

Dated

2022

**THE MAYOR AND BURGESSES OF  
THE LONDON BOROUGH OF SOUTHWARK**

- and -

**GPE (ST THOMAS STREET) LIMITED**

Agreement pursuant to Section 106 of  
the Town and Country Planning Act 1990  
and other powers in relation to land known as  
New City Court, 4-26 St  
Thomas Street, London, SE1 9RS

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Doreen Forrester-Brown  
Director of Law and Governance  
London Borough of Southwark  
160 Tooley Street  
London SE1 2TZ

Legal Reference: LEG/RP/PL/S106/RR020/303

Local Planning Authority Reference: 18/AP/4039 & 18/AP/4040

Secretary of State Reference: APP/A5840/W/22/3290473 & APP/A5840/Y/22/3290477

THIS DEED is made the                      day of                      two thousand and twenty two

BETWEEN

- (1) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF SOUTHWARK** of 160 Tooley Street London SE1 2TZ (“the Council”); and
- (2) **GPE (ST THOMAS STREET) LIMITED** (company registration number 05593274) whose registered office is situated at 33 Cavendish Square, London, W1G 0PW (“the Developer”).

W H E R E A S:

- (A) The Council is the local planning authority by whom the obligations contained in this Agreement are enforceable.
- (B) The Developer owns the freehold interest in the Site and is registered as proprietor of it with Title Absolute at the Land Registry free from encumbrances other than those matters contained or referred to in the Property and Charges Register of Title Number TGL169205 at the date of this Agreement.
- (C) The Developer wishes to construct the Development upon the Site in accordance with the Planning Permission and the obligations contained herein.
- (D) On 11 December 2018 the Application was submitted to the Council.
- (E) In January 2022 the Developer lodged an Appeal in respect of the Application on the grounds of non-determination. Having regard to the provisions of the Development Plan and the planning considerations affecting the Site, the Parties enter into this Deed pursuant to the 1990 Act in order to secure the planning obligations contained in this Deed conditional upon the grant of the Permission by the Secretary of State.

NOW THIS AGREEMENT WITNESSETH:

**1. Definitions and Interpretation**

1.1 The following words and phrases shall have the following meanings unless the context otherwise requires:

**“1990 Act”** means the Town and Country Planning Act 1990;

**“AAPs”** means the Council’s area action plans extant at the time of the Implementation Date or any replacement thereof;

**“Acts”** means Sections 111, 120 and 123 of the Local Government Act 1972, Section 16 of the Greater London Council (General Powers) Act 1974, Section 38/278 of the Highways Act 1980 and Section 1 of the Localism Act 2011 together with all other powers enabling;

**“Administration Cost”** means the sum of £[xx] ([xx]) Index Linked to be paid by the Developer to the Council for the reasonable costs incurred by the Council in administering this Agreement including maintenance of financial records, monitoring the progress of the Development (including receipt of payments made, expended and applied) and monitoring compliance with its terms;

**“Affordable Retail”** means the two units within the Georgian Terrace comprising (in total) 181sqm GIA of Use Class E (formerly Use Class A1) and shown coloured XX on the drawing annexed hereto and labelled XX and which shall be provided as part of the Development in accordance with the Affordable Retail Strategy;

**“Affordable Retail Strategy”** means the strategy to be submitted by the Developer to the Council for approval in accordance with paragraph 6.1 of Schedule 7 and which shall include but not be limited to:

- a) the letting strategy, including details of the discounted rental rates;
- b) the arrangements to market the Affordable Retail to Eligible Tenants;
- c) a detailed design specification of the Affordable Retail, including

detailed scaled plans and drawings;

- d) details of the management arrangements and the identity of the affordable retail provider; and
- e) details of the access to cycle stores, basement servicing and refuse storage;

**“Affordable Workspace Lease”**

means a lease of the Affordable Workspace to be entered into between the Developer and the Affordable Workspace Provider consistent with the heads of terms set out in Annex 1 to Schedule 7 of this Agreement or such other terms as may be agreed with the Council;

**“Affordable Workspace Provider”**

means either:

- (a) a provider on the Workspace Provider List or such other provider as may be approved by the Council in writing; or
- (b) the Developer;

**"Affordable Workspace Rent"**

means the rent exclusive of rates, reasonable service and building management charges payable by Eligible Tenants Index Linked from the first occupation of the Affordable Workspace by each Eligible Tenant to be calculated at the following rates and applicable for the following periods;

i) from the date of first occupation to a date no earlier than the end of the sixth month from the date of first occupation the Affordable Workspace shall be let at a peppercorn rent; and

ii) from the end of the sixth month from the date of first occupation an amount calculated at 75% (seventy five) per cent of the Local Market Rent;

PROVIDED ALWAYS that the maximum rent payable by an Eligible Tenant after the sixth month from the date of first occupation shall not exceed 75% of the Local Market Rent for a period of 30 years from first occupation of the Affordable Workspace;

**“Affordable Workspace Specification”**

means a detailed design specification of the Affordable Workspace to be submitted by the Developer to the Council for approval and which shall include but not be limited to detailed scaled plans and drawings,

samples of materials to be used and which includes the minimum requirements set out in Annex 2 to Schedule 7 of this Agreement or such other minimum requirements as may be agreed with the Council;

**“Affordable Workspace Strategy”**

means a strategy to be submitted by the Developer to the Council for approval and which includes but shall not be limited to the minimum requirements set out at paragraph 2.2 of Schedule 7 of this Agreement or such other minimum requirements as may be agreed with the Council;

**“Affordable Workspace”**

means XX sq m GIA of workspace to be provided as part of the Development in accordance with the Affordable Workspace Specification and which shall be leased by the Developer to an Affordable Workspace Provider pursuant to the Affordable Workspace Lease who shall in turn lease and/or licence the Affordable Workspace to Eligible Tenant(s) and which is shown for indication purposes only on the drawing annexed hereto and labelled [xx];

**“Appeal”**

means an appeal to the Secretary of State under Section 78 (1) of the 1990 Act accepted with a start date of 9 February 2022 and given the appeal reference number APP/A5840/W/22/3290473 & APP/A5840/Y/22/3290477;

**“Application”**

means the LBC Application and application for planning permission submitted by the Developer to the Council and received by the Council on 11 December 2018 to carry out the Development upon the Site (local planning authority reference 18/AP/4039);

**“Application Energy Strategy”**

means the document titled [“New City Court Energy Statement” prepared by Chapman BDSP dated 30 May 2019] submitted with the Application;

**“Archaeology Contribution”**

means the sum of £11,171 (eleven thousand, one hundred and seventy one pounds) Index linked to be paid by the Developer to the Council in accordance with paragraph 1.1 of Schedule 1 and applied by the Council towards archaeological research, investigation and protection within the vicinity of the Site;

**“Be Seen’ Energy Monitoring Guidance”**

means the document titled “Be Seen Energy Monitoring Guidance” dated September 2021 prepared by the GLA or any replacement document;

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| <b>“Be Seen’ Monitoring Webform”</b>    | means the “Be Seen” planning stage reporting webform accessible via the GLA’s website, or any other such method of submission as specified by the GLA;   |
| <b>“Borough”</b>                        | means the London Borough of Southwark;   |
| <b>“Business Hub Spaces”</b>            | means 719 sq m GIA of Use Class E (formerly Use Class B1 and D2) consisting of a 250 seat auditorium and ancillary facilities including but not limited to large foyer spaces, toilet facilities and outdoor terraces on the 21 <sup>st</sup> and 22 <sup>nd</sup> floor levels of the Tower and shown outlined in XX on the drawing annexed hereto and labelled xx;   |
| <b>“Carbon Green Fund Contribution”</b> | means the sum of £[xx] ([xx]) Index Linked to be paid by the Developer to the Council in accordance with paragraph 1.3 of Schedule 1 and applied by the Council towards carbon mitigation measures including but not limited to the installation of photovoltaic panels to existing buildings, insulation, tree planting, LED light bulb exchange, homeowner grants to replace boilers and community projects;   |
| <b>“Carbon Targets”</b>                 | means the target net CO2 emissions (equivalent to a [40.7%] reduction over a Building Regulations 2013 Part L1A baseline compliant development for the non-domestic parts of the Development) as set out within the Application Energy Strategy;   |
| <b>“Completion”</b>                     | <p>means:-</p> <p>(a) in respect of any discrete section (element) of the Development completed separately from the other discrete sections (elements) and which is the subject of a certificate of sectional practical completion, the issue of such certificate of sectional practical completion in respect of that discrete section (element) by the Developer’s duly appointed architect or other project consultant designated by the Developer for that purpose; and</p> <p>(b) in respect of the Development as a whole, the issue of a certificate of practical completion of the Development by the Developer’s architect or other project consultant designated by the Developer for that purpose,</p> <p>and “Complete”, “Completed” and “Completion Date” shall be construed accordingly.</p> |

**“Community Use Strategy”**

means a community use strategy to be submitted by the Developer to the Council for approval and which sets out the arrangements to allow local organisations (including but not limited to the Council, neighbourhood forums, schools, charities, voluntary organisations and community groups) to use the Business Hub Spaces for community events and meetings free of charge and which shall include but not be limited to:-

- a) the times during which such access shall be made available free of charge for at least 10% of the time between 08:00 to 22:00 seven days a week (excluding public holidays);
- b) details of the management arrangements and facilities to be made available such as toilet and refreshment facilities;
- c) details of the marketing arrangements including the use of on site publicity, local press and social media;
- d) details of the monitoring arrangements including the use of on-site publicity, local press and social media;
- e) details of the monitoring arrangements including level of use, type of events, cancelled bookings including circumstances; and
- f) a methodology to promote, increase and improve the level of community use overtime

**“Connection Notice”**

means a written notice served on the Developer by the Council pursuant to paragraph 2.5 of Schedule 6;

**“Construction Industry Apprenticeships”**

means apprenticeships operating under a statutory apprenticeship agreement to be provided in construction related trades and occupations on the Site and in the services used in the creation of and supply to the Development, including building, architectural and surveying services, during the period of construction of the Development;

**“Construction Industry Employment and Training Shortfall Contribution”**

means the sum as calculated by the Council in accordance with the formula in paragraph 1.6 of Schedule 4 to be expended by the Council upon supporting Unemployed Borough Residents, including but not limited to, the provision of appropriate training, in order for Unemployed Borough Residents to access Sustained Construction Industry Employment;

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| <b>“Construction Industry Employment and Training Report”</b> | means a quarterly report to the Council about the work of the Construction Industry Employment Contact including, but not limited to, information about progress toward achievement of the targets outlined in paragraph 1 of Schedule 4, such report to be written in a format approved by the local economy team of the Council or such team as shall be assigned the work of the local economy team from time to time;   |
| <b>"Construction Industry Employment Contact"</b>             | means a named individual who is either an employee provided by the Developer or a contractor appointed by the Developer and who shall be based with the team contracted to construct the Development during the construction phase and whose role shall be to provide such training and support as is necessary to enable Unemployed Borough Residents to access Sustained Construction Industry Employment in accordance with the Employment and Skills Methodology; |
| <b>“Construction Industry Employment Contact Period”</b>      | means a period of time from Implementation to be agreed in writing with the Council prior to Implementation;  |
| <b>“Core Strategy”</b>  | means the Core Strategy 2011 or any replacement thereof;  |
| <b>“Council Section 38/278 Highway Works”</b>                 | means the resurfacing of Kings Head Yard which shall be in accordance with the Southwark Streetscape Design Manual and which are indication purposes only are shown on the drawing annexed hereto and labelled [xx] along with such traffic regulation orders and any other ancillary works which the Council may reasonably require including but not limited to drainage and the dedication of land as highway;   |
| <b>“Cycle Hire Docking Station”</b>                           | means a TfL cycle hire docking station to be provided within the vicinity of the Site;  |
| <b>"Cycle Hire Docking Station Contribution"</b>              | means the sum of £220,000 (two hundred and twenty thousand pounds) Index Linked to be paid by the Developer to the Council (if payable) in accordance with paragraph 1 of Schedule 1 and to be given by the Council to TfL to enable TfL to provide, extend and/or maintain the Cycle Hire Docking Station;   |

