodiversity enhancements including how the development meets the UGF score of 0.42;
- vi) details of all play equipment;
- vii) details of all street furniture;
- viii) details of all signage;
- ix) details of all external lighting;
- x) details of measures designed to mitigate the impact of the development on heritage assets;

- xi) details of how the management of utilities infrastructure along Scrubs Lane will be undertaken to mitigate impacts on the quality of the public realm;
- xii) a programme of the implementation of the landscaping and the bringing into use of all areas of public open spaces, public realm and communal amenity areas;
- xiii) a landscaping maintenance and management plan.

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

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

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

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

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

#### **20. Accessibility - compliance**

The development shall only be carried out in accordance with the inclusivity and accessibility measures identified in the Design and Access Statement produced by Allies and Morrison dated August 2020 with regard to the fit out in accordance with Building Regulations Part M4 category 2 and 3.

Reason: To provide suitable access for disabled persons in accordance with London Plan (2021) policy D7 'Accessible housing', and OPDC Post Submission Modified Draft Local Plan (2021) policy D2 'Accessible and Inclusive Design'.

#### **21. Family-sized Homes - compliance**

All of the residential units which comprise at least three bedrooms shall be provided in accordance with the approved plans and shall thereafter be retained for a minimum of 10 years following first occupation as accommodation which (in addition to the living space) provides three separate rooms capable of being occupied as bedrooms.

Reason: To protect family-sized accommodation in accordance with London Plan

(2021) policy H10 'Housing size mix', and OPDC Post Submission Modified Draft Local Plan (2021) policy H3 'Housing mix'.

## **22. Secured by Design – prior to occupation**

Prior to the occupation of the development hereby permitted, 'Secured by Design' certification should be achieved, with details submitted to and approved in writing by the Local Planning Authority (in consultation with the Metropolitan Police). The details shall demonstrate how the Development incorporates the principles and practices of Secured by Design.

In aiming to satisfy this condition the applicant should seek the advice of the Police Designing Out Crime Officers (DOCOs). It is the policy of the local planning authority to consult with the DOCOs in the discharging of community safety condition(s).

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

## **23. Car Parking Management Plan – prior to occupation**

Prior to first occupation of any part of the development, a Car Parking Management Plan to demonstrate how the 12 accessible parking bays will be allocated and managed shall be submitted to and approved in writing by the local planning authority. The car parking spaces shall be provided and maintained for the lifetime of the development.

The development shall not be occupied until the Car-Parking Management Plan has been approved in writing and the Plan shall be adhered to thereafter.

Reason: To provide suitable parking for disabled persons in accordance with London Plan (2021) policy T6 'Car parking' and OPDC Post Submission Modified Draft Local Plan (2021) policies D2 'Accessible and Inclusive design' and T4 'Parking'.

## **24. Electric Vehicle Charging Points – prior to occupation**

Electric vehicle charging points (EVCP) shall be provided for 20% of the basement car parking spaces and passive provision shall be made available for the remaining 80% of the spaces so that the spaces are capable of being readily converted to electric vehicle charging points. The location of the EVCP spaces and charging points shall be submitted to and approved in writing by the local planning authority before any of the residential units are first brought into use. The EVCP shall thereafter be constructed and marked out and the charging points installed prior to any of the residential units being brought into use and thereafter retained permanently to serve the vehicles of occupiers.

Reason: To encourage the use of electric vehicles in the interests of sustainability in accordance with London Plan (2021) OPDC Post Submission Modified Draft Local Plan (2021) policy T4 'Parking'.



## **25. Delivery and Servicing Plan – prior to occupation**

No part of the development shall be brought into use until a Delivery and Servicing Plan has been submitted to and approved in writing by the Local Planning Authority. The Delivery and Servicing Plan shall include, but not be limited to, the following details:

- (i) details of deliveries to the site, including the size and type of vehicles and when they will access the site;
- (ii) measures to reduce vehicle movements;
- (iii) the routing of delivery/servicing vehicles including swept-path analysis; and
- (iv) dedicated areas for the loading/unloading of vehicles.

The approved Delivery and Servicing Plan shall be adhered to at all times.

Reason: To avoid blocking the highway network and to protect the amenity of people in neighbouring properties in accordance with London Plan (2021) policies T3 'Transport capacity, connectivity and safeguarding' and T7 'Deliveries, servicing and construction', and OPDC Post Submission Modified Draft Local Plan (2021) policies T1 'Roads and Streets' and T7 'Freight, Servicing and Deliveries'.

## **26. Waste and Recycling Management Plan – prior to casting of 4<sup>th</sup> floor slab**

Notwithstanding the submitted details and prior to casting of 4th floor slab a waste and recycling management plan to show sufficient capacity for the waste and recycling generated during the operational phase of the development, and details of how servicing vehicles will safely access the site shall be submitted to and approved in writing by the local planning authority. The plan shall thereafter be adhered to at all times for the lifetime of the development.

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

## **27. Cycle Storage – Prior to casting of 4<sup>th</sup> floor slab**

Notwithstanding the submitted details and prior to casting of 4th floor slab, details of secure cycle storage including the provision of additional on-street spaces shall be submitted to and approved in writing by the local planning authority. The cycle storage shall be provided in accordance with the approved details, made available at all times to everyone using the development and not used for any other purpose. The development shall not be brought into use until the cycle storage has been provided in accordance with the approved details.

Reason: To encourage cycling as a means of sustainable transport in accordance with London Plan (2021) policy T5 'Cycling', and OPDC Post Submission Modified Draft Local Plan (2021) policy T3 'Cycling'.



## **28. Doors or Gates over the Highway - compliance**

You must hang all doors or gates so that they do not open over or across the road or pavement unless they are required as an emergency exit.

Reason: In the interests of public safety and to avoid obstructing the highway in accordance with London Plan (2021) policy T2 'Healthy streets' and OPDC Post Submission Modified Draft Local Plan (2021) policy T1 'Roads and Streets'.

## **29. Noise Assessment – prior to casting of 4<sup>th</sup> floor slab**

Prior to casting of 4th floor slab, a noise assessment shall be submitted to and approved in writing by the local planning authority. The assessment shall identify current and future sources of noise and vibration disturbance for the proposed residential units and shall provide details of attenuation measures to be installed as mitigation, where necessary. The design and installation of new items of fixed plant shall be such that when operating the cumulative noise level LAeq Tr arising from the proposed plant, measured or predicted at 1m from the facade of the nearest noise sensitive premises, shall be a rating level of at least 5dB(A) below the background noise level LAF90 Tbg. The measurement and/or prediction of the noise should be carried out in accordance with the methodology contained within BS 4142:2014. The development shall not proceed beyond the casting of the 4th floor slab until the noise assessment has been approved in writing by the local planning authority. The agreed attenuation measures shall be provided in full accordance with the proposed details before any of the residential units are first brought into use.

Reason: To minimise the risk of noise or vibration disturbance for future residents in accordance with London Plan (2021) policy D14 'Noise', and OPDC Post Submission Modified Draft Local Plan (2021) policy EU5 'Noise and Vibration'.

## **30. Emergency Plan Equipment – prior to casting of 4<sup>th</sup> floor slab**

Prior to casting of 4th floor slab, a written code for the management of noise emitted from any emergency plant and equipment proposed shall be submitted to and approved in writing by the local planning authority.

The approved code and any noise mitigation measures shall be installed and operational at all times in accordance with the approved details prior to the first occupation of any residential units. The management code shall include measures to address the following matters:

- i) the testing of equipment not to take place between the hours of 1800 and 0800 on any day, and not at any time on Sundays, Bank Holidays or after 1300 on a Saturday;
- ii) the duration of the testing to be commensurate with the test requirements and not to exceed one hour;
- iii) the acoustic design and control of the fixed plant and equipment to meet a criterion of a rating level, measured or calculated at 1m from the façade of the nearest noise sensitive premises, of not more than 5dB(A) above the existing background noise level (LA90). The rating level to be determined as per the guidance provided in BS4142:2014;

iv) a report to be commissioned by the applicant, using an appropriately experienced & competent person, to assess the noise from the plant and machinery.

Reason: To minimise the risk of noise or vibration disturbance for future residents in accordance with London Plan (2021) policy D14 'Noise', and OPDC Post Submission Modified Draft Local Plan (2021) policy EU5 'Noise and Vibration'.

### **31. Internal Noise Transmission – prior to above ground works**

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

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

Reason: To minimise the risk of noise or vibration disturbance for future residents in accordance with London Plan (2021) policy D14 'Noise', and OPDC Post Submission Modified Draft Local Plan (2021) policy EU5 'Noise and Vibration'.

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

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

Reason: To prevent nuisance from cooking smells for people using neighbouring properties in accordance with London Plan (2021) policy SI 1 'Improving air quality', and OPDC Post Submission Modified Draft Local Plan (2021) policy EU4 'Air Quality'.

### **33. Energy Strategy - compliance**

The development hereby approved shall be implemented in accordance with the Energy and Sustainability Statement by Buro Happold Engineering dated July 2020. The measures contained in the Energy and Sustainability Statement shall be maintained for the lifetime of the development.

Reason: To ensure the development maximises energy efficiency measures in accordance with London Plan (2021) policies SI 2 'Minimising greenhouse gas emissions', SI 3 'Energy infrastructure' and SI 4 'Managing heat risk' and OPDC Post Submission Modified Draft Local Plan (2021) policy EU9 'Minimising Carbon Emissions and Overheating'.

#### **34. Circular Economy – compliance**

The development shall be carried out and operated in accordance with the Circular Economy Statement Revision P04 prepared by Buro Happold and dated 5 February 2021.

An update to the report shall be submitted to the Local Planning Authority and the GLA upon practical completion of the development. The update shall provide a review of the completed development and its commitments to the principles of the circular and sharing economy as set out in the London Plan and draft OPDC Local Plan.

Reason: To ensure the development contributes towards the principles of the circular and sharing economy in accordance with London Plan (2021) policy SI 7 'Reducing waste and supporting the circular economy', and OPDC Post Submission Modified Draft Local Plan (2021) policy EU7 'Circular and Sharing Economy'.

#### **35. Green Lease Strategy – prior to occupation**

Prior to occupation of each of the commercial units a Green Lease Strategy proposing higher performance standards for building services shall be prepared and submitted to the Local Planning Authority for approval. Thereafter, the relevant units shall only be occupied in accordance with the approved Green Lease Strategy.

Reason: To ensure the development maximises energy efficiency measures in accordance with London Plan (2021) policies SI 2 'Minimising greenhouse gas emissions' and SI 3 'Energy Infrastructure' and OPDC Post Submission Modified Draft Local Plan (2021) policy EU9 'Minimising Carbon Emissions and Overheating'.

#### **36. Solar Panels – prior to above ground works**

Prior to above ground works, the applicant shall explore whether further PV panels can be incorporated in the amenity space of Building 2 to demonstrate they have maximised the opportunity for PV. A report with the results of the assessment, with accompanying drawings showing any additional proposed PV panels, shall be submitted and approved in writing by the local planning authority.

