(Entry and Notification of the Commencement of Development)

The Owner undertakes to the Council as follows:

- 1.1 to permit the Head of Development Management and any person or persons authorised by him reasonable access to the Land or any part of it at all reasonable times on reasonable notice and in compliance with the Owner's reasonable requirements to permit him or them to inspect the Development for the purpose of securing compliance with the terms of this Deed.
- 1.2 to give to the Council notice in writing, no later than seven days prior to the anticipated Commencement of Development the date of the anticipated Commencement of Development.
- 1.3 to give to the Council notice in writing of:
- 1.3.1 the Commencement of Development no later than seven days following the occurrence of the same.
- 1.3.2 the First Occupation no later than seven days prior to the First Occupation of any part of the Development
- 1.31 the date of the Practical Completion of the Development

(Air Quality Action Fund Contribution)

1. The Owner undertakes to the Council that within one month of the Commencement of Development it shall pay to the Council the Air Quality Action Fund Contribution.

(Affordable Workspace)

The Owner undertakes to the Council as follows:

1. No less than six months prior to completion of the Development:

to meet representatives from the Council's Economic Development Team and use reasonable endeavours to agree the basis and methodology of a Workspace Management Plan and set up arrangements to implement and monitor the same; and

- 2. Not to Occupy the Affordable Workspace until:
  - i) a Workspace Management Plan and the Affordable Workspace Agreement has been entered into with the Council and
  - ii) details of the Affordable Workspace Manager have been provided by the Owner to the Council
- 3. To provide the Council's Economic Development Team with monitoring returns in respect of any targets set in the Workspace Management Plan on an annual basis.

(Affordable Housing and Viability Review)

#### PART 1A

#### 1. PROVISION OF AFFORDABLE HOUSING

The Owner covenants to the Council:

- 1.1 Unless otherwise agreed in writing by the Council, not to provide the Affordable Housing Units otherwise than in accordance with the Approved Tenure Mix
- 1.2 Not to provide the Affordable Housing Units on the Land other than in accordance with the remaining paragraphs of this Schedule 4 PROVIDED THAT the Affordable Housing Units together with any Additional Affordable Housing Units required pursuant to Part 2 of this Schedule 4 shall not exceed the Affordable Housing Cap;
- 1.3 Not to construct the Affordable Housing Units and the Wheelchair User Units other than in accordance with the Building Standards;
- 1.4 Not to Occupy or cause or permit the Occupation of more than 50 of the Open Market Units prior to the issue of the Certificate of Practical Completion.
- 1.5 To ensure that in respect of the Shared Ownership Units:-
  - (a) for a period of three (3) months from the first date of marketing the Development, that the Shared Ownership Units are not offered other than to an Eligible Purchaser pursuant to the Council's Intermediate Housing Policy Statement PROVIDED THAT the Owner may offer such Shared Ownership Units to Households with annual gross Household Income not exceeding the maximum income levels for Shared Ownership Housing set by the London Plan (as adjusted annually in accordance with the London Plan Annual Monitoring Report); and
  - (b) the marketing of a Shared Ownership Unit (save for marketing to a Affordable Housing Provider) shall not commence until the date that is six months prior to the date on which the Owner reasonably believes that the Shared Ownership Unit in question will be practically completed.

#### 1.6 To ensure that:

- (a) the design and construction of the Development is executed in such a way as to minimise any nominal Service Charge for each Affordable Housing Unit so far as is reasonably practicable;
- (b) not later than three months prior to Occupation of an Affordable Housing Unit to agree any Service Charges for that Affordable Housing Unit with the Affordable Housing Provider and the Council (all acting reasonably) PROVIDED THAT in all cases the amount of the Services Charges shall not be more than the actual costs of the services provided; and
- (c) not to permit Occupation of any Affordable Housing Unit until the Service Charges for that Affordable Housing Unit are agreed.

# 1.7 To ensure that in respect of the Wheelchair User Units:-

- (a) They will not be laid out and fitted other that as shown on Plan xx
- (b) Prior to the Occupation of the Wheelchair User Units to submit and thereafter resubmit if not approved, to the Council the Wheelchair User Units Marketing Strategy until such time as the same is approved in writing by the Council ("the Approved Strategy")
- (c) Not to Occupy cause or permit the Occupation of the Wheelchair User Units unless/until the Wheelchair User Units Marketing Strategy has been approved by the Council and to thereafter market the Wheelchair User Units in accordance with the Approved Strategy
- (d) during the Exclusivity Period not to sell any of the Wheelchair User Units to persons other than wheelchair users or households which include a wheelchair user (unless agreed in writing by the Council beforehand)
- (e) within 14 days of the end of the Exclusivity Period to provide evidence in writing to the HDM to demonstrate that the approved Wheelchair User Units Marketing Strategy has been fully complied with;
- (f) to record the number of Wheelchair User Units sold to wheelchair users or households which include a wheelchair user; and
- (g) h) send that recorded information on sales to the HDM within 14 days following the expiry of the Exclusivity Period.