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| <b>“Default Employment in the End Use Contribution”</b> | means a financial contribution of £1,388,900 (one million, three hundred and eighty eight thousand and nine hundred pounds) Index Linked which may be payable by the Developer to the Council in accordance with paragraph 3.4 of Schedule 4 and if paid applied by the Council towards supporting Unemployed Borough Residents into Sustained Employment;  |
| <b>“Defects Liability Period”</b>                       | means such period of time following Completion the Development in which a contractor may remedy defects as may be included in the building contract for the Development;  |
| <b>“Defects Period”</b>                                 | means 12 months from the date of grant of the Provisional Certificate;  |
| <b>“Delivery and Service Baseline Figure”</b>           | <p>means not more than 38 Delivery and Service Motorised Vehicles per day which shall consist of the following:</p> <p>a) Entering the Site from St Thomas Street there shall be no more than:</p> <ul style="list-style-type: none"> <li>• 5 HGVs</li> <li>• 8 motorcycles</li> <li>• 2 refuse trucks; and</li> </ul> <p>b) Entering the Site from White Hart Yard there shall be no more than:</p> <ul style="list-style-type: none"> <li>• 23 LGVs</li> </ul> <p>based either on the log book used to record the number of Delivery and Service Motorised Vehicles visiting the Development on a daily basis or those dates the Council has monitored the number of Delivery and Service Motorised Vehicles visiting the Development across the relevant days;</p> |
| <b>“Delivery and Service Cash Deposit”</b>              | means the sum of £100,000 (one hundred thousand pounds) Index Linked to be paid by the Developer to the Council to secure compliance with the Delivery and Service Monitoring Plan and if retained by the Council pursuant to paragraph 1.5 of Schedule 2 to be applied by the Council towards public realm improvements, highway infrastructure and/or measures to reduce air pollution within the vicinity of the Development;  |
| <b>“Delivery and Service Management Plan”</b>           | <p>means a document to be submitted by the Developer to the Council for approval in writing and which includes but shall not be limited to:-</p> <p>a) Details of the arrangements to consolidate delivery and servicing across the Site including but not limited to:</p>  |

- The arrangements to efficiently service the Development and minimise disruption to the local highway network by maximising the consolidation of delivery and service vehicles;
  - Full details as to how the consolidation will operate;
  - Measures to coordinate delivery times and to manage delivery slots; and
  - Details of the location of off-site consolidation locations and measures to maximise the use of electronic vehicles and to protect vulnerable road users such as pedestrians and cyclists.
- b) Restriction on vehicles arriving and leaving from any direction to the Site on weekdays between the hours of:
- 7am to 10am;
  - 12noon to 2pm; and
  - 4pm to 7pm
- c) Restriction on vehicles arriving and leaving from any direction to the Site on weekends and public holidays between the hours of:
- 1pm to 11pm
- d) Restriction on any HGVs which are visiting the Site from using a loading bay on St Thomas Street on weekdays between the hours of:
- 7am to 10am;
  - 12noon to 2pm; and
  - 4pm to 7pm

**“Delivery and Service Monitoring Fee”**

means the sum of £1,600 (one thousand six hundred pounds) Index Linked to be paid in accordance with paragraph 1.4 of Schedule 2 and to be applied by the Council towards monitoring the terms of the Delivery and Service Monitoring Plan and administering the Delivery and Service Cash Deposit;

**“Delivery and Service Monitoring Period”**

means a period of 2 years commencing on 75% Occupation of the Development;

**“Delivery and Service Monitoring Plan”**

means a delivery and service monitoring plan to be submitted by the Developer to the Council and TfL for approval in writing and which sets out a method for monitoring and recording the number of Delivery and Service Motorised Vehicles visiting the Development during the Delivery and Service Monitoring Period and which includes but shall not be limited to:-

- a) the name, address, email address and telephone number of the person the Developer has appointed to monitor the number of Delivery and Service Motorised Vehicles;
- b) the format and layout of the log book to be used to record the number of Delivery and Service Motorised Vehicles visiting the Development on a daily basis; and
- c) the methodology to be used to track, monitor and record the number of Delivery and Service Motorised Vehicles visiting the Development on a daily basis;

**“Delivery and Service Motorised Vehicles”**

means a motorised vehicle making a delivery to or servicing the Development or any part of the Development from either within the Development boundary or otherwise including private deliveries to individual units;

**“Demolition”**

means the taking down of the existing buildings on the Site or any substantial part thereof but excludes inter alia the removal of doors, flooring, fixtures, services and temporary structures including room partitions and ‘Demolish’ shall be construed accordingly;

**“Development”**

means the redevelopment to include demolition of the 1980s office buildings and erection of a 37 storey building (plus two basement levels) of a maximum height of 144m (AOD), restoration and refurbishment of the listed terrace (nos. 4-16 St Thomas Street) and change of use of lower floors to Class A1 retail, and redevelopment of Keats House (nos. 24-26 St Thomas Street) with removal, relocation and reinstatement of the historic façade on a proposed building, to provide a total of 46,374sqm of Class B1 office floorspace, 765sqm of Class A1 retail floorspace, 1,139sqm of Class A3 retail floorspace, 615sqm of leisure floorspace (Class D2), 719sqm hub space (Class B1/D2) and a 825sqm elevated public garden within the 37-storey building, associated public realm and highways improvements, provision for a new access to the Borough High Street entrance to the Underground Station, cycling parking, car parking, service, refuse and

plant areas, and all ancillary or associated works or any variation thereof;

**“Development Agreement”** means the agreement between the Developer and TfL in respect of the construction and handover to LUL of the Station Works;

**“Development Plan”** means the Southwark Plan, the Core Strategy, AAPs and the London Plan;

**“Director of Planning and Growth and Growth”** means the Council’s Director of Planning and Growth or any other officer or person properly exercising the authority of the Director of Planning and Growth for the time being;

**“District Heat Network”** means a strategic district central heat network of pipes for transferring heat between multiple existing or new developments which the Council may implement to serve existing and new developments;

**“District Heat Network Strategy”** means a document prepared by the Developer setting out the proposals for the Site to connect to the District Heat Network and which shall contain as a minimum the details set out at paragraph 2.1 of Schedule 6;

**“Eligible Tenant(s)”** means an Occupier from a specific sector that has a social, cultural or economic development purpose which shall include but not be limited to the following:

- a) charities;
- b) public health services;
- c) voluntary and community organisations or social enterprises;
- d) those in need of creative and artists’ workspace;
- e) those in need of rehearsal and performance space and makerspace;
- f) Occupiers from disadvantaged groups starting up in any sector;
- g) Occupiers in support of educational outcomes through connections to schools, colleges or higher education;
- h) existing businesses in the Borough who need to relocate;
- i) Small Businesses and start – ups located in the Borough; and
- j) Small Businesses otherwise identified by the Affordable Space Provider as may be approved by the Council;

**“Employment and Skills** means a methodology to secure the appointment of a Construction

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| <b>Methodology”</b>                             | Industry Employment Contact and which specifies the responsibilities of the post as outlined in paragraph 1 of Part 1 of Schedule 4 and the method by which the key outputs of the post will be achieved;   |
| <b>“Employment and Skills Plan”</b>             | means a plan which shall operate during the Employment and Skills Plan Period to secure Sustained Employment for up to 323 Unemployed Borough Residents in the End Use of the Development and which includes the matters outlined in paragraph 3.2 of Part 1 of Schedule 4;   |
| <b>“Employment and Skills Plan Period”</b>      | means a period of 12 months from first Occupation of the Development;   |
| <b>“Employment and Skills Plan Report”</b>      | means a quarterly report to the Council about the implementation of the Employment and Skills Plan including, but not limited to, information about progress toward achievement of the target outlined in paragraph 3.2 of Part 1 of Schedule 4 such report to be written in a format approved by the local economy team of the Council or such team as shall be assigned the work of the local economy team from time to time; |
| <b>“Employment in the End Use Contribution”</b> | means the sum as calculated in accordance with the formula in paragraph 3.6 of Part 1 of Schedule 4 and if paid to be applied by the Council towards supporting Unemployed Borough Residents into Sustained Employment;   |
| <b>“End Use of the Development”</b>             | means the use or uses of the Development as authorised by the Planning Permission following first Occupation and references to “End User” shall be construed accordingly;   |
| <b>“Energy Centre”</b>                          | means a Site-wide low carbon communal heating system;   |
| <b>“ESCO”</b>                                   | means an energy service company being a supplier of heating and other ancillary services from the District Heat Network;  |
| <b>“Feasibility Study”</b>                      | means a study to assess the feasibility and financial viability of the Development connecting to the District Heat Network which may include but shall not be limited to details and an assessment of the following: <ul style="list-style-type: none"> <li>(a) the capability of the District Heat Network to supply sufficient</li> </ul>   |

- heating and power to the Development;
- (b) the proposed costs, terms and conditions of the connection and supply agreement being offered by the ESCO and whether they are fair and reasonable by reference to the Site District Heat Network plant costs and those that can be obtained on the market;
  - (c) the costs associated with installing all relevant pipework, plant and other apparatus to the boundary of the Site and that such costs will not be recoverable in whole or in part from occupiers of the Development through the connection agreement any supply agreement or by any other means;
  - (d) the costs of heating and power to be charged to occupiers of the Development and whether they are fair and reasonable by reference to the rates that are charged in the market; and
  - (e) any requirement for consultation with occupiers of the Development under the Landlord and Tenant Act 1985 (or any statutory provision replacing it) and the prospect of obtaining a special dispensation avoiding the need to consult with occupiers.

**“Final Certificate”** means a final certificate in writing issued on behalf of the Council certifying that following inspection the Public Space or parts thereof has/have been completed to the reasonable satisfaction of the Director of Planning and Growth and for the avoidance of doubt the Council may issue such certificate in respect of part of the Public Space only and as many times as is necessary until satisfied with the entirety of the Public Space;

**“Georgian Terrace”** means the part of the Site shown shaded XX on the drawing annexed hereto and labelled [xx];

**“Healthy Streets”** means the system of policies and strategies designed by TfL to help Londoners use cars less and walk, cycle and use public transport more;

**“Healthy Streets Contribution”** means the sum of £1,800,000 (one million eight hundred thousand pounds) Index Linked to be paid by the Developer to the Council in accordance with Paragraph 1 of Schedule 1 and to be used by TfL towards the St Thomas Street Healthy Streets scheme;

**“Highway Development Manager”** means the Council’s Highway Development Manager or any other officer or person properly exercising the authority of the Highway

Development Manager for the time being;

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| <b>“Highway Improvements Contribution”</b> | means the sum of £25,600 (twenty five thousand and six hundred pounds) Index Linked to be paid by the Developer to the Council in accordance with Paragraph 1 of Schedule 1 and to be used by the Council towards improvements to the quality of the pedestrian routes, cycle ways and roadways of Kings Head Yard and White Hart Yard;   |
| <b>“Implementation Date”</b>               | means the date upon which a material operation as defined in section 56(4) of the 1990 Act shall be first carried out in respect of the Development upon the Site other than (for the purposes of this Agreement and for no other purpose) operations consisting of site survey, site clearance, archaeological investigation, demolition, remedial or remediation work in respect of any contamination or other adverse ground condition, diversion and laying or removal of services, erection of any temporary means of enclosure including fences and hoardings, the temporary display of site notices or advertisements and references to “Implementation” and “Implement” shall be construed accordingly; |
| <b>“Index”</b>                             | means BCIS General Building Cost index published by the Royal Institution of Chartered Surveyors (RICS) in respect of the Carbon Green Fund Contribution, Cycle Hire Docking Station Contribution, Legible London Contribution, Healthy Streets Contribution and Highway Improvements Contribution and the RPI all items excluding mortgage interest (RPIX) published by the Office for National Statistics in respect of all other payments or in the event such indexes cease to exist such index as may be adopted by the Council for this purpose of calculating planning obligations to be applied in accordance with clause 14;   |
| <b>“Index Linked”</b>                      | means increased (if applicable) in accordance with clause 14;   |
| <b>“LBC”</b>                               | means the listed building consent for the Development granted by the Secretary of State pursuant to the LBC Application;  |
| <b>“LBC Application”</b>                   | means the application for LBC submitted by the Developer to the Council and received by the Council on 11 December 2018 to carry out the Development (local planning authority reference 18/AP/4040);   |

