

DATED

*18 September*

2023

**UNILATERAL UNDERTAKING GIVEN BY DEED**

**BY**

**THE LONDON LEGACY DEVELOPMENT CORPORATION**

**in its capacity as Local Planning Authority**

**AND**

**TRANSPORT FOR LONDON**

pursuant to section 201 of the Localism Act 2011 and all other powers enabling

relating to amendments to the Legacy Communities Scheme, Queen Elizabeth Olympic Park (application reference 22/00216/VAR) to reflect the Pudding Mill Lane Development (application reference 21/00574/OUT)

To be read alongside the unilateral undertaking given by London Legacy Development Corporation (as owner) pursuant to section 106 of the Town & Country Planning Act 1990 relating to the same development and entered into on the date hereof

THIS UNILATERAL UNDERTAKING is given on *18 September* 2023

BY

- (1) **LONDON LEGACY DEVELOPMENT CORPORATION** ("LLDC") of Level 9, 5 Endeavour Square, Stratford, London E20 1JN ("the LPA"); and
- (2) **TRANSPORT FOR LONDON** of 5 Endeavour Square, Stratford, London E20 1JN ("TfL")

IN FAVOUR OF the Owner(s) of the Developer's Land from time to time.

## RECITALS

### *Background*

- (A) TfL is the provider of public transport services and is also the highway authority responsible for certain roads in the vicinity of the Original Site.

*LLDC (acting as LPA)*

- (B) Pursuant to the London Legacy Development Corporation (Planning Functions) Order 2012, LLDC is the LPA for the area within which the Revised Site is located for the purposes of Part 3 of the 1990 Act. It exercises this power in place of the Host Boroughs.

- (C) LLDC's Board has delegated the exercise of LLDC's planning functions to PPDT. Although it acts independently, PPDT remains part of the same legal entity as LLDC.

- (D) At the time this Deed is entered into, it is expected that LLDC will be a time limited organisation and its planning powers will eventually revert to the Host Boroughs or transfer to another successor organisation(s).

*LLDC (acting as landowner)*

- (E) LLDC is a Mayoral Development Corporation ("**MDC**") established under the Localism Act 2011 and the London Legacy Development Corporation (Establishment) Order 2012 for an area which straddles the boundaries of the four Host Boroughs.

- (F) An MDC's statutory purpose is to secure the regeneration of its area. In support of this statutory purpose, LLDC is the owner of land transferred to it under various statutory transfer schemes and can exercise a range of powers over that land, including management, development and disposal to third parties. This land includes the Developer's Land, the details of which are set out in Schedule 1 to this Deed.

### *Legacy Communities Scheme*

- (G) The Olympic Park Legacy Company (the predecessor owner of the Developer's Land) submitted a planning application to the Olympic Delivery Authority (the then local planning authority) on 30 September 2011 for the residential-led legacy redevelopment of the Original Site.

- (H) On 28 September 2012 the Olympic Delivery Authority, LLDC (as landowner) and Transport for London entered into the Original Agreement and the Original Permission for such residential-led legacy redevelopment of the Original Site was granted.

- (I) Under the terms of the Enforcement Protocol, in the event the Original Agreement is to be varied, PPDT and LLDC (as landowner) will agree the extent of the variations to the Original Agreement albeit that a formal deed of variation cannot be entered into. The Enforcement Protocol also sets out how the terms of the Reciprocal Undertaking and this Deed will be managed while LLDC is both landowner and local planning authority.

*The Applications*

- (J) Since the grant of the Original Permission a number of permissions have been granted pursuant to section 73 of the 1990 Act, the net effect of which is the slotting out of PDZ 1, PDZ 2 and SPDZ 8B from the Original Site. The most recent of these permissions was the Fourth S73 Permission which was granted on 13 April 2023 and is the permission pursuant to which the Development is being carried out.
- (K) LLDC (as landowner) has submitted the Fifth S73 Application to the LPA for determination. On 25 October 2022 the LPA resolved to approve the Fifth S73 Application subject to agreeing the terms of this Deed, the Reciprocal Undertaking and the Draft Deed of Variation.
- (L) In its role as LPA, LLDC considers it expedient in the interests of the proper planning of its area and for the benefit of the public at large and having regard to all other material considerations that provision should be made for regulating the Revised Development in the manner set out in the Draft Deed of Variation.
- (M) In its role as LPA, LLDC is satisfied that the planning obligations contained in the Draft Deed of Variation meet the three tests set out in Regulation 122 (2) (a) — (c) of the Community Infrastructure Levy Regulations 2010 (as amended).
- (N) LLDC recognises that as a matter of law, as both landowner and local planning authority LLDC it is unable to secure the obligations set out in the Draft Deed of Variation by way of a bilateral agreement concluded with itself.
- (O) To overcome this obstacle, LLDC (as landowner) has entered into the Reciprocal Undertaking binding itself and its interests in the Developer's Land with the terms and obligations set out in the Original Agreement as though the Original Agreement had been formally varied by the Draft Deed of Variation and with the intention of binding its interests in the Developer's Land.
- (P) In return for the promises given in the Reciprocal Undertaking, the LPA and TfL unilaterally undertake herein to observe the terms and perform the LPA's and TfL's obligations as set out in the Original Agreement as though it had been amended by the Draft Deed of Variation attached hereto at Annex 1. If LLDC's planning powers pass to a successor organisation, it is intended that this Deed will be transferred to that successor under a statutory or mayoral scheme of transfer.
- (Q) LLDC also recognises that while it is both Owner and LPA, it cannot enforce the obligations secured by this Deed against itself. If a breach of the terms of this Deed occurs while LLDC is both landowner and LPA, LLDC and PPDT will seek to resolve that breach in accordance with the terms of the Enforcement Protocol.
- (R) Notwithstanding that no third party with an interest in the Developer's Land is party to the Reciprocal Undertaking, Clause 7 of the Deed of Variation purports to vary site-wide obligations. With the particular intention of not prejudicing current Owners of land within the Developer's Land, the LPA's covenants given herein to enforce only the terms of the Original Agreement as though amended by the Draft Deed of Variation (see Clause 3.1 of this Deed) are expressly given for the benefit of any Owner of the Developer's Land.

- (S) If, while LLDC remains the local planning authority for the Developer's Land, a third party acquires an interest in the Developer's Land, the LPA intends that this Deed will be enforceable by such third party against it under the Contracts (Rights of Third Parties) Act 1999.
- (T) This Deed is to be read alongside the Reciprocal Undertaking.

**OPERATIVE PROVISIONS:-**

**1. INTERPRETATION**

- 1.1 Save where provided otherwise, words and expressions used in this Deed have the meaning assigned to them in the Original Agreement.
- 1.2 For the purposes of this Deed, the following words and expressions have the meanings assigned:

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

**Confirmatory Deed** means a completed version of the Draft Confirmatory Deed entered into by the LPA, TfL and one or more relevant landowners.

**Deed of Variation** means a completed version of the Draft Deed of Variation entered into by the LPA, TfL and one or more relevant landowners.

**Developer's Land** means the freehold and leasehold land within the Revised Site which is owned by the LLDC at the date hereof as shown indicatively on Plan 1 in Annex 4 and listed in Schedule 1 to this Deed.

**Draft Confirmatory Deed** means a deed substantially in the form attached to this Deed at Annex 2.

**Draft Deed of Variation** means a deed substantially in the form attached to this Deed at Annex 1.

**Enforcement Protocol** means the protocol for enforcing the terms of this Deed contained at Annex 3 as approved by PPDT's planning committee at its meeting on 29 April 2014 and as approved by LLDC as amended from time to time.

**Fifth S73 Application** means the application pursuant to section 73 of the 1990 Act with reference 22/00216/VAR to vary the Fourth S73 Permission to reduce the overall floor space of the development as a result of the slot out of SPDZ 8A.

**Fifth S73 Permission** means the approval issued pursuant to the Fifth S73 Application.

**Fourth S73 Permission** means the planning permission with reference 21/00561/VAR.

**Host Boroughs** means the London Boroughs of Hackney, Newham, Tower Hamlets and Waltham Forest and their respective successors in function.

**Local Planning Authority or LPA** means at the date of this Deed, LLDC (acting through PPDT) in its function as local planning authority for the area within which the Developer's Land is located, and includes any successors in that function.

**LLDC** means the London Legacy Development Corporation.

**Original Agreement** means the agreement entered into pursuant to section 106 of the 1990 Act in respect of the Original Permission as deemed to be varied by the unilateral undertakings as set out in Annex 6.

**Original Permission** means permission for the legacy redevelopment of the Original Site granted by the Olympic Delivery Authority and given reference 11/90621/OUTODA.

**Original Site** means the land benefiting from the Original Permission.

**Owner** means anyone with an interest in the Developer's Land.

**Plan 1** means the plan identifying the Developer's Land and attached to this Deed at Annex 4.

**Plan 2** means the plan identifying the Revised Site and attached to this Deed at Annex 5.

**Planning Policy & Decisions Team or PPDT** means the department within legal entity known as the London Legacy Development Corporation to which LLDC's planning functions have been delegated.

**Reciprocal Undertaking** means a completed unilateral undertaking of even date with this Deed given by LLDC as landowner in which LLDC undertakes for the benefit of the LPA from time to time and TfL to abide by the terms and to comply with the obligations given on the part of LLDC and the Developer contained in the Original Agreement as though it had been varied by the Draft Deed of Variation.

**Revised Development** means the development to be carried out pursuant to the Fifth Section S73 Permission.

**Revised Site** means the land benefiting from the Fifth S73 Permission which is shown edged red on Plan 2 but excluding the areas shaded grey, pink, green and orange.

## 2. OPERATION OF THIS UNILATERAL UNDERTAKING

- 2.1 This unilateral undertaking is given by Deed entered into pursuant to section 201 of the Localism Act 2011, section 156, Schedule 10 and Schedule 11 of the Greater London Authority Act 1999.
- 2.2 The LPA and TfL intend that this undertaking shall be binding on both the LPA, TfL and their successors in function and shall be enforceable by the Owner and their successors in title.
- 2.3 While LLDC is both the Owner and the LPA, the LPA will comply with the terms of the Enforcement Protocol in respect of the obligations contained in this Deed and in the Draft Deed of Variation.

## 3. LPA'S AND TFL'S COVENANTS IN FAVOUR OF THE OWNER

- 3.1 Subject to LLDC as landowner entering into the Reciprocal Undertaking the LPA and TfL undertake for the benefit of any Owner of the Developer's Land that it will observe and perform the terms obligations, covenants, undertakings, restrictions and agreements imposed on the local planning authority and TfL (respectively) by the Original Agreement as though it had been amended by the Draft Deed of Variation.
- 3.2 In the event PPDT's planning powers are transferred to a successor authority and where a Deed of Variation or Confirmatory Deed has not already been entered into and completed in respect of any part of the Developer's Land the LPA undertakes for the benefit of the Owner that as soon as reasonably practicable after the planning powers being transferred it shall enter into:

3.1.1 the Draft Deed of Variation or (where a Deed of Variation has already been completed) the Draft Confirmatory Deed with the Owner in respect of that part of the Revised Site **PROVIDED THAT** where any obligations in the Draft Deed of Variation have been superseded and/or further amended by any subsequent variation to the Original Agreement the Draft Deed of Variation shall be amended accordingly; and

3.1.2 the Revised Confidential Appendix with LLDC.

