



HERBERT
SMITH
FREEHILLS

DATED 15 November 2023

(1) THE LONDON LEGACY DEVELOPMENT CORPORATION

and

(2) THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF NEWHAM

and

(3) IQL S1S11 (GP) LIMITED

acting in its capacity as general partner of **IQL S1S11 LP**

and

(4) STRATFORD CITY BUSINESS DISTRICT LIMITED

PLANNING OBLIGATION BY AGREEMENT

made pursuant to section 106 of the
Town and Country Planning Act 1990 and all other
enabling powers relating to Plot S1/S11 of the
International Quarter, Stratford City Zone 2
(also known as International Quarter London, South),
Westfield Avenue, London, Stratford, E20 1GL

Herbert Smith Freehills LLP

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BETWEEN:

- (1) **LONDON LEGACY DEVELOPMENT CORPORATION** of Level 9, 5 Endeavour Square, Stratford, London, E20 1JN (the "**LLDC**");
- (2) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF NEWHAM** of Newham Dockside, 1000 Dockside Road, London, E16 2QU ("**Newham Council**");
- (3) **IQL S1S11 (GP) LIMITED** (incorporated and registered in England and Wales with company registration number 12495837), the registered office of which is at 5 Merchant Square, Level 9, London, W2 1BQ, in its capacity as the general partner of **IQL S1S11 LP**, a limited partnership registered in England and Wales with registered number LP020920, the principal place of business of which is at 5 Merchant Square, Level 9, London, W2 1BQ (the "**S1/S11 Tenant**"); and
- (4) **STRATFORD CITY BUSINESS DISTRICT LIMITED** a company incorporated in England and Wales (Company Number 07328908) whose registered office is at 5 Merchant Square, Level 9, London, W2 1BQ (the "**Freeholder**").

RECITALS

- (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 LLDC is the local planning authority for the Application Site for the purposes of Part III of the 1990 Act and is the local planning authority by whom the obligations contained in this Agreement are enforceable.
- (B) The Freeholder is the freehold owner of the Application Site registered (together with other land) at the Land Registry with freehold title absolute under title number TGL377871.
- (C) The S1/S11 Tenant has a leasehold interest in the Application Site registered at the Land Registry with leasehold title absolute under title number TGL545238.
- (D) Newham Council is the local highway authority for the area in which the Application Site is situated.
- (E) The Planning Application was validated by the LLDC on 25 August 2021.
- (F) On 24 May 2022 the LLDC resolved that it was minded to grant the Planning Permission subject to (inter alia) the completion of this Agreement.
- (G) Accordingly, the LLDC, Newham Council, the S1/S11 Tenant and the Freeholder 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 enabling powers.
- (H) Part of the Application Site was previously subject to planning obligations requiring the delivery of an area of publicly accessible open space known as Arrival Park. The Application Site is released from those obligations subject to securing the delivery of the Publicly Accessible Open Space in this Agreement.

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"** means the Town and Country Planning Act 1990;
- "1999 Act"** means the Contracts (Rights of Third Parties) Act 1999;
- "2011 Act"** means the Localism Act 2011;
- "Above Ground Works"** means works of construction of the Development at or above ground level being a height above the underground basement structure level;
- "Actual Build Costs"** means the actual costs of carrying out the Development incurred at the relevant Review Date supported by evidence of these costs to the LLDC's reasonable satisfaction including but not limited to:
- (a) details of payments made or agreed to be paid in the relevant building contract;
 - (b) receipted invoices;
 - (c) costs certified by the Developer's quantity surveyor, costs consultant or agent;
 - (d) public realm costs; and
 - (e) site-wide infrastructure costs reasonably attributable to and apportioned to the Application Site;
- PROVIDED THAT** such build costs (except where the Developer is also the contractor) exclude all internal costs of the Developer including but not limited to:
- (f) project management costs;
 - (g) overheads and administration expenses; and
 - (h) professional, finance, legal and marketing costs;
- "Additional Affordable Housing"** means any Additional Affordable Housing Units and/or any Partial Unit Contribution all of which shall be subject to the Affordable Housing Cap;
- "Additional Affordable Housing Scheme"** means a scheme prepared in accordance with the provisions of paragraph 6.4 of Schedule 6 if Additional Grant Funding is secured and which is made available for previously intended Open Market Housing Units to be converted to Affordable Housing or in accordance with Schedule 7 if an Early Stage Review concludes

that Additional Affordable Housing is capable of being provided within the Development and which identifies how some or all of the relevant Grant Funding or surplus profit identified in the Early Stage Review could be applied towards the provision of Additional Affordable Housing Units, to include:

- (a) details of which previously intended Open Market Housing Units would be converted into Additional Affordable Housing Units;
- (b) the number of previously intended Open Market Housing Units to be converted to Social Rented Housing and Intermediate Housing respectively;
- (c) in relation to any previously intended Open Market Housing Units to be converted to Intermediate Housing, the type of Intermediate Housing to be provided;
- (d) the form of lease to be used for any Additional Affordable Housing Units that are proposed to be let;
- (e) plans showing the location, size and internal layout of each Additional Affordable Housing Unit with reference to plans and drawings approved as part of the Planning Application;
- (f) provision for at least 10% of any Additional Affordable Housing Units to be accessible or easily adaptable for wheelchair users;
- (g) an indicative timetable for construction and delivery of the Additional Affordable Housing Units; and
- (h) details of any Partial Unit Contribution;

"Additional Affordable Housing Units"

means the previously intended Open Market Housing Units to be converted to Social Rented Housing or Intermediate Housing pursuant to any Additional Affordable Housing Scheme approved under paragraph 2 of Schedule 7 or paragraph 6.4 of Schedule 6;

"Additional Grant Funding"

means the amount of any Grant Funding in excess of the capital funding required to meet the costs of delivering the S11 Affordable Housing;

"Affordable Housing"

means housing including Social Rented Housing and Intermediate Housing (unless otherwise agreed in writing with the LLDC) provided to eligible households whose needs are not met by the market and which housing should:

- (a) meet the needs of eligible purchasers or renters including availability at a cost low enough for them to afford, determined with regard to local incomes and local housing prices; and
- (b) include provision for the home to remain at an affordable price for future eligible purchasers or renters, or, if these restrictions are lifted (including, without limitation, as a result of 100% Staircasing or the exercise of a statutory right to buy), for the subsidy to be recycled for alternative affordable housing provision within Greater London (as defined in section 2 of the London Government Act 1963);

"Affordable Housing Cap"

means that the Developer shall not in any circumstances be required by any obligation(s) in this Agreement to:

- (a) provide more than 447 Habitable Rooms comprised in the Development as Affordable Housing in the Affordable Housing Target Tenure Split; nor
- (b) provide more than the equivalent of 447 Habitable Rooms comprised in the Development as Affordable Housing in the Affordable Housing Target Tenure Split by the provision of the S11 Affordable Housing Units and any Additional Affordable Housing Units at the Development and/or any Partial Unit Contribution and/or any Late Stage Review Contribution pursuant to this Agreement; nor
- (c) pay any Late Stage Review Contribution in excess of the maximum amount calculated in accordance with Formula 4;

"Affordable Housing Contract"

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 Management Scheme"

means a scheme specifying:

- (a) management, maintenance and servicing arrangements for the S11 Affordable Housing Units and the Additional Affordable Housing Units (if any); and
- (b) details of the rent, service charge and any estate or other charges payable for each S11 Affordable Housing Unit and Additional

Affordable Housing Unit (if any) together with an explanation of how the S11 Affordable Housing Units and the Additional Affordable Housing Units (if any) remain affordable notwithstanding any such charges,

as may be amended from time to time with the prior written approval of the LLDC;

- "Affordable Housing Provider"** means the Guinness Partnership or any other entity on the LLDC's list of approved housing providers from time to time or such other provider of Affordable Housing approved by the LLDC (in consultation with Newham Council) in respect of the Development pursuant to paragraph 1.1 of Schedule 6;
- "Affordable Housing Target Tenure Split"** means a tenure split comprising 268 Habitable Rooms as Social Rented Housing and 179 Habitable Rooms as Intermediate Housing;
- "Affordable Housing Tenure Split"** means that 100% of the S11 Affordable Housing Units are to be provided as Social Rented Housing unless otherwise agreed in writing by the LLDC;
- "Affordable Housing Units"** means residential dwellings to be provided as Affordable Housing and **"Affordable Housing Unit"** shall be construed accordingly;
- "Agreement"** means this agreement made pursuant to section 106 of the 1990 Act and all other enabling powers;
- "Alternative Public Realm Management Plan"** means a scheme for the management and maintenance (including where appropriate repair and renewal) of the Publicly Accessible Open Space, such management plan to include:
- (a) details of and specification for the required management and maintenance arrangements (including tree planting and maintenance);
 - (b) details of the management body responsible for maintenance;
 - (c) details of the frequency of maintenance;
 - (d) repair and renewal arrangements;
 - (e) hours of opening;
 - (f) lighting and provision of litter bins; and
 - (g) drainage, boundary treatment and provision of play equipment;
- "Application Site"** means the part of the land which is the subject of the Planning Application shown edged red on Plan 1;

