

DATED 12 December 2017

(1) LONDON LEGACY DEVELOPMENT CORPORATION

(2) ROTHBURY ROAD LIMITED

(3) TITLESTONE REAL ESTATE LIMITED

SECTION 106A AGREEMENT
DEED OF VARIATION
relating to the development of 24-26 White Post Lane,
London E9 5EN
Supplemental to Agreement of 20 May 2016

CERTIFIED TO BE A TRUE AND COMPLETE
COPY OF THE ORIGINAL
DATED THIS 12 DAY OF December 2017
Pinsent Masons LLP *Pinsent Masons LLP*


Pinsent Masons

THIS DEED is made on 12 December

2017

BY:-

- (1) **LONDON LEGACY DEVELOPMENT CORPORATION** of Level 10, 1 Stratford Place, Montfichet Road, London E20 1EJ (the "LPA"); and
- (2) **ROTHBURY ROAD LIMITED** (Company Number 09293735) of First Floor Kirkdale House, Kirkdale Road, Leytonstone, London E11 1HP (the "Owner"); and
- (3) **TITLESTONE REAL ESTATE LIMITED** (Company Number 08727965) of 40 Gracechurch Street, London EC3V 0BT (the "Mortgagee").

WHEREAS:-

- (A) By virtue of the London Legacy Development Corporation (Planning Functions) Order 2012 (effective from 1 October 2012 and made pursuant to powers, inter alia, in the 2011 Act) the Local Planning Authority is the local planning authority for the Site for the purposes of Part 3 of the 1990 Act and is the local planning authority by whom the obligations contained in this Deed are enforceable.
- (B) The Owner has a freehold interest in the Site registered at the Land Registry with Title Numbers AGL321152 and AGL310004.
- (C) The Mortgagee has a charge over the Site registered under Title Numbers AGL321152 and AGL310004.
- (D) The Developer submitted an application to the LPA seeking a proposed deed of variation for modifications to Schedule 1 (Affordable Housing) and Schedule 2 (Viability Review) of the Section 106 agreement attached to planning permission 15/00540/FUL and allocated reference number 17/00200/106 ("**S106 Application**").
- (E) The Parties have previously entered into the Principal Agreement in order to secure the planning obligations contained within the Principal Agreement.
- (F) This Deed varies and is supplemental to the Principal Agreement.
- (G) It is hereby acknowledged that the Affordable Housing requirements for this Development is 23 of the total dwellings and this shall be met by the delivery of the Affordable Housing Units and 5 Affordable Housing Units that will be located on the development at 52-54 White Post Lane, London E9 5EN which shall be developed in accordance with planning permission 15/00416/FUL.
- (H) The Parties have agreed to enter into this Deed in order to secure the planning obligations contained in it pursuant to the provisions of Section 106 and Section 106A of the 1990 Act, Section 111 of the Local Government Act 1972, Section 2 of the Local Government Act 2000, Section 1 of the 2011 Act and all other enabling powers.
- (I) The Parties agree that the obligations contained in this Deed meet the three tests for planning obligations as set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

1. INTERPRETATION

In this Deed:-

- 1.1 "**the Principal Agreement**" means the s106 agreement dated 20 May 2016 between the Parties;
- 1.2 terms and expressions defined in the Principal Agreement shall have the same meaning in this Deed unless otherwise provided;

- 1.3 any reference to an enactment includes any amendment to or modification of it and the version of it for the time being in force shall apply;
- 1.4 headings in this Deed are for convenience only and shall not be taken into account in its construction and interpretation;
- 1.5 references to clauses sub-clauses and schedules are references to clauses sub-clauses and schedules in this Deed save where the context provides otherwise;
- 1.6 where the context so requires:-
- 1.6.1 the singular includes the plural and vice versa;
- 1.6.2 the masculine includes the feminine and vice versa; and
- 1.6.3 persons includes bodies corporate associations and partnerships and vice versa;
- 1.7 where a party comprises more than one person the obligations and liabilities of that party shall be joint and several obligations and liabilities of those persons;
- 1.8 where more than one party enters into any obligation or liability those parties are jointly and severally liable;
- 1.9 words denoting an obligation on a party to do any act, matter or thing include an obligation to procure that it is done and words placing a party under a restriction include an obligation not to cause permit or allow infringement of this restriction;
- 1.10 references to any party shall include their respective successors in title and assigns.

2. **LEGAL EFFECT**

This Deed is made pursuant to the provisions of Section 106 and Section 106A of the 1990 Act, Section 111 of the Local Government Act 1972, Section 2 of the Local Government Act 2000, Section 1 of the 2011 Act and all other enabling powers.

