

DATED 9 DECEMBER 2016

(1) LONDON LEGACY DEVELOPMENT CORPORATION

(2) PALMLANE ESTATES LIMITED

(3) MIZRAHI TEFAHOT BANK LIMITED

PLANNING OBLIGATION BY AGREEMENT

made pursuant to section 106 of the Town and Country Planning Act 1990 and all other powers enabling relating to land known as Vittoria Wharf, Stour Road/Beachy Road, London E3 2PA



Pinsent Masons

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THIS AGREEMENT is made on

9 DECEMBER

2016

BETWEEN:-

- (1) **LONDON LEGACY DEVELOPMENT CORPORATION** of Level 10, 1 Stratford Place, Montfichet Road, London E20 1EJ ("**LPA**");
- (2) **PALMLANE ESTATES LIMITED** (Company Number 04996916) of 115 Craven Park Road, London N15 6BL ("**Developer**"); and
- (3) **MIZRAHI TEFAHOT BANK LIMITED** (Incorporated in Israel) (Company Number FC011504) of 30 Broad Street, London EC2N 1HT ("**Mortgagee**").

RECITALS

WHEREAS:-

- (A) By virtue of the London Legacy Development Corporation (Planning Functions) Order 2012 (effective from 1 October 2012 and made pursuant to powers, inter alia, in the 2011 Act) the LPA is the local planning authority for the Site for the purposes of Part 3 of the 1990 Act and is the local planning authority by whom the obligations contained in this Agreement are enforceable.
- (B) The Developer is the freehold Developer of the Site which forms the land registered at the Land Registry under title number EGL539670.
- (C) The Mortgagee has the benefit of a legal charge dated 1 May 2015 over the Site which forms the land registered at the Land Registry under title number EGL539670.
- (D) The Developer submitted the Planning Application to the LPA on 17 September 2013.
- (E) On 23 February 2016 the LPA resolved to grant the Planning Permission subject to the Developer first entering into the obligations set out in this Agreement.
- (F) Accordingly, the Parties have agreed to enter into this Agreement in order to secure the planning obligations contained in it pursuant to the provisions of Section 106 of the 1990 Act and all other enabling powers.
- (G) The Parties agree that the obligations contained in this Agreement meet the three tests for planning obligations as set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

OPERATIVE PROVISIONS:-

1. INTERPRETATION

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

| | |
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| "1990 Act" | the Town and Country Planning Act 1990; |
| "2011 Act" | the Localism Act 2011; |
| "Approve" | a decision by the LPA to approve a Submitted Document and " Approval " and cognate expressions shall be construed accordingly; |

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| "Business Day" | a day other than a Saturday or Sunday or public holiday in England or the period between 24 December and 1 January inclusive or any other day upon which the LPA's offices are closed to the public; |
| "Building" | means a building comprised in the Development; |
| "Commencement Date" | the date upon which the Development is Commenced; |
| "Commencement" | <p>the carrying out of a material operation as defined in section 56(4) of the 1990 Act which for the avoidance of doubt shall for the purpose of this Agreement only exclude:</p> <ul style="list-style-type: none"> • Site clearance • Site investigation and remediation • archaeological investigation • temporary site hoardings • temporary means of access <p>and "Commence" and "Commenced" shall be construed accordingly;</p> |
| "Completed" | means in relation to any works of construction forming part of the Development, the date of issue of a certificate of practical completion of those works by the Developer's contract administrator and 'Completion' shall be construed accordingly; |
| "Comply" | implement, comply, fulfil and/or discharge or procure implementation, compliance, fulfilment and/or discharge and "Compliance" and "Complied" shall be construed accordingly; |
| "Consent" | any of the following: approval, agreement, licence, authorisation, confirmation, certification, expression of satisfaction, consent, permission or any other kind of authorisation however expressed; |
| "Council" | means the London Borough of Tower Hamlets and its successor in function; |
| "CPI" | means the Consumer Price Index published by the Office for National Statistics or any official publication substituted for it; |
| "Development" | the development of the Site and all other operations and/or works authorised by the Planning Permission; |
| "Expert" | the expert appointed in accordance with the provisions of Clause 11 to determine a dispute; |
| "First Occupation" | means first Occupation of the Development or any part thereof; |
| "Index" | means the CPI; |
| "Indexed" | means in relation to an sum that it is to be increased in |

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| | accordance with clauses 17.2 and 17.3; |
| "LPA Response Date" | not more than 10 (ten) Working Days after receipt of the revised Submitted Document except where: <ol style="list-style-type: none"> 1. the LPA decides to consult on the revised Submitted Document, in which case the period shall be extended to not more than 20 (twenty) Working Days after receipt of the revised Submitted Document; or 2. the LPA decides the matter needs to be reported to its planning committee, in which case the period shall be extended to not more than 40 (forty) Working Days after receipt of the revised Submitted Document; |
| "Occupy" and "Occupation" | means beneficial occupation for any purpose for which the Planning Permission has been granted in respect of the relevant unit, building, structure or part of the Site but not including occupation for the purposes of construction, fit out or marketing; |
| "Off Site" | on land outside the Site; |
| "On Site" | on land within the Site; |
| "Parties" | the parties to this Agreement and the word "Party" shall mean either one of them; |
| "Planning Application" | the application for planning permission submitted to the LPA and given reference number 13/00280/FUM by the LPA for the demolition of existing buildings and erection of a new 4 to 6 storey building comprising 1638sqm of commercial space (use class B1c), 34 residential dwellings (15x 1 bed, 10x 2 bed and 9x 3 bed) as well as courtyard for disabled parking and servicing, cycle parking, refuse / recycling stores, along with retention of the Gate House building (84 sqm); |
| "Planning Permission" | the planning permission subject to conditions that may be granted by the LPA for the proposals within the Planning Application, a draft of which is contained in Appendix 1; |
| "Reasonable Endeavours" | that it is agreed by the Parties that the Developer under such an obligation will not thereby be required to take proceedings (including any appeal) in any court public inquiry or other hearing (unless specified to the contrary) but subject thereto and to other terms of this Agreement the Developer will be bound to attempt to fulfil the relevant obligation by the expenditure of such effort and/or sums of money and the engagement of such professional or other advisers as in all the circumstances may reasonably be expected of a competent commercial developer in the context of the Development (or part of the Development); |
| "Private Residential Units" | means Residential Units which are not Affordable |

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| | Housing Units (as defined in Schedule 1); |
| "Refusal Notice" | a notice prepared by the LPA confirming which Submitted Document it is refusing to Approve and enclosing the Report Amendments; |
| "Report Amendments" | those amendments to the Submitted Document that the LPA requires to be made to enable it to Approve such Submitted Document together with brief reasons why it requires those amendments to be made to enable it to Approve such Submitted Document; |
| "Residential Unit" | means a residential unit provided as part of the Development; |
| "Site" | the land shown edged red on the plan (ref. 0010-DR-0011-P02) attached on the plan marked 'Plan 1' at Schedule 9; |
| "Submitted Document" | any document, report, review, strategy and other information required to be submitted to the LPA for Approval pursuant to this Agreement; |
| "Superstructure" | means any part of the Development built above the foundation; |
| "Working Day" | a day other than a Saturday or Sunday or public holiday in England or the period between 24 December and 1 January inclusive. |

1.2 In this Agreement:-

1.2.1 unless otherwise indicated reference to any:-

- (a) Clause, Schedule or Appendix is to a clause of, schedule of or appendix to this Agreement;
- (b) paragraph is to a paragraph of a Schedule of this Agreement;
- (c) Part is to a part of a Schedule;
- (d) reference within a Schedule to a paragraph is to a paragraph of that Schedule;
- (e) Recital is to a recital to this Agreement; and
- (f) plan is to a plan forming part of 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;
 - 1.2.3 headings, the table of contents and titles to the plans are for reference purposes only and are not incorporated into this Agreement and shall not be deemed to be an indication of the meaning of the parts of the Agreement to which they relate;
 - 1.2.4 the content of any plans is for identification purposes only;
 - 1.2.5 any notice, notification, consent, approval, agreement, 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;
 - 1.2.6 references to the Site include any part of it;
 - 1.2.7 references to the LPA comprise the London Legacy Development Corporation in its capacity as local planning authority and include its successors to the functions of the LPA;
 - 1.2.8 references to the Developer includes:-
 - (a) persons deriving title from the Developer;
 - (b) persons claiming through or under the Developer an interest or estate in the Site; and
 - (c) the Developer's successors, assigns, transferees;
 - 1.2.9 "including" means "including without limitation";
 - 1.2.10 unless otherwise indicated references to the singular include the plural and references to the plural include the singular and words importing any gender include every gender;
 - 1.2.11 unless otherwise indicated words importing persons include firms, companies, other corporate bodies or legal entities and vice versa;
 - 1.2.12 where two or more people form a single Party to this Agreement the obligations, covenants and undertakings on the part of that Party may be enforced against them all jointly or against each of them individually;
 - 1.2.13 where in this Agreement there is reference to using reasonable endeavours to achieve an outcome, upon written request by any of the Parties at reasonable intervals, within ten Business Days of such request reasonable evidence of the steps taken to achieve such outcome shall be provided in documentary form (where possible) to the requesting Party(s);
 - 1.2.14 words denoting an obligation on a Party to do any act matter or thing includes 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; and
 - 1.2.15 any restriction on Commencement of the Development shall be taken to encompass a restriction on Commencement of any part of the Development.
- 1.3 The Interpretation Act 1978 shall apply to this Agreement.
- 1.4 This "Agreement" includes the Schedules and Recitals to this Agreement.

- 1.5 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.
- 1.6 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 LPA such expression of satisfaction certificate approval agreement or other Consent shall be requested in writing and the LPA shall not unreasonably withhold or delay the giving or making of the same.
- 1.7 Where in this Agreement any matter is referred to dispute resolution under Clause 11 the findings of the Expert shall (save in relation to manifest error) be final and binding on the Parties and such findings shall be deemed to constitute the required approval or agreement or other Consent for the purposes of 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; and
 - 2.1.3 all other powers so enabling.
- 2.2 The LPA is the local planning authority having the power to enforce the planning obligations contained in this Agreement.
- 2.3 The obligations, covenants and undertakings on the part of the Developer in this Agreement are planning obligations in so far as they are capable of being lawfully made pursuant to and for the purpose of section 106 of the 1990 Act and are given so as to bind the Developer's freehold interest in the Site (as referred to in Recital B) and with the intent that they shall be enforceable by the LPA not only against the Developer but also against any successors in title to or assigns of or transferees of the Developer and/or any person claiming through or under the Developer an interest or estate in the Site as if that person had been an original covenanting party and insofar as any such obligations, covenants or undertakings are not capable of falling within section 106 of the 1990 Act the same are entered into as obligations, covenants or undertakings in pursuance of any other such enabling power.
- 2.4 Save to the extent that the same would be lawful or in equity enforceable nothing in this Agreement restricts or is intended to restrict the proper exercise at any time by the LPA of any of its statutory powers functions or discretions.
- 2.5 No person shall be liable for any breach of any of the obligations, covenants and undertakings or other provisions of this Agreement after parting with his entire interest in the Site or his interest in that part of the Site on which the breach occurs but without prejudice to liability for any subsisting breach arising before parting with that interest.
- 2.6 No obligation, 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 Site or any receiver appointed by such chargee or mortgagee or any person deriving title through such chargee, mortgagee or receiver unless and until such chargee, mortgagee, receiver or person has entered into possession of the Site or part thereof to which such obligation, covenant or undertaking relates.
- 2.7 The LPA shall request registration of this Agreement as a Local Land Charge by the Borough Council or its respective statutory successor in function.

2.8 This Agreement and the obligations, covenants and undertakings which it contains shall lapse and be extinguished automatically if (and from the date that) the Planning Permission:-

2.8.1 expires without the Development being Commenced; or

2.8.2 is quashed, revoked or (without the consent of the Developer) modified.