#### 2. RESTRICTION ON OCCUPATION OF AFFORDABLE/OPEN MARKET UNITS

#### 2.1 The Owner shall not:

- (a) Occupy or cause or permit Occupation of any Social Rented Housing Units for any purpose other than for Social Rent Housing (save where there is a a RTA Purchaser);
- (b) Occupy or cause or permit Occupation of any Additional Affordable Housing Units to be provided as Shared Ownership Housing for any purpose other than for Shared Ownership Housing (as per the Agreed Tenure Mix) save where a Shared Ownership Lessee has Staircased to 100% equity in respect of a particular Shared Ownership Housing Unit;
- (c) Occupy or cause or permit Occupation of any Additional Affordable Housing Units that are to be provided as Social Rent Housing for any purpose other than for Social Rent Housing (save where there is a RTA Purchaser);
- (d) Occupy nor permit Occupation of more than 50 of the Open Market Units until
  - (i) it has made a Transfer of the Affordable Housing Units (or land on which they will be constructed) to an Affordable Housing Provider and discharged the condition in the Planning Permission relating to remediation in respect of such land (unless otherwise agreed in writing by the Council), such transfer to be in accordance with Part 1B of Schedule 4 who agrees to use reasonable endeavours to enter into and complete the Nomination Agreement with the Council in respect of all of the Affordable Housing Units; and
  - evidence of the Transfer of the Affordable Housing Units to a Affordable Housing Provider has been provided to the Council in writing;
- (e) Occupy cause or permit Occupation of the Social Rent Units unless and until the Affordable Housing Provider has entered into a Nominations Agreement with the Council in respect of all the Social Rent Units
- 2.2 Subject to the terms of any Nominations Agreement to the contrary, Social Rent Housing Units shall on the first and any subsequent let be allocated to people on the Council's housing waiting list PROVIDED THAT if a Social Rent Housing Unit has not

been let on completion of 2 letting cycles, the Affordable Housing Provider shall be permitted to allocate a vacant unit to someone from its own waiting list.

#### 3. EXCLUSION OF LIABILITY

- 3.1 Without prejudice to clause 7 of this Deed the covenants and obligations contained in Part 1 of this Schedule 4 shall not be binding on:
  - (a) an RTA Purchaser (including a mortgagee and successors in title and assigns of such a purchaser);
  - (b) (if relevant) any person who has Staircased up to a 100% of the equity in a Shared Ownership Housing Unit (including a mortgagee and successors in title and assigns of such a person); and
  - (c) a mortgagee or chargee or a receiver (or any administrator, receiver or manager (including an administrative receiver) appointed by a mortgagee or chargee thereby (pursuant to the Law of Property Act 1925 or otherwise) or any other party appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a "Receiver") in respect of the Affordable Housing Units or Additional Affordable Housing Units or any part thereof in possession or exercising a power of sale or any other right under security documentation and such mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Housing Units or Additional Affordable Housing Units or any part thereof free from the provisions in Part 1 of this Schedule 4 in this Agreement which provisions shall determine absolutely;

## PART 1B

#### Terms related to the transfer of the Affordable Housing Units

- 3.3 Not to execute any transfer of the Affordable Housing Units and any Additional Affordable Housing Units (if applicable) except upon the following terms and conditions (unless otherwise agreed in writing by the parties to the transfer):
  - (a) the transfer will grant:
    - (i) all such rights and easements as are appropriate and reasonably necessary for the beneficial enjoyment of the Affordable Housing Units and any Additional Affordable Housing Units (if applicable);

#### PART 2

#### **EARLY STAGE REVIEW**

#### 4. EARLY STAGE REVIEW VIABILITY TRIGGER

- 4.1 Subject to clause 23 of this Deed the Owner shall notify the Council in writing of the date on which it considers that Substantial Implementation has been achieved no later than 10 Working Days after such date and the notice shall be accompanied by full documentary evidence on an open book basis to enable the Council to independently assess whether Substantial Implementation has been achieved and whether it was achieved on or before the Substantial Implementation Target Date.
- 4.2 The Council may, within 20 Working Days of receipt of the Owner's notification pursuant to paragraph 4.1 of this Part 2 of Schedule 4, request additional documentary evidence and no later than ten Working Days after receiving a written request from the Council, the Owner shall provide to the Council any additional documentary evidence reasonably requested by the Council to enable it to determine whether Substantial Implementation has been achieved on or before the Substantial Implementation Target Date.
- 4.3 Following the Owner's notification pursuant to paragraph 4.1 of this Schedule 4, the Owner shall afford the Council's agents access to the Land to inspect and assess whether the works which have been undertaken achieve Substantial Implementation **PROVIDED ALWAYS THAT** the Council shall:
  - (1) provide the Owner with reasonable written notice of its intention to carry out such an inspection;
  - (2) comply with the Owner's reasonable requirements and all relevant health and safety legislation; and
  - (3) at all times be accompanied by the Owner or the Owner's agent.
- 4.4 No later than 20 Working Days after the Council receives:
  - (1) notice pursuant to paragraph 4.1 of this Schedule 4; or
  - (2) the additional documentary evidence requested pursuant to paragraph 4.2 of this Schedule 4;

the Council shall inspect the Land and following the inspection provide written confirmation to the Owner within 10 Working Days of the date of the inspection

as to whether it considers that Substantial Implementation has been achieved and whether it was achieved on or before the Substantial Implementation Target Date.

- 4.5 If the Council notifies the Owner that it considers that Substantial Implementation has not been achieved, then the process outlined in paragraphs 4.1 to 4.5 of this Schedule 4 shall be repeated as many times as necessary until the Council has notified the Owner pursuant to paragraph 4.4 of this Schedule 4 that Substantial Implementation has been achieved.
- 4.6 Any dispute between the Council and the Owner regarding whether Substantial Implementation has been achieved and whether it was achieved on or before the Substation Implementation has been achieved and whether it was achieved on or before the Substantial Implementation Target Date may be referred to dispute resolution in accordance with clause 17 of this Deed.
- 4.7 The Owner shall not allow Occupation of any part of the Development until:
  - (a) the Council has notified the Owner pursuant to paragraph 4.4 of this Schedule 4 (or an Expert has determined pursuant to clause 17 of this Deed) that Substantial Implementation has been achieved on or before the Substantial Implementation Target Date; or
  - (b) the Council has notified the Owner pursuant to paragraph 6.4 of this Schedule 4 (or an Expert has determined pursuant to clause 17 of this Deed) that no Additional Affordable Housing Units are required; or
  - (c) if the Council notifies the Owner pursuant to paragraph 6.4 of this Schedule 4 (or an Expert has determined pursuant to clause 17 of this Deed) that Additional Affordable Housing Units are required, the Council has approved the Additional Affordable Housing Scheme.