"Application Stage Build Costs"	means £127,748,205 being the estimated costs of demolition, construction, external works, assumed contingency allowance, public realm costs, and site-wide infrastructure costs reasonably attributable to and apportioned to the Application Site in respect of the Development as determined by the Baseline Appraisal;
"Application Stage GDV"	means £195,348,616 being the estimated gross development value of the Development as established by the Baseline Appraisal;
"Apprentice"	means an apprentice as defined by the National Apprenticeships Service and "Apprentice Opportunities" shall be construed accordingly;
"Approved Drawings"	means the drawings to be approved by the Planning Permission together with any drawings approved by a S73 Permission (as each may be varied by any S96A Amendments);
"Architects"	means: <ul style="list-style-type: none"> (a) in respect of the building comprised in the Development, Alison Brooks Architects; and (b) in respect of the external public realm, play space and landscaping comprised in the Development, LDA Design, and "Architect" means either one of them if the context so permits;
"Average Intermediate Housing Value"	means the average value of Intermediate Housing floorspace per square metre within the Development at the relevant Review Date based on the relevant information provided to establish the Review Stage GDV and the Estimated GDV PROVIDED THAT where any Disposal or any other relevant transaction relevant to such average value has taken place at a Non-Open Market Value then the value of such Disposal or other such relevant transaction shall be disregarded and substituted by a value equivalent to that which would have been generated if the Disposal or other such relevant transaction had been at Open Market Value and/or involving a purchaser or related party not connected to the vendor and/or not at Non-Open Market Value even if a lesser value has actually been generated by any such Disposal or such other relevant transaction which has taken place at Non-Open Market Value;
"Average Open Market Housing Value"	means the average value of Open Market Housing Unit floorspace per square metre within the

Development at the relevant Review Date based on the relevant information provided to establish the Review Stage GDV and the Estimated GDV **PROVIDED THAT** where any Disposal or any other relevant transaction relevant to such average value has taken place at a Non-Open Market Value then the value of such Disposal or other such relevant transaction shall be disregarded and substituted by a value equivalent to that which would have been generated if the Disposal or other such relevant transaction had been at Open Market Value and/or involving a purchaser or related party not connected to the vendor and/or not at Non-Open Market Value even if a lesser value has actually been generated by any such Disposal or such other relevant transaction which has taken place at Non-Open Market Value;

"Average Social Rented Housing Value"

means the average value of Social Rented Housing floorspace per square metre within the Development at the relevant Review Date based on the relevant information provided to establish the Review Stage GDV and the Estimated GDV **PROVIDED THAT** where any Disposal or any other relevant transaction relevant to such average value has taken place at a Non-Open Market Value then the value of such Disposal or other such relevant transaction shall be disregarded and substituted by a value equivalent to that which would have been generated if the Disposal or other such relevant transaction had been at Open Market Value and/or involving a purchaser or related party not connected to the vendor and/or not at Non-Open Market Value even if a lesser value has actually been generated by any such Disposal or such other relevant transaction which has taken place at Non-Open Market Value;

"Baseline Appraisal"

means the financial viability appraisal for the Development dated 13 June 2023, titled "*June 2023 Breakeven Appraisal 28% AH 100% Social Rent*" and prepared by Quod that was submitted in relation to the Planning Application and reviewed and agreed by BNP Paribas and the GLA;

"Basement Access s278 Works"

means the works to be carried out within the public highway shown on Plan 2 and comprising the new junction between the public highway and the new road which is to be constructed to provide vehicular access to the basement of Building S1;

"Building S1"

means the building forming part of the Development shown for the purpose of identification on Plan 6;

"Building S11"	means the building forming part of the Development shown for the purpose of identification on Plan 6;
"Car Club"	means: <ul style="list-style-type: none"> (a) the existing Enterprise car club in operation at International Quarter London; or (b) a new car club, which in either case residents of the Development may join and which will make cars available for hire to members in accordance with the provisions of Schedule 1;
"Carbon Offset Contribution"	means the sum to be calculated in accordance with paragraph 19 of Schedule 1 and which is to be applied towards the Carbon Offset Fund;
"Carbon Offset Fund"	means the scheme established by the LLDC to fund carbon reduction projects that meet the LLDC's carbon fund investment criteria in accordance with its Carbon Offset Local Plan Supplementary Planning Document dated August 2016;
"Challenge Period"	means the period of six weeks commencing on the day after the date on which the Planning Permission is granted by the LLDC;
"Challenge Proceedings"	means proceedings under Part 54 of the Civil Procedure Rules 1998 for judicial review of the LLDC's decision to grant the Planning Permission (including any appeals to a higher court against a judgment of a lower court);
"Charge"	means a mortgage, charge or other security or loan documentation granting a security interest in the S11 Affordable Housing Units and/or the Additional Affordable Housing Units (or any number of them) in favour of the Chargee;
"Chargee"	means any mortgagee or chargee of the Affordable Housing Provider of the S11 Affordable Housing Units and/or the Additional Affordable Housing Units (or any number of them) and any receiver (including an administrative receiver) and manager appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator;
"CIL Regulations"	means the Community Infrastructure Levy Regulations 2010;

"Commencement"	means the carrying out of a material operation as defined in section 56(4) of the 1990 Act other than (for the purposes of this Agreement and for no other purpose) operations consisting of demolition, site clearance, archaeological investigations, investigations for the purpose of assessing ground conditions, remediation works, noise attenuation works, diversion decommissioning and/or laying of services and service media for the supply or carriage of electricity gas water sewerage telecommunications or other utilities media or services, the erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Commence" and "Commenced" shall be construed accordingly;
"Commencement Date"	means the date upon which the Development is first Commenced;
"Commercial Units"	means the units comprised within the ground floor of the Development that are to be used as a drinking establishment or for any use within use class E or use class F2 and "Commercial Unit" shall be construed accordingly;
"Completed"	means 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 or relevant part thereof and "Complete" and "Completion" shall be construed accordingly;
"Component"	means a part of the Development including but not limited to: <ul style="list-style-type: none"> (a) Open Market Housing Units; (b) Affordable Housing Units; (c) Additional Affordable Housing Units; (d) Commercial Units; (e) any other floorspace; (f) property; and (g) land;
"Consent"	means any of the following: approval, agreement, licence, authorisation, confirmation, certification, expression of satisfaction, consent, permission or any other kind of authorisation however expressed;
"Construction Period"	means the period starting on the Commencement Date and ending on the date of Completion of the Development;

"Construction Transport Management Contribution"	means the sum of £20,000 (Indexed) to be paid to the LLDC pursuant to paragraph 16 of Schedule 1 as a contribution towards works or measures necessary to mitigate any short-term traffic-related construction impacts of the Development;
"Construction Transport Management Group"	means the group of that name chaired by the LLDC whose objectives are to consider transport planning issues and traffic management issues relevant to the construction of development in the LLDC's area and to manage relations with local authorities and developers that may be affected by such construction activities, such group comprising representatives of relevant developers, contractors, the LLDC, the LLDC Estates and Facility Management team, Newham Council, the London Boroughs of Hackney, Tower Hamlets and Waltham Forest and other transport stakeholders as required from time to time and including any successor group established in the event that the group existing on the date of this Agreement ceases to meet or is dissolved;
"Corresponding Income Cap"	means the Lower Income Cap in relation to the Lower Income Cap Units, the Middle Income Cap in relation to the Middle Income Cap Units and the Higher Income Cap in relation to the Higher Income Cap Units;
"Date of Deemed Service"	means, in each instance where a Chargee has served a Default Notice under paragraph 9.2.1 of Schedule 6: <ul style="list-style-type: none"> (a) in the case of service by delivery by hand of the Default Notice to the LLDC's offices at the address specified in clause 7.2 during the LLDC's office hours of 9 am to 5 pm on a Working Day, the date on which the Default Notice is so delivered; or (b) in the case of service by using first class registered post to the LLDC's offices at the address specified in clause 7.2 , the second Working Day after the date on which the Default Notice is posted (by being placed in a post box or being collected by or delivered to Royal Mail) PROVIDED THAT the Chargee is able to evidence that the Default Notice was actually delivered to the LLDC (by Royal Mail proof of delivery or otherwise);
"Default Notice"	means a notice in writing served on the LLDC by the Chargee under paragraph 9.2.1 of Schedule 6 of the Chargee's intention to enforce its security over the

relevant S11 Affordable Housing Units and/or Additional Affordable Housing Units;

"Design Application"

means one of the following:

- (a) an application to the LLDC for the approval of details pursuant condition 22 of the Planning Permission;
- (b) an application to the LLDC for a S96A Amendment which seeks amendments to the Approved Drawings; or
- (c) an application to the LLDC for a S73 Permission which seeks amendments to the Approved Drawings;

"Design Monitoring Costs"

means the monies paid in accordance with paragraph 4.2 of Schedule 5 to meet the LLDC's reasonable costs incurred in monitoring the design quality of the Development as detailed drawings are prepared and/or construction works are carried out on the Application Site and to ensure that all such drawings and/or works are completed to a satisfactory quality and are consistent with the Approved Drawings **PROVIDED THAT** the total amount payable shall not exceed **£100,000** (Indexed);

"Design Team Statement"

means a written statement by the Developer specifying the design team involved in the preparation of the Design Application and which shall confirm the role of the Architects in the preparation of that Design Application;

"Developer"

has the meaning given to it in clause 1.2.9;

"Development"

means development of the Application Site and all other operations and works authorised by the Planning Permission;

"Development Viability Information"

means the following information:

- (a) Review Stage GDV;
- (b) Estimated GDV;
- (c) Average Open Market Housing Value;
- (d) Average Intermediate Housing Value;
- (e) Actual Build Costs;
- (f) Estimated Build Costs;
- (g) Grant Funding;

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

"Disposal"	<p>means:</p> <ul style="list-style-type: none"> (a) the Sale of a Component of the Development; (b) the grant of a lease of a term of less than 125 years of a Component of the Development; or (c) the grant of an assured shorthold tenancy agreement or a short term let in respect of a Component of the Development, <p>and "Dispose", "Disposals" and "Disposed" shall be construed accordingly;</p>
"Dispute"	<p>means 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);</p>
"District Energy Network"	<p>means the Olympic Park district energy network;</p>
"Early Stage Review"	<p>means the upwards only review of the financial viability of the Development to be carried out at the Revised Substantial Implementation Date applying Formula 1 and Formula 3 in accordance with the provisions of Schedule 7 to determine whether Additional Affordable Housing can be provided as part of the Development subject always to the Affordable Housing Cap;</p>
"Early Stage Review Submission"	<p>means the following information to be submitted by the Developer to the LLDC on an open book basis:</p> <ul style="list-style-type: none"> (a) the applicable Development Viability Information for Formula 1 and Formula 3; (b) a written statement that applies the applicable Development Viability Information to Formula 1 and Formula 3 thereby confirming whether, in the Developer's view, any Additional Affordable Housing can be provided; and (c) where such written statement confirms that Additional Affordable Housing can be provided, an Additional Affordable Housing Scheme;
"Energy Strategy"	<p>means the document submitted with the Planning Application entitled "Energy Statement" prepared by AECOM Limited dated February 2022;</p>