3.3 Where the provisions of Clause 3.2 apply, TfL undertakes to enter into such Draft Deed of Variation or (where a Deed of Variation has already been completed) the Draft Confirmatory Deed as soon as reasonably practicable after the planning power being transferred.

#### 4. **LEGAL BASIS**

4.1 This Deed is made under section 201 of the Localism Act 2011, section 156, Schedule 10 and Schedule 11 of the Greater London Authority Act 1999.

#### 5. **RIGHTS OF THIRD PARTIES**

5.1 Save in respect of the Owner, no term of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Deed.

#### 6. **CONFLICT**

6.1 In the event of any conflict between the terms of this Deed and of the completed Deed of Variation the latter will take precedence.

#### 7. **LOCAL LAND CHARGE**

7.1 This Deed is a local land charge and is intended to be registered as such by the London Borough of Newham, the London Borough of Hackney and the London Borough of Tower Hamlets.

**IN WITNESS** whereof the LPA and TfL have executed and delivered this unilateral undertaking as a Deed the day and year first above written

Executed as a deed by affixing THE COMMON SEAL of THE LONDON LEGACY DEVELOPMENT CORPORATION in the presence of:



124839

A Horngate

Authorised signatory

EXECUTED AS A DEED by TRANSPORT FOR LONDON acting by its attorney

Name: JUSTINE CURRY

Signature of Attorney

[Handwritten signature]

in the presence of:

Signature of witness

AR

Witness name (IN BLOCK CAPITALS):

ALEX PHILLIPS

Witness address:

TFL, 197 BLACKFRIARS RD  
LONDON  
SE1 8NJ

**Schedule 1**  
**The Developer's Land**

**Registered Freehold Interests**

<b>PDZ4</b>		
EGL533902	EGL533909	EGL572037
EGL572930	EGL527339	
<b>PDZ5</b>		
EGL533902	EGL570920	
<b>PDZ6</b>		
AGL221079	TGL363543	
<b>PDZ12</b>		
EGL533916	EGL571226	EGL554302

**Registered Leasehold Interests**

<b>PDZ4</b>		
AGL411945	AGL410830	
<b>PDZ5</b>		
AGL411945		
<b>PDZ12</b>		
EGL526862	EGL221056	EGL157814
EGL151055	EGL10453	NGL80118
EGL548490	EGL548491	

**Annex 1 - Draft Deed of Variation**

DATED

20[ ]

- (1) LONDON LEGACY DEVELOPMENT CORPORATION
- (2) [OWNER]
- (3) TRANSPORT FOR LONDON

DEED OF VARIATION TO THE PLANNING OBLIGATION  
DATED 28 SEPTEMBER 2012 FOR THE LEGACY  
COMMUNITIES SCHEME, QUEEN ELIZABETH OLYMPIC  
PARK

relating to planning application reference 22/00216/VAR

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

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THIS AGREEMENT is made on

20[ ]

**BETWEEN:**

- (1) **[LONDON LEGACY DEVELOPMENT CORPORATION LIMITED** of Level 9, 5 Endeavour Square, Stratford, London E20 1JN] OR **[LOCAL PLANNING AUTHORITY]**<sup>1</sup> (the "**LPA**");
- (2) **[xxx]**<sup>2</sup> (the "**Owner**"); and
- (3) **TRANSPORT FOR LONDON** of 5 Endeavour Square, Stratford, London E20 1JN ("**TfL**")

**RECITAL**

*Parties*

- (A) The London Legacy Development Corporation ("**LLDC**") is the local planning authority for the area within which the Developer's Land, the Original Site and the Revised Site is located for the purposes of Part 3 of the 1990 Act and is the local planning authority by whom the obligations contained in the Original Agreement are enforceable. Where in this Deed the LLDC is referred to in its capacity as the local planning authority, the LLDC is termed the "**LPA**".
- (B) The LLDC is also the freehold owner of the Developer's Land. Where in this Deed the LLDC is referred to in its capacity as freehold owner it is termed the "**LLDC Landowner**".
- (C) The Owner is the ([freehold/leasehold] owner of [\*\*] details of which are set out in and shown on the plan appended at Schedule 1 to this Deed).
- (D) TfL is the provider of public transport services and is also the highway authority responsible for certain roads in the vicinity of the Original Site.

*Background*

- (E) The Olympic Park Legacy Company ("**OPLC**") submitted the Original Planning Application to the Olympic Delivery Authority (as local planning authority) on 30 September 2011 for the legacy redevelopment of the Queen Elizabeth Olympic Park (defined in the Original Agreement as the "**Development**").
- (F) On 1 April 2012, the Secretary of State for Communities and Local Government created the LLDC pursuant to the London Legacy Development Corporation (Establishment) Order 2012 as the successor organisation to the OPLC. LLDC took on responsibility for promoting the application submitted by the OPLC for the Development.
- (G) On 26 June 2012 the Olympic Delivery Authority (as local planning authority) resolved to grant the outline planning permission pursuant to the Original Planning Application for the Development subject to the completion of an agreement pursuant to section 106 of the 1990 Act.
- (H) On 28 September 2012 the Olympic Delivery Authority ("**ODA**"), LLDC (as developer) and TfL entered into the Original Agreement and Original Planning Permission was granted.

<sup>1</sup> Insert details of successor LPA in the event the transfer of LLDC PPDT's planning powers to another entity triggers the entering into of this deed.

<sup>2</sup> Insert details of LLDC's successor in title or person deriving title under LLDC as appropriate

- (I) On 1 October 2012 the ODA's planning functions and powers were transferred to LLDC and LLDC became the local planning authority for the area within which the Original Site, the Revised Site and the Developer's Land is located for the purposes of Part 3 of the 1990 Act. The effect was that the LPA and the Developer (as defined in the Original Agreement) became the same legal entity. Because LLDC could not contract with itself, LLDC could not vary the Original Agreement if changes were required to be made to it while LLDC was both landowner and local planning authority.
- (J) The Original Agreement is drafted so that it attaches not only to development carried out under the Original Planning Permission, but also to development carried out pursuant to any variations to the Original Planning Permission, or planning permission for any development on the Developer's Land which is related to or carried out in substitution for development authorised under the Original Planning Permission.
- (K) Since the grant of the Original Planning Permission a number of permissions have been granted pursuant to section 73 of the 1990 Act, the net effect of which is the slotting out of PDZ 1, PDZ 2 and SPDZ 8B. The most recent of these permissions was the Fourth S73 Permission.

#### *Fifth S73 Permission*

- (L) On [\*\*\*\*] 2023 the LPA granted the Fifth S73 Permission which slotted out SPDZ 8A. The Fifth S73 Permission has implications for the quantum of and timing of delivery of the mitigation measures secured in the Original Agreement, and accordingly a draft Deed of Variation was agreed to ensure that appropriate mitigation continues to be provided and that it is delivered at the appropriate time.

#### *The Unilateral Undertakings*

- (M) On the date that the Fifth S73 Permission was issued, LLDC was both the LPA and owner of the Developer's Land. As explained above for this reason LLDC could not complete this Deed.
- (N) To ensure that the provisions set out in Clause 7 of this Deed would nonetheless be legally binding, the LLDC Landowner gave a unilateral undertaking to the LPA on [ ] 2023 to observe and perform the terms of the Original Agreement in relation to the Developer's Land as though it had been varied by this Deed ("UU1"). UU1 was given under section 106 of the 1990 Act and is binding on both the LLDC Landowner's interests in the Developer's Land and on the interests in that land of any successors in title.
- (O) In return for UU1, the LPA gave a reciprocal undertaking under section 201 of the 1990 Act on [ ] 2023 in which (conditional on the performance of the Original Agreement as deemed to be varied by this Deed) it was bound to only enforce the Original Agreement as though it had been effectively varied by this Deed ("UU2"). UU2 was given for the benefit of any owner of the Developer's Land from time to time.
- (P) If LLDC's planning function is transferred to a successor organisation, it is expected that UU2 will be transferred to and binding on the successor local planning authority under a formal scheme of transfer.
- (Q) UU1 and UU2 by themselves do not vary the Original Agreement. Instead, they are binding promises on the part of the owners of the Developer's Land and on the part of the local planning authority to treat the Original Agreement as though it had been varied in accordance with the terms of this Deed.

*Deed of Variation*

- (R) This Deed is drafted as a simple deed of variation to the Original Agreement to be made under section 106A of the 1990 Act. The variations are effected by Clause 7 of this Deed.
- (S) This Deed is not itself made under section 106. The reason for this is to simplify the process of any future variations to the Original Agreement. Should these become necessary, the intention is that they will be effected by varying just the Original Agreement (as already amended) and UU1 and UU2 without also having to vary this Deed.
- (T) Notwithstanding the fact that this Deed is not itself made under section 106 of the 1990 Act, once completed the variations this Deed makes to the Original Agreement will be enforceable against the parties to this Deed and their successors in title because of the binding nature of the Original Agreement described in Recital N above and because of the effect of UU1 described below.

*Role of this Deed*

- (U) UU1 requires at Clause 3.3 certain persons acquiring title to all or any part of the Developer's Land to enter into this Deed or (if a Deed of Variation has already been completed) a Confirmatory Deed. The purpose of this Deed and Confirmatory Deed (once completed) is to create certainty particularly as to how the local planning authority will manage the amended development. UU1 also requires the Developer at Clause [3.6] to procure that the owners of certain [leasehold and freehold] interests granted prior to the date of UU1 enter into this Deed or (if a Deed of Variation has already been completed) a Confirmatory Deed.
- (V) Because this Deed seeks to vary site-wide obligations, section 106A of the 1990 Act requires any party against whom such obligations are enforceable be a party to this Deed.
- (W) For the avoidance of doubt, the LPA acknowledges that when completed, this Deed may include such further amendments to the Original Agreement (including amendments to these recitals and any of the terms of Clause 7 of this Deed) and such other terms as are appropriate and/or necessary to accommodate any further changes to the Original Planning Permission which the LPA (from time to time) approves.