2.9 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Agreement.

2.10 If the LPA agrees pursuant to an application under section 73 of the 1990 Act to any variation or release of any condition contained in the Planning Permission or if any such condition is varied or released following an appeal under section 78 of the 1990 Act the covenants or provisions of this Agreement shall be deemed to bind the varied permission and to apply in equal terms to the new planning permission save where the LPA in their determination of such an application for the new planning permission indicate that consequential amendments are required to this Agreement to reflect the impact of the section 73 application and in such circumstances a separate deed pursuant to section 106 of the 1990 Act will be required to secure relevant planning obligations relating to the new planning permission.

3. **CONDITIONALITY**

This Agreement is conditional upon and shall not take effect until the Planning Permission has been granted.

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

The Developer covenants with the LPA that they will:

4.1.1 perform and comply with, and shall procure performance of and Compliance with, each and every of the obligations, covenants and undertakings specified in the Schedules to this Agreement;

4.1.2 notify the LPA at least one month prior to the date that the Development is intended to be Commenced;

4.1.3 as soon as practicable, notify the LPA of any revised date for the Commencement of the Development (subject always to the requirement to give at least one week prior notice of the intended date for Commencement of the Development); and

4.1.4 notify the LPA of the Commencement Date within five Business Days of the Commencement Date occurring.

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

5.1 The LPA covenants with the Developer that it shall procure performance of and Compliance with, each and every of the obligations, covenants and undertakings on the part of the LPA contained in this Agreement.

5.2 Subject to Clause 5.3 the LPA covenants with the Developer that it shall use all sums received from the Developer under the terms of this Agreement for the purposes specified in this Agreement for which they are paid.

5.3 Where any payment is made by the Developer to the LPA pursuant to the terms of this Agreement the LPA may, where it is not the authority with the statutory duty or functions to expend such monies and/or in the interests of administrative efficiency,

pay such monies to the competent authority which has the statutory duty to discharge the functions for which the monies were paid ("**Other Statutory Authority**") and upon payment of monies to such Other Statutory Authority the LPA's requirement to comply with Clause 5.2 shall cease to apply in respect of those monies

- 5.4 Upon payment of monies to an Other Statutory Authority pursuant to Clause 5.3 the LPA shall seek assurances from that Other Statutory Authority that the monies shall be applied by that Other Statutory Authority for the purposes for which they have been paid.

6. **NOTICES**

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

6.1.1 if delivered by hand, the next Business Day after the day of delivery; and

6.1.2 if sent by first class post or recorded delivery post, the day two Business Days after the date of posting.

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

LPA:

Director of Planning Policy and Decisions (For the Attention of: Anthony Hollingsworth)
London Legacy Development Corporation - Planning Decisions Team
Level 10, 1 Stratford Place
Montfichet Road
London E20 1EJ

The Developer:

For the Attention of: Israel Gold or the Company Secretary
Topfling House
Unit 14
Grosvenor Way
London E5 9ND

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

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

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

- 7.2 Where in the opinion of the LPA, any obligation, covenant, undertaking or other provision on the part of the LPA contained in this Agreement has been satisfied wholly

or in part, the LPA shall be entitled to apply to the Developer for a notification to that effect, and where the relevant obligation, covenant, undertaking or other provision has been satisfied (wholly or in part) the Developer shall as soon as reasonably practicable issue a notification to such effect.

8. VERIFICATION AND ENFORCEMENT

The Developer shall permit the LPA together with its respective authorised employees agents surveyors and other representatives to enter upon the Site and any buildings erected thereon pursuant to the Development at reasonable times and upon reasonable prior notice for the purpose of verifying whether or not the obligations contained in this Agreement are being performed and Complied with PROVIDED THAT the LPA shall make good any damage caused by the LPA or its respective authorised employees, agents, surveyors or other representatives during the carrying out of such verification.

9. APPROVAL

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

9.1.1 40 (forty) Working Days of receipt of the Submitted Document from the Developer, or

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

PROVIDED THAT where Clause 9.1.2 applies, the LPA shall notify the Developer of such reporting to its planning committee within 30 (thirty) Working Days of receipt of the Submitted Document from the Developer and **FURTHER PROVIDED THAT** in the event the LPA confirms that it does not Approve the Submitted Document the LPA shall issue a Refusal Notice and in the event the LPA does not provide the confirmation within the 40 (fourty) Working Days or 50 (fifty) Working Days (as applicable) the provisions of Clause 10.4 shall apply.

10. REFUSAL NOTICE

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

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

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

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

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

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

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

- 10.3.2 in the event the Developer and the LPA do not reach agreement at the meeting on how to amend the Submitted Document such that the LPA can Approve it the provisions of Clause 11 shall apply;
- 10.3.3 in the event the Developer and the LPA do reach agreement at the meeting on how to amend the Submitted Document such that the LPA can Approve it, not more than 10 (ten) Working Days following the meeting the Developer shall submit the revised Submitted Document to the LPA for Approval and the LPA shall by no later than the LPA Response Date confirm to the Developer whether or not it Approves the revised Submitted Document **PROVIDED THAT** in the event the LPA refuses to Approve the revised Submitted Document the provisions of Clause 11 shall apply.
- 10.4 In the event the LPA does not Approve the Submitted Document or issue a Refusal Notice within the time period specified in Clause 9 the following provisions shall apply:
- 10.4.1 not more than 5 (five) Working Days after the expiry of the time period for such Approval being made the Developer and the LPA shall meet to discuss the Submitted Document;
- 10.4.2 in the event the Developer and the LPA do not reach agreement at the meeting on whether the Submitted Document needs amending such that the LPA can Approve it the provisions of Clause 11 shall apply;
- 10.4.3 in the event the Developer and the LPA do reach agreement at the meeting on whether the Submitted Document needs to be amended such that the LPA can Approve it:
- (a) where the Submitted Document does need to be amended, not more than 10 (ten) Working Days following the meeting the Developer shall submit the revised Submitted Document to the LPA for Approval and the LPA shall by no later than the LPA Response Date confirm to the Developer whether or not it Approves the revised Submitted Document **PROVIDED THAT** in the event the LPA refuses to Approve the revised Submitted Document the provisions of Clause 11 shall apply; or
 - (b) where the Submitted Document does not need to be amended, the LPA shall by no later than the LPA Response Date confirm to the Developer whether or not it Approves the revised Submitted Document **PROVIDED THAT** in the event the LPA refuses to Approve the revised Submitted Document the provisions of Clause 11 shall apply.
- 10.5 The LPA and the Developer may agree in writing to increase or decrease the number of Working Days in which the actions required by Clauses 10.1 to 10.4 (inclusive) are required to be undertaken if considered appropriate in all the circumstances.
11. **DISPUTE RESOLUTION**
- 11.1 One party may by serving notice on all the other parties (the "**Notice**") refer a Dispute to an Expert for determination.
- 11.2 The Notice must specify:
- 11.2.1 the nature, basis and brief description of the Dispute;
 - 11.2.2 the Clause or paragraph of a Schedule or Appendix pursuant to which the Dispute has arisen; and

11.2.3 the proposed Expert.

11.3 In the event that the Parties are unable to agree whom should be appointed as the Expert within 10 (ten) Working Days after the date of the Notice then either Party may request the President of the Law Society (except where Clause 11.7 provides otherwise) to nominate the Expert at their joint expense.

11.4 The Expert shall act as an expert and not as an arbitrator and his decision will (in the absence of manifest error) be final and binding on the Parties hereto and at whose cost shall be at his discretion or in the event that he makes no determination, such costs will be borne by the parties to the Dispute in equal shares.

11.5 The Expert will be appointed subject to an express requirement that he reaches his decision and communicates it to the Parties within the minimum practicable timescale allowing for the nature and complexity of the Dispute and in any event not more than 20 (twenty) Working Days from the date of his appointment to act.

11.6 The Expert will be required to give notice to each of the said Parties inviting each of them to submit to him within 10 (ten) Working Days written submissions and supporting material and will afford to each of the said Parties an opportunity to make counter submissions within a further 5 (five) Working Days in respect of any such submission and material.

11.7 Where the Parties are unable to agree whom should be appointed as the Expert, either Party may request that the following nominate the Expert at their joint expense:

11.7.1 if such dispute shall relate to matters concerning the construction, interpretation and/or the application of this Agreement, the Chairman of the Bar Council to nominate the Expert;

11.7.2 if such dispute shall relate to matters requiring a specialist chartered surveyor, the President of the Royal Institute of Chartered Surveyors to nominate the Expert;

11.7.3 if such dispute shall relate to matters requiring a specialist chartered civil engineer or specialist transport adviser, the President of the Institution of Civil Engineers to nominate the Expert;

11.7.4 if such dispute shall relate to matters requiring a specialist chartered accountant, the President of the Institute of Chartered Accountants in England and Wales to nominate the Expert; and

11.7.5 in all other cases, the President of the Law Society to nominate the Expert.

12. **NO WAIVER**

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

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

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

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

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

15. **THE LPA'S COSTS**

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

15.1.1 the LPA's legal costs incurred in the negotiation and completion of this Agreement (inclusive of any such costs incurred by external lawyers appointed by the LPA in relation to the negotiation and completion of this Agreement); and

15.1.2 the LPA's costs incurred in the review of development appraisals and viability assessments in connection with the Development (inclusive of any such costs incurred by external surveyors appointed by the LPA).

16. **FINANCIAL CONTRIBUTIONS AND INDEXATION**

16.1 Where, pursuant to this Agreement, a payment or financial contribution is to be made, such payment or financial contribution shall be paid in accordance with the triggers and provisions for payment set out in and in accordance with all relevant provisions of this Agreement.

16.2 All payments or financial contributions to be paid pursuant to this Agreement will be increased by reference to the amount of the quarterly increase in the Index from the date of this Agreement until the date such sums are paid.

16.3 Where any sum or value is referred to in this Agreement (but is not the subject of a payment) such sum or value shall be increased by the increase of the Index from the date of this Agreement until the date the sum or value falls to be considered or applied.

17. **JURISDICTION AND LEGAL EFFECT**

17.1 This Agreement shall be governed by and interpreted in accordance with the law of England.

17.2 The provisions of this Agreement (other than this Clause 17.2 which shall be effective in any event) shall be of no effect until this Agreement has been dated.