"Estimated Build Costs" means the estimated costs of carrying out the Development remaining to be incurred at the relevant Review Date based on agreed building contracts or estimates provided by the Developer's quantity surveyor or costs consultant and which take into account the Actual Build Costs and shall include a 5% build cost contingency;

"Estimated GDV" means the estimated Open Market Value of all the remaining Components of the Development not Disposed of at the relevant Review Date based on the relevant information used to assess the Review Stage GDV together with detailed comparable market evidence and taking into account Development-related income from any other sources but excluding any Grant Funding;

"Expert" means the expert appointed in accordance with the provisions of clause 9 to determine a Dispute;

"First Reception Survey" means a survey to be carried out by the Reception Consultant to assess the standard of digital terrestrial television reception to the Surrounding Properties;

"Formula 1" means the following formula to be applied at any Early Stage Review for determining surplus profit available for Additional Affordable Housing:

X = Surplus profit available for Additional Affordable Housing

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

A = Updated GDV (£)

B = Application Stage GDV (£)

C = Updated Build Costs (£)

D = Application Stage Build Costs (£)

H = Amount of any Grant Funding secured (£)

P = Developer profit on change in GDV (£)

$$P = (A - B) * Y$$

Y = Target Return (%)

"Formula 2" means the following formula for determining surplus profit available for a Late Stage Review Contribution to be applied at the Late Stage Review:

X = Surplus profit available for Late Stage Review Contribution

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

A = Updated GDV (£)

- B = Application Stage GDV (£)
- C = Updated Build Costs (£)
- D = Application Stage Build Costs (£)
- H = Amount of any Grant Funding secured (£)
- P = Developer profit on change in GDV (£)
- P = $(A - B) * Y$
- Y = Target Return (%)
- R = Any surplus profit paid to the LLDC as a financial contribution as a result of an Early Stage Review

"Formula 3"

means the following formula for determining the number of Additional Affordable Housing Units to be provided where the application of Formula 1 at the Early Stage Review identifies a surplus profit:

- X = Additional Social Rented Housing requirement (Habitable Rooms)
- X = $((E * F) \div (A - B)) \div D$
- Y = Additional Intermediate Housing requirement (Habitable Rooms)
- Y = $((E * G) \div (A - C)) \div D$
- A = Average Open Market Housing Value (£ per sq m)
- B = Average Social Rented Housing Value (£ per sq m)
- C = Average Intermediate Housing Value (£ per sq m)
- D = Average Habitable Room size for the Development (24.83 sq m)
- E = Surplus profit available for Additional Affordable Housing Units as determined applying Formula 1 (£)
- F = Percentage of surplus profit to be used for Social Rented Housing (%) (9%)
- G = Percentage of surplus profit available to be used for Intermediate Housing (%) (91%)

"Formula 4"

means the following formula for determining the maximum Late Stage Review Contribution where the application of Formula 2 at the Late Stage Review identifies a surplus profit:

- X = Maximum Late Stage Review Contribution

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

A = Average Open Market Housing Value (£ per sq m)

B = Average Social Rented Housing Value (£ per sq m)

C = Average Intermediate Housing Value (£ per sq m)

D = Average Habitable Room size for the Development (24.83 sq m)

E = 17 Habitable Rooms, where no Additional Affordable Housing has been provided pursuant to this Agreement; or

[]¹ Habitable Rooms, where any Additional Affordable Housing has been provided pursuant to this Agreement, being the shortfall in Social Rented Housing (by Habitable Room) when compared with the Affordable Housing Target Tenure Split;

F = 179 Habitable Rooms, where no Additional Affordable Housing has been provided pursuant to this Agreement; or

[]² Habitable Rooms, where any Additional Affordable Housing has been provided pursuant to this Agreement, being the shortfall in Intermediate Housing (by Habitable Room) when compared with the Affordable Housing Target Tenure Split;

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

"GLA Income Cap" means an annual household income of £90,000 or such higher amount as may be prescribed in the London Plan Annual Monitoring Report applicable at the time that the Developer is disposing of the relevant Intermediate Housing Unit;

"Grant Date" means:

- (a) the date of grant of the Planning Permission; or
- (b) (if applicable) in the event that Challenge Proceedings are commenced and not withdrawn prior to the expiry of the

¹ To be determined prior to the Late Stage Review where Additional Affordable Housing has been provided as a result of the Early Stage Review or as a result of Grant Funding.

² To be determined prior to the Late Stage Review where Additional Affordable Housing has been provided as a result of the Early Stage Review or as a result of Grant Funding.

Challenge Period, the date on which the Planning Permission is finally upheld following the relevant Challenge Proceedings (including any appeals) being exhausted;

"Grant Funded Unit"	means any previously intended Open Market Housing Units converted to Social Rented Housing or Intermediate Housing pursuant to an Additional Affordable Housing Scheme approved pursuant to paragraph 6.4 of Schedule 6;
"Grant Funding"	means capital funding provided by Homes England, the GLA or any other public body for the delivery of Affordable Housing in the Development;
"Growth Boroughs"	means the London Boroughs of Barking and Dagenham, Newham, Hackney, Tower Hamlets and Waltham Forest and the respective successors to their functions as local planning authorities;
"Habitable Room"	means any room within a Residential Unit the primary use of which is for living, sleeping or dining and which expressly includes any room which is used as a kitchen with a floor area of 13 square metres or more, a living room, a dining room or a bedroom but expressly excludes any room which is used as a kitchen with a floor area of less than 13 square metres, a bathroom, a toilet, a corridor or a hall;
"Higher Income Cap"	means an annual household income of £75,000 (Indexed);
"Higher Income Cap Units"	means the 50% of Intermediate Housing Units in the locations approved by the LLDC pursuant to paragraph 5.3 of Schedule 6 to be targeted at households with annual incomes that do not exceed the Higher Income Cap, in accordance with the provisions of Schedule 6;
"Highways Agreement"	means an agreement or agreements between the Developer and Newham Council pursuant to section 278 of the Highways Act 1980 providing for the Site Access s278 Works and the Basement Access s278 Works to be carried out and completed by the Developer;
"Homes England"	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 Homes England;

"Index"	<p>means:</p> <ul style="list-style-type: none"> (a) in the case of the Monitoring Contribution, the Retail Prices Index all items published by the Office for National Statistics or if such index shall cease to be published, such equivalent alternative index agreed by the LLDC and the Developer; (b) in the case of the Lower Income Cap, the Middle Income Cap and the Higher Income Cap, the UK House Price Index published by the Office for National Statistics or if such index shall cease to be published, such alternative house price related index agreed by the LLDC and the Developer; and (c) in all other cases, the national All-in Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or if such index shall cease to be published, such equivalent alternative index agreed by the LLDC and the Developer;
"Indexed"	means in relation to a sum that it is to be increased or decreased in accordance with clause 15;
"Intention Notice"	means a notice in writing served on the Chargee by the LLDC under paragraph 9.4 of Schedule 6 that the LLDC is minded to purchase the relevant S11 Affordable Housing Units and/or Additional Affordable Housing Units;
"Interest"	means interest at 3% above the base lending rate of Barclays Bank plc from time to time;
"Intermediate Housing"	means affordable housing for rent or for purchase which is targeted at people who are unable to access Social Rented Housing but who are not able to afford to rent or buy a home on the open market;
"Intermediate Housing Units"	means the Affordable Housing Units to be made available for Intermediate Housing (if any) in accordance with Schedule 6;
"IQL South"	means the land shown edged blue on Plan 1;
"Late Stage Review"	means the upwards only review of the financial viability of the Development to be carried out at the Late Stage Review Date applying Formula 2 and Formula 4 in accordance with the provisions of Schedule 7 to determine whether a Late Stage Review

	Contribution is payable subject always to the Affordable Housing Cap;
"Late Stage Review Contribution"	means a financial contribution for the provision of off-site Affordable Housing in the LLDC's administrative area the precise value of which shall be calculated in accordance with Formula 2 and Formula 4 and which shall be subject always to the Affordable Housing Cap;
"Late Stage Review Date"	means the date on which 75% of the Open Market Housing Units have been Occupied;
"Late Stage Review Submission"	means the following information to be submitted by the Developer to the LLDC on an open book basis: <ul style="list-style-type: none"> (a) the applicable Development Viability Information for Formula 2 and Formula 4; (b) a written statement that applies the applicable Development Viability Information to Formula 2 and Formula 4 (PROVIDED ALWAYS THAT if the result produced by Formula 2 is less than zero it shall be deemed to be zero) thereby confirming whether in the Developer's view a Late Stage Review Contribution is payable; and (c) where such written submission confirms that a Late Stage Review Contribution is payable, the amount of such Late Stage Review Contribution (taking account of the Affordable Housing Cap);
"Local Labour and Business Schemes"	means established careers development programmes run or supported by the LLDC, Growth Boroughs or partner organisations but not including Our Newham Work;
"London Living Wage"	means the minimum amount of pay per hour (on the date of this Agreement being £11.05, which amount shall not be Indexed) that all workers in London should receive, as published from time to time by the Living Wage Commission or if such minimum amount shall cease to be published by the Living Wage Commission such equivalent alternative minimum amount as agreed by the LLDC and the Developer;
"London Plan"	means the London Plan published in March 2021 as revised from time to time;
"London Plan Annual Monitoring Report"	means the monitoring report published annually by the Mayor of London reviewing the progress being made in implementing the policies and addressing the objectives of the London Plan, or any replacement