# 5. SUBMISSION OF EARLY STAGE REVIEW DEVELOPMENT VIABILITY INFORMATION AND OTHER INFORMATION

5.1 Where Substantial Implementation has not occurred on or before the Substantial Implementation Target Date as determined by the Council under paragraph 17 of this

Schedule 4 (or pursuant to dispute resolution in accordance with clause 17 of this Deed):

- (a) the Owner shall (unless it has since been agreed by the Council or determined by an Expert pursuant to clause 17 hereof that Substantial Implementation has occurred) submit to the Council the following information no later than 20 Working Days after the date on which the Council notifies the Owner pursuant to paragraph 4.4 of this Schedule 4 (or an Expert has determined pursuant to clause 17 of this Deed) that Substantial Implementation has not been achieved, on the basis that the Council may make such information publicly available:
  - (i) the Early Stage Review Development Viability Information for Formula1b and Formula 2
  - (ii) a written statement that applies the Early Stage Review Development Viability Information to: **PROVIDED ALWAYS THAT** if the result produced by Formula 1b is less than zero it shall be deemed to be zero) and Formula 2 thereby confirming whether in the Owner's view any Additional Affordable Housing Units can be provided; and
  - (iii) an Additional Affordable Housing Scheme where the written statement referred to in paragraph 5.1(a)(ii) of this Schedule 4 confirms that Additional Affordable Housing Units can be provided; and
- (b) paragraphs 6 and 7 of this Schedule 4 shall then apply.

# 6. ASSESSMENT OF EARLY STAGE REVIEW DEVELOPMENT VIABILITY INFORMATION AND OTHER INFORMATION

- 6.1 The Council shall review the information submitted pursuant to paragraph 5 of this Schedule 4 and assess whether in its view Additional Affordable Housing Units are required to be delivered in accordance with Formula 1b and Formula 2 and the Council shall be entitled to rely on its own evidence in determining inputs into Formula 1b and Formula 2 subject to such evidence also being provided to the Owner.
- 6.2 The Council may appoint an External Consultant to assess the information submitted pursuant to paragraph 5 of this Schedule 4
- 6.3 In the event that the Council and/or its appointed External Consultant requires additional information or supporting evidence to assess whether in their view any

Additional Affordable Housing Units are required, and requests the same within 20 working days of receipt of the information pursuant to paragraph 5 of this Part 2 of Schedule 4, the Owner shall provide such additional information or supporting evidence reasonably required to the Council or the External Consultant (as applicable) within 20 Working Days of receiving a request from the Council and/or the External Consultant.

- 6.4 The Council shall notify the Owner in writing of the Council's decision as to whether any Additional Affordable Housing Units are required within 30 Working Days of receipt of the information submitted pursuant to paragraph 5 (and paragraph 6.3 where applicable) of this Part 2 of Schedule 4.
- 6.5 If the Council's assessment pursuant to paragraph 6.4 of this Schedule 4 concludes that Additional Affordable Housing Units can be provided but the Owner's initial submission concluded otherwise:
  - (i) the Owner shall submit an Additional Affordable Housing Scheme to the Council for its written approval within 20 Working Days of receipt of the Council's decision pursuant to paragraph 6.4 of this Schedule 4 and
  - (ii) the Council shall notify the Owner in writing as to whether the submitted Additional Affordable Housing Scheme is approved within 30 Working Days of receipt of the Additional Affordable Housing Scheme; and
  - (iii) if the Additional Affordable Housing Scheme submitted pursuant to paragraph
     6.5(ii) above is not approved the parties shall follow the process in paragraphs
     6.5(i) and (ii) above until an Additional Affordable Housing Scheme is approved.
  - (iv) the Owner shall not Occupy cause or permit Occupation of any part of the Development unless and until the Additional Affordable Housing Scheme has been approved by the Council in writing.
- 6.6 If the Council's assessment pursuant to paragraph 6.4 of this Schedule 4 concludes (or an Expert has determined pursuant to clause 17 of this Deed) that:
- 6.6.1 a surplus profit arises following the application of Formula 1b but such surplus profit is insufficient to provide any Affordable Housing Units pursuant to Formula 2; or
- 6.6.2 a surplus profit arises following the application of Formula 1b but such surplus profit cannot deliver a whole number of Affordable Housing Units pursuant to Formula 2;

then in either scenario the Owner shall pay any such surplus profit allocable to any incomplete Affordable Housing Unit to the Council as a financial contribution towards offsite Affordable Housing in accordance with paragraph 7 of this Schedule

- 6.7 Any dispute between the Council and the Owner as to whether any Additional Affordable Housing Units can be provided and/or any surplus profit is payable shall be referred to dispute resolution in accordance with clause 9 of this Deed.
- 6.8 The Owner shall pay the Council's costs which are reasonably and properly incurred in assessing the information submitted pursuant to paragraph 5 of this Schedule including those of the External Consultant within 20 Working Days of receipt of a written request for payment.

#### 7. DELIVERY OF ADDITIONAL AFFORDABLE HOUSING UNITS

- 7.1 Where it is determined pursuant to paragraph 6 of this Schedule 4 that Additional Affordable Housing Units are required:
  - (a) the Owner shall provide such Additional Affordable Housing Units in accordance with the Additional Affordable Housing Scheme approved by the Council; and
  - (b) the provisions of Part 1A of this Schedule 4 shall apply mutatis mutandis to such Additional Affordable Housing Units.

#### PART 3

# **LATE STAGE REVIEW**

#### 8. LATE STAGE REVIEW VIABILITY TRIGGER

- 8.1 The Owner shall give the Council no less than 20 Working Days prior written notice of the anticipated Late Stage Review Date.
- 8.2 The Owner shall not -Dispose of more than 75% of the Open Market Units unless and until the Late Stage Review has been carried out in accordance with the following provisions of this Part 3 of Schedule 4.