**OPERATIVE PROVISIONS:**

1. **INTERPRETATION**

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

**PML Slot-in Permission** means the planning permission for the Pudding Mill Lane development granted with reference 21/00574/OUT (including any replacement permission subsequently granted to carry out development in substitution for such development);

**Confirmatory Deed** has the meaning given in UU1;

**Developer's Land** has the meaning given in UU1;

**Fifth S73 Application** means the application pursuant to section 73 of the 1990 Act with reference 22/00216/VAR to vary the Fourth S73 Permission to reduce the overall floor space of the development as a result of the slot out of SPDZ 8A;

**Fifth S73 Permission** means the approval issued pursuant to the Fifth S73 Application;

**First S73 Permission** means the permission granted pursuant to section 73 of the 1990 Act with reference 14/00036/VAR to amend the Original Planning Permission;

**Fourth S73 Permission** means the permission granted pursuant to section 73 of the 1990 Act with reference 21/00561/VAR to amend the Third S73 Permission;

**October 2019 Undertaking** means the undertaking dated 1 October 2019 given by (1) the LLDC Landowner in favour of (2) the LPA pursuant to section 106 of the 1990 Act which secured the provision of 18 of the Residential Units in PDZ5 as Affordable Housing in addition to the Affordable Housing secured by the Original Agreement;

**Original Agreement** means the agreement dated 28 September 2012 and made in respect of the Planning Permission between (1) the Olympic Delivery Authority, (2) the London Legacy Development Corporation (as developer) and (3) Transport for London pursuant to section 106 of the 1990 Act as the same may be varied from time to time prior to the date of this Deed;

**Original Planning Application** means the application with reference 11/90621/OUTODA for the legacy redevelopment of the Original Site granted by the Olympic Delivery Authority;

**Original Planning Permission** means the permission granted pursuant to the Original Planning Application;

**Original Site** means the land benefiting from the Original Planning Permission which is shown edged red on the plan at Schedule 3;

**Revised Site** means the part of the Original Site which remains following the slotting out of the Superseded Development Land and which is shown edged red on the plan at Schedule 3 but excluding the land shaded grey and the land shaded pink and the land shaded green and the land shaded orange;

**Second S73 Permission** means the permission granted pursuant to section 73 of the 1990 Act with reference 17/00236/VAR to amend the First S73 Permission;

**Social Infrastructure Amendments** has the meaning given to it in clause 7.3 of this Deed;

**Superseded Development Land** means the land shaded grey and the land shaded pink and the land shaded green and the land shaded orange on the plan at Schedule 3;

**Third S73 Permission** means the permission granted pursuant to section 73 of the 1990 Act with reference 18/00471/VAR to amend the Second S73 Permission.

- 1.2 All words and phrases defined in the Original Agreement shall have the same meaning in this Deed save where the context otherwise dictates.
- 1.3 In this Deed:
  - 1.3.1 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;
  - 1.3.2 unless otherwise indicated words importing persons include firms, companies, other corporate bodies or legal entities and vice versa.
- 1.4 The Interpretation Act 1978 shall apply to this Deed.
- 1.5 The "Deed" includes the Schedules and Recitals to this Deed.

1.6 If any provision of this Deed is held to be illegal invalid or unenforceable the legality validity and enforceability of the remainder of the Deed is (if and to the extent that it may properly and lawfully be construed as such) to be unaffected.

2. **EFFECT OF THIS DEED**

2.1 This Deed is made pursuant to:

2.1.1 section 106A of the 1990 Act; and

2.1.2 sections 201, 205 and 206 of the 2011 Act, section 156, Schedule 10 and Schedule 11 of the Greater London Authority Act 1999 and all other powers so enabling.

2.2 Save as set out in Clause 7 below nothing in this Deed shall be construed as amending in any way the provisions of the Original Agreement and all provisions of the Original Agreement shall continue in full force and effect and nothing in this Deed shall otherwise release or absolve any party from its obligations under the Original Agreement.

3. **CONDITIONALITY**

Save where expressly provided for in this Deed, this Deed is conditional upon and shall not take effect until the Implementation of the PML Slot-in Permission (and for the avoidance of doubt clauses 7.2 and 7.3 shall have effect from the date of grant of the Fifth S73 Permission).

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

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

5. **JURISDICTION AND LEGAL EFFECT**

5.1 This Deed shall be governed by and interpreted in accordance with the law of England.

5.2 The provisions of this Deed (other than this Clause 5.2 which shall be effective in any event) shall be of no effect until this Deed has been dated.

6. **EXECUTION**

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

7. **VARIATION OF THE ORIGINAL AGREEMENT AND DISCHARGE OF THE OCTOBER 2019 UNDERTAKING**

7.1 The Original Agreement (as deemed to be varied by the unilateral undertakings identified in Annex 6 of UU1) is varied as follows:

- (a) in the manner shown at Schedule 2 with deletions struck through and additions underlined (save that for the avoidance of doubt the Social Infrastructure Amendments shall take effect as specified in clause 7.2 below);
- (b) Appendix 1 of the Original Agreement is deleted and replaced with the Plan at Schedule 3;
- (c) Appendix 3 of the Original Agreement is deleted and replaced with the Plan at Schedule 4;
- (d) Appendix 5 of the Original Agreement is deleted and replaced with the Plan at Schedule 5;

- (e) Appendix 8 of the Original Agreement is deleted and replaced with the Plan at Schedule 6;
- (f) Appendix 10 of the Original Agreement is deleted and replaced with the Plan at Schedule 7;
- (g) Schedule 14 of the Original Agreement is deleted and replaced with the documents at Schedule 8;

7.2 Notwithstanding clause 3, the Social Infrastructure Amendments shall take effect on the date of grant of the Fifth S73 Permission.

7.3 The "**Social Infrastructure Amendments**" referred to in clauses 7.1 and 7.2 are the following variations to the Original Agreement (as deemed to be varied by the unilateral undertakings identified in Annex 6 of UU1) as shown at Schedule 2 to this Deed with deletions struck through and additions underlined:

- (a) the deletion of the following definitions in Schedule 8 to the Original Agreement:
  - (i) "5.1FE Threshold";
  - (ii) "5.1FE 75% Threshold";
  - (iii) "A1 Education and Infrastructure Consultations";
  - (iv) "A1 Education and Infrastructure Report";
  - (v) "A1 Education Review";
  - (vi) "A1 Social Infrastructure Contribution";
  - (vii) "A2 Education and Infrastructure Consultations";
  - (viii) "A2 Education and Infrastructure Report";
  - (ix) "A2 Education Contribution";
  - (x) "A2 Education Review";
  - (xi) "A2 Social Infrastructure Contribution";
  - (xii) "A3 Social Infrastructure Consultation";
  - (xiii) "A3 Social Infrastructure Report";
  - (xiv) "Additional Capacity";
  - (xv) "Additional Capacity Strategy";
  - (xvi) "Additional Education Provision";
  - (xvii) "Additional Primary Education Need";
  - (xviii) "Additional Social Infrastructure Provision";
  - (xix) "B1 Social Infrastructure Consultation";
  - (xx) "B1 Social Infrastructure Contribution";
  - (xxi) "B1 Social Infrastructure Report";

- (xxii) "B2 Education and Infrastructure Consultations";
  - (xxiii) "B2 Education and Infrastructure Report";
  - (xxiv) "B2 Education Contribution";
  - (xxv) "B2 Education Review";
  - (xxvi) "B2 Social Infrastructure Contribution";
  - (xxvii) "B3 Social Infrastructure Consultation";
  - (xxviii) "B3 Social Infrastructure Report";
  - (xxix) "Early Release Contribution";
  - (xxx) "Population Review";
  - (xxxi) "Primary Education Threshold";
  - (xxxii) "Remaining Social Infrastructure Contribution";
  - (xxxiii) "Ringfenced Education Amount";
  - (xxxiv) "Social Infrastructure Contribution";
  - (xxxv) "Unspent Social Infrastructure Contribution A"; and
  - (xxxvi) "Unspent Social Infrastructure Contribution B";
- (b) the amendments to the definition of "Consultations" in Schedule 8 to the Original Agreement as shown at Schedule 2 to this Deed with deletions struck through and additions underlined;
- (c) the amendments to the definition of "Report" in Schedule 8 to the Original Agreement as shown at Schedule 2 to this Deed with deletions struck through and additions underlined;
- (d) the amendments to the definition of "SPS Specification" in Schedule 8 to the Original Agreement as shown at Schedule 2 to this Deed with deletions struck through and additions underlined;
- (e) deletion of paragraphs 2.12, 2.13, 2.14, 2.15, 3.1, 3.2, 3.3 and 3.4 of Schedule 8 to the Original Agreement, as shown at Schedule 2 to this Deed with deletions struck through and additions underlined.
- (f) deletion of such of the rows in the table at Schedule 16 to the Original Agreement, as relate to "Schedule 8 – Education" and are shown at Schedule 2 to this Deed with deletions struck through.

7.4 The October 2019 Undertaking no longer has effect and shall no longer be enforceable against any owner of an interest in the Developer's Land or any part of it.

**SCHEDULE 1**

**Owner's interest[s] in the Site**

SCHEDULE 2

The Original Agreement as varied

DATED

28 September

2012

- (1) OLYMPIC DELIVERY AUTHORITY
- (2) LONDON LEGACY DEVELOPMENT CORPORATION
- (3) TRANSPORT FOR LONDON

## PLANNING OBLIGATION BY AGREEMENT

made pursuant to section 106 of the Town and Country Planning Act 1990 and sections 4 and 5 of the London Olympic Games and Paralympic Games Act 2006 and all other powers enabling

relating to the development of land within the future Queen Elizabeth Olympic Park

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**THIS AGREEMENT** is made on

2012

**BETWEEN:**

- (1) **OLYMPIC DELIVERY AUTHORITY** of 23rd Floor, One Churchill Place, Canary Wharf, London E14 5LN (the "**LPA**"); and
- (2) **LONDON LEGACY DEVELOPMENT CORPORATION LIMITED** of Level 10, 1 Stratford Place, Montfichet Road, London E20 1EJ (the "**Developer**"); and
- (3) **TRANSPORT FOR LONDON** of 55 Broadway, London SW1H 0BD ("**TfL**").

**RECITALS**

**WHEREAS:**

- (A) The LPA exercises the functions of the local planning authority for the Site pursuant to section 5 of the Olympic Act and the Olympic Delivery Authority (Planning Functions) Order 2006 and is the local planning authority by whom the obligations contained in this Agreement are enforceable.
- (B) On 1 April 2012 the Secretary of State for Communities and Local Government created LLDC pursuant to the London Legacy Development Corporation (Establishment) Order 2012 for the purposes of (inter alia) promoting and delivering physical, social, economic and environmental regeneration of the Olympic Park and surrounding area.
- (C) The Developer:
  - C.1 is the freehold owner of those parts of the Site shown hatched blue on the plan marked A contained in Appendix 3 (but excluding those parts coloured green on the plan marked B in Appendix 3) and registered at the Land Registry under the title numbers listed in Schedule 1 Part 1
  - C.2 is the leasehold owner of those parts of the Site shown edged and hatched red on the plan marked A contained in Appendix 3 and (where relevant) registered at the Land Registry under the title numbers listed in Schedule 1 Part 2.
- (D) The Developer's agent submitted the Original Planning Application to the LPA on 30 September 2011.
- (E) On 26 June 2012 the LPA resolved to grant the Original Planning Permission subject to the completion of this Agreement.
- (F) TfL is the provider of public transport services and is also the highway authority responsible for certain roads in the vicinity of the Site.
- (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.
- (H) 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, sections 4 and 5 of the Olympic Act and all other powers enabling.