	GLA guidance or policy document that supersedes such monitoring report;
"Lower Income Cap"	means an annual household income of no more than £55,000 (Indexed);
"Lower Income Cap Units"	means the 25% of Intermediate Housing Units in the locations approved by the LLDC pursuant to paragraph 5.3 of Schedule 6 to be targeted at households with annual incomes that do not exceed the Lower Income Cap, in accordance with the provisions of Schedule 6;
"LVMF"	means the London View Management Framework Supplementary Planning Guidance published by the Mayor of London in March 2012;
"Marketing Commencement Date"	means the date notified by the Developer to the LLDC pursuant to paragraph 5.5 of Schedule 6 from which marketing of the Intermediate Housing Units (if any) can first commence;
"Marketing Period"	means in relation to each Intermediate Housing Unit (if any) the period of three months commencing no earlier than the Marketing Commencement Date and no later than the Completion of the Intermediate Housing Unit;
"Material Operation"	has the meaning given in section 56(4) of the 1990 Act;
"Memorandum"	means a memorandum made in accordance with paragraph 7 of Schedule 7;
"Middle Income Cap"	means an annual household income of no more than £60,000 (Indexed);
"Middle Income Cap Units"	means the 25% of Intermediate Housing Units in the locations approved by the LLDC pursuant to paragraph 5.3 of Schedule 6 to be targeted at households with annual incomes that do not exceed the Middle Income Cap, in accordance with the provisions of Schedule 6;
"Mitigation Measures"	means such technological measures as are determined by the Reception Consultant to be reasonably necessary to restore the quality of terrestrial television reception to the affected Surrounding Properties;
"Monitoring Contribution"	means the sum of £2,400 (Indexed) to be used by the LLDC towards the costs of monitoring compliance with this Agreement;

"Monitoring Period"	means the period commencing on the date that is six months after first Occupation of the Development and expiring on the date that is five years after first Occupation of the Development PROVIDED THAT monitoring of the usage of long stay cycle parking spaces by residents of the Development shall continue until the date that is 10 years after first Occupation of the Development;
"Moratorium Period"	means, in each instance where a Chargee has served a Default Notice under paragraph 9.2.1 of Schedule 6, the period from (and including) the Date of Deemed Service on the LLDC of the Default Notice to (and including) the date falling three months after such Date of Deemed Service (or such longer period as may be agreed between the Chargee and the LLDC);
"National Rent Regime"	means the rent regime under which the social rents of tenants of social housing are set by the Regulator of Social Housing, with particular reference to the Direction on the Rent Standard 2019 issued by the Ministry of Housing, Communities and Local Government and the Welfare Reform and Work Act 2016 (as updated from time to time);
"Non-Open Market Value"	means a value below the Open Market Value, for example, due to a disposal or other related transaction: <ul style="list-style-type: none"> (a) to a purchaser who is connected in any way to the vendor, grantor, transferor or lessor including (but not confined to) the definition in section 839 of the Income and Corporation Taxes Act 1988; (b) which is not an arm's length true value purchase on the usual terms as between a willing vendor, grantor, transferor or lessor and a willing purchaser; and/or (c) where a transaction artificially reduces the value of an Open Market Housing Unit or Affordable Housing Unit which may include without limitation the following types of transaction: <ul style="list-style-type: none"> (i) transactions between the Developer and subsidiary companies of the Developer; (ii) transactions between the Developer and its employees; (iii) transactions involving loans from the Developer;

- (iv) transactions involving other forms of deferred consideration;
- (v) transactions involving finance deals;
- (vi) transactions involving other property not comprised in the Development; and
- (vii) any transfer or transaction designed to reduce the revenue received from the disposal of the Open Market Housing Units or Affordable Housing Units;

"Occupation"

means beneficial occupation for the purposes permitted by the Planning Permission but does not include occupation by personnel engaged in demolition, construction, fitting out; decoration or occupation for marketing or display; or occupation in relation to security operations and **"Occupy"**, **"Occupied"** and **"Occupier"** shall be construed accordingly;

"Open Market Housing Units"

means the Residential Units in Building S1 which are to be sold or let on the open market and which are not Affordable Housing Units;

"Open Market Value"

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

- (a) a willing seller and a willing buyer;
- (b) that prior to the date of valuation (which is to be carried out in accordance with the RICS Valuation Standards) there has been a reasonable period of not less than six months for the marketing of the interest (having regard to the nature of the property and the state of the market) for the agreement of the price and terms and for the completion of the sale;
- (c) that each party has acted knowledgeably, prudently and without compulsion,

and excluding any Non-Open Market Value;

"Option"

means the option to be granted to the LLDC (and/or its nominated substitute Affordable Housing Provider) in accordance with paragraph 9.4 of Schedule 6 for the

purchase of the S11 Affordable Housing Units and/or the Additional Affordable Housing Units;

"Our Newham Work"

means Newham Council's partnership one-stop shop for jobs and enterprise, bringing together Newham Council and other key organisations to provide a comprehensive range of personalised, integrated services to both job seekers and employers, which includes job search support for local residents (employed and unemployed), access to training provision for jobseekers and business support services, as well as supporting local firms' recruitment needs and whose address is Boardman House, 64 Broadway, Stratford, E15 1NT (or any other body or programme that takes on these functions or such other entity as Newham Council may nominate to perform the same obligations);

"Partial Unit Contribution"

means a financial contribution towards offsite Affordable Housing in the LLDC's administrative area payable where an Early Stage Review identifies a surplus profit but such surplus is insufficient to provide any Additional Affordable Housing Units or cannot deliver a complete number of Additional Affordable Housing Units pursuant to Formula 3 (such contribution to be calculated using the floorspace values of the incomplete unit pursuant to Formula 3);

"Parties"

means the parties to this Agreement and the word **"Party"** shall mean any one of them;

"Plan 1"

means Drawing No. IQLSZZ-ABA-ZZ-ZZ-DR-AR-011001 appended to this Agreement at Appendix 1 showing the Application Site and IQL South;

"Plan 2"

means Drawing No. 7398_SK_220906 appended to this Agreement at Appendix 1 showing with purple cross-hatching the location of the Site Access s278 Works and the Basement Access s278 Works;

"Plan 3"

means the plan entitled 'IQL Plot S1/S11 Digital Terrestrial Television Shadow' appended to this Agreement at Appendix 1 showing the area within which Surrounding Properties are situated;

"Plan 4"

means Drawing No. 7398_SK_220905 appended to this Agreement at Appendix 1 showing edged in purple the location of the Publicly Accessible Open Space;

"Plan 5"

means Drawing Nos. IQLSZZ-ABA-ZZ-01-DR-AR-052001 PL3, IQLSZZ-ABA-ZZ-01-DR-AR-052002 PL3, IQLSZZ-ABA-ZZ-01-DR-AR-052003 PL3, IQLSZZ-ABA-ZZ-01-DR-AR-052004 PL3, IQLSZZ-

ABA-ZZ-01-DR-AR-052005 PL3, IQLSZZ-ABA-ZZ-01-DR-AR-052006 PL3, IQLSZZ-ABA-ZZ-01-DR-AR-052007 PL3, IQLSZZ-ABA-ZZ-01-DR-AR-052008 PL3, IQLSZZ-ABA-ZZ-01-DR-AR-052009 PL3, IQLSZZ-ABA-ZZ-01-DR-AR-052010 PL3, IQLSZZ-ABA-ZZ-01-DR-AR-052011 PL3, IQLSZZ-ABA-ZZ-01-DR-AR-052021 PL2, IQLSZZ-ABA-ZZ-01-DR-AR-052022 PL2, IQLSZZ-ABA-ZZ-01-DR-AR-052023 PL2, IQLSZZ-ABA-ZZ-01-DR-AR-052024 PL2, IQLSZZ-ABA-ZZ-01-DR-AR-052025 PL2 and IQLSZZ-ABA-ZZ-01-DR-AR-052026 PL2 appended to this Agreement at Appendix 1 showing edged in green the location of the Wheelchair User Units;

- "Plan 6"** means Drawing No. IQLSZZ-ABA-ZZ-ZZ-DR-AR-021003 PL1 appended to this Agreement at Appendix 1 showing the locations of Building S1 and Building S11;
- "Plan 7"** means Drawing No. IQLSZZ-ABA-ZZ-ZZ-DR-AR-021004 appended to this Agreement at Appendix 1 showing the locations of Plot S2 and Plot S10;
- "Planning Application"** means the application for full planning permission submitted to the LLDC and given reference number 21/00416/FUL;
- "Planning Permission"** means the planning permission that may be granted subject to conditions for the proposals within the Planning Application, the form of which is attached at Appendix 2;
- "Plot S2"** means the area edged pink on Plan 7;
- "Plot S10"** means the area edged blue on Plan 7;
- "Public Subsidy"** means any funding from the LLDC and the GLA together with any additional public subsidy secured by the Developer to support the delivery of the Development;
- "Publicly Accessible Open Space"** means the part of the Application Site that is to be publicly accessible in accordance with the provisions of Schedule 2 and which comprises the area shown on Plan 4;
- "Reasonable Endeavours"** means that it is agreed by the Parties that the Party 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 the other terms of this Agreement such Party 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 (including the importance to the other Parties of the fulfilment of the relevant obligation) may be reasonable to expect:

- (a) in the case of the Developer, of a competent commercial developer in the context of the Development;
- (b) in the case of the LLDC, of a competent local planning authority acting reasonably in the context of its statutory functions; and
- (c) in the case of Newham Council, of a competent local highway authority acting reasonably in the context of its statutory functions;