The solar panels shown in Figure 8-1 of the Energy and Sustainability Statement prepared by Buro Happold dated July 2020 and any additional identified in revised drawings shall be installed in full accordance with the approved plans and fully operational before the building is first brought into use.

Reason: To ensure the development maximises energy efficiency measures in accordance with London Plan (2021) policies SI 2 'Minimising greenhouse gas emissions' and SI 3 'Energy infrastructure, and OPDC Post Submission Modified Draft Local Plan (2021) policy EU9 'Minimising Carbon Emissions and Overheating'.

### **37. Air Quality (Energy, Plant Emissions Standards, Ventilation and Gas Boilers) – prior to occupation**

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

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

Following installation, emissions certificates will need to be provided to the local planning authority to verify boiler emissions.

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

Reason: To ensure the development contributes to improvements in air quality in accordance with London Plan (2021) policy SI 1 'Improving air quality', and OPDC Post Submission Modified Draft Local Plan (2021) policy EU4 'Air Quality'.

### **38. Air Quality (Low Emissions Strategy) – prior to casting of 4<sup>th</sup> floor slab**

Prior to the casting of 4th floor slab, a Low Emission Strategy shall be submitted to and approved in writing by the local planning authority. The Low Emission Strategy must address the results of the Air Quality Assessment set out in the Environmental Statement and detail the remedial action and mitigation measures that will be implemented to protect residential receptors (e.g. abatement technology for energy plant, design solutions). This Strategy must make a commitment to implement the mitigation measures (including NOx emissions standards for the chosen energy plant) that are required to reduce the exposure of on-site and off-site local receptors to poor air quality and to help mitigate the development's air pollution impacts, in particular the emissions of NOx and particulates from on-site and off-site transport and energy generation sources. Evidence must also be submitted to and approved in writing by the local planning authority to show that the boiler units installed will comply with the relevant emissions standards in the Mayor's SPG 'Sustainable Design and Construction' (2014).

Reason: To ensure the development contributes to improvements in air quality in

accordance with London Plan (2021) policy SI 1 'Improving Air Quality', and OPDC Post Submission Modified Draft Local Plan (2021) policy EU4 'Air Quality'.

**39. Flood Resilience Measures – prior to above ground works**

Prior to commencement of above ground works, a detailed design of the flood resilience measures should be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details and the mitigation measures shall be permanently retained and maintained.

Reason: To mitigate the risk of surface water flooding in the vicinity of the site in accordance with London Plan (2021) policy SI 12 'Flood risk management', and OPDC Post Submission Modified Draft Local Plan (2021) policy EU3 'Water'.

**40. Drainage Strategy – prior to above ground works**

Prior to the commencement of above ground works, a revised drainage strategy shall be submitted to and approved in writing by the local planning authority. The strategy shall investigate further measures for attenuating surface water run-off, alongside the approved measures of permeable paving, green/brown roofs, a below ground tank, a filter trench, and rain gardens set out within the Flood Risk Assessment prepared by Watermans. The approved measures shall be implemented in full before the development is first brought into use and the development shall only be carried out in accordance with the approved details.

Reason: To minimise the risk of surface water flooding in the vicinity of the site in accordance with London Plan (2021) policy SI 13 'Sustainable drainage', and OPDC Post Submission Modified Draft Local Plan (2021) policy EU3 'Water'.

**41. Water Supply (Thames Water) – prior to commencement**

Prior to the commencement of development, excluding demolition and site clearance, impact studies of the existing water supply infrastructure shall be submitted to and approved in writing by the local planning authority in consultation with Thames Water. The studies shall determine the magnitude of any new additional capacity required in the system and a suitable connection point. The development shall not be commenced until the studies have been approved in writing by the local planning authority. The development shall not be brought into use until any necessary mitigation measures identified by the impact studies have been approved in writing by the local planning authority and carried out in full in accordance with the approved details.

Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the additional demand in accordance with London Plan (2021) policies SI 5 'Water infrastructure', and OPDC Post Submission Modified Draft Local Plan (2021) policy EU3 'Water'.

**42. Water Efficiency - compliance**

The development hereby approved shall fully comply with the optional requirements set out in paragraph (2)(b) of Requirement G2 of the Building Regulations 2010, as

amended, to ensure that mains water consumption would meet a target of 105 litres or less per head per day, excluding an allowance of 5 litres or less per head per day for external water consumption for the residential uses, as well as complying with the BREEAM 'Excellent' requirements for a 40% reduction in water consumption for the non-residential uses.

Reason: To ensure the development delivers appropriate levels of water efficiency in accordance with London Plan (2021) policy SI 5 'Water infrastructure, OPDC Post Submission Modified Draft Local Plan (2021) policy EU3 'Water'.

#### **43. Contaminated Land – prior to commencement**

- i) The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the local planning authority:
  - a. a desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in 'Model Procedures for the Management of Land Contamination' Contaminated Land Report 11, 'Guidance for the Safe Development of Housing on Land Affected by Contamination R&D66: 2008' and BS10175:2011 (+A1:2013) – 'Investigation of Potentially Contaminated Sites - Code of Practice'; and, unless otherwise agreed in writing by the local planning authority;
  - b. a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175:2011 (+A1:2013); and, unless otherwise agreed in writing by the local planning authority;
  - c. a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases and vapours when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include the nomination of a competent person to oversee the implementation of the works.
- ii) Unless otherwise agreed in writing pursuant to paragraph (i) above, the development hereby permitted shall not be occupied or brought into use until there has been submitted to and approved in writing by the local planning authority a verification report prepared by the competent person approved under the provisions of (i) (c) above confirming that any remediation scheme required and approved under the provisions of (i) (c) above has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation). Unless otherwise agreed in writing by the local planning authority such verification shall comprise:
  - a. as built drawings of the implemented scheme;
  - b. photographs of the remediation works in progress; and
  - c. certificates demonstrating that imported and/or material left in situ is free from contamination.
- iii) Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under (i) (c).



Reason: Potentially contaminative land uses (past or present) are understood to occur at, or near to, this site. The condition is required to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works in accordance with the NPPF, and OPDC Post Submission Modified Draft Local Plan (2021) policy EU13 'Land Contamination'.

#### **44. Ecological Mitigation - compliance**

The development, including any works of demolition, shall only be carried out in full accordance with the measures set out in the Ecological Assessment Report by Tyler Grange dated June 2020 and these ecological mitigation measures shall also be included within the CEMP.

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

#### **45. Overheating/Cooling Strategy – prior to above ground works**

Prior to above ground works, an Overheating / Cooling Strategy for the buildings, including details of all mitigation required to overcome overheating issues within the buildings which includes active and passive measures shall be submitted to and approved in writing by the Local Planning Authority in consultation with the GLA.. This shall include details of how the development complies with DSY1 requirements, and modelling for the updated glazing U-Value of 1.4 W/m<sup>2</sup> for the non-domestic element, along with an updated BRUKL which demonstrates the updated performance of the non-domestic element. The outcomes of this strategy shall be implemented in full prior to the occupation of the development and adhered to for the lifetime of the development.

Reason: To prevent overheating within the units in accordance with London Plan (2021) policy SI 4 'Managing heat risk', and OPDC Post Submission Modified Draft Local Plan (2021) policy EU9 'Minimising Carbon Emissions and Overheating'.

#### **Informatives**

1. You are advised that this permission has been granted subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990.
2. The applicant is advised that the details relating to Condition 45 shall include solar glazing details where relevant and that these should demonstrate that a satisfactory balance has been achieved between overheating and light.
3. The applicant is advised that the noise assessment required under Condition 30 should include the particular requirements set out in the Arcadis review of the applicant's responses to ES Review comments dated 17 December 2020.
4. The applicant is advised that the details submitted under Condition 38 should include an assessment of predicted NO<sub>2</sub> levels on the rooftop amenity spaces.

5. Under the terms of the Planning Act 2008 (as amended) and Community Infrastructure Levy Regulations 2010 (as amended), this development will be liable to pay the Mayor of London's Community Infrastructure Levy 2 (MCIL2). From 1 April 2019 rates within the MCIL Charging Schedule will be used to calculate developer contributions for CIL liable development. Each Phase may be treated as a separate chargeable development for the purpose of the Community Infrastructure Levy Regulations 2010 (as amended).
6. The applicant is advised that prior to making a submission in relation to conditions requiring further details of external materials, that they should discuss the materials to be submitted with an Approved Building Control Surveyor in order to ensure that they meet with current fire safety regulations.
7. The applicant is strongly encouraged to consider the use of a sprinkler system within the development. Sprinkler systems installed in buildings can significantly reduce the damage caused by fire and the consequential cost to businesses and can reduce the risk to life.
8. The applicant is advised to ensure the plans conform to Part B of Approved Document of the Building Regulations and that the application is submitted to the building control/Approved Inspector who in some circumstances may be obliged to consult the Fire Authority.
9. A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. Thames Water would expect the developer to demonstrate what measures will be undertaken to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 3577 9483 or by emailing [www.riskmanagement@thameswater.co.uk](mailto:www.riskmanagement@thameswater.co.uk). Application forms should be completed online via [www.thameswater.co.uk/wastewaterquality](http://www.thameswater.co.uk/wastewaterquality).
10. With regard to the HS2 arrangements and works referred to in Condition 6 the applicant is advised to liaise with High Speed Two (HS2) Limited.
11. The applicant and/or contractor are encouraged to sign up to the Fleet Recognition Scheme (FORS) which promotes better safety standards during construction. The FORS guidance can be found at <http://www.tfl.gov.uk/info-for/freight/safety-and-the-environment/managing-risks-wrrr>.

### **Proactive and Positive Statement**

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

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



complies with relevant national, regional and local planning policy and OPDC has decided to grant planning permission accordingly.

Dated this:

**Roz Johnson**

Head of Development Management  
Old Oak and Park Royal Development Corporation

## Old Oak and Park Royal Development Corporation

### TOWN AND COUNTRY PLANNING ACT 1990

#### Appeals to the Secretary of State

- \* If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State for the Environment under Section 78 of the Town and Country Planning Act 1990.
- \* If you want to appeal then you must do so within SIX months of the date of this notice, using a form, which is available from the Planning Inspectorate, (a copy of which must be sent to Old Oak and Park Royal Development Corporation Planning Policy and Decisions Team) or complete an application online.  
The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (e-mail: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk) ) or (Tel: 0117 372 8000).
- \* To make an appeal online, please use [www.planningportal.gov.uk/pcs](http://www.planningportal.gov.uk/pcs). The Inspectorate will publish details of your appeal on the internet. This may include copies of documentation from the original planning application and relevant supporting documents supplied to the local authority, and or information, including personal information belonging to you that you are happy will be made available in this way. If you supply personal information belonging to a third party please ensure you have their permission to do so. More detailed information about data protection and privacy matters is available on the Planning Portal.
- \* The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances, which excuse the delay in giving notice of appeal.
- \* The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.
- \* In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based its decision on a direction given by him.

