

THIS UNILATERAL UNDERTAKING is made as a Deed the 2nd day of July two thousand and twenty-two

BY

(1) EASTMONT HOLDINGS LIMITED (Companies House Registration Number 10041923) whose registered office is situate at Office Ff10 Brooklands House, 58 Marlborough Road, Lancing, West Sussex, United Kingdom, BN15 8AF ("the Owner")

IN FAVOUR OF

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

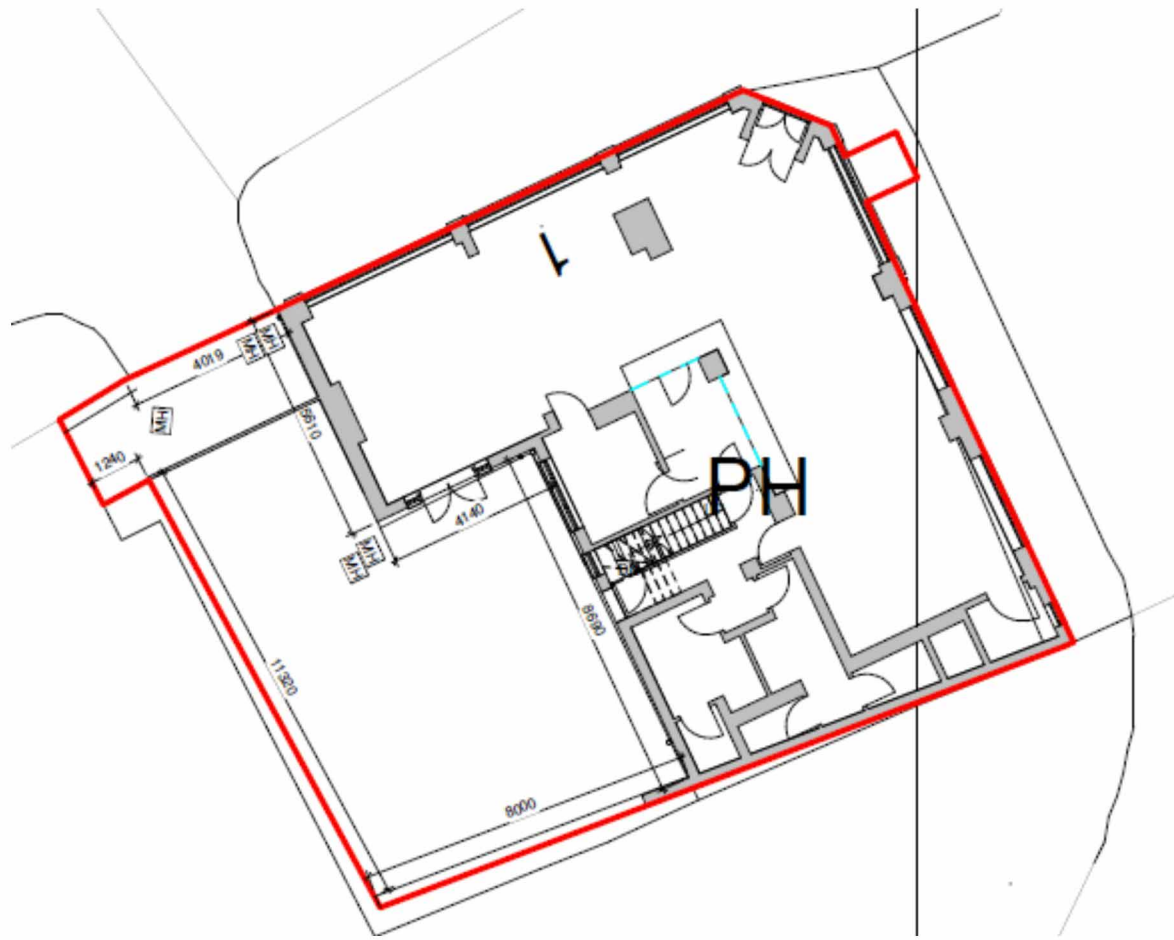
INTERPRETATION

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

"1972 Act"	the Local Government Act 1972
"1974 Act"	means the Greater London Council (General Powers) Act 1974
"1990 Act"	means the Town and Country Planning Act 1990 (as amended)
"2011 Act"	means the Localism Act 2011
"Affordable Housing Contribution"	means the sum of four thousand six hundred and ninety nine pounds (£4,699) Indexed
"CPZ"	means the controlled parking zone X - Hampton Wick or any controlled parking zone amending or replacing the same
"Development"	means the development of the Property pursuant to the Planning Application