**OPERATIVE PROVISIONS:**

**1. INTERPRETATION**

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

"1990 Act"	Town and Country Planning Act 1990
"2011 Act"	Localism Act 2011
"Acquired Interest"	has the meaning given in clause 2.9A
"Affordable Housing Units"	has the meaning given in Schedule 3 (Affordable Housing)
"Agreement"	this agreement made pursuant to section 106 of the 1990 Act and other enabling powers
"Anticipated PDZ Commencement Date"	the date on which the Developer reasonably considers in all the circumstances that Development will be Commenced in a PDZ
"Anticipated SPDZ Commencement Date"	the date on which the Developer reasonably considers in all the circumstances that Development will be Commenced in a SPDZ
"Approve"	has the meaning set out in the Schedule to which the Submitted Document relates and " <b>Approval</b> " and cognate expressions shall be construed accordingly
"Bridgewater Triangle Slot-in Permission"	means planning permission for the Bridgewater Triangle development granted with reference 21/00403/OUT (including any replacement permission subsequently granted to carry out development in substitution for such development)
"Building Cost Index"	the <i>All In Tender Price Index</i> published by the Building Cost Information Service or if the same shall cease to be published such alternative construction related index agreed by the LPA and the Developer
"Commencement"	beginning of the Development (or where Commencement or Commence is used in the context of part of the Development commencement shall mean beginning of that part) as defined in section 56(4) of the 1990 Act but for the purposes of this Agreement only shall not include: <ol style="list-style-type: none"><li>1. site clearance and preparation;</li><li>2. archaeological investigation;</li><li>3. investigations for the purposes of assessing contamination;</li><li>4. other ground and site surveying;</li></ol>

5. construction of temporary access and temporary internal roads for construction purposes only;
6. remediation works associated with decontamination;
7. erection of a temporary means of enclosure, including fences and hoardings, for the purposes of site security;
8. provision of temporary accommodation reasonably required for construction purposes only; and
9. preliminary landscaping works including tree protection

and "**Commence**" and "**Commenced**" shall be construed accordingly

"**Commencement Date**"

the date upon which the Development is Commenced

"**Completion**"

completed in material respects such that a certificate of substantial completion in relation to engineering works or a certificate of practical completion in relation to building works could be issued under industry standard construction contracts for such works and "**Completed**" shall be construed accordingly

"**Comply**"

implement, comply, fulfil and/or discharge or procure implementation, compliance, fulfilment and/or discharge

"**Condition**"

a condition attached to the Planning Permission or to any Subsequent Planning Permission

"**Confidential Appendix**"

the separate appendix signed by LLDC and the LPA and dated on the date hereof

"**Court Application**"

means any application seeking an injunction or other equitable remedy (including any application under Part 25 of the Civil Procedure Rules) and/or any claim for damages

"**CRT Section 73 Permissions**"

the following planning permissions relating to the Canal and River Trust:

1. 11/90313/VARODA (variation of conditions OD.0.21 and LTD.1.3 of planning permission 07/90010/OUMODA);
2. 11/90314/VARODA (variation of condition 43 of Olympic Consent Slot In Permission reference 08/90059/OUTODA);
3. 11/90315/VARODA (variation of conditions VOD.15 and VLT.04 of Olympic Consent Slot

- In Permission reference  
08/90276/FUMODA);
4. 11/90316/VARODA (variation of condition PPR.21 of Olympic Consent Slot In Permission reference 08/90310/FULODA);
  5. 11/90317/VARODA (variation of condition PPR.21 of Olympic Consent Slot In Permission reference 08/90311/FULODA);
  6. 11/90318/VARODA (variation of condition PPR.18 of Olympic Consent Slot In Permission reference 08/90312/FULODA);
  7. 11/90319/VARODA (variation of condition PPR.18 of Olympic Consent Slot In Permission reference 08/90313/FULODA);
  8. 11/90320/VARODA (variation of conditions HOD.12 and HLT.4 of Olympic Consent Slot In Permission reference 08/90328/FUMODA);
  9. 11/90321/VARODA (variation of conditions EMOD.13 and EMLTD.7 of Olympic Consent Slot In Permission reference 09/90198/FUMODA);
  10. 11/90322/VARODA (variation of condition PGT.14 of Olympic Consent Slot In Permission reference 09/90410/FUMODA); and
  11. 11/90324/VARODA (variation of condition PPR.18 of Olympic Consent Slot In Permission reference 08/90314/FULODA)

**"Defence"**

means any Defence or Reply filed under Part 15 of the Civil Procedure Rules and/or any submissions made to the court in which a Court Application is issued (or any appeal court) and/or any affidavit, witness statement or any other document relied up or filed by a third party or by any other party on behalf of the third party in or in relation to any Court Application

**"Developer's Land"**

the Developer's:

1. freehold land within the Site shown hatched blue on the plan marked A contained in Appendix 3 and registered at the Land Registry under the title numbers listed in Schedule 1 Part 1
2. leasehold land within the Site shown edged and hatched red on the plan marked A contained in Appendix 3 and registered at the Land Registry under the title numbers listed in

	Schedule 1 Part 2 as well as the unregistered leasehold interests in L18 and L19 shown on that plan
"Development"	the development of the Site and all other operations and/or works authorised by the Planning Permission and any Subsequent Planning Permission but excluding any Superseded Development
"Development Parcel" and "DP"	any one of the development parcels within a PDZ as identified on the plan contained in Appendix 5
"Dispute"	any dispute, issue, difference or claim as between the Parties in respect of any matter contained in or arising from or relating to this Agreement or the Parties' obligations and rights pursuant to it (other than in respect of any matter of law)
"Earnings Index"	the <i>Annual Survey of Hours and Earnings for the London Region</i> published by the Office for National Statistics or any official publication substituted for it
"Environmental Statement"	the environmental statement submitted in support of the Original Planning Application as supplemented or amended by further environmental information submitted prior to 28th September 2012
"Expert"	an independent expert appointed in accordance with the provisions of Clause 13 to determine a Dispute
"First S73 Permission"	the outline planning permission granted on 11 August 2014 with reference 14/00036/VAR for the development authorised by Original Planning Permission without complying with certain conditions and complying with other conditions subject to modifications
<u>"Fourth S73 Permission"</u>	<u><a href="#">the outline planning permission granted on 13 April 2023 with reference 21/00561/VAR for the development authorised by Third S73 Permission without complying with certain conditions and complying with other conditions subject to modifications</a></u>
"Games"	the Olympic Games and the Paralympic Games
"GEA"	as defined in the RICS Code of Measuring Practice (6 <sup>th</sup> Edition) and for the avoidance of doubt excludes ancillary infrastructure, utility elements, rooftop and basement plant, car parking floorspace within buildings, external parking areas winter gardens and any other amenity space
"GIA"	as defined in the RICS Code of Measuring Practice (6 <sup>th</sup> Edition)
"GLA"	the Greater London Authority and its successors in function

"Host Boroughs"	together the London Borough of Hackney, London Borough of Newham, London Borough of Tower Hamlets and London Borough of Waltham Forest and their respective successors in function
"Implementation"	beginning of development authorised by a planning permission (or where Implementation or Implement is used in the context of part of the development implementation shall mean beginning of that part) as defined in section 56(4) of the 1990 Act and "Implement" and "Implemented" shall be construed accordingly
"Index"	<ol style="list-style-type: none"><li>1. the Building Cost Index in respect of:<ol style="list-style-type: none"><li>1.1 the Healthcare Facilities Cost Cap, the Uncommitted PDZ4 Healthcare Facilities Cost Cap, <u>and</u> the Uncommitted PDZ6 <del>Healthcare Facilities Cost Cap, and the Uncommitted PDZ8</del> Healthcare Facilities Cost Cap (all as defined in Schedule 6 (Health));</li><li>1.2 the SNT Cost Cap (as defined in Schedule 7 (SNT and Community Facilities)); and</li><li>1.3 the Schools Cost Cap (as defined in Schedule 8 (Education)); and</li><li>1.4 the Bus Infrastructure Contribution (as defined in Schedule 2 (Transport)); and</li><li>1.5 contributions paid pursuant to this Agreement where it is known at the date of payment such contributions are to be spent on the construction of facilities and/or infrastructure</li></ol></li><li>2. the Earnings Index in respect of Households on Intermediate Incomes, Households on Lower Intermediate Incomes, Households on Upper Intermediate Incomes (all as defined in Schedule 3 (Affordable Housing)); and</li><li>3. in all other cases the RPI</li></ol>
"Indexed"	in relation to any sum that it is to be increased in accordance with Clauses 8.2 and 8.3
"Interim Uses"	the temporary use or uses of part or parts of the Site from the date of the Planning Permission until the date such part or parts are developed for the permanent uses authorised by the Planning Permission or any Subsequent Planning Permission
"Legacy Transformation Phase"	the period of time commencing with the end of the Paralympic Games closing ceremony and ending on whichever is the earlier of (a) 31 December 2014 and

	(b) the date certified by the LPA in accordance with clause 12 of the Olympic Section 106 Agreement
"LLDC"	the London Legacy Development Corporation of Level 10, 1 Stratford Place, Montfichet Road, London E20 1EJ and includes its successor bodies in function, any LLDC Successor and any LLDC Covenant Delivery Body
"LLDC Covenant"	those obligations, covenants and undertakings given expressly on the part of LLDC in this Agreement and as set out in Schedule 16
"LLDC Covenant Delivery Body"	person with sufficient interest in or control over the Site or part thereof or other power to deliver or fulfil the relevant LLDC Covenant as approved by the LPA pursuant to Clause 2.5 which, for the avoidance of doubt, could include any LLDC Successor
"LLDC Successor"	any successors in title to or assigns of LLDC and/or any person claiming through or under LLDC an interest or estate in the whole of the Developer's Land but does not include any successors in title to or assigns of LLDC and/or any person claiming through or under LLDC an interest or estate in individual Planning Delivery Zone(s) or Sub Planning Delivery Zone(s) save where (i) a successor's or assign's or person's interest in individual Planning Delivery Zone(s) or Sub Planning Delivery Zone(s) when taken together would result in that successor's or assign's or person's interest comprising the whole of the Developer's Land and (ii) LLDC no longer exists and there is no successor body to LLDC that has taken on the liability for any outstanding LLDC Covenants
"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"><li>1. the LPA decides to consult on the revised Submitted Document, in which case the period shall be extended to not more than 20 (twenty) Working Days after receipt of the revised Submitted Document; or</li><li>2. the LPA decides the matter needs to be reported to its planning committee, in which case the period shall be extended to not more than 40 (forty) Working Days after receipt of the revised Submitted Document</li></ol>
"Market Rent"	the rent calculated in accordance with the definition of "Market Rent" at Practice Statement 3.4 of the Royal Institute of Chartered Surveyors Valuation – Professional Standards (the Red Book) March 2012 as may be updated from time to time
"MDC Area"	the area of land, in Greater London, shown bounded externally by the inside edge of a black line on the map marked "Map referred to in the London Legacy