#### Purchase Notice

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

## **SCHEDULE 3**

### **Affordable Housing**

#### **1 ON-SITE AFFORDABLE HOUSING PROVISION**

##### **1.1 The Owners shall not:**

- (a) Occupy the London Affordable Rent Housing Units for any purpose other than for London Affordable Rent Housing for the lifetime of the Development
- (b) occupy the London Living Rent Housing Units for any purpose other than for London Living Rent Housing for the lifetime of the Development; or
- (c) occupy the London Shared Ownership Housing Units for any purpose other than for London Shared Ownership Housing for the lifetime of the Development, save where a London Shared Ownership Lessee has Staircased to 100 per cent equity in respect of a particular London Shared Ownership Housing Unit.

##### **1.2 The Owners shall:**

- (a) ensure that ten per cent of the Affordable Housing Units are accessible or easily adaptable for wheelchair users across all tenures and unit sizes;
- (b) provide details (including 1:50 floor plans) of the proposed wheelchair accessible Affordable Housing Units to the OPDC for approval prior to Commencement of the Development;
- (c) not Commence the Development until the details of the proposed wheelchair accessible Affordable Housing Units have been approved in writing by the OPDC; and
- (d) ensure that the Affordable Housing Units are designed and constructed in accordance with the London Design Standards.

##### **1.3 In the event that the Development is being carried out by an Affordable Housing Provider the Owners (being that Affordable Housing Provider) shall:**

- (a) Prior to first Occupation of more than 50% (fifty per cent) of the Private Residential Units:
  - (i) Practically Complete the Affordable Housing Units and make them available for Occupation; and
  - (ii) Enter into a Rent and Nominations Agreement with each of the Boroughs giving the Boroughs nomination rights in respect of the Affordable Housing Units for the life of the Development.
- (b) Not first Occupy more than 50% (fifty per cent) of the Private Residential Units until the requirements of paragraph 1.3(a) have been satisfied in full.

1.4 In the event that the Development is being carried out by the Owners or an owner who is not an Affordable Housing Provider the Owners shall:

- (a) prior to first Occupation of more than 50% (fifty per cent) of the Private Residential Units:
  - (i) Practically Complete the Affordable Housing Units and make them available for Occupation;
  - (ii) dispose of the Affordable Housing Units to an Affordable Housing Provider either by way of sale or grant of a lease of not less than 125 years, subject to an express condition that the Affordable Housing Provider will enter into a Rent and Nominations Agreement to provide the Boroughs with nomination rights in respect of the Affordable Housing Units for the life of the Development;
- (b) not first Occupy more than 50% (fifty per cent) of the Private Residential Units until the requirements of paragraph 1.4(a) have been satisfied in full.

1.5 The Owners shall unless otherwise agreed in writing by the OPDC:

- (a) provide the London Living Rent Housing Units in the location shown on Plan 2; and
- (b) provide the Shared Ownership Housing Units in the locations shown on Plan 2.

1.6 The London Affordable Rented Housing Units shall be provided in accordance with the following unit size mix:

Unit Size	Number of Units
1 bed, 2 person	7
2 bed, 3 person	4
3 bed, 5 person	6

1.7 The London Living Rent Housing Units shall be provided in accordance with the following unit size mix:

Unit Size	Number of Units
1 bed, 2 person	9
2 bed, 3 person	3
2 bed, 4 person	1
3 bed, 5 person	10

- 1.8 The Shared Ownership Housing Units shall be provided in accordance with the following unit size mix:

Unit Size	Number of Units
1 bed, 2 person	9
2 bed, 4 person	6
3 bed, 5 person	3

- 1.9 The Shared Ownership Housing Units shall not be sold to any purchaser other than an Eligible Purchaser, except where Staircasing applies and where the Shared Ownership Lessee has Staircased to 100 per cent equity.

## 2 EXCLUSION OF LIABILITY

- 2.1 The obligations and restrictions contained in paragraph 1 of this schedule shall not bind:

- (a) a Chargee or receiver of the whole or any part of the Affordable Housing Units and / or Additional Affordable Housing Units (if applicable) who has provided loan facilities to the Owners or any persons or bodies deriving title through such Chargee or receiver PROVIDED THAT they have first complied with the provisions of paragraphs 2.2(a) to 2.2(b);
- (b) any RTA Purchaser;
- (c) any mortgagee or chargee of a Shared Ownership Housing Unit lawfully exercising the mortgagee protection provision within a Shared Ownership Lease;
- (d) any person or body deriving title through or from any of the Parties mentioned in paragraphs 2.1(a) to 2.1(c); or
- (e) any Shared Ownership Housing Unit where the Shared Ownership Lessee has acquired 100 per cent of the equity in such unit through Staircasing.

- 2.2 In order to benefit from the protection granted by paragraph 2.1(a), a Chargee must:

- (a) serve a Default Notice on the OPDC by delivery by hand to the OPDC's offices at City Hall, The Queen's Walk, More London Riverside, London SE1 2A during the OPDC's office hours or using first class registered post to the OPDC's offices at City Hall, The Queen's Walk, More London Riverside, London SE1 2A in either case addressed to the Head of Development Management of the OPDC prior to seeking to dispose of the relevant Affordable Housing Units and/or Additional Affordable Housing Units;
- (b) when serving the Default Notice, provide to the OPDC official copies of the title registers for the relevant Affordable Housing Units and/or Additional Affordable Housing Units; and

- (c) subject to paragraph 2.7 below, not exercise its power of sale over or otherwise dispose of the relevant Affordable Housing Units and/or Additional Affordable Housing Units before the expiry of the Moratorium Period except in accordance with paragraph 2.7(a) below.
- 2.3 From the first day of the Moratorium Period to (but excluding) the date falling one calendar month later, the OPDC may serve an Intention Notice on the Chargee.
- 2.4 Not later than 15 Working Days after service of the Intention Notice (or such later date during the Moratorium Period as may be agreed in writing between the OPDC and the Chargee), the Chargee will grant the OPDC (and/or the OPDC's nominated substitute Affordable Housing Provider) an exclusive option to purchase the relevant Affordable Housing Units and/or Additional Affordable Housing Units which shall contain the following terms:
  - (a) the sale and purchase will be governed by the Standard Commercial Property Conditions (Third Edition – 2018 Revision) (with any variations that may be agreed between the parties to the Option (acting reasonably));
  - (b) the price for the sale and purchase will be agreed in accordance with paragraph 2.5(b) below or determined in accordance with paragraph 2.6 below;
  - (c) PROVIDED THAT the purchase price has been agreed in accordance with paragraph 2.5(b) below or determined in accordance with paragraph 2.6 below, but subject to paragraph 2.4(d) below, the OPDC (or its nominated substitute Affordable Housing Provider) may (but is not obliged to) exercise the Option and complete the purchase of the relevant Affordable Housing Units and/or Additional Affordable Housing Units at any time prior to the expiry of the Moratorium Period;
  - (d) the Option will expire upon the earlier of:
    - (i) notification in writing by the OPDC (or its nominated substitute Affordable Housing Provider) that it no longer intends to exercise the Option; and
    - (ii) the expiry of the Moratorium Period;
  - (e) any other terms agreed between the parties to the Option (acting reasonably).
- 2.5 Following the service of the Intention Notice:
  - (a) the Chargee shall use reasonable endeavours to reply to enquiries raised by the OPDC (or its nominated substitute Affordable Housing Provider) in relation to the Affordable Housing Units and/or the Additional Affordable Housing Units as expeditiously as possible having regard to the length of the Moratorium Period; and

- (b) the OPDC (or its nominated substitute Affordable Housing Provider) and the Chargee shall use reasonable endeavours to agree the purchase price for the relevant Affordable Housing Units and/or Additional Affordable Housing Units, which shall be the higher of:
  - (i) the price reasonably obtainable in the circumstances having regard to the restrictions as to the use of the relevant Affordable Housing Units and/or Additional Affordable Housing Units contained in this schedule 3; and
  - (ii) (unless otherwise agreed in writing between the OPDC (or its nominated substitute Affordable Housing Provider) and the Chargee) the Sums Due.

2.6 On the date falling ten Working Days after service of the Intention Notice, if the OPDC (or its nominated substitute Affordable Housing Provider) and the Chargee have not agreed the price pursuant to paragraph 2.5(b) above:

- (a) the OPDC (or its nominated substitute Affordable Housing Provider) and the Chargee shall use reasonable endeavours to agree the identity of an independent surveyor having at least ten years' experience in the valuation of affordable/social housing within the London area to determine the dispute and, if the identity is agreed, shall appoint such independent surveyor to determine the dispute;
- (b) if, on the date falling 15 Working Days after service of the Intention Notice, the OPDC (or its nominated substitute Affordable Housing Provider) and the Chargee have not been able to agree the identity of an independent surveyor, either party may apply to the President for the time being of the Royal Institution of Chartered Surveyors or his deputy to appoint an independent surveyor having at least ten years' experience in the valuation of affordable/social housing within the London area to determine the dispute;
- (c) the independent surveyor shall determine the price reasonably obtainable referred to at paragraph 2.5(b) above, due regard being had to all the restrictions imposed upon the relevant Affordable Housing Units and/or Additional Affordable Housing Units by this Deed;
- (d) the independent surveyor shall act as an expert and not as an arbitrator;
- (e) the fees and expenses of the independent surveyor are to be borne equally by the parties;
- (f) the independent surveyor shall make his/her decision and notify the OPDC, the OPDC's nominated substitute Affordable Housing Provider (if any) and the Chargee of that decision no later than 14 days after his/her appointment and in any event within the Moratorium Period; and
- (g) the independent surveyor's decision will be final and binding (save in the case of manifest error or fraud).

2.7 The Chargee may dispose of the relevant Affordable Housing Units and/or Additional Affordable Housing Units free from the obligations and restrictions contained in paragraph 1 of this

schedule which shall determine absolutely in respect of those Affordable Housing Units and/or Additional Affordable Housing Units (but subject to any existing tenancies) if:

- (a) the OPDC has not served an Intention Notice before the date falling one calendar month after the first day of the Moratorium Period;
- (b) the OPDC (or its nominated substitute Affordable Housing Provider) has not exercised the Option and completed the purchase of the relevant Affordable Housing Units and/or Additional Affordable Housing Units on or before the date on which the Moratorium Period expires; or
- (c) the OPDC (or its nominated substitute Affordable Housing Provider) has notified the Chargee in writing pursuant to the Option that it no longer intends to exercise the Option.

2.8 The OPDC (and its nominated substitute Affordable Housing Provider, if any) and the Chargee shall act reasonably in fulfilling their respective obligations under paragraphs 2.2 to 2.7 above (inclusive).