"Reception Consultant"	means a consultant specialising in matters relating to television reception;
"Regulator of Social Housing"	means the Regulator of Social Housing established under Part 1 of the Housing and Regeneration Act 2008 and responsible for the regulation of private registered providers of social housing in England, or any successor body or organisation;
"Rent Guidance"	means the Guidance on Rents for Social Housing and the Direction on the Rent Standard 2019 issued by the Ministry of Housing, Communities and Local Government in February 2019 or such other replacement guidance or direction or legislation;
"Rents and Nominations Agreement"	means the Council's standard rents and nominations agreement, to apply solely in respect of the Social Rented Housing Units;
"Rent Standard"	means the standard relating to rent set by the Regulator of Social Housing from time to time having regard to the Welfare Reform and Work Act 2016, the Rent Guidance and the Direction on the Rent Standard 2019 issued by the Secretary of State for Housing, Communities and Local Government together with the Policy Statement on Rents for Social Housing published by the Ministry of Housing, Communities and Local Government in 2020 or such other replacement guidance or direction or legislation;
"Requisite Consents"	means such grant of planning permission under the 1990 Act, Traffic Regulation Orders, Traffic Management Orders or other consents under the Highways Act 1980, building regulations approvals 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 unit of residential accommodation to be provided as part of the Development comprising the Open Market Housing Units and the Affordable Housing Units;

"Review Date"

means the Revised Substantial Implementation Date and the Late Stage Review Date;

"Review Stage GDV"

means the:

- (a) value of all gross receipts from any Sale prior to the relevant Review Date; and
- (b) the Open Market Value of any Component of the Development that has been Disposed but not Sold prior to the relevant Review Date;

"Revised Energy Strategy"

means a revised energy strategy for the Development that:

- (a) is substantially in accordance with the planning policy framework in place at the time of submission;
- (b) explains the steps taken by the Developer to explore the feasibility of a low carbon on-site option instead of connection to the District Energy Network; and
- (c) sets out any such option or other carbon reduction measures proposed to be implemented by the Developer together with a programme for delivery of the same;

"Revised Substantial Implementation Date"

means the anticipated date for achieving Substantial Implementation where Substantial Implementation has not occurred before the Substantial Implementation Long Stop Date;

"RICS Valuation Standards"

means the Royal Institution of Chartered Surveyors Valuation Standards – UK Standards (January 2014) and Global Standards (July 2017) or any successor documents that may be subsequently published;

"S11 Affordable Housing"

means 13 1-bed residential dwellings, 35 2-bed residential dwellings and 30 3-bed residential dwellings comprising 251 Habitable Rooms and representing a minimum of 28% by Habitable Room of the Residential Units (and representing an equivalent of 37.4% by Habitable Room when measured on a tenure split in accordance with London Plan policy), to be provided in Building S11 as Affordable Housing

	Units in accordance with the Affordable Housing Tenure Split and "S11 Affordable Housing Units" shall be construed accordingly;
"S73 Permission"	means a permission granted pursuant to an application for a minor material amendment to the Planning Permission pursuant to section 73 of the 1990 Act;
"S96A Amendment"	means a non-material amendment to the Planning Permission approved pursuant to section 96A of the 1990 Act;
"Sale"	means: <ul style="list-style-type: none"> (a) the sale of the freehold of a Component of the Development; or (b) the grant of a lease of a Component of the Development with a term of 125 years or more and subject to nominal rent, and "Sold" shall be construed accordingly;
"Second Reception Survey"	means a further survey to be carried out by the Reception Consultant to reassess the impact of the Development on terrestrial television reception to Surrounding Properties and setting out any proposed Mitigation Measures if required;
"Shell and Core"	means constructed to shell and core finish, meaning wind and watertight with water, electricity and heating services provided to a connection point within the curtilage of the Application Site but not fitted out or decorated;
"Site Access s278 Works"	means the works to be carried out within the public highway shown on Plan 2 and comprising the new junction between the public highway and the new road which is to be constructed to provide vehicular access to the completed Development;
"Social Rented Housing"	means the Affordable Housing for which guideline target rents are determined through the National Rent Regime;
"Social Rented Housing Units"	means the Affordable Housing Units to be made available for Social Rented Housing in accordance with Schedule 6;
"Staircasing"	means the acquisition of additional equity in an Intermediate Housing Unit up to a maximum of 100 per cent equity and "Staircased" shall be construed accordingly;

"Starter Pack"	means a code or voucher to the value of £50 for use by residents of the Development towards Car Club hire costs;
"Stratford City Estate Management Framework"	means the Stratford City Site Wide Strategy of that name approved pursuant to condition C1 of the planning permission granted by the Olympic Delivery Authority on 30 March 2012 and having reference number 10/90641/EXTODA so far as it applies to IQL South and as amended from time to time;
"Stratford Station Improvements Contribution"	means the sum of £250,000 (Indexed) to be paid by the Developer to the LLDC as a contribution towards the delivery by Transport for London and/or Network Rail of a new south-western entrance to Stratford station and the relocation the western subway lift (or towards such other scheme or works in the vicinity of the Application Site as may be determined by the LLDC in consultation with TfL and/or Network Rail provided the relevant scheme or works directly benefits the Development);
"Substantial Implementation"	means the occurrence of the following in respect of the Development: <ul style="list-style-type: none"> (a) completion of all ground preparation works for the Development; and (b) completion of the sub-structure of either Building S1 or Building S11 (whichever is the earlier) including the foundations and any basement levels; and (c) completion of the ground floor slab of either Building S1 or Building S11 (whichever is the earlier);
"Substantial Implementation Long Stop Date"	means the date 30 months from the Grant Date but excluding the Grant Date itself;
"Sums Due"	means all sums due to a Chargee of the S11 Affordable Housing Units and/or the Additional Affordable Housing Units pursuant to the terms of its Charge including (without limitation) all interest and reasonable legal and administrative fees costs and expenses;
"Surrounding Properties"	means properties within areas of potential shadow resulting from the Development from terrestrial television transmitters as shown on Plan 3 which is attached at Appendix 1;
"Target Return"	means the developer profit of 16.48%;

"Travel Plan"	means the travel plans submitted with the Planning Application entitled "Plot S1 Residential Travel Plan" and "Plot S11 Residential Travel Plan" prepared by AECOM dated 3 February 2022;
"Travel Plan Monitoring"	<p>means monitoring of the approved Travel Plan by carrying out the following monitoring of travel to and from the Development which shall as a minimum include the following:</p> <ul style="list-style-type: none"> (a) 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; (b) monitoring of the usage of the car parking which is available for use in the Development; and (c) monitoring of the usage of cycle parking facilities by residents of, visitors to and employees of the Development;
"Travel Plan Monitoring Contribution"	means the sum of £20,000 (Indexed) to be paid by the Developer to the LLDC as a contribution towards the LLDC's costs of monitoring the Travel Plan;
"Travel Plan Monitoring Report"	<p>means a report setting out the data and information gathered during the Travel Plan Monitoring undertaken during the Travel Plan Review Period, such report to include:</p> <ul style="list-style-type: none"> (a) details of trip generation rates; (b) details of mode share and change in mode share over time; (c) details of how effectively the Travel Plan has operated within the previous period; (d) any data and information necessary for the purposes of determining whether or not any modal split targets have been achieved; (e) where the objectives and/or targets specified in the Travel Plan have not been met or are unlikely to be met, a proposed revision to the Travel Plan for approval by the LLDC 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; and (f) any details or data required by the LLDC acting reasonably but only where such

details or data relates to relevant matters which were not anticipated in the Travel Plan;

"Travel Plan Review Period"	means initially the period of six months commencing on first Occupation of the Development and thereafter every six months on a rolling basis until the expiry of the Monitoring Period;
"TV Reception Mitigation Payment"	means a sum equivalent to the estimated cost of carrying out the Mitigation Measures required for the relevant Surrounding Properties;
"Updated Build Costs"	means the sum of: (a) Actual Build Costs; and (b) Estimated Build Costs;
"Updated GDV"	means the sum of: (a) Estimated GDV; and (b) Review Stage GDV;
"Utility Undertaker"	means any provider of gas, electricity, energy, water, sewage, heating, cooling or telecommunications services occupying premises within the Application 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 Application Site;
"VAT"	means Value Added Tax as referred to in the Value Added Tax Act 1994 (or any tax of a similar nature which may be substituted for or levied in addition to it);
"Viability Review"	means the Early Stage Review and the Late Stage Review;
"Viability Review Submission"	means the Early Stage Review Submission and the Late Stage Review Submission or either one of them as the context requires;
"Viewing Location"	means Assessment Point 9A.1 at King Henry VIII's Mound in Richmond Park as defined in Appendix B to the LVMF;
"Visual Impact Verification Study"	means a study undertaken by the Developer in accordance with the methodology described in the LVMF to demonstrate that the Development will not extend beyond the silhouette of the dome of St. Paul's Cathedral in the background of the view of St Paul's Cathedral from the Viewing Location;

"Westfield Avenue Contribution"	means the sum of £1,000,000 (Indexed) to be paid by the Developer to the LLDC as a contribution towards the Westfield Avenue Enhancement Works (or as may otherwise be applied by the LLDC in accordance with paragraph 11 of Schedule 1);
"Westfield Avenue Enhancement Works"	means enhancement works to reduce the carriageway width of Westfield Avenue (which adjoins the Application Site) from four lanes to two lanes and to use the former vehicle lanes for additional public realm and improved walking and cycling facilities;
"Wheelchair User Units"	means 10% of the S11 Affordable Housing Units which are to be constructed and fitted out in compliance with requirement M4(3)(2)(a) under Part M (Category 3) of Schedule 1 to the Building Regulations 2010 (as detailed in Approved Document M) and British Standard:8300 pursuant to the Planning Permission; and
"Working Day"	means a day other than a Saturday or Sunday or public holiday in England or the period between 24 December (in one year) and 1 January (in the next year) inclusive.