	Development Corporation (Establishment) Order 2012" and contained in Appendix 6
"Non Residential Unit"	retail (Use Class A1-A5), employment (Use Class B1), hotel (Use Class C1) community (Use Class D1) and leisure (Use Class D2) units permitted to be constructed as part of the Development
"Non Residential Uses"	retail (Use Class A1-A5), employment (Use Class B1), hotel (Use Class C1), community (Use Class D1) and leisure (Use Class D2) uses permitted as part of the Development
"Occupy" and "Occupation"	beneficial occupation for any purpose for which Planning Permission and any Subsequent Planning Permission has been granted in respect of the relevant 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
"Olympic Act"	London Olympic Games and Paralympic Games Act 2006
"Olympic Consent Permission"	<b>Slot-In</b> either a planning permission or a Reserved Matters approval (as applicable) granted pursuant to an application to carry out development within the Olympic Site related to or in substitution for development authorised under: <ol style="list-style-type: none"><li>1. planning permission 07/90011/FUMODA;</li><li>2. outline planning permission 07/90010/OUMODA;</li><li>3. the CRT Section 73 Permissions;</li><li>4. planning permission 11/90330/FULODA; and/or</li></ol> any other permission that may be granted authorising the modification deletion or replacement of any condition attached to any Olympic Consent
"Olympic Consents"	<ol style="list-style-type: none"><li>1. planning permission 07/90011/FUMODA;</li><li>2. outline planning permission 07/90010/OUMODA;</li><li>3. the CRT Section 73 Permissions; and</li><li>4. planning permission 11/90330/FULODA</li></ol>
"Olympic Development"	together with any Olympic Consent Slot-In Permission development pursuant to the Olympic Consents carried out on the Olympic Site
"Olympic Games"	the international sporting event known as the Olympic Games held in London in 2012 which started with a

	formal opening ceremony on 27 July 2012 and ended with formal closing ceremony on 12 August 2012
"Olympic Park"	the whole of the area edged orange on the plan contained in Appendix 2
"Olympic Section 106 Agreement"	the section 106 agreement dated 28 September 2007 between (1) Olympic Delivery Authority and (2) London Development Agency as amended by deeds of modification dated 6 June 2008, 9 July 2009, 30 December 2009, 30 September 2010 and 16 December 2011 and as further amended from time to time
"Olympic Site"	the whole of the land comprised within the boundaries of planning permission 07/90011/FUMODA and outline planning permission 07/90010/OUMODA
"On Site"	on land within the Site
"Original Planning Application"	the application for outline planning permission submitted to the LPA and given reference number 11/90621/OUTODA by the LPA
"Original Planning Permission"	the planning permission subject to conditions granted on 28th September 2012 for the proposals within the Original Planning Application
"Outline Site Wide Phasing Plan"	approved plan reference LCS-DWG-APP-PHS-PAR-GLB-001-01 as may be varied pursuant to Condition LC50.49
"Paralympic Games"	the international sporting event known as the Paralympic Games held in London in 2012 which started with a formal opening ceremony on 29 August 2012 and ended with a formal closing ceremony on 9 September 2012
"Parameter Plans"	the amended Site wide and PDZ parameter plans which form part of the plans approved by the Planning Permission and any Subsequent Planning Permission
"Parties"	the parties to this Agreement and the word " <b>Party</b> " shall mean any one of them
"PDZ1"	[not used]
"PDZ2"	[not used]
"PDZ3"	the area of the Site known as planning delivery zone 3 as identified on the plan contained in Appendix 1
"PDZ4"	the area of the Site known as planning delivery zone 4 as identified on the plan contained in Appendix 1
"PDZ5"	the area of the Site known as planning delivery zone 5 as identified on the plan contained in Appendix 1
"PDZ6"	the area of the Site known as planning delivery zone 6 as identified on the plan contained in Appendix 1

"PDZ8"	<del>the area of the Site known as planning delivery zone 8 as identified on the plan contained in Appendix 1</del> <a href="#">[not used]</a>
"PDZ12"	the area of the Site known as planning delivery zone as identified on the plan contained in Appendix 1
"Phase 1"	the first phase of the Development as shown on the Outline Site Wide Phasing Plan
"Phase 2"	the second phase of the Development as shown on the Outline Site Wide Phasing Plan
"Phase 3"	the third phase of the Development as shown on the Outline Site Wide Phasing Plan
"Planning Application"	the section 73 application for the development authorised by the <del>Third</del> <a href="#">Fourth</a> S73 Permission without complying with certain conditions and complying with other conditions subject to modifications submitted to the LPA and given reference number <a href="#">21/00561/VAR 22/00216/VAR</a> by the LPA (and which has been submitted alongside a Slot-In Application for the development known as <del>Bridgewater Triangle</del> <a href="#">Pudding Mill Lane</a> and given reference number <a href="#">21/00403/OUT</a> <a href="#">21/00574/OUT</a> )
"Planning Delivery Zone" and "PDZ"	any one of the planning delivery zones which together form the Site as identified on the plan contained in Appendix 1
"Planning Permission"	the planning permission subject to conditions that may be granted by the LPA pursuant to the Planning Application
"Post Commencement Obligations"	the following obligations that are conditional upon Commencement of the Development: <ol style="list-style-type: none"><li>1. paragraphs 2.8 (Access and Use) and 4 (Controlled Parking Zones and Adoption of Roads) of Schedule 2;</li><li>2. paragraph 5.1 (Grant Funding) of Schedule 3;</li><li>3. paragraph 5.1.1 (use of Reasonable Endeavours to secure the SNT Operator and market the SNT Spaces) of Schedule 7;</li><li>4. paragraph 2.1 (End-Use jobs target) of Schedule 9;</li><li>4. paragraphs 1.1 (BAP Habitat) and 2.1 (Provision of PAOS) of Schedule 10;</li><li>5. paragraph 1.1 (Extension of District Heat Network) of Schedule 11</li></ol>
"Post-Games Transformation"	alterations to or removal, modification or transformation of the development carried out on the Olympic Site to enable the Games to be held, such alterations, removal, alterations to or modification or transformation to be carried out in accordance with the Olympic Consents

	and undertaken during the Legacy Transformation Phase
<b>"Pudding Mill Lane Slot-in Permission"</b>	<u>means planning permission for the Pudding Mill Lane development granted with reference 21/00574/OUT (including any replacement permission subsequently granted to carry out development in substitution for such development)</u>
<b>"Reasonable Endeavours"</b>	that it is agreed by the Parties that the Party under such an obligation will not thereby be required to take proceedings (including any appeal) in any court public inquiry or other hearing (unless specified to the contrary) but subject thereto and to other terms of this Agreement such Party will be bound to attempt to fulfil the relevant obligation by the expenditure of such effort and/or sums of money and the engagement of such professional or other advisers as in all the circumstances may reasonably be expected: in the case of LLDC and the LPA, of a competent public authority or publicly funded publicly accountable body acting reasonably properly and proportionately in the context of its statutory functions duties and purposes; and in the case of the Developer where the Developer is not the same entity as LLDC, of a competent commercial developer in the context of the Development (or part of the Development)
<b>"Refusal Notice"</b>	a notice prepared by the LPA confirming which Submitted Document it is refusing to Approve, the reasons why it is refusing to Approve such Submitted Document and the Report Amendments
<b>"Relevant Leasehold Interest"</b>	a registerable leasehold interest in the Site or part thereof which has at least one year unexpired remaining
<b>"Report Amendments"</b>	those amendments to the Submitted Document that the LPA requires to be made to enable it to Approve such Submitted Document
<b>"Requisite Consents"</b>	such grant of planning permission under the 1990 Act, Traffic Regulation Orders, Traffic Management Orders or other Consents under the Highways Act 1980 and the obtaining of Consents (statutory or otherwise) including the grant or acquisition of necessary land interests as in each case are necessary for the relevant purpose
<b>"Reserved Matters"</b>	has the same meaning as in the Town and Country Planning (Development Management Procedure) (England) Order 2010
<b>"Residential Unit"</b>	a residential unit provided as part of the Development
<b>"Restrictive Planning Obligation"</b>	means any covenant contained within this Agreement which restricts the undertaking of operations and/or works to construct the Development on the land comprising the Acquired Interest or part thereof or which restricts the Occupation of any part of the

	Development which is located on the land that comprises the Acquired Interest;
"RPI"	the Retail Prices Index all items published by the Office for National Statistics or any official publication substituted for it
"Second S73 Permission"	the outline planning permission granted on 3 May 2018 with reference 17/00236/VAR for the development authorised by First S73 <del>Planning</del> Permission without complying with certain conditions and complying with other conditions subject to modifications
"Section 73 Application"	an application made under section 73 of the 1990 Act seeking to achieve the effect of modification deletion or replacement of any condition attached to the Planning Permission and/or any Subsequent Planning Permission
"Section 73 Permission"	planning permission subject to conditions granted by the LPA pursuant to any Section 73 Application and "Section 73 Permissions" shall mean such two or more of them as the context shall require
"Shared Ownership Units"	has the meaning given in Schedule 3 (Affordable Housing)
"Shell and Core Standard"	accommodation constructed to shell and core finish as that expression is understood in the commercial development industry and shall include: <ol style="list-style-type: none"><li>1. where the facility is co-located in another building, space in a building constructed using a steel or concrete frame with upper floor and ground bearing slabs, fair faced blockwork party walls, roof construction where on the top floor of the building and waterproofing, utility supplies, drainage connections, allowances for conduits for internet/TV/telecommunication connections to a single location in the building, Disability and Equality Act 2010 compliant, toilet facilities provided in accordance with Building Regulations and, where located over two or more floors, shared access via in-situ or pre-cast concrete staircase and lifts, but not including any wall, floor or ceiling finishes, or services installations or fixtures or fittings; or</li><li>2. where the facility is provided as a stand alone building, a building constructed using a steel or concrete frame with upper floor and ground bearing slabs, fair faced blockwork party walls, roof construction and waterproofing, utility supplies, drainage connections, allowances for conduits for internet/TV/telecommunication connections to a single location in the facility, Disability and Equality Act 2010 compliant and toilet facilities provided in accordance with Building Regulations and, where located over two or more floors, access via in-situ or pre-cast concrete staircase and lifts, but not including</li></ol>