### **3 LONDON LIVING RENT HOUSING UNITS**

- 3.1 At any time during a tenancy of each London Living Rent Housing Unit, the tenant (or tenants) at that given time of that unit may elect to acquire that unit as London Shared Ownership Housing if that tenant is (or, in the case of multiple tenants, all of the tenants together comprise) an Eligible Purchaser.
- 3.2 If the tenant (or tenants) of a London Living Rent Housing Unit elects to acquire that unit as London Shared Ownership Housing pursuant to paragraph 3.1 above, the Owners shall grant a London Shared Ownership Lease of that London Living Rent Housing Unit to the tenant (or tenants) PROVIDED THAT the tenant remains (or the tenants together continue to comprise) an Eligible Purchaser on the date of the grant of the London Shared Ownership Lease.
- 3.3 On the 10th anniversary of the initial letting of each London Living Rent Housing Unit, if the tenant (or tenants) at that given time of that unit has not elected to acquire that unit, the Owners may continue letting that unit as London Living Rent Housing or, at any subsequent time, sell that unit as London Shared Ownership Housing to an Eligible Purchaser PROVIDED THAT the sale shall only complete after the termination of the current tenancy of that unit as a London Living Rent Housing Unit (if one is in place).
- 3.4 On completion of the grant of a London Shared Ownership Lease of a London Living Rent Housing Unit under paragraph 3.2 or 3.3 above, that unit shall cease to be a London Living Rent Housing Unit and shall become a Purchased LLR Unit.
- 3.5 The Owners shall not Occupy or suffer or permit the Occupation of the Purchased LLR Units other than as London Shared Ownership Housing, save in relation to any Purchased LLR Units in respect of which the relevant Shared Ownership Lessee has Staircased to 100 per cent equity.



## **SCHEDULE 4**

### **Viability Review**

#### **1 EARLY VIABILITY REVIEW TRIGGER**

- 1.1 The Owners shall notify the OPDC in writing of the date on which they consider that the Substantial Implementation has been achieved no later than ten Working Days after such date and such notice shall be accompanied by full documentary evidence on an open book basis to enable the OPDC to independently assess whether Substantial Implementation has been achieved and whether it was achieved on or before the Substantial Implementation Target Date.
- 1.2 No later than five Working Days after receiving a written request from the OPDC, the Owners shall provide to the OPDC any additional documentary evidence reasonably requested by the OPDC to enable it to determine whether the Substantial Implementation has been achieved on or before the Substantial Implementation Target Date.
- 1.3 Following the Owners' notification pursuant to paragraph 1.1 of this schedule 4, the Owners shall afford the OPDC access to the Site to inspect and assess whether or not the works which have been undertaken achieve the Substantial Implementation PROVIDED ALWAYS THAT the OPDC shall:
- (a) provide the Owners with reasonable written notice of its intention to carry out such an inspection;
  - (b) comply with relevant health and safety legislation; and
  - (c) at all times be accompanied by the Owners or its agent.
- 1.4 No later than 20 Working Days after the OPDC receives:
- (a) notice pursuant to paragraph 1.1 of this schedule 4; or
  - (b) if the OPDC makes a request under paragraph 1.2 of this schedule 4, the additional documentary evidence,
- the OPDC shall inspect the Site and thereafter provide written confirmation to the Owners within ten Working Days of the inspection date as to whether or not the OPDC considers that the Substantial Implementation has been achieved and whether it was achieved on or before the Substantial Implementation Target Date.
- 1.5 If the OPDC notifies the Owners that the OPDC considers that the Substantial Implementation has not been achieved then this paragraph 1 shall continue to apply mutatis mutandis until the OPDC has notified the Owners pursuant to paragraph 1.4 of this schedule 4 that the Substantial Implementation has been achieved.
- 1.6 If Substantial Implementation did not occur on or before the Substantial Implementation Target Date because of delay due to the effect of Coronavirus (COVID-19) the Owners may request a

Substantial Implementation Delay Request Provided That a Substantial Implementation Delay Request:

- (a) may not request an extension for any act or omission on the part of the Owners; and
- (b) must relate to delays that are directly as a result of the Covid-19 pandemic.

1.7 A Substantial Implementation Delay Request must include at least the following:

- (c) the proposed new date for the Substantial Implementation Target Date the extension of which shall relate directly to and not exceed any period of delay arising from the Covid-19 pandemic;
- (d) the reasons why the delay(s) has occurred and why this is directly as a result of the Covid-19 pandemic; and
- (e) be supported by appropriate evidence to substantiate the reasons provided for the Substantial Implementation Delay Request.

1.8 Upon receipt of a Substantial Implementation Delay Request the OPDC shall review it and by the date which is 20 Working Days from their respective receipt of it they shall respond either:

- (a) confirming agreement to the new Substantial Implementation Target Date proposed by the Owners shall apply; or
- (b) proposing their own new Substantial Implementation Target Date; or
- (c) requesting further information from the Owners in relation to any matter contained within the Substantial Implementation Delay Request; or
- (d) to decline agreement to the new Substantial Implementation Target Date on the basis that the Substantial Implementation Target Date should remain as it is prior to the relevant Substantial Implementation Delay Request having been made.

1.9 If there is any dispute as to whether or not Substantial Implementation has been achieved in or before the Substantial Implementation Target Date (including in relation to a Substantial Implementation Delay Request) that cannot be resolved between the Parties to the dispute, such dispute may be referred to the Expert pursuant to clause 19

1.10 The Owners shall not Occupy the Development or any part thereof until:

- (a) the OPDC has notified the Owners pursuant to paragraph 1.4 of this schedule 4 or the Expert has determined pursuant to paragraph 1.9 of this Schedule 4 that the Substantial Implementation has been achieved on or before the Substantial Implementation Target Date;
- (b) the OPDC has notified the Owners pursuant to paragraph 3.4 of this schedule 4 or the Expert has determined pursuant to paragraph 3.7 of this schedule 4 that no Additional Affordable Housing Units are required; or

- (c) if the OPDC notifies the Owners pursuant to paragraph 3.4 of this schedule 4 or the Expert determines pursuant to paragraph 3.7 of this schedule 4 that Additional Affordable Housing Units are required, an Additional Affordable Housing Scheme has been approved pursuant to paragraph 3.4 or 3.5 of this schedule 4.

## **2 SUBMISSION OF DEVELOPMENT VIABILITY INFORMATION AND OTHER INFORMATION**

2.1 Where Substantial Implementation has not occurred before the Substantial Implementation Target Date (as determined by the OPDC under paragraph 1.4 of this schedule 4 or pursuant to dispute resolution in accordance with clause 19):

- (a) the Owners shall submit the following information no later than 20 Working Days after the date on which the Owners is notified pursuant to paragraph 1.4 or 1.9 of this schedule 4 that the Substantial Implementation has been achieved, on the basis that the OPDC may make such information publicly available:
  - (i) the Development Viability Information for Formula 1b and Formula 2;
  - (ii) a written statement that applies the applicable Development Viability Information to Formula 1b (PROVIDED ALWAYS THAT if the result produced by Formula 1b is less than zero it shall be deemed to be zero) and Formula 2 thereby confirming whether in the Owners' view any Additional Affordable Housing Units can be provided; and
  - (iii) where such written statement confirms that Additional Affordable Housing Units can be provided, an Additional Affordable Housing Scheme;
- (b) paragraphs 3, 4 and 5 of this schedule 4 shall apply.

## **3 ASSESSMENT OF DEVELOPMENT VIABILITY INFORMATION AND OTHER INFORMATION**

- 3.1 The OPDC shall assess the information submitted pursuant to paragraph 2 of this schedule 4 and assess whether in its view Additional Affordable Housing Units are required to be delivered in accordance with Formula 1b and Formula 2 and for the avoidance of doubt the OPDC will be entitled to rely on its own evidence in determining inputs into Formula 1b and Formula 2 subject to such evidence also being provided to the Owners.
- 3.2 The OPDC may appoint an External Consultant to assess the information submitted pursuant to paragraph 2 of this schedule 4.
- 3.3 In the event that the OPDC and/or an External Consultant requires further Development Viability Information or supporting evidence of the same then the Owners shall provide any reasonably required information to the OPDC or the External Consultant (as applicable and with copies to the other parties) within ten Working Days of receiving the relevant request and this process may be repeated until the OPDC and/or the External Consultant (as applicable) has all the information it reasonably requires to assess whether in their view Additional Affordable Housing Units are required to be delivered in accordance with Formula 1b and Formula 2.

- 3.4 When the OPDC or its External Consultant has completed its assessment of the information submitted pursuant to paragraph 2 of this schedule 4, the OPDC shall notify the Owners in writing of the OPDC's decision as to whether any Additional Affordable Housing Units are required and whether the submitted Additional Affordable Housing Scheme is approved.
- 3.5 Where the OPDC concludes that Additional Affordable Housing Units are required but the Owners' initial submission concluded otherwise, the Owners shall provide an Additional Affordable Housing Scheme to the OPDC for approval (such approval not to be unreasonably withheld or delayed) within ten Working Days of the date on which it receives the OPDC's notice pursuant to paragraph 3.4 of this schedule 4.
- 3.6 If the OPDC's assessment pursuant to paragraph 3.4 of this schedule 4 concludes that:
- (a) a surplus profit arises following the application of Formula 1b but such surplus profit is insufficient to provide any Additional Affordable Housing Units pursuant to Formula 2; or
  - (b) a surplus profit arises following the application of Formula 1b but such surplus profit cannot deliver a whole number of Additional Affordable Housing Units pursuant to Formula 2,
- then in either scenario the Owners shall pay any such surplus profit allocable to any incomplete Additional Affordable Housing Unit to the OPDC as a financial contribution towards offsite Affordable Housing.
- 3.7 If there is any dispute as to whether or not Additional Affordable Housing Units are required that cannot be resolved between the parties to the dispute, such dispute may be referred to the Expert pursuant to clause 19
- 3.8 The Owners shall pay the OPDC's costs which are reasonably and properly incurred in assessing the information submitted pursuant to paragraph 2 of this schedule 4 including those of the External Consultant within 20 Working Days of receipt of a written request for payment.

#### **4 DELIVERY OF ADDITIONAL AFFORDABLE HOUSING**

- 4.1 Subject to paragraph 5, where it is determined pursuant to paragraph 3.4 of this schedule 4 that one or more Additional Affordable Housing Units are required the Owners shall not Occupy more than 75% (seventy five per cent) Open Market Housing Units unless and until it has:
- (a) practically completed all of the Additional Affordable Housing Units in accordance with the Additional Affordable Housing Scheme approved by the OPDC and made them available for Occupation; and
  - (b) paid any remaining surplus profit pursuant to paragraph 3.6 of this schedule 4 to the OPDC towards the delivery of offsite Affordable Housing within the OPDC's administrative area.
- 4.2 The Parties agree that the terms of paragraphs 2 to 3 (inclusive) of schedule 3 shall apply mutatis mutandis to the provision of any Additional Affordable Housing Units.

## **5 CAP**

- 5.1 The Parties hereby agree that the Affordable Housing Units and any Additional Affordable Housing Units and any Late Stage Review Contribution shall together not exceed the Cap and for the avoidance of doubt any financial contribution towards off-site Affordable Housing payable in accordance with paragraph 3.6 of part 2 of this Schedule 4 shall be included in the calculation of this Cap.

## **6 LATE STAGE VIABILITY REVIEW TRIGGER**

- 6.1 The Owners shall notify the OPDC in writing of the anticipated Late Stage Review Date not less than 20 Working Days in advance of that date.