# 9. SUBMISSION OF LATE STAGE REVIEW DEVELOPMENT VIABILITY INFORMATION AND OTHER INFORMATION

- 9.1 The Owner shall submit to the Council the following information within 20 Working Days of the Late Stage Review Date on the basis that the Council may make such information publicly available, the Late Stage Review Development Viability Information; and
  - (a) a brief written statement that applies the applicable Late Stage Review Development Viability Information to:
    - (i) Formula 3 **PROVIDED ALWAYS THAT** if the result produced by Formula 3 is less than zero it shall be deemed to be zero); and
    - (ii) Formula 4

thereby confirming whether in the Owner's view any Late Stage Review Affordable Housing Contribution is payable.

9.2 The provisions of paragraph 10 shall apply to the information submitted by the Owner to the Council pursuant to paragraph 9.1 of this Schedule 4.

# 10. ASSESSMENT OF LATE STAGE REVIEW DEVELOPMENT VIABILITY INFORMATION AND OTHER INFORMATION

- 10.1 The Council shall review the information submitted pursuant to paragraph 9.1 of this Schedule 4 and assess whether in its view a Late Stage Review Affordable Housing Contribution is payable in accordance with Formula 3 subject to the Late Stage Review Affordable Housing Contribution Cap as calculated in accordance with Formula 4 and the Council shall be entitled to rely on its own evidence in determining inputs into Formula 3 and Formula 4 subject to such evidence also being provided to the Owner.
- 10.2 The Council may appoint an External Consultant to assess the information submitted pursuant to paragraph 10 of this Schedule 4.
- 10.3 If the Council and/or its appointed External Consultant requires additional information or supporting evidence to assess whether in their view a Late Stage Review Affordable Housing Contribution is payable, and requests the same within 20 Working Days of receipt of the information provided pursuant to paragraph 9.1 of this Part 3 of Schedule 4, the Owner shall provide such additional information or supporting evidence reasonably required to the Council or the External Consultant (as applicable) within 10

Working Days of receiving such request from the Council and/or the External Consultant.

- 10.4 The Council shall notify the Owner in writing of its decision as to whether any Late Stage Review Affordable Housing Contribution is payable within 30 Working Days of receipt of the information submitted pursuant to paragraph 9.1 (and paragraph 10.3 where appliable) of this Part 3 of Schedule 4.
- 10.5 If the Council's assessment pursuant to paragraph 10.4 of this Schedule 4 concludes (or an Expert has determined pursuant to clause 17 of this Deed) that a Late Stage Review Affordable Housing Contribution is payable, the Owner shall:
- (a) pay the Late Stage Review Affordable Housing Contribution to the Council prior to Occupation of 75% of the Open Market Units; and
- (b) not Occupy cause or permit Occupation of more than 75% of the Open Market Units unless and until the Late Stage Review Affordable Housing Contribution has been paid in full to the Council.
- 10.6 Any dispute between the Council and the Owner as to whether any Late Stage Review Affordable Housing Contribution is payable or the value of the Late Stage Review Affordable Housing Contribution or any dispute relating to the Late Stage Review Development Viability Information shall be referred to dispute resolution in accordance with clause 17 of this Deed.
- 10.7 The Owners shall pay the Council's costs which are reasonably and properly incurred in assessing the information submitted pursuant to paragraph 9 of this Schedule 4 including those of the External Consultant within 20 Working Days of receipt of a written request for payment.

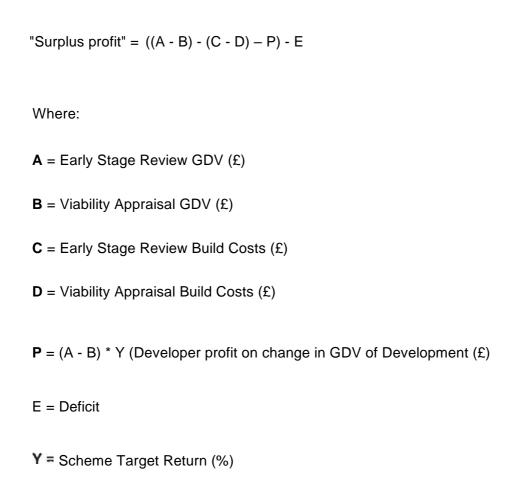
#### 11. GOOD FAITH

The Council shall act, and shall procure that any External Consultant acts, reasonably and in the utmost good faith in relation to the provisions of this Schedule 4 and, without prejudice to clause 12 of this Deed, will not unreasonably withhold or delay any consent, approval, agreement or decision.

#### **ANNEX 1 TO SCHEDULE 4**

(Formulas)

FORMULA 1b (Surplus profit available for additional on-site affordable housing)



#### Notes:

- (A- B) represents the change in the Early Stage Review GDV from the date of the Planning Permission to the Early Stage Review Date.
- (C D) represents the change in the Early Stage Review Build Costs from the date of the Planning Permission to the Early Stage Review Date.

# FORMULA 2 (Additional Affordable Housing)

X = Additional Social Rent Housing requirement (Habitable Rooms) to be converted from Open Market Units

$$X = ((E * F) \div (A - B)) \div D$$

Y = Additional Shared Ownership Housing requirement (Habitable Rooms) to be converted from Open Market Units

$$Y = ((E * G) \div (A - C)) \div D$$

Where:

A = Average Open Market Housing Value per m<sup>2</sup> (£

**B** = Average Social Rent Housing Value per m<sup>2</sup> (£)

C = Average Shared Ownership Housing Value per m<sup>2</sup> (£)

**D** = Average Habitable Room size for the Development being 16.87 m<sup>2</sup>

**E** = Surplus profit available for Additional Affordable Housing Units as determined by Formula 1b (£)

F = 70%

G = 30%

Notes:

- (A B) represents the difference in Average Open Market Housing Value per m<sup>2</sup> and Average Social Rent Housing Value per m<sup>2</sup> (£).
- (A C) represents the difference in Average Open Market Housing Value and Average Shared Ownership Housing Value (£).
- (E \* F) represents the surplus profit to be used for Social Rent Housing (£).