	any wall, floor or ceiling finishes, or services installations or fixtures or fittings
"Site"	the whole of the land to which the Planning Permission relates as the same is shown edged red on the plan contained in Appendix 1 excluding the land shaded grey and the land shaded pink and the land shaded green <u>and the land shaded orange</u>
"Slot-In Application"	an application for either: <ol style="list-style-type: none"><li>1. planning permission (including any subsequent application for outline planning permission) to carry out development within the Site related to or in substitution for development authorised under the Planning Permission and/or any Subsequent Planning Permission; or</li><li>2. Reserved Matters approval to carry out development within the Site related to or in substitution for development authorised under any previous Reserved Matters approvals granted pursuant to the Planning Permission and /or any Subsequent Planning Permission;</li></ol>
"Slot-In Permission"	either a planning permission or a Reserved Matters approval (as applicable) granted pursuant to a Slot-In Application and "Slot-In Permissions" shall mean such two or more of them as the context shall require
"Social Rented Units"	has the meaning given in Schedule 3 (Affordable Housing)
"SPDZ 1A"	[not used]
"SPDZ 1B"	[not used]
"SPDZ 5A"	the SPDZ comprising DPs 5.1, 5.2, 5.3, 5.4, 5.5, 5.9, 5.10 and 5.11 within PDZ5
"SPDZ 5B"	the SPDZ comprising DPs 5.6, 5.7 and 5.8 within PDZ5
"SPDZ 8A"	<del>the SPDZ comprising DPs 8.2, 8.3.1 and 8.3.2 within PDZ8</del> <u>[not used]</u>
"SPDZ 8B"	[not used]
"Staircase"	has the meaning given to "Staircasing" in Schedule 3 (Affordable Housing)
"Statement of Superseded Development"	a statement identifying what (if any) development under the Planning Permission and/or any Subsequent Planning Permission is to be superseded by development under the Slot-In Permission such statement to be submitted to and approved by the LPA and annexed to the respective Slot-In Permission
"Stratford Waterfront Slot-in Permission"	means planning permission for the Stratford Waterfront development granted with reference 18/00470/OUT

	(including any replacement permission subsequently granted to carry out development in substitution for such development)
"Sub Planning Delivery Zone" or "SPDZ"	any of SPDZ 5A, <del>SPDZ 5B</del> or SPDZ <del>8A</del> <del>5B</del> as the context so requires
"Sub Zonal Master Plan" or "SZMP"	a masterplan in relation to a Sub Planning Delivery Zone to be submitted to and approved by the LPA in accordance with the Planning Permission and any Subsequent Planning Permission and includes the masterplan for the first SPDZ within the relevant PDZ (which includes both Part A and Part B of Annexure 2 to the Planning Permission and any Subsequent Planning Permission) and masterplans for all proceeding SPDZs within the relevant PDZ;
"Submitted Document"	any document, report, review, strategy and other information required to be submitted to the LPA for Approval pursuant to this Agreement
"Subsequent Planning Permission"	any <ol style="list-style-type: none"><li>1. Section 73 Permission; and</li><li>2. Slot-In Permission</li></ol> and "Subsequent Planning Permissions" shall mean such two or more of them as the context shall require
"Superseded Development"	development (if any) under the Planning Permission and/or under any Subsequent Planning Permission outlined in a Statement of Superseded Development
"Supplemental Deed "	the deed or deeds to be entered into pursuant to Clauses 4.1.3 and 5.1.3 of this Agreement and to be in the form or substantially in the form of the draft bilateral deed contained at Part A of Schedule 14 or (if the Developer and/or LLDC are the same entity as the LPA) the reciprocal unilateral undertakings contained at Parts B and C of Schedule 14 and in accordance with all necessary enabling powers
"Third S73 Permission"	the outline planning permission granted on 25 July 2019 with reference 18/00471/VAR for the development authorised by Second S73 <del>Planning</del> Permission without complying with certain conditions and complying with other conditions subject to modifications
"UCLE Slot-in Permission"	means planning permission for the UCL East development granted with reference 17/00235/OUT (including any replacement permission subsequently granted to carry out development in substitution for such development)
"Use Class"	a use class specified in the Town and Country Planning (Use Classes) Order 1987 as in force at 28th September 2012

**"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

**"ZMP"** a masterplan in respect of a PDZ to be submitted to and approved by the LPA in accordance with the Planning Permission and any Subsequent Planning Permission

1.2 In this Agreement:

1.2.1 unless otherwise indicated reference to any:

- (a) Clause, Schedule or Appendix is to a Clause of, Schedule to or Appendix to this Agreement;
- (b) paragraph is to a paragraph of a Schedule to this Agreement;
- (c) reference within a Schedule to a paragraph is to a paragraph of that Schedule;
- (d) Part is to a part of a Schedule to this Agreement;
- (e) table is to a table of a Schedule to this Agreement;
- (f) Recital is to a Recital to this Agreement; and
- (g) plan, is to a plan annexed to this Agreement as an Appendix;

1.2.2 references to any statute or statutory provision include references to:

- (a) all Acts of Parliament and all other legislation having legal effect in the United Kingdom as enacted at 28th September 2012;
- (b) any orders, regulations, instruments or other subordinate legislation made or issued under that statute or statutory provision; and
- (c) in each case shall include any re-enactment thereof for the time being in force and any modifications or amendments thereof for the time being in force;

1.2.3 headings, the table of contents and titles to the plans are for reference purposes only and are not incorporated into this Agreement and shall not be deemed to be an indication of the meaning of the parts of the Agreement to which they relate;

1.2.4 any notice, notification, consent, approval, agreement, request, statement or details to be made, given or submitted under or in connection with this Agreement shall be made or confirmed in writing;

1.2.5 references to the Site include any part of it;

1.2.6 references to the Developer's Land include any part of it;

1.2.7 references to the LPA comprise the Olympic Delivery Authority in its capacity as local planning authority and include its successors to the functions of the LPA;

1.2.8 subject to Clauses 2.9, 2.10, 2.11 and 2.12 references to the Developer include:

- (a) at the date of this Agreement, LLDC;
  - (b) persons deriving title from the Developer; and
  - (c) the Developer's successors, assigns, transferees;
- 1.2.9 references to LLDC include its successor bodies in function;
- 1.2.10 "including" means "including without limitation";
- 1.2.11 unless otherwise indicated references to the singular include the plural and references to the plural include the singular and words importing any gender include every gender;
- 1.2.12 unless otherwise indicated words importing persons include firms, companies, other corporate bodies or legal entities and vice versa;
- 1.2.13 any obligation, covenant, undertaking or agreement by the Developer or LLDC not to do any act or thing includes an obligation, covenant, undertaking or agreement not to permit or allow the doing of that act or thing;
- 1.2.14 save where expressly stated to the contrary, where in this Agreement there is reference to using Reasonable Endeavours to achieve an outcome, upon written request by any of the Parties at reasonable intervals (not to exceed more than once every 3 (three) months), within 10 (ten) Working Days of such request reasonable evidence of the steps taken to achieve such outcome shall be provided in documentary form (where possible) to the requesting Party(s).
- 1.3 The Interpretation Act 1978 shall apply to this Agreement.
- 1.4 The "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 13 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.
- 1.8 Where in this Agreement the fulfilment of an obligation, covenant or undertaking is subject to the obtaining or securing of Requisite Consents the Party obliged to fulfil that obligation, covenant or undertaking shall:-
- 1.8.1 use Reasonable Endeavours to secure or obtain the Requisite Consents where the obligation relates to matters to be carried out or conducted On Site on land within the ownership or control of the person obliged to attempt to secure such Requisite Consents; and
  - 1.8.2 endeavour in good faith (but without being required to pay any material financial consideration in addition to bearing the reasonable and proper cost of the works which are the intended subject of the Requisite Consents or being obliged to take any proceedings (or appeal) in any court public inquiry or other

hearing) to secure or obtain the Requisite Consents where the obligation relates to matters to be carried out or conducted Off Site or on land that is not within its ownership or control

**PROVIDED THAT** in each case if the Developer or LLDC in relation to a Requisite Consent of its own volition and independently of the terms of this Agreement pays or has paid a material financial consideration in order to secure that Requisite Consent it shall not be able to rely upon the fact of having done so to use this Clause 1.8 to avoid or limit the obligation, covenant or undertaking under this Agreement for which that Requisite Consent is required.

1.9 Where in this Agreement reference is made to "meeting the needs of the Development" (or cognate or similar expressions are used), the expression shall be interpreted pursuant to the three tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

## 2. EFFECT OF THIS AGREEMENT

2.1 This Agreement is made pursuant to:

2.1.1 section 106 of the 1990 Act; and

2.1.2 (in so far as this Agreement does not contain planning obligations entered into pursuant to section 106 of the 1990 Act), sections 4 and 5 of the Olympic Act, sections 201, 205 and 206 of the 2011 Act, section 156, Schedule 10 and Schedule 11 of the Greater London Authority Act 1999 and all other powers so enabling.

2.2 So far as the obligations, covenants and undertakings in this Agreement are given by or to the LPA or by or to TfL then the same are entered into pursuant to the relevant powers referred to in Clause 2.1 and such obligations, covenants and undertakings shall be enforceable by or against the LPA and by or against TfL (as applicable).

2.3 The obligations, covenants and undertakings on the part of the Developer in this Agreement are planning obligations pursuant to and for the purposes of section 106 of the 1990 Act and so as to bind the Developer's Land and, subject to Clauses 2.9, 2.9A, 2.10, 2.11 and 2.12 the said obligations, covenants and undertakings on the part of the Developer are entered into with the intent that they shall be enforceable not only against the Developer but also against any successors in title to or assigns of the Developer and/or any person claiming through or under the Developer an interest or estate in the Developer's Land (other than a utility undertaker insofar as and to the extent that the relevant utility undertaker is occupying the relevant part of the Developer's Land in its capacity as a utility undertaker) as if that person had been an original covenanting party in respect of such interest for the time being held by it and insofar as any such obligations, covenants and undertakings are not capable of falling within section 106 of the 1990 Act are entered into as obligations, covenants and undertakings in pursuance of sections 4 and 5 of the Olympic Act, sections 201, 205 and 206 of the 2011 Act and, in respect of those obligations, covenants and undertakings given to TfL, in pursuance of section 156, Schedule 10 and Schedule 11 of the Greater London Authority Act 1999.