## **7 SUBMISSION OF DEVELOPMENT VIABILITY INFORMATION AND OTHER INFORMATION**

- 7.1 No later than 20 Working Days after the Late Stage Review Date notified to the OPDC pursuant to paragraph 6.1 of this schedule 4, the Owners shall submit the following information on the basis that the OPDC may make such information publicly available:

- (a) the Development Viability Information for Formula 3 and Formula 4; and
- (b) a written statement that applies the applicable Development Viability Information to Formula 3 (PROVIDED ALWAYS THAT if the result produced by Formula 3 is less than zero it shall be deemed to be zero) and Formula 4 thereby confirming whether in the Owners' view any Late Stage Review Contribution is payable and, if so, how much.

## **8 ASSESSMENT OF DEVELOPMENT VIABILITY INFORMATION AND OTHER INFORMATION**

- 8.1 The OPDC shall assess the Development Viability Information submitted pursuant to paragraph 7.1 of this schedule 4 and assess whether in its view a Late Stage Review Contribution is payable in accordance with Formula 3 subject to the Late Stage Review Cap as calculated in accordance with Formula 4 and, if so, how much and the OPDC will be entitled to rely on its own evidence in determining inputs into Formula 3 and Formula 4 subject to such evidence also being provided to the Owners.
- 8.2 The OPDC may appoint an External Consultant to assess the information submitted pursuant to paragraph 7.1 of this schedule 4.
- 8.3 In the event that the OPDC and/or an External Consultant requires further Development Viability Information or supporting evidence of the same then the Owners shall provide any reasonably required information to the OPDC or the External Consultant (as applicable and with copies to the other parties) within ten Working Days of receiving the relevant request and this process may be repeated until the OPDC and/or the External Consultant (as applicable) has all the information it reasonably requires to assess whether in its view any Late Stage Review Contribution is required in accordance with Formula 3 subject to the Late Stage Review Cap as calculated in accordance with Formula 4.

- 8.4 If the OPDC and/or External Consultant determines following receipt of the information submitted pursuant to paragraph 7.1 of this schedule 4 that the Late Stage Review Date has not occurred, the OPDC may require the Owners to promptly submit additional information pursuant to paragraph 8.3 of this schedule 4 or to re-submit the information required under paragraph 7.1 of this schedule 4 upon the occurrence of the Late Stage Review Date (as determined by the OPDC).
- 8.5 When the OPDC or its External Consultant has completed its assessment of the information submitted pursuant to paragraph 7.1 and 8.3 of this schedule 4, the OPDC shall notify the Owners in writing of its decision as to whether any Late Stage Review Contribution is required and, if so, how much.
- 8.6 If the OPDC notifies the Owners pursuant to paragraph 8.5 of this schedule 4 that a Late Stage Review Contribution is required then subject to paragraphs 9 and 10:
- (a) the Owners shall pay the Late Stage Review Contribution to the OPDC within ten Working Days of the date on which such notice is received; and
  - (b) the Owners shall not Occupy more than 85% (eighty-five per cent) of the Residential Units until the Late Stage Review Contribution has been paid in full to the OPDC.
- 8.7 The Owners shall pay the OPDC's costs which are reasonably and properly incurred in assessing the information submitted pursuant to paragraph 7.1 and 8.3 of this schedule 4 including those of the External Consultant within 20 Working Days of receipt of a written request for payment.
- 8.8 The Owners shall not Occupy more than 80% (eighty per cent) of the Residential Units until the OPDC has notified the Owners in writing of its decision as to whether any Late Stage Review Contribution is required pursuant to paragraph 8.5 of this schedule 4.

## **9 DISPUTE**

If there is any dispute as to whether or not a Late Stage Review Contribution is payable that cannot be resolved between the parties to the dispute, such dispute may be referred to the Expert pursuant to Clause 19 of this Deed

## **10 CAP**

The Parties hereby agree that the Affordable Housing Units and any Additional Affordable Housing Units and any Late Stage Review Contribution shall together not exceed the Cap.

## **11 PUBLIC SUBSIDY**

Nothing in this Deed shall prejudice any contractual obligation on the Owners to repay or reimburse any Public Subsidy using any surplus profit that is to be retained by the Owners following the application of Formula 2 and Formula 3.

## **12 MONITORING**

12.1 The parties acknowledge and agree that as soon as reasonably practicable following completion of this Deed the OPDC shall report to the GLA through the London Development Datahub the number and tenure of the Affordable Housing Units by units and Habitable Room.

12.2 The Parties acknowledge and agree that as soon as reasonably practicable after each of:

- (a) the approval of the Additional Affordable Housing Scheme pursuant to paragraph 3.4 or 3.5 of this schedule 4 or, if an Additional Affordable Housing Scheme is not required by the OPDC, the conclusion of the assessment under paragraph 3.4 of this schedule 4; and
- (b) the OPDC's notification pursuant to paragraph 8.5 of this schedule 4 that a Late Stage Review Contribution is required,

the OPDC shall report to the GLA through the London Development Datahub the following information (to the extent applicable):

- (i) the number and tenure of the Additional Affordable Housing Units by unit numbers and Habitable Room (if any);
- (ii) any changes in the tenure or affordability of the Affordable Housing Units by unit numbers and Habitable Room;
- (iii) the amount of any financial contribution payable towards offsite Affordable Housing pursuant to paragraph 3.6 of this schedule 4; and
- (iv) the amount of the Late Stage Review Contribution.

**ANNEX TO SCHEDULE 4****1 FORMULA 1B (SURPLUS PROFIT AVAILABLE FOR ADDITIONAL ON-SITE AFFORDABLE HOUSING)**

$$\text{"Surplus profit"} = ((A - B) - (C - D)) - P$$

Where:

A = Early Stage Review GDV (£)

B = Application Stage GDV (£)

C = Early Stage Review Build Costs (£)

D = Application Stage Build Costs (£)

P = (A - B) \* Y

Y = Target Return (%)

Notes:

(A - B) represents the change in GDV from the date of planning permission to the date of review.

(C - D) represents the change in build costs from the date of planning permission to the date of review.

P represents developer profit on change in GDV.



## 2 FORMULA 2 (ADDITIONAL AFFORDABLE HOUSING)

X = Additional London Affordable Rent Housing requirement (Habitable Rooms)

$$X = ((E * F) \div (A - B)) \div D$$

Y = Additional London Living Rent/London Shared Ownership requirement (Habitable Rooms)

$$Y = ((E * G) \div (A - C)) \div D$$

Where:

A = Average Open Market Housing Value (£ per m<sup>2</sup>)

B = Average London Affordable Rented Housing Value (£ per m<sup>2</sup>)

C = Average Intermediate Housing Value (£ per m<sup>2</sup>)

D = Average Habitable Room size for the Development being [\*] m<sup>2</sup>

E = Surplus profit available for Additional Affordable Housing Units as determined in Formula 1b (£)

F = Percentage of surplus profit available for Additional Affordable Housing Units to be used for London Affordable Rented Housing (%)

G = Percentage of surplus profit available for Additional Affordable Housing Units to be used for Intermediate Housing (%)

Notes:

(A – B) represents the difference in average value of market housing per m<sup>2</sup> and average value of London Affordable Rent Housing per m<sup>2</sup> (£).

(A – C) represents the difference in average value of market housing and average value of Intermediate Housing per m<sup>2</sup> (£).

(E \* F) represents the surplus profit to be used for London Affordable Rented Housing (£).

(E \* G) represents the surplus profit to be used for Intermediate Housing (£).

(E \* F) ÷ (A – B) represents the additional London Affordable Rented Housing requirement (m<sup>2</sup>).

(E \* G) ÷ (A – C) represents the additional Intermediate Housing requirement (m<sup>2</sup>).

### 3 FORMULA 3 (SURPLUS PROFIT AVAILABLE FOR AFFORDABLE HOUSING CONTRIBUTION)

X = Late Stage Review Contribution

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

Where:

A = Late Stage Review Actual GDV (£)

B = Late Stage Review Estimated GDV (£)

C =

- Application Stage GDV (£), where Development Viability Information for Formula 1b and 2 was not required to be submitted pursuant to paragraph 2 of schedule 4; or
- Early Stage Review GDV (£) as determined by the OPDC pursuant to paragraph 3.4 of schedule 4, where Development Viability Information for Formula 1b and 2 was submitted pursuant to paragraph 2 of schedule 4.

D = Late Stage Review Actual Build Costs (£)

E = Late Stage Review Estimated Build Costs (£)

F =

- Application Stage Build Costs (£), where Development Viability Information for Formula 1b and 2 was not required to be submitted pursuant to paragraph 2 of schedule 4; or
- Early Stage Review Build Costs (£) as determined by the OPDC pursuant to paragraph 3.4 of schedule 4, where Development Viability Information for Formula 1b and 2 was submitted pursuant to paragraph 2 of schedule 4.

P = (A + B - C) \* Y

Y = Target Return (%)

Notes:

(A + B - C) represents the change in GDV from the date of the planning permission (or previous review if triggered) to the Late Stage Review Date.

(D + E - F) represents the change in build costs from the date of the planning permission (or previous review if triggered) to the Late Stage Review Date.

P represents developer profit on change in GDV.

0.6 represents the 60 per cent of the surplus profit to be used by the OPDC for additional affordable housing, after the developer's profit (P) has been deducted.

#### 4 FORMULA 4

X = Late Stage Review Cap

$$X = (((A * D) - (B * D)) * E) + (((A * D) - (C * D)) * F)$$

Where:

A = Average Open Market Housing Value (£ per m<sup>2</sup>)

B = Average London Affordable Rented Housing Value (£ per m<sup>2</sup>)

C = Average Intermediate Housing Value (£ per m<sup>2</sup>)

D = [●] m<sup>2</sup>, being the average Habitable Room size for the Development

E =

- [●] Habitable Rooms, where Additional Affordable Housing Units were not required to be provided pursuant to paragraph 3.4 of schedule 4; or
- [●] Habitable Rooms, where Additional Affordable Housing Units were required to be provided pursuant to paragraph 3.4 of schedule 4,

being the shortfall in London Affordable Rented Housing (by Habitable Room) when compared with the Affordable Housing Target Tenure Split.

F =

- [●] Habitable Rooms, where Additional Affordable Housing Units were not required to be provided pursuant to paragraph 3.4 of schedule 4; or
- [●] Habitable Rooms, where Additional Affordable Housing Units were required to be provided pursuant to paragraph 3.4 of schedule 4;

being the shortfall in Intermediate Housing (by Habitable Room) when compared with the Affordable Housing Target Tenure Split.

## **SCHEDULE 5**

### **Highways and Transport**

#### **1 TRANSPORT CONTRIBUTION**

##### **1.1 The shall Owners:**

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

#### **2 HIGHWAY WORKS**

##### **2.1 The Owners shall:**

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

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

- (a) a proposed specification for the Highway Works (other than in respect of the repair and reinstatement works to the Highway Reinstatement Area); and
- (b) a proposed programme for the Highway Works referred to in paragraph 2.2(a).

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

- (a) a further schedule of Highway Condition;
- (b) a proposed specification for the Highway Works in respect of the repair and reinstatement works to the Highway Reinstatement Area; and
- (c) a proposed programme for the Highway Works referred to in paragraph 2.3(b).

