

DATED *25<sup>th</sup> March* 2014

- (1) LONDON LEGACY DEVELOPMENT CORPORATION
- (2) BUDALA LIMITED
- (3) CHERYL ROBERTS
- (4) GUILIO PIACQUADIO AND GIOVANNA PIACQUADIO
- (5) ZIFFMELL LIMITED

## PLANNING OBLIGATION BY AGREEMENT

made pursuant to section 106 of the Town and Country Planning Act 1990 and all other powers enabling

relating to Monier Road, Fish Island



Pinsent Masons

## CONTENTS

Clause		Page
1	INTERPRETATION	4
2	EFFECT OF THIS AGREEMENT	9
3	CONDITIONALITY	10
4	THE DEVELOPER'S COVENANTS WITH THE LPA	10
5	THE LPA'S COVENANTS WITH THE DEVELOPER	11
6	NOTICES	11
7	SATISFACTION OF ANY OF THE PROVISIONS OF THIS AGREEMENT	12
8	VERIFICATION AND ENFORCEMENT	12
9	APPROVAL	13
10	REFUSAL NOTICE	13
11	DISPUTE RESOLUTION	14
12	NO WAIVER	15
13	DUTY TO ACT REASONABLY AND IN GOOD FAITH	15
14	EXCLUSION OF CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999	15
15	THE LPA'S COSTS	15
15	FINANCIAL CONTRIBUTIONS AND INDEXATION	16
17	JURISDICTION AND LEGAL EFFECT	16
18	EXECUTION	16
	SCHEDULE 1 - AFFORDABLE HOUSING	17
	SCHEDULE 2 - TRANSPORT	24
	SCHEDULE 3 - TRAVEL PLAN	25
	SCHEDULE 4 - ESTATE MANAGEMENT	29
	SCHEDULE 5 - EMPLOYMENT AND TRAINING	31
	SCHEDULE 6 - SUSTAINABILITY	33
	SCHEDULE 7 - PHASING PLAN	34
	APPENDIX 1 - RENTS AND NOMINATIONS AGREEMENT	37

THIS AGREEMENT is made on *25<sup>th</sup> March* 2014

**BETWEEN:**

- (1) **LONDON LEGACY DEVELOPMENT CORPORATION** of Level 10, 1 Stratford Place, Montfichet Road, London E20 1EJ (the "LPA");
- (2) **BUDALA LIMITED** (Company Number 08322573) of 145-157 St John Street, London EC1V 4PW (the "Developer");
- (3) **CHERYL ROBERTS** of 63 Merriman Road, Blackheath, London SE3 8SB (the "First Owner");
- (4) **GUILIO PIACQUADIO and GIOVANNA PIACQUADIO** of 139 De Beauvoir Road, London N1 4DA (the "Second Owners");
- (5) **ZIFFMELL LIMITED** (Company Number 557799) of Audit House, 260 Field End Road, Eastcote, Middlesex HA4 9LT (the "Third Owner").

**RECITALS**

**WHEREAS:**

- (A) The LPA exercises the functions of the local planning authority for the Site pursuant to The London Legacy Development (Planning Functions) Order 2012 and is the local planning authority by whom the obligations contained in this Agreement are enforceable.
- (B) The First Owner has a freehold interest in that part of the Site registered at the Land Registry with Title Number EGL481675.
- (C) The Second Owners have a freehold interest in that part of the Site registered at the Land Registry with Title Number LN179628.
- (D) The Third Owner has a freehold interest in that part of the Site registered at the Land Registry with Title Number EGL220308.
- (E) The Developer has the benefit of an option to purchase the Site from the First Owner, the Second Owner and the Third Owner.
- (F) The Planning Application was validated by the LPA on 17 May 2013.
- (G) On 26 November 2013 the LPA resolved that it was minded to grant the Planning Permission subject to (inter alia) the completion of this Agreement.
- (H) The Parties agree that the obligations contained in this Agreement meet the three tests for planning obligations as set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.
- (I) Accordingly, the Parties have agreed to enter into this Agreement in order to secure the planning obligations contained in it pursuant to the provisions of section 106 of the 1990 Act and all other powers enabling.

**OPERATIVE PROVISIONS:**

1. **INTERPRETATION**

1.1 In this Agreement (which shall include the Recitals, Schedules and Appendices hereto) the following words and expressions have the following meanings:

"1990 Act"	Town and Country Planning Act 1990;
"Agreement"	this agreement made pursuant to section 106 of the 1990 Act and other enabling powers;
"Anticipated Commencement Date"	the date on which the Developer reasonably considers in all the circumstances that the Development will be Commenced;
"Approve"	a decision by the LPA to approve a Submitted Document pursuant to any of the following: <ol style="list-style-type: none"><li>1. Clause 9 (approval of a Submitted Document as submitted);</li><li>2. Clause 10.2.2 (approval of a Submitted Document incorporating the Report Amendments);</li><li>3. Clause 10.3.3 (approval of a Submitted Document following a meeting to discuss the Report Amendments);</li><li>4. Clause 10.4.3 (approval following a meeting to discuss a Submitted Document following non-determination by the LPA);</li><li>5. Clause 11 (approval of a Submitted Document following a decision of the Expert)</li></ol> and " <b>Approval</b> " and cognate expressions shall be construed accordingly;
"Block A"	means the building block comprised in the Development identified on Plan 2 with the letter "A";
"Block B"	means the building block comprised in the Development identified on Plan 2 with the letter "B";
"Block C"	means the building block comprised in the Development identified on the identified on Plan 2 with the letter "C";
"Building"	means a building comprised in the Development;
"Commencement"	the carrying out of a material operation as defined in section 56(4) of the 1990 Act and " <b>Commence</b> " and " <b>Commenced</b> " shall be construed accordingly;
"Commencement Date"	means the date upon which the Development is Commenced;

<b>"Completed"</b>	completed in all material respects such that a certificate of practical completion in relation to building works is issued under industry standard construction contracts for the Development and <b>"Complete"</b> and <b>"Completion"</b> shall be construed accordingly;
<b>"Comply"</b>	implement, comply, fulfil and/or discharge or procure implementation, compliance, fulfilment and/or discharge and <b>"Compliance"</b> shall be construed accordingly;
<b>"Condition"</b>	means a condition of the Planning Permission;
<b>"Consent"</b>	any of the following: approval, agreement, licence, authorisation, confirmation, certification, expression of satisfaction, consent, permission, or any other kind of authorisation howsoever expressed;
<b>"Council"</b>	means the London Borough of Tower Hamlets and its successor in function;
<b>"Development"</b>	the development of the Site and all other operations and/or works authorised by the Planning Permission;
<b>"Dispute"</b>	any dispute, issue, difference or claim as between the Parties in respect of any matter contained in or arising from or relating to this Agreement or the Parties' obligations and rights pursuant to it (other than in respect of any matter of law);
<b>"Earning Index"</b>	means the <i>Annual Survey of Hours and Earnings for the London Region</i> published by the Office for National Statistics or any official publication substituted for it;
<b>"Expert"</b>	an independent expert appointed in accordance with the provisions of Clause 11 to determine a Dispute;
<b>"Family Housing Units"</b>	means Residential Units with three or more bedrooms;
<b>"First Occupation"</b>	means first Occupation of the Development or any part thereof;
<b>"Index"</b>	means: <ul style="list-style-type: none"> <li>1. the Earning Index in respect of Households on Intermediate Incomes, Households on Lower Intermediate Incomes and Households on Upper Intermediate Incomes (all as defined in Schedule 1);</li> <li>2. in all other cases the RPI;</li> </ul>
<b>"Indexed"</b>	means in relation to an sum that it is to be increased in accordance with clauses 16.2 and 16.3;

<b>"LPA Response Date"</b>	<p>not more than 10 (ten) Working Days after receipt of the revised Submitted Document except where:</p> <ol style="list-style-type: none"> <li>1. the LPA decides to consult on the revised Submitted Document, in which case the period shall be extended to not more than 20 (twenty) Working Days after receipt of the revised Submitted Document; or</li> <li>2. the LPA decides the matter needs to be reported to its planning committee, in which case the period shall be extended to not more than 40 (forty) Working Days after receipt of the revised Submitted Document;</li> </ol>
<b>"Market Rent"</b>	<p>means the rent calculated in accordance with the definition of "Market Rent" at Practice Statement 3.4 of the Royal Institute of Chartered Surveyors Valuation - Professional Standards (the Red Book) January 2014 as may be updated from time to time;</p>
<b>"Occupy" and "Occupation"</b>	<p>means beneficial occupation for any purpose for which the Planning Permission has been granted in respect of the relevant unit, building, structure or part of the Site but not including occupation for the purposes of construction, fit out or marketing;</p>
<b>"Off Site"</b>	<p>on land outside the Site;</p>
<b>"On Site"</b>	<p>on land within the Site;</p>
<b>"Owners"</b>	<p>means the First Owner, the Second Owners and the Third Owner;</p>
<b>"Parties"</b>	<p>the parties to this Agreement and the word "Party" shall mean either one of them;</p>
<b>"Plan 1"</b>	<p>means the plan annexed to this Agreement marked "Plan 1";</p>
<b>"Plan 2"</b>	<p>means the plan annexed to this Agreement marked "Plan 2";</p>
<b>"Plan 3"</b>	<p>means the plan annexed to this Agreement marked "Plan 3";</p>
<b>"Planning Application"</b>	<p>the application for planning permission submitted to the LPA and given reference number 13/00204/FUM by the LPA;</p>
<b>"Planning Permission"</b>	<p>the planning permission which may be granted subject to conditions for the proposals within the Planning Application;</p>
<b>"Private Residential Units"</b>	<p>means Residential Units which are neither Affordable Rented Housing Units or Shared Ownership Units provided pursuant to paragraph 2 of Schedule 1;</p>
<b>"Reasonable Endeavours"</b>	<p>that it is agreed by the Parties that the Developer</p>

under such an obligation will not thereby be required to take proceedings (including any appeal) in any court public inquiry or other hearing (unless specified to the contrary) but subject thereto and to other terms of this Agreement the Developer will be bound to attempt to fulfil the relevant obligation by the expenditure of such effort and/or sums of money and the engagement of such professional or other advisers as in all the circumstances may reasonably be expected of a competent commercial developer in the context of the Development (or part of the Development);

**"Refusal Notice"**

a notice prepared by the LPA confirming which Submitted Document it is refusing to Approve and enclosing the Report Amendments;

**"Report Amendments"**

those amendments to the Submitted Document that the LPA requires to be made to enable it to Approve such Submitted Document together with brief reasons why it requires those amendments to be made to enable it to Approve such Submitted Document;

**"Requisite Consents"**

such grant of planning permission under the 1990 Act, Traffic Regulation Orders, Traffic Management Orders and/or other Consents under the Highways Act 1980 and/or the obtaining of Consents (statutory or otherwise) including the grant or acquisition of necessary land interests as in each case are necessary for the relevant purpose;

**"Residential Unit"**

means a residential unit provided as part of the Development;

**"RPI"**

means the Retail Prices Index all items published by the Office for National Statistics or any official publication substituted for it;

**"Site"**

the land shown edged red on Plan 1;

**"Submitted Document"**

any document, report, review, strategy and other information required to be submitted to the LPA for Approval pursuant to this Agreement;

**"Utility Undertaker"**

means any provider of gas, electricity, energy water, sewage, heating, cooling or telecommunications services occupying premises within the Site for the purposes of supplying any one or more of those services to any member of the public or any occupier of premises within the Site;