(E \* G) represents the surplus profit to be used for Shared Ownership Housing

 $(E * F) \div (A - B) = Additional Social Rent Housing requirement (m<sup>2</sup>) (£)$ 

 $(E * G) \div (A - C) = Additional Shared Ownership Housing requirement (m<sup>2</sup>) (£)$ 

FORMULA 3 (Late Stage Review Affordable Housing Contribution)

X = Late Stage Review Affordable Housing Contribution

$$X = ((((A + B) - C) - ((D + E) - F) - P) - G) * 0.5$$

Where:

A = Late Stage Review Actual GDV (£)

**B** = Late Stage Review Estimated GDV (£)

**C** = Viability Appraisal GDV (£) if an Early Stage Review is not triggered; or

Early Stage Review GDV (£) as determined by the Council pursuant to Part 2 of Schedule 2 if an Early Stage Review is triggered.

**D** = Late Stage Review Actual Build Costs (£)

**E** = Late Stage Review Estimated Build Costs (£)

**F** = Viability Appraisal Build Costs (£) if an Early Stage Review is not triggered; or

Early Stage Review Build Costs (£) as determined by the Council pursuant to Part 2 of Schedule 2 if an Early Stage Review is triggered.

P = (A + B - C) \* Y (Developer profit on change in GDV (£))

**G** = Deficit

Y = Scheme Target Return Late Stage Review (%)

Notes:

(A + B) - C = represents the change in GDV from the date of grant of the Planning Permission (or Early Stage Review if triggered) to the Late Stage Review Date (£) (D + E) - F = represents the change in Build Costs from the date of grant of the Planning Permission (or Early Stage Review if triggered) to the Late Stage Review Date (£)

P = represents developer profit on change in GDV (£)

0.5 = represents any Surplus profit, after deducting the Scheme Target Return Late Stage Review (developer profit (P)) that will be shared between the Council and the developer with 50% payable to the Council as the Late Stage Review Affordable Housing Contribution for provision of off-site affordable housing subject to the Late Stage Review Affordable Housing Contribution Cap

FORMULA 4 (Late Stage Review Affordable Housing Contribution Cap)

X = Late Stage Review Affordable Housing Contribution Cap

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

Where:

- A = Average Open Market Housing Value per m<sup>2</sup>(£)
- $\mathbf{B}$  = Average Social Rent Housing Value per  $m^2(\mathfrak{L})$
- $\mathbf{C}$  = Average Shared Ownership Housing Value per m<sup>2</sup>(£)
- **D**= Average Habitable Room size for the Development being 16.87 m<sup>2</sup>
- **E** = The shortfall in the Social Rent Housing (by Habitable Rooms) determined at the date of grant of the Planning Permission (or as updated following the Early Stage Review if triggered) when compared against policy target and local plan tenure split
- **F** = The shortfall in the Shared Ownership Housing (by Habitable Rooms) determined at the date of grant of the Planning Permission (or as updated following the Early Stage Review if triggered) when compared against policy target and local plan tenure split

(Carbon Off-Set Contribution)

- 1. The Owner undertakes to the Council that prior to First Occupation it shall pay to the Council the First Carbon Off-Set Contribution
- 2. No later than twenty (20) Working Days after Practical Completion of the Development, to provide to the Council for review and agreement such information as is reasonably required to calculate a value for the input "T" in the Carbon Emissions Offset Contribution Formula.
- 3. The Owner and the Council shall use reasonable endeavours to agree the value of "T" in the Carbon Emissions Offset Contribution Formula and if such value cannot be agreed it will be deemed to be a dispute having arisen on the provision of the information referred to in paragraph 2 and will be dealt with pursuant to clause 17.
- 4. Following agreement or determination of the value of "T" pursuant to paragraph 3 above, the Owner and the Council shall calculate the Second Carbon Off-Set Contribution (if any) and
- 4.1 if the Second Carbon Off-Set Contribution is a positive sum the Owner shall pay the Second Carbon Off-Set Contribution to the Council within twenty (20) Working Days
- 4.2 if the Second Carbon Off-Set Contribution is a negative sum the Council shall pay to the Owner the lower of:
  - 4.2.1 a sum calculated in accordance with the following formula:

$$B = C * (-1)$$

Where

- B is the sum payable by the Council to the Owner
- C is the Second Carbon Off-Set Contribution: and
- 4.2.2 The Carbon Off-Set Contribution Repayment Cap

5. The Council covenants with the Owner to apply and appropriate the First Carbon Off-Set Contribution and (if relevant) the Second Carbon Off-Set Contribution to the Council's fund to secure the delivery of CO2 emission reductions on projects within the Borough.

Worked Examples:

# Eg1 - Shortfall of 50 tonnes

Carbon Off-Set Formula:

(50 \* 30 \* £95) - £121,505

£142,500 - £121,505 = £20,995

Second Carbon Offset Contribution is £20,995

## Eg2 - Shortfall of 30 tonnes

Carbon Offset Formula:

(30 \* 30 \* £95) - £121,505 = -£36,005

£85,500 - £121,505 = -£36,005

Second Carbon Offset Contribution is -£36,505

The figure is negative so the formula in para 4.2 applies

$$-£36,505 * (-1) = £36,005$$

B = £36,005 therefore, the Council pays the Owner £36,005

# Eg3 - Shortfall of 20 tonnes

Carbon Offset Formula:

(20 \* 30 \* £95) - £121,505

£57,000 - £121,505 = -£64,505

Second Carbon Offset Contribution is -£64,505

The figure is negative so the formula in para 4.2 applies

$$-£64,505 * (-1) = £64,505$$

This is more than £54,916, therefore the Council pays the Owner £54,916.