- 2.4 Following approval of the details in paragraph 2.2 and paragraph 2.3 by the OPDC, the Owners shall:
- (a) unless otherwise agreed with the OPDC, enter into a Highways Agreement or Highways Agreements with LBHF (as local highways authority) in respect of the Highway Works; and
  - (b) thereafter carry out the Highway Works in accordance with the Highways Agreement or Highways Agreements.
- 2.5 Unless otherwise agreed with the OPDC the Owners shall not permit any Occupation of Residential Units or Commercial Floorspace after Practical Completion of the Development until:
- (a) the details required to be submitted pursuant to paragraph 2.2 and paragraph 2.3 have been approved in writing by the OPDC;
  - (b) the Owners has entered into a Highways Agreement or Highways Agreements in respect of the approved Highway Works; and
  - (c) the Owners has Practically Completed the Highway Works in accordance with the Highways Agreement or Highways Agreements (as the case may be).
- 2.6 The Owners shall consult with the LBHF (as local highway authority) in respect of the approval of the details required to be submitted pursuant to paragraphs 2.1, 2.2 and 2.3 and shall provide details of LBHF's responses to the OPDC when submitting those details for approval.

## **SCHEDULE 6**

### **Car Parking**

#### **1 CAR CLUB MEMBERSHIP**

- 1.1 Prior to first Occupation of each Residential Unit, the Owners shall write to the relevant first Resident to notify him of the existence of the Car Club and to offer to pay for three year's membership of the Car Club.
- 1.2 In the event that following receipt of written notice pursuant to paragraph 1.1 above a Resident notifies the Owners that he wishes to become a member of the Car Club, the Owners shall pay the full cost of that Resident's membership to the Car Club for a period of not less than three years:
  - (a) As soon as reasonably practicable following a written request from the OPDC, the Owners shall provide the OPDC with evidence of the acceptance or non-acceptance of the Car Club membership by the Resident of each Residential Unit.
  - (b) It is hereby agreed that the Owners shall only be required to offer to pay for three years' membership of the Car Club for up to two first Residents per Residential Unit.
  - (c) The Owners undertakes that any advert or marketing in relation to the sale or letting of any of the Residential Units shall include reference to the provision of membership of the Car Club pursuant to the terms of this Deed and the Owners shall provide evidence of the same to the OPDC as soon as reasonably practicable following a written request.

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

- 2.1 The Owners shall not Occupy the Development or any part thereof unless and until the Owners has informed all intended Occupiers of the Development by formal notice in writing:
  - (a) that the Development is a Car-Free Housing Scheme; and
  - (b) that (save for any Blue Badge Holders) intended Occupiers of the Development (or any person having any connection whatsoever or relationship with any such Occupier whether contractual, personal or otherwise and who is resident at the Development) shall not be entitled to any form of permit from the LBHF or LBE or LBB which would allow them to park any motor vehicle within a CPZ.
- 2.2 The Owners will forthwith confirm in writing to the OPDC that they have made formal notification in accordance with paragraphs 2.1(a) and 2.1(b) above.
- 2.3 The Owners for itself and its successors in title (other than Blue Badge Holders) hereby waives all rights and entitlement (if any) on the part of the Owners to a parking permit in the CPZ.
- 2.4 The Owners for itself and its successors in title (other than Blue Badge Holders) hereby covenants not to lease or transfer the whole or any part of the Site unless he has included a restrictive covenant in any such lease or transfer which provides that the tenant or Owners of

the whole or any part of the Site covenants not to apply to the LBHF, LBE or LBB for a resident's parking permit for a CPZ.

- 2.5 The Owners hereby covenants for itself and its successors in title not to transfer its interest in the Site or grant a leasehold interest in the Site or any part thereof (other than a leasehold interest in an individual Residential Unit or unit of Commercial Floorspace) unless the transferee or lessee as the case may be enters into a deed of covenant (the "**Deed of Covenant**") with the OPDC in which the transferee or lessee as the case may be gives covenants to the OPDC identical to the covenants within this paragraph 2.
- 2.6 The Deed of Covenant shall be in substantially the same form as the draft deed of covenant appearing at annex 1 of this schedule, subject to amendments as may be agreed by the parties acting reasonably.
- 2.7 The Owners shall not Implement the Development or any part thereof until they have entered a restriction on its interest(s) in the Site prohibiting registration of any disposition of said registered estate(s) without a certificate signed by OPDC that the provisions of paragraph 2.4 above have been complied with (the "**Restriction**").
- 2.8 The Restriction shall be in the same form as the restriction appearing at annex 2 of this schedule.

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

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

### **4 BLUE BADGE CAR PARKING SPACES**

- 4.1 Prior to first Occupation of the Development the Owners shall provide twelve parking spaces for Blue Badge Holders in the location shown in Plan 4.



- 4.2 The Owners shall not first Occupy the Development until the requirements of paragraph 4.1 have been satisfied in full.

## **ANNEX 1**

### **Deed of Covenant**

Dated 20[ ]

OLD OAK AND PARK ROYAL

DEVELOPMENT CORPORATION (1)

AND

[COVENANTOR] (2)

DEED OF COVENANT

**THIS DEED** is made on

20[ ]

**BETWEEN:**

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

**RECITALS**

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

**OPERATIVE PROVISIONS**

**1 INTERPRETATION**

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

<b>Original Agreement</b>	the deed dated [ ] made between (1) the OPDC and (2) [ ];
<b>Owners</b>	the party to the Original Agreement so named;
<b>Property</b>	[insert title details] which comprises [part of] the Site as defined in the Original Agreement;
<b>Seller</b>	[ ] or relevant successor;
<b>Seller's Obligations</b>	all obligations and restrictions on the Owners and all covenants provided by the Owners in paragraph 2 of schedule 6 of the Original Agreement.

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

## **2 OBLIGATIONS**

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

## **3 EXECUTION**

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

**THE COMMON SEAL of**  
**OLD OAK AND PARK ROYAL**  
**DEVELOPMENT CORPORATION**

was affixed in the presence of:

Authorised Signatory

**EXECUTED** as a **DEED** by

**[COVENANTOR]**

acting by a director and

a secretary/two directors:

Director

Director/Secretary

## **ANNEX 2**

### **Restriction on Title**

"No disposition of the registered estate (other than a charge, or the grant of a leasehold interest in an individual Residential Unit or unit of Commercial Floorspace as defined in the Deed dated [ ] between the Old Oak and Park Royal Development Corporation and [ ]) by the proprietor of the registered estate is to be registered without a certificate signed by the Old Oak and Park Royal Development Corporation of City Hall, The Queen's Walk, More London Riverside, London SE1 2AA (or its successor) that the provisions of paragraph 2.4 of schedule 6 of the Deed dated [ ] between the Old Oak and Park Royal Development Corporation and [ ] have been complied with or that they do not apply to the disposition."

### **ANNEX 3**

#### **Draft Undertaking**



**Dated** [    ]

---

[    ] (1)

**AND**

**THE MAYOR AND BURGESSES OF THE**  
**LONDON BOROUGH OF HAMMERSMITH AND FULHAM** (2)

---

**UNILATERAL UNDERTAKING**

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

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**THIS UNDERTAKING** is given on

20[ ]

**FROM:**

- (1) [ ] a company registered in England and Wales (company number [ ]) whose registered office is at [ ] (the "**Owners**").

**TO:**

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

**RECITALS**

- (A) The Council is the local authority for the area in the vicinity of the Site for the purposes of Section 16 of the 1974 Act and is the local authority by whom the obligations contained in this Undertaking are enforceable.
- (B) By virtue of The Old Oak and Park Royal Development Corporation (Planning Functions) Order 2015, the Old Oak and Park Royal Development Corporation ("**OPDC**") is the local planning authority for the area in which the Site is located for the purposes of Part 3 of the 1990 Act.
- (C) The Owners is the registered owners of the freehold interest in the Site with title absolute under title number LN192535.
- (D) The Owners submitted the Planning Application to the OPDC.
- (E) At a meeting of its Planning Committee on 14 January 2021, the OPDC resolved to grant the Planning Permission subject to the Owners entering into the S106 Agreement and securing obligations to restrict Occupiers of the Site from holding Parking Permits, without which the Planning Permission would not be granted.
- (F) The S106 Agreement has been entered into and the Planning Permission has been granted.
- (G) This Undertaking is being given to satisfy the requirements of paragraph 3 of schedule 6 of the S106 Agreement.

**THE PARTIES AGREE** as follows:

**1 INTERPRETATION**

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

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

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

<b>Blue Badge</b>	a disabled parking badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970;
<b>Commencement</b>	the carrying out of a material operation (as defined in Section 56(4) of the 1990 Act but disregarding for the purposes of this Undertaking the following operations: ground investigations for assessing site conditions; archaeological investigations; demolition and site clearance; site survey works; diversion and laying of services; erection of any temporary means of enclosure; temporary display of site notices and advertisements; and any works requires to be undertaken to discharge pre-commencement conditions on the Planning Permission) and " <b>Commenced</b> " shall be construed accordingly;
<b>Commencement Date</b>	the date upon which the Development is Commenced;
<b>CPZ</b>	any controlled parking zone enforced by the Council from time to time;
<b>Development</b>	demolition of existing buildings and redevelopment of the site to provide residential units (Use Class C3) within a new residential-led building ranging in height from 7 to 24 storeys (above ground), over ground floor commercial floorspace (Use Class A1/A2/A3/A5/B1A/B1C), with basement car parking, cycle parking and plant space, landscaping and associated works;
<b>Occupation</b>	the occupation of any part of the Development for its designated planning use but does not include occupation by the Owners or any contractor or other occupier for the purposes of construction, fitting out, decoration, marketing or display and " <b>Occupier</b> " shall be construed accordingly;
<b>Parking Permit</b>	a permit issued or to be issued in the future by the Council to an Occupier of a Residential Unit to permit the parking of a motor vehicle on the highway within a CPZ;
<b>Planning Application</b>	the application for full planning permission submitted to the OPDC for the Development and allocated reference number 20/0088/FUMOPDC;
<b>Planning Permission</b>	the planning permission for the Development granted by the OPDC on [insert date] and bearing reference number 20/0088/FUMOPDC and shall include any amended, varied or replacement permission granted pursuant to Section 96A or Section 73 of the 1990 Act from time to time;

<b>Residential Unit</b>	a unit of residential accommodation comprised within the Development and falling within Use Class C3;
<b>S106 Agreement</b>	the agreement dated [insert date] and made pursuant to Section 106 of the 1990 Act in respect of the Planning Permission between (1) the OPDC and (2) the Owners;
<b>Site</b>	the land known as North Kensington Gate South, 115-129A Scrubs Lane, London NW10 6QU as shown edged [red] on Plan 1, the freehold interest in which is owned by the Owners and registered at HM Land Registry under title number LN192535;
<b>Use Classes</b>	shall be defined by reference to the Town and Country Planning (Use Classes) Order 1987;
<b>Working Day</b>	any day of the week other than Saturday, Sunday or any bank holiday.

