

THIS UNILATERAL UNDERTAKING is made as a Deed the [insert day] day of [insert month] two thousand and seventeen

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Basinghall Estate Company Limited

IN FAVOUR OF

THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF RICHMOND UPON THAMES of Civic Centre, 44 York Street, Twickenham, Middlesex, TW1 3BZ ("the Council")

INTERPRETATION

IN this Deed the following words and expressions shall have the following meanings:-

"1990 Act"	the Town & Country Planning Act 1990
"Affordable Housing Contribution"	the sum of [two hundred and ninety-nine thousand five hundred and twenty three] pounds (£299,523) Indexed
"DCM"	the Council's Development Control Manager for the time being or such other person as may be appointed from time to time to carry out that function
"Development"	the development described in the Planning Application
"Indexed"	increased in accordance with the formula whereby the relevant contribution is multiplied by the fraction A divided by B where B represents the value of the Retail Prices Index (All Items) as at the date of this Deed and A represents the value of the same index as at the date of payment of the relevant contribution to the Council
"LDF"	the saved policies of the Richmond upon Thames LDF Development Management Plan 2011
"Material Start"	the carrying out in relation to the Development of a material operation as defined in Section 56(4) of the 1990 Act save that such shall not include works of demolition; works of site clearance; ground investigations; site survey works; laying of services and service media; construction of temporary accesses; archaeological investigation; landscaping works off the public highway; the erection of fences and hoardings and construction of temporary access and service roads; noise attenuation works; and other works and site establishment preparatory to the commencement of construction, including any operations permitted by the Town and Country Planning (General Permitted Development) order 1995

“Occupation”	the full and beneficial occupation a Unit (but this expression shall not include occupation for the purposes of construction or fitting out or for marketing or security purposes) and “Occupied” and “Occupy” shall be construed accordingly
“Occupation Date”	first Occupation of the Units for residential purposes within Use Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended)
“Owner One”	means the persons registered at the Land Registry with absolute title under the title number SGL103852 as the proprietor of the freehold interest in Property One
“Planning Application”	a planning application submitted by the Owners on 10 March 2017 to the Council bearing reference number [insert council reference number] for the proposed demolition of existing buildings and erection of residential-led mixed-use development and associated works at the Property
“Property”	Land rear of No. 74 Church Road, Barnes, London, SW13 0DQ delineated in red on the plan attached hereto
“Sale”	the sale of the freehold or the grant of a lease for a period of not less than 21 years at a nominal rent
“Sale Date”	the completion date of the first Sale of a Unit
“Unit”	the residential units to be formed as part of the Development

WHEREAS:

- (1) The Council is the local planning authority for its administrative area within which the Property is situate for the purposes of the 1990 Act and for the purpose of Section 106 of the 1990 Act is the local planning authority by whom the planning obligations contained within this Deed are enforceable and this Deed is conditional upon the grant of Planning Permission pursuant to the Planning Application
- (2) The Council as local planning authority resolved under delegated powers to refuse the Planning Application and the Appeal was lodged by the Owners
- (3) The Owners are registered at the Land Registry with absolute title under title number [INSERT DETAILS] as the proprietor of the freehold interest in the Property
- (4) Policy CP15 of the LDF Core Strategy 2009 and DM H06 of the Development Management Plan provides that new development will be expected to provide for an affordable housing contribution generated by the development

- (5) Policy CP 15 of the LDF Core Strategy and policy DM HO 6 of the LDF Development Management Plan provides that the Council may consider a financial contribution to its Affordable Housing Fund as an alternative to on-site provision
- (6) The Owners have submitted the Planning Application to the Council and have entered into this Deed in order to secure the planning obligations contained in it in accordance with the LDF so that it may be taken into account as a material consideration in the determination of the planning application

NOW THIS DEED WITNESSETH as follows:-

1. THIS Deed is made pursuant to Section 106 of the 1990 Act and the obligations contained in this Deed are planning obligations for the purposes of that section insofar as they fall within the terms of Section 106 of the 1990 Act and is conditional upon the grant of planning permission pursuant to the Planning Application by the Council.
2. THE Owners hereby UNDERTAKE to the Council:-
 - (a) to pay to the Council:
 - (i) the Affordable Housing Contribution prior to or on the Occupation Date or the Sale Date (whichever is the sooner)
 - (ii) the Council's legal costs in considering and approving this Deed in the sum of £500
 - (b) to give prior written notice to the DCM:
 - (i) of its intention to commence the Development at least seven (7) days before making a Material Start
 - (ii) of the Occupation at least seven (7) days prior to the Occupation Date or Sale at least seven (7) days prior to the Sale Date (whichever is the sooner)