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| <b>“LBC Application Management Plan”</b>                    | means a plan setting out the policies and guidance for ongoing maintenance, repair and minor alterations of the Site to be prepared by an accredited conservation architect and submitted to the Council for approval pursuant to paragraph 1 of Schedule 6;  |
| <b>“LBC Application Advice and Management Contribution”</b> | means the sum of £3,389 (three thousand, three hundred and eighty nine pounds) Index Linked to be paid by the Developer to the Council in accordance with paragraph 1 of Schedule 1 and applied by the Council towards the supervision of the LBC Works, provision of specialist advice and reviewing, approving and monitoring compliance with the LBC Application Management Plan;  |
| <b>“LBC Works”</b>  | means the restoration, rebuilding and refurbishment of the listed terrace (nos. 4-16 St Thomas Street) including: demolition of 1980s fabric across the rear elevation and demolition of the attached 1980s office building, and reinstatement of the rear elevation of the terrace and provision of shopfronts. Rebuild the second floor, roof and chimneys of no. 16, reskin the side façade and creation of ground floor entrances. Rebuild the roof and chimneys of no. 14. Removal and replacement of roof slates with natural slate to nos. 4-12. Opening up the ground floor passageway between nos. 8 and 10 by removing 1930s door, and reinstate two adjacent door openings on front elevation. Replacement of two second floor windows on front elevation. Replacement of secondary glazing to front elevation. Alterations to the front elevation of the lower ground level and vaults beneath the pavement. Internal alterations within the terrace to rearrange the ground and lower ground levels for retail units (with new stairs between) and upper levels for office units, reinstate the plan form, internal features and providing a staircase in no.12. Cleaning the brickwork, works to repair sash windows, restore the railings and first floor balconettes. |
| <b>“Legible London”</b>                                     | means the wayfinding project designed to provide better information throughout London for pedestrians;  |
| <b>“Legible London Contribution”</b>                        | means the sum of £22,000 (twenty two thousand pounds) Index Linked to be paid by the Developer to the Council in accordance with Paragraph 1 of Schedule 1 and to be used by the Council or TfL (as applicable) towards the provision of Legible London signs;  |
| <b>“Local Businesses”</b>                                   | means all existing, independently-owned retail and service Small  |

Businesses who have their main operations in the Borough and Local Business shall be construed accordingly;

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| <b>“Local Market Rent”</b>                    | means the estimated amount for which the Affordable Workspace, as is relevant, could be leased or let at per square metre at the relevant date of valuation based on appropriate detailed comparable local market evidence and assuming a willing landlord and a willing lessee or tenant on an appropriate lease or tenancy terms after proper marketing wherein those parties have acted knowledgeably, prudently and without compulsion to be assessed in accordance with a property’s size, location and individual characteristics and the RICS approved valuation methods or intended or established valuation custom and practice as determined in accordance with paragraph 4 of Schedule 7; |
| <b>“London Plan”</b>                          | means the London Plan dated March 2021 or any replacement thereof;   |
| <b>“London Plan Annual Monitoring Report”</b> | means the London Plan Annual Monitoring Report published by the GLA or any replacement thereof used to determine the income threshold for those entitled to obtain the relevant type of Intermediate Housing;  |
| <b>“LUL”</b>                                  | means London Underground Limited (company registration number 01900907) whose registered office is at 55 Broadway, London, United Kingdom, SW1H 0BD;   |
| <b>“Market Rate Floorspace”</b>               | means the part of the Site shown shaded XX on the drawing annexed hereto and labelled [xx];  |
| <b>“Mortgagee”</b>                            | means an established corporate body within the finance industry regulated by the Prudential Regulation Authority and the Financial Conduct Authority or similiar and acting as a bona fide lender;   |
| <b>“NVQ Starts”</b>                           | means the commencement of a full National Vocational Qualification or equivalent vocational qualification outside of a statutory apprenticeships ;   |
| <b>“Occupation”</b>                           | means the first date upon which any part of the Site is physically occupied for any purpose but does not include occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or operations in relation to security operations and  |

for the avoidance of doubt in the case of the sale of the freehold or leasehold interest to a third party or any other Disposal occupation commences on the Disposal Date and the phrases “Occupy” and “Occupied” shall be construed accordingly;

**“Parking Bay”** means a parking place designated by the Council by an order under the Road Traffic Regulation Act 1984 or other relevant legislation for use in the locality in which the Development is situated;

**“Parking Permits”** means a parking permit issued by the Council under section 45(2) of the Road Traffic Regulation Act 1984 allowing a vehicle to park in a Parking Bay;

**“Parties”** means the Council and the Developer;

**“Plan”** means the drawing annexed hereto and labelled XX at Annex X;

**“Planning Permission”** means the planning permission granted by the Secretary of State pursuant to the Appeal;

**“Provisional Certificate”** means a provisional certificate in writing issued on behalf of the Director of Planning and Growth certifying provisionally and pending the issue of the Final Certificate that following inspection of either the Public Realm, Roof Gardens or Roof Gardens Access respectively has been completed to the reasonable satisfaction of the Director of Planning and Growth and for the avoidance of doubt the Director of Planning and Growth may issue such certificate in respect of part of either the Public Realm, Roof Gardens or Roof Gardens Access respectively only and as many times as is necessary until satisfied with the entirety of either the Public Realm, Roof Gardens or Roof Gardens Access respectively;

**“Public Realm”** means the 1,035sqm GIA linked series of new public spaces together with paving, benches, trees and street furniture to be created at ground level on the Site comprising the following:

- (i) **“King’s Head Square”** – shown coloured XX and situated on the western side of the Site next to the new underground station entrance;
- (ii) **“New Yard”** - shown coloured XX and situated along the northern side of the base of the Tower;

- (iii) **“St Thomas Street Square”** – shown coloured XX and situated between the base of the Tower and St Thomas Street;
- (iv) **“East Yard”** – shown coloured XX and situated on the eastern side of the Tower;
- (v) **“Georgian Passage”** - shown coloured XX and situated as a passageway running through the middle of the Georgian Terrace;

and together all five spaces are shown on the drawing annexed hereto and labelled XX at Annex X;

**“Public Realm Specification”**

means a detailed specification to be submitted by the Developer to the Council for approval in respect of the Public Realm and which shall include as a minimum:- detailed and scaled plans and drawings; a full specification of the works and samples of proposed materials; details of the phasing and timing for delivery; and any other details as may be reasonably required by the Council;

**“Public Space”**

means the Public Realm, Reception, Roof Gardens and the Roof Gardens Access;

**“Reception”**

means the XX sqm GIA section of the ground floor reception in the Tower which shall be available for free to the public and is shown coloured XX on the drawing annexed hereto and labelled XX at Annex X;

**“Reception Management Plan”**

means a detailed management plan to be submitted by the Developer to the Council for its approval in writing (as local planning and highway authority) in respect of the Reception and which shall include as a minimum:-

- (i) details of the phasing and timing for delivery;
- (ii) a strategy for providing, maintaining and cleaning the Reception to ensure it is well maintained;
- (iii) the access arrangements which shall be between the hours of XX – XX 364 days a year except when the Reception may be closed in accordance with any of the reasons set out in Paragraphs 1.3 – 1.6 of Part Two of Schedule Three;
- (iv) the facilities available for use free of charge by the public

which shall include seating, toilet facilities, WI-FI and power sockets; and

- (v) any other details as may be required by the Council.

**“Reportable Unit”** means a building with a single occupier/tenant (including block of flats' communal areas) or a building with multiple tenants;

**“Roof Gardens”** means the 640sqm GIA indoor space and 76sqm GIA outdoor terrace situated in the Tower at fifth and sixth floor level to which the public will be given free access and the detail of which is to be submitted to the Council for approval pursuant to the Roof Gardens and Roof Gardens Access Management Plan and is shown edged XX on the drawing annexed hereto and labelled XX at Annex X;

**“Roof Gardens Access”** means access via one dedicated lift to the Roof Gardens from an entrance on the ground floor in the north western corner of the Tower and the detail of which is to be submitted to the Council for approval pursuant to the Roof Gardens and Roof Gardens Access Management Plan and is shown edged XX on the drawings annexed hereto and labelled XX at Annex X;

**“Roof Gardens and Roof Gardens Access Management Plan”** means a detailed management plan to be submitted pursuant to Part Three of Schedule 3 by the Developer to the Council for its approval in writing (as local planning and highway authority) in respect of the Roof Gardens and Roof Gardens Access and which shall include as a minimum:-

- (i) details of the phasing and timing for delivery;
- (ii) the proposed management, gardening and maintenance arrangements, including details of replacement and plant renewal;
- (iii) the types of pesticides and insecticides that may be used;  
and
- (iv) any other details as may be reasonably required by the Council;

**“Roof Gardens Visitor Management Plan”** means a detailed document to be submitted pursuant to Part Three of Schedule 3 by the Developer to the Council for its approval in writing

and which shall include as a minimum:-

- (i) the arrangements for accessing the Roof Gardens which shall be between the hours of 9am to 8pm 364 days a year except when the Roof Gardens may be closed in accordance with any of the reasons set out in Paragraph 1.6 of Part Three of Schedule Three;
- (ii) details of access to public facilities free of charge such as toilets and baby changing;
- (iii) the terms and conditions to which members of the public and private visitors visiting the Roof Gardens will be subject;
- (iv) measures to prevent overcrowding at the Roof Gardens and Roof Gardens Access;
- (v) security arrangements for the Roof Gardens (including details of CCTV cameras, panic alarms and any searches and/or scans to be undertaken);
- (vi) measures to be put in place to deal with emergencies, including fire, bomb alerts, accidents and other emergencies; and
- (vii) mechanisms and timeframes for the review by the Developer of the Roof Gardens Visitor Management Plan

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| <b>“Reportable Unit”</b>                   | means a building with a single occupier/tenant (including communal areas) or a building with multiple tenants;  |
| <b>“Secretary of State”</b>                | means the Secretary of State for Levelling Up, Housing and Communities (or in either case any other Minister of the Crown to whom the power to hear and determine an Appeal may from time to time be transferred) or any appropriate officer, inspector or body having authority to act on his or their behalf;   |
| <b>“Section 38/278 Highways Agreement”</b> | <p>means any agreement between the Developer and the Council or TfL as appropriate pursuant to Section 38/278 of the Highways Act 1980 for securing and authorising the Developer to carry out the Section 38/278 Highway Works and (unless otherwise agreed between the Developer and the Council or TfL) the Section 38/278 Highways Agreement(s) will include (without limitation) provisions for:</p> <p>a) the Section 38/278 Highways Works to be secured to the sum of</p> |

the Section 38/278 Highways Works Bond;

- b) the security relating to the amount of the Section 38/278 Highway Works to be delivered prior to the commencement of the Section 38/278 Highway Works; and
- c) the Developer to carry out the Section 38/278 Highways Works in accordance with the approved Section 38/278 Highways Works Specification at its own cost and at no cost to the Council or TfL.