- 1.2 Where in this Undertaking reference is made to a clause, paragraph, schedule, recital, plan, annex or appendix such reference (unless the context otherwise requires) is a reference to a clause, paragraph, schedule, or recital in this Undertaking or to a plan, annex or appendix attached to this Undertaking.
- 1.3 Where in any schedule or part of a schedule reference is made to a paragraph such reference shall (unless the context otherwise requires) be to a paragraph of that schedule or (if relevant) part of a schedule.
- 1.4 References in this Undertaking to the Owners shall include reference to its successors in title and assigns and to persons claiming through or under it in relation to all or any part of the Site save where the context otherwise requires.
- 1.5 References to the Council shall include reference to any successor body exercising any of the powers currently vested in the Council in relation to this Undertaking.
- 1.6 Words including the singular meaning where the context so admits include the plural meaning and vice versa.
- 1.7 Words of the masculine gender include the feminine and neuter genders and words denoting natural persons include companies and other corporate bodies and also firms and all such words shall be construed interchangeably in that manner.
- 1.8 Words denoting an obligation on a party to do an act matter or thing include an obligation to procure that it be done and words placing a party under a restriction (including for the avoidance of doubt any obligation preventing or restricting Commencement or Occupation) include an obligation not to cause, permit, suffer or allow infringement of the restriction.
- 1.9 Any reference to a statute or a provision thereof or a statutory instrument or a provision thereof shall include any modification, extension or re-enactment thereof for the time being in force

(including for the avoidance of doubt any modification, extension or re-enactment made prior to the date of this Undertaking) and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given thereunder or deriving validity therefrom.

- 1.10 The word "including" means including without limitation or prejudice to the generality of any description defining term or phrase preceding that word and the word "include" and its derivatives shall be construed accordingly.
- 1.11 The clause and paragraph headings in the body of this Undertaking and in the schedules hereto do not form part of this Undertaking and shall not be taken into account in its construction or interpretation.
- 1.12 References to the Site include any part of it.

## **2 LEGAL EFFECT**

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

## **3 THE OWNERS' COVENANTS**

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

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

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

#### **5 FURTHER TERMS**

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

#### **6 NOTICE PROVISIONS**

- 6.1 The Owners shall give the Council written notice of Commencement no later than ten Working Days after the Commencement Date.
- 6.2 The Owners shall give the Council written notice of any change in ownership of any freehold or leasehold interest in the Site no later than ten Working Days after such change in ownership and such notice shall give details of the transferee's or lessee's full name and registered office (if a company or usual address if not).
- 6.3 Any notice or other written communication to be served upon a party or given by one party to any other under the terms of this Undertaking shall be given in writing (which for this purpose shall not include email) and shall be deemed to have been validly served or given if delivered by hand or sent by first class post or sent by recorded delivery post to the party upon whom it is to be served or to whom it is to be given and shall conclusively be deemed to have been received on:
  - (a) if delivered by hand, the next Working Day after the day of delivery; and
  - (b) if sent by first class post or recorded delivery post, the day two Working Days after the date of posting.
- 6.4 The address for any notice or other written communication shall be within the United Kingdom only and shall be as specified below or such other address as shall be specified by the party upon whom the notice is to be served to the other parties by not less than five Working Days' notice:
  - (a) in the case of the Council, to the Head of Development Management, Hammersmith and Fulham Council, Town Hall, King Street, London, W6 9JU, bearing the reference "North Kensington Gate South – OPDC – 20/0088/FUMOPDC";
  - (b) in the case of the Owners, to [ ].

## 7 REVOCATION

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

## 8 LIABILITY UNDER THIS UNDERTAKING

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

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

## 9 DISPUTE RESOLUTION

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

9.2 Failing the resolution of any such Dispute within the said 20 Working Days or within such other period as may be specified in this Undertaking in relation to the resolution or determination of the matter in question, the Dispute shall be referred for determination in accordance with the provisions of this clause 9 on the reference of any of the parties to the Dispute.

9.3 The Dispute shall be referred to the decision of an independent expert (the "**Expert**") who shall be an independent person of at least ten years' standing in the area of expertise relevant to the Dispute and in the event that the parties are unable to agree whom should be appointed within a period of ten Working Days following a failure of the parties to resolve the Dispute within the period set out in clause 9.1, then any party may request:

- (a) if such Dispute shall relate to matters concerning the construction, interpretation and/or application of this Undertaking, the Chairman of the Bar Council to nominate the Expert;
- (b) if such Dispute shall relate to matters requiring a specialist chartered surveyor, the President of the Royal Institution of Chartered Surveyors to nominate the Expert; and
- (c) in all other cases, the President of the Law Society to nominate the Expert.

9.4 If the Dispute shall relate to matters falling within two or more of clauses 9.3(a) to 9.3(c) (inclusive), the parties may agree to appoint joint Experts and in the event that the parties are



unable to agree whom should be appointed as joint Experts, the parties may request the President of the Law Society to nominate such persons falling within the descriptions of clauses 9.3(a) to 9.3(c) (inclusive) to act as joint Experts.

- 9.5 The Expert shall act as an expert and not as an arbitrator and the determination of the Expert (including any determination as to the responsibility for payment of his own costs and those of the parties) shall be final and binding upon the parties.
- 9.6 The Expert shall be appointed (through an agreed request statement setting out exactly the questions that he is to determine, submitted jointly by the parties to the Dispute) subject to an express requirement that he reaches his decision and communicates it to the parties to the Dispute within the minimum practical timescale allowing for the nature and complexity of the Dispute and in any event no later than 30 Working Days from the date of his appointment to act and that he is to have particular regard to the 1990 Act in reaching his decision.
- 9.7 The terms of reference of any Expert appointed to determine a Dispute shall include the following:
- (a) he shall call for representations from all parties with ten Working Days of a reference to him under this Undertaking and shall require the parties to exchange representations within this period;
  - (b) he shall allow the parties ten Working Days from the expiry of the ten Working Days period referred to in clause 9.7(a) to make counter-representations;
  - (c) any representations or counter-representations received out of time shall be disregarded by the Expert;
  - (d) he shall provide the parties with a written decision (including his reasons) within ten Working Days of the last date for receipt of counter-representations;
  - (e) he shall be entitled to call for such independent expert advice as he shall think fit; and
  - (f) his costs and the costs of any independent expert advice called for by the Expert shall be included in his award.
- 9.8 Unless the Expert shall decide otherwise the costs of any reference to the Expert shall be borne equally by the parties to the Dispute.

## **10 GOVERNING LAW**

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

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

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

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

## **SCHEDULE 1**

### **Site Plan**

## SCHEDULE 2

### Owners' Covenants - Permit Free

The Owners covenant with the Council:

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

"the [transferee/lessee] for himself and his successors in title being the owner or owners for the time being [of the terms of years hereby granted] hereby covenant with the [transferor/lessor] and separately with the Mayor and Burgesses of the London Borough of Hammersmith and Fulham (the "**Council**") that they shall not apply for nor knowingly permit an application to be made by any person residing in the premises to the Council for any resident's parking permit (save for a disabled person's "**blue badge**" issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970) in respect of such premises (such parking permit entitling the resident to park within any controlled parking zone that is in force from time to time) and if such a permit is issued then it shall be surrendered within seven days of written request to do so from the Council and this covenant shall also be enforceable by the OPDC under Section 1 of the Contracts (Rights of Third Parties) Act 1999".
  
- 4 Upon receiving written request from the Council, to provide the Council with such evidence as the Council may reasonably require to demonstrate compliance with this schedule.

**EXECUTED** as a **DEED** by

[ ]

acting by a director and

a director/its secretary

Director

Director/Secretary

## **SCHEDULE 7**

### **Framework Travel Plan**

#### **1 SUBMISSION OF FRAMEWORK TRAVEL PLAN**

1.1 The Owners shall:

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

#### **2 CONTENTS OF FRAMEWORK TRAVEL PLAN**

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

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

#### **3 REVIEW OF FRAMEWORK TRAVEL PLAN**

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

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

#### **4 TRAVEL PLAN MONITORING CONTRIBUTIONS**

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

## **SCHEDULE 8**

### **Education**

#### **1 EDUCATION CONTRIBUTION**

- 1.1 The Owners shall pay the Education Contribution to the OPDC prior to Commencement of the Development and shall not Commence the Development until the Education Contribution has been paid to the OPDC unless the OPDC elects by written notice served on the Owners to defer receipt of the Education Contribution.
- 1.2 Where the OPDC elects to defer receipt of the Education Contribution the Owners shall pay the Education Contribution on or by the earlier of:
  - (a) the date being 28 days of receipt by the Owners of a written demand from OPDC requiring payment of the Education Contribution; and
  - (b) the date on which 50% of the Residential Units have been Occupied.



## **SCHEDULE 9**

### **Healthcare**

#### **1 HEALTHCARE CONTRIBUTION**

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

## **SCHEDULE 10**

### **Training and Skills**

#### **1 EMPLOYMENT AND SKILLS CONTRIBUTION**

The Owner shall not Implement the Development until the Employment and Skills Contribution has been paid to the OPDC.

#### **2 JOBS AND EMPLOYMENT STRATEGY**

2.1 The Owners shall:

- (a) Subject to paragraph 2.2 of this schedule 10, submit a Jobs and Employment Strategy to the OPDC for approval prior to Implementation of the Development, such Jobs and Employment Strategy to include a named workplace co-ordinator;
- (b) Subject to paragraph 2.2 of this schedule 10, not to Implement the Development until the Jobs and Employment Strategy has been approved in writing by the OPDC;
- (c) implement and comply at all times with the approved Jobs and Employment Strategy, subject to such amendments as may be agreed in writing with the OPDC from time to time; and
- (d) to submit to the OPDC quarterly reports detailing compliance with the Jobs and Employment Strategy.

2.2 For the purposes of paragraphs 2.1 (a) of this Schedule 10 only, the definition of Implementation (and Implement) shall exclude the following works: archaeological investigation or remediation works associated with decontamination, exploratory boreholes, site or soil investigations, site reclamation and site remediation works and the reference to "Implement" in paragraph 2.1(b) shall be construed accordingly.

#### **3 LOCAL LABOUR**

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

#### **4 LOCAL PROCUREMENT**

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

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

- 4.2 The Owners shall use reasonable endeavours to ensure that the total value of contracts procured from Local Businesses throughout the Construction Period shall be no less than 10 per cent of the total value of the goods and services procured.
- 4.3 The Owners shall report the value of all orders placed with Local Businesses to the OPDC on the completion of the tendering stage for the construction of the Development.
- 4.4 The Owners shall provide the OPDC with written evidence of its compliance with the provisions of this paragraph 3 on a quarterly basis throughout the Construction Period.

## **5 APPRENTICESHIPS**

- 5.1 The Owners shall use reasonable endeavours to employ not less than 24 (twenty-four) construction trade apprentices during the Construction Period with a view to each apprenticeship leading to a minimum qualification of NVQ Level 2 unless otherwise agreed by the OPDC.
- 5.2 Each apprentice employed pursuant to paragraph 5.1 shall be:
- (a) a Local Resident;
  - (b) employed for a period of not less than 52 weeks and paid at a rate of not less than the London Living Wage and if the period of employment of an apprentice overruns the expiration date of the relevant contract or sub-contract the Owners shall ensure the continuation of the relevant apprenticeship elsewhere on the Development;
  - (c) supported through paid day release to undertake relevant training; and
  - (d) provided with on the job training and supervised on-site by an experienced operative in a trade related to his or her training needs.
- 5.3 The Owners shall provide the OPDC with written evidence of its compliance with the provisions of this paragraph 5 on a quarterly basis during the Construction Period.