3. **PLANNING OBLIGATION INCORPORATING THE PRINCIPAL AGREEMENT**

- 3.1 This Deed shall take effect on the date hereof.
- 3.2 The Developer agrees to observe and perform all of the covenants agreements restrictions and obligations contained in the Principal Agreement subject to this Deed.
- 3.3 The Developer agrees that the covenants and obligations contained in the Principal Agreement are to continue in full force and effect except as expressly varied by this Deed.

4. **MODIFICATIONS**

- 4.1 The Developer agrees that from the date of this Deed the Principal Agreement shall be varied as follows:-
- 4.1.1 the following definitions shall be inserted at clause 1.1:-
- 4.1.2 the following definitions shall be deleted from Schedule 1:-
- (a) HomeBuy Agent;
- (b) Intermediate Housing;
- (c) Model Form of Lease;

(d) Shared Ownership Units;

(e) Staircasing; and

(f) Target Rents.

4.1.3 the definition of "Affordable Housing" shall be amended to delete "and Intermediate Housing".

4.1.4 the following definitions shall be inserted at Schedule 1:-

4.1.5 paragraph 2.1 of Schedule 1 shall be deleted.

4.1.6 paragraph 2.2 of Schedule 1 shall be amended as follows:-

18 Residential Units shall be provided as Affordable Rented Housing Units;

4.1.7 paragraph 2.3 of Schedule 1 shall be amended as follows:-

	1 bed	2 bed	3 bed	4 bed	Total Number of Units
Affordable Rented Housing Units	10	0	7	1	18

4.1.8 paragraph 2.4 shall be amended to delete "and the Shared Ownership Units".

4.1.9 paragraph 2.5 shall be amended to delete "and the Shared Ownership Units".

4.1.10 paragraph 3.3 shall be deleted.

4.1.11 paragraph 5.2.2 shall be deleted.

4.1.12 paragraph 5.3 shall be deleted.

4.1.13 paragraph 6.1.2 shall be deleted.

4.1.14 the reference to "23 (twenty three)" in the definitions of "Deferred Affordable Housing Units" and "Deferred Affordable Housing Payment" in Schedule 2 shall be deleted and replaced with "18 (eighteen)".

4.2 Except as expressly varied by this Deed the Principal Agreement shall remain in full force and effect.

5. LEGAL FEES

The Developer agrees that they will on completion of this Deed pay the LPA's legal costs reasonably and properly incurred in the negotiation and completion of this Deed (inclusive of any such reasonable costs properly incurred by external lawyers appointed by the LPA in relation to the negotiation and completion of this Deed).

6. MORTGAGEE'S CONSENT

6.1 The Mortgagee acknowledges and declares that:-

6.1.1 this Deed has been entered into by the Owner with its consent;

6.1.2 the Site shall be bound by the obligations contained in this Deed and the Principal Agreement;

6.1.3 the security of the Mortgagee over the site shall take effect subject to this Deed and the Principal Agreement.

6.2 The Mortgagee and any subsequent mortgagee shall be liable only for any breach of the provisions of this Deed during such period as he is Mortgagee in possession of the site.

7. **THIRD PARTY RIGHTS**

This Deed gives no rights under the Contract (Rights of Third Parties) Act 1999 but this does not affect any rights which are available apart from that Act and it may be enforced by the successors in title of the parties and by any successor to the Council's statutory functions.

8. **NO WAIVER**

No alteration in the terms of this Deed nor any forbearance or forgiveness on the part of the LPA in or in the extent or nature of any matter or thing concerning this Deed shall in any way release the Developer from any liability under this Deed.

9. **NO FETTER**

Nothing in this Deed shall prejudice or affect the rights powers duties and obligations of the LPA in the exercise of its functions in any capacity.

10. **JURISDICTION**

This Deed is governed by and interpreted in accordance with the law of England.

11. **DELIVERY**

The provisions of this Deed shall be of no effect until this Deed has been dated.

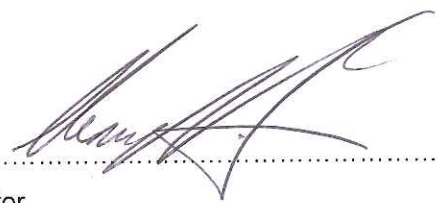
IN WITNESS whereof the parties hereto have executed this Deed as a deed the day and year first before written.


EXECUTED as a Deed by affixing the)
common seal of LONDON LEGACY)
DEVELOPMENT CORPORATION)
in the presence of:-)


.....
Authorised signatory




EXECUTED as a Deed by ROTHBURY)
ROAD LIMITED acting by:-)

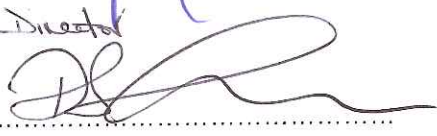

.....
Director


.....
Director/Secretary

EXECUTED as a Deed by TITLESTONE)
REAL ESTATE LIMITED acting by:-)


.....
Member ~~Director~~

Chris Proud


.....
Member ~~Director~~

ROBERT ORR