18. **EXECUTION**

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

SCHEDULE 1

AFFORDABLE HOUSING

DEFINITIONS

- "Affordable Housing"** means housing including Social Rented Housing, Affordable Rented Housing and Intermediate Housing, provided to eligible households whose needs are not met by the market, and which housing should (a) meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local housing prices and (b) include provision for the home to remain at an affordable price for future eligible households, or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision;
- "Affordable Housing 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 Provider"** means a provider of Affordable Housing Approved in respect of the Development pursuant to paragraph 1.1 of this Schedule;
- "Affordable Housing Units"** means the Residential Units to be provided as Affordable Housing pursuant to this Schedule;
- "Affordable Housing Management Scheme"** means a scheme specifying:-
- (a) management and servicing arrangements for the Affordable Housing Units; and
 - (b) details of the rent, service charge and any estate or other charges payable for each Affordable Housing Unit together with an explanation of how the Affordable Housing Units remain affordable notwithstanding such charge;
- "Affordable Rented Housing"** means rented housing that has the same characteristics as Social Rented Housing except that it is outside the National Rent Regime, but is subject to other rent controls that require it to be offered to eligible households at a rent of up to 80 (eighty) per cent of local market rents;
- "Affordable Rented Housing Units"** means Affordable Housing Units to be made available for Affordable Rented Housing pursuant to paragraph 2 of this Schedule;

"Affordable Rents"

means the rents (inclusive of service charge) not exceeding those set out in the table below:

| Size of Affordable Housing Unit | Maximum rent |
|--|--------------------------|
| 1 bedroom | 65% of local market rent |
| 2 bedroom | 55% of local market rent |
| 3 bedroom | 50% of local market rent |

SUBJECT TO an annual percentage rent increase by reference to the amount of the annual increase in the CPI + 1% (calculated from the date of this Agreement and based on the annual CPI rate published for the preceding September), or such other rate of annual increase as shall be published by the HCA under their Rent Standard Guidance, including any rate published by the HCA in **"The Regulatory Framework for Social Housing in England from 1 April 2015 (Annex A: Rent Standard Guidance)"**, or any successor guidance;

"Homes and Communities Agency" or "HCA"

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

"HomeBuy Agent"

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

"Intermediate Housing"

means submarket housing which is above Target Rents but below open market levels and which housing includes schemes such as Shared Ownership Housing or shared equity housing, intermediate rent and rent to buy housing provided always that such schemes meet the affordability criteria as referred to in the supporting text of Policy 3.10 of the London Plan 2015 (consolidated with amendments from 2011);

"Intermediate Units"

means Affordable Housing Units to be made available for Intermediate Housing pursuant to paragraph 2 of this Schedule;

"Lifetime Home Standards"

means the incorporation of the 16 (sixteen) design standards which together create a flexible blue print for accessible and adaptable housing published by the Joseph Rowntree Foundation Lifetime Homes Group and which

standards incorporate all of the Part M Building Regulations and relevant parts of the Housing Corporation Design and Quality Standards;

"Model Form of Lease"

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

"National Rent Regime"

means the regime under which the social rents of tenants of social housing are set, with particular reference to the DCLG's Guidance on Rents for Social Housing (May 2014) and Direction on the Rent Standard (May 2014) and the Welfare Reform and Work Act 2016 (as the same may be amended or superseded);

"Perpetuity"

means a minimum term of 125 (one hundred and twenty five) years from the date of First Occupation of an Affordable Housing Unit;

"Rental Cap"

means the weekly rents (inclusive of service charge) set out in the table below:

| Size | Weekly Rent (inc Service Charge) on first letting of an Affordable Rented Housing Unit |
|-------------|---|
| 1 bedroom | £185 |
| 2 bedroom | £202 |
| 3 bedroom | £248 |

SUBJECT TO an annual percentage rent increase by reference to the amount of the annual increase in the CPI + 1% (calculated from the date of this Agreement and based on the annual CPI rate published for the preceding September), or such other rate of annual increase as shall be published by the HCA under their Rent Standard Guidance, including any rate published by the HCA pursuant to the consultation entitled "**The Regulatory Framework for Social Housing in England from April 2015 Annex A: Rent Standard Guidance**";

"Rents and Nominations Agreement"

means the Council's standard rents and nominations agreement;

"Shared Ownership Housing"

means a unit occupied partly for rent and partly by way of Developer occupation on Shared Ownership terms as defined in section 2(6) of the Housing Act 1996 where the lessee

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

"Shared Ownership Units"

means Affordable Housing Units to be made available for Shared Ownership Housing pursuant to paragraph 2 of this Schedule;

"Social Rented Housing"

means rented housing for which guideline target rents are determined through the National Rent Regime;

"Staircasing"

means the purchase by the Developers of additional equity in a Shared Ownership Unit or shared equity unit;

"Target Rents"

means rents for Social Rented Housing calculated in accordance with the National Rent Regime;

"Transfer"

means the transfer of the freehold or grant of a lease for a term of at least 125 (one hundred and twenty five) years unless otherwise agreed in writing with the LPA and "Transferred" shall be construed accordingly.

1. AFFORDABLE HOUSING PROVIDER

1.1 Prior to the Commencement of Development the Developer shall submit to the LPA and obtain its Approval to a list of companies or organisations involved in the provision of Affordable Housing who if Approved shall be capable of being Affordable Housing Providers for the Development.

1.2 The Developer will:

1.2.1 proceed diligently and with all due expedition to negotiate and enter into an Affordable Housing Contract in respect of the Affordable Rented Housing Units and the Shared Ownership Units to be provided pursuant to paragraph 2 of this Schedule; and

1.2.2 notify the LPA within 10 Working Days of entering into an Affordable Housing Contract.

1.3 No Residential Unit shall be Occupied until the Developer has entered into the Affordable Housing Contract and provided notification to the LPA pursuant to paragraph 1.2.2 of this Schedule 1.

2. MINIMUM AFFORDABLE HOUSING PROVISION

2.1 Not less than 2 Residential Units shall be provided as Shared Ownership Units.

2.2 Not less than 5 Residential Units shall be provided as Affordable Rented Housing Units.

2.3 The Affordable Housing Units to be provided pursuant to paragraphs 2.1 and 2.2 above shall comprise the following unit size mix:

| | 1 bed units | 2 bed units | 3 bed units | Total number of |
|--|--------------------|--------------------|--------------------|------------------------|
|--|--------------------|--------------------|--------------------|------------------------|

| | | | | units |
|---------------------------------|---|---|---|--------------|
| Shared Ownership Units | 0 | 2 | 0 | 2 |
| Affordable Rented Housing Units | 0 | 3 | 2 | 5 |

2.4 Not more than 50 (fifty) per cent of the Private Residential Units shall be Occupied until:

2.4.1 all of the Affordable Housing Units are:

- (a) Completed and made ready for occupation; and
- (b) have been Transferred to the Affordable Housing Provider pursuant to the Affordable Housing Contract.

3. **AFFORDABLE RENTS AND AFFORDABILITY CRITERIA**

3.1 The rent (inclusive of service charge) charged for the first letting of any Affordable Rented Housing Unit shall not exceed the applicable Affordable Rent **PROVIDED THAT:**

3.1.1 the Developer shall obtain the written agreement of the LPA as to the amounts of the weekly rents and the LPA shall act reasonably when agreeing any proposed revisions to these weekly rents; and

3.1.2 the Affordable Rent shall not exceed the relevant Rental Cap.

3.2 The rents (inclusive of service charge) on subsequent lettings and tenancy renewals of any Affordable Rented Housing Unit (which for the avoidance of doubt shall not include tenancies which are continuing after a probationary period) shall not exceed the applicable Affordable Rent unless otherwise agreed in writing with the LPA.

3.3 The cost of rent and/or mortgage payments and service and estate charges in relation to the Shared Ownership Units shall not exceed the general affordability criteria for Shared Ownership Housing published by the Greater London Authority from time to time.

4. **GENERAL**

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

4.1.1 not Occupy or cause or permit to become Occupied the Affordable Housing Units for any purpose other than for Affordable Housing in Perpetuity;

4.1.2 provide that 10% of the Affordable Housing Units are accessible or easily adaptable for wheelchair users across all tenures and unit sizes, and provide details including 1:50 floor plans of the proposed wheelchair accessible dwellings to the LPA for Approval prior to commencement and notify the LPA at least nine months prior to their Completion;

4.1.3 provide the Affordable Housing Units in accordance with the London Mayor's Housing Supplementary Planning Guidance Housing (March 2016) and such parts of the London Mayor's Draft Interim Housing Supplementary Planning

Guidance Housing (May 2015) which remain in place at the date of this Agreement and the Lifetime Home Standards as the same may be superseded or amended from time to time;

- 4.1.4 ensure that the Affordable Housing Contract imposes a requirement on the Affordable Housing Provider to deliver a duly executed Rents and Nominations Agreement to the Council within 6 months of date of the Affordable Housing Contract;

4.2 The provisions of this Schedule will not bind:

- 4.2.1 any mortgagee or chargee of the Affordable Housing Provider nor any mortgagee or chargee of the Developer for the time being of any leasehold interest in any of the Affordable Housing Units nor any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 or otherwise by such mortgagee or chargee of such Affordable Housing Provider or Developer and who exercises any power of sale **PROVIDED THAT:-**

(a) it has given the LPA at least three months written notice of its intention to exercise such power of sale so as to provide the LPA with the opportunity to complete an assignment of the Affordable Housing Units in question to ensure that they continue to be used for the purpose of Affordable Housing;

(b) the said mortgagee or receiver has used its Reasonable Endeavours during the period of at least three months referred to in sub-paragraph 4.2.1(a) to first dispose of the Affordable Housing Units to an Affordable Housing Provider and provided written evidence of such Reasonable Endeavours to the LPA and for the avoidance of doubt such mortgagee chargee or receiver shall not be under any obligation to dispose of the Affordable Housing Units for a sum less than the monies outstanding pursuant to the legal charge or mortgage; and

(c) if the said mortgagee chargee or receiver shall not have disposed of the said Affordable Housing Units or any part thereof in accordance with paragraph 4.2.1(b) above within the said three month period the said mortgagee or the receiver may (but without imposing any obligation on the said mortgagee or receiver) dispose of the Affordable Housing Units which have not by that time been disposed of to such Affordable Housing Provider on the open market to a willing buyer and such buyer shall take free of the restrictions imposed herein in relation to the Affordable Housing Units;

- 4.2.2 any Shared Ownership Unit where one hundred per cent of the equity in that Shared Ownership Unit has been purchased by the tenant via Staircasing;

- 4.2.3 any completed Affordable Housing Units where an Affordable Housing Provider shall be required to dispose of the same pursuant to a right to buy under Part V of the Housing Act 1985 as amended by the Housing (Preservation of Right to Buy) Regulations 1993 or pursuant to a right to acquire under Section 180 of the Housing and Regeneration Act 2008 or any similar or substitute right applicable;

- 4.2.4 any completed Affordable Housing Units where an Affordable Housing Provider sells to a tenant through Social Homebuy funded pursuant to Section 19(3) of the Housing and Regeneration Act 2008 or any amendment or replacement thereof; or

- 4.2.5 any person or body deriving title through or from any of the parties mentioned in paragraphs 4.2.1 to 4.2.4.
- 4.3 The Developer will procure that the Transfer of any Shared Ownership Units to an Affordable Housing Provider imposes a requirement that when granting a lease of an individual Shared Ownership Unit the Affordable Housing Provider will use the appropriate Model Form of Lease.
- 4.4 Upon the transfer of any Affordable Housing Units to an Affordable Housing Provider the obligations imposed on the Developer in this Schedule in relation to those Affordable Housing Units shall be observed and performed by the Affordable Housing Provider and where any obligation is expressed as an obligation on the Developer to procure any act on the part of the Affordable Housing Provider, such obligation shall be construed as an obligation of the Affordable Housing Provider to itself perform the obligation in question.
- 4.5 No Affordable Housing Unit shall be Occupied before the Affordable Housing Provider has entered into a Rents and Nominations Agreement with the Council in respect of the Affordable Housing Units and evidence thereof has been provided to and approved in writing by the LPA.
- 4.6 Unless otherwise agreed in writing by the LPA, no Affordable Housing Unit shall be Occupied before an Affordable Housing Management Scheme for the Affordable Housing Units has been submitted to and Approved in writing by the LPA and the Affordable Housing Units shall thereafter be Occupied in accordance with the Approved Affordable Housing Management Scheme.

5. **RESTRICTION ON OCCUPATION OF AFFORDABLE HOUSING UNITS**

- 5.1 Subject to the terms of this Schedule and any Rents and Nominations Agreement:
- 5.1.1 no Affordable Rented Housing Unit provided under the terms of this Schedule shall be Occupied other than as an Affordable Rented Housing Unit and all occupational leases and tenancies of such units shall include a provision preventing sub-letting and underletting save that this shall not prevent an occupational tenant having the right to take in a lodger or share occupation with another person provided that the occupational lease or tenancy contains a provision to the effect that the tenant must obtain the prior written consent of the landlord and is not permitted to grant any assured tenancy of any part of the Affordable Rented Housing Unit; and
- 5.1.2 no Shared Ownership Unit provided under the terms of this Schedule shall be Occupied other than as an Intermediate Unit pursuant to a Model Form of Lease save that this shall not prevent an occupational tenant having the right to take in a lodger or share occupation with another person provided that the occupational lease or tenancy contains a provision to the effect that the tenant must obtain the prior written consent of the landlord and is not permitted to grant any assured tenancy of any part of the Shared Ownership Unit.