“Disabled Persons Badge”	means a disabled person’s badge issued pursuant to Section 21 of the Chronically Sick and Disabled Person’s Act 1970 (or such other legislation as may supersede it and provide for the issue of disabled persons parking badges/permits)
“HDM”	means the person the Council shall appoint as Head of Development Management responsible for planning services for the time being
“Implementation”	means the carrying out of a material operation as defined by Section 56(4) of the Act in relation to the Development but shall not include the following: (i) ground investigatory site survey work (ii) construction of boundary fencing (iii) archaeological investigation (iv) works of decontamination or remediation
“Implementation Date”	means the date on which Implementation occurs
“Indexed”	means increased in accordance with the formula whereby the Affordable Housing 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 Affordable Housing Contribution to the Council
“Local Plan”	means London borough of Richmond upon Thames Adopted Local Plan (2018)
“Monitoring Fee”	means the sum of one thousand seven hundred and twenty eight pounds (£1728) being the Council’s proper and reasonable costs for monitoring the planning obligations in the Schedule of this Deed
“Motor Vehicle”	means any mechanically propelled vehicles intended or adapted for use on a road and/ or highway

<p>“Occupy”</p>	<p>means beneficially occupy but not including occupation by persons engaged in construction fitting out or decoration or occupation as a showroom or sales office for advertising marketing or display purposes or occupation in relation to site security and management of the Property (and “Occupied” “Occupies” and “Occupation” shall be construed accordingly)</p>
<p>“Occupation Date”</p>	<p>means the first Occupation of the first Residential Unit for residential purposes within Use Class C3 of the Use Classes Order (as amended) which constitutes a material operation under section 56(4) (e) of the 1990 Act</p>
<p>“Planning Application”</p>	<p>means a planning application submitted by the Owner to the Council bearing reference number 21/4038/FUL for the change of use of ground floor and basement of the former Old Kings Head public house to a Mixed Use Community Cycle Hub comprising Café (Use Class E(b)), Training Area (Use Class F2(b)) and Treatment Room/Medical (Use Class E(e)) and 1No. 1-bedroom apartment. Alterations and conversion of the first and second floors to replace existing staff accommodation with 3No. 2- bedroom apartments. External Alterations to include the replacement of French doors with balconies and a roof terrace on the first floor western and southern elevations, the installation of 2 no. conservation-style rooflights on the southern and western roof slopes and a bike enclosure to the rear at ground floor</p>
<p>“Planning Permission”</p>	<p>means the planning permission that may be granted in respect of the Planning Application</p>
<p>“Property”</p>	<p>means land known as land and buildings situate at the Old Kings Head, Hampton Court Road, Kingston Upon Thames KT1 4AE and recorded at HM Land Registry under title number SGL68097 delineated in red on the plan attached hereto</p>
<p>“Residential Occupier”</p>	<p>means any tenant or individual occupier or leasehold owner of a Residential Unit and for the avoidance of doubt the term excludes any business or corporate body or</p>



	bodies
“Residents Parking Permit”	means a parking permit (whether for residential or commercial use) allowing for a Motor Vehicle to park in a Residents Permit Parking Bay
“Residents Permit Parking Bay”	means a parking space designated by the Council by order under the Road Traffic Regulation Act 1984 the Road Traffic Regulation (Parking) Act 1986 the Parking Act 1989 or the Road Traffic Act 1991 (or other relevant legislation)
“Residential Units”	means the three (3) units to be constructed pursuant to the Development and the term “Residential Unit” shall be construed accordingly
“Sale”	means 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”	means the completion date of the first Sale of the first Residential Unit
“Season Ticket”	means a parking ticket issued to residents business operators by the Council that entitles the holder to access, exit and park a Motor Vehicle at a car park operated by the Council for an extended period of time and FOR THE AVOIDANCE OF DOUBT the term does not include: <ul style="list-style-type: none"> (a) parking tickets issued for one off use of a car park operated by the Council; (b) car park season tickets issued to businesses
“Use Classes Order”	means the Town and Country Planning (Use Classes) Order 1987 (as amended)

WHEREAS:

- (1) the Council is the local planning authority for its administrative area within which the Property is situate for the purposes of the Town and Country Planning Act 1990 and for the purposes of Section 106(9) of the 1990 Act is the local planning authority by whom the planning obligations contained within this Deed are enforceable