**“Section 38/278 Highway Works”** means the Council Section 38/278 Highway Works or TfL Section 38/278 Highway Works as appropriate;

**“Section 38/278 Highway Works Bond”** means the deposit, bond, guarantee, surety or similar security relating to the Section 38/278 Highway Works in a sum equivalent to the estimated cost of the Section 38/278 Highway Works plus ten percent in the case of the Council and X percent in the case of TfL;

**“Section 38/278 Highway Works Specification”** means a detailed design specification of the Section 38/278 Highway Works including (but without limitation) detailed scaled plans and drawings, samples of materials to be used, estimated costs and phasing of delivery to be submitted by the Developer pursuant to paragraph 2 of Schedule 2 and

- in the case of the Council Section 38/278 Highway Works approved by the Director of Planning and Growth and the Highway Development Manager and their approval to it obtained in writing on or before the date the Developer and the Council (as highway authority) enter into the Section 38/278 Highway Works Agreement; and
- in the case of the TfL Section 38/278 Highway Works approved by TfL and their approval to it obtained in writing on or before the date the Developer and TfL (as highway authority) enter into the Section 38/278 Highway Works Agreement;

**“Short Courses”** means any construction industry approved or accredited training course(s) designed to assist an individual to secure employment or enhance their career prospects once in employment;

**“Site”** means the land known as New City Court, 4-26 St Thomas Street, London, SE1 9RS and for the purpose of identification only shown edged red on the Plan;

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| <b>“Site and Development Contributions”</b>         | means the Archaeology Contribution, Carbon Green Fund Contribution, Cycle Hire Docking Station Contribution, LBC Application Advice and Management Contribution, Legible London Contribution, Healthy Streets Contribution and Highway Improvements Contribution;   |
| <b>“Small Business”</b>                             | means a business operating with 50 employees or less and reference to “Small Businesses” shall be construed accordingly;  |
| <b>“SME”</b>  | means a small to medium enterprise;   |
| <b>“Southwark Education Business Alliance”</b>      | means the Council operated schools careers service by that name or such other successor services as may be nominated by the Council from time to time;  |
| <b>“Southwark Streetscape Design Manual”</b>        | means the Southwark Streetscape Design Manual and associated guidance and any replacement thereof;  |
| <b>“Southwark Plan”</b>                             | means the Southwark Plan 2022 or any replacement thereof;   |
| <b>“Southwark Works”</b>                            | means the employment support service by that name which is commissioned by the Council or such other successor services as may be nominated by the Council from time to time;   |
| <b>“Station Works”</b>                              | means the construction of a new entrance to and from London Bridge Underground Station in accordance with the Development Agreement and LUL standards and for indicative purposes as shown on drawing XX at Annex XX of this Agreement;   |
| <b>“Sustained Construction Industry Employment”</b> | means Sustained Employment related to the Development and/or other development in the Borough including but not limited to employment in building and construction on the Site and in the services used in the creation of and supply to the Development including building architectural and surveying services; |
| <b>“Sustained Employment”</b>                       | means a period of continuous employment of not less than 26 weeks;  |
| <b>“Sustainable Employment Opportunities”</b>       | means a contract of employment of not less than 26 weeks;   |
| <b>“Tenant”</b>                                     | means any person with an interest in the Site at the date of this   |

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|   | Agreement other than the Developer;  |
| <b>“TfL”</b>                                    | means Transport for London or their successor in statutory function;   |
| <b>“TfL Section 38/278 Highway Works”</b>       | <p>means:-</p> <ul style="list-style-type: none"> <li>a) provision of a loading bay on St Thomas Street;</li> <li>b) repaving the footway on the Site frontage on St Thomas Street and Borough High Street (Keats House to White Hart Yard); and</li> <li>c) any other necessary works to the TfL road network (St Thomas Street and/or Borough High Street) as a consequence of the Development</li> </ul> <p>all of which shall be in accordance with the Southwark Streetscape Design Manual and which are indication purposes only are shown on the drawing annexed hereto and labelled [xx] along with such traffic regulation orders and any other ancillary works which the Council may reasonably require including but not limited to drainage and the dedication of land as highway;</p> |
| <b>“Tower”</b>                                  | means that part of the Site shown edged XX on the drawing annexed hereto and labelled XX at Annex X;   |
| <b>“Travel Plan”</b>                            | means the travel plan for the End Use of the Development which shall be submitted by the Developer to the Council for approval in accordance with paragraph 3.1 of Schedule 2 and which includes but shall not be limited to measures to discourage the use of vehicles; the provision of high quality shower/changing facilities accessible to all occupants of the Development, cycle hire access and cycle parking including disabled/cargo bicycle spaces;   |
| <b>“Unemployed Borough Residents”</b>           | means persons residing within the Borough who are neither in employment nor contracted as self-employed workers and have not been so for a period of not less than seven days;   |
| <b>“Use Class”</b>                              | means the use class identified in the Town and Country Planning (Use Classes) Order 1987 (as amended);   |
| <b>“Wind Mitigation Post Construction Plan”</b> | <p>means a wind impact assessment to:-</p> <ul style="list-style-type: none"> <li>a) assess, following the Completion of the Development, whether</li> </ul>   |

there is an actual change to the effects of wind on the pedestrian use of the Site and the Public Space following any design development during construction;

- b) assess whether the actual change (if any) is significant and adverse over and above the assessment carried out as part of the Application; and
- c) in the event that there is a significant adverse effect over and above the assessment carried out as part of the Application to mitigate this additional effect by using, for example, soft landscaping, vertical climbing plants, trees and physical measures to the façade of the Development within the Site and the Public Space to be submitted by the Developer to the Council for approval;

**"Working Days"** means any Monday, Tuesday, Wednesday, Thursday and Friday except bank or public holidays;

**"Workspace Provider List"** means the list of workspace providers published by the Council and updated from time to time.

In this Agreement (except where the context otherwise requires):

- 1.2 Reference to the masculine feminine and neuter genders shall include other genders.
- 1.3 Reference to the singular include the plural and vice versa unless the contrary intention is expressed.
- 1.4 Reference to natural persons are to include corporations and vice versa.
- 1.5 Headings in this Agreement are for reference purposes only and shall not be taken into account in its construction or interpretation.
- 1.6 A reference to a clause paragraph or schedule is (unless the context otherwise requires) a reference to a clause paragraph or schedule of this Agreement.
- 1.7 Any reference in this Agreement to any statute or to any section of a statute includes any statutory re-enactment or modification of it and any reference to any statutory instrument includes any amendment or consolidation of it from time to time and for the time being in force save that references to Use Classes shall be construed as references to Use Classes set out within the Town and Country Planning (Use Classes) Order 1987 (as amended) at the date of submission of the Application and such construction shall not be affected by changes to the

Town and Country Planning (Use Classes) Order 1987 or any replacement thereof after the date of submission of the Application.

- 1.8 The expression “the Developer” shall include their respective successors in title and assigns and the expression “the Council” shall include their successors in statutory function.
- 1.9 Words denoting an obligation on a party to do any act or thing include an obligation to procure that it be done and words placing a party under a restriction include an obligation not to cause permit or suffer any infringement of such restrictions.
- 1.10 An obligation not to Implement or Occupy the Development includes an obligation not to Implement or Occupy any part of the Development.
- 1.11 Where in this Agreement a party includes more than one person any obligation of that party shall be joint and several.
- 1.12 Any plan or strategy required to be submitted pursuant to this Agreement may be updated from time to time with the approval of the Council.
- 1.13 Where in this Agreement the Council is required to give an approval, consent or agreement the approval, consent or approval shall not be deemed to have been given unless in writing.
- 1.14 Where the agreement, approval, consent, confirmation or an expression of satisfaction is required by the Developer or the Council under the terms of this Agreement that agreement, approval, consent, confirmation or satisfaction shall not be unreasonably withheld or delayed.

## **2. Statutory Provisions**

- 2.1 This Agreement is made pursuant to section 106 of the 1990 Act. To the extent that they fall within the terms of section 106 of the 1990 Act, the obligations contained in this Agreement are planning obligations for the purposes of section 106 of the 1990 Act and are enforceable by the Council and the restrictive covenants and undertakings herein on the part of the Developer are entered into with the intent that subject to clause 8 the same shall be enforceable without limit of time not only against the Developer but also against its successors in title and assigns and any person corporate or otherwise claiming through or under the Developer an interest or estate created hereafter in the Site or any part or parts thereof as if that person had also been an original covenanting party in respect of such of the covenants and undertakings which relate to the interest or estate for the time being held by that person.

- 2.2 To the extent only that any of the obligations contained in this Agreement are not planning obligations within the meaning of the 1990 Act, they are entered into pursuant to the powers contained in the Acts.

### 3. **Legal Effect**

- 3.1 The Agreement shall come into effect on the date of this Agreement.

- 3.2 In the event that any new planning permission(s) are granted by the Council pursuant to Section 73 of the 1990 Act (as amended) and unless otherwise agreed between the parties:-

3.2.1 the obligations in this Agreement shall relate to and bind any subsequent planning permission(s) in respect of the Site granted pursuant to Section 73 of the 1990 Act and the Site itself, and

3.2.2 the definitions of Application, Development and Planning Permission in this Agreement shall be construed to include reference to any application under Section 73 of the 1990 Act, the planning permission(s) granted thereunder and the development permitted by such subsequent planning permission(s), and

3.2.3 this Agreement shall be endorsed with the following words in respect of any future Section 73 application:-

"The obligations in this Agreement relate to and bind the Site in respect of which a new planning permission referenced ..... has been granted pursuant to Section 73 of the Town and Country Planning Act 1990 (as amended)"

PROVIDED THAT nothing in this clause shall fetter the discretion of the Council in determining any application(s) under Section 73 of the 1990 Act or the appropriate nature and / or quantum of Section 106 obligations in so far as they are materially different to those contained in this Agreement and required pursuant to a determination under Section 73 of the 1990 Act whether by way of a new Agreement or supplemental Agreement pursuant to Section 106 of the 1990 Act.

- 3.3 The Developer shall meet the Council's reasonable legal fees in respect of any such endorsement.

### 4. **Secretary of State**

- 4.1 If the Secretary of State determines that any obligation (or any part of an obligation) contained within this Agreement is not

- (a) necessary to make the Development acceptable in planning terms
- (b) directly related to the Development
- (c) fairly and reasonably related in scale and kind to the Development
- (d) compliant with Regulation 123(3) of the CIL Regulations 2010

and states in the Appeal decision that no weight should be attached to such obligation then the relevant obligation shall immediately (without any further act by the Parties) cease to have any effect to the extent determined by the Secretary of State in the Appeal decision.

## 5. **Obligations of the Developer**

- 5.1 The Developer covenants to observe and perform or cause to be observed and performed the obligations contained in the Schedules to this Agreement at the times and in the manner provided therein.
- 5.2 Without prejudice to any other remedy available to the Council, the Developer covenants that no part of the Development shall be Implemented or Occupied (as appropriate) unless and until the obligations contained within the Schedules to this Agreement that are required to be fulfilled before Implementation or Occupation have been complied with.
- 5.3 The Developer shall contact the S.106 and CIL Team at the Council to arrange payment of the Administration Cost and the Site and Development Contributions.

### Restriction on Implementation by Tenants

- 5.4 The Developer covenants:-
  - 5.4.1 not to permit the Implementation of the Development by any Tenant or any other third party and not to vary any existing demise, legal or equitable interests of any Tenant such as to incorporate the whole or part of the Development to be constructed on Site pursuant to the Planning Permission, save that the Tenant(s) shall not be prevented from obtaining a new freehold or leasehold interest in the Development or any part of it to be constructed;
  - 5.4.2 unless otherwise agreed with the Council not to Implement the Development without first having procured the surrender of or served any necessary notices to terminate any extant legal or equitable interests of any Tenant with an interest in the Site;

- 5.4.3 not to revoke or withdraw any notices served upon any Tenant pursuant to clause 5.4.2 unless otherwise agreed by the Council in writing having regard to the enforceability of the obligations in this Agreement;
- 5.4.4 in the event that having used reasonable endeavours the Developer cannot comply with clause 5.4.2 above, unless otherwise agreed with the Council in writing, the Developer shall not Implement the Development thereof unless it has procured that each and every Tenant with an extant demise, legal or equitable interest in land within the Site enters into an agreement (mutatis mutandis) as this Agreement for the purpose of further securing that the obligations in this Agreement are binding and enforceable against each and every Tenant with an extant demise, legal or equitable interest in the Site or any part thereof.

## **6. Developer to Notify Council**

### **6.1 The Developer covenants with the Council to notify the Council:**

- 6.1.1 of its application to the Land Registry under clause 9 within 14 days of this Agreement;
- 6.1.2 immediately of Demolition;
- 6.1.3 immediately of the occurrence of the Implementation Date by written notice;
- 6.1.4 of its intention to pay the administration fees and contributions referred to within this Agreement by written notice specifying the intended date of payment, the amount and method of payment and the agreement and property to which the payment relates. Such notification to be given within the 5 Working Days immediately preceding the making of such payment;
- 6.1.5 immediately of Completion of the Affordable Space;
- 6.1.6 immediately of Completion of the Public Space;
- 6.1.7 immediately of Completion of the Station Works;
- 6.1.8 immediately of Occupation of the Tower;
- 6.1.9 immediately of Occupation of 75% of the Development; and
- 6.1.10 immediately of Completion of the Development.

**7. Council's Covenants**

The Council covenants with the Developer to observe and perform or cause to be observed and performed the obligations in Schedule 8 of this Agreement.

**8. Enforceability of Obligations**

8.1 The obligations contained in this Agreement shall not be binding upon nor enforceable against any statutory undertaker or other person who acquires any part of the Site or interest therein for the purposes of the supply of electricity gas water drainage telecommunication services or public transport services.

8.2 No person shall be liable for any breach of the covenants restrictions or obligations contained in this Agreement occurring after it has parted with the whole of its interest in the Site (but without prejudice to the liability of such person for any breach occurring prior to its parting with such interest).