SCHEDULE 2
VIABILITY REVIEW

DEFINITIONS

- "Construction Contract"** means a contract for the construction and completion of the Development entered into by the Developer in such form as is custom and practice to use in the industry incorporating the programme for the completion of the Development by a specified completion date documentary evidence of which shall be submitted to the LPA in writing;
- "Deferred Affordable Housing"** means the Deferred Affordable Housing Units or the Deferred Affordable Housing Payment;
- "Deferred Affordable Housing Units"** means Affordable Housing to be provided as part of the Development in addition to the Affordable Housing Units to be provided pursuant to Schedule 1 of this Agreement up to a maximum of 5 Residential Units (in addition to the 7 secured by Schedule 1) in accordance with the Deferred Affordable Housing Scheme;
- "Deferred Affordable Housing Payment"** means a sum of money representing the cost of providing additional Affordable Housing Off Site so as to increase the Affordable Housing provided by the Development above the figure of 7 Residential Units secured through Schedule 1 of this Agreement up to a cap of thirty five per cent (35 %) of the Residential Units comprised within the Development in accordance with the requirements of Policy H.2 of the London Legacy Development Corporation Local Plan (adopted on 21st July 2015) to be agreed between the Developer and the LPA or determined by the Specialist;
- "Deferred Affordable Housing Scheme"** means a scheme specifying the quantum, size and location of the Deferred Affordable Housing Units with reference to plans and drawings approved as part of the Planning Application, which:
- (a) is submitted by the Developer with any Viability Review; and
 - (b) is either:
 - (i) agreed by the LPA and the Developer; or
 - (ii) determined by the Specialist;
- "Force Majeure"** fire, explosion, aircraft and aerial devices dropped from aircraft, war, riot, civil commotion or terrorist activity;

| | |
|---|---|
| "Memorandum" | means a memorandum made in accordance with paragraph 12 of this schedule; |
| "Relevant Report" | means a detailed report setting out and evidencing the Developer's reasons and justification (financial and otherwise) as to why any Viability Review submitted would not support any Deferred Affordable Housing; |
| "Specialist" | means an independent qualified chartered surveyor with not less than 10 years relevant experience in undertaking viability assessments the identity of which shall be agreed between the parties or nominated in accordance with clause 11.3 of this Agreement; |
| "Substantial Commencement" | means the occurrence of all of the following events: <ul style="list-style-type: none"> (a) a Construction Contract is let by the Developer and certified documentary evidence of the same is provided to the LPA; and (b) an Unconditional Obligation Certificate is provided to the LPA in writing (which for the avoidance of doubt can be in the form of a letter); and (c) Commencement of the Development has occurred and works (including but without limitation building or engineering works) pursuant to the Construction Contract have taken place and are ongoing in respect of the Development for at least three (3) calendar months (without interruption to the construction programme under the Construction Contract lasting more than one (1) week in total in any given month); |
| "Unconditional Obligation Certificate" | means a certificate provided by solicitors acting for the Developer to the effect that: <ul style="list-style-type: none"> (a) the Developer has completed the Construction Contract in which a construction contractor agrees to construct the whole Development by a specified completion date in accordance with an agreed programme subject to the usual extensions, and (b) all contractual conditions precedent to the enforcement of the obligation to construct the Development referred to at (a) above have been satisfied; |
| "Viability Review" | means a review to be provided by the Developer assessing the ability of the Development to viably |

deliver some or all of the Deferred Affordable Housing based upon a review of relevant income assumptions undertaken in accordance with the supporting statement prepared by Savills dated 28 July 2015.

1. EVIDENCE OF COMMENCEMENT

Upon the occurrence of Substantial Commencement within 18 (eighteen) months of the date of grant of the Planning Permission the Developer shall submit to the LPA written evidence of the events which amount to Substantial Commencement including the Construction Contract and the Unconditional Obligation Certificate and shall allow the LPA (and its agents) access to the Site at all reasonable times for the purposes of inspecting the Site and verifying Substantial Commencement.

2. VIABILITY REVIEW

2.1 If the Development has not been Substantially Commenced within 18 (eighteen) months of the date of grant of the Planning Permission the Developer shall prior to Substantial Commencement or as the case may be prior to any undertaking any further development work which would constitute Substantial Commencement submit to the LPA a Viability Review which shall be accompanied by:

2.1.1 either:

- (a) the Relevant Report; or
- (b) a Deferred Affordable Housing Scheme;

2.1.2 the Construction Contract; and

2.1.3 an Unconditional Obligation Certificate

(together known as the "**Contract Documents**").

3. INTERRUPTIONS TO THE PROGRAMME

Subject to Force Majeure if at any time following Commencement no construction works at the Development have taken place for a period exceeding three (3) consecutive calendar months, the Developer shall submit to the LPA a Viability Review prior to re-commencement of works on the Development and the provisions of paragraph 2 above and the remainder of this Schedule shall apply to such Viability Review.

4. CONTENT OF VIABILITY REVIEW

4.1 If no Deferred Affordable Housing Scheme is submitted with the Viability Review required to be submitted to the LPA pursuant to the provisions of paragraphs 2 or 3 of this Schedule, the Viability Review shall be accompanied by:

4.1.1 the Developer's justification (financial and/or otherwise) as to why no On Site Deferred Affordable Housing Units can be provided as part of the Development; and

4.1.2 a Deferred Affordable Housing Payment proposal in the event that the Viability Review demonstrates that a Deferred Affordable Housing Payment can be made.

5. VALIDATION OF VIABILITY REVIEW AND REQUESTS FOR FURTHER INFORMATION

5.1 Within 10 (ten) Working Days of receipt of a Viability Review (unless otherwise agreed between the LPA and the Developer), the LPA shall either:

5.1.1 confirm in writing to the Developer that it has received a valid Viability Review and the Contract Documents ("**Validation Date**"); or

5.1.2 request such further financial, planning, legal or other information as acting reasonably it deems necessary in order to assess viability

and for the avoidance of doubt nothing in this paragraph 5.1 shall amount to agreement of any of the matters contained in the Viability Review nor preclude the LPA from seeking further relevant information during the course of negotiations pursuant to paragraph 6 provided that seeking further relevant information shall not be a reason for delaying the Viability Review if it can be progressed or for completing any other process required by this paragraph if it can be completed without the information requested in paragraph 5.1.2 above.

5.2 On receipt of any request for further information, the Developer shall as soon as reasonably practicable and in any case within ten Working Days (or such longer period as may be agreed between the LPA and the Developer) of such request provide to the LPA the information requested whereupon the LPA shall confirm receipt of a valid Viability Review in writing (and such date shall be deemed the Validation Date).

5.3 The Developer acknowledges that during the course of negotiations pursuant to paragraph 6 below, the LPA or its surveyor shall be entitled to seek such further information as either deems relevant or reasonable to settling the Viability Review and/or Deferred Affordable Housing Scheme and/or Deferred Affordable Housing Payment with which the Developer shall comply as outlined in paragraph 5.2 above using all reasonable endeavours.

5.4 If either paragraph 2 or paragraph 3 of this Schedule applies, the Developer shall not Commence or continue to Commence (as applicable) the Development or otherwise cause or permit Commencement or continued Commencement (as applicable) of the Development until the LPA has received a valid Viability Review and Contract Documents.

6. **REVIEW OF VIABILITY REVIEW AND DEFERRED AFFORDABLE HOUSING SCHEME**

6.1 The LPA shall be entitled to:

6.1.1 recover from the Developer its reasonable and properly incurred internal costs (including officer time) incurred pursuant to this Schedule 2; and

6.1.2 instruct external surveyors to act on its behalf to review and assess the Viability Review and recover from Developer the LPA's reasonable and properly incurred costs of that review and subsequent advice to the LPA

and the Developer shall pay such costs within 10 (ten) Working Days of written demand from the LPA.

6.2 For a period not exceeding 2 (two) calendar months commencing on the Validation Date (unless otherwise agreed between the LPA and the Developer in writing), the Developer and the LPA (or its surveyor) both acting reasonably and in good faith may review and seek to agree:

6.2.1 the Viability Review, and

6.2.2 if relevant, the Deferred Affordable Housing Scheme or Deferred Affordable Housing Payment

and shall give effect to any such agreement in a Memorandum.

6.3 Within 3 (three) calendar months of the Validation Date, the LPA shall confirm in writing that either:

6.3.1 it rejects (with reasons) the conclusions of the Viability Review (as submitted) ("**Non-Acceptance Notice**"); or

6.3.2 it accepts the conclusions of the Viability Review as submitted or as negotiated between the Developer and the LPA and confirms that no Deferred Affordable Housing is triggered; or

6.3.3 it accepts the conclusions of the Viability Review as submitted or as revised following a review between the Developer and the LPA, and the Deferred Affordable Housing Scheme or Deferred Affordable Housing Payment (if relevant) is agreed by way of a completed Memorandum ("**Acceptance Notice**").

7. REFERRAL TO THE SPECIALIST

7.1 In the event that pursuant to paragraph 6 above, the Developer and the LPA have not agreed the Viability Review and/or the Deferred Affordable Housing either Party shall be entitled to refer the matter to the Specialist for determination and each shall use its reasonable endeavours to do so within 1 (one) calendar month of the date of the Non-Acceptance Notice (unless otherwise agreed between the LPA and the Developer) and the date the matter is referred shall be referred hereafter as the "**Referral Date**".

7.2 Unless otherwise agreed between the LPA and the Developer or required by the Specialist each shall within a further period of 10 (ten) Working Days from the Referral Date submit its evidence and representations to the Specialist in respect of the Viability Review and the Deferred Affordable Housing which for the avoidance of doubt shall include representations explaining whether Deferred Affordable Housing could be provided on Site as Deferred Affordable Housing Units ("**Representations Period**").

7.3 In addition to the matters specified in paragraph 7.2, in making his determination the Specialist shall have regard to:

7.3.1 all relevant material submitted to him by the LPA and the Developer;

7.3.2 such relevant financial, legal, planning or other matters he considers relevant using reasonable care and skill and his professional expertise;

7.3.3 the provisions of this Agreement and this Schedule, in particular but without prejudice to the generality of the provisions relating to On Site Deferred Affordable Housing at paragraph 8.

7.4 Unless otherwise agreed by the LPA and the Developer or notified to them by the Specialist the Specialist shall be appointed on the basis that, if the Specialist determines that the Deferred Affordable Housing requirement is triggered that his or her decision shall include a Deferred Affordable Housing Scheme or calculation of the Deferred Affordable Housing Payment (the "**Decision**") which the LPA and the Developer shall thereafter incorporate in a completed Memorandum in accordance with paragraph 12 below.

8. ON SITE DEFERRED AFFORDABLE HOUSING UNITS

8.1 The Developer covenants to provide any Deferred Affordable Housing Units as may be required and agreed between the Parties (or determined by the Specialist) on the Site as part of the Development in accordance with:

8.1.1 the Deferred Affordable Housing Scheme; and

8.1.2 the programme comprised in the Construction Contract; and

8.1.3 the obligations and covenants on the part of the Developer in relation to Affordable Housing Units in Schedule 1 which shall apply mutatis mutandis to the Deferred Affordable Housing Units.

9. DEFERRED AFFORDABLE HOUSING PAYMENT

9.1 If the Specialist determines or the Developer and LPA agree that the Development can viably support Deferred Affordable Housing but the Deferred Affordable Housing cannot be provided within the Development and the Developer has previously submitted to the LPA or the Specialist (as the case may be) a detailed report evidencing the reasons why it would not be practicable to provide the Deferred Affordable Housing Units within the Development:

9.1.1 the Developer shall pay to the LPA the Deferred Affordable Housing Payment prior to First Occupation; and

9.1.2 no part of the Development shall be Occupied until the Deferred Affordable Housing Payment has been paid to the LPA.