(Car Club Membership)

The Owner undertakes to the Council as follows:

- 1.1 Prior to First Occupation of any Residential Unit to be Occupied to lay out, construct and complete the Car Club Bay Provision to the Council's reasonable satisfaction
- 1.2 Prior to the First Occupation of any Residential Unit to enter into a contract with a Car Club Operator to provide a Car Club Membership to each Residential Unit.
- 1.3 To supply the Council with a copy of the said contract or other satisfactory evidence of a binding agreement having been entered into by the Owner with the Car Club Operator.
- 1.4 To use reasonable endeavours to procure that a Car Club Operator shall provide Car Club Membership to each Residential Unit for a period of five (5) years calculated from the First Occupation of such Residential Unit.
- 1.5 Without prejudice to the generality of paragraph 1.3 of this Schedule:
  - 1.4.1 upon the First Occupation of every Residential Unit to notify the Qualifying Occupier thereof of his/her entitlement to Car Club Membership with effect from such First Occupation; and
  - 1.4.2 To use reasonable endeavours to promote the Car Club within the Development including:
  - (a) (from time to time) informing estate and lettings agents responsible for marketing the Residential Units (and the Affordable Housing Provider to which the Affordable Housing Units are transferred or leased) of the identity of the Car Club Operator and the availability of Car Club Membership to Qualifying Occupiers of the Residential Units for a period of 5 years from First Occupation of such Residential Unit; and
  - (b) publicising details of the Car Club within the marketing materials for the Residential Units.
- 1.6 At any time (and from time to time) during the period commencing upon the Occupation of the first Residential Unit and ending on the date five (5) years after the Occupation of the last Residential Unit to be Occupied (and upon being

requested to do so by the Council) to provide evidence to the Council that it has offered Car Club Membership to each Residential Unit in accordance with the provisions of this Schedule together with evidence of the payment to the Car Club Operator to facilitate the Car Club Membership (in respect of Occupiers who have applied to join the Car Club).

(Open Space Contribution)

 The Owner undertakes to the Council that prior to First Occupation it shall pay to the Council the Open Space Contribution and not to permit First Occupation until the said contribution has been paid

(Restriction on applying for Parking Permits)

The Owner undertakes with the Council as follows:

- 1. Not to make an application for a Parking Permit in respect of any Unit or knowingly permit any owner or Occupier of any Unit to make such an application and further not to make an application for a Residents Season Ticket Provided Always That the provisions of this paragraph shall not apply to a person who is the holder of a Blue Badge.
- 2. In any case where an application is made as aforesaid and a Parking Permit is issued to the Owner then to surrender such Parking Permit to the Council or terminate such contract with the Council (or in the case of a Parking Permit issued to a third party use reasonable endeavours to procure that the same are surrendered or terminated) within 10 Working Days of written demand by the Council.
- 3. Not to Occupy any Unit or cause or permit any person to Occupy any such Unit unless and until a notice in writing has been served on such person to the effect that such person shall not:
- 3.1 be entitled (unless such person is or becomes entitled to be a holder of a Blue Badge) to be granted a Parking Permit in respect of such Unit; or
- 3.2 be entitled to enter into a contract (other than individual contracts for one occasion and excluding short term, pay as you go parking for periods of not more than 48 hours at a time) with the Council to park in any car park controlled by the Council
- 4. That all material used for advertising or marketing of the Unit for letting or sale shall notify prospective owners and Occupiers that they will not be entitled to apply for a Parking Permit or a Residents Season Ticket in respect of the Unit (other than in the circumstances set out in paragraphs 3.1 and 3.2 above).
- 5. Upon receipt of a written request from the Council to provide to the Council such information as the Council may reasonably require to enable it to be satisfied as to compliance with the provisions of this Schedule.
- 6. For the avoidance of doubt the Owner and/or owners or Occupiers of any Unit shall not be prohibited or restricted in applying for a Parking Permit or Residents Season Ticket in respect of any other accommodation that is not a Unit.

(Permissive Path)

 The Owner undertakes to the Council to ensure that within 14 Working Days of Practical Completion of the Development the Permissive Path Purpose is facilitated in perpetuity

(Playspace Contribution and the Playspace Maintenance Contribution)

 The Owner undertakes to the Council that prior to First Occupation it shall pay to the Council the Playspace Contribution and the Playspace Maintenance Contribution and not to permit First Occupation until the said contribution has been paid

(River Restoration Contribution)

1. The Owner undertakes to the Council that prior to First Occupation it shall pay to the Council the River Restoration Contribution and not to permit First Occupation until the said contribution has been paid

(NHS Contribution Fee)

 The Owner undertakes to the Council that prior to First Occupation it shall pay to the Council the NHS Contribution Fee and not to permit First Occupation until the said contribution has been paid

(Highway Works)

# **Highway Works**

- 1. The Owner undertakes to the Council as follows:
- 1.1 Subject to the Council agreeing to enter into the Highways Agreement, to enter into the Highways Agreement with the Council within 6 months of Commencement of the Development; and
- 1.2 not to Occupy the Development (or any part thereof) until it has completed the Highway Works and (unless otherwise agreed in writing with the Council) the Council shall have issued the certificate of practical completion (as that expression is referred to in the definition of the Highways Agreement) under the terms of the Highways Agreement and for the avoidance of doubt and without limitation the Council shall act in good faith and shall not unreasonably withhold or delay the issue of such certificate of practical completion.