**9. Registration**

9.1 Immediately after the execution of this Agreement, the Developer shall make an application to the Land Registry for entries relating to this Agreement to be made in the charges register(s) of the Title Number(s) referred to in recital B above so as to bind the Site as provided for in the before-mentioned statutory provisions.

9.2 If the Developer fails to make application as referred to in clause 9.1 above the Council shall (without prejudice to any other right) be entitled to register the Agreement and recover the expenses incurred in doing so from the Developer and the Developer covenants with the Council to do or concur in doing all things necessary or advantageous to enable the said entries to be made.

9.3 The covenants on behalf of the parties hereto to be observed and performed under this Agreement shall be treated as Local Land Charges and registered in the Register of Local Land Charges for the purposes of the Local Land Charges Act 1975.

**10. Site Not To Be Encumbered**

The Developer covenants with the Council that it will not encumber nor deal with the Site in any manner whereby any party hereto or successor in title may be prevented from carrying out their covenants and obligations contained herein.

11. **Right of Access**

Without prejudice to the Council's statutory rights of entry the Developer shall permit the Council and its authorised employees and agents upon reasonable written notice to enter the Site at all reasonable times for the purpose of verifying whether or not any obligation arising hereunder has been performed or observed.

12. **Waiver**

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

13. **Interest on Late Payment**

Without prejudice to any other right remedy or power herein contained or otherwise available to the Council if any payment of any sum referred to herein shall have become due but shall remain unpaid for a period exceeding seven days the Developer shall pay on demand to the Council interest thereon at the interest rate of four per centum per annum above the base lending rate of the National Westminster Bank plc from the date when the same became due until payment thereof.

14. **Indexation**

Any sum referred to in the Agreement and required to be paid to the Council shall be increased by an amount equivalent to the increase in the Index from the date hereof until the date on which such sum is payable.

15. **Enforcement Costs**

Without prejudice to the terms of any other provision herein the Developer shall pay all costs charges and expenses (including without prejudice to the generality thereof legal costs and surveyor's fees) reasonably incurred by the Council for the purpose of or incidental to the enforcement of any right or power of the Council or any obligation of the Developer arising hereunder.

16. **Administration Cost**

The Developer covenants to pay the Administration Cost to the Council within 28 days of receiving written request and separately not to Implement the Development until the Administration Cost has been paid to the Council.

17. **Council's Legal Fees**

The Developer shall pay on the date of this Agreement to the Council by way of a BACS or CHAPS transfer the Council's reasonable costs in the preparation and negotiation of this Agreement.

18. **VAT**

18.1 All consideration given in accordance with the terms of this Agreement shall be exclusive of any VAT properly payable in respect thereof.

18.2 The Developer acknowledges and agrees that if at any time VAT is required to be paid in respect of any Site and Development Contributions then to the extent that VAT had not been previously charged in respect of that contribution the Council shall have the right to issue a VAT invoice to the Developer and the VAT shall be paid accordingly.

19. **Notices**

19.1 Any notice or other communication to be given under or in connection with this Agreement shall be in writing which for this purpose shall not include e-mail and should be addressed as provided in clause 19.3.

19.2 Any such notice or other communication, if so addressed, shall be deemed to have been received as follows:

19.2.1 if delivered by hand, upon delivery at the relevant address;

19.2.2 if sent by first class post, at 9.00 a.m. on the second Working Day after the date of posting; and

except that where any such notice or other communication is or would otherwise be deemed to be received after 5.30 p.m., such notice or other communication shall be deemed to be received at 9.00 a.m. on the next following Working Day.

19.3 Subject to clause 19.4, the address, relevant addressee and reference for each party are:

For the Council:

Address: Southwark Council, Development Management, Planning & Transport, Chief Executive's Department, PO Box 64529 London, SE1P 5LX;

Relevant addressee: The Director of Planning and Growth (for general enquiries);  
S.106/CIL Monitoring Officer (for planning obligation enquiries)

Reference: S106/RR020/303 and 18/AP/4039 and 18/AP/4040

For the Developer:

Address: The address stated in the parties section above.

Relevant addressee: The Company Secretary

Reference:

Telephone:

19.4 A party may give notice of a change to its name, address or relevant addressee for the purposes of this clause provided that such notification shall only be effective on:

19.4.1 the date specified in the notification as the date on which the change is to take place; or

19.4.2 if no date is specified or the date specified is less than five clear Working Days after the date on which notice is received or deemed to be received, the fifth Working Day after notice of any such change is given.

**20. Determination of Disputes**

20.1 Subject to clause 20.7, if any dispute arises relating to or arising out of the terms of this Agreement, either party may give to the other written notice requiring the dispute to be determined under this clause 20. The notice is to propose an appropriate Specialist and specify the nature and substance of the dispute and the relief sought in relation to the dispute.

20.2 For the purposes of this clause 20 a "Specialist" is a person qualified to act as an expert in relation to the dispute having not less than ten years' professional experience in relation to developments in the nature of the Development and property in the same locality as the Site.

20.3 Any dispute over the type of Specialist appropriate to resolve the dispute may be referred at the request of either party to the President or next most senior available officer of the Law Society who will have the power, with the right to take such further advice as he may require,

to determine the appropriate type of Specialist and to arrange his nomination under clause 20.4.

20.4 Any dispute over the identity of the Specialist is to be referred at the request of either party to the President or other most senior available officer of the organisation generally recognised as being responsible for the relevant type of Specialist who will have the power, with the right to take such further advice as he may require, to determine and nominate the appropriate Specialist or to arrange his nomination. If no such organisation exists, or the parties cannot agree the identity of the organisation, then the Specialist is to be nominated by the President or next most senior available officer of the Law Society.

20.5 The Specialist is to act as an independent expert and:

20.5.1 each party may make written representations within ten Working Days of his appointment and will copy the written representations to the other party;

20.5.2 each party is to have a further ten Working Days to make written comments on the other's representations and will copy the written comments to the other party;

20.5.3 the Specialist is to be at liberty to call for such written evidence from the parties and to seek such legal or other expert assistance as he or she may reasonably require;

20.5.4 the Specialist is not to take oral representations from the parties without giving both parties the opportunity to be present and to give evidence and to cross-examine each other;

20.5.5 the Specialist is to have regard to all representations and evidence before him when making his decision, which is to be in writing, and is to give reasons for his decision; and

20.5.6 the Specialist is to use all reasonable endeavours to publish his decision within thirty Working Days of his appointment.

20.6 Responsibility for the costs of referring a dispute to a Specialist under this clause 20, including costs connected with the appointment of the Specialist and the Specialist's own costs, but not the legal and other professional costs of any party in relation to a dispute, will be decided by the Specialist.

20.7 This clause 20 does not apply to disputes in relation to matters of law or the construction or interpretation of this Agreement which will be subject to the jurisdiction of the courts.

21. **Contracts (Rights of Third Parties) Act 1999**

A person who is not named in this Agreement does not have any right to enforce any term of this Agreement under the Contract (Rights of Third Parties) Act 1999.

22. **Miscellaneous**

22.1 The construction validity and performance of this Agreement shall be governed by English law.

22.2 Each clause, sub-clause or schedule shall be separate distinct and severable from each other to the extent only that if any clause, sub-clause or schedule becomes or is invalid because of a change of circumstances or any other unforeseen reasons or if any one or more of such clause, sub-clause or schedule shall be held by the Courts to be void for any reason whatsoever but would be valid if severed or any wording was deleted or any time period reduced or scope of activities or area covered diminished then any modifications necessary to ensure such clause sub-clause schedule or paragraph be valid shall apply without prejudice to any other clause, sub-clause or schedule contained herein.

22.3 In the event of the planning obligations contained in this Agreement being modified a note or memorandum thereof shall be endorsed upon this Agreement.

22.4 Nothing in this Agreement shall prejudice or affect the rights powers duties and obligations of the Council under private or public statutes bye-laws orders and regulations and the same may be as fully effectively exercised as if it were not a party to this Agreement.

22.5 If the Planning Permission and all variations and modifications thereof shall expire before the Development has begun within the meaning of Sections 91, 92 or 93 of the 1990 Act or is revoked or is otherwise withdrawn without the consent of the Developer or its successors in title but without prejudice to the Council's ability to enforce in respect of any breach occurring prior to such revocation or withdrawal this Agreement shall have no further effect thereupon.

22.6 Nothing in this Agreement shall be construed as prohibiting or limiting any right to develop the Site or any part of it in accordance with a planning permission (other than the Planning Permission) granted by the Council or by the relevant Secretary of State on appeal or by reference to him after this date.

23. **Community Infrastructure Levy**

The Parties are satisfied that the planning obligations given by the Developer set out in this Agreement accord with the three statutory tests set out in Regulation 122 (2)(a)-(c) of the Community Infrastructure Regulations 2010 (as amended).

24. **Future Mortgagee**

A Mortgagee with a charge over the Site created after the date of this Agreement shall have no liability under this Agreement unless it takes possession of the Site or part thereof or becomes a mortgagee in possession in which case it too will be bound by the obligations as if it were a person deriving title from the Developer.

**SCHEDULE 1**  
**Financial Contributions**

The Developer covenants with the Council:-

**1. Financial Contributions**

- 1.1 To pay the Archaeology Contribution before carrying out any works of Demolition.
- 1.2 Not to carry out any work of Demolition until the Council has received the Archaeology Contribution in full.
- 1.3 To pay the [Carbon Green Fund Contribution], LBC Application Advice and Management Contribution and Highway Improvements Contribution on or before Implementation.
- 1.4 Not to Implement the Development or any part of it until the Council has received the [Carbon Green Fund Contribution], LBC Application Advice and Management Contribution and Highway Improvements Contribution in full.
- 1.5 To pay the Cycle Hire Docking Station Contribution and Legible London Contribution no later than 6 months prior to first Occupation.
- 1.6 Not to Occupy the Development or any part of it until the Council has received the Cycle Hire Docking Station Contribution and Legible London Contribution in full.
- 1.7 To pay the Healthy Streets Contribution to the Council within 20 Working Days from receiving written request from TfL.

## **SCHEDULE 2**

### **Servicing and Deliveries, Highway Works, Travel Plan, Wind Mitigation Post Construction, Community Use Strategy and LBC Application Management Plan**

The Developer covenants with the Council:-

#### **1. Servicing and Deliveries**

- 1.1 Not to Occupy the Development until the Delivery and Service Management Plan has been submitted to the Council and approved by the Council and TfL in writing.
- 1.2 To comply with the Delivery and Service Management Plan approved pursuant to paragraph 1.1 above for the duration that the Development or any part of the Development remains Occupied.
- 1.3 Not to Occupy the Development until the Delivery and Service Monitoring Plan has been submitted to the Council and approved by the Council and TfL in writing.
- 1.4 To comply with the Delivery and Service Monitoring Plan approved pursuant to paragraph 1.3 above for the duration of the Delivery and Service Monitoring Period.
- 1.5 Not to Occupy more than 75% of the Development or any part of it until the Delivery and Service Cash Deposit and the Delivery and Service Monitoring Fee has been paid to the Council in full.
- 1.6 The Council shall be entitled to retain the Delivery and Service Cash Deposit in full in the event:-
  - 1.6.1 the Developer fails to submit or agree the Delivery and Service Monitoring Plan before Occupation;
  - 1.6.2 the Developer fails to submit any of the monitoring reports required to be submitted to the Council and TfL in accordance with the terms agreed as part of the Delivery and Service Monitoring Plan approved by the Council and TfL pursuant to paragraph 1.3 above; or
  - 1.6.3 after an initial warning, the number of Delivery and Service Vehicles visiting the Site continue to exceed the Delivery and Service Baseline Figure.
- 1.7 On the expiry of the Delivery and Service Monitoring Period, the Developer shall notify the Council that the Delivery and Service Monitoring Period has expired and provide an assessment as to whether or not the objectives set out within the Delivery and Service Strategy have been achieved and a copy of the log book compiled during the Delivery and

Service Management Plan. In the event the Council is satisfied that the objectives and targets have been met, the Council shall return the Delivery and Service Cash Deposit with any interest which may have accrued within 28 days of a determination that any such sums should be returned.

- 1.8 In respect of paragraph 1.6.3 above, the Council shall be entitled to rely on either data obtained as part of the monitoring reports provided by the Developer or as part of its own monitoring.