10. RESTRICTION ON IMPLEMENTATION

10.1 If either paragraph 2 or 3 of this Schedule applies, the Developer shall not Substantially Commence or re-commence (as applicable) the Development until:

10.1.1 the LPA or the Specialist has confirmed in writing that the Viability Review is accepted and no Deferred Affordable Housing is required; or

10.1.2 the LPA has confirmed its Approval of the Deferred Affordable Housing Scheme and the same has been documented by way of Memorandum; or

10.1.3 if the matter has been referred to the Specialist by either Party the Specialist has issued his Decision including the Deferred Affordable Housing Scheme or Deferred Affordable Housing Payment (as relevant) and the same has been documented by way of Memorandum.

11. EXPIRY OF VIABILITY REVIEW AND DEFERRED AFFORDABLE SCHEME

11.1 Any Viability Review shall expire ("**Expiry Date**") after a period of 12 (twelve) months:

11.1.1 from the date of its preparation; or

11.1.2 if the LPA requested further information resulting in its revision from the Validation Date

where the Developer has not Substantially Commenced or re-commenced (as applicable) the Development.

11.2 If a Viability Review expires without the LPA and the Developer having agreed or the Specialist having determined the issue of the Deferred Affordable Housing, then the Developer shall within 1 (one) calendar month of the Expiry Date submit to the LPA (or the Specialist as the case may be) an up-to-date Viability Review whereupon the

provisions and covenants on behalf of the Developer in this Schedule shall apply to any subsequent Viability Review(s) and Deferred Affordable Housing.

11.3 Notwithstanding the agreement of the LPA and Developer (or the Specialist's determination) of the Deferred Affordable Housing Scheme, if following Commencement construction works have not taken place for a period exceeding 12 (twelve) calendar months, then the Developer shall: -

11.3.1 submit to the LPA an updated Viability Review prior to re-commencement of works, and

11.3.2 immediately cease to dispose off-plan of any Residential Units

and the provisions and covenants on behalf of the Developer in this Schedule shall apply to any subsequent Viability Review(s) and Deferred Affordable Housing such that any further or revised Deferred Affordable Housing Scheme shall be agreed by way of a fresh Memorandum.

12. MEMORANDUM

12.1 Within 15 (fifteen) Working Days of the LPA and the Developer agreeing a Deferred Affordable Housing Scheme or Deferred Affordable Housing Payment (or the Specialist determining by issuing his decision), the Developer and the LPA shall record the Deferred Affordable Housing Scheme or Deferred Affordable Housing Payment by completing a Memorandum by each of the LPA and the Developer signing the same (acting by authorised signatories).

12.2 The LPA and the Developer agree that upon completion of a Memorandum, to endorse each engrossed copy of this Agreement with the insertion of the following:

"The Parties have agreed the details of the [Deferred Affordable Housing Scheme/Deferred Affordable Housing Payment] by way of a signed Memorandum between the LPA and the Developer dated 20xx".

12.3 Upon completion of a Memorandum, this Deed shall be construed such that:

12.3.1 in the case of Deferred Affordable Housing Units being provided:

- (a) the number of Deferred Affordable Housing Units shall be included within the definition of Affordable Housing Units; and
- (b) the number of Private Residential Units shall be reduced by the corresponding number of Deferred Affordable Housing Units;
- (c) the obligations in Schedule 1 shall apply to the Deferred Affordable Housing to be provided within the Development and shall be construed such that any reference to "**Affordable Housing Units**" shall include the corresponding number of "Deferred Affordable Housing" Units to be provided within the Development; or

12.3.2 in the case of a Deferred Affordable Housing Payment becoming payable the payment will be due in accordance with the terms of the Memorandum.

SCHEDULE 3

SUSTAINABLE TRANSPORT & SECTION 278 AGREEMENT

DEFINITIONS

- "Car Club"** means a club operated by accredited operators that residents of the Development may join and which makes cars available to hire to members;
- "Highways Works"** means improvements and alterations to the public highway and public footway adjacent to the boundary of the Site as shown for illustrative purposes on the plan (ref. 0010-DR-75000 labelled 'Plan 2' at Schedule 9 provided always that the Highway Works do not include any adjustments to statutory undertakers' apparatus that may be required as part of the construction of any vehicular crossovers;
- "S278 Agreement"** means an agreement under section 278 of the Highways Act 1980 for the carrying out of the Highway Works;

1. CAR CLUB

- 1.1 No Residential Unit shall be First Occupied until the Developer has offered the first household to Occupy that Residential Unit free membership for a period of 1 (one) year for the use of a Car Club.
- 1.2 Where offers for membership of a Car Club are accepted within 3 (three) months of the date of the relevant offer made pursuant to paragraph 1.1, the Developer shall provide free membership for a period of 1 (one) year for the use of the Car Club to the relevant household.

2. RESTRICTION ON ON-STREET PARKING PERMITS

- 2.1 No Developer or occupier of the Development or any part thereof shall 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 the LPA 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.
- 2.2 The Developer shall not dispose of any Residential Unit or Occupy or allow any person to Occupy any of the Residential Units unless a notice has been served on such person that such person shall not be entitled (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 a resident's permit to park a vehicle in any marked highway bay or other place within a controlled parking zone within the Council's area.

3. SECTION 278 AGREEMENT

- 3.1 Prior to the Commencement of Development to submit the S278 Agreement to the Council for their consideration.
- 3.2 Not to Occupy the Development until the S278 Agreement has been completed.

SCHEDULE 4

TRAVEL PLAN

DEFINITIONS

| | |
|----------------------------------|--|
| "Modal Split Targets" | means the modal split targets identified in the Approved Travel Plan; |
| "Monitoring Period" | means 6 (six) months after First Occupation until 5 (five) years after First Occupation of the final Building to be Completed; |
| "Sustainable Transport Measures" | means measures to promote sustainable transport and encourage behavioural change (which may include the provision of physical infrastructure in order to encourage greater travel by walking and cycling) PROVIDED THAT such measures are in accordance with the requirements of regulation 122(2) of the Community Infrastructure Levy Regulations 2010; |
| "Travel Plan" | means the travel plan to be submitted to the LPA for Approval pursuant to paragraph 1 of this Schedule; |
| "Travel Plan Monitoring" | means monitoring of the Approved Travel Plan by carrying out the following monitoring of travel to and from the Development which shall as a minimum include the following: <ol style="list-style-type: none">1. carrying out representative surveys of the modal split of visitors to the Development (including staff) together with details of where those who have travelled by vehicle (for all or part of their journey) have parked;2. monitoring of the usage of the car parking which is available for use in the Development; and3. monitoring of the usage of cycle parking facilities by visitors to, and employees of, the Development; |
| "Travel Plan Monitoring Officer" | means a person appointed by the Developer to monitor and promote the success in meeting the targets set out in the Travel Plan; |
| "Travel Plan Monitoring Report" | a report setting out the data and information gathered during the Travel Plan Monitoring undertaken during the Travel Plan Review Period and such report shall include: <ol style="list-style-type: none">1. details of trip generation rates;2. details of mode share and change in |

mode share over time;

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

"Travel Plan Review Period"

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

1. TRAVEL PLAN

1.1 Prior to the First Occupation of the Development the Developer shall:

- 1.1.1 submit and obtain the LPA'S Approval to a Travel Plan;
- 1.1.2 appoint a Travel Plan Monitoring Officer and notify the LPA of the name and contact details of such officer.

1.2 No Residential Unit shall be Occupied until the Developer has complied with paragraph 1.1 above.

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

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

- 1.4.1 comply with TfL's online guidance on travel plans published in November 2013 and found at <http://www.tfl.gov.uk/info-for/urban-planning-and-construction/travel-plans/the-travel-plan> or such replacement best practice guidance as shall apply at the date of submission of the Travel Plan;
- 1.4.2 contain clear commitments to measures, including investigation of potential additional measures;
- 1.4.3 set out a clear process for review, consultation and approval of changes (and specifically targets) with the LPA;
- 1.4.4 have obtained a 'Passed' score in the online Travel Plan assessment tool 'ATTRBUTE';
- 1.4.5 contain measures aimed at:

- (a) positively influencing the travel behaviour of residents, employees and other users of the Development by promoting alternative travel modes to the car including initiatives to reduce reliance on the car and over time reduce car parking On Site;
- (b) encouraging travel by cycle, on foot and by public transport by highlighting their accessibility, availability and reviewing cycle parking space demand and use and set out measures for providing additional cycle parking spaces should further demand arise; and
- (c) setting out how monitoring travel surveys will be undertaken which cover all employees within the Development.

1.4.6 include a parking review plan which sets out:

- (a) a strategy for periodic review of the parking spaces; and
- (b) a strategy for periodic review of blue badge parking spaces to ensure that 1 x space is provided for each resident or employee who is a disabled motorist in line with London Plan policy.

1.4.7 include a car parking management plan which sets out:

- (a) principles for allocating car parking spaces for residents or staff and enforcement of allocated spaces;
- (b) principles for the prevention of unauthorised parking Off Site which could affect performance of the local highway network.

1.5 The Developer shall implement the Approved Travel Plan during the life of the Development and shall include provisions in any lease or licence of any non-residential unit requiring any Occupier of such unit to comply with the Travel Plan and any amendments thereto.

1.6 No Development shall be Occupied other than in accordance with the Approved Travel Plan and any amendments thereto.

2. TRAVEL PLAN MONITORING

2.1 In order to monitor the effectiveness of the Travel Plan the Developer shall during the Monitoring Period carry out the Travel Plan Monitoring.

2.2 During the Monitoring Period the Developer shall prepare and submit to the LPA for Approval a Travel Plan Monitoring Report by not later than 42 days after the end of each Travel Plan Review Period.

2.3 Prior to the submission of a report referred to in paragraph 2.2 the Developer shall agree the structure of that report with the LPA.

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

3. MODAL SPLIT TARGETS

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

Plan which shall include a timetable for the implementation of such Sustainable Transport Measures.

- 3.2 The Developer shall implement the Sustainable Transport Measures that are set out in any First Monitoring Report in accordance with the timetable set out therein as Approved by the LPA.
- 3.3 If the Travel Plan Monitoring Report for the year immediately following the First Monitoring Report shows that any of the relevant Modal Split Targets are not being achieved the Developer shall repeat the process set out in paragraphs 3.1 and 3.2 of this Schedule for that year and each subsequent year until the Modal Split Targets are achieved.

SCHEDULE 5

EMPLOYMENT AND TRAINING AND CONSTRUCTION STANDARDS

DEFINITIONS

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

1. LOCAL LABOUR AND LOCAL BUSINESS

- 1.1 The Developer shall use Reasonable Endeavours to, and shall procure that its contractors (in respect of construction vacancies and jobs) and its tenant(s) and any sub-tenants (in respect of end-use vacancies and jobs), use reasonable endeavours to ensure that:
- 1.1.1 all job vacancies arising from the Development are advertised in Local Labour and Business Schemes and job centres in the Council's Area;
 - 1.1.2 Local Labour and Business Schemes are notified of all job vacancies arising from the Development;
 - 1.1.3 the recruitment of persons living in the Council's Area accounts for 25% of the construction jobs arising from the Development;
 - 1.1.4 the recruitment of persons living in the Council's Area accounts for a total of between 25% and 85% of the end-use jobs at the Development;
 - 1.1.5 all employees employed at the Development in construction jobs are paid the London Living Wage;
 - 1.1.6 the London Living Wage is promoted for all end use jobs at the Development; and
 - 1.1.7 work-based learning opportunities are provided at the Development, including not less than 1 apprenticeship opportunity.

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

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

1.2.1 use Reasonable Endeavours to ensure that businesses located in the Council's Area benefit directly from the commercial opportunities arising from the Development;

1.2.2 use Reasonable Endeavours to ensure that 20 per cent (20%) of the value of goods and services procured during the construction of the Development are supplied by businesses located within the Council's Area; and

1.2.3 provide local agencies with early information relating to availability of vacant space within the Development.