1.2 In this Agreement:

1.2.1 unless otherwise indicated, reference:

- (a) to any clause, Schedule or Appendix is to the relevant clause of or schedule or appendix to this Agreement;
- (b) to any paragraph is to the relevant paragraph of a Schedule to this Agreement;
- (c) within a Schedule to a paragraph is to the relevant paragraph of that Schedule; and
- (d) to any Recital is to a recital to this Agreement;

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;

SAVE THAT any reference in this Agreement to a 'use class' shall be construed as a reference to such use class as stated in the Town and Country Planning (Use Classes) Order 1987 in force as at the date of this Agreement and such construction shall not be affected by changes to that Order after that date;

- 1.2.3 headings, the table of contents and the titles of any 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, given or submitted in writing;
- 1.2.5 references to the Application Site and the Publicly Accessible Open Space include any part of the Application Site and the Publicly Accessible Open Space respectively;
- 1.2.6 save where expressly provided in this Agreement, references to the LLDC shall comprise the London Legacy Development Corporation in its capacity as local planning authority and, where the London Legacy Development Corporation ceases to be the local planning authority for the area in which the Application Site is situated, shall include its successors to the functions of the local planning authority;
- 1.2.7 save where expressly provided in this Agreement, references to Newham Council shall comprise Newham Council in its capacity as local highway authority and, where Newham Council ceases to be the local highway authority for the area in which the Application Site is situated, shall include its successors to the functions of the local highway authority;
- 1.2.8 references to the Freeholder and the S1/S11 Tenant include:
 - (a) persons deriving title from them;
 - (b) persons claiming through or under them an interest or estate in the Application Site; and
 - (c) their successors, assigns, transferees;
- 1.2.9 references to the Developer include:
 - (a) the Freeholder and the S1/S11 Tenant; and
 - (b) the persons listed in clause 1.2.8 (a)–(c);
- 1.2.10 "including" means "including without limitation";
- 1.2.11 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;

- 1.2.12 unless otherwise indicated, words importing persons include firms, companies, other corporate bodies or legal entities and vice versa; and
- 1.2.13 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 suffer any infringement of such restriction.
- 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 there is any reference to an expression of satisfaction, certificate, approval, agreement or other Consent to be given or made by the LLDC or Newham Council then such expression of satisfaction, certificate, approval, agreement or other Consent shall be requested in writing and the LLDC or Newham Council (as the case may be) shall not unreasonably withhold or delay the giving or making of the same.
- 1.6 Where in this Agreement any matter is referred to dispute resolution under clause 9 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 Consent for the purposes of this Agreement.
- 1.7 The Freeholder and the S1/S11 Tenant covenant to be jointly and severally liable for the performance and compliance with each and every of the obligations, covenants and undertakings on the part of the Developer contained in this Agreement.

2. EFFECT OF THIS AGREEMENT

- 2.1 This Agreement is made pursuant to:
- 2.1.1 section 106 of the 1990 Act;
- 2.1.2 section 1 of the 2011 Act;
- 2.1.3 section 111 of the Local Government Act 1972;
- 2.1.4 section 16 of the Greater London Council (General Powers) Act 1974; and
- 2.1.5 all other powers so enabling.
- 2.2 The LLDC is the local planning authority having the power to enforce the planning obligations contained in this Agreement.
- 2.3 Subject to clauses 2.4, 2.6, 2.7, 2.9, 2.10 and 2.11, the obligations, covenants and undertakings on the part of the Developer in Schedule 1 to Schedule 8 are planning obligations pursuant to and for the purpose of section 106 of the 1990 Act and are given so as to bind the Freeholder's and the S1/S11 Tenant's respective interests in the Application Site and with the intent that they shall be enforceable by the LLDC not only against the Freeholder and the S1/S11 Tenant but also against any successors in title to or assigns of or transferees of either of them and/or any person claiming

through or under the Freeholder and/or the S1/S11 Tenant an interest or estate in the Application Site as if that person had been an original covenanting party and insofar as any such obligations, covenants or undertakings are not capable of falling within section 106 of the 1990 Act the same are entered into as obligations, covenants or undertakings in pursuance of any other such enabling power.

- 2.4 Notwithstanding clause 1.2.8, the obligations contained within this Agreement shall not be binding upon nor enforceable against:
- 2.4.1 a Utility Undertaker;
 - 2.4.2 the individual occupiers or tenants in occupation of commercial premises at the Development; nor
 - 2.4.3 the individual occupiers or tenants in occupation of the Residential Units at the Development except for clause 4.4.1 and paragraph 4.1 of Schedule 6 which shall be enforceable against such persons.
- 2.5 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 LLDC of any of its statutory powers, functions or discretions.
- 2.6 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 his interest in the Application Site or his interest in that part of the Application Site on which the breach occurs, but without prejudice to liability for any subsisting breach arising before parting with that interest.
- 2.7 Notwithstanding clause 1.2.8, no obligation, covenant or undertaking 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 Application Site nor any receiver appointed by such chargee or mortgagee nor any person deriving title through such chargee, mortgagee or receiver unless and until such chargee, mortgagee, receiver or person has entered into actual possession of the Application Site or part thereof to which such obligation, covenant or undertaking relates.
- 2.8 The LLDC shall request registration of this Agreement as a local land charge by Newham Council.
- 2.9 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 quashed, revoked, withdrawn or (without the consent of the Developer) modified.
- 2.10 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Application Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Agreement.
- 2.11 In the event that the LLDC agrees pursuant to an application under section 73 of the 1990 Act to any variation or discharge of any condition of the Planning Permission or if any such condition is varied or discharged following an appeal under section 78 of the 1990 Act then the covenants and provisions of this Agreement shall be deemed to bind the varied permission and shall apply in equal terms to the new planning

permission save where the LLDC or the Secretary of State (as the case may be) in determining such application or appeal determines that consequential amendments are required to this Agreement and in such circumstances a modification of this Agreement shall be required in accordance with section 106A of the 1990 Act.

3. CONDITIONALITY

3.1 Subject to clauses 3.2 and 3.3, this Agreement is conditional upon and shall not take effect until:

3.1.1 the LLDC has granted the Planning Permission; and

3.1.2 the Commencement Date has occurred.

3.2 Notwithstanding clause 3.1, this clause 3 and clauses 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19 and 20 shall take effect immediately on the date of this Agreement.

3.3 Notwithstanding clause 3.1, clause 4 shall take effect immediately upon the grant of Planning Permission, but only insofar as it relates to paragraphs 1 and 14 of Schedule 1, paragraph 1 of Schedule 3, the whole of Schedule 5, and paragraph 1.1 of Schedule 6.

4. THE DEVELOPER'S COVENANTS

4.1 The Developer covenants with the LLDC that it will:

4.1.1 perform and comply with the obligations, covenants and undertakings on the part of the Developer contained in the clauses of this Agreement and in Schedule 1 to Schedule 8; and

4.1.2 not encumber nor otherwise deal with its interest in the Application Site nor any part or parts thereof in any manner whereby the obligations, covenants and undertakings on the part of the Developer contained in this Agreement would be impossible to perform.

4.2 The Developer covenants with Newham Council that it shall perform and comply with the obligations, covenants and undertakings on the part of the Developer contained in Schedule 3 and paragraphs 1 to 3 of Schedule 1 and the Parties hereby agree that Newham Council shall not be entitled to enforce any other obligations, covenants and undertakings on the part of the Developer contained in this Agreement.

4.3 The Developer covenants with the LLDC that it will notify the LLDC of the anticipated date of first Occupation of the Development within 7 Working Days of the Commencement Date and will notify the LLDC of any revised anticipated date of first Occupation of the Development from time to time.

4.4 The Developer covenants with the LLDC and Newham Council that:

4.4.1 it shall not apply for or obtain an on-street parking permit to park a vehicle on the public highway at any time during the life of the Development unless otherwise agreed by Newham Council or unless the Developer becomes entitled to be a holder of a Disabled Persons' Badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons' Act 1970;

- 4.4.2 any premises at the Application Site let by the Developer to a tenant shall not be Occupied unless the covenant set out in clause 4.4.1 is contained in the lease for those premises;
- 4.4.3 it shall use Reasonable Endeavours to enforce the covenant set out in clause 4.4.1 against the relevant tenant in the event it is breached; and
- 4.4.4 it shall not let to any person or Occupy or allow any person and/or company to Occupy any premises at the Application Site unless a notice has been served on such person and/or company that the covenant set out at clause 4.4.1 is contained in the relevant lease and therefore such person shall not be entitled (unless otherwise agreed by Newham Council or unless such person is or becomes entitled to be a holder of a Disabled Persons' Badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons' Act 1970) to be granted an on-street parking permit to park a vehicle on the public highway.

5. THE LLDC'S COVENANTS WITH THE DEVELOPER

5.1 The LLDC covenants with the Developer that it will:

- 5.1.1 perform and comply with the obligations, covenants and undertakings on the part of the LLDC contained in this Agreement;
- 5.1.2 apply all sums received from the Developer under the terms of this Agreement only for the purposes specified in this Agreement for which they are paid;
- 5.1.3 not more than once each calendar year provide such evidence to the Developer as it shall reasonably require in order to confirm the expenditure of the sums paid by the Developer under the terms of this Agreement;
- 5.1.4 pay to the Developer (or to the person who made the relevant payment if not the Developer) such amount of any sum received from the Developer (or other such payor, as relevant) under the terms of this Agreement which has not been expended within ten years of the date of receipt by the LLDC together with interest if any has been accrued; and
- 5.1.5 in the event that the Planning Permission is quashed following successful legal challenge, pay to the Developer (or to the person who made the relevant payment if not the Developer) any sum received from the Developer (or other such payor, as relevant) under the terms of this Agreement which has not been expended or committed to be expended **SAVE THAT** this sub-clause 5.1.5 shall not apply to any sums paid under clause 14.