**"Working Day"**

a day other than a Saturday or Sunday or public holiday in England or the period between 24 December and 1 January inclusive

1.2 In this Agreement:

1.2.1 unless otherwise indicated reference to any:

(a) Clause, Schedule or Appendix is to a Clause of, Schedule to or Appendix to this Agreement;

- (b) paragraph is to a paragraph of a Schedule to this Agreement;
  - (c) reference within a Schedule to a paragraph is to a paragraph of that Schedule;
  - (d) Part is to a part of an Appendix to this Agreement;
  - (e) table is to a table of an Appendix to this Agreement;
  - (f) Recital is to a Recital to this Agreement; and
  - (g) Plan, is to a plan annexed to this Agreement as an Appendix;
- 1.2.2 references to any statute or statutory provision include references to:
- (a) all Acts of Parliament and all other legislation having legal effect in the United Kingdom as enacted at the date of this Agreement;
  - (b) any orders, regulations, instruments or other subordinate legislation made or issued under that statute or statutory provision; and
  - (c) in each case shall include any re-enactment thereof for the time being in force and any modifications or amendments thereof for the time being in force;
- 1.2.3 headings, the table of contents and titles to the plans are for reference purposes only and are not incorporated into this Agreement and shall not be deemed to be an indication of the meaning of the parts of the Agreement to which they relate;
- 1.2.4 any notice, notification, Consent, request, statement or details to be made, given or submitted under or in connection with this Agreement shall be made or confirmed in writing and neither Party shall not unreasonably withhold or delay the giving or making of the same;
- 1.2.5 references to the Site include any part of it;
- 1.2.6 references to the LPA comprise the London Legacy Development Corporation in its capacity as local planning authority and include its successors to the functions of the LPA;
- 1.2.7 subject to Clauses 2.5 and 2.6 and other than in Recital E references to the Developer include:
- (a) Budala Limited;
  - (b) the Owners;
  - (c) persons deriving title from the Owners; and
  - (d) the Owners' successors, assigns, transferees;
- 1.2.8 references to the LPA include its successor bodies in function;
- 1.2.9 "including" means "including without limitation";



- 1.2.10 unless otherwise indicated references to the singular include the plural and references to the plural include the singular and words importing any gender include every gender;
  - 1.2.11 unless otherwise indicated words importing persons include firms, companies, other corporate bodies or legal entities and vice versa;
  - 1.2.12 any obligation, covenant, undertaking or agreement by the Developer or LPA not to do any act or thing includes an obligation, covenant, undertaking or agreement not to permit or allow the doing of that act or thing;
  - 1.2.13 save where expressly stated to the contrary, where in this Agreement there is reference to using Reasonable Endeavours to achieve an outcome, upon written request by the LPA at reasonable intervals (not to exceed more than once every 3 (three) months), within 10 (ten) Working Days of such request reasonable evidence of the steps taken to achieve such outcome shall be provided in documentary form (where possible) to the LPA.
- 1.3 The Interpretation Act 1978 shall apply to this Agreement.
- 1.4 If any provision of this Agreement is held to be illegal invalid or unenforceable the legality validity and enforceability of the remainder of the Agreement is (if and to the extent that it may properly and lawfully be construed as such) to be unaffected.
- 1.5 Where in this Agreement any matter is referred to dispute resolution under Clause 11 the findings of the Expert shall (save in relation to manifest error) be final and binding on the Parties and such findings shall be deemed to constitute the required Approval or other Consent for the purposes of this Agreement.
- 1.6 Where in this Agreement the fulfilment of an obligation, covenant or undertaking on the part of the Developer is subject to the obtaining or securing of Requisite Consents the Developer shall:-
- 1.6.1 use Reasonable Endeavours to secure or obtain the Requisite Consents where the obligation relates to matters to be carried out or conducted On Site; and
  - 1.6.2 endeavour in good faith (but without being required to pay any material financial consideration in addition to bearing the reasonable and proper cost of the works which are the intended subject of the Requisite Consents or being obliged to take any proceedings (or appeal) in any court public inquiry or other hearing) to secure or obtain the Requisite Consents where the obligation relates to matters to be carried out or conducted Off Site

**PROVIDED THAT** if the Developer in relation to a Requisite Consent of its own volition and independently of the terms of this Agreement pays or has paid a material financial consideration in order to secure that Requisite Consent it shall not be able to rely upon the fact of having done so to use this Clause 1.6 to avoid or limit the obligation, covenant or undertaking under this Agreement for which that Requisite Consent is required.

## 2. EFFECT OF THIS AGREEMENT

- 2.1 This Agreement is made pursuant to section 106 of the 1990 Act and (insofar as this Agreement does not contain planning obligations), sections 201(1) and (2), 205 and 206 of the Localism Act 2011 and all other powers so enabling.
- 2.2 So far as the obligations, covenants and undertakings in this Agreement are given by or to the LPA then the same are entered into pursuant to the relevant powers referred

to in Clause 2.1 and such obligations, covenants and undertakings shall be enforceable by or against the LPA.

- 2.3 The obligations, covenants and undertakings on the part of the Developer in this Agreement are planning obligations pursuant to and for the purposes of section 106 of the 1990 Act and are given so as to bind the Developer's freehold interest in the Site and, subject to Clauses 2.5 and 2.6, the said obligations, covenants and undertakings on the part of the Developer are entered into with the intent that they shall be enforceable not only against the Developer but also against any successors in title to or assigns of the Developer and/or any person claiming through or under the Developer an interest or estate in the Site (other than a Utility Undertaker insofar as and to the extent that the relevant Utility Undertaker is occupying the relevant part of the Site in its capacity as a Utility Undertaker) as if that person had been an original covenanting party in respect of such interest for the time being held by it and insofar as any such obligations, covenants and undertakings are not capable of falling within section 106 of the 1990 Act are entered into as obligations, covenants and undertakings in pursuance of sections 201(1) and (2), 205 and 206 of the Localism Act 2011.
- 2.4 Save to the extent that the same would be lawful nothing in this Agreement restricts or is intended to restrict the proper exercise at any time by the LPA of any of its statutory powers functions or discretions.
- 2.5 No person shall be liable for any breach of any of the obligations, covenants and undertakings or other provisions of this Agreement after parting with its interest in the Site or its interest in respect of that part of the Site on which the breach occurs but without prejudice to liability for any subsisting breach arising before parting with that interest.
- 2.6 No obligation in this Agreement shall be binding on or enforceable against any chargee or mortgagee from time to time who shall have the benefit of a charge or mortgage of or on any part or parts of the Site or any receiver appointed by such chargee or mortgagee or any person deriving title through such chargee, mortgagee, receiver unless and until such chargee, mortgagee, receiver or person has entered into possession of the Site or part thereof to which such obligation relates.
- 2.7 The LPA shall request registration of this Agreement as a local land charge by the London Borough of Tower Hamlets or its respective statutory successor in function.
- 2.8 This Agreement and the obligations, covenants and undertakings which it contains shall lapse and be extinguished automatically if (and from the date that) the Planning Permission lapses without the Development being Commenced or is otherwise revoked, withdrawn or (without the consent of the Developer) modified.
- 2.9 Other than the Planning Permission nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission granted (whether or not on appeal) after the date of this Agreement.

### 3. **CONDITIONALITY**

Save where expressly provided to the contrary this Agreement is conditional upon and shall not take effect until the Planning Permission has been granted.

### 4. **THE DEVELOPER'S COVENANTS WITH THE LPA**

- 4.1 The Developer and the Owners on behalf of themselves and their successors in title to the Site covenant with the LPA that they shall:

- 4.1.1 perform and Comply with, and shall procure performance of and Compliance with, each and every of the obligations, covenants and undertakings on the part of the Developer contained in this Agreement;
- 4.1.2 not encumber or otherwise deal with its interest in the Site or any part or parts thereof in any manner whatsoever whereby the obligations, covenants and undertakings imposed by this Agreement are rendered impossible to carry out;
- 4.1.3 notify the LPA of the Anticipated Commencement Date not less than five Working Days prior to the actual Commencement of Development;

5. **THE LPA'S COVENANTS WITH THE DEVELOPER**

- 5.1 The LPA covenants with the Developer that it shall procure performance of and Compliance with, each and every of the obligations, covenants and undertakings on the part of the LPA contained in this Agreement.
- 5.2 Subject to Clause 5.3 the LPA covenants with the Developer that it shall use all sums received from the Developer under the terms of this Agreement for the purposes specified in this Agreement for which they are paid.
- 5.3 Where any payment is made by the Developer to the LPA pursuant to the terms of this Agreement the LPA may, where it is not the authority with the statutory duty or functions to expend such monies and/or in the interests of administrative efficiency, pay such monies to the competent authority which has the statutory duty to discharge the functions for which the monies were paid ("**Other Statutory Authority**") and upon payment of monies to such Other Statutory Authority the LPA's requirement to comply with Clause 5.2 shall cease to apply in respect of those monies
- 5.4 Upon payment of monies to an Other Statutory Authority pursuant to Clause 5.3 the LPA shall seek assurances from that Other Statutory Authority that the monies shall be applied by that Other Statutory Authority for the purposes for which they have been paid.

6. **NOTICES**

- 6.1 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 Agreement 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:
  - 6.1.1 if delivered by hand, the next Working Day after the day of delivery; and
  - 6.1.2 if sent by first class post or recorded delivery post, the day two Working Days after the date of posting.
- 6.2 The address for any notice or other written communication shall be within the United Kingdom only and shall be as specified below or such other address as shall be specified by the Party upon whom the notice is to be served to the other Parties by not less than five Working Days' notice:-

**LPA:**

Director of Planning Policy and Decisions (For the Attention of: Anthony Hollingsworth)  
London Legacy Development Corporation – Planning Policy and Decisions Team  
Level 10  
1 Stratford Place  
Montfichet Road

London E20 1EJ

**Developer:**

Budala Limited (for the attention of the Directors)  
145-147 St John Street  
London EC1V 4PW

with a copy to:

Amphlett Lissimore Bagshaws LLP  
Greystoke House  
80-86 Westow Street  
London SE19 3AF or DX34150 Norwood North: ref MG.74353.Budala.

**First Owner:**

Cheryl Roberts  
63 Merriman Road  
Blackheath  
London SE3 8SB

**Second Owners:**

Guilio Piacquadio and Giovanna Piacquadio  
139 De Beauvoir Road  
London N1 4DA

**Third Owner:**

Ziffmell Limited  
115 Monier Road  
London E3 2PS

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

**7. SATISFACTION OF ANY OF THE PROVISIONS OF THIS AGREEMENT**

- 7.1 Where in the opinion of the Developer any obligation, covenant, undertaking or other provision on the part of the Developer contained in this Agreement has been satisfied wholly or in part, the Developer shall be entitled to apply to the LPA for a notification to that effect, and where the relevant obligation, covenant, undertaking or other provision has been satisfied (wholly or in part) the LPA shall as soon as reasonably practicable issue a notification to such effect.

- 7.2 Where in the opinion of the LPA, any obligation, covenant, undertaking or other provision on the part of the LPA contained in this Agreement has been satisfied wholly or in part, the LPA shall be entitled to apply to the Developer for a notification to that effect, and where the relevant obligation, covenant, undertaking or other provision has been satisfied (wholly or in part) the Developer shall as soon as reasonably practicable issue a notification to such effect.