SCHEDULE 6

COMMERCIAL SPACE AND CONSTRUCTION STANDARDS

DEFINITIONS

- "Commercial Space"** means the 1,638 square metres of commercial space as authorised by the Planning Permission;
- "Considerate Constructors Scheme"** means the national construction industry created scheme which promotes work practices on sites to minimise disturbance caused by noise, dust, additional traffic and pavement congestion and encourages firms to be sensitive to the environment in which they operate and places public health and safety as its top priority and gives prominence to respect of people;
- "Shell and Core"** means accommodation constructed to shell and core finish as that expression is understood in the commercial development industry;

1. DELIVERY OF COMMERCIAL SPACE

- 1.1 No Residential Units shall be Occupied until all of the Commercial Space has been Completed to Shell and Core.

2. CONSIDERATE CONTRACTORS SCHEME

- 2.1 The Developer covenants to:
- 2.1.1 comply with the Considerate Constructors Scheme during the construction of the Development; and
 - 2.1.2 use Reasonable Endeavours to coordinate construction activities with any actual or planned concurrent construction activities on neighbouring sites.

3. LIFETIME HOMES STANDARD

- 3.1 All of the Residential Units shall be Completed to Lifetime Home Standards.

SCHEDULE 7
SUSTAINABILITY

DEFINITIONS

| | |
|----------------------------------|---|
| "District Energy Network" | means the Olympic Park district energy network; |
| "Energy Strategy" | means a revised energy strategy updating the energy strategy submitted by the Developer to the LPA dated April 2013 demonstrating how the Development will meet requirements of Policy S.2 of the London Legacy Development Corporation Local Plan (adopted on 21st July 2015); |
| "Local CHP Plant" | means any gas boilers and combined heat and power plants located within adjacent developments including but not limited to the development on the sites of planning permission references 13/00204/FUM (Monier Road East) and 12/00201/OUT(Neptune Wharf); |
| "Price Per Carbon Tonne" | means £46 (Indexed) per carbon tonne or such other amount as may be set in local or national policy relating to offset solutions. |

1. ENERGY STRATEGY

- 1.1 Prior to Commencement of the Development, the Developer shall submit to the LPA for Approval the Energy Strategy.
- 1.2 The Developer shall comply with the approved Energy Strategy in carrying out and completing the Development.

2. DISTRICT HEATING NETWORK

- 2.1 Prior to the erection of the Superstructure the Developer shall:
 - 2.1.1 use Reasonable Endeavours to extend or procure the extension of the District Energy Network to the Site and thereafter connect all Buildings to the District Energy Network; and
 - 2.1.2 provide a written report to the LPA outlining the steps the Developer has taken to satisfy the obligation in paragraph 2.1.1 above and the progress made towards securing the extension and connection.
- 2.2 If the report submitted pursuant to paragraph 2.1.2 concludes that it will not be possible (including but not limited to technical and/or financial factors) to connect all Buildings to the District Energy Network the Developer shall:
 - 2.2.1 use Reasonable Endeavours to connect to a Local CHP Plant prior to the erection of the Superstructure; and
 - 2.2.2 submit a further written report to the LPA prior to the erection of the Superstructure outlining the steps the Developer has taken to satisfy the obligation in paragraph 2.2.1 above, the progress made towards securing

the connection and the carbon emission reductions associated with such connection.

- 2.3 Not to commence erection of the Superstructure until:
- 2.3.1 the report submitted pursuant to paragraph 2.1.2 confirms to the LPA's satisfaction that it will be possible to connect all Buildings to the District Energy Network;
 - 2.3.2 the report submitted pursuant to paragraph 2.2.2 confirms to the LPA's satisfaction that it will be possible to connect all Buildings to a Local CHP Plant and such connection would have equivalent carbon emission reductions as if the Buildings has been connected to the District Energy Network; or
 - 2.3.3 the Developer has agreed the terms of and entered into a binding obligation with the LPA pursuant to which it agrees to pay a financial contribution to the LPA towards identified offset solutions, such contribution having been calculated by reference the Price Per Carbon Tonne and the tonnage of residual CO2 emissions to be off set as a result of the Buildings not being connected to the District Energy Network.
- 2.4 No Building shall be Occupied unless and until:
- 2.4.1 it is connected to the District Heating Network;
 - 2.4.2 where paragraph 1.3.2 applies, it is connected to a Local CHP Plant; or
 - 2.4.3 the obligation referred to in paragraph 2.3.3 has been satisfied by the Developer.

3. REDUCTION OF ENERGY DEMAND

- 3.1 The Developer shall use Reasonable Endeavours to encourage Occupiers of the Development to reduce their energy usage which shall include (without limitation):
- 3.1.1 dissemination of marketing materials and the provision of education and training (including tips and advice) on energy saving methods;
 - 3.1.2 the promotion of the use of energy efficient appliances; and
 - 3.1.3 the installation of energy efficient appliances where these are installed as part of the original construction and fit out of the Development (or any part thereof).

SCHEDULE 8

STOUR SPACE KITCHEN

DEFINITIONS

| | |
|---|---|
| "Existing Stour Space Operator" | means Stour Space Limited (company registration number 07313950); |
| "New Lease" | means a lease for the Replacement Stour Space Floorspace which is drafted in accordance with the New Lease Heads of Terms; |
| "New Lease Heads of Terms" | means heads of terms for the New Lease, which shall include the terms for the Relocation Discount; |
| "Relocation Discount" | means a reduction in the rent payable for the Replacement Stour Space Floorspace for a temporary period to compensate for any reasonable costs incurred by the Existing Stour Space Operator in relocating into the Replacement Stour Space Floorspace; |
| "Replacement Stour Space Floorspace" | means the 100 square metres of floorspace forming part of the Development and shown marked 'Stour Space' on the plan (ref. 0010-DR-0011-P02) labelled 'Plan 3' at Schedule 9; |

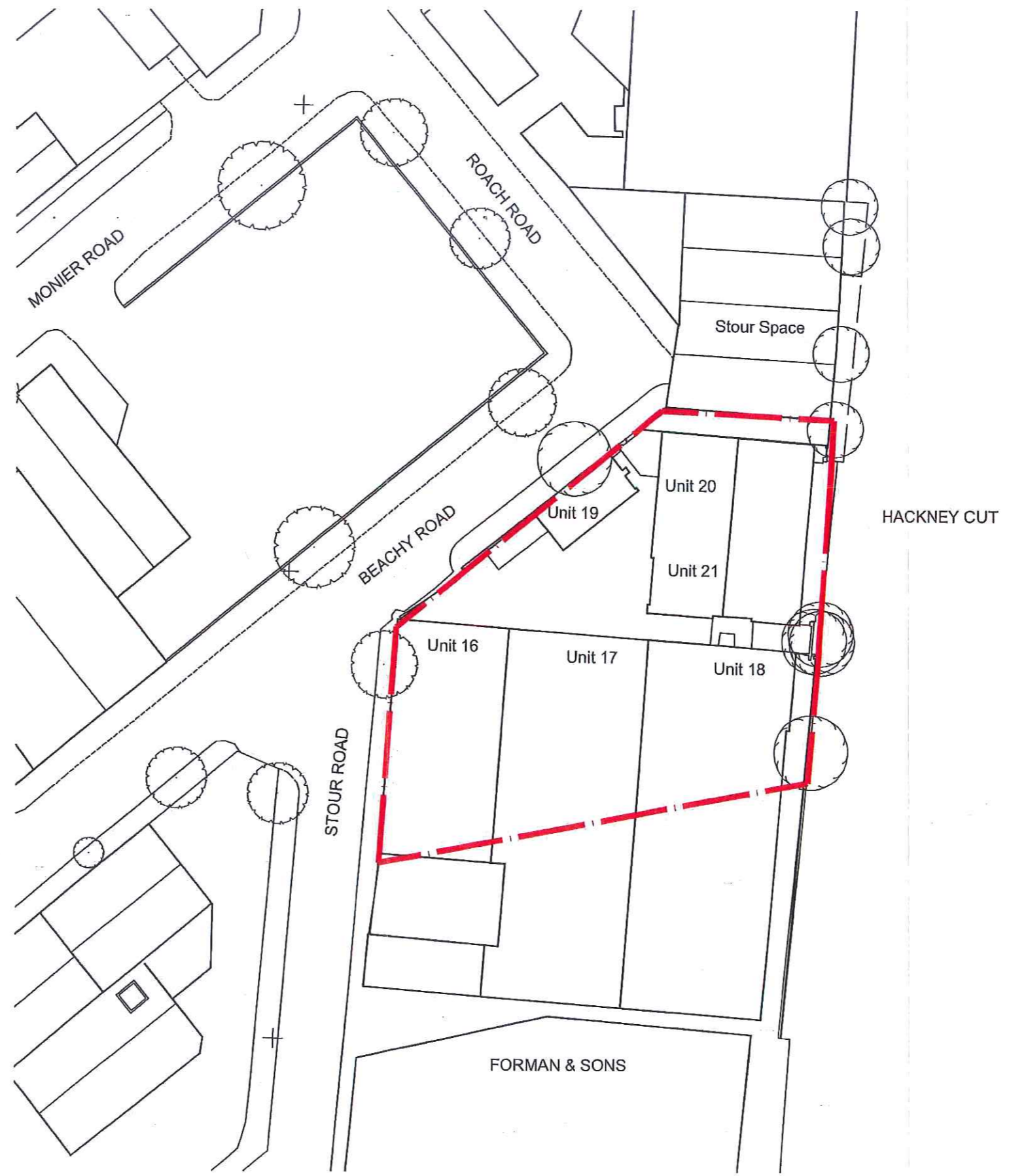
1. REPROVISION OF STOUR SPACE KITCHEN

- 1.1 No Residential Unit shall be Occupied until the Replacement Stour Space Floorspace has been constructed and made available for fitting out by the Existing Stour Space Operator.
- 1.2 No Residential Unit shall be Occupied until the New Lease Heads of Terms have been submitted to and Approved by the LPA.
- 1.3 For a period of not less than six months commencing on the date of the LPA's Approval of the New Lease Heads of Terms the Developer shall grant the New Lease to the Existing Stour Space Operator.
- 1.4 No more than 50% of the Residential Units shall be Occupied until the New Lease has been granted to the Existing Stour Space Operator.