3. GENERAL:-

Miscellaneous declarations

- (a) Reference to the masculine feminine and neuter genders shall include the other genders and reference to the singular shall include the plural and vice versa
- (b) A reference to a clause is a reference to a clause contained in this Deed
- (c) The expressions "the Council" "the Owners" and "the Mortgagee" shall include their respective successors in title and assigns
- (d) If any provision in this Deed shall be held to be void invalid illegal or unenforceable or if voidable is avoided this shall not affect the operation validity legality and enforceability of any other provision of this Deed provided severance therefrom is possible

- (e) This deed takes effect on the date hereof but the planning obligations herein and save for those contained at Clause 2 (a)(ii) above are conditional on the grant of Planning Permission pursuant to the Planning Application and the Material Start of the Development.

Local land charge provisions

- (f) This Deed is a Local Land Charge and shall be registered in the Council's Register of Local Land Charges immediately on completion thereof

Reference to statutes and statutory instruments

- (g) References in this Deed to any statutes or statutory instruments shall include and refer to any statute or statutory instrument amending consolidating or replacing them respectively from time to time and for the time being in force

English law applicable

- (h) The construction validity and performance of this Deed shall be governed by English law

Effect of revocation of planning permission

- (i) The event of the Planning Permission being revoked by the Council or any other authority having powers in relation to planning matters or otherwise withdrawn or modified by any statutory procedure without the consent of the Owner or their successors in title the obligations of the Owner under this Deed shall thereupon cease absolutely

Liability of subsequent owners and release of former owner

- (j) The provisions hereof shall be enforceable by the Council against the Owners and all persons who shall have derived title through or under it in respect of the Property (but so that no person shall be liable to the Council for any breach of the provisions committed after such a person has parted with all of its freehold interest in such land)

Effect of covenant

- (k) Any covenant contained herein whereby the relevant party is not to do an act or thing shall be construed as if it were a covenant not to do or permit or suffer such act or thing to be done and any covenant whereby the relevant party is not to omit to do an act or thing shall be construed as if it were a covenant not to omit or permit or suffer such act or thing to be omitted to be done

Contracts (Rights of Third Parties) Act 1999

- (l) The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Deed and no person who is not a party to this Deed is to have the benefit of or be capable of enforcing any term in this Deed and no party is to have any rights to enforce this Deed other than those falling within the definition of the Council and the Owners

Termination or Release

- (m) This Deed shall determine and cease to have any further effect (without any further act or deed on the part of either Council or the Owners) if:
 - (i) having been granted the Planning Permission is varied or revoked other than at the request of the Owners or the Planning Permission having been granted is quashed following a successful legal challenge and in any such case any sums paid by the Owners

under this Deed shall be repaid to the Owner by the Council forthwith together with interest at the Base Rate of Barclays Bank PLC from the date such sums were received by the Council until the date of repayment.

Interest on late payment

- (n) If any of the Affordable Housing Contribution due under Clause 2(a) as this Deed is not paid to the Council within the timescales stipulated therein, then interest shall be paid on such contribution at the rate of 4% above the base rate of Barclays Bank plc from time to time in force from the date that the contribution became due to the date of actual payment

Community Infrastructure Levy

- (o) The terms of this deed comply in all respects with the requirements of Regulation 122 of the Community Infrastructure Regulations 2010 in that the obligations contained herein are necessary to make the Development acceptable in planning terms, directly relate to the Development and fairly and reasonably relate in scale and kind to the Development

IN WITNESS whereof with the intent that these presents should be executed as a deed the parties hereto have duly executed the same the day and year first before written

EXECUTED as a **DEED** by

Simon Howell as a Director of Basinghall Estate Company Limited

in the presence of:

Signature of Witness

Name (In BLOCK CAPITALS)

Address

Occupation

EXECUTED as a **DEED** by

Henry Stanford as a Director of Basinghall Estate Company Limited

in the presence of:

Signature of Witness

Name (In BLOCK CAPITALS)

Address

Dated 2017

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**THE MAYOR AND BURGESSES OF
THE LONDON BOROUGH
OF RICHMOND UPON THAMES**

DEED OF UNILATERAL UNDERTAKING made under
Section 106 of the Town & Country Planning Act 1990
relating to land rear of No. 74 Church Road, Barnes,
London, SW13 0DQ