6. NEWHAM COUNCIL'S COVENANTS WITH THE DEVELOPER

6.1 Newham Council covenants with the Developer that it shall:

- 6.1.1 perform and comply with the obligations, covenants and undertakings on the part of the Newham Council contained in this Agreement;

- 6.1.2 apply all sums received from the Developer under the terms of this Agreement only for the purposes specified in this Agreement for which they are paid;
- 6.1.3 provide such evidence to the Developer as it shall reasonably require in order to confirm the expenditure of the sums paid by the Developer under the terms of this Agreement;
- 6.1.4 pay to the Developer (or to the person who made the relevant payment if not the Developer) such amount of any sum received from the Developer under the terms of this Agreement which has not been expended within five years of the date of receipt by Newham Council together with interest if any has accrued; and
- 6.1.5 in the event that the Planning Permission is quashed following successful legal challenge, pay to the Developer (or to the person who made the relevant payment if not the Developer) any sum received from the Developer under the terms of this Agreement which has not been expended **SAVE THAT** this sub-clause 6.1.5 shall not apply to any sums paid under clause 14.

7. NOTICES

- 7.1 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:
 - 7.1.1 if delivered by hand, the next Working Day after the day of delivery; or
 - 7.1.2 if sent by first class post or recorded delivery post, the day two Working Days after the date of posting.
- 7.2 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:

LLDC:

Address: Director of Planning Policy and Decisions
 London Legacy Development Corporation – Planning
 Policy and Decisions Team
 Level 9
 5 Endeavour Square
 London E20 1JN

For the attention of: Anthony Hollingsworth

Newham Council:

Address: Inclusive Economy and Housing

Planning & Development Service
London Borough of Newham
Newham Dockside
1000 Dockside Road
London E16 2QU

For the attention of: Director of Planning & Development, c/o Developer
Contributions Team

The S1/S11 Tenant:

Address: 5 Merchant Square
Level 9
London
W2 1BQ

For the attention of: Company Secretary

With a copy to: Herbert Smith Freehills LLP
Exchange House
Primrose Street
London EC2A 2EG

For the attention of: Head of Planning Law

The Freeholder:

Address: 5 Merchant Square
Level 9
London
W2 1BQ

For the attention of: Project Director – International Quarter London

With a copy to: Herbert Smith Freehills LLP
Exchange House
Primrose Street
London EC2A 2EG

For the attention of: Head of Planning Law

7.3 Any notice or other written communication to be given by the LLDC or Newham Council shall be deemed valid and effectual if on its face it is signed on behalf of the LLDC or Newham Council (as the case may be) by an officer or duly authorised signatory.

7.4 Where the Developer serves any notice in accordance with Clause 7.1 a further copy shall also be issued as soon as reasonably practicable by email as follows:

7.4.1 to the LLDC: AnthonyHollingsworth@londonlegacy.co.uk; and

7.4.2 to Newham Council: planningobligations@newham.gov.uk.

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

- 8.1 The Developer shall monitor and keep a written record of its compliance with the obligations, covenants, undertakings and other provisions contained in this Agreement including all correspondence and notices from the LLDC in relation to the same and shall make such records available to the LLDC upon request.
- 8.2 Subject to the Developer's compliance with clause 8.1 and clause 8.7 and 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 or any condition attached to the Planning Permission has been complied with wholly or in part, the Developer shall be entitled to apply to the LLDC for a notification to that effect, and where the relevant obligation, covenant, undertaking or other provision has been satisfied or condition has been complied with (wholly or in part), the LLDC shall as soon as reasonably practicable issue a written notification to such effect.
- 8.3 A notification pursuant to clause 8.2 may be given that the relevant obligation, covenant, undertaking or other provision (as the case may be) has been satisfied or condition has been complied with in relation to part of the Application Site.
- 8.4 Where in the opinion of the LLDC, any obligation, covenant, undertaking or other provision on the part of the LLDC contained in this Agreement has been satisfied wholly or in part, the LLDC 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 written notification to such effect.
- 8.5 A notification pursuant to clause 8.4 may be given that the relevant obligation, covenant, undertaking or other provision (as the case may be) has been satisfied in relation to part of the Application Site.
- 8.6 The Developer shall pay the LLDC's reasonable administrative and legal costs in its performance of its obligations under clause 8.2 and clause 8.3.
- 8.7 If the Developer makes an application to LLDC under clause 8.2 it shall include with that application all of the relevant information referred to in clause 8.1 that evidences the Developer's compliance.

9. **DISPUTE RESOLUTION**

- 9.1 In the event of any Dispute arising between the Parties, the same may be referred to an Expert for determination by any Party notifying the other Parties of such intention (the "Notice").
- 9.2 The Notice must specify:
- 9.2.1 the nature, basis and brief description of the Dispute;
 - 9.2.2 the clause of this Agreement or paragraph of a Schedule to this Agreement in respect of which the Dispute has arisen; and

- 9.2.3 the proposed Expert.
- 9.3 The Expert shall be an independent person of at least 10 years standing in the area of expertise relevant to the Dispute and in the event that the Parties are unable to agree who should be appointed as the Expert within 10 Working Days after the date of the Notice then any Party may request:
- 9.3.1 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;
- 9.3.2 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;
- 9.3.3 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;
- 9.3.4 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
- 9.3.5 in all other cases, the President of the Law Society to nominate the Expert.
- 9.4 The Expert shall act as an expert and not as an arbitrator and his decision (the "**Decision**") will (in the absence of manifest error) be final and binding on the Parties and whose costs 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.
- 9.5 The Expert shall be appointed (through an agreed request statement setting out exactly the questions that he is to determine submitted jointly by the Parties) subject to an express requirement that he reaches his decision and communicates it to the Parties within the minimum practical timescale allowing for the nature and complexity of the Dispute and in any event not more than 20 Working Days from the date of his appointment to act and that he is to have particular regard to the 1990 Act in reaching his decision.
- 9.6 The Expert shall be required to give notice to each of the parties to the Dispute inviting each of them to submit to him within 20 Working Days or such other period as he may specify from the date of his appointment written submissions and supporting material and shall afford to the said parties an opportunity to make counter submissions within a further 10 Working Days in respect of any such submission and material.
10. **NO WAIVER**
- 10.1 No waiver (whether expressed or implied) by the LLDC of any breach or default by the Developer in performing or complying with any of the Developer's obligations, covenants or undertakings contained in this Agreement shall constitute a continuing waiver and no such waiver shall prevent the LLDC 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.

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

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

11.1 The Parties agree with one another to act reasonably and in good faith in the fulfilment of their respective obligations, covenants and undertakings contained in this Agreement.

12. **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

12.1 Except for those persons identified in clauses 2.4 and 2.7 (insofar as such persons seek to enforce or rely on those clauses), a person who is not a party to this Agreement shall not have any rights under the 1999 Act to enforce any term of this Agreement.

13. **MONITORING COSTS**

13.1 The Developer agrees that it will on completion of this Agreement pay the Monitoring Contribution to the LLDC.

14. **LEGAL COSTS**

14.1 The Developer agrees that it will on completion of this Agreement pay the LLDC's reasonable legal costs (including VAT on those costs, but only to the extent such VAT is not recoverable, whether by way of set off or otherwise, by the LLDC) properly incurred in the negotiation and completion of this Agreement (inclusive of any such reasonable costs properly incurred by external lawyers appointed by the LLDC in relation to the negotiation and completion of this Agreement)

14.2 The Developer agrees that it will on completion of this Agreement pay Newham Council's reasonable legal costs properly incurred in the negotiation and completion of this Agreement

15. **INDEXATION**

15.1 Unless otherwise indicated in this Agreement, all payments and financial contributions to be paid pursuant to this Agreement will be increased (and not decreased) by reference to the amount of the quarterly increase in the Index from the date of this Agreement until the date payment is due.

15.2 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 the payment or financial contribution was agreed until the date the sum or value falls to be considered or applied.

16. **INTEREST**

16.1 If any payment due under this Agreement is paid late, Interest shall be payable from the date payment is due until the actual date of payment.

17. VAT

17.1 Save where otherwise provided, all sums and amounts referred to in this Agreement are exclusive of VAT (if any) due or payable in any circumstances.

17.2 If any VAT is at any time chargeable on any supply made by the LLDC or Newham Council under or pursuant to this Agreement, the Developer shall pay the other an amount equal to that VAT as additional consideration.

18. COMMUNITY INFRASTRUCTURE LEVY REGULATIONS 2010

18.1 The Parties agree that the planning obligations contained in this Agreement are necessary to make the Development acceptable in planning terms, are directly related to the Development and are fairly and reasonably related in scale and kind to the Development and thus satisfy the tests in regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

19. JURISDICTION AND LEGAL EFFECT

19.1 This Agreement shall be governed by and interpreted in accordance with the laws of England.

19.2 The provisions of this Agreement (other than this clause 19.2 which shall be effective in any event) shall be of no effect until this Agreement has been dated.

20. EXECUTION

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

IN WITNESS whereof the Parties hereto have executed this Agreement as a deed the day and year first above written

SCHEDULE 1

TRANSPORT, ENERGY AND INFRASTRUCTURE IMPROVEMENTS

Highways Agreement

1. The Developer and Newham Council will use Reasonable Endeavours to enter into the Highways Agreement prior to the Commencement Date.
2. Paragraph 1 shall cease to apply in relation to the Site Access s278 Works in the event that an agreement is entered into under section 278 of the Highways Act 1980 (and under any other relevant enabling powers) by a person other than the S1/S11 Tenant or the Freeholder and which provides for the construction of the Site Access s278 Works (with or without other works) by that other person.
3. Unless otherwise agreed in writing by the LLDC, the Development shall not be Occupied unless and until the Site Access s278 Works and the Basement Access s278 Works have been Completed and are available for use by the public.