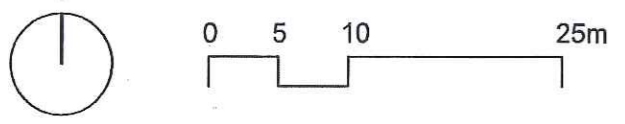
SCHEDULE 9


PLANS

PLAN 1
SITE PLAN



5
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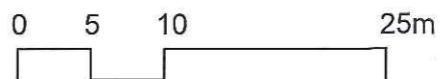
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| <p>© Westgate Street London E9 3RN T 0208 9855 888 M 077 087 63377 mat@johnleetch.co.uk</p> <p>Note: For information on materials please refer to the accompanying Design and Access Statement.</p> | <p>Rev: P01 Date: 29.04.13 Planning Issue P02 30.09.15 Planning Issue</p> <p>Dim: JF LM Chk: JL JL</p> | <p>Key:  Site Boundary (land included in the application)</p> | <p>Client: Britzel Ltd</p> <p>Project: Vittoria Wharf</p> | <p>Title: Existing Site Plan</p> <p>Drawing status: Planning</p> | <p>JOHNLEETCHARCHITECT</p> <p>Scale @ A3 1: 500</p> <p>Drawing No: 0010-DR-0011</p> <p>Rev: P02</p> |
|---|--|---|---|--|---|

PLAN 2
HIGHWAY WORKS PLAN



Key
Plan



 PUBLIC FOOTPATHS TO BE UPGRADED BY DEVELOPER



Copyright © Kuznelicki Leech Architects
Do not scale from this drawing
Report all errors, discrepancies and omissions to the Architect
All dimensions must be checked on site prior to construction

Notes
 Application boundary 

Handwritten notes in blue ink: 'AB', 'A', and 'B'.

| Rev. | Date | Description | Dm. | Chk. |
|------|------------|----------------|-----|------|
| P01 | 22.09.2016 | Planning Issue | NL | JL |

**KRU
SZE
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Client
Britzel Ltd

Project
Victoria Wharf,
Fish Island, E3 2NT

Drawing Title
Section 106 - Public Footpath
Improvements

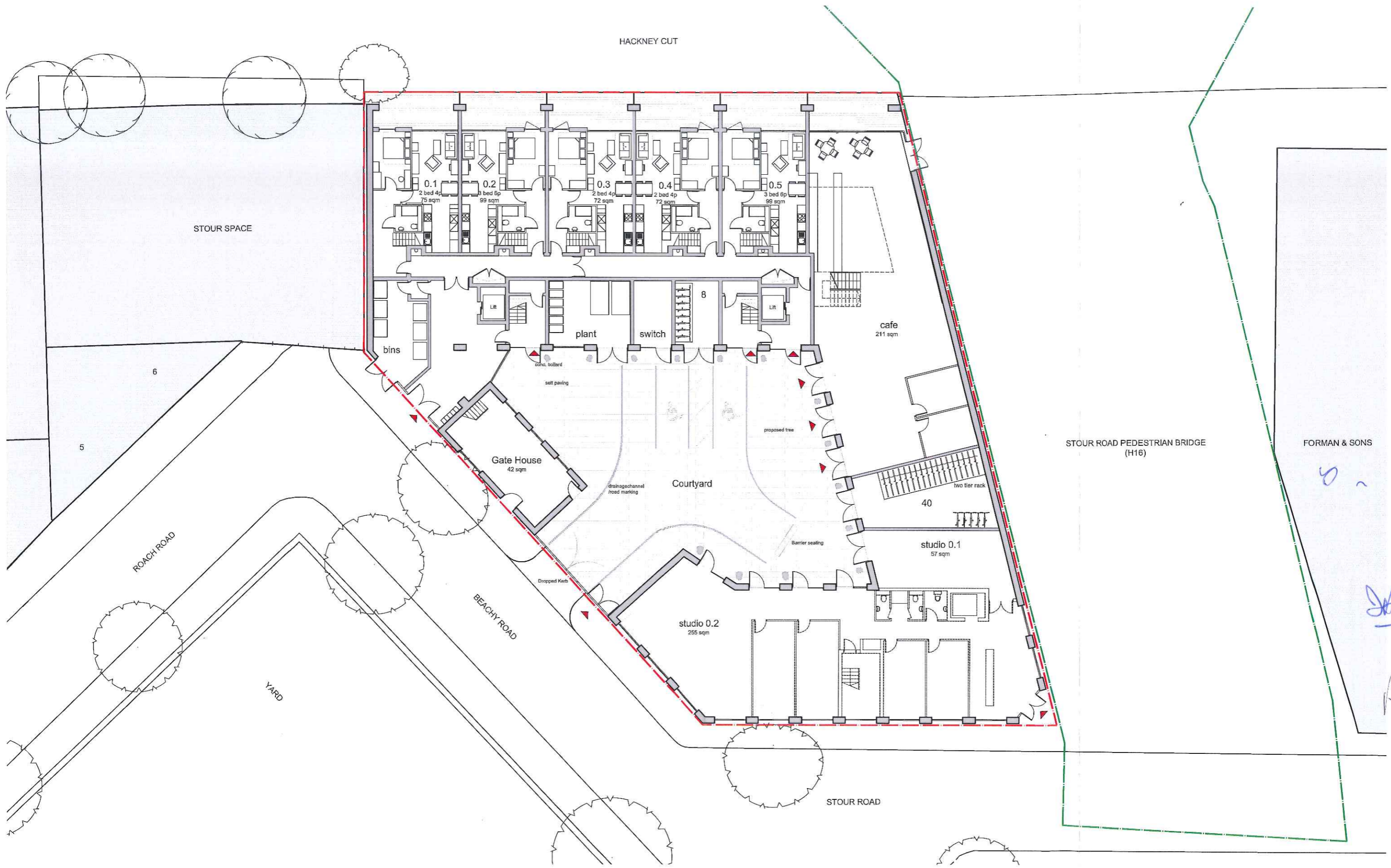
Drawing Status
Planning


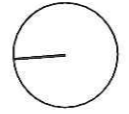
Scale
1:500/A3

Drawing Number
0010-DR-7500

Revision
P01

PLAN 3
STOUR SPACE PLAN

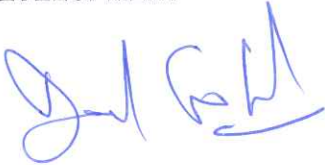


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| <p>6 Westgate Street London E8 3RN T 0208 9855 888 M 077 087 63377 mail@johnleetch.co.uk</p> | <p>Rev: P01 Date: 29.04.13 Planning Issue P02 Date: 30.06.15 Planning Issue</p> <p>Dir: JF Chk: JL</p> | <p>Key:  Application boundary</p> <p> 0 5m</p> | <p>Client: Britzel Ltd</p> <p>Project: Vittoria Wharf</p> | <p>Title: Proposed Ground Floor Plan</p> <p>Drawing status: Planning</p> | <p>JOHNLEETCHARCHITECT</p> <p>Scale @ A3 1: 250</p> <p>Drawing No: 0010-DR-0100</p> <p>Rev: P02</p> |
|--|--|--|---|--|---|

Note:
For information on materials please refer to the accompanying Design and Access Statement.

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

EXECUTED as a Deed)
(but not delivered until dated))
by affixing the Common Seal of the)
LONDON LEGACY DEVELOPMENT)
CORPORATION)
in the presence of:-



Authorised Signatory



#1775

EXECUTED as a Deed)
(but not delivered until dated) by)
PALMLANE ESTATES LIMITED)
acting by:-)



Mr Augusto Brime

Director



Director/Secretary

EXECUTED as a Deed
(but not delivered until dated) by
MIZRAHI TEFAHOT BANK LIMITED
acting by:-

) *Elton Hillman*
)
) ELTON HILLMAN
) HEAD OF CREDIT
) MIZRAHI TEFAHOT BANK LIMITED
Director LONDON BRANCH
AUTHORISED SIGNATURE

Director/Secretary *AUTHORIZED SIGNATURE*

ANTONY TAYLOR

ANTONY TAYLOR
SENIOR ACCOUNT RELATIONSHIP MANAGER
AUTHORISED SIGNATORY

APPENDIX 1
DRAFT PLANNING PERMISSION

FULL PLANNING PERMISSION APPROVAL

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

Please see notes at the end of this notice

Applicant

Britzel

Agent

Tim Gaskell
CMA Planning
113 The Timberyard
Drysdale Street
London
N1 6ND

Part I - Particulars of Application

Date of Application: 17-Sep-2013

Application No: 13/00280/FUM

Proposal: Demolition of existing buildings and erection of a new 4 to 6 storey building comprising 1,317sqm of commercial floorspace (Use Class B1), a 252sqm cafe (Use Class A3), 34 residential dwellings (15x 1 bed, 10x 2 bed & 9x 3 bed) and courtyard for disabled parking and servicing, along with retention of the Gatehouse building (84 sqm).

Location: Vittoria Wharf, Stour Road / Beachy Road, London

Part II - Particulars of Decision

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

1. Time limit - Full

The development shall be commenced before the expiration of three years from the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990.

2. Works in accordance with approved details

Unless minor variations have been agreed by the Local Planning Authority and to the extent that it does not deviate from this permission, the development shall be carried out in accordance with the following details and plan numbers:

0010-DR-0010 p03, 011 p03, 012 p03, 100 p05, 101 p04, 102 p04, 103 p04, 104 p04, 105 p04, 106 p04, 200 p04, 201 p04, 202 p04, 203 p04, 204 p03, 410 p03, 411 p03, 500 p03, 4701/101.

Planning Statement dated January 2016, Daylight Report dated August 2013, Sunlight Assessment for living rooms dated 25/01/16, Update on daylight and sunlight assessment dated 2/2/16, Transport Statement dated 14/12/2015, Residential Travel Plan dated 14/12/2015, Business Travel Plan dated 14/12/2015, Deliveries and Servicing Plan dated 19/06/2015, Design & Access Statement, Addendum to D&A following QRP dated 30.06.2015, Addendum to D&A following QRP 2 dated 16.12.2015, Vittoria Wharf: Phase 1 Geo-Environmental Desk Study dated June 2015, Outline Relocation Strategy Note dated February 2016, Flood Risk Assessment dated 01/03/2013, Ecological Scoping Survey and Biodiversity Statement dated March 2013, Structural Condition Assessment of River Wall dated June 2013, Waste Strategy, Noise Assessment dated August 2013, Site Specific Arboricultural Survey, Impact & Method Statement dated 28/08/2013 Archaeological Assessment dated September 2013 and Energy Strategy dated April 2013.

and the description of development contained in the application and any other plans, drawings, documents, details, schemes or strategies which have been approved by the Local Planning Authority pursuant to these conditions.

Reason: To ensure that all works are properly implemented and retained.

3. Notice of Commencement

The Development shall not be commenced until written notice of intention to Commence the Development has been given to the Local Planning Authority. The notice required by this condition shall only be given where there is a genuine prospect of Development being commenced within 21 days of the notice and the notice shall confirm and provide evidence that this is the case.

Reason: To ensure satisfactory compliance with this planning permission.

4. Relocation Strategy

Prior to demolition of the existing building on the site, details of a Relocation Strategy for existing occupants is to be submitted to the Local Planning Authority for approval in writing. The strategy should be developed in conjunction with priorities described in the LLDC Local Plan 2015.

Reason: To ensure attempts to relocate existing tenants on the site to alternative workspaces. This condition is required to be discharged prior to the commencement of the development and before demolition works, as tenants require relocation and removal from the site before works commence.

5. Housing Design Guide

Except where standards are set out in this planning permission, all Residential Units shall be built in substantial conformity with the Mayor's Housing SPG and, in the event that the Housing SPG (as applicable) is replaced at any time, shall be substantially in conformity with any replacement housing design guide that may be issued by the Mayor of London after the date of this permission. As part of this, the 10% of units identified as wheelchair accessible shall be designed and constructed as wheelchair adaptable housing.

Reason: To ensure that high standards of urban design, residential amenity and landscaping are achieved.

6. Residential standard- internal noise levels

(a) All residential premises shall be designed in accordance with BS8233:1999 'Sound insulation and noise reduction for buildings- Code of Practice' to attain the following internal noise levels:

Bedrooms- 30dB LAeq,T* and 40dB LAfmax

Living rooms- 30dB LAeq, D*

*T- Night-time 8 hours between 23:00-07:00

*D- Daytime 16 hours between 07:00-23:00.

Reason: To ensure that the occupiers and users of the development do not suffer a loss of amenity by reason of excess noise from environmental and transportation sources.

7. Refuse storage

Before the first occupation of the building/extension hereby permitted, the refuse storage arrangements shown on the approved drawing/s referenced [XX] shall be provided and made available for use by the occupiers of the [dwellings/premises] and the facilities provided shall thereafter be retained and shall not be used or the space used for any other purpose.

Reason: To ensure that that the refuse will be appropriately stored within the site in the interest of protecting the amenity of the site and the area in general from litter, odour and potential vermin/pest nuisance.

8. Construction Management Plan

The Development shall not be commenced until a Construction Management Plan, has been submitted to and approved by the Local Planning Authority. An updated version of the plan to reflect any changes in policy or best practice guidance shall be submitted to the Local Planning Authority for approval no less frequently than once every three years whilst construction works are in progress on the site. The Construction Management Plan and the updates there to shall be in accordance with all relevant legislation in force and substantially in accordance with all policy adopted and best practice guidance published at the time of submission. The Development shall be carried out in accordance with the approved details.