# **Employment and Skills**

# **Employment and Skills Plan**

#### 1.1 The Owner shall:

- (a) not Commence Development cause or permit Commencement of Development unless and until the Employment and Skills Plan (comprising detailed provisions for the construction of the Development) has been approved by the EDOT in writing and the Council shall procure that such approval is not unreasonably withheld or delayed) ("Approved Employment and Skills Plan") PROVIDED ALWAYS THAT any dispute between the Owner and the Council in respect of the methodology referred to in paragraph 1,1(a) of this Schedule and/or the provisions of the Employment and Skills Plan shall be referred for determination by an expert in accordance with clause 17.
- (b) provide sufficient monitoring information to the reasonable satisfaction of the EDOT at three monthly intervals during the construction of the Development or such other frequency as may be agreed between the Owner and the Council from time to time
- (c) In the event that the Council (acting reasonably) considers that the Approved Employment and Skills Plan is not operating effectively, it shall notify the Owner in writing specifying such amendments or revisions as it considers reasonably necessary to achieve the effective operation of the Approved Employment and Skills Plan.
- (d) Where paragraph 1.1(c) of this Schedule applies, the Owner shall use reasonable endeavours to implement the amendments proposed by the Council as soon as reasonably practicable PROVIDED ALWAYS THAT any dispute relating to the proposed amendments shall be referred to dispute resolution in accordance with the dispute provisions in clause 17 of this Deed.

#### **Construction Phase**

1.2 The Owner covenants to:

- (a) use reasonable endeavours to achieve the targets set out in the Employment and Skills Plan, including (but not limited to) training opportunities and a minimum number of construction and operational jobs to Local Residents
- (b) Additionally, during the construction phase of the Development to issue the Employment and Skills Plan to prospective contractors and sub-contractors at the tendering of work stage setting out the obligations of the Owner in the Employment and Skills Plan and how such prospective contractors and subcontractors:
  - i) will be expected to contribute towards the overall targets and discharge the same.
  - ii) shall incorporate the provisions of this Local Employment Agreement in their tender responses
  - iii) shall evidence a commitment to ensuring that Local Residents are able to benefit directly from all employment and training activity arising from the construction of the Development
  - iv) shall provide the Council with regular information regarding the numbers of Local Residents benefiting from these opportunities, including such information as to ensure that the Council is meeting its obligations under the Equality Act 2010
- (c) subject to complying with all Health and Safety regulations and restrictions to use reasonable endeavours to ensure that adequate opportunities are made available by the Owner, their contractors and sub-contractors to enable schools and other educational establishments in the Local Area to provide students with work experience and to create a positive link between schools and employers on the construction of the Development; and
- (d) to use reasonable endeavours to secure the placement of apprenticeships during the construction stages of the Development or where this is not possible an equivalent level of employment / training benefit as agreed with the EDOT in the Employment and Skills Plan and on written request to provide the Council with evidence of the endeavours used to comply with this paragraph 1.2(d) of this Schedule
- (e) pay to the Council the Local Employment Shortfall Contribution (if any) within 20 Working Days of Practical Completion of the Development

# **River Crane Glazing Works Plan**

Prior to the Commencement of Development to submit and thereafter resubmit if not approved, to the Council the River Crane Glazing Works Plan until such time as the same is approved in writing by the Council ("the Approved Plan")

- 1.2 Not to Commence cause or permit the Commencement of the Development unless/until the River Crane Glazing Works Plan has been approved by the Council
- 1.3 To fully implement the Approved Plan prior to First Occupation to the satisfaction of the Council

# **NOT USED**

# **DRAFT FORM OF NOMINATIONS AGREEMENT**

DATED\_\_\_\_\_\_2024

# THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF RICHMOND-UPON-THAMES

-to-

**XXXXXXXXX** 

# NOMINATION AGREEMENT

in respect of rented units at xxxxxxxx in the London Borough of Richmond upon Thames

\_\_\_\_\_

THIS AGREEMENT (made as a Deed) is made the day of 2009 BETWEEN THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF RICHMOND-UPON-THAMES of the Civic Centre of 44 York Street Twickenham TW1 3BZ ("the Council") and xxxxxxxxxxx of xxxxxxxxxx registered with the Regulator of Social Housing with registered number xxxxx and under the Co-operative and Community Benefit Societies Act 2014 number xxxxxxxxx ("the Association") WHEREAS

- (1) The Council is a local authority for the purposes of the Local Government Act
  1972 and a local housing authority for the purposes of the Housing Act 1985 Part I
- (2) The Association is a registered social landlord within the meaning of Section 1 of the Housing Act 1996 and is registered under the Industrial and Provident Societies Act 1965
- (3) Units are to be built substantially in accordance with Planning Permission (dated xxxxxxxx ref number 22/2556/FUL)(as varied or amended) for occupation by persons within the Association's charitable objects and the Association has agreed to the Council being given the right to nominate persons to take up occupation of the Units as hereinafter provided

NOW IT IS HEREBY AGREED as follows:-

#### 1. **DEFINITIONS**

"Property"

1.	DEFINITIONS	
1.1	"Availability Notice"	means the notices referred to at Sub-
		clauses 3(a) and (b) hereof
1.2	"Nomination Notice"	means the notice in writing to be given
		by the Council to the Association of the
		proposed Nominees which shall include
		the names of such Nominees and all
		necessary and relevant information
		pertaining to such Nominees
1.3	"Nominees"	means persons nominated by the
		Council for the purposes of this
		Agreement

means the Site and Units

1.5 "Regulator of Social Housing"

means the regulator of social housing established by Part 2 of the Housing and Regeneration Act 2008 or any similar future authority (including any statutory successor) carrying on substantially the same regulatory or supervisory functions

1.6 "Relevant Nominee"

means Nominees to whom the
Association shall offer a Unit on the Site
in accordance with Clause 5 hereof
which shall be nominees assessed by
the Association as appropriate for it to
house under its objects, lettings and
allocations policies

1.7 "Site"

means the land and buildings to be erected on the land known as land at Greggs, Gould Road, Twickenham, TW2 6RT

1.8 "Nomination Period"

sixty years from the date of practical completion of the Units

1.9 "True Voids"

a vacancy created in any of the circumstances set out in the First Schedule hereto under the heading "definition of a True Void" but excluding a vacancy arising in any circumstances defined under the heading "definition of a Non-True Void"

1.10 "Non-True Voids"

as defined in the First Schedule hereto

1.11 "Units"

means the affordable housing residential units to be managed and

provided by the Association on the Site (as set out in the Second Schedule hereto)