Stratford Station Improvements

4. The Developer covenants to pay the Stratford Station Improvements Contribution to the LLDC prior to any Above Ground Works.
5. The Developer will not carry out any Above Ground Works until the Stratford Station Improvements Contribution has been paid to the LLDC.

Westfield Avenue Contribution

6. The Developer covenants to pay the Westfield Avenue Contribution to the LLDC prior to any Above Ground Works.
7. The Developer will not carry out any Above Ground Works until the Westfield Avenue Contribution has been paid to the LLDC.
8. Subject to paragraph 11, the LLDC agrees to the following obligations in relation to the evaluation and design of the Westfield Avenue Enhancement Works:
 - 8.1 following receipt by the LLDC of the Westfield Avenue Contribution, the LLDC shall as soon as reasonably practicable undertake the evaluation and design of the Westfield Avenue Enhancement Works and provide a copy of the draft detailed drawings, specifications and estimated costs for the Westfield Avenue Enhancement Works to the Developer;
 - 8.2 the Developer shall, within 10 Working Days of receipt of the draft detailed drawings, specifications and estimated costs for the Westfield Avenue Enhancement Works, have the opportunity (acting reasonably) to provide comments thereon to the LLDC;
 - 8.3 the LLDC shall have due regard to any such comments (to the extent the same are reasonable);

- 8.4 the LLDC shall not be required to incorporate any comments of the Developer which, in its reasonable opinion, would compromise the exercise of any statutory duty or power to which it is subject or on grounds which the LLDC considers reasonable;
- 8.5 if the Developer provides comments within the timescale set out above, the LLDC will provide the Developer with a further draft of the detailed drawings, specifications and costs for the Westfield Avenue Enhancement Works as soon as reasonably practicable; and
- 8.6 the process referred to in paragraphs 8.2 to 8.5 shall be repeated until the LLDC in its absolute discretion (acting reasonable) considers that no further design changes are required in respect of the Westfield Avenue Enhancement Works.
9. In undertaking the decision-making processes referred to in paragraphs 8.2 to 8.5, the LLDC shall consult with Newham Council.
10. In the event that the Developer does not provide the LLDC with comments on the initial draft detailed drawings, specifications and costs within the time period set out in paragraph 8.2, the detailed drawings, specifications and costs for the Westfield Avenue Enhancement Works will be deemed to be agreed by the Developer on the expiry of that time period.
11. In the event that at any time the LLDC determines not to bring forward the Westfield Avenue Enhancement Works, the LLDC shall serve notice on the Developer to that effect and thereafter may use the Westfield Avenue Contribution to fund projects and schemes to improve connections to the Application Site through Westfield Avenue, and in such circumstances the provisions of paragraphs 8, 9, and 10 shall apply *mutatis mutandis* to any such alternative proposals.

Car Club

12. The Developer will use Reasonable Endeavours to agree terms with the operator of the Car Club providing for the additional costs of residents of the Development joining the Car Club to be funded by the Developer for a period of two years commencing on the date of first Occupation of the Development.
13. Subject to agreement with the Car Club operator, the Developer will provide the first household to Occupy each Residential Unit with a Starter Pack upon completion of their registration as member of the Car Club **PROVIDED THAT** this obligation shall not apply in respect of any Residential Unit where the occupier of that Residential Unit holds a Blue Badge.

Construction Transport Management Group

14. Subject to the LLDC accepting the Developer as a member, the Developer will become a member of the Construction Transport Management Group prior to the Commencement Date and the Development shall not Commence until the Developer has become a member and the Developer will remain a member until the Completion of the Development or until the Construction Transport Management Group ceases to exist, whichever is the sooner.

15. Following confirmation of its membership of the Construction Transport Management Group, the Developer will procure that a representative of the Developer attends each meeting of the Construction Transport Management Group, subject to receiving at least one week's notice of each such meeting and subject to there not being more than twelve such meetings in any year.

Construction Transport Management Contribution

16. The Developer will pay the Construction Transport Management Contribution to the LLDC on the Commencement Date.

District Energy Network

17. The Developer will use Reasonable Endeavours to connect the Development to the District Energy Network (including using Reasonable Endeavours to obtain all Requisite Consents) and if all such Requisite Consents are obtained it shall connect the Development to the District Energy Network.
18. In the event that, despite using Reasonable Endeavours to satisfy the obligations contained in paragraph 17, the Developer is unable to connect the Development to the District Energy Network for any reason, then the Developer will:
 - 18.1 provide a written report to the LLDC outlining the steps the Developer has taken to satisfy the obligations contained in paragraph 17;
 - 18.2 submit a Revised Energy Strategy to the LLDC for approval;
 - 18.3 be released from its obligations contained in paragraph 17 with effect from the date of the LLDC's approval of the Revised Energy Strategy; and
 - 18.4 implement the Revised Energy Strategy as approved.

Carbon Offset Contribution

19. The Developer covenants to pay the Carbon Offset Contribution to the LLDC prior to first Occupation of the Development as calculated in accordance with the following formula:

$$\text{Carbon Offset Contribution} = \mathbf{R} \times \mathbf{Y} \times \mathbf{Z}$$

where:

R is the Development's annual regulated carbon dioxide emissions (measured to the nearest tonne of carbon dioxide) calculated using the methodology in Part L of the Building Regulations 2013 remaining after the implementation of the carbon reduction measures identified in the Energy Strategy or the Revised Energy Strategy (as the case may be) or, in the event that a revised assessment of annual regulated carbon dioxide emissions of the completed Development is provided pursuant to paragraph 20, the alternative carbon reduction measures identified in that subsequent revised assessment;

Y is the number of years for which the contribution is payable, being 30 years; and

Z is the cost of carbon per tonne taken from Policy SI2 of the London Plan, being £95 per tonne of carbon dioxide,

and which is estimated as at the date of this Agreement to be £663,195.

20. The Developer shall not Occupy or permit first Occupation of the Development until it has confirmed that the carbon reduction measures identified in the Energy Strategy or the Revised Energy Strategy (as the case may be) have been implemented or shall undertake and submit to the LLDC a revised assessment of the Development's annual regulated carbon dioxide emissions (measured to the nearest tonne of carbon dioxide) which it is calculated will be achieved by the implementation of alternative carbon reduction measures ("**R**" in the formula in paragraph 19).

SCHEDULE 2

PUBLIC ACCESS

1. The Developer shall not Occupy the Development until the Publicly Accessible Open Space has been provided in accordance with the Planning Permission and has been made available in accordance with paragraph 3.
2. The Developer covenants that following completion and first opening of the Publicly Accessible Open Space it shall be managed and maintained throughout the life of the Development in accordance with the Stratford City Estate Management Framework (or in accordance with such Alternative Public Realm Management Plan as may be proposed by the Developer and approved by the LLDC in writing from time to time).
3. Subject to the permitted closures described in paragraph 4 ("**Permitted Closure**") and unless otherwise agreed by the LLDC (in consultation with Newham Council), upon completion of the Publicly Accessible Open Space the Developer shall permit the general public to have step-free access, free of charge, over the Publicly Accessible Open Space on foot, wheelchair and bicycle 24 hours a day for the lifetime of the Development.
4. The Developer will be entitled to close the Publicly Accessible Open Space (or any part of it) for any of the following reasons:
 - 4.1 with the prior written approval of the LLDC where the LLDC is satisfied that such temporary closure is necessary in the interest of public safety or is required for the purposes of essential maintenance, repair, cleansing, renewal or resurfacing works within the Public Accessible Open Space in question or for any other reasonable and proper purpose;
 - 4.2 with the prior written approval of the LLDC where the LLDC is satisfied that such temporary closure is necessary for the purposes of carrying out works of construction (including development or redevelopment or for the placing or replacing of underground services) on the Application Site or adjoining land, including the closure of the area shaded orange on Plan 4 where required in connection with the redevelopment of Plot S2 or Plot S10;
 - 4.3 temporary closure in the case of emergency where such closure is reasonably necessary in the interests of public safety or otherwise for reasons of public safety; or
 - 4.4 closure for a maximum of two days per year to assert rights of proprietorship preventing public rights from coming into being by means of prescription or other process of law,

PROVIDED ALWAYS THAT the Developer shall minimise the duration of any Permitted Closure and where the prior written approval of the LLDC is required then the Developer shall apply for such approval not less than three days prior to the date that the relevant closure is to commence (and in the event of any closure pursuant to paragraph 4.2 the Developer shall apply not less than 28 days prior to the date that the relevant closure is to commence).

5. The Developer shall not without the LLDC's prior written approval erect any wall or barrier or any other object or structure or take any other steps which would prevent or

restrict, or would have the effect of preventing or restricting, pedestrian access over the Publicly Accessible Open Space.

6. The Parties agree that the Publicly Accessible Open Space will remain privately owned land maintained and managed by the Developer and will not be adopted or otherwise treated as public realm.
7. The Developer will be entitled to remove from the Publicly Accessible Open Space any persons engaging in or suspected of engaging in crime or disorderly behaviour.
8. In the event that a Material Operation comprised within the authorised development on Plot S10 and/or Plot S2 occurs during the undertaking of the works to deliver the Publicly Accessible Open Space then details showing any proposed phasing of the delivery of the Publicly Accessible Open Space shall be provided when submitting the request for LLDC's prior written approval in accordance with paragraph 4.2.
9. In each instance and as soon as practicable after the relevant works have been completed in accordance with paragraph 4.2, the area shaded orange on Plan 4 which has been temporarily closed shall be restored as Publicly Accessible Open Space.
10. In the event that the carrying out of development on the Application Site authorised by any planning permission or other consent granted after the date of this Agreement requires the closure of part or the whole of the Publicly Accessible Open Space, the obligations set out above relating to the Publicly Accessible Open Space shall cease to apply (or shall be varied or modified to the extent permitted by the relevant permission or consent) upon the commencement of the development authorised by that planning permission or consent that so requires such closure.