**8. VERIFICATION AND ENFORCEMENT**

The Developer shall permit the LPA and its authorised employees agents surveyors and other representatives to enter upon the Site and any buildings erected thereon pursuant to the Development at reasonable times and upon reasonable prior notice of at least seven Working Days (except in the case of emergency) for the purpose of

verifying whether or not the obligations contained in this Agreement are being performed and complied with **PROVIDED THAT** the LPA shall make good any damage caused by the LPA and its authorised employees, agents, surveyors and other representatives during the carrying out of such verification.

9. **APPROVAL**

9.1 The LPA shall confirm whether or not it Approves a Submitted Document within:

9.1.1 30 (thirty) Working Days of receipt of the Submitted Document from the Developer, or

9.1.2 where the LPA decides that it needs to report the Submitted Document to its planning committee, 50 (fifty) Working Days of receipt of the Submitted Document

**PROVIDED THAT** where paragraph 9.1.2 applies, the LPA shall notify the Developer of such reporting to its planning committee within 30 (thirty) Working Days of receipt of the Submitted Document from the Developer and **FURTHER PROVIDED THAT** in the event the LPA confirms that it does not Approve the Submitted Document the LPA shall issue a Refusal Notice and in the event the LPA does not provide the confirmation within the 30 (thirty) Working Days or 50 (fifty) Working Days (as applicable) the provisions of Clause 10.4 shall apply.

10. **REFUSAL NOTICE**

10.1 Not more than five Working Days from receipt of the Refusal Notice the Developer shall confirm to the LPA whether it accepts the Report Amendments.

10.2 In the event the Developer confirms that it does accept the Report Amendments the following provisions shall apply:

10.2.1 within 10 (ten) Working Days of the LPA's receipt of such confirmation the Developer shall submit the revised Submitted Document incorporating the Report Amendments to the LPA for Approval;

10.2.2 the LPA shall by no later than the LPA Response Date confirm to the Developer whether or not it Approves the revised Submitted Document;

10.2.3 in the event the LPA refuses to Approve the revised Submitted Document the matter shall be determined in accordance with Clause 11.

10.3 In the event the Developer confirms that it does not accept the Report Amendments the following provisions apply:

10.3.1 not more than 10 (ten) Working Days after such confirmation the Developer and the LPA shall meet to discuss the Report Amendments and the Submitted Document;

10.3.2 in the event the Developer and the LPA do not reach agreement at the meeting on how to amend the Submitted Document such that the LPA can Approve it the provisions of Clause 11 shall apply;

10.3.3 in the event the Developer and the LPA do reach agreement at the meeting on how to amend the Submitted Document such that the LPA can Approve it, not more than 10 (ten) Working Days following the meeting the Developer shall submit the revised Submitted Document to the LPA for Approval and the LPA shall by no later than the LPA Response Date confirm to the Developer whether or not it Approves the revised Submitted Document

**PROVIDED THAT** in the event the LPA refuses to Approve the revised Submitted Document the provisions of Clause 11 shall apply.

- 10.4 In the event the LPA does not Approve the Submitted Document or issue a Refusal Notice within the time period specified in Clause 9 the following provisions shall apply:
- 10.4.1 not more than five Working Days after the expiry of the time period for such Approval being made the Developer and the LPA shall meet to discuss the Submitted Document;
  - 10.4.2 in the event the Developer and the LPA do not reach agreement at the meeting on whether the Submitted Document needs amending such that the LPA can Approve it the provisions of Clause 11 shall apply;
  - 10.4.3 in the event the Developer and the LPA do reach agreement at the meeting on whether the Submitted Document needs to be amended such that the LPA can Approve it:
    - (a) where the Submitted Document does need to be amended, not more than 10 (ten) Working Days following the meeting the Developer shall submit the revised Submitted Document to the LPA for Approval and the LPA shall by no later than the LPA Response Date confirm to the Developer whether or not it Approves the revised Submitted Document **PROVIDED THAT** in the event the LPA refuses to Approve the revised Submitted Document the provisions of Clause 11 shall apply; or
    - (b) where the Submitted Document does not need to be amended, the LPA shall by no later than the LPA Response Date confirm to the Developer whether or not it Approves the revised Submitted Document **PROVIDED THAT** in the event the LPA refuses to Approve the revised Submitted Document the provisions of Clause 11 shall apply.
- 10.5 The LPA and the Developer may agree in writing to increase or decrease the number of Working Days in which the actions required by Clauses 10.1 to 10.4 (inclusive) are required to be undertaken if considered appropriate in all the circumstances.
11. **DISPUTE RESOLUTION**
- 11.1 One party may by serving notice on all the other parties (the "**Notice**") refer a Dispute to an Expert for determination.
- 11.2 The Notice must specify:
- 11.2.1 the nature, basis and brief description of the Dispute;
  - 11.2.2 the Clause or paragraph of a Schedule or Appendix pursuant to which the Dispute has arisen; and
  - 11.2.3 the proposed Expert.
- 11.3 In the event that the Parties are unable to agree whom should be appointed as the Expert within 10 (ten) Working Days after the date of the Notice then either Party may request the President of the Law Society (except where Clause 11.7 provides otherwise) to nominate the Expert at their joint expense.
- 11.4 The Expert shall act as an expert and not as an arbitrator and his decision will (in the absence of manifest error) be final and binding on the Parties hereto and at whose

cost shall be at his discretion or in the event that he makes no determination, such costs will be borne by the parties to the Dispute in equal shares.

- 11.5 The Expert will be appointed subject to an express requirement that he reaches his decision and communicates it to the Parties within the minimum practicable timescale allowing for the nature and complexity of the Dispute and in any event not more than 20 (twenty) Working Days from the date of his appointment to act.
- 11.6 The Expert will be required to give notice to each of the said Parties inviting each of them to submit to him within 10 (ten) Working Days written submissions and supporting material and will afford to each of the said Parties an opportunity to make counter submissions within a further five Working Days in respect of any such submission and material.
- 11.7 Where the Parties are unable to agree whom should be appointed as the Expert, either Party may request that the following nominate the Expert at their joint expense:
- 11.7.1 if such dispute shall relate to matters concerning the construction, interpretation and/or the application of this Agreement, the Chairman of the Bar Council to nominate the Expert;
- 11.7.2 if such dispute shall relate to matters requiring a specialist chartered surveyor, the President of the Royal Institute of Chartered Surveyors to nominate the Expert;
- 11.7.3 if such dispute shall relate to matters requiring a specialist chartered civil engineer or specialist transport adviser, the President of the Institution of Civil Engineers to nominate the Expert;
- 11.7.4 if such dispute shall relate to matters requiring a specialist chartered accountant, the President of the Institute of Chartered Accountants in England and Wales to nominate the Expert; and
- 11.7.5 in all other cases, the President of the Law Society to nominate the Expert.

**12. NO WAIVER**

No waiver (whether expressed or implied) by the LPA of any breach or default by the Developer in performing or Complying with any of the obligations, covenants or undertakings contained in this Agreement shall constitute a continuing waiver and no such waiver shall prevent the LPA from enforcing any of the said obligations, covenants or undertakings or from acting upon any subsequent breach or default in respect thereof by the Developer.

**13. DUTY TO ACT REASONABLY AND IN GOOD FAITH**

The Parties agree with one another to act reasonably and in good faith in the fulfilment of this Agreement.

**14. EXCLUSION OF CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

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

**15. THE LPA'S COSTS**

- 15.1 The Developer agrees that it will on completion of the Agreement pay:

- 15.1.1 the LPA's legal costs incurred in the negotiation and completion of this Agreement (inclusive of any such costs incurred by external lawyers appointed by the LPA in relation to the negotiation and completion of this Agreement); and
- 15.1.2 the LPA's costs incurred in the review of development appraisals and viability assessments in connection with the Development (inclusive of any such costs incurred by external surveyors appointed by the LPA); and
- 15.1.3 the LPA's monitoring costs in the sum of £700.

**16. FINANCIAL CONTRIBUTIONS AND INDEXATION**

- 16.1 Where, pursuant to this Agreement, a payment or financial contribution is to be made, such payment or financial contribution shall be paid in accordance with the triggers and provisions for payment set out in and in accordance with all relevant provisions of this Agreement.
- 16.2 All payments or financial contributions to be paid pursuant to this Agreement will be increased by reference to the amount of the quarterly increase in the Index from the date of this Agreement until the date such sums are paid.
- 16.3 Where any sum or value is referred to in this Agreement (but is not the subject of a payment) such sum or value shall be increased by the increase of the Index from the date of this Agreement until the date the sum or value falls to be considered or applied.

**17. JURISDICTION AND LEGAL EFFECT**

- 17.1 This Agreement shall be governed by and interpreted in accordance with the law of England.
- 17.2 The provisions of this Agreement (other than this Clause 17.2 which shall be effective in any event) shall be of no effect until this Agreement has been dated.

**18. EXECUTION**

The Parties have executed this Agreement as a deed and it is delivered on the date set out at the front of this Agreement.



## SCHEDULE 1

### AFFORDABLE HOUSING

#### DEFINITIONS

- "Affordable Housing"** means housing including Social Rented Housing, Affordable Rented Housing and Intermediate Housing, provided to eligible households whose needs are not met by the market, and which housing should (a) meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local housing prices and (b) include provision for the home to remain at an affordable price for future eligible households, or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision;
- "Affordable Housing Contracts"** means a binding contract between the Developer and the Affordable Housing Provider for the construction and transfer of Affordable Housing Units to the Affordable Housing Provider;
- "Affordable Housing Provider"** means a provider of Affordable Housing Approved in respect of the Development pursuant to paragraph 1.1 of this Schedule;
- "Affordable Housing Units"** means the Residential Units to be provided as Affordable Housing pursuant to this Schedule;
- "Affordable Rented Housing"** means rented housing that has the same characteristics as Social Rented Housing except that it is outside the National Rent Regime, but is subject to other rent controls that require it to be offered to eligible households at a rent of up to 80 per cent of local market rents;
- "Affordable Rented Housing Units"** means Affordable Housing Units to be made available for Affordable Rented Housing pursuant to paragraph 2 of this Schedule;
- "Affordable Rents"** means the weekly rents set out in the table below:

Size	Weekly Rent (inc Service Charge) on first letting of an Affordable Rented Housing Unit
1 bed	£169.85
2 bed	£198.32
3 bed	£218.76
4 bed	£250.01

subject to an annual percentage rent increase by reference to the amount of the annual increase in the

Retail Price Index (RPI) + 0.5% (calculated from the date of this Agreement and based on the annual RPI rate published for the preceding September), or such other rate of annual increase as shall be published by the HCA under their Rent Standard Guidance, including any rate published by the HCA pursuant to the consultation entitled "The Regulatory Framework for Social Housing in England from April 2012 Annex A: Rent Standard Guidance");

**"Grant Funding"**

means any capital funding provided by the HCA, GLA or any other public body for the delivery of additional Affordable Housing in the Development;

**"Homes and Communities Agency" or "HCA"**

means the organisation empowered to regulate registered providers of Affordable Housing under the Housing and Regeneration Act 2008 or any successor body having functions currently exercised by the Homes and Communities Agency;

**"HomeBuy Agent"**

means a body appointed or approved by the HCA to act as agents for the allocation of the Shared Ownership Units;

**"Intermediate Housing"**

means submarket housing which is above Target Rents but below open market levels and which housing includes schemes such as Shared Ownership Housing or shared equity housing, intermediate rent and rent to buy housing provided always that such schemes meet the affordability criteria as referred to in the supporting text of Policy 3.10 of the London Plan 2011;

**"Lifetime Home Standards"**

means the incorporation of the 16 design standards which together create a flexible blue print for accessible and adaptable housing published by the Joseph Rowntree Foundation Lifetime Homes Group and which standards incorporate all of the Part M Building Regulations and relevant parts of the Housing Corporation Design and Quality Standards;

**"Model Form of Lease"**

means the model forms of lease for Shared Ownership Housing published by the HCA from time to time;

**"National Rent Regime"**

means the regime under which the social rents of tenants of social housing are set, with particular reference to the Guide to Social Rent Reforms (March 2001) and the Rent Influencing Regime Guidance (October 2001);

**"Perpetuity"**

means a minimum term of One Hundred and Twenty Five years from the date of first Occupation of an Affordable Housing Unit;

**"Rents and Nominations Agreement"**

means the rents and nominations agreement substantially in the form of the draft attached at Appendix 1 of this Agreement;

**"Shared Ownership Housing"**

means a unit occupied partly for rent and partly by way of owner occupation on shared ownership terms as defined in section 2(6) of the Housing Act 1996 where

the lessee for the time being has the right to carry out staircasing and dispose of the unit on the open market in accordance with the provisions of the Model Form of Lease;

- "Shared Ownership Units" means Affordable Housing Units to be made available for Shared Ownership Housing pursuant to paragraph 2 of this Schedule;
- "Social Rented Housing" means rented housing for which guideline target rents are determined through the National Rent Regime;
- "Staircasing" means the purchase by the owners of additional equity in a Shared Ownership Unit or shared equity unit;
- "Target Rents" means rents calculated in accordance with the formula set out in the *Guide to Social Rent Reforms in the Local Authority Sector* published by the Department of the Environment, Transport and the Regions in March 2001 or such amended formula published by the Government from time to time and also in accordance with any documents published by the HCA giving effect to such formula or amended formula.