- (2) The Owner is registered at HM Land Registry with absolute title as the proprietor of the freehold interest in the Property
- (3) The Council supports the Development but is unable or unwilling to approve the Planning Application or to grant the Planning Permission in the absence of this Deed which makes provision for regulating the Development and securing the matters referred to in this Deed
- (4) Policy LP 36 of the Council's Local Plan provides that the Council may consider a financial contribution to its Affordable Housing Fund as an alternative to on-site provision
- (5) Policy LP 45 of the Council's Local Plan provides that the Council will only approve new development where the transport infrastructure can accommodate it or be adapted to it and new development should be acceptable in terms of traffic generation and traffic impact in the road
- (6) the Owner has agreed to enter into this Deed so that it may be taken into account as a material consideration in the determination of the Planning Application by the Council

NOW THIS DEED WITNESSETH as follows:-

1. This Deed is made pursuant to Section 106 of the 1990 Act, Section 111 of 1972 Act, Section 16 of the 1974 Act and section 1 of the 2011 Act and any other enabling statutory provisions
2. The Owner hereby UNDERTAKES to the Council as set out in the Schedule
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” and “the Owner” shall include their respective successors in title and assigns

Local land charge provisions

- (d) 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

- (e) 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

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

Effect of revocation of planning permission

- (d) In 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 owners

- (e) The provisions hereof shall be enforceable by the Council against the Owner 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

- (f) 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

- (g) 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 Owner

VAT clauses

- (h) all consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly payable in respect thereof
- (i) if at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this Deed then to the extent that VAT had not previously been charged in respect of that supply the person making the supply shall have the right to issue a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly

Interest on late payment

- (j) if any of the Affordable Housing Contribution due under paragraph 2.1 Part I of the Schedule of 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 Bank of England base rate from time to time in force from the date that the contribution became due to the date of actual payment

Variations

- (k) The covenants undertakings and restrictions contained in this Deed shall only be capable of being varied by a memorandum to be endorsed upon or annexed to this Deed by or on behalf of the relevant parties hereto or by a subsequent deed of variation

- (l) This Deed shall continue to be valid and enforceable following an amendment or variation to the Planning Permission achieved through the submission of the Planning Application pursuant to Section 73 of the 1990 Act as if this Deed had been completed pursuant to such an application

SCHEDULE

COVENANTS BY THE OWNER

Part I– Car Parking Permits

1. Not to dispose of to any person or occupy or allow any person to be a Residential Occupier unless a notice has been served on such person that pursuant to the Council's policies to which reference is made in recital (5) hereof or any other policy replacing the same such person shall not be entitled (unless such person is or becomes entitled to be a holder of a Disabled Persons' Badge) to be granted a Residents Parking Permit to park a Motor Vehicle in any marked highway bay or other place within a CPZ within the Council's area nor will the Council enter into a contract (other than individual contracts for one occasion) with such person to park in any car park controlled by the Council nor will they be entitled to apply for a Season Ticket

Part II– Payments

2. To pay to the Council:
 - 2.1 the Affordable Housing Contribution prior to or on the Occupation Date or the Sale Date (whichever is the sooner) and not to permit the Occupation of the Residential Unit until the Affordable Housing Contribution has been paid to the Council
 - 2.2 its reasonable and proper legal costs in the preparation and completion of this Deed in the sum of eight hundred and fifty pounds (£850) and the Monitoring Fee on the date hereof

Part III - Notifications

3. To provide written notification to the HDM:

- 3.1 seven days prior to the Implementation Date and a further written notice of the actual Implementation Date within seven days of the occurrence of the same
- 3.2 seven days prior to the Occupation Date or the Sale Date (whichever is sooner)
- 4. For the avoidance of doubt it is hereby agreed that if Implementation occurs and the notice required in paragraph 3.1 Part III of the Schedule has not been given then the failure to give notice shall not affect the liability of the Owner to comply with the planning obligations in this Deed

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) 
EASTMONT HOLDINGS LIMITED)
in the presence of) **Director**

Witness Signature: 

Witness Name: Sarah R. Smith

Witness Address: 

Witness Occupation: NHS Practice Manager

Dated 2nd July 2022

EASTMONT HOLDINGS LIMITED

TO

**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 and Section 16
of the Greater London Council (General Powers) Act
1974 relating to the Old Kings Head, Hampton
Court Road, Kingston Upon Thames KT1 4AE**

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