Reason: To ensure that the construction of the Development uses best practicable means to minimise adverse environmental impacts

9. Material samples

Material samples and sample-panels of all external facing materials (including any hard landscape materials) to be used in the carrying out of this permission shall be presented on site and approved in writing by the Local Planning Authority prior to commencement of relevant facades.

The construction of the building facades shall be implemented and shall be retained in accordance with the approved details unless other minor variations are agreed in writing by the Local Planning Authority.

Reason: In order to ensure that these samples will make an acceptable contextual response in terms of materials to be used, and achieve a satisfactory quality of design and detailing.

10. Detailed drawings

Prior to commencement of the development the following detailed drawings including sections and other information requested by the Local Planning Authority (at a scale to be agreed with the Local Planning Authority) shall be submitted to and approved in writing by the Local Planning Authority:

- a heritage appraisal of the existing Gate House building on the site with detailed drawings of refurbishment work and reference to material selections;
 - dedicated playspace of a minimum 50.7sqm for under 5 year olds and areas of incidental and formal play for 5-12+ year olds, to provide a total quantum of 101.4sqm of playspace in the development;
 - principal features on the facades, including balconies;
 - parapets / roof edges;
 - junctions with the adjacent existing building; and
 - all openings;
- the development shall not be carried out otherwise than in accordance with any such approval given.

The development shall be constructed in accordance with the approved drawings.

Reason: In order to ensure a high quality of design and detailing is achieved.

11. English Heritage / Historic England Conditions

i) Archaeological Investigation

- A) No demolition or development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation which has been submitted by the applicant and approved by the local planning authority.
- B) No development or demolition shall take place other than in accordance with the Written Scheme of Investigation approved under Part (A).
- C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Part (A), and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured.

ii) Historic building recording

- A) No demolition or development shall take place until the applicant has secured the implementation of a programme of historic buildings recording in accordance with a Written Scheme of Investigation which has been submitted by the applicant and approved by the local planning authority.
- B) No development or demolition shall take place other than in accordance with the Written Scheme of Investigation approved under Part (A).
- C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Part (A), and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured.

Reason: Heritage assets survive on the site. The planning authority wishes to secure the provision of historic building recording prior to development (including preservation of important remains), in accordance with recommendations given by the borough and in the NPPF. The development of this site is likely to damage heritage assets of built heritage interest. The applicant should therefore submit detailed proposals in the form of an archaeological project design. The design should be in accordance with the appropriate English Heritage guidelines. These details are required prior to

commencement of works on the site as the details relate to elements that would be demolished or disturbed at the point of implementation.

12. Signage

Prior to the commencement of the development, detailed drawings of signage to be displayed for both the residential and workspace uses in the development, are to be submitted to the Local Planning Authority for approval in writing. The signage shall display identification and directions to the different uses on the site.

The signage shall be implemented as approved and thereafter retained throughout the life of the development.

Reason: To ensure appropriate legibility to this space, in the interest of public amenity and wayfinding.

13. Bridge Compatibility

Within 3 months of any approval for detailed reserved matters consent for the H16 bridge adjacent to the site, a Bridge Compatibility Strategy shall be submitted for approval by the Local Planning Authority in writing. The Strategy shall describe how the site will respond to approved gradients to the bridge approach and how access to the development site will be managed during construction of the bridge. The Bridge Compatibility Strategy shall be implemented as approved.

Reason: To ensure appropriate compatibility to the bridge as required infrastructure to support the Legacy Communities Scheme and dovetail with Conditions LCS0.191-LCS0.195 of 11/90621/OUTODA as varied by 14/00036/VAR.

14. Servicing Management Plan

No development shall take place until a Servicing Management Plan detailing how all elements of the site are to be serviced has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approval given and shall remain for as long as the development is occupied.

Reason: In the interests of highway and pedestrian safety.

15. Car Parking

The designated disabled car parking bays shown on the drawings hereby approved, shall be made available, and retained for the purposes of car parking for holders of blue badges only. Details of a Car Park Management Strategy shall be submitted to the Local Planning Authority for approval in writing, to describe the allocation and management of these spaces. The car parking shall be maintained in accordance with the Strategy thereafter.

Reason: To ensure the permanent retention of the parking areas, to avoid obstruction of the surrounding streets by waiting vehicles and to safeguard the amenities of the adjoining properties.

16. Cycle Storage- details to be submitted

Before the any work hereby authorised begins, details (1:50 scale drawings) of the facilities to be provided for the secure storage of cycles shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the cycle parking facilities provided shall be retained and the space used for no other purpose and the development shall not be carried out otherwise than in accordance with any such approval given.

Reason: In order to ensure that satisfactory safe and secure cycle parking facilities are provided and retained.

17. BREEAM

Before any fit out works to the commercial premises hereby authorised begins, an independently verified BREEAM report (detailing performance in each category, overall score, BREEAM rating and a BREEAM certificate of building performance) which demonstrates that a minimum 'excellent' rating has been achieved shall be submitted to and approved in writing by the Local Planning Authority and the development shall not be carried out otherwise than in accordance with any such approval given;

Before the first occupation of the building hereby permitted, a certified Post Construction Review (or other verification process agreed with the local planning authority) shall be submitted to and approved in writing by the Local Planning Authority, confirming that the agreed standards above have been met.

Reason: To ensure that high standards of sustainability are achieved.

18. Green/brown roof

Before any above grade work hereby authorised begins, details of the biodiverse roofs (including a specification and maintenance plan) to be used in the carrying out of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and the development shall not be carried out otherwise than in accordance with any such approval given.

Reason: To ensure the proposed development will preserve and enhance the visual amenities of the locality and is designed for the maximum benefit of local biodiversity.

19. Landscaping Plan (including roof terraces)

Before any above grade work hereby authorised begins, detailed drawings 1:50 and 1:10 of a hard and soft landscaping scheme showing the treatment of all parts of the site not covered by buildings and roof terrace areas (including boundary treatments, surfacing materials of any parking, access, or pathways layouts, materials and edge details and material samples of hard landscaping), shall be submitted to and approved in writing by the Local Planning Authority and the landscaping shall not be carried out otherwise than in accordance with any such approval given. The planting, seeding and/or turfing shall be carried out as approved in the first planting season following completion of building works and any trees or shrubs that is found to be dead, dying, severely damaged or diseased within two years of the completion of the building works OR two years of the carrying out of the landscaping scheme (whichever is later), shall be replaced in the next planting season by specimens of similar size and species in the first suitable planting season. Planting shall comply to BS:4428 Code of practice for general landscaping operations, BS:3996 Nursery stock specification, BS:5837 Trees in relation to construction and BS:7370 Recommendations for establishing and managing grounds maintenance organisations and for design considerations related to maintenance.

Reason: In order that the Local Planning Authority may ensure that the design and details are in the interest of the special architectural qualities of the existing building and the public spaces around it.

20. Drainage

Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the

sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.

Reason: The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community. Should the Local Planning Authority consider the above recommendation is inappropriate or are unable to include it in the decision notice, it is important that the Local Planning Authority liaises with Thames Water Development Control Department (telephone 0203 577 9998) prior to the Planning Application approval.

21. Contamination

Development of the site shall not begin until a scheme has been submitted to the local planning authority and written approval has been granted for the scheme. The scheme will identify the extent of the contamination and the measures to be taken to avoid risk to the public, buildings and environment when the site is developed. Details of the scheme should include:

- i. A 'desk study report' documenting the history of the site.
- ii. A proposal to undertake an intrusive investigation at the site based on the findings of the desk study.
- iii. A 'site investigation report' to investigate and identify potential contamination.
- iv. A risk assessment of the site.
- v. Proposals for any necessary remedial works to contain treat or remove any contamination.

Reason: To make sure that contaminated land is properly treated and made safe before development, to protect public health, which provides guidance around protecting residents' health and the environment from contaminants and hazardous substances. These details are required prior to the commencement of works to ensure that any potential contaminants exposed during site clearance and initial excavation are appropriately mitigated.

22. Remediation

Occupation of the building/dwelling hereby approved shall not begin until:

- i. The remediation works approved by the local planning authority as part of the remediation strategy have been carried out in full. If during the remediation or development work new areas of contamination are encountered, which have not been previously identified, then the additional contamination should be fully assessed in accordance with condition [1(iii-iv)] above and an adequate remediation scheme shall be submitted to and approved in writing by the local planning authority and fully implemented thereafter.
- ii. A verification report, produced on completion of the remediation works to demonstrate effective implementation of the remediation strategy, has been submitted to and approved in writing by the local planning authority. The content of the report must comply with best practice guidance and should include, details of the remediation works carried out, results of verification sampling, testing and monitoring and all waste management documentation showing the classification of waste, its treatment, movement and/or disposal in order to demonstrate compliance with the approved remediation strategy.

Reason: To make sure that contaminated land is properly treated and made safe before development, to protect public health, which provides guidance around protecting residents' health and the environment from contaminants and hazardous substances.

23. Environment Agency Condition- Riverbank survey

Recommendations of the asset condition survey report to repair the river bank to safe standard or replace with a new structure shall be implemented before the proposed development is inhabited. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority.

Reason: In order to meet the National Planning Policy Framework (NPPF) requirements to not increase flood risk to new inhabitants.

24. Environment Agency Condition – biodiversity

No development shall take place until a scheme for the provision of biodiversity enhancements on site has been submitted to and agreed in writing by the local planning authority and implemented as approved. This could potentially include the bufferzone alongside the development being planted with locally native species of UK genetic provenance or improvements in channel in association with the river bank works.

Reason: The repair/replacement of the existing wall is an excellent opportunity to enhance biodiversity on site. The Ecology Scoping Survey and Biodiversity Statement recommended mitigation for impacts from the development. This condition is supported by the National Planning Policy Framework (NPPF), paragraph 109 which recognises that the planning system should aim to conserve and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. The Natural Environment and Rural Communities Act which requires Local Authorities to have regard to nature conservation and article 10 of the Habitats Directive which stresses the importance of natural networks of linked corridors to allow movement of species between suitable habitats, and promote the expansion of biodiversity. Paragraph 118 of the NPPF also states that opportunities to incorporate biodiversity in and around developments should be encouraged.

Proactive and Positive Statement

In accordance with the National Planning Policy Framework and with Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended), the following statement explains how the LLDC as Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with this planning application:

Following submission of the planning application, the local planning authority continued to work with the applicant in a positive and proactive manner. The applicant was informed that the planning application did not comply with planning policy both before and after submission of the application, and a PPA was entered into to allow the applicant time to consider the LPA comments. The applicant subsequently amended the proposals in order to address the LPA concerns, and as a result the application was recommended for approval.

Dated this: XXXXXXXX



Anthony Hollingsworth

Director of Planning Policy and Decisions
London Legacy Development Corporation

London Legacy Development Corporation

Town and Country Planning Act 1990 (as amended)

Appeals to the Secretary of State

- * If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State for Communities and Local Government under Section 78 of the Town and Country Planning Act 1990 (as amended).
- * If you want to appeal then you must do so within **SIX months** of the date of this notice (unless your proposal relates to a householder appeal or minor commercial appeal as defined in Article 37 of the DMPO 2015 in which case you must do so within **TWELVE weeks** of the date of this notice), using a form, which is available from the Planning Inspectorate, (a copy of which must be sent to London Legacy Development Corporation Planning Policy and Decisions Team) or complete an application online. The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (e-mail: enquiries@pins.gsi.gov.uk) or (Tel: 0117 372 8000).

To make an appeal online, please use www.gov.uk/appeal-planning-inspectorate. The Inspectorate will publish details of your appeal on the internet. This may include copies of documentation from the original planning application and relevant supporting documents supplied to the local authority, and or information, including personal information belonging to you that you are happy will be made available in this way. If you supply personal information belonging to a third party please ensure you have their permission to do so. More detailed information about data protection and privacy matters is available on the Planning Portal.

- * The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances, which excuse the delay in giving notice of appeal.
- * The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.
- * In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based its decision on a direction given by him.

Purchase Notice

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