2.4 The LLDC Covenants are planning obligations pursuant to and for the purposes of section 106 of the 1990 Act and so as to bind the Developer's Land and the LLDC Covenants are entered into with the intent that they shall be enforceable against LLDC and the LLDC Successor and irrespective of whether LLDC and the LLDC Successor part with their interest in the Developer's Land or part of the Developer's Land LLDC and the LLDC Successor shall remain liable for the Compliance of the LLDC Covenants until the earliest of:

2.4.1 the date that such LLDC Covenant has been fully performed; and

- 2.4.2 the date that the LLDC Covenant Delivery Body is approved pursuant to paragraph 2.5 and such LLDC Covenant Delivery Body shall from the date of such approval be deemed to be the successor to LLDC and/or the LLDC Successor (as applicable) in respect of the LLDC Covenants (in whole or such part thereof) to the extent such LLDC Covenants are outstanding as at the date of the approval.
- 2.5 In the event that LLDC and/or the LLDC Successor considers that a body or person has become a LLDC Covenant Delivery Body then LLDC and/or the LLDC Successor shall provide details to the LPA of such body's or person's interest in the Site, commitment in respect of Clause 5.3 and covenant strength in light of those LLDC Covenants that are outstanding as at the date such details are provided and where the LPA agrees that such body or person should be a LLDC Covenant Delivery Body a deed shall be entered into between the Parties and the body or person who is to become the LLDC Covenant Delivery Body in which the LPA shall approve the body or person as the LLDC Covenant Delivery Body, such deed to
- 2.5.1 confirm that LLDC Covenant Delivery Body is bound under the terms of this Agreement pursuant to section 106 of the 1990 Act;
- 2.5.2 provide for the LLDC Covenant Delivery Body to covenant directly with TfL and directly with the LPA to perform and Comply with the LLDC Covenants to the extent such LLDC Covenants have not been satisfied in full as at the date of such deed; and
- 2.5.3 be entered into pursuant to the powers described in Clause 2.1 (as applicable as at the date of the such deed).
- 2.6 The Parties agree to enter into such deed as contemplated by Clause 2.5 as shall be necessary to give effect to that Clause.
- 2.7 Insofar as any of the LLDC Covenants are not capable of falling within section 106 of the 1990 Act, any such LLDC Covenant is entered into as an obligation, covenant and undertaking in pursuance of sections 4 and 5 of the Olympic Act, sections 201, 205 and 206 of the 2011 Act and, in respect of those LLDC Covenants given to TfL, in pursuance of section 156, Schedule 10 and Schedule 11 of the Greater London Authority Act 1999.
- 2.8 Save to the extent that the same would be lawful nothing in this Agreement restricts or is intended to restrict the proper exercise at any time by the LPA or TfL of any of their respective statutory powers functions or discretions.
- 2.9 Save in respect of the LLDC Covenants, no person shall be liable for any breach of any of the obligations, covenants and undertakings or other provisions of this Agreement after parting with its interest in the Developer's Land or its interest in respect of that part of the Developer's Land on which the breach occurs but without prejudice to liability for any subsisting breach arising before parting with that interest or the granting of such Lease.
- 2.9A Subject to clauses 2.10.1 and 2.10.2 the obligations in this Agreement which require works and/or actions to be carried out and/or undertaken on the Developer's Land and/or which otherwise relate to the Developer's Land shall not be enforced against a third party who acquires a leasehold interest(s) in the Developer's Land ("Acquired Interest") to the extent that such works and/or actions are required to be undertaken on land which is wholly outside the Acquired Interest and/or the obligations otherwise concern and/or relate to land wholly outside the Acquired Interest PROVIDED THAT:
- 2.9A.1 nothing in this clause 2.9A shall exempt the relevant third party from liability in respect of any Restrictive Planning Obligation; and

- 2.9A.2 in the event that there is a breach of a Restrictive Planning Obligation and the LPA issues a Court Application to restrain such breach the relevant third party shall not be entitled to rely on clause 2.9A in its Defence to such a Court Application and shall make no reference to clause 2.9A in its Defence to such a Court Application.
- 2.10 This Agreement shall not be enforceable against individual owners, individual occupiers or individual lessees in each case of individual Residential Units, individual Non Residential Units or individual Interim Uses of the Development except in respect of the obligations in:
- 2.10.1 paragraph 15 of Schedule 3 (Affordable Housing) which shall be enforceable against owners, occupiers and lessees of Affordable Housing Units unless and until they exercise their statutory right to buy in the case of Social Rented Units or Staircase to 100% in the case of Shared Ownership Units; and
- 2.10.2 paragraphs 5.1.5 to 5.1.8 (inclusive), 5.2.5 to 5.2.8 (inclusive) and 5.3.2 to 5.3.4 (inclusive) of Schedule 8 which shall be enforceable against the lessee in occupation of the FPS Playing Fields, the SPS Playing Fields and the SS Playing Fields respectively.
- 2.11 No obligation in this Agreement shall be binding on or enforceable against any chargee or mortgagee from time to time who shall have the benefit of a charge or mortgage of or on any part of parts of the Site or any receiver appointed by such chargee or mortgagee or any person deriving title through such chargee, mortgagee, receiver unless and until such chargee, mortgagee, receiver or person has entered into possession of the Site or part thereof to which such obligation relates.
- 2.12 Where any Developer (other than LLDC) considers that it should not be liable in whole or part in respect of an obligation contained in this Agreement which does not directly relate to that part of the Developer's Land in which such Developer has an interest, such Developer may apply to the LPA for written binding confirmation that the specified obligations cannot and will not be enforced against the Developer.
- 2.13 The LPA shall request registration of this Agreement as a local land charge by the London Borough of Newham, the London Borough of Hackney and the London Borough of Tower Hamlets and in each case their respective statutory successors in function.
- 2.14 Where the Planning Permission is the subject of any judicial review proceedings or other legal challenge:
- 2.14.1 subject to Clause 2.14.2, if following the conclusion of such proceedings or challenge any of the Planning Permission is quashed then without prejudice to any liability which may have arisen pursuant to this Agreement prior to it being quashed, the provisions of this Agreement will cease to have any further effect as from the date upon which the Planning Permission is quashed save to the extent (if at all) that this Agreement remains relevant to any of the Planning Permission which has not been quashed;
- 2.14.2 if Development is Commenced or (as applicable) continued under that part of the Planning Permission which has been quashed, the provisions of this Agreement relevant to such Development will remain in full force and effect and the LPA and, in respect of Clauses 2.2 to 2.5 (inclusive) and Schedule 2 (Transport) only, TfL shall be entitled to enforce the obligations, covenants and undertakings of this Agreement to the extent they relate to such Development; and
- 2.14.3 the LPA shall as soon as reasonably practicable notify the Developer and TfL of the bringing of such proceedings or challenge.

2.15 Wherever in this Agreement reference is made to a date on which "proceedings or challenge in relation to the Planning Permission are concluded" (or cognate or similar expressions are used), the following provisions have application:

2.15.1 proceedings by way of judicial review are concluded:

- (a) when permission to apply for judicial review has been refused and no further application may be made; or
- (b) when the court has given judgment in the matter and the time for making an appeal expires without an appeal having been made or permission to appeal is refused; or
- (c) when any appeal is finally determined.

2.15.2 proceedings under section 288 of the 1990 Act or in respect of any other legal challenge are concluded:

- (a) when the court has given judgment in the matter and the time for making an appeal expires without an appeal having been made or permission to appeal is refused; or
- (b) when any appeal is finally determined.

2.16 Save where a Subsequent Planning Permission has been granted which remains extant, this Agreement and the obligations, covenants and undertakings which it contains shall lapse and be extinguished automatically if (and from the date that) the Planning Permission lapses without the Development being Commenced or is otherwise revoked, withdrawn or (without the consent of the Developer) modified.

2.17 Other than the Planning Permission and any Subsequent Planning Permission, nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission granted (whether or not on appeal) after the date of this Agreement.

### 3. **CONDITIONALITY**

Save where expressly provided for in this Agreement and save in respect of the Post Commencement Obligations, 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 AND TfL**

4.1 The Developer on behalf of itself and its successors in title to the Developer's Land covenants with the LPA and, in respect of Schedule 2 (Transport) only, with TfL that it shall:

- 4.1.1 perform and Comply with, and shall procure performance of and Compliance with, each and every of the obligations, covenants and undertakings on the part of the Developer contained in this Agreement;
- 4.1.2 not encumber or otherwise deal with its interest in the Site or any part or parts thereof in any manner whatsoever whereby the obligations, covenants and undertakings imposed by this Agreement are rendered impossible to carry out;
- 4.1.3 if it acquires a freehold interest or is granted or acquires a Relevant Leasehold Interest in the Site which is not at 28th September 2012 part of the Developer's Land unless otherwise agreed with the LPA it shall enter into the Supplemental Deed for the purposes of ensuring that the relevant obligations,

covenants and undertakings in this Agreement shall be binding on any such part of the Site;

- 4.1.4 notify the LPA of the Anticipated PDZ Commencement Date not less than three months prior to the actual Commencement of Development in each PDZ, and not Commence Development in any PDZ until such notice has been served;
- 4.1.5 notify the LPA of the Anticipated SPDZ Commencement Date not less than three months prior to the actual Commencement of Development in each SPDZ, and not Commence Development in any SPDZ until such notice has been served; and
- 4.1.6 notify the LPA (and TfL in respect of ~~(h)-(k)(h)-(l)~~) of the following dates and information within 5 (five) Working Days of the relevant date occurring:
  - (a) the Commencement Date in each PDZ;
  - (b) the Commencement Date in each SPDZ;
  - (c) Occupation of the first Residential Unit in each PDZ;
  - (d) Occupation of the first Residential Unit in each SPDZ;
  - (e) Occupation of the first Residential Unit in each DP;
  - (f) the number of Occupations at the end of Phase 2;
  - (g) the number of Occupations at the end of Phase 3;
  - (h) Occupation of 700 (seven hundred) Residential Units;
  - (i) Occupation of 350 (three hundred and fifty) Residential Units;
  - (j) Occupation of 500 (five hundred) Residential Units;
  - (k) Occupation of 2000 (two thousand) Residential Units;
  - (l) Occupation of ~~3500-2,500~~ (three two thousand five hundred) Residential Units; ~~and~~
  - (m) Occupation of ~~4000-2,700~~ (four two thousand seven hundred) Residential Units; ~~and~~
  - (n) Occupation of 2,750 (two thousand seven hundred and fifty) Residential Units.

4.2 The Parties agree to enter into such deeds as contemplated by Clause 4.1.3 as soon as reasonably practicable and as shall be necessary to give effect to that Clause.