**1. AFFORDABLE HOUSING PROVIDER**

- 1.1 Prior to the Commencement of Development the Developer shall submit to the LPA and obtain its Approval to a list of companies or organisations involved in the provision of Affordable Housing who if Approved shall be capable of being Affordable Housing Providers for the Development PROVIDED THAT no Approval shall be required for any of the registered providers within the Peabody group of companies.
- 1.2 The Developer will:
  - 1.2.1 proceed diligently and with all due expedition to negotiate and enter into an Affordable Housing Contract in respect of the Affordable Rented Housing Units and the Shared Ownership Units to be provided pursuant to paragraph 2 of this Schedule; and
  - 1.2.2 notify the LPA within 10 Working Days of entering into an Affordable Housing Contract.

**2. MINIMUM AFFORDABLE HOUSING PROVISION**

- 2.1 Not less than 5 Residential Units shall be provided as Shared Ownership Units.
- 2.2 Not less than 10 Residential Units shall be provided as Affordable Rented Housing Units.
- 2.3 The Affordable Housing to be provided pursuant to paragraphs 2.1 and 2.2 above shall comprise the following unit size mix:

	2 bed/4 person units	3 bed/5 person units	4 bed/7 person units	Total number of units
Shared Ownership Units	5	0	0	5

Affordable Rented Housing Units	1	4	5	10
---------------------------------	---	---	---	----

- 2.4 Not more than than 28 Private Residential Units shall be Occupied until:
- (a) the Affordable Rented Housing Units and the Shared Ownership Units are Completed; and
  - (b) the Affordable Rented Housing Units and the Shared Ownership Units have been transferred to the Affordable Housing Provider pursuant to the Affordable Housing Contract.

**3. AFFORDABLE RENTS AND AFFORDABILITY CRITERIA**

- 3.1 The rents (inclusive of service charge) charged for the first letting of any Affordable Rented Housing Unit shall not exceed the applicable Affordable Rent PROVIDED THAT the Developer shall obtain the written agreement of the LPA as to the amounts of the weekly rents and the LPA shall act reasonably when agreeing any proposed revisions to these weekly rents.
- 3.2 The rents (inclusive of service charge) on subsequent lettings and tenancy renewals of any Affordable Rented Housing Unit (which for the avoidance of doubt shall not include tenancies which are continuing after a probationary period) shall not exceed the applicable Affordable Rent unless otherwise agreed in writing with the LPA.
- 3.3 The cost of rent and/or mortgage payments and service and estate charges in relation to the Shared Ownership Units shall not exceed the general affordability criteria for Shared Ownership Housing published by the Greater London Authority from time to time.

**4. GRANT FUNDING**

- 4.1 The Developer shall:
- 4.1.1 use Reasonable Endeavours to secure Grant Funding;
  - 4.1.2 notify the LPA of the outcome of any such application for Grant Funding within 10 Working Days of receipt of the same;
  - 4.1.3 if Grant Funding is secured, notify the LPA as to the quantum, tenure and proposed location of the additional Affordable Housing to be provided in the Development.
- 4.2 The LPA shall provide such non-financial support as may be reasonably requested by the Developer in respect of any applications for Grant Funding pursuant to Paragraph 4.1 above.
- 4.3 If Grant Funding is offered or secured subject to conditions that would prevent the Developer from complying with any of the obligations in this Schedule, the Developer and the LPA shall meet to discuss any amendments to the said obligations which would be necessary to deliver additional Affordable Housing in the Development with such Grant Funding PROVIDED THAT there shall be no obligation on the LPA to agree to any such amendments even if this results in the Grant Funding not being available.
- 4.4 If Grant Funding is made available for the delivery of any Intermediate Housing within the Development, the Developer shall within the later of 28 (twenty-eight) days of

receipt of such Grant Funding or Commencement of Development notify the LPA which units of Affordable Housing are being delivered with the assistance of such funding (a "Grant Funded Unit").

4.5 The Developer shall provide the LPA with an annual return in respect of the Staircasing of any Grant Funded Units which shall contain details of:

- 4.5.1 the amount of each Staircasing payment;
- 4.5.2 the amount of equity in each Grant Funded Unit owned by the Occupier before such Staircasing payment was made;
- 4.5.3 the amount of additional equity acquired by the Occupier in each such Grant Funded Unit; and
- 4.5.4 the Developer's costs incurred in relation to the Staircasing of each such Grant Funded Unit to be deducted for the purposes of paragraph 4.6 below.

4.6 Subject to the terms of any grant agreement with any body or other binding funding conditions providing Grant Funding, the balance of any payment received by the Developer in respect of the Staircasing of a Grant Funded Unit less the Developer's reasonably and properly incurred costs in relation to such Staircasing (including but not limited to legal and other professional fees) shall be applied by the Developer towards the provision of additional Affordable Housing within the LPA's administrative area.

## 5. GENERAL

5.1 The Developer hereby covenants with and undertakes to the LPA that the Developer will in respect of Affordable Housing:-

- 5.1.1 not Occupy or cause or permit to become Occupied the Affordable Housing Units for any purpose other than for Affordable Housing in Perpetuity;
- 5.1.2 provide that 10% of the Affordable Housing Units are accessible or easily adaptable for wheelchair users across all tenures and unit sizes, and provide details including 1:50 floor plans of the proposed wheelchair accessible dwellings to the LPA for Approval prior to commencement and notify the LPA at least nine months prior to their Completion;
- 5.1.3 provide the Affordable Housing Units to London Design Standards and Lifetime Home Standards;
- 5.1.4 either:
  - (a) ensure that the Affordable Housing Contract imposes a requirement on the Affordable Housing Provider to deliver a duly executed Rents and Nominations Agreement to the Council within 6 months of date of the Affordable Housing Contract; or
  - (b) if at any time the Developer is the Affordable Housing Provider for the Development and there is no Affordable Housing Contract the Developer shall deliver to the Council a duly executed Rents and Nominations Agreement.

5.1.5 subject to the reasonable availability of such information and data protection legislation that binds both the Developer and any Affordable Housing Provider, procure that the Affordable Housing Provider provides an annual return to the LPA with details of:

- (a) in respect of each letting of an Affordable Rented Housing Unit:
  - (i) the tenant;
  - (ii) the household income of such tenant;
  - (iii) the ethnicity of such tenant;
  - (iv) the location of the tenant's previous accommodation by local authority area; and
  - (v) the tenant's present occupation; and
- (b) in respect of the initial letting only of a Shared Ownership Unit the information required pursuant to paragraphs (i) to (v) above

PROVIDED THAT the LPA shall keep any information provided pursuant to this paragraph 5.1.5 confidential subject to any legal obligation on the LPA to disclose such information.

5.2 The provisions of this Schedule will not bind:

- 5.2.1 any mortgagee or chargee of the Affordable Housing Provider nor any mortgagee or charge of the owner for the time being of any leasehold interest in any of the Affordable Housing Units nor any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 or otherwise by such mortgagee or chargee of such Affordable Housing Provider or owner and who exercises any power of sale;
- 5.2.2 any person who has acquired 100% of the equity in a Shared Ownership Unit through Staircasing;
- 5.2.3 any person who exercises any right to buy or acquire an Affordable Housing Unit pursuant to a right under the Housing Act 1985 or the Housing Act 1996 or any other statutory power; or
- 5.2.4 any person or body deriving title through or from any of the parties mentioned in paragraphs 5.2.1 to 5.2.3.

5.3 The Developer will procure that the Transfer of any Shared Ownership Units to an Affordable Housing Provider imposes a requirement that when granting a lease of an individual Shared Ownership Unit the Affordable Housing Provider will use the appropriate Model Form of Lease.

5.4 Upon the transfer of any Affordable Housing Units to an Affordable Housing Provider the obligations imposed on the Developer in this Schedule in relation to those Affordable Housing Units shall be observed and performed by the Affordable Housing Provider and where any obligation is expressed as an obligation on the Developer to procure any act on the part of the Affordable Housing Provider, such obligation shall be construed as an obligation of the Affordable Housing Provider to itself perform the obligation in question.

## 6. RESTRICTION ON OCCUPATION OF AFFORDABLE HOUSING UNITS

6.1 Unless otherwise agreed by the LPA and subject to the terms of this Schedule and any Rents and Nominations Agreement:

- 6.1.1 no Affordable Rented Unit provided under the terms of this Schedule shall be Occupied other than as an Affordable Rented Unit and all occupational leases and tenancies of such units shall include a provision preventing sub-

letting and underletting save that this shall not prevent an occupational tenant having the right to take in a lodger or share occupation with another person provided that the occupational lease or tenancy contains a provision to the effect that the tenant must obtain the prior written consent of the landlord and is not permitted to grant any assured tenancy of any part of the Affordable Rented Unit; and

6.1.2 no Shared Ownership Unit provided under the terms of this Schedule shall be Occupied other than as an Shared Ownership Unit pursuant to a Model Form of Lease save that this shall not prevent an occupational tenant having the right to take in a lodger or share occupation with another person provided that the occupational lease or tenancy contains a provision to the effect that the tenant must obtain the prior written consent of the landlord and is not permitted to grant any assured tenancy of any part of the Shared Ownership Unit

in each case for so long only as the need exists for the tenure of Affordable Housing in question, such need to be determined by the LPA, and in the event that the LPA agrees with the Developer (or any person nominated by the Developer for that purpose) that the need no longer exists for the Affordable Housing Units in question then those Affordable Housing Units may be sold on the open market as Private Residential Units.

## SCHEDULE 2

### TRANSPORT

#### DEFINITIONS

- "Local Transport Contribution" means the sum of £35,000 (Index Linked);
- "Sustainable Transport Improvements" means pedestrian, cycle or wayfinding improvements in the vicinity of the Site, to be identified in advance by the LPA.