## **2. Highway Works**

- 2.1 Not to Implement the Development or any part of it until submitting the Section 38/278 Highway Works Specification to the Director of Planning and Growth and the Highway Development Manager or TfL (as the case may be) and obtaining their approval to it in writing.
- 2.2 Not to commence the Section 38/278 Highway Works until entering into the Section 38/278 Agreement with the Council (and the Council hereby covenants to also enter into the Section 38/278 Highway Agreement with the Developer) and/or TfL (as the case may be) for the purpose of authorising the Section 38/278 Highway Works and securing them to the value of the Section 38/278 Highway Works Bond.
- 2.3 Not to Occupy the Development or any part of it until the Section 38/278 Highway Works approved pursuant to paragraph 2.1 above have been completed to the reasonable satisfaction of the Director of Planning and Growth and the Highway Development Manager or TfL (as the case may be).

## **3. Travel Plan**

- 3.1 Not to Occupy the Development until the Travel Plan has been submitted to the Council and the Council has approved the plan in writing.
- 3.2 To implement and comply with the Travel Plan approved pursuant to paragraph 3.1 above for the duration that the Development or any part of the Development remains Occupied.

## **4. Wind Mitigation Post Construction**

- 4.1 The Developer shall submit the Wind Mitigation Post Construction Plan to the Council for approval following the construction of the exterior of the Tower and not later than 3 months after first Occupation.

- 4.2 If the Wind Mitigation Post Construction Plan identifies adverse wind conditions as a result of the Development, the Wind Mitigation Post Construction Plan shall identify mitigation measures which, on approval by the Council, shall be implemented by the Developer within a period of 3 months or such other period of time as may be agreed by the Council. Unless otherwise agreed by the Council, the mitigation measures shall be retained (and maintained) for the duration that the Development or any part of the Development remains Occupied.

## **5. Community Use Strategy**

- 5.1 Not to Occupy the Development until the Community Use Strategy has been submitted to the Council and the Council has approved the strategy in writing.
- 5.2 To implement and comply with the Community Use Strategy approved pursuant to paragraph 5.1 above for the duration that the Development or any part of the Development remains Occupied.

## **6. LBC Application Management Plan**

- 6.1 To notify the Council of the Developer's preferred accredited conservation architect and submit the name and details of such architect to the Council for approval in writing.
- 6.2 Not to Demolish the Development until the LBC Application Management Plan has been submitted to the Council and the Council has approved the strategy in writing.
- 6.3 The LBC Application Management Plan shall include (but not be limited to):
- 6.3.1 the legal status of the Site including the details of the special architectural and historical interest of the Site;
  - 6.3.2 the details of the conversion and conservation project;
  - 6.3.3 key objectives and actions in the refurbishment of the Site;
  - 6.3.4 fixtures of significance;
  - 6.3.5 policies for maintenance, repair and minor alterations including what work requires listed building consent or planning permission; and
  - 6.3.6 such other matters or variations to the above as the Council and the Developer may reasonably agree from time to time should be included in the LBC Application Management Plan.

- 6.4 To comply with the approved LBC Application Management Plan (or any revised version approved by the Council) for the duration that the Development or any part of it remains Occupied.

### **SCHEDULE 3**

#### **Public Space**

The Developer covenants with the Council:-

#### **Part One**

##### **1. Public Space**

- 1.1 Not to Implement the Development or any part of it until submitting the Public Realm Specification, Reception Management Plan, Roof Gardens and Roof Gardens Access Management Plan and obtaining the Council's approval to the documents in writing.
- 1.2 Not to Occupy the Tower or any part of it until the Public Realm, Roof Gardens and the Roof Gardens Access have been Completed to the reasonable satisfaction of the Council and a Provisional Certificate has been issued by the Council in respect of all of the works.
- 1.3 To serve the Council with written notice of Completion of the Public Realm, Roof Gardens and the Roof Gardens Access within 14 days of its occurrence together with certified documentary evidence of the actual as constructed specification.
- 1.4 Not to Occupy the Tower until the Reception has been Completed.
- 1.5 To permit the Council its agents and its surveyors access to inspect the Public Space.
- 1.6 The Developer shall be liable for the full cost of the Public Space.

##### **2. Defects**

- 2.1 For the duration of the Defects Period, the Developer shall at its own expense and at no expense to the Council and to the reasonable satisfaction in all respect of the Director of Planning and Growth:-
  - 2.1.1 maintain the Public Realm, Roof Gardens and the Roof Gardens Access; and
  - 2.1.2 make good any defects arising out of defective design or workmanship discovered during the Defects Period and between the expiry thereof and the issue of the relevant Final Certificate

PROVIDED THAT the Defects Period shall be deemed to continue until any necessary remedial works have been properly completed and the relevant Final Certificate issued

and for the avoidance of doubt the Director of Planning and Growth reserves the right to issue a Final Certificate only in respect of such part(s) of the Public Realm, Roof Gardens and the Roof Gardens Access and as many times as necessary until the entirety of the Public Realm, Roof Gardens and the Roof Gardens Access meets with his reasonable satisfaction and the Director of Planning and Growth will provide a certificate of discharge of the Developer's obligations in relation to the Public Realm, Roof Gardens and the Roof Gardens Access once he is satisfied that they have all been completed in accordance with the terms of this Schedule.

- 2.2 For the avoidance of doubt the Defects Period and the issue of a Provisional Certificate and a Final Certificate in respect of the Public Realm, Roof Gardens and the Roof Gardens Access is exercisable by the Council as local planning authority (in consultation with the local highway authority) and as such are without prejudice to any further defects period or certification process which may apply by virtue of any agreement entered into pursuant to section 278 of the Highways Act 1980.

### **3. Maintenance**

- 3.1 In addition to the Defects Period referred to in paragraph 2 above, with effect from the date on which the public are permitted access to the Public Space, the Developer shall:-
- 3.1.1 at its own expense permanently maintain, cleanse, drain and keep maintained, cleansed and drained the Public Space;
  - 3.1.2 at its own expense permanently maintain a system of lighting to the reasonable satisfaction of the Council and ensure that such lighting operates effectively at all times whilst the Public Space is open to the public subject to matters outside its reasonable control; and
  - 3.1.3 at all times repair maintain cleanse drain and light the Public Space in all respects to at least a comparable standard as if the Public Space were being maintained by a local authority.

## **Part Two**

### **1. Access to the Public Realm and Reception**

- 1.1 Subject to paragraphs 1.2 – 1.5 below, to provide full unrestricted public access to:
  - 1.1.1 the Public Realm every day throughout the calendar year with the exception of the Georgian Passage which may be closed from dusk till dawn; and
  - 1.1.2 the Reception every day throughout the calendar year SAVE FOR between the hours of XX to XX when it may be closed.
- 1.2 The Public Realm and Reception may be closed to the public 1 day a year to prevent public or private rights from coming into being by means of prescription or other process of law.
- 1.3 The Developer may from time to time temporarily restrict or prevent access to the Public Realm and Reception or part(s) thereof by giving reasonable prior notice to the Council in writing (EXCEPT in cases of emergency or danger to the public when no prior notice or consent shall be required but the Council shall be notified of such closure as soon as practicably thereafter) but only for the following purposes:-
  - 1.3.1 repair maintenance and resurfacing works to the Public Realm and Reception;
  - 1.3.2 the laying cleaning maintenance and repair of any cables wires pipes drains or ducts over along or beneath the Public Realm and Reception;
  - 1.3.3 the inspection maintenance repair renewal rebuilding or demolition or development of any buildings now or hereafter on the Site or any part thereof;
  - 1.3.4 if in the reasonable opinion of the Developer there shall be some danger to the public; and
  - 1.3.5 for any other reasonable and sufficient cause and for such reasonable period as may be agreed in writing by the Council.
- 1.4 If the Director of Planning and Growth requests the closure of the Public Realm and Reception to the public so as to avoid or prevent injury or damage to the general public then the Developer shall be entitled (without seeking the prior consent of the Council) immediately to close the affected part(s) of the Public Realm and Reception to the public for so long as may be required by the Director of Planning and Growth.
- 1.5 In the event of closure of any part(s) of the Public Realm and Reception by reason of emergency or danger or risk of injury or damage to the general public (whether at the Council's behest or not), the Developer shall promptly take all steps as are reasonably necessary which it may reasonably and practicably take to remove or overcome the emergency, danger or risk of injury or damage to the general public, failing which the Council may enter the Site and undertake the said steps and recover the reasonable costs of doing

so from the Developer but only after having first provided the Developer with an opportunity to carry out the said steps.

### **Part Three**

#### **1. Roof Gardens and Roof Gardens Access**

- 1.1 No less than 6 months prior to Occupation of the Tower the Developer shall submit the Roof Gardens Visitor Management Plan to the Council for approval and shall not Occupy or permit Occupation of the Tower until the Roof Gardens Visitor Management Plan has been approved.
- 1.2 The Developer shall comply with the terms of the Roof Gardens Visitor Management Plan for the lifetime of the Roof Gardens.
- 1.3 The Developer shall provide:
  - (a) the Roof Gardens; and
  - (b) the Roof Gardens Accessno later than first Occupation of the Tower and thereafter retain them for the lifetime of the Roof Gardens.
- 1.4 The Developer shall allow the public to use the Roof Gardens Access at all times when the Roof Gardens are open to the public.
- 1.5 The Developer shall keep the Roof Gardens open to the public free of charge at all times in accordance with the Roof Gardens Visitor Management Plan save as provided for in paragraph 1.6 below.
- 1.6 Public access to the Roof Gardens shall be provided at all times save in the following circumstances:
  - 1.6.1 the requirement to carry out maintenance, cleaning, renewal and necessary or required works, including works associated with the landscaping to be provided within the Roof Gardens and works of retail or café fitting out or other structural or non-structural alterations, where such maintenance, cleaning, renewal and necessary and required works can only be carried out by closing the Roof Gardens and any works under this sub-paragraph shall be undertaken in such a way as to cause minimum disruption to the public, and in any event shall not continue for more than 48 hours in any eight week period without the written approval of the Council (not to be unreasonably withheld or delayed); and

1.6.2 closure during the hours of 8pm – 9am.

1.7 Save insofar as the same is insured by the landlord the Developer is to maintain public liability insurance of not less than £10 million (ten million pounds).

## **SCHEDULE 4**

### **Employment and Training, Construction Apprenticeships and Local Procurement**

The Developer covenants with the Council:-

#### **1. Employment in Construction**

- 1.1 Not to Implement the Development or any part of it until submitting an Employment and Skills Methodology to the Council for its approval in writing.
- 1.2 The Skills and Employment Methodology shall include but not be limited to the following matters: (i) the method by which a Construction Industry Employment Contact shall be appointed and (ii) the responsibilities of the Construction Industry Employment Contact which shall include the following:-
  - 1.2.1 identifying Sustainable Employment Opportunities to lead to Sustained Construction Industry Employment;
  - 1.2.2 encouraging applications from Unemployed Borough Residents by liaising with Jobcentre Plus services within the Borough, employment service providers including Southwark Works, the voluntary and community sector, training providers and careers service providers including the Southwark Education Business Alliance;
  - 1.2.3 commissioning Short Courses where necessary and identifying financial resources for the delivery of appropriate construction industry training and skills certification;
  - 1.2.4 providing training to selected Unemployed Borough Residents in pre-employment skills, basic construction skills and site safety;
  - 1.2.5 supporting Unemployed Borough Residents and their employers through the transition into Sustained Construction Industry Employment for a minimum of 26 weeks; and
  - 1.2.6 recruiting Borough residents into Construction Industry Apprenticeships.
- 1.3 To appoint and retain a Construction Industry Employment Contact throughout the Construction Industry Employment Contact Period.
- 1.4 To use all reasonable endeavours during the Construction Industry Employment Contact Period to:
  - 1.4.1 place a minimum of 104 Unemployed Borough Residents into Sustained Construction Industry Employment;
  - 1.4.2 train a minimum of 104 Borough residents using Short Courses;
  - 1.4.3 provide a minimum of 26 new Construction Industry Apprenticeships or NVQ Starts;

- 1.4.4 ensure that their contractors and sub-contractors shall work with the Construction Industry Employment Contact and with local employment and skills agencies approved by the Council to recruit Borough residents into Construction Industry Apprenticeships; and
  - 1.4.5 produce the Construction Industry Employment and Training Report.
- 1.5. Following the submission to the Council of the final Construction Industry Employment and Training Report prior to Completion of the Development or such phase(s) of the Development as may be agreed in writing with the Council, the Council will assess if the targets outlined in paragraphs above have been achieved.
- 1.6 In the event that the targets in paragraphs 1.4 above have not been achieved to the satisfaction of the Council, the Council will notify the Developer in writing of the calculation of the Construction Industry Employment and Training Shortfall Contribution which shall be calculated using the following formula;
- 1.6.1 Shortfall against number of Unemployed Borough Residents in Sustained Construction Industry Employment x £4,300
  - 1.6.2 Shortfall against number of Borough residents trained in Short Courses x £150
  - 1.6.3 Shortfall against number of Construction Industry Apprenticeships or NVQ Starts x £1,500
- 1.7 The Developer will pay the Construction Industry Employment and Training Shortfall Contribution to the Council within 28 days of the notice referred to in paragraph 1.6 above.