## 5. LLDC'S COVENANTS

5.1 LLDC on behalf of itself and its successors in function and its LLDC Successors covenants with the LPA and, in respect of Clause 2.5 and Schedule 2 (Transport) only, with TfL that it shall:

- 5.1.1 perform and Comply with, and shall procure performance of and Compliance with, each and every of the LLDC Covenants;

5.1.2 not encumber or otherwise deal with its interest in the Site or any part or parts thereof in any manner whatsoever whereby the obligations, covenants and undertakings imposed by this Agreement are rendered impossible to carry out; and

5.1.3 if it acquires a freehold interest or is granted or acquires a Relevant Leasehold Interest in the Site which is not at 28th September 2012 part of the Developer's Land and at the date of such acquisition LLDC and the LPA are separate statutory bodies then unless otherwise agreed with the LPA it shall enter into the Supplemental Deed for the purposes of ensuring that the relevant obligations, covenants and undertakings in this Agreement shall be binding on any such part of the Site.

5.2 The Parties agree to enter into such deeds as contemplated by Clause 5.1.3 as soon as reasonably practicable and as shall be necessary to give effect to that Clause.

5.3 LLDC on behalf of itself and its successors in function and its LLDC Successors covenants with the LPA to commit itself to observe and continue the aims and objectives of LLDC as at 28th September 2012 in promoting the Development, in particular in respect of the target aspirations of the Development and aims set out in this Agreement, ~~and to carry out the viability review mechanism contained in Schedule 15 with the purpose of achieving such aims and objectives.~~

## 6. TFL'S COVENANTS

6.1 Tfl hereby covenants with each of the LPA and the Developer that Tfl will perform and Comply with, and shall procure performance of and Compliance with, each and every of the obligations, covenants and undertakings on the part of Tfl contained in Clause 8.9 and Schedule 2 (Transport).

6.2 Tfl's approval or consent for any modification or variation of this Agreement shall only be required in respect of any modification or variation of:

6.2.1 Clauses 2.2 to 2.9 (inclusive), Clause 2.14.2 and Clauses 4 to 7 (inclusive) but only where such modification or variation relates to a covenant given to or by Tfl;

6.2.2 Clause 8.9; and

6.2.3 Schedule 2 (Transport).

6.3 It is agreed between the Parties that as the covenants given to or by Tfl relate to transport only, that upon execution Tfl shall only initial the plans contained in Appendix 1, Appendix 3, Appendix 7, Appendix 8 and Appendix 10.

## 7. THE LPA'S COVENANTS WITH THE DEVELOPER, LLDC AND TFL

The LPA covenants with the Developer and with LLDC and, in respect of Clause 8.10 and Schedule 2 (Transport) only, with Tfl 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.

## 8. FINANCIAL CONTRIBUTIONS AND INDEXATION

8.1 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.

- 8.2 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 28th September 2012 until the date such sums are paid.
- 8.3 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 28th September 2012 until the date the sum or value falls to be considered or applied.
- 8.4 All payments or financial contributions to be paid pursuant to this Agreement shall be made on the dates provided in this Agreement and if paid late shall be paid with interest accrued calculated from the date such payments or financial contributions were due to the date of the actual payment at 2% above the base rate of a clearing bank to be approved by the LPA.
- 8.5 In respect of any sums received pursuant to ~~paragraphs paragraph~~ 2.18 ~~and 5.17~~ of Schedule 6 and paragraph 4.7 and 5.3.2 of Schedule 9 the LPA shall:
- 8.5.1 spend such sums on acute care, social care, emergency services and/or any other social infrastructure necessary to meet the needs of the population of the Development; and
  - 8.5.2 consult with LLDC on which facilities to apply such sums towards and take account of any reasonable comments received from LLDC in writing.
- 8.6 Following receipt of any payments or financial contributions from the Developer and/or LLDC pursuant to any obligations contained in this Agreement, the LPA covenants and undertakes to:
- 8.6.1 apply such payments or financial contributions only for the purposes specified in this Agreement **PROVIDED THAT** for the avoidance of doubt the LPA will be entitled to treat any accrued interest as if it were part of the principal sum paid by the Developer or LLDC (as applicable); and
  - 8.6.2 provide annual reports to the Developer or LLDC (as applicable) setting out the expenditure from such payments or financial contributions in the previous 12 (twelve) month period and how such expenditure is expected to assist in meeting the needs of the population of the Development.
- 8.7 Save where expressly stated to the contrary, the LPA shall return to the person who paid to the LPA the original payment or financial contribution (being the Developer or LLDC) any sums from such payment or financial contribution that remain contractually uncommitted or unspent as at the fifth anniversary of payment by LLDC or the Developer.
- 8.8 Where sums have been paid to the LPA under Schedule 2 (Transport) and the LPA has thereafter paid those sums to TfL, then the LPA's obligation to repay any such sums pursuant to Clause 8.7 shall be conditional upon the repayment of any such sums by TfL to the LPA and the LPA shall not be obliged to repay such sums until such time as the sums have been repaid by TfL.
- 8.9 Following receipt of any payments or financial contributions from the LPA, the Developer and/or LLDC pursuant to paragraphs 1 and 2 of Schedule 2 (Transport), TfL covenants and undertakes to:
- 8.9.1 forthwith upon receipt to pay such payments or financial contributions into an interest bearing deposit account, from which the relevant payment or contribution together with its accrued interest can be identified from periodic statements until such time as such payments or financial contributions (or any part thereof) are required for the purposes identified in the relevant paragraphs of Schedule 2 (Transport);

- 8.9.2 apply such payments or financial contributions only for the purposes respectively for which the same were paid as specified in the relevant paragraph of Schedule 2 (Transport) **PROVIDED THAT** for the avoidance of doubt TfL will be entitled to treat any accrued interest as if it were part of the principal sum paid by the LPA, the Developer or LLDC (as applicable); and
- 8.9.3 from time to time upon reasonable written request by the LPA, the Developer and/or LLDC (but not more frequently than once every 6 (six) months) to provide the LPA, the Developer and/or LLDC (as applicable) with a breakdown of expenditure from the said contributions.
- 8.10 The LPA shall pay interest to TfL on the Bus Service Enhancement Contribution (as defined Schedule 2 (Transport)) paid by the Developer to the LPA pursuant to paragraph 1.1 of Schedule 2, such interest to be calculated in respect of each part of the Bus Service Enhancement Contribution paid to the LPA by the Developer from the date of receipt of such part until the date of payment by the LPA to TfL but to be less any tax that may be payable by the LPA thereon.

## 9. NOTICES

- 9.1 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:
- 9.1.1 if delivered by hand, the next Working Day after the day of delivery; and
- 9.1.2 if sent by first class post or recorded delivery post, the day two Working Days after the date of posting.
- 9.2 The address for any notice or other written communication shall be within the United Kingdom only and shall be as specified below or such other address as shall be specified by the Party upon whom the notice is to be served to the other Parties by not less than five Working Days' notice:-

### LPA:

Director of Planning Decisions (For the Attention of: Vivienne Ramsey)  
Olympic Delivery Authority - Planning Decisions Team  
Mailpoint 32B – 23rd Floor  
One Churchill Place  
Canary Wharf  
London E14 5LN

with a copy to:

Chief Planner, Local Planning Authority (For the Attention of: Anthony Hollingsworth)  
Olympic Delivery Authority - Planning Decisions Team  
Mailpoint 32B – 23rd Floor  
One Churchill Place  
Canary Wharf  
London E14 5LN

### LLDC (which at 28th September 2012 includes the Developer):

London Legacy Development Corporation Limited (For the Attention of: General Counsel)  
Level 10  
1 Stratford Place

Montfichet Road  
London E20 1EJ

**TfL:**

Transport for London (For the Attention of: Director of Spatial Planning)  
9th Floor  
5 Endeavour Square  
Westfield Avenue  
London E20 1JN

- 9.3 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.

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

- 10.1 Where in the opinion of the Developer or, in respect of an LLDC Covenant, LLDC any obligation, covenant, undertaking or other provision on the part of the Developer or LLDC (as applicable) contained in this Agreement has been satisfied wholly or in part, the Developer or LLDC 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. A notification may be given that the relevant obligation, covenant, undertaking or other provision (as the case may be) has been satisfied in relation to part of the Site.

- 10.2 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 or, in respect of an LLDC Covenant, LLDC 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 or LLDC (as applicable) shall as soon as reasonably practicable issue a notification to such effect. A notification may be given that the relevant obligation, covenant, undertaking or other provision (as the case may be) has been satisfied in relation to part of the Site.

- 10.3 Where all of the obligations, covenants, undertakings and other provisions contained in this Agreement have been satisfied wholly the LPA shall request that the London Borough of Newham, the London Borough of Hackney and the London Borough of Tower Hamlets (and in each case their respective statutory successors in function) remove the entry in their respective Local Land Charges Register relating to this Agreement.

**11. VERIFICATION AND ENFORCEMENT**

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

**12. REFUSAL NOTICE**

- 12.1 Not more than 5 (five) Working Days from receipt of the Refusal Notice the Developer shall confirm to the LPA whether it accepts the Report Amendments.

- 12.2 In the event the Developer confirms that it does accept the Report Amendments the following provisions shall apply:
- 12.2.1 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;
  - 12.2.2 the LPA shall by no later than the LPA Response Date confirm to the Developer whether or not it Approves the revised Submitted Document;
  - 12.2.3 in the event the LPA refuses to Approve the revised Submitted Document the matter shall be determined in accordance with Clause 13.
- 12.3 In the event the Developer confirms that it does not accept the Report Amendments the following provisions apply:
- 12.3.1 not more than 5 (five) Working Days after such confirmation the Developer and the LPA shall meet to discuss the Report Amendments and the Submitted Document;
  - 12.3.2 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 13 shall apply;
  - 12.3.3 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 13 shall apply.
- 12.4 In the event the LPA does not Approve the Submitted Document within the time period for Approving Submitted Documents set out in the Schedule to which the Submitted Document relates the following provisions shall apply:
- 12.4.1 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;
  - 12.4.2 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 13 shall apply;
  - 12.4.3 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 13 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 13 shall apply.

12.5 The LPA and the Developer may in agree in writing to increase or decrease the number of Working Days in which the actions required by Clauses 12.1 to 12.4 (inclusive) are required to be undertaken if considered appropriate in all the circumstances.

### 13. DISPUTE RESOLUTION

13.1 One party may by serving notice on all the other parties (the "Notice") refer a Dispute to an Expert for determination.

13.2 The Notice must specify:

13.2.1 the nature, basis and brief description of the Dispute;

13.2.2 the Clause or paragraph of a Schedule or Appendix pursuant to which the Dispute has arisen; and

13.2.3 the proposed Expert.

13.3 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 13.7 provides otherwise) to nominate the Expert at their joint expense.

13.4 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.

13.5 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.

13.6 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.

13.7 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:

13.7.1 where the Dispute relates to:

(a) Schedule 2 (Transport), the President of the Chartered Institute of Highways and Transportation;

(b) Schedule 3, Schedule 4 and Schedule 5 (Affordable Housing ~~and~~ Family ~~Housing and Sheltered~~ Housing), the President of the Royal Institute of Chartered Surveyors;

~~(c) Schedule 15 (Viability), the President of the Royal Institute of Chartered Surveyors.~~