#### 1. LOCAL TRANSPORT CONTRIBUTION

- 1.1 No Development shall be Commenced until the Developer has paid the Local Transport Contribution to the LPA.
- 1.2 The LPA shall apply the Local Transport Contribution exclusively towards Sustainable Transport Improvements.



### SCHEDULE 3

#### TRAVEL PLAN

#### DEFINITIONS

- "Initial Monitoring Period" means six months after first Occupation until 36 months after first Occupation of the final Building to be Completed;
- "Modal Split Targets" means the modal split targets identified in the Approved Travel Plan;
- "Sustainable Transport Measures" means measures to promote sustainable transport and encourage behavioural change (which may include the provision of physical infrastructure in order to encourage greater travel by walking and cycling) **PROVIDED THAT** such measures are in accordance with the requirements of regulation 122(2) of the Community Infrastructure Levy Regulations 2010;
- "Travel Plan" means the travel plan to be submitted to the LPA for Approval pursuant to paragraph 1 of this Schedule;
- "Travel Plan Monitoring" means monitoring of the Travel Plan by carrying out the following monitoring of travel to and from the Development which shall as a minimum include the following:
1. carrying out representative surveys of the modal split of visitors to the Development (including staff) together with details of where those who have travelled by vehicle (for all or part of their journey) have parked;
  2. monitoring of the usage of the car parking which is available for use in the Development;
  3. monitoring of the usage of cycle parking facilities by visitors to, and employees of, the Development;
- "Travel Plan Monitoring Officer" means a person appointed by the Developer to monitor and promote the success in meeting the targets set out in the Travel Plan;
- "Travel Plan Monitoring Report" a report setting out the data and information gathered during the Travel Plan Monitoring undertaken during the Travel Plan Review Period and such report shall include:
1. details of trip generation rates;
  2. details of mode share and change in mode share over time;
  3. details of how effectively the Travel Plan has operated within the previous period;

4. any data and information necessary for the purposes of determining whether or not the Modal Split Targets have been achieved; and
5. (where the objectives and/or targets specified in the Travel Plan have not been met) a proposed revision to the Travel Plan for Approval by the LPA setting out additional and/or enhanced measures to bridge any shortfall in achieving the objectives and targets of the Travel Plan together with a timetable for implementing such measures;

**"Travel Plan Review Period"**

means initially the period of 6 months commencing on first Occupation of a Residential Unit and thereafter annually on a rolling basis.

**1. TRAVEL PLAN**

1.1 The Development shall not Commence until:

- 1.1.1 a Travel Plan has been submitted to and Approved by the LPA;
- 1.1.2 the Developer has appointed a Travel Plan Monitoring Officer and notified the LPA of the name and contact details of such officer.

1.2 The Travel Plan shall contain separate measures, commitments, targets and plans for the residential and commercial uses authorised by the Planning Permission.

1.3 The Travel Plan to be submitted pursuant to paragraph 1.1 shall:

- 1.3.1 comply with TfL 'Travel Planning for new development in London' or such other best practice guidance as shall apply at the date of submission of the Travel Plan;
- 1.3.2 contain clear commitments to measures, including investigation of potential additional measures;
- 1.3.3 set out a clear process for review, consultation and approval of changes (and specifically targets) with the LPA;
- 1.3.4 have obtained a 'Passed' score in the online Travel Plan assessment tool 'ATTRBUTE';
- 1.3.5 contain measures aimed at:
  - (a) positively influencing the travel behaviour of residents, employees and other users of the Development by promoting alternative travel modes to the car including initiatives to reduce reliance on the car and over time reduce car parking On Site;
  - (b) encouraging travel by cycle, on foot and by public transport by highlighting their accessibility, availability and reviewing cycle parking space demand and use and set out measures for providing additional cycle parking spaces should further demand arise;

- (c) setting out how monitoring travel surveys will be undertaken which cover all employees within the Development.
- 1.3.6 include a parking review plan which sets out:
  - (a) a strategy for periodic review of the parking spaces;
  - (b) a strategy for periodic review of blue badge parking spaces to ensure that 1 x space is provided for each employee who is a disabled motorist in line with London Plan policy.
- 1.3.7 include a car parking management plan which sets out:
  - (a) principles for allocating car parking spaces for staff and enforcement of allocated spaces;
  - (b) principles for the prevention of unauthorised parking Off Site which could affect performance of the local highway network.
- 1.4 The Developer shall implement the Approved Travel Plan during the life of the Development and shall include provisions in any lease or licence of any non-residential unit requiring any Occupier of such unit to comply with the Travel Plan and any amendments thereto.
- 1.5 No Development shall be Occupied other than in accordance with the Approved Travel Plan and any amendments thereto.
- 2. TRAVEL PLAN MONITORING**
- 2.1 In order to monitor the effectiveness of the Travel Plan the Developer shall during the relevant Initial Monitoring Period carry out the Travel Plan Monitoring.
- 2.2 During the Initial Monitoring Period the Developer shall prepare and submit to the LPA for Approval a Travel Plan Monitoring Report by not later than 42 days after the end of each Travel Plan Review Period.
- 2.3 Prior to the submission of a report referred to in paragraph 2.2 the Developer shall agree the structure of that report with the LPA.
- 2.4 Following the expiry of the Initial Monitoring Period the Developer shall continue the Travel Plan Monitoring and either paragraph 2.5 or paragraph 2.6 of this Schedule shall apply.
- 2.5 If the Travel Plan Monitoring Report that is submitted to the LPA during the final year of the Initial Monitoring Period shows that the Modal Split Targets in the Travel Plan have been achieved then the Developer shall prepare a Travel Plan Monitoring Report on the third anniversary of the expiry of the relevant Initial Monitoring Period and subsequently every three years thereafter.
- 2.6 If the Travel Plan Monitoring Report that is submitted to the LPA during the final year of the Initial Monitoring Period Plan shows that any of the Modal Split Targets in the Travel Plan have not been achieved then the Developer shall prepare a Travel Plan Monitoring Report in accordance with a timetable specified by the LPA **PROVIDED THAT** the LPA shall not require the Developer to prepare a Travel Plan Monitoring Report more than once a year.
- 2.7 The Travel Plan Monitoring Reports that the Developer is required to prepare pursuant to either paragraphs 2.5 or 2.6 of this Schedule shall be submitted to the LPA for Approval within 42 days of the date by which they are required to be prepared.

2.8 If any Travel Plan Monitoring Report includes a revised Travel Plan for Approval by the LPA the Developer shall implement the revised Travel Plan as Approved so that it is in place and operational as soon as reasonably practicable after the LPA's Approval of the same.

3. **MODAL SPLIT TARGETS**

3.1 If any Travel Plan Monitoring Report ("**First Monitoring Report**") shows that any of the Modal Split Targets in the Travel Plan have not been achieved the Developer shall in the First Monitoring Report identify Sustainable Transport Measures that it can implement with the aim of seeking to achieve the Modal Split Targets in the Travel Plan which shall include a timetable for the implementation of such Sustainable Transport Measures.

3.2 The Developer shall implement the Sustainable Transport Measures that are set out in any First Monitoring Report in accordance with the timetable set out therein as Approved by the LPA.

3.3 If the Travel Plan Monitoring Report for the year immediately following the First Monitoring Report shows that any of the relevant Modal Split Targets are not being achieved the Developer shall repeat the process set out in paragraphs 3.1 and 3.2 of this Schedule for that year and each subsequent year until the Modal Split Targets are achieved.

**SCHEDULE 4**  
**ESTATE MANAGEMENT**

**DEFINITIONS**

- "Common Areas" means:
1. all private roads, shared surfaces, car parks and pedestrian and/or cycle routes within the Development which have not been adopted by the local highways authority pursuant to its powers under the 1980 Act at the date that the Estate Management Strategy is submitted;
  2. all areas within any Building which are used in common by Occupiers and users of such Buildings
- "Estate Management Strategy" means the site wide estate management strategy secured by Condition;
- "Fish Island" means the areas known as Fish Island North and Fish Island Mid shown edged orange and brown respectively on Plan 3;
- "Fish Island Consultees" means the owners and occupiers of Fish Island;
- "SUDS Infrastructure" means any sustainable urban drainage system comprised within the Development

**1. SITE WIDE ESTATE MANAGEMENT STRATEGY**

- 1.1 No Development shall be Commenced until an Estate Management Strategy has been submitted to the LPA for Approval. The Estate Management Strategy shall set out detailed proposals for the following:
- 1.1.1 the management and maintenance (including funding thereof) of:
    - (a) Common Areas; and
    - (b) any SUDS Infrastructure (unless and until such infrastructure is adopted by the relevant authority);
  - 1.1.2 the establishment of an estate management body, its composition (including On Site residential occupier and On Site commercial occupier representatives) and responsibilities;
  - 1.1.3 management and co-ordination of waste collection and recycling on a site wide basis;
  - 1.1.4 liaison, consultation and co-ordination with other strategies, frameworks, plans and statements required by this Agreement and the Planning Permission; and
  - 1.1.5 the appointment, scope and responsibilities of an estate management body appointed to engage with the Off Site communities, including the Fish Island Consultees.

1.2 No part of the Development shall be Occupied before the Estate Management Strategy has been Approved by the LPA and the estate management body specified in the Estate Management Strategy has been established.

## SCHEDULE 5

### EMPLOYMENT AND TRAINING

#### DEFINITIONS

- "Council's Area" means the administrative area of the Council;
- "Legacy Communities Scheme Careers Programme Group" means the group known as the Legacy Communities Scheme Careers Programme Group which is established and operated pursuant to the provisions of a section 106 agreement dated 28 September 2012 and made between (1) the Olympic Delivery Authority (2) the London Legacy Development Corporation and (3) Transport for London;
- "Local Labour and Business Schemes" means the following schemes:-
1. in the LPA's administrative area - the Legacy Communities Scheme Careers Programme Group; and
  2. in the London Borough of Tower Hamlets – the scheme known as "Skillsmatch";
- "London Living Wage" means the minimum amount (£) of pay per hour that all workers in London should receive, as published from time to time by the GLA.

#### 3. LOCAL LABOUR AND LOCAL BUSINESS

- 3.1 The Developer shall use Reasonable Endeavours to, and shall procure that its contractors (in respect of construction vacancies and jobs) and its tenant(s) and any sub-tenants (in respect of end-use vacancies and jobs), use reasonable endeavours to:
- 3.1.1 advertise all job vacancies arising from the Development in Local Labour and Business Schemes and job centres in the Council's Area;
  - 3.1.2 notify Local Labour and Business Schemes of all job vacancies arising from the Development;
  - 3.1.3 ensure the recruitment of persons living in the Council's Area account for 25% of the construction jobs arising from the Development;
  - 3.1.4 ensure the recruitment of persons living in the Council's Area account for a total of between 25% and 85% of the end-use jobs at the Development;
  - 3.1.5 pay all employees employed at the Development in construction jobs the London Living Wage;
  - 3.1.6 inform and promote the adoption of the London Living Wage for end use jobs at the Development; and
  - 3.1.7 provide work-based learning opportunities, including not less than 1 apprenticeship opportunity, at the Development

to the extent that the Developer is not prevented from doing so by any rule of law whether domestic or international.

3.2 To the extent that it is reasonably practicable to do so and the Developer is not prevented from doing so by any rule of law whether domestic or international, the Developer shall:

- 3.2.1 use Reasonable Endeavours to ensure that businesses based in the Council's Area benefit directly from the commercial opportunities arising from the Development;
- 3.2.2 use reasonable endeavours to ensure that the use of local suppliers and contractors accounts for 20% of the value of contracts let for the construction phase; and
- 3.2.3 provide local agencies with early information relating to availability of vacant space within the Development.