## **2. Local Procurement**

- 2.1 To work with the Council's Local Economy Team or a nominee of the Council in the Borough to as far as practicable and in compliance with all applicable laws use reasonable endeavours to achieve the procurement of construction contracts and goods and services from organisations based in the Borough.
- 2.2 To use reasonable endeavours to obtain a total value of contracts procured from organisations based in the Borough of 10% of the total value of the construction contract or the number of contracts procured in relation to this Site.
- 2.3 To:-
  - 2.3.1 consider applications to tender received from SME's based locally for the provision of goods and services for the running of the Site, pre, during and post construction, and shall liaise with the Council through the Construction Industry Employment Contact to increase opportunities for local firms and people and use reasonable endeavours to ensure that any contractors and sub-contractors do the same;

- 2.3.2 include a written statement in their contracts with any contractors and sub-contractors encouraging them to liaise with the Local Economy Team to discuss, agree and implement the arrangements as set out in this paragraph 2.3 and also in the Southwark Economic Wellbeing Strategy 2012-2022;
- 2.3.3 brief contractors and sub-contractors on the requirements of this paragraph 2.3 and encourage co-operation with the Council as a pre-requisite to accepting sub-contract tenders;
- 2.3.4 advertise sub-contracting and tendering opportunities to SME's (whose primary address is in the Borough) through local business networks/associations, business lists provided by the Council or a nominee of the Council (including list of Pre-qualified Firms by the Council's procurement team) and the local press;
- 2.3.5 with its contractors and sub-contractors, resource and deliver, in consultation with the Council or a nominee of the Council, a minimum of three seminars on procurement policy and phasing in relation to the Development at an appropriate time before the Implementation Date and targeted at local firms in order to make them aware of the opportunities, timescales and procedures to be adopted in tendering for available work.

### **3. Employment in the End Use Development**

- 3.1 No later than six months prior to first Occupation of the Development the Developer shall submit an Employment and Skills Plan to the Council.
- 3.2 The Employment and Skills Plan shall;
  - 3.2.1 Identify 323 suitable Sustainable Employment Opportunities for Unemployed Borough Residents in the End Use of the Development;
  - 3.2.2 Identify the detailed mechanism through which the Sustainable Employment Opportunities will be filled, including, but not limited to, the name of the lead organisation, details of its qualifications and experience in providing employment support and job brokerage for unemployed people, and the name of the point of contact who will co-ordinate implementation of the Employment and Skills Plan and liaise with the Council;
  - 3.2.3 Define key milestones to be achieved and provide profiles for filling the Sustainable Employment Opportunities;
  - 3.2.4 Identify skills and training gaps required to gain Sustained Employment in the End Use of the Development, including the need for pre-employment training; and

- 3.2.5 encourage applications from suitable Unemployed Borough Residents by liaising with the local Jobcentre Plus, employment service providers including Southwark Works, voluntary and community sector, training providers and careers service providers, including the Southwark Education Business Alliance.
- 3.3 The Developer shall submit the Employment and Skills Plan Report during the Employment and Skills Plan Period.
- 3.4 In the event that the Developer does not produce a Employment and Skills Plan or such plan is not approved by the Council (such approval not to be unreasonably withheld), the Developer will pay the Default Employment in the End Use Contribution within 28 days of receiving written notice from the Council.
- 3.5 Following the submission of the final Employment and Skills Plan Report at the end of the Employment and Skills Plan Period, the Council will assess if the targets included in the Employment and Skills Plan have been achieved.
- 3.6 In the event that the targets in the Employment and Skills Plan have not been achieved to the satisfaction of the Council, the Council will notify the Developer in writing of the Employment in the End Use Contribution which shall be calculated using the following formula:-
- Shortfall against number of Unemployed Borough Residents in Sustained Employment x £4,300
- 3.7 The Developer will pay the Employment in the End Use Contribution to the Council within 28 days of receipt of the notice referred to in paragraph.

## **SCHEDULE 5**

### **Station Works**

The Developer covenants with the Council:-

#### **1. Station Works**

##### **1.1 Not to Implement the Development or any part of it until:**

- 1.1.1 the Development Agreement between the Developer and TfL which secures the key terms in paragraph 1.2 below has been entered into; and
- 1.1.2 the Developer has provided the Council with a copy of the completed Development Agreement between the Developer and TfL which secures the key terms in paragraph 1.2 below but with financial information redacted.

##### **1.2 The Development Agreement must contain the following key terms:**

- 1.2.1 the specification for the Station Works including detailed design, appearance and layout and station access from the public highway;
- 1.2.2 programme and phasing for the delivery of the Station Works and station access from the public highway by the Developer subject to obtaining all relevant consents and licences;
- 1.2.3 the grant of all necessary rights from LUL to the Developer for the purpose of delivery of the Station Works and station access from the public highway;
- 1.2.4 LUL's requirements for completion and handover of the Station Works and station access from the public highway;
- 1.2.5 infrastructure protection provisions required in LUL's proper opinion for the protection of, and LUL's access to, LUL infrastructure and assets.

##### **1.3 The Developer shall not Occupy the Development until the Station Works have been Completed to the satisfaction of TfL and LUL.**

##### **1.4 The Station Works shall be carried out entirely at the Developer's cost and at no cost to the Council, TfL and LUL.**

## **SCHEDULE 6**

### **Energy**

The Developer covenants with the Council:-

#### **1. [Application Energy Strategy]**

- 1.1 To construct and deliver the Development in accordance with the Application Energy Strategy in order to achieve the Carbon Targets.
- 1.2 Unless otherwise agreed by the Council, to retain the energy efficiency measures delivered as part of the Development pursuant to paragraph 1.1 for the duration that the Development remains Occupied.
- 1.3 To commission an independent assessment of the energy efficiency of the Development on first Occupation and the first and third anniversary of first Occupation to assess the extent to which the Carbon Targets have been achieved.
- 1.4 To submit to the Council a copy of the independent assessment of the energy efficiency of the Development within 4 weeks of the dates referred to in paragraph 1.3 above.
- 1.5 In the event the Carbon Targets have not been met, the Developer shall submit an addendum to the Application Energy Strategy setting out proposals to achieve the Carbon Targets to the Council for approval.
- 1.6 In the event the Council approves the proposals set out in the addendum to the Application Energy Strategy, the Developer shall implement the proposals within 6 months of the date of the approval of the Council to the addendum to the Application Energy Strategy.
- 1.7 In the event the Developer and the Council are unable to agree on the proposals set out in the addendum to the Application Energy Strategy, the Council may require the Developer to pay a further carbon off-set contribution which shall be paid by the Developer to the Council in full within 28 days of written request for payment to be made.
- 1.8 The carbon off-set contribution referred to in paragraph 1.7 above shall be calculated based on £95 for every tonne of CO<sub>2</sub> omitted per year in excess of the Carbon Targets multiplied by 30 years and Index Linked.
- 1.9 The Carbon Targets shall be achieved against the Development and shall disregard:-
  - (a) any system installed by occupiers of the Development and that are not within the direct control of the Developer; and

- (b) any efficiency improvement/carbon reductions made through a connection to the District Heat Network referred to in paragraph 2 below.

- 1.10 To display a Display Energy Certificate (to be renewed and updated annually) in a position clearly visible from the street, and to submit details of the energy efficiency of the Development to the GLA using the GLA's online carbon portal for a period of 5 years from first Occupation of the Development.]

## **2. District Heat Network**

- 2.1. Not to Occupy the Development until the District Heat Network Strategy has been submitted to the Council and the Council has approved the strategy. The District Heat Network Strategy shall include but not be limited to:-

- 2.1.1 how the Development will be designed and built so that it will be capable of connection from the Site boundary to the District Heat Network;

- 2.1.2 demonstrate that the service interface within the Development can accommodate all known or expected and reasonable service entry routes including sleeves, pipework, reasonable access and space necessary for the purpose of connecting the commercial floorspace of the Development to the District Heat Network;

- 2.1.3 confirmation that individual supplies to the commercial units will be metered;

- 3.1.4 confirmation that the pipework to each commercial unit will be fitted with isolation valves and a heat meter so that consumption of energy can be monitored (if such technology is available for use at a reasonable cost);

- 2.1.5 confirmation that allowance has been made within the commercial floorspace of the Development for hot water generation by way of heat exchangers connected to the District Heat Network;

- 2.1.6 as far as practical, confirmation that the necessary equipment, plants, ducts or routes for pipes, meters, materials and other technology reasonably required (including plate heat exchanger and absorption chiller) are or will be available to facilitate connection to the District Heat Network.

- 2.2 Following receipt of the Council's written approval to the District Heat Network Strategy the Developer shall carry out the Development in accordance with the approved District Heat Network Strategy.
- 2.3 In the event a Connection Notice is served by the Council on the Developer then the Developer shall within three months of receipt of the Connection Notice submit the Feasibility Study to the Council for approval.
- 2.4 If the Council and the Developer agree that the Feasibility Study demonstrates that it is feasible and financially viable for the Development to connect into the District Heat Network then the Developer shall use all reasonable endeavours to connect the Development to the District Heat Network in accordance with the approved District Heat Network Strategy (unless otherwise agreed) within a reasonable period following the date of the joint decision by the Council and the Developer that connection is feasible and financially viable.

### **3. Be Seen Monitoring**

- 3.1 Within 8 weeks of the grant of the Planning Permission, the Developer shall submit to the GLA accurate and verified estimates of the 'Be seen' energy performance indicators as outlined in the 'Planning stage' section / chapter of the 'Be Seen' Energy Monitoring Guidance for the consented Development. This shall be submitted to the GLA in accordance with the 'Be Seen' Energy Monitoring Guidance using the 'Be Seen' Monitoring Webform and sent to the Council.
- 3.2 Not to Occupy the Development until the Developer has provided updated accurate and verified 'as-built' design estimates of the 'Be Seen' energy performance indicators for each Reportable Unit of the Development, as per the methodology outlined in the 'As-built stage' chapter of the 'Be Seen' Energy Monitoring Guidance. All data and supporting evidence shall be submitted to the GLA using the 'Be Seen' Monitoring Webform and sent to the Council. The Developer shall also confirm that suitable monitoring devices have been installed and maintained for the monitoring of the in-use energy performance indicators, as outlined in the 'In-use stage' of the 'Be Seen' Energy Monitoring Guidance.
- 3.3 On the first anniversary of first Occupation or following the end of the Defects Liability Period (whichever is the later) and at least for the following four years after that date, the Developer shall provide accurate and verified annual in-use energy performance data for all relevant indicators under each Reportable Unit of the Development as per the methodology outlined in the 'In-use stage' chapter of the 'Be Seen' Energy Monitoring Guidance. All data and supporting evidence shall be submitted to the GLA using the 'Be Seen' Monitoring Webform and sent to the Council. This obligation shall be satisfied after the Developer has reported on all relevant indicators included in the 'In-use stage' chapter of the 'Be Seen' Energy Monitoring Guidance for at least five years.

3.4 In the event that the 'In-use stage' evidence submitted under paragraph 3.3 shows that the 'as-built stage' performance estimates derived from paragraph 3.2 have not been or are not being met, the Developer shall investigate and identify the causes of underperformance and the potential mitigation measures and set these out in the relevant comment box of the 'Be Seen' Monitoring Webform. The Developer shall submit a plan comprising of measures identified in paragraph 3.3 to the GLA for approval and sent to the Council and which would be reasonably practicable to implement and a proposed timescale for implementation. The plan and measures referred to in this paragraph 3.4 above as approved by the GLA shall be implemented by the Developer as soon as reasonably practicable.