## **6 WORK PLACEMENTS**

- 6.1 The Owners shall use reasonable endeavours to employ not less than 10 paid and 10 unpaid work placements during the Construction Period.
- 6.2 Each work placement employed pursuant to paragraph 6.1 shall be:
- (a) a Local Resident;
  - (b) employed for a period of up to 6 months if paid (can be non-consecutive) and a minimum of 2 weeks and maximum of 4 weeks if unpaid.
  - (c) provided with on the job training and supervised on-site by an experienced operative in a trade related to his or her training needs.

- 6.3 The Owners shall upon written request provide the OPDC with written evidence of its compliance with the provisions of this paragraph 6.

## **7 END USER JOBS**

- 7.1 The Owners shall notify the OPDC of the intended Occupier of any Commercial Floorspace and a named contact prior to any Occupation of the Commercial Floorspace.
- 7.2 The Owners shall use reasonable endeavours to ensure that at least 10% of people employed and working within the Commercial Floorspace will be drawn from Local Residents.
- 7.3 The Owners shall upon written request provide the OPDC with written evidence of its compliance with the provisions of this paragraph 7.

## **SCHEDULE 11**

### **Decentralised Energy**

#### **1 DECENTRALISED ENERGY**

The Owners covenant with the OPDC:

1.1 That the Development:

- (a) will be designed and constructed to connect to or not prejudice the future connection to a District Heating Network; and
- (b) will be provided with a single connection point at which the Development may be connected to a District Heating Network in a location to be approved as part of the Energy Strategy.

1.2 The Owners shall ensure that the Building is designed and constructed so that it is capable of being connected to a District Heating Network and such provision shall include:

- (a) the installation of sufficiently sized external buried pipework at the time of available connection in positions agreed with the OPDC to enable connection to a District Heating Network;
- (b) the installation of pipework in the fabric of buildings in accordance with the approved Energy Strategy;
- (c) the provision of 'tees' and isolation valves in hot water headers to facilitate the connection of an interfacing heat exchanger at a later date if connection to the District Heating Network is not immediately technically feasible or economically viable when first provided prior to first Occupation of the Development;
- (d) provision of secondary side pipework designed and installed to avoid, as far as possible, those heat losses that give rise to building overheating.

1.3 In the event that a District Heating Network becomes available in the vicinity of the Development, the OPDC will notify the Owners in writing of this and the Owners shall use reasonable endeavours to connect the Development to the District Heating Network that has become available. The Owner shall inform the OPDC in writing of the connection date and for the avoidance of doubt the OPDC shall not be responsible for any costs or fees associated with the negotiation and/or connection with the District Heating Network.

#### **2 CARBON OFF-SET PAYMENT**

2.1 Prior to Occupation of the Development, the Owners will submit to the OPDC details of the suitably qualified consultants who will undertake the CO2 Audit and details of the terms on which the appointment will be made including the deadline for the completion of the CO2 Audit.

- 2.2 Within 20 Working Days of first Occupation of the Development the Owners shall commission the CO2 Audit and give written notification of such fact to the OPDC.
- 2.3 Within 20 Working Days of providing the notification under paragraph 1.2 of this schedule the CO2 Audit shall be submitted to the OPDC for approval, such approval not to be unreasonably withheld or delayed.
- 2.4 The OPDC will notify the Owners of whether or not it approves the CO2 Audit within 20 Working Days of receipt of the CO2 Audit. Where the CO2 Audit is not approved then the Owners and the OPDC shall use all reasonable endeavours to agree the matter failing which either party will have the ability to refer to the Expert in accordance with the provisions of clause 19 of this Deed.
- 2.5 The OPDC will determine the Carbon Offset Contribution for the Development on the basis of the approved or determined CO2 Audit within ten Working Days of such approval or determination.
- 2.6 The Owners will pay the Carbon Offset Contribution within 20 Working Days of its approval or determination.

## **SCHEDULE 12**

### **Design Monitoring**

#### **1 DESIGN TEAM STATEMENT**

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

- (a) an application pursuant to conditions 11, 12, 13, 14, 15 and 17 of the Planning Permission;
- (b) an application for a S96A Amendment;
- (c) an application for a S73 Permission.

#### **2 DESIGN MONITORING COSTS**

2.1 If at any point the Architect is not retained to either prepare or oversee any design work required in relation to the applications set out at paragraph 1.1 above in order to ensure the design quality of the Development the Owners shall forthwith:

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

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

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

## **SCHEDULE 13**

### **Safeguarded Land**

#### **1 SAFEGUARDED LAND**

- 1.1 The Owners shall not for a period commencing on the date of this Deed to 31 December 2038 (or such other period of time agreed in writing with the OPDC) ("**the Safeguarding Period**") build any permanent structure on the Safeguarded Land without the prior written consent of the OPDC to enable the delivery of commercial floorspace within the Safeguarded Land to ensure a coordinated approach with the development of Mitre Wharf, Scrubs Lane, London NW10 5QE ("**the Mitre Wharf Site**").
- 1.2 The OPDC and the Owners hereby agree that the Owners shall be entitled at any time from the date of this Deed to transfer or lease or otherwise dispose of the Safeguarded Land to the owners or promoters of the Mitre Wharf Site on such commercial terms as are agreed between the relevant parties



## SCHEDULE 14

### Wind Assessment

#### 1 UPDATED WIND ASSESSMENT

The Owners covenant with the OPDC:

- 1.1 If at least one Major Application has been submitted, registered and validated by the OPDC within 150 metres of the Site before the Implementation Date the Owners will prepare and submit the Updated Wind Assessment to the OPDC. If no Major Applications are submitted registered and validated by the OPDC within 150 metres of the Site between the date of this Deed and the Implementation Date, then paragraph 1.1 shall not apply.
- 1.2 If the Updated Wind Assessment identifies that the Development causes Material Wind Impacts in the Wind Assessment Area the Owners will prepare and submit details of the proposed Wind Assessment Works for the written approval of the OPDC (such approval not to be unreasonably withheld or delayed) and in the event of any refusal by the OPDC to approve the Wind Assessment Works to pay regard to the OPDC's reasonable reasons for such refusal and to resubmit the proposed Wind Assessment Works as amended having regard to the OPDC's reasonable reasons for refusal until the OPDC approves the proposed Wind Assessment Works in writing ("**the Approved Wind Assessment Works**").
- 1.3 That the Owners shall use reasonable endeavours to complete the Approved Wind Assessment Works within a reasonable period.
- 1.4 The Owners shall not carry out the Development except in accordance with the Approved Wind Assessment Works if applicable.
- 1.5 If no Material Wind Impacts are identified in the Updated Wind Assessment then paragraphs 1.2 to 1.4 of this Schedule shall not apply.
- 1.6 The Owners shall bear all reasonable and proper costs in relation to the Updated Wind Assessment and Wind Assessment Works (if required).
- 1.7 The Owners shall provide any information or documentary evidence reasonably requested by the OPDC in relation to the Updated Wind Assessment and Wind Assessment Works (If required) accurately, in good faith and as soon as practicable and in any event within 10 Working Days of such a request.
- 1.8 After the Commencement Date PROVIDED THAT the OPDC has provided the Owners with empirical evidence demonstrating that Wind Assessment Works are reasonably necessary to mitigate against Material Wind Impacts where a third party proposes a development within the Wind Assessment Area paragraphs 1.9 to paragraph 1.13 shall apply

- 1.9 Paragraph 1.8 shall be subject to the OPDC demonstrating that the third party referred to in paragraph 1.8 has, with the aim of mitigating any resultant Material Wind Impacts caused by the third party development firstly:
- (a) investigated and undertaken to modify the design of the third party scheme; and
  - (b) working with the OPDC investigated and undertaken to modify the design of the public realm surrounding the scheme.
- 1.10 Where paragraph 1.8 applies, the Owners shall use all reasonable endeavours to prepare a proposal for consideration by the OPDC of minor/non-material modifications which can be undertaken at a reasonable cost and without disruption to the quiet enjoyment of the Development's residents and all direct and indirect costs of preparing the proposal, all associated costs including specialist assessments, planning applications and any physical modifications to the development shall be funded in full by a third party or the OPDC.
- 1.11 Where the minor modifications proposed in paragraph 1.10 are agreed by the OPDC, including all necessary statutory approvals, the Owners shall use reasonable endeavours to implement such proposals.
- 1.12 Until the quantum of all costs is agreed and the transfer of funds from the OPDC and/or the third party to the Owners are made, the Owners shall be under no obligation to comply with paragraph 1.8 to 1.11.

## **SCHEDULE 15**

### **Open Space and Play Space**

- 1 The Owners covenant with the OPDC:
  - (a) Prior to Occupation of any part of the Development the Owners shall submit a Green Infrastructure and Open Space Strategy and Management Plan to the OPDC for its approval in writing.
  - (b) Not to Occupy any part of the Development until the Green Infrastructure and Open Space Strategy and Management Plan has been approved by the OPDC.
- 2 The Owners covenant with the OPDC:
  - (a) that it shall lay out the Open Space to the satisfaction of the OPDC prior to the Occupation of the Residential Units;
  - (b) Not to Occupy any of the Residential Units until the Open Space has been laid out to the satisfaction of the OPDC;
  - (c) it shall ensure the Open Space is managed and maintained in accordance with the Green Infrastructure and Open Space Strategy and Management Plan and remains available for public use.


## **SCHEDULE 16**

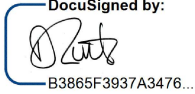
### **BUILD TO RENT**

#### **1 RESTRICTION ON BUILD TO RENT**



The Owners covenant with the OPDC that no part of the Development shall be operated as Build to Rent without the consent of the OPDC (such consent not to be unreasonably withheld or delayed).


**EXECUTED as a DEED by**  
**OLD OAK AND PARK ROYAL**  
**DEVELOPMENT CORPORATION**

Authorised Signatory   
Name (BLOCK) Jasbir Sandhu  
Position OPDC CFO

Authorised Signatory   
Name (BLOCK) David Lunts  
Position OPDC CEO

**EXECUTED as a DEED by** )  
**NORTH KENSINGTON GATE LIMITED** )  
acting by **GARY JACKS,** )  
**DIRECTOR** )  
Signature )

In the presence of:  
Witness signature   
Witness name  
Address **Jeremy Marc Harris**  
**23 Golf Close, Stanmore**  
**Middlesex HA7 2PP**  
**IN HOUSE SOLICITOR**  
Occupation

**EXECUTED as a DEED by:**

**Name:**

as attorney for

**SOLUTUS ADVISORS LIMITED**

In the presence of:

Witness signature

Witness name

Address

Occupation

**NEIL FORKIN**

**AUTHORISED  
SIGNATORY**

**CANAL MILL**

**BOTANY BROW  
LANCASHIRE PR6 9AF**

Signature:

**TRACY BOSHELL  
DIRECTOR**