## SCHEDULE 6

### SUSTAINABILITY

#### DEFINITIONS

- "District Energy Network" means the Olympic Park district energy network;
- "On Site CHP Plant" means gas boilers and a combined heat and power plant to be located On Site within a central plant room.

#### 1. DISTRICT HEATING NETWORK

##### 1.1 The Developer shall:

- 1.1.1 use Reasonable Endeavours to extend or procure the extension of the District Energy Network to the Site and thereafter connect all Buildings to the District Energy Network; and
- 1.1.2 provide a written report to the LPA prior to the Commencement of Development outlining the steps the Developer has taken to satisfy the obligation in paragraph 1.1.1 above and the progress made towards securing the extension and connection.

##### 1.2 If the report submitted pursuant to paragraph 1.1.2 concludes that it will not be possible (including but not limited to technical and/or financial factors) to connect all Buildings to the District Energy Network the Developer shall submit to the LPA for Approval details of an On Site CHP Plant.

##### 1.3 No Development shall be Commenced until either:

- 1.3.1 the report submitted pursuant to paragraph 1.1.2 confirms to the LPA's satisfaction that it will be possible to connect all Buildings to the District Energy Network; or
- 1.3.2 the LPA has approved the details of an On Site CHP Plant pursuant to paragraph 1.2.

##### 1.4 No Building shall be Occupied unless and until it is connected to either the District Heating Network or the Approved On Site CHP Plant.

#### 2. REDUCTION OF ENERGY DEMAND

##### 2.1 The Developer shall use Reasonable Endeavours to encourage Occupiers of the Development to reduce their energy usage which shall include (without limitation):

- 2.1.1 dissemination of marketing materials and the provision of education and training (including tips and advice) on energy saving methods;
- 2.1.2 the promotion of the use of energy efficient appliances; and
- 2.1.3 the installation of energy efficient appliances where these are installed as part of the original construction and fit out of the Development (or any part thereof).

**SCHEDULE 7**

**PHASING PLAN**

**DEFINITIONS**

**"Phasing Plan"**

means a plan setting out the proposed phasing for the construction of Block A, Block B and Block C.

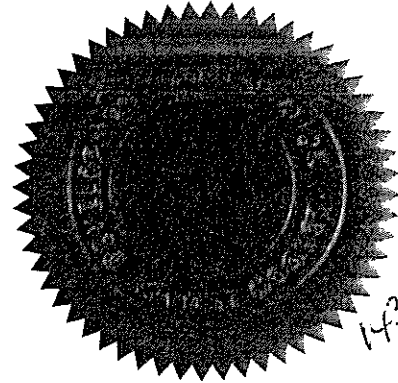
**1. PHASING PLAN**

- 1.1 No Development shall be Commenced until a Phasing Plan has been submitted to and Approved by the LPA.
- 1.2 The Development shall be implemented in accordance with the Approved Phasing Plan.

IN WITNESS whereof the parties have executed this Agreement the day and year first above written

EXECUTED as a deed by affixing the  
Common Seal of LONDON LEGACY  
DEVELOPMENT CORPORATION )  
)  
)  
)  
)

in the presence of : -



*[Handwritten signature]*

Authorised Signatory

EXECUTED as a deed by BUDALA LIMITED  
acting by

*[Handwritten signature]*  
Director

*[Handwritten signature]*  
Director/Secretary

EXECUTED as a deed by CHERYL  
ROBERTS

*[Handwritten signature]*

in the presence of:-

Signature of witness *[Handwritten signature]*  
Name of witness S. Fris  
Address of witness 14 Holywell Row, London, EC2A 4JB  
Occupation of witness PA / office manager

EXECUTED as a deed by **GUILIO PIACQUADIO**

*Guilio Piacquadio*

in the presence of:-

Signature of witness ..... *S. Fris*

Name of witness ..... *Sabine Fris*

Address of witness ..... *14, Holynell Row, London, EC2A 4JB*

Occupation of witness ..... *PA/Office manager*

EXECUTED as a deed by **GIOVANNA PIACQUADIO**

*Giovanna Piacquadio*

in the presence of:-

Signature of witness ..... *Joanna Brown*

Name of witness ..... *JOANNA BROWN*

Address of witness ..... *78 DAYS LANE SIDCUP DA15 8JS*

Occupation of witness ..... *FINANCIAL CONTROLLER*

EXECUTED as a deed by **ZIFFMELL LIMITED** acting by

*[Signature]*

Director

In the presence of:-

Signature of witness ..... *S. Fris*

Name of witness ..... *S. Fris*

Address of witness ..... *14, Holynell Row London EC2A 4JB*

Occupation of witness ..... *PA/Office Manager*

APPENDIX 1  
RENTS AND NOMINATIONS AGREEMENT

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100



	housing provision.
<b>"Affordable Housing Units"</b>	means 10 units of Affordable Rented Housing and 5 units of Intermediate Housing to be made available for Affordable Housing on the Land in accordance with the housing tenure and mix shown illustrated in the table at Appendix 3 to this Deed
<b>"Voluntary Additional Affordable Housing Units"</b>	Means residential units currently identified as Market Sale Housing which will be converted to Affordable Units in addition to the units detailed in the S106 agreement.
<b>"Affordable Rented Housing"</b>	rented housing provided by a RP or AAHP, that has the same characteristics as Social Rented Housing except that it is outside the National Rent Regime, but is subject to other rent controls that require it to be offered to eligible households at a rent of up to 80 per cent of local market rents.
<b>"Affordable Rent Units"</b>	means 10 units to be made available for Affordable Rented Housing on the Land as identified in the table at Appendix Three to this Deed and any Voluntary Additional Affordable Housing Units that are made available for Affordable Rented Housing.
<b>"Agent"</b>	means a Local HomeBuy service introduced by the Mayor of London to provide a one-stop-shop for low cost housing products funded through the GLA..
<b>"Alternative Affordable Housing Provider" or "AAHP"</b>	means a house builder, housing contractor provider or funder of Affordable Housing who is not an RP but is approved by the Council to manage Affordable Housing and who is able to demonstrate accreditation under the HCA "Housing Management Accreditation Scheme" (March 2006) and "Affordable Home Ownership Housing Management Accreditation Scheme" (July 2007), (or such other new editions as may be published from time to time) such approval not to be unreasonably withheld or delayed.
<b>"Common Housing Register" and "Choice Based Lettings"</b>	means a single housing list and lettings system shared by the Council in common with its RP partners giving access to available homes of the Council and its RP partners to persons in housing priority need.
<b>"Dispose"</b>	means to sell, let or otherwise part with possession ("dispose") and "Disposal" and "Disposed" shall be construed accordingly.
<b>"Estate Charges"</b>	means such charges as are payable by the Owner for the provision of services to the Affordable Rented Units including any annual increases in such charges.
<b>"Greater London Authority" or "GLA"</b>	means the housing and regeneration agency with responsibility for providing funding for Affordable Housing in the Greater London area succeeding the HCA in that function pursuant to the Localism Act 2011 or any successor body having such functions.
<b>"Intermediate Housing"</b>	means submarket housing which is above target rents but below open market levels and which housing includes schemes such as Shared Ownership housing or shared equity housing, Intermediate Rent, Rent to Buy and Key Worker housing provided always that such schemes meet the affordability criteria as referred to in the supporting text of Policy 3.10 of the London Plan 2011.
<b>"Homes and Communities Agency" or "HCA"</b>	Means the organisation empowered to regulate RPs under the Housing and Regeneration Act 2008 or any successor body having such functions
<b>"Intermediate Housing Units"</b>	means 5 units to be made available for Intermediate Housing on the Land as identified in the table at Appendix Three to this Deed.



<b>"Land"</b>	means that part of the Land at Monier Road, Fish Island as defined in the Planning Obligation Agreement upon which the Affordable Housing Units are to be provided.
<b>"National Rent Regime"</b>	means the regime under which the social rents of tenants of social housing are set, with particular reference to the Guide to Social Rent Reforms (March 2001) and the Rent Influencing Regime Guidance (October 2001).
<b>"Nominations Procedure"</b>	means the Council's standard procedure set out in this Agreement to make nominations to Registered Providers or AAHPs in relation to Affordable Housing units on the Land as set out in clauses 3 and 4 such standard procedure being modified to include a means test on affordability as may be specified and/or amended by the Council from time to time PROVIDED THAT the Council shall not vary amend or add to the Nominations Procedure without the agreement of the Owner to any such change such agreement not to be unreasonably withheld or delayed.
<b>"Perpetuity Period"</b>	means a minimum term of One Hundred and Twenty Five years from the date of Practical Completion of the First Affordable Housing Unit.
<b>"Planning Obligation Agreement"</b>	means the Planning Obligation Agreement entered into pursuant to the Planning Permission.
<b>"Planning Permission"</b>	means planning permission ref: PA/ / as modified or varied from time to time.
<b>"Practical Completion"</b>	means the date that the certificate of practical completion is issued in respect of the Affordable Housing Units.
<b>"Retail Price Index"</b>	means the United Kingdom General Index of Retail Prices (all Items) or if such index is no longer published or if the basis of calendar is changed such other published index of retail prices or the value of money as the Owner with the consent of the Council (which shall not be unreasonably withheld or delayed) shall decide.
<b>"Registered Provider" or "RP"</b>	means a provider of Affordable Housing registered as such by the HCA under section 111 of the Housing and Regeneration Act 2008 and approved by the Council such approval not to be unreasonably withheld or delayed.
<b>"Shared Ownership"</b>	means a form of Affordable Housing provided by an RP or AAHP in which the occupier owns a share of the property and the remainder of the property is owned by the RP or AAHP on which the occupier may pay a rent and is entitled to purchase further shares up to 100% and which meets the affordability criteria referred to in the supporting text of Policy 3.10 of the London Plan 2011.
<b>"Social Rented Housing"</b>	Means rented housing owned and managed by local authorities, RP's or an AAHP, for which guideline target rents are determined through the National Rent Regime.
<b>"Social Rented Unit/s"</b>	means [x] Affordable Housing Units to be made available for Social Rented Housing on the Land.
<b>"Substitute Nomination"</b>	means the written notification served on the Council by the Owner advising of the immediate availability of a substitute Social Rented Unit.

## 2. GOVERNING LEGAL PROVISIONS

2.1 This Agreement is entered into pursuant to:

- (a) Section 16 of the Greater London Council (General Powers) Act 1974; and
- (b) Section 33 of the Local Government (Miscellaneous Provisions) Act 1982; and
- (c) All other powers enabling in that behalf.

2.2 Any reference to a statute in this Agreement includes any statutory extension modification amendment or re-enactment thereof and also includes rules instruments regulations or orders made under it.

2.3 This Agreement shall bind the Owner and its successors in title for the Perpetuity Period.

2.4 The Owner covenants and undertakes to the Council:

- a) that the mix of Voluntary Additional Affordable Housing units will be discussed with the Council at the time of any application for grant and that reasonable efforts will be made where possible to ensure that the mix of sizes and tenures for these units complies with the Council's policy requirements
- b) that the location of the Voluntary Additional Affordable Housing units within the scheme will be discussed with the Council
- c) that the rent levels for the Voluntary Additional Affordable Housing units will be discussed with the Council, taking account of the Council's policies on Affordable Rents which are intended to be affordable to local residents on average incomes.