1.12 "RP"

means an Affordable Housing Provider or Registered Provider of social housing pursuant to section 80 of the Housing and Regeneration Act 2008

- 2. The Association hereby covenants with the Council
- (i) to construct or procure the construction at the Property of (no.) Units with the intention of providing low cost housing to rent and to commence construction on or before xxxxxx subject to any extension of time agreed between the parties hereto and to complete the same by xxxxxx subject to any extension agreed between the parties hereto in accordance with the Planning Permission and to ensure all construction is carried out in a good and workmanlike manner.
- (ii) that the Council shall have rights to nominate up to 100% of the initial lettings of the Units and shall thereafter have the right to nominate up to the first three out of every four True Voids arising in a calendar year for the Nomination Period unless the Council at its absolute discretion agree to waive or relinquish such rights of nomination. The Definition of a 'True Void' is that contained in the First Schedule hereto
- 3. The Association shall give to the Council:-
  - (a) In the case of an initial letting of any Unit not less than 6 weeks' notice of the actual completion of such Unit and its availability for letting
  - (b) in the case of any Unit being a True Void becoming subsequently available for letting 3 days written notice of such availability
- Within 10 days of the receipt by the Council of any Available Notice in respect of a Unit the Council shall in respect of such Unit serve on the Association a Nomination Notice
- 5. The Association shall as soon as practicable following receipt of the Nomination Notice offer a tenancy of the said Unit to the Relevant Nominee at a rent no more than the Social Rent as contained in the Second Schedule hereto

- 6. If (a) no Nomination Notice is served by the Council within the 10 days referred to in Clause 4 or (b) the Association acting reasonably does not consider the Nominee appropriate to house or (c) the Relevant Nominee refuses or fails to accept the offer of a tenancy within 7 days of such offer in each case the Council shall be entitled to serve two further and subsequent Nomination Notices SAVE THAT where no subsequent Nomination Notices are served within 20 days of the date referred to in clause 4 or the further Relevant Nominees both refuse or fail to accept the offer of a tenancy within 3 days of such offer then the Association shall be at liberty to let the unit to persons of its own choosing and in the case of a True Void where such circumstances arise this will still count as one of the Council's 3 out of every 4 True Void nominations
- 7. The procedure for such nominations may at any time during the continuance of this Agreement be varied by agreement between the parties hereto
- 8. For the avoidance of doubt, the provisions of this Agreement shall cease to apply to any Unit of which the Association assigns its leasehold interest or grants a long lease to a tenant exercising any statutory right to buy or right to acquire such an interest in that Unit and shall cease to apply to any Unit upon the granting of a lease of a Shared Ownership Unit by the Association
- 9. For the avoidance of doubt, IT IS HEREBY AGREED AND DECLARED that the provisions of this Agreement are entered into pursuant to s.33 of the Local Government (Miscellaneous Provisions) Act 1982 and are binding on successors in title but shall:-
- 9.1 not bind any mortgagee or charge or a receiver (or any administrator, receiver or manager (including an administrative receiver) appointed by a mortgagee or chargee thereby pursuant to the Law of Property Act 1925 or otherwise) or any other party appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a "Receiver") in respect of the Unit(s) in possession or exercising a power of sale or any other right under security documentation and such mortgagee, chargee or Receiver shall be entitled to dispose of the Unit(s) free from the provisions of this Agreement.
- 9.2 not bind any individual owner (excluding, for the avoidance of doubt, any owner who is an RP) or occupier of any unit, their successors in title and mortgagees and mortgagees' successors in title.

- Any notice or demand required or authorised shall be deemed to be served on the Council if sent to the Chief Executive of the London Borough of Richmond upon Thames at its Civic Offices at the address given above and shall be deemed to be duly served on the Association and if sent to the Association and addressed to the Secretary at its address for the time being as stated above or such other address as may be notified in writing to the Council from time to time PROVIDED ALWAYS that any notice to be served by either party may be served by such party's Solicitors
- The beneficial interest in this Agreement and the Property is held by or on behalf of the Association, an exempt charity.
- This agreement is to be reviewed periodically by the parties and amended as necessary (both parties acting reasonably) to respond to changing markets, changing laws and the needs of both parties.

IN WITNESS whereof the Council and the Association have hereunto caused their Common Seals to be affixed the day and year first above written

#### FIRST SCHEDULE

# Part 1 - Definition of True Void

- Vacancies created through tenant transfer to another Borough where no reciprocal arrangement exists
- 2. Vacancies arising through tenant moves to other landlords where no reciprocal arrangement exists
- 3. Vacancies arising as a result of the death of a tenant where there is no statutory right or contractual to succession
- 4. Vacancies arising through tenants buying their own property in the private sector
- 5. Vacancies arising as a result of the tenant having been evicted or abandoning a Unit
- 6. Vacancies arising as a result of decants. The Council will take a flexible approach to property substitution if a decanted property is required within an Association's decant programme, provided that the substitute accommodation is of a similar size and standard

#### Part 2 - Definition of Non-True Void

- Vacancies arising as a result of a tenant being temporarily decanted and moving to a temporary home
- Vacancies arising as a result of a tenant being re-housed via the Housing Association "Homes" scheme or other equivalent
- 3. Vacancies arising as a result of a tenant being re-housed by another Borough where a reciprocal arrangement exists

# **SECOND SCHEDULE**

xxxxxxxx for Social Rent to be rented initially at £ xx per week

All rents are inclusive of service charge and rent levels will be increased in accordance with the RP's annual rental increase

Executed as a deed by affixing the common seal of **xxxxxxxxxxx** in the presence of:

Authorised signatory

Authorised signatory

# THE COMMON SEAL of the MAYOR AND BURGESSES OF THE LONDON BOROUGH OF RICHMOND-UPON-THAMES

was hereunto affixed in the presence of:



Authorised Office
Seal Reg. No 2

GREGGS PLC

acting by two directors or a director and its secretary

Director

Director/Secretary