**SCHEDULE 7**  
**Affordable Workspace and Affordable Retail**

The Developer covenants with the Council:

**1. Affordable Workspace Delivery**

- 1.1 Not to Implement the Development until the Affordable Workspace Specification has been submitted to the Council and the Council has approved the specification in writing.
- 1.2 Not to Occupy more than 50% of the Market Rate Floorspace until the Affordable Workspace has been Completed in accordance with the Affordable Workspace Specification and to the reasonable satisfaction of the Council.

**2. Affordable Workspace Strategy**

- 2.1 Not to Occupy the Market Rate Floorspace until the Affordable Workspace Strategy has been submitted to the Council and the Council has approved the strategy in writing.
- 2.2 The Affordable Workspace Strategy shall include but not be limited to:
  - 2.2.1 confirmation whether or not the Affordable Workspace will be leased to an Affordable Workspace Provider or operated by the Developer itself as Affordable Workspace Provider;
  - 2.2.2 details as to the arrangements to provide the Affordable Workspace and how the arrangements are of a type and are designed to a specification that meets local demand;
  - 2.2.3 a marketing strategy to promote the space to an Affordable Workspace Provider or Eligible Tenants (as relevant) which demonstrates the Affordable Workspace shall be prioritised at small and independent businesses occupying the Site at risk of displacement, and where this is not feasible, at small and independent businesses from the local area with an identified need;
  - 2.2.4 evidence of collaboration with the Council, local businesses, business associations, workplace providers and other stakeholders to identify businesses nominated for occupation;
  - 2.2.5 details of how the Affordable Workspace has been designed to accommodate a range of commercial uses appropriate to the type of use planned for or appropriate to that area;
  - 2.2.6 details of the terms upon which the Affordable Workspace will be leased and/or licenced to End Users;

- 2.2.7 the facilities to be made available to End Users which shall include but not be limited to kitchen, toilet and printing facilities, charging points and high speed internet;
  - 2.2.8 details of any business incubator space to be provided as part of the Affordable Workspace and the arrangements to support the growth of the development of any such business; and
  - 2.2.9 such other details as the Council may reasonably require.
- 2.3 To comply with the Affordable Workspace Strategy approved pursuant to paragraph 2.1 above.

### **3. Affordable Workspace Provision**

- 3.1 Not to use the Affordable Workspace other than as Affordable Workspace for a period of thirty (30) years from when the Affordable Workspace is first occupied.
- 3.2 To keep any vacant Affordable Workspace in good condition and to use reasonable endeavours to reduce the impact of an unlet unit on the streetscene by utilising creative window design and showcasing art.
- 3.3 Unless otherwise agreed by the Council, to market the Affordable Workspace to those living or whose business is primarily based within the Borough for the duration of the Affordable Workspace Marketing Period in accordance with the provisions of this paragraph 3.
- 3.4 In the event that the Affordable Workspace remains unoccupied after the expiry of the Affordable Workspace Marketing Period, the Affordable Workspace may be marketed to End Users living or whose business is primarily based outside the Borough. Any lease and/or licence to an End User living or whose business is primarily based outside the Borough shall be limited to a maximum duration of five (5) years (unless otherwise agreed by the Council) and may only be extended where attempts to find an End User based within the Borough have been unsuccessful. On the termination of any lease and/or licence of the Affordable Workspace the provisions of paragraph 3.2 and this paragraph shall re-apply.

### **4. Determination of Rent**

- 4.1 To determine the Local Market Rent of the Affordable Workspace as follows:-
  - 4.1.1 the Developer shall commission an independent valuer to provide a full written assessment of the Local Market Rent of the Affordable Workspace (such assessment to be prepared within 12 months of the anticipated date of first Occupation (but the valuation shall relate to the anticipated date that such areas will be available for first Occupation)) prepared, subject to any variations required by this

Agreement, in line with the RICS Red Book and the conclusions in the assessment will be clearly supported by comparable evidence; and

4.1.2 the assessment produced by the independent valuer shall be submitted to the Council for approval and if approved this figure shall be deemed to be the Local Market Rent.

4.2 In the event that the Council does not accept the figure provided in accordance with paragraph 4.1 above, the Council may commission another valuer to provide a full written assessment of the Local Market Rent of the Affordable Workspace (as at the date that such Affordable Workspace will be available for first Occupation) prepared, subject to any variations required by this Agreement, in line with the RICS Red Book. The Developer shall pay the reasonable and proper costs of the valuer in respect of the operation of this paragraph 4.1.

4.3 If the two figures produced under paragraph 4.1 and 4.2 are:-

4.3.2 no more than 10% apart, then the average of those two figures shall be deemed to be the Local Market Rent; or

4.3.3 more than 10% apart, then the Developer and the Council will (unless otherwise agreed by the Council) jointly commission a third valuer to provide a written assessment of the Local Market Rent of the Affordable Workspace (as at the anticipated date that such Affordable Workspace will be available for first Occupation) prepared, subject to any variations required by this Agreement, in line with the RICS Red Book and the average of the three figures produced under paragraphs 4.1 and 4.1 and this subparagraph shall be deemed to be the Local Market Rent of the Affordable Workspace.

4.4 The rent payable in respect of the Affordable Workspace shall not be more than the Affordable Workspace Rent.

## **5. Monitoring**

5.1 On the 1 April each year following first Occupation of the Affordable Workspace the Developer and/or the Affordable Workspace Provider (as appropriate) shall submit to the Council a report detailing:

5.1.1 the extent to which the objectives set out within the Affordable Workspace Strategy have been achieved;

5.1.2 the level of occupancy and a breakdown of those in occupation by eligibility, sector and size;

5.1.3 an overview as to the terms of occupation including confirmation as to the amount of discount applied to rent; and

5.1.4 measures to improve the operation of the Affordable Workspace.

**6. Affordable Retail**

- 6.1 Not to Implement the Development until the Affordable Retail Strategy has been submitted to the Council and the Council has approved the strategy in writing.
- 6.2 To construct and deliver the Affordable Retail in accordance with the Affordable Retail Strategy approved pursuant to paragraph 6.1 above for a period of thirty (30) years from when the Affordable Retail is first Occupied.

## **Annex 1**

### ***Affordable Workspace: Lease Heads of Terms***

|                   |  |
|-------------------|--|
| Parties:          | TBC  |
| Demise:           | Affordable Workspace   |
| Lease:            | Internal repairing lease for a term of up to thirty (30) years to commence no earlier than Completion of the relevant unit(s) unless at the tenant's request.  |
| Use:              | [xx]   |
| Rent:             | Affordable Workspace Rent as defined in this Agreement. To be calculated on the GIA.   |
| Rent Review:      | Five yearly upward only; RPI linked.   |
| Rent Free Period: | 6 months from the grant of the lease.  |
| Alienation:       | Tenant may grant leases/licences to End Users.   |
| Insurance:        | Tenant to insure their own fixtures and fittings and to provide third party liability insurance. Landlord to insure building structure.  |
| Utilities:        | Affordable Workspace to be served by electricity, water, drainage and gas.   |
| Compliance:       | Tenant responsible for compliance with legislation and regulations and where appropriate both parties to co-operate  |
| Rights granted:   | Tenant to be granted rights of access including in respect of general access, emergency escape, cycling, refuse and loading facilities.  |
| Alterations:      | Tenant may not carry out any structural alterations. No consent will be required for non-structural alterations however tenant must provide the landlord with details of such alterations prior to carrying out such works. All alterations to be compliant with regulations.  |
| 1954 Act:         | Tenant will have no statutory right or renewal (and will be contracted out) as will any sub-lease.   |
| Reinstatement:    | Tenant will be required to offer up the premises in the condition in which they were let, clean and tidy, decorated condition free of the tenant's possessions but the tenant will not be required to undertake any structural works.  |
| Break clause:     | Tenant will be entitled to operate a break clause after five (5) years with six (6) months' notice given to the landlord.  |
| Legal costs:      | Each party to bear its own.  |
| Service charges:  | <p>Service Charges to be levied in adherence to RICS Code of Practice: Service Charges in Commercial Property and subject to the arbitration procedures therein.</p> <p>Service Charges to be a fair and reasonable proportion of the cost of the services provided by the landlord and in any event capped at XX.</p> |

## **Annex 2**

### **Affordable Workspace Specification**

#### **1 General**

This specification sets out the minimum specification of the Affordable Workspace. The Affordable Workspace is to be delivered to a high standard and, unless otherwise agreed by the Council, in a condition which is ready for use.

#### **2. Compliance**

The Affordable Workspace must comply with all statutory requirements and be compliant with the principles contained in the Equalities Act 2010.

#### **3. Specification**

The specification applies to each individual unit comprised within the Affordable Workspace:

##### **3.1 Floor**

Screed polished to finish.

##### **3.2 Ceiling**

Exposed concrete ceiling.

Ensure that acoustic insulation between different occupiers meets the requirements of Building Regulations and is sufficient to acoustically separate each part of the building, notably ceilings that separate workspaces from other occupiers.

##### **3.3 Walls**

Thermally and acoustically insulated blockwork finished with white paint.

External street-facing walls to be partly glazed or such other plans as may be approved by the Council.

Two internal walls within each unit to be fully clad with stud and skinned with wooden sheet finished with white paint.

##### **3.4 Door**

Entrance door to be glass panel with electronic key fob locking and 5/7 point manual key locking.

##### **3.5 Power, Electrical and Lighting**

Power supply and distribution board DDA compliant.

To have an appropriate number of ceiling hung LED light panels operated from one dimmer switch, no less than one per 100sqft.

To have an appropriate number of wall mounted sockets, no fewer than one per 100sqft.

Adequate emergency lighting.

Three phased power supply: to be provided to the main distribution board. KVA specification to be agreed by the Council.

##### **3.6 Heating**

Provided with a heat exchanger connected to the Energy Centre.

A number of wall mounted radiators, no fewer than one per 200sqft.

**3.7 Ventilation**

Provide mechanical fresh air circulation and ventilation facilitating light industrial usage.

**3.8 Toilet, Wash station and Kitchen Area**

Cold and hot running water.

Disabled WC

White painted plasterboard moisture resistant in WCs.

Provide mechanical extraction and appropriate lighting to the toilets.

Toilet doors to be hinged solid core and lock.

Additional second sink for wash station.

Kitchen facilities

**3.9 Fire**

Heat detectors in each unit to central control panel in compliance with regulations.

**4. Telecommunications**

Each unit to be able to access wireless internet solutions.

**5. Means of escape**

Ensure that there is a means of escape proposal that complies with the statutory requirements.

**6. Signage**

Ensure there are no impediments to exterior illuminated signage at unit entrance doors.  
Subject to Planning.

**SCHEDULE 8**  
**Council's Obligations**

**1. Council's Obligations**

- 1.1 The Council, shall pursuant to the Local Government Act 2003, be at liberty to charge any financial contributions it receives to a Council revenue account and the Parties agree that this shall be without prejudice to the Council's right to apply the Site and Development Contributions SAVE for the Cycle Hire Docking Station Contribution, Legible London Contribution and Healthy Streets Contribution or any part or parts thereof to revenue purposes or to capital purposes or partly to the one and partly to the other.
- 1.2 The Council agrees to use the Site and Development Contributions for the purposes for which they are paid SAVE FOR the Cycle Hire Docking Station Contribution, Legible London Contribution and Healthy Streets Contribution as expenditure shall be the responsibility of TfL.
- 1.3 The Council agrees to forward the Cycle Hire Docking Station Contribution, Legible London Contribution and Healthy Streets Contribution to TfL as soon as reasonably practicable following receipt of the Cycle Hire Docking Station Contribution, Legible London Contribution and Healthy Streets Contribution from the Developer.
- 1.4 To the extent that any of the Site and Development Contributions have been provided and the purposes for which they have been provided can be reasonably provided by the Council for less than the corresponding amount identified for its provision and in respect of which the contributions have been paid, the resulting surplus and interest may be expended or applied by the Council as appropriate on any of the other facilities referred to in this Agreement.

**Annexures**  
**Drawings and Plans**

**IN WITNESS WHEREOF** the parties hereto have executed this Deed the day and year first before written

The Common Seal of **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF SOUTHWARK** was hereto affixed in the presence of:

Authorised Signatory

Executed as a Deed by **GPE (ST THOMAS STREET) LIMITED** by two directors or one director and the company secretary :

Director

Director / Secretary