PROVIDING ALWAYS THAT the Council acknowledges that the Owner has already designed the development to be constructed on the land and therefore acknowledges that the Owner will have limited flexibility in relation to the size and location of the Voluntary Additional Affordable Housing Units.

### 3. RENTAL NOMINATIONS PROCEDURE

The Owner covenants and undertakes to the Council in relation to the Affordable Rented Units that for the Perpetuity Period the Owner will:

3.1 Use the Affordable Rented Units for housing:

- (A) residents of the London Borough of Tower Hamlets; or
- (B) people who are on the Council's Common Housing Register but not necessarily resident in the London Borough of Tower Hamlets who are in Affordable Housing need on periodical tenancies and for no other purpose without the prior written approval of the Council such approval not to be unreasonably withheld or delayed.

3.2 Sign up to participate and comply with the terms of the Council's Common Housing Register and Choice Based Lettings procedure as defined by the Council from time to time, PROVIDED THAT if the Council's Common Housing Register and Choice Based Lettings procedure is no longer in operation the Owner will comply with the remainder of this clause 3.

3.3 Apply to the Council for nominations to the tenancies of 100% of the Affordable Rented Units under the Nominations Procedure a minimum of two months before the Affordable Rented Units first becoming available for letting.

3.4 apply to the Council for a nomination to every tenancy using the Nomination Procedure on every occasion when an Affordable Rented Unit reverts to the Owner and is available for letting.

3.5 Accept the nominee of the Council as tenant in accordance with the Nominations Procedure on each occasion under Clauses 3.3 and 3.4 above and the Owner will in case of rejection re-offer the right to nominate to the Council under the Nominations Procedure.

3.6 If there has been insufficient referrals or insufficient take up so that there are a number of Affordable Rented Units still available, then the above procedure will be repeated PROVIDED THAT if:

3.6.1 by two weeks prior to Practical Completion of the Affordable Rented Units there are a number of properties that remain unlet; or

3.6.2 on a subsequent letting in the event that an Affordable Rented Unit remains un-let after a period of four weeks from the receipt of the Owner's second request for nominations to that unit.

then the Owner shall be entitled to offer any such Affordable Rented Unit to people in housing need who have not been referred by the Council or the Agent PROVIDED THAT for the avoidance of doubt the procedure in this clause 3 shall apply on every subsequent letting FURTHER PROVIDED THAT nothing in this Agreement shall require the Owner to accept any nominee who does not fall within:

- (a) the Owner's objects; or
- (b) the Owner's policy on allocations or referrals; or
- (c) any reasonable criteria from time to time established by the Owner which should be satisfied by any tenant seeking a tenancy from the Owner.

3.7 Subject to clause 9 below and any changes in legislation the Owner will not Dispose of the Affordable Rented Units unless the procedure set out in Clause 4 below is invoked.

#### **4. SUBSTITUTE AFFORDABLE RENTED UNITS**

4.1 The Owner must notify the Council of its wish to make a Substitute Nomination at least 28 days before completion of its Disposal of the Affordable Rented Unit.

4.2 The substitute Affordable Rented Unit shall be:

- (a) of a size equal to or larger than the Affordable Rented Unit proposed to be disposed of when measured by reference to size and number of habitable rooms; and
- (b) within the boundaries of (i) firstly the LLDC's administrative area (ii) secondly the London Borough of Tower Hamlets' administrative area which is outside of the LLDC's administrative area; and
- (c) in tenable repair and condition; and
- (d) not subject to any other nomination right owed to the Council; and
- (e) not subject to any restriction on nomination by reference to the type of tenant who may be nominated (requirements that it be used for persons in necessitous circumstances or other income restrictions of a like kind excepted); and
- (f) available for letting on the terms set out in Clause 5 hereof for the remainder of the period until the expiry of this Agreement; and
- (g) similar in its provision of such amenities as pertain to the Affordable Rented Unit proposed to be Disposed of.

4.3 The Owner shall before the Disposal of the Affordable Rented Unit for which the Substitute Nomination has been made execute and deliver to the Council documents containing covenants (to be in a form reasonably satisfactory to the Council) similar and relevant in all respects to the terms of this Agreement and binding the Substitute Nomination unit to be held under this Agreement (including the obligation to provide the Substitute Nomination unit for the Perpetuity Period).

- 4.4 If the Council objects in writing within 14 days of receipt of the Substitute Nomination that in its opinion any of the criteria set out in Clause 4.2 are not satisfied, then the Disposal of the Affordable Rented Unit shall not take place until either the Council withdraws its objection or the matter has been determined by a third party agreed between the parties or if not agreed within 14 days then appointed by the President for the time being of the Chartered Institute of Housing.
- 4.5 The third party referred to in Clause 4.4 shall act as an expert and shall be obliged to consider representations from both sides except that if either party has not made representations within 14 days of a request in writing by the third party he may proceed without considering such representations AND the third party shall be entitled to rely on his own experience and on whatever other evidence he chooses and shall produce a reasoned report stating whether in his view the criteria are met in full or are not met in full and his decision shall be binding on both parties and he may award costs as he sees fit (but if no such decision as to costs is made, then his costs shall be borne equally by the parties).
- 4.6 In the event that the Council does not object within 14 days or the third party accepts that the criteria are met, the Substitute Nomination shall proceed.
- 4.7 In the event that the Owner agrees with the objection or the third party decides that any of the criteria set out in Clause 4.2 are not met then the Owner may at its own option:
- 4.7.1 abandon the Disposal of the Affordable Rented Unit; or
- 4.7.2 notify the Council of another Substitute Nomination.
- 4.8 It is hereby agreed that on delivery of the Substitute Nomination documents referred to in Clause 4.3 hereof, the Affordable Rented Unit referred to therein shall thenceforth be freed from the covenants and undertakings contained in Clause 3 of this Agreement and this Agreement shall thereafter be construed as though the Substitute Nomination was an Affordable Rented Unit within this Agreement for all purposes AND in addition to the provisions of Clause 10 hereof a memorandum to that effect shall be endorsed on this Agreement.

## 5. RENT LEVELS

The Owner hereby undertakes and covenants in relation to the Affordable Rented Units that for the Perpetuity Period:

- 5.1 The rent (inclusive of service charge) on first letting of the Affordable Rented Units shall not exceed the amounts set out in the table in Appendix 3 as modified by clause 5.1.1
- 5.1.1 The rents for first lettings shall be subject to an annual percentage rent increase of RPI + 0.5% or such other rate of annual increase as shall be published by the HCA under their Rent Standard Guidance, including any rate published by the HCA pursuant to the consultation entitled "The Regulatory Framework for Social Housing in England from April 2012 Annex A: Rent Standard Guidance (calculated from the date of this Agreement) on top of the amounts set out in the table in Appendix 3 to this Agreement PROVIDED THAT the Owner shall obtain the written agreement of the Council as to the amounts of the weekly rents and the Council shall act reasonably when agreeing any proposed revision to these weekly rents.
- 5.1.2 Procure that the rents (inclusive of service charge) on subsequent lettings and tenancy renewals of the Affordable Rented Units (which for the avoidance of doubt shall not include tenancies which are continuing after a probationary period) shall not exceed the amounts set out in the table in Appendix 3 to this agreement above and which rents shall be subject to the HCA's permitted maximum annual rent increase of RPI +0.5% pa (calculated from the date of first letting of the Affordable Rented Units) or such other rate of

annual increase as shall be published by the HCA under their Rent Standard Guidance, including any rate published by the HCA pursuant to the consultation entitled "The Regulatory Framework for Social Housing in England from April 2012 Annex A: Rent Standard Guidance PROVIDED THAT if such weekly rents on subsequent letting and tenancy renewals are proposed to exceed the amounts set out in the table at Appendix 3 to this Agreement the Owner shall obtain the written agreement of the Council as to the amounts of the weekly rents and the Council shall act reasonably when agreeing the revised weekly rents.

5.2 The rent levels:

- 5.2.1 will not be altered except either as set out below or following a review which is to be implemented in April of each year by the Owner ("the Annual Review") starting from the 1st April in the year after Practical Completion of the construction of the Affordable Rented Units is achieved and by no more than the maximum amount as the HCA shall permit from time to time; and
- 5.2.2 shall not include the Estate Charges which the Owner shall apportion between and charge to the Affordable Rented Units and the other units at the Land in its normal manner.

5.3 The Owner will comply with this clause 5 for the length of term of the tenancy under which they hold the Affordable Rented Units in respect of each of the Affordable Rented Units unless one or more of the events set out in Appendix 2 hereto shall occur in respect of any Affordable Rented Unit upon which event that Affordable Rented unit shall be released from the undertakings and covenants hereby given.

5.4 In the event that the Owner may carry out improvements to one or more of the Affordable Rented Units or increases or decreases services to any of the Affordable Rented Units, the cost of providing these improvements and/or of providing or not providing such services shall be agreed between the parties hereto upon a notice to allow a rent change being served by the Owner and, in default of agreement within 14 days of receipt thereof, either the Council or the Owner may immediately after the expiry of that period refer the matter to an arbitrator ("the Arbitrator") to be appointed by the President for the time being of the Royal Institution of Chartered Surveyors (or in his absence a vice-president thereof) whose decision shall be final and binding on the parties (save in the case of manifest error) and his costs shall be payable by the parties in such proportions as he shall determine and failing such determination shall be borne by the parties in equal shares.

5.5 The Owner or the Council may serve a notice to allow a rent change at any time after a qualifying event (as set out in Appendix 1 hereto) has been proposed or implemented by service of the notice on the other party, which notice must be in writing and state that it seeks to vary the rent of a Affordable Rented Unit and it must identify the relevant Affordable Rented Unit and the proposed change and be signed by a senior finance officer of the Owner.

5.6 On service of the notice to allow a rent change, the Owner shall provide reasonable access to its relevant financial records to the Council and its officers or agents and for the avoidance of doubt all invoices, estimates internal memos and books of account shall be included in the term "financial records" and the Council shall be entitled to examine these records and take photocopies of any documents it reasonably requires to photocopy SAVE THAT the Council unless such documents are otherwise in the public domain shall treat such documents and any information derived from them and any copies confidential and shall not disclose such information copies or documents to any other person.

## 6. INTERMEDIATE HOUSING REFERRALS

In relation to the Intermediate Housing Units, the Owner covenants with the Council for the Perpetuity Period:

6.1 Not to permit the Intermediate Housing Units to be used other than for Shared Ownership purposes only unless otherwise agreed in writing by the Council (such agreement not to be unreasonably withheld or delayed) not less than six months prior to Practical Completion of the Intermediate Housing Units.

6.2 Not to Dispose of the Intermediate Housing Units unless otherwise agreed in writing by the Council (such agreement not to be unreasonably withheld or delayed) under other than by way of a Lease which includes provision:

(a) for the annual review of rent; and

(b) permits the tenant to acquire 100% of the equity in the unit

PROVIDED THAT the annual rent excluding Estate Charges in the Lease (if any) shall equate to not more than 3% of the value of the retained equity or such other greater figure as may from time to time be specified by the HCA and in this context the value of the unit shall be determined upon the assumption that the unit may be let or sold in the open market free of any restriction or condition limiting the use of the unit to Affordable Housing.

6.3 In the event that the Council requires the value of the retained equity (as referred to in clause 6.2 above) to be agreed the Parties shall use all reasonable endeavours to agree to such value but in the event of default of agreement it shall be determined by an independent surveyor having at least five years' experience in the valuation of housing within the London area and to be appointed by the President for the time being of the Royal Institution of Chartered Surveyors or his deputy.

6.4 Within 6 months prior to the anticipated date of Practical Completion of the Intermediate Housing Units to give notice to the Council and the Agent of the proposed date of Practical Completion of the Intermediate Housing units and to ensure that details of the Intermediate Units are registered on the Agent's website..

6.5 To ensure that all applicants being considered for an offer of an Intermediate Housing Unit, whether contacted through the Agent or through other sources, meet the income eligibility criteria as stated in the supporting text of policy 3.10 of the London Plan 2011.

6.6 To ensure that offers are made strictly in accordance with the Council's Priorities as set out in clause 6.7 of this Agreement.

6.7 The Council's Priorities in order of priority are as follows:

1. Public Sector Tenants being those tenants living in accommodation owned by the Council or a RP or AAHP in Tower Hamlets and wholly releasing accommodation to which the Council has nomination rights.
2. Leaseholders in blocks being decanted in anticipation of demolition who have a right to be rehoused by the Council.
3. People registered on the Council's Common Housing Register or waiting list.
4. Other Council residents who may not release Council accommodation when they move.
5. Others living in Tower Hamlets in rented accommodation or living with family or friends who do not appear on the Council's Common Housing Register.
6. People with strong connections by family ties within the Borough.
7. People who have permanent employment in the Borough.

6.8 The Owner shall notify the Council in writing of the offers and allocations which have been made, including whether applicants were found through the Agent.

6.9 If there has been insufficient referrals or insufficient take up so that there are a number of Intermediate Housing Units still available, then the above procedure will be repeated Provided that if by three months prior to Practical Completion of the Intermediate Housing Units there are a number of properties that remain unsold or unlet then the Owner may offer any remaining Intermediate Housing Units to people who have not been referred by the Council or the Agent.

## 7. ESTATE CHARGES

The Owner will use reasonable endeavours (to the extent within its control) to ensure that any Estate Charges for the Affordable Rented Units are fair and reasonable and shall comply with such HCA and/or statutory guidelines as may pertain from time to time in relation to the services provided by the landlord of the Land.

## 8. RECYCLING OF CAPITAL RECEIPTS

- 8.1 In relation to the Affordable Rented Units, and subject to any requirements of the HCA, if the matters referred to in Appendix 2 hereto occur, then any Disposal proceeds or insurance payments relating to rebuilding costs received by the Owner in relation to the Affordable Rented Unit to which the specified event occurs being (a) payment of the value of the Affordable Rented Unit in the case of compulsory purchase; or (b) payment by an insurance company of the reinstatement value in the case of the destruction of an Affordable Rented Unit; received by the Owner or (c) the value on any disposal (but in each such case excluding (1) any sum due in respect of any charge or other loan on the Affordable Rented Unit; or (2) the cost of demolition and clearance of any site so far as this is not covered under the terms of the insurance; or (3) any public subsidy given by the GLA or any other local national or public authority and allocated to the relevant Affordable Rented Unit ("Public Subsidy") which is required to be repaid or otherwise recycled), shall be used by the Owner to provide new Affordable Housing in the London Borough of Tower Hamlets and the Owner shall use all reasonable endeavours to provide new Affordable Housing within four years of the date of the receipt by the Owner unless otherwise agreed in writing with the Council which agreement will not be unreasonably withheld or delayed.
- 8.2 The Owner covenants that the staircasing receipts received by the Owner (net of an amount equal to the Owner's valuation of the Shared Ownership Unit at practical completion and any Public Subsidy attached to such Shared Ownership which must be repaid or recycled) in relation to each Shared Ownership Unit together with all interest thereon shall (subject to any HCA regulation and requirements current at the time) be recycled and be used for the provision of further Affordable Housing within the London Borough of Tower Hamlets if development or acquisition opportunities become available and the HCA or its nominee informs the Owner of these opportunities in writing within 4 years of the date of receipt by the Owner unless otherwise agreed in writing with the Council which agreement will not be unreasonably withheld or delayed.
- 8.3 If the Owner is required to dispose of a Affordable Rented Unit pursuant to a right to buy under Part V of the Housing Act 1985 as amended by the Housing (Preservation of Right to Buy) Regulations 1993, or pursuant to a right to acquire under Section 16 of the Housing Act 1996 or any similar or substitute right then any capital receipts shall (subject to any HCA regulation and requirements current at the time) be recycled and be used for the provision of further Affordable Housing within the London Borough of Tower Hamlets if development or acquisition opportunities become available and the HCA or its nominee informs the Owner of these opportunities in writing within 4 years of the date of receipt by the Owner unless otherwise agreed in writing with the Council which agreement will not be unreasonably withheld or delayed.

## 9. EXEMPTIONS

It is hereby agreed by the Council and the Owner that the terms of this Agreement shall:

- 9.1 Not bind any mortgagee or charge of the Owner or any receiver (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 or otherwise by a party who has provided loan facilities to the Owner.
- 9.2 Cease to apply to any part or parts of the Land which are transferred or leased by any mortgagee referred to in 8.1 above or any receiver appointed pursuant to the Law of Property Act 1925 or otherwise by such mortgagee or charge of the Owner or their successors in title ("the Mortgagee").
- 9.3 Cease to apply to any completed residential units where the Owner shall be required to dispose of the same pursuant to a right to buy under Part V of the Housing Act 1985 as amended by the Housing (Preservation of Right to Buy) Regulations 1993 or pursuant to a right to acquire under Section 16 of the Housing Act 1996 or any similar or substitute right applicable.
- 9.4 Cease to apply to any completed residential units where the Owner sells to a tenant pursuant to a voluntary grant scheme under Section 21 of the Housing Act 1996 or any amendment or replacement thereof.
- 9.5 Clauses 3.1 to 3.7 shall cease to apply to any Affordable Rented Unit funded by the GLA for which rights to nominate tenants are allocated to another borough under the GLA's funding conditions PROVIDED THAT if these conditions are removed at any time, the nomination rights will revert to the Council.
- 9.6 Cease to apply to any completed residential units where the leaseholder of a Shared Ownership Unit has final staircased and the Owner retains no equity in that completed residential unit.

## 10. NOTICES

Any notices or demand required by this Agreement shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.

## 11. GENERAL COVENANTS AND UNDERTAKINGS

The Owner covenants and undertakes to the Council that:

- 11.1 the Owner will use reasonable endeavours to ensure that:
  - (a) the tenants of the Affordable Rented Units do not (save where such action is permitted by law and the HCA's Tenants Charter) at any time part with possession of, sublet or assign an Affordable Rented Unit (or any part of an Affordable Rented Unit); and
  - (b) no tenant of an Affordable Rented Unit remains a tenant of the Owner if the tenant is found to have fraudulently given information to either the Council or the Owner in order to become a tenant of an Affordable Rented Unit which has a substantial influence on the decision to grant a tenancy of an Affordable Rented Unit to that person.
- 11.2 All units are categorised in accordance with London Borough of Tower Hamlets Accessible Housing Register prior to letting.



- 11.3 At least 10% of Affordable Housing Units are to be wheelchair accessible or capable of being adapted for wheel chair use.
- 11.4 All Affordable Housing Units designated wheelchair accessible are marketed a minimum of six months prior to Practical Completion to enable the needs of incoming tenants to be taken into account as far as possible during the fit-out of the unit.
- 11.5 The Owner will on the date hereof pay the Council's reasonable and proper costs in respect of this Agreement in the sum of one thousand Pounds (£1,000).

## 12. MISCELLANEOUS

The Council and the Owner hereby agree that:

- 12.1 If any provision of this Agreement shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions of this Agreement shall not in any way be deemed to be affected or impaired.
- 12.2 A person who is not a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.
- 12.3 The consent or approval of the purchaser tenant and/or occupier of any Affordable Housing Unit and/or their mortgagees shall not be required in respect of any agreed variation adjustment or supplement to this Agreement.
- 12.4 This Agreement shall be governed by and construed in accordance with the laws of England and Wales and each of the Parties hereby submits to the exclusive jurisdiction of the English Courts.

## 13. DISPUTE RESOLUTION

In the event of any dispute or difference arising between the parties hereto touching or concerning any matter or thing arising out of this Agreement:

- (a) Such dispute or difference shall be referred to some independent and fit person of at least ten years professional experience of the matter in issue holding appropriate professional qualifications to be appointed (in the absence of agreement) by the President (or equivalent person) for the time being of the professional body chiefly relevant in England to such qualifications and such person shall act as an expert and his decision shall be final and binding on the parties to the dispute or difference and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties to the dispute or difference in equal shares;
- (b) In the absence of agreement between the parties to the dispute or difference as to the professional qualifications of the person to be appointed pursuant to sub clause (a) of this Clause 13 or as to the appropriate professional body within fourteen days after either party has given to the other written request to concur in the professional qualifications of the person to be appointed pursuant to sub-clause (a) of this Clause 13 hereof then the question of the appropriate qualifications or professional body shall be referred to a solicitor to be appointed by the President for the time being of the Law Society of England and Wales on the application of any party to the dispute or difference and such solicitor shall act as an expert and his decision as to the professional qualifications of such person or as to the appropriate professional body shall be final and binding on the parties to the dispute or difference and his costs shall be payable by

the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties to the dispute or difference in equal shares.

#### **14. LOCAL LAND CHARGE**

This Agreement shall be registered by the Council as a local land charge in the Register of Local Land Charges maintained by the Council.

AS WITNESS hereto the parties hereto have each executed this Agreement the day and year first before written

#### **APPENDIX 1**

#### **QUALIFYING EVENTS LEADING TO AN ADJUSTMENT OF THE RENT**

**Subject always to the provisions of:**

1. In the case of major capital works carried out to the Affordable Rented Units, the Owner may apply to the Council for approval by the Council of an appropriate increase in rent, such written approval by the Council not to be unreasonably withheld or delayed.
2. In the case of the imposition, abolition, decrease or increase in respect of an Affordable Rented Unit of Council Tax, Residential Rates, Value Added Tax on rents or any other type of property taxation or taxation payable in respect of property rights payable by the Owner the rent may rise or fall by the amount of taxation payable or reasonably expected to be payable by the Owner for that Affordable Rented Unit.
3. In the case of supply or cessation of supply by the Owner of services to an Affordable Rented Unit of a type defined (or not as the case may be) in the notice of rent change, the rent may rise or fall by the cost of providing or ceasing to supply the relevant service together with an administration charge of 10%.
4. Provided that in relation to 1, 2 and 3 of this Appendix, no change shall be made in the rent charged until:
  - (a) the amount of the increase or decrease has been approved by the Council (whose approval shall not be unreasonably withheld or delayed and if not given within 15 days shall be deemed to have been given); and
  - (b) at least 28 days written notice has been given to the tenant and he has been told that if he gives a Notice to Quit within 28 days his rent will not rise until his tenancy has expired.

#### **APPENDIX 2**

#### **EVENTS TERMINATING THE COVENANTS AND UNDERTAKINGS AS TO RENTS IN RESPECT OF AN AFFORDABLE RENTED UNIT**

1. Purchase of an Affordable Rented Unit under a compulsory purchase order or private Act of Parliament whether for residential or other purposes.
2. Destruction of an Affordable Rented Unit by fire or other external force in circumstances where reinstatement would be unreasonable.

3. Sale or Disposal of an Affordable Rented Unit in accordance with the provisions of this Agreement.

**APPENDIX 3**

**SCHEDULE OF ACCOMMODATION AT MONIER ROAD**

Number of Units	Beds	Tenure	Weekly Rent (inc Service Charge) on first letting of an Affordable Rent Unit
<b